ORDINANCE NO. NS-1407

AN ORDINANCE AMENDING ORDINANCE NO. NS-1178 BY CHANGING THE ZONING OF A PARCEL OF LAND FROM IL(DR) LIGHT INDUSTRIAL (DESCHUTES RIVER COMBINING ZONE) TO CL(DR) LIMITED COMMERCIAL (DESCHUTES RIVER COMBINING ZONE)

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from IL(DR) Light Industrial (Deschutes River Combining Zone) to CL(DR) Limited Commercial (Deschutes River Combining Zone):

A tract of land contining 9.593 acres, more or less, located in the Southeast One-Quarter of Section 6, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point from which a 3 1/2 inch brass cap in a 2 inch iron pipe marking the south one-quarter of said Section 6 bears south 17°52'49" West a distance of 623.23 feet, and from which a 1/2 inch iron rod marking the southwest corner of said Section 6 bears South 78°18'03" West a distance of 2,859.63 feet; thence North 04°24'16" East a distance of 216.16 feet; thence North 11° 33'33" West a distance of 216.16 feet; thence North 46°05'20" West a distance of 148.81 feet to a point 60.00 feet distant from the easterly right of way line of Century Drive; thence following a line 60.00 feet distant from and parallel with the said Century Drive right of way North 42°13'47" East a distance of 245.16 feet; thence North 44°55'51" East a distance of 193.00 feet to a point 60.00 feet distant from the southerly right of way line of Colorado Avenue; thence following a line 60.00 feet distant from and parallel with the said Colorado Avenue right of way along the acr of a 854.93 foot radius curve right 431.72 feet (chord bears North 58°29'18" East 427.15 feet); thence North 72°57'17" East a distance of 133.63 feet; thence leaving said line parallel with Colorado Avenue right of way line South 31°00'44" East a distance of 103.24 feet; South 41°04'34" East a distance of 96.33 feet; thence South 20°39'20" West a distance of 269.31 feet; thence South 00°35'49" West a distance of 192.01 feet; thence South 54°32'57" West a distance of 306.89 feet; thence South 29°43'00" West a distance of 252.16 feet; thence South 46°52'18" West a distance of 108.25 feet; thence South 70°20'46" West a distance of 104.06 feet to the Point of Beginning, the terminum of this description.

Read for the first time the 16th day of January, 1985

Read for the second time the 6th day of February, 1985

Placed upon its passage the 6th day of February, 1985

YES: 7 NO: 0

Approved by the Mayor the 6th day of February, 1985.

Mayor

ATTEST:

Recorder-Treasurer

2

ORDINANCE NO. NS-1408

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 TO PROVIDE FOR A NEW CONDITIONAL USE ALLOWING HEALING ARTS OFFICES AND CLINICS IN THE RM URBAN MEDIUM DENSITY RESIDENTIAL ZONE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance No. NS-1178, Section 11(3) is amended by the addition of a new subsection to read as follows:

(n) Offices for dentist, physician, or other practitioner of the healing arts, including physical therapy; medical, dental, and healing arts clinics and laboratories and pharmacies that are located within a medical, dental, or healing arts clinic or office in the following described area only:

A tract of land in the NE 1/4 NW 1/4 Section 34, T. 17 S., R. 12 E., W.M., Deschutes County, Oregon, more particularly described as follows: commencing at the north quarter corner of said Section 34; thence S 89° 34' 36" W, 420.5 feet along the section line to the true point of beginning of this description; thence continuing along the Section line S 89° 34' 36" W, 420 feet; thence S 00° 25' 34" E, 143.35 feet; thence S 89° 02' 28" E, 160 feet; thence N 00° 25' 34" W, 41.57 feet; thence N 89° 34' 36" E, 40 feet; thence S 00° 25' 34" E, 41.20 feet; thence S 89° 02' 28" E, 220 feet; thence N 00° 25' 34" W, 153.90 feet to the true point of beginning. Except therefrom that portion of this description which lies within the right of way of Neff Road.

Read for the first time the 20th day of February, 1985.

Read for the second time the 6th day of March, 1985.

Placed upon its passage the 6th day of March, 1985.

YES: 7 NO: 0

Mayor

ATTEST:

Recorder-Treasurer

U. S. FOREST SERVICE
ANNEXATION

ORDINANCE NO. NS-1409

AN ORDINANCE DISPENSING WITH THE ELECTION IN THE SUBJECT OF AN ANNEXATION TO THE CITY OF BEND, AND WITHDRAWAL FROM RURAL FIRE DISTRICT NO. 2; SETTING A DATE FOR PUBLIC HEARING; DESCRIBING THE PROPERTY PROPOSED TO BE ANNEXED; AND SETTING UP A PUBLICATION SCHEDULE.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Whereas the City of Bend, in accordance with its existing annexation policy, is now annexing to the said City of Bend the following described real property, to-wit:

A portion of the Northwest Quarter of the Southwest Quarter of Section Thirty-Four (34), Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon described more particularly as follows: beginning at a point on the south boundary of said Northwest Quarter of the Southwest Quarter, said point being located South 89° 53' 46" East, a distance of 558.77 feet from the Southwest corner of said Northwest Quarter of the Southwest Quarter; thence due North a distance of 482.15 feet to the South boundary of Forbes Road; thence North 83° 15' East a distance of 188.23 feet; North 75° 51' 15" East a distance of 77.38 feet, more or less, to the Southerly boundary of U. S. Highway 20; thence South 0° 05' 53" West a distance of 522.33 feet; thence North 89° 53' 46" West a distance of 261.30 feet to the point of beginning.

Section 2. In accordance with applicable State Statutes, the City Commission of the City of Bend, the City legislative body, elects to dispense with submitting the question of annexation to the registered voters of the City, and elects to withdraw from Rural Fire District No. 2, and by this ordinance does fix the 17th day of April, 1985 at the hour of 7:30 PM, o'clock, in the City Commission Chambers at the City Hall as the time and place for a public hearing before the said City Commission on the question of annexation to the City of Bend and withdrawal from Rural Fire District No. 2, at which time the registered voters of the City may be heard on the said question.

Section 3. A copy of this ordinance shall be published once each week for two successive weeks prior to the day of hearing in a newspaper of general circulation in the City of Bend and shall likewise be posted in four public places in the City for a like period which said publication and posting shall be notice of the hearing.

Read for the first time the 20th day of March, 1985

Read for the second time the 3rd day of April, 1985

Placed upon its passage the 3rd day of April, 1985

YES: 7 NO: 0

Submitted to and approved by the Mayor the 3rd day of April, 1985

Mayor

ATTEST:

Recorder-Treasurer

4

CENTRAL OREGON HEALTH CARE CENTER AREA ANNEXATION

ORDINANCE NO. NS-1410

AN ORDINANCE DISPENSING WITH ELECTION IN THE SUBJECT OF AN ANNEXATION TO THE CITY OF BEND, AND WITHDRAWAL FROM RURAL FIRE DISTRICT NO. 2; SETTING A DATE FOR PUBLIC HEARING: DESCRIBING THE PROPERTY PROPOSED TO BE ANNEXED; AND SETTING UP A PUBLICATION SCHEDULE.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Whereas the City of Bend, in accordance with its existing annexation policy, is now annexing to the said City of Bend the following described real property, to-wit:

A tract of land in the SE 1/4 NW 1/4 and the NE 1/4 SW 1/4 Section 34, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, described as follows:

Beginning at a point on the west line of the NE 1/4 SW 1/4 of said Section 34, which is 807.36 feet south and 1,319.24 feet east of the W 1/4 corner of said Section 34; thence N 00° 05' 48" W along said west line of the NE 1/4 SW 1/4 and also the west line of the said SE 1/4 NW 1/4 2,100.50 feet to the NW corner of said SE 1/4 NW 1/4; thence N 89° 53' 46" E along the north line of the said SE 1/4 NW 1/4 510.58 feet; thence S 1° 31' 30" E 871.57 feet; thence S 19° 37' 00" E 86.24 feet; thence S 21° 46' 30" W 192.89 feet; thence S 89° 54' E 551.0 feet; thence S 14° 22' W 1,303.7 feet to the northerly line of Central Oregon Highway; thence N 67° 53' 58" W along the northerly right of way line 773 feet more or less to the point of beginning. Containing 36.65 acres more or less.

Section 2. In accordance with applicable State Statutes, the City Commission of the City of Bend, the City legislative body, elects to dispense with submitting the question of annexation to the registered voters of the City, and elects to withdraw from Rural Fire District No. 2, and by this ordinance does fix the 17th day of April, 1985 at the hour of 7:30 pm, o'clock, in the City Commission Chambers at the City Hall as the time and place for a public hearing before the said City Commission on the question of annexation to the City of Bend and withdrawal from Rural Fire District No. 2, at which time the registered voters of the City may be heard on the said question.

Section 3. A copy of this ordinance shall be published once each week for two successive weeks prior to the day of hearing in a newspaper of general circulation in the City of Bend and shall likewise be posted in four public places in the City for a like period which said publication and posting shall be notice of the hearing.

Read for the first time the 20th day of March, 1985

Read for the second time the 3rd day of April, 1985

Placed upon its passage the 3rd day of April, 1985

YES: 7 NO: 0

Submitted to and approved by the Mayor the 3rd day of April, 1985

Mayor

ATTEST:

Recorder-Treasurer

U. S. FOREST SERVICE
ANNEXATION

ORDINANCE NO. NS-1411

AN ORDINANCE RECITING PROCEDURES ACCOMPLISHED IN THE ANNEXATION OF REAL PROPERTY TO THE CITY OF BEND AND WITHDRAWAL FROM RURAL FIRE DISTRICT NO. 2, DESCRIBING THE SUBJECT PROPERTY AND DECLARING THE ANNEXATION AND WITHDRAWAL.

THE CITY COMMISSION OF THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Under the provisions of Ordinance No. NS-1409, the City Commission of the City of Bend, the City legislative body, did elect to dispense with submitting the question of annexation of the following described real property from Rural Fire District No. 2 and did fix the 17th day of April, 1985, at the hour of 7:30 pm, in the City Commission Chambers of the City Hall, Bend, Oregon, as the time and place for the registered voters of the City of Bend to appear and be heard on the question of annexation to the City and withdrawal from Rural Fire District No. 2 of the following described property, and did cause the notice thereof to be published once each week for two successive weeks prior to the day of hearing in a newspaper of general circulation in the City of Bend and did cause notice of the hearing to be posted in four public places in the City for a like period which said hearing was held at the time and place aforesaid.

Section 2. The following described real property located within the County of Deschutes, State of Oregon, more particularly described as follows:

> A portion of the Northwest Quarter of the Southwest Quarter of Section 34, Township 17 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, described more particularly as follows: Beginning at a point on the south boundary of said Northwest Quarter of the Southwest Quarter, said point being located South 89° 53' 46" East, a distance of 558.77 feet from the Southwest corner of said Northwest Quarter of the Southwest Quarter; thence due North a distance of 482.15 feet to the South boundary of Forbes Road; thence North 83° 15' East a distance of 188.23 feet; North 76° 51' 15" East a distance of 77.28 feet, more or less, to the southerly Boundary of U. S. Highway 20; thence South 0° 05' 43" West a distance of 522.33 feet; thence North 89° 53' 46" West a distance of 261.30 feet to the point of beginning.

Section 3. That prior to the time of the aforesaid public hearing at least one-half of the landowners who own or who also own at least one-half of the land in the area and of real property in the area did consent in writing to the annexation and filed a statement of their consent with the legislative body of the City of Bend.

Section 4. In view of the foregoing procedure having been had and held and it being affirmatively determined that the annexation as proposed should proceed, the City Commission of the City of Bend, by this ordinance does hereby and herewith declare that the territory above described is hereby and herewith annexed to the City of Bend and likewise withdrawn from Rural Fire District No. 2, and from and after the effective date of this ordinance shall be a legally constituted part of the City of Bend and the boundaries of the City shall be extended to include the aforedescribed real property.

Read for the first time the 17th day of April, 1985

Read for the second time the 1st day of May, 1985

Placed upon its passage the 1st day of May, 1985

YES: 5 NO: 0

Submitted to and approved by the Mayor the 1st day of May, 1985

ATTEST:

Mayor

Recorder-Treasurer

6

CENTRAL OREGON HEALTH CARE
CENTER AREA ANNEXATION

ORDINANCE NO. NS-1412

AN ORDINANCE RECITING PROCEDURES ACCOMPLISHED IN THE ANNEXATION OF REAL PROPERTY TO THE CITY OF BEND AND WITHDRAWAL FROM RURAL FIRE DISTRICT NO. 2, DESCRIBING THE SUBJECT PROPERTY AND DECLARING THE ANNEXATION AND WITHDRAWAL.

THE CITY COMMISSION OF THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Under the provisions of Ordinance No. NS-1410, the City Commission of the City of Bend, the City legislative body, did elect to dispense with submitting the question of annexation of the following described real property from Rural Fire District No. 2 and did fix the 17th day of April, 1985, at the hour of 7:30 pm, in the City Commission Chambers of the City Hall, Bend, Oregon, as the time and place for the registered voters of the City of Bend to appear and be heard on the question of annexation to the City and withdrawal from Rural Fire District No. 2 of the following described property, and did cause the notice thereof to be published once each week for two successive weeks prior to the day of hearing in a newspaper of general circulation in the City of Bend and did cause notice of the hearing to be posted in four public places in the City for a like period which said hearing was held at the time and place aforesaid.

Section 2. The following described real property located within the County of Deschutes, State of Oregon, more particularly described as follows:

> A tract of land in the SE 1/4 NW 1/4 and the NE 1/4 SW 1/4 Section 34, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, described as follows: beginning at a point on the west line of the NE 1/4 SW 1/4 of said Section 34, which is 807.36 feet south and 1,319.24 feet east of the W 1/4 corner of said Section 34; thence N 00° 05' 48" W along said west line of the NE 1/4 SW 1/4 and also the west line of the said SE 1/4 NW 1/4 2,100.50 feet to the NW corner of said SE 1/4 NW 1/4; thence N 89° 53' 46" E along the north line of the said SE 1/4 NW 1/4 510.58 feet; thence S 1° 31' 30" E 871.57 feet; thence S 19° 37' 00" E 86.24 feet; thence S 21° 46' 30" W 192.89 feet; thence S 89° 54' E 551.0 feet; thence S 14° 22' W 1,303.7 feet to the northerly line of Central Oregon Highway; thence N 67° 53' 58" W along the northerly right of way line 773 feet more or less to the point of beginning. Containing 36.65 acres more or less.

Section 3. That prior to the time of the aforesaid public hearing at least one-half of the landowners who own or who also own at least one-half of the land in the area and of real property in the area did consent in writing to the annexation and filed a statement of their consent with the legislative body of the City of Bend.

Section 4. In view of the foregoing procedure having been had and held and it being affirmatively determined that the annexation as proposed should proceed, the City Commission of the City of Bend, by this ordinance does hereby and herewith declare that the territory above described is hereby and herewith annexed to the City of Bend and likewise withdrawn from Rural Fire District No. 2, and from and after the effective date of this ordinance shall be a legally constituted part of the City of Bend and the boundaries of the City shall be extended to include the aforedescribed real property.

Read for the first time the 17th day of April, 1985

Read for the second time the 1st day of May, 1985

Placed upon its passage the 1st day of May, 1985

YES: 5 NO: 0

Submitted to and approved by the Mayor the 1st day of May, 1985

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1413

AN ORDINANCE AMENDING THE BEND COMMUNITY ANTENNA COMPANY FRANCHISE ORDINANCE NO. NS-806 BY INCREASING THE RATES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS: NS-806 expired 7-19-89

Section 1. Section 16 of Ordinance No. NS-806 is amended by adding thereto a new section which shall read:

"(11) Beginning October 2, 1985 the monthly service charges may be increased to not more than $11.49 each month.

Section 2. The City of Bend as the franchising authority intends that the rate structure specified in this franchise as adjusted by this rate increase reflects all costs of franchise fees and the cable operator shall not pass through to subscribers any part of the franchise fee. Although the Cable Communications Policy Act of 1984 provides that the cable operator may separately state the franchise fee on the subscriber's bill the franchisee by its acceptance of this Ordinance agrees not to designate as a separate item on the subscriber's bill any portion of the subscriber's bill attributable to the franchise fee. The franchisee by its written acceptance of this Ordinance amending the franchise accepts and agrees to the provisions of this Section; and acknowledges that the provisions of this Section are made in contemplation of, and are intended to implement, the Cable Communications Policy Act of 1984.

Section 3. This Ordinance is conditioned upon its acceptance by the franchisee and if the franchisee does not accept this Ordinance within thirty (30) days from its passage then this Ordinance shall be void and of no effect.

This Ordinance is accepted:

FRANCHISE HOLDER

Read for the first time on the 17th day of April, 1985.

Read for the second time on the 15th day of May, 1985

Placed upon its passage the 15th day of May, 1985

Vote: Yes 5 No 1

Submitted to and approved by the Mayor this 15th day of May, 1985

Mayor

ATTEST:

Recorder-Treasurer

8

ORDINANCE NO. NS-1414

AN ORDINANCE AMENDING ORDINANCE NO. NS-1178 BY EXTENDING THE RIVER STUDY PERIOD

Section 1. Section 22A (5) (b) of Ordinance No. NS-1178 as amended by Ordinance No. NS-1394 is hereby amended to read as follows (new material is underlined, material to be deleted is in brackets):

(b) The study period shall be for the period February 1, 1984 to [July 31, 1985] January 31, 1986. [Following review and public hearing, and prior to the termination date, and if deemed necessary by the City Commission, the date of termination of the study period may be extended by ordinance for a subsequent period of up to six months.]

Read for the first time the 5th day of June, 1985.

Read for the second time the 19th day of June, 1985.

Placed upon its passage the 19th day of June, 1985.

YES: 6 No: 0

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1415

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY ADDING BEAUTY AND BARBER SHOPS AS CONDITIONAL USES IN THE RH URBAN HIGH DENISTY RESIDENTIAL ZONE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 12(3) of Ordinance No. NS-1178 is amended by adding the following new use (p) to the conditional uses:

(p) Beauty and barber shop.

Read for the first time the 19th day of June, 1985.

Read for the second time the 3rd day of July, 1985.

Placed upon its passage the 3rd day of July, 1985.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 3rd day of July, 1985.

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NS-1416

AN ORDINANCE AMENDING THE CITY'S GARBAGE FRANCHISE AGREEMENT AND ESTABLISHING A FRANCHISE FEE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Ordinance NS-1272, Section 6 is amended to read as follows:

Section 6. Grant of Exclusive Franchise. There is hereby granted to [JOE CHOTARD dba BEND GARBAGE COMPANY] BEND GARBAGE COMPANY, INC. and CASCADE DISPOSAL, INC., the exclusive right, privilege and franchise to provide service within the City limits as of the date of this Ordinance and any area that may hereafter be annexed to the City and, for that purpose, to utilize the streets of the City. [JOE CHOTARD dba BEND GARBAGE COMPANY] BEND GARBAGE COMPANY, INC. and CASCADE DISPOSAL, INC., will operate within the City in areas described on Exhibit "A", which are subject to change by the Dispute Committee's ruling and Commission approval.

SECTION 2. Ordinance NS-1272 is hereby amended by adding Section 18 as follows:

Section 18. Franchise Fee. Each Franchisee shall pay the City of Bend an annual franchise fee of one thousand dollars ($1,000.00) which shall be due and payable on January 1st of each year. Said franchise fee will be used by the City to encourage City residents to recycle garbage or for such other purposes as may be approved by the City of Bend Budget Committee.

Read for the first time the 3rd day of July, 1985.

Read for the second time the 17th day of July, 1985.

Placed upon its passage this 17th day of July, 1985.

YES: NO:

Submitted to and approved by the Mayor the 17th day of July, 1985.

Mike Ross
MAYOR

ATTEST:

Recorder-Treasurer

ACCEPTED BY:

BEND GARBAGE COMPANY, INC. — 7/22/85 Date

CASCADE DISPOSAL, INC. — 8/9/85 Date

ORDINANCE NO. NS-1417

AN ORDINANCE PROHIBITING ACQUISITION, POSSESSION AND DISPOSITION OF PERSONAL PROPERTY FROM WHICH THE SERIAL OR IDENTIFICATION NUMBERS HAVE BEEN REMOVED.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 5.065, NS-1361 entitled Acquisition and Retention of Articles Missing Serial Numbers is added to and made a part of the City of Bend Criminal Code, as follows:

(1) Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his possession a radio, tape deck, tape recorder, receiver, piano, sewing machine, washing machine, typewriter, adding machine, comptometer, bicycle, safe, vacuum cleaner, dictaphone, watch, watch movement, watch case, or any mechanical or electrical device, appliance, contrivance, material, piece of apparatus or equipment, or any integrated chip or panel, printed circuit, or any other part of a computer from which the manufacturer's nameplate, serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, is guilty of a Class A misdemeanor.

(2) It shall be an affirmative defense to a criminal charge brought under Section 1 of this ordinance that the defendant is the true owner of the property that does not have a manufacturer's nameplate, serial number or any other distinguishing number or identification mark affixed to it.

(3) Property subject to this ordinance shall be considered stolen property for purposes of disposition of the property by the Bend Police Department. Prior to being disposed of or being returned to the true owner of the property, said property shall have an identification mark embedded or engraved in or permanently affixed to it.

(4) This ordinance does not apply to those cases or instances where any of the changes or alterations enumerated in Section 1 have been customarily made or done as an established practice in the ordinary and regular conduct of business by the original manufacturer or his duly appointed direct representatives or under specific authorization from the original manufacturer.

SECTION 2. Section 5.000 of the City of Bend Criminal Code is amended to read:

5.000 Title. Sections 5.005 to (5.050) 5.070 shall be referred to as (The) the "City of Bend Criminal Code."

SECTION 3. Section 5.010 of the City of Bend Criminal Code is amended to read:

5.010 Definitions. Except where the context clearly indicates a different meaning, the definitions appearing in the definitional and other sections of particular chapters of the Oregon Criminal Code, as they now exist, are applicable to sections 5.020 to (5.050) 5.070.

Read for the first time the 17th day of July, 1985.

Read for the second time the 7th day of August, 1985.

Placed upon its passage the 7th day of August, 1985.

YES: 5 NO: 0

Submitted to and approved by the Mayor the 7th day of August, 1985.

MAYOR

ATTEST:

Recorder-Treasurer, City of Bend

ORDINANCE NO. NS- 1418

AN ORDINANCE AMENDING ORDINANCE NO. NS-1178 BY PROVIDING FOR BED AND BREAKFAST INN AS A CONDITIONAL USE IN THE RS URBAN STANDARD DENSITY RESIDENTIAL ZONE, AND AMENDING BEND CODE CHAPTER 7.018 BY EXCEPTING BED AND BREAKFAST FACILITIES FROM THE EXEMPTIONS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 4 of Ordinance No. NS-1178 is hereby amended by adding thereto in alphabetic order a new definition as follows:

> Bed and Breakfast Inn. A single family dwelling unit where lodging and meals are provided, for compensation, in which no more than two (2) guest rooms are provided for no more than six (6) travelers or transient guests. A guest shall not rent for a time period longer than fifteen (15) consecutive nights.

Section 2. Section 25 of Ordinance No. NS-1178 is amended by adding the following new subsection (24):

(24) Bed and Breakfast Inn, provided that the inn shall be subject to an annual review for at least the first three years, after which time the Planning Commission, after public hearing, may approve a permanent permit for the inn. The following minimum standards shall also apply:

(a) All inns shall be owner-occupied.

(b) Each guest room shall have one off-street parking space, in addition to the parking required for the dwelling by the provisions of Section 24.

(c) All inns shall be inspected and approved by the City Building Official and Fire Prevention Officer prior to the issuance of an occupancy permit. A fee shall be paid for said inspection. Only rooms designed as sleeping rooms shall be used for guest rooms. Each guest room shall be protected by a smoke detector as required by State code.

(d) There shall be at least 400 feet of separation along the same street between inns.

(e) Signing shall be limited to one non-illuminated sign no greater than one and one half square feet in area.

(f) The bed and breakfast inn shall maintain an up-to-date guest register listing all guests.

(g) If an approved inn is not established within one year of the approval date, or if the use of the residence as an inn lapses for over one year, the approval shall automatically expire and a new application will be required.

(h) All inns shall be subject to the provisions of Ordinance No. NS-1375, the Transient Room Tax.

Section 3. Section 10, subsection (3) of Ordinance No. NS-1178 is amended by adding the following new use (x) to the conditional uses:

(x) Bed and Breakfast Inn, subject to the standards set forth in Section 25(24).

Section 4. Chapter 7.018, Section (3) of Bend Code is hereby amended to read as follows:

(3) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof, except for facilities that meet the definition of a bed and breakfast inn as set forth in Ordinance No. NS-1178.

Read for the first time the 7th day of August, 1985.

Read for the second time the 21st day of August, 1985.

Placed upon its passage the 21st day of August, 1985.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 21st day of August, 1985.

ATTEST:

Mayor

Recorder-Treasurer, City of Bend

ORDINANCE NO. NS-1419

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS URBAN STANDARD DENSITY RESIDENTIAL TO RH URBAN HIGH DENSITY RESIDENTIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RS Urban Standard Density Residential to RH Urban High Density Residential:

Lot 3, Subdivision of Block 9, Park Addition, City of Bend, Deschutes County, Oregon

Read for the first time the 21st day of August , 1985

Read for the second time the 4th day of September, 1985

Placed upon its passage the 4th day of September, 1985

YES: 6 NO: 0

Approved by the Mayor the 4th day of September, 1985

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1420

AN ORDINANCE AMENDING ORDINANCE NO. NS-1178 BY DEFINING BABYSITTER AND DAY CARE FACILITY, AND PROVIDING MINIMUM SITE SIZE REQUIREMENTS FOR SUCH FACILITIES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 4, Definitions, of Ordinance No. NS-1178 is amended by adding the definition of babysitter in alphabetical order and by revising the definition of day care facilities to read as follows:

> Babysitter. A person who provides day care services for children in the home of the babysitter for not more than five children for eight or more hours in a 24 hour period, as a home occupation.
>
> Day Care Facility. Any facility that provides day care to six or more children, including a day nursery, nursery school group, family day care home or similar unit operating under any name, but not including any: (a) facility providing care that is primarily educational unless provided to a preschool child for more than four hours a day; (b) facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music, or religion; (c) facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group; (d) facility owned by a school district, political subdivision of this state or a government agency; (e) facility operated by a babysitter.

Section 2. Section 25(17) of Ordinance No. NS-1178 is amended to read as follows:

> (17) Day Care Facility. Day care facilities shall have a minimum site size of 5,000 square feet and shall provide and thereafter maintain outdoor play areas with a minimum area of 100 square feet per child of total capacity. All outside play shall be enclosed by a fence of at least four feet but not more than six feet in height. Day care facilities and nursery schools shall provide adequate off-street parking and loading spaces and may be required to provide a driveway designed for continuous forward flow of passenger vehicles for the purposes of loading and unloading.
>
> Read for the first time the 18th day of September, 1985.
>
> Read for the second time the 2nd day of October, 1985.
>
> Placed upon its passage the 2nd day of October, 1985.

YES: 6 NO: 0

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1421

AN ORDINANCE RENUMBERING BEND CODE CHAPTER TWO AND AMENDING BEND CODE 2.352 RELATING TO FEE WAIVERS OF POLICE SERVICE CHARGES

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That Bend Code Chapter 2 be hereinafter referred to as Bend Code Chapter 1 and all of Bend Code Chapter 2's subsection and textual references thereto be renumbered to start with the number 1 rather than the number 2.

SECTION 2. That Section 2.352 be amended to read as follows:

[2] 1.352 [Application. Section 2.350 does not apply to any city, county, state, or federal agency or subdivision which requests the information.] Fee Waiver. The fees established pursuant to Bend Code 1.350 may be waived by the Chief of Police of the City of Bend or his designee if the entity requesting the information is a political subdivision as defined in ORS 192.072 (1)(a), a law enforcement agency as defined in ORS 181.010, or a district attorney as defined in ORS 131.005 (8) and said request does not work an economic or staffing hardship upon the Bend Police Department. This section does not give any rights to secure any report or other information not otherwise available.

Read for the first time the 18th day of September, 1985.

Read for the second time the 2nd day of October, 1985.

Placed upon its passage the 2nd day of October, 1985.

YES: 6 NO: 0

Submitted to and approved by the Mayor the 2nd day of October, 1985.

ATTEST:

Recorder-Treasurer City of Bend

 BEND CODE CHAPTER 1.300 - 1.308

ORDINANCE NO. NS-1422

AN ORDINANCE ESTABLISHING PROCEDURES FOR THE SALE OF REAL PROPERTY OWNED BY THE CITY OF BEND

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Commission may sell City real property by any legal means after complying with the provisions of ORS 221.725 and 221.727. The City's Recorder-Treasurer shall see that the notice required by ORS 221.725 is published.

SECTION 2. The City Commission may attach such conditions or restrictions to the sale of its real property regarding terms of payment or use of land as in its discretion it feels are necessary to protect the public interest.

SECTION 3. Any person, firm or corporation (hereinafter referred to as "applicant") desiring to purchase real property from the City of Bend shall file an application with the City Recorder-Treasurer. The applicant shall pay the Recorder-Treasurer an amount sufficient to pay the City's costs of sale, including, but not limited to, publication costs and appraisal fees. The amount of such costs shall be determined by the City's Recorder-Treasurer. Any dispute over the amount of costs may be appealed to the City Commission. This section does not apply to sales of property initiated by the Commission, unless the Commission so provides. Costs will be refunded to the applicant, without interest, if the City sells the property to someone other than the applicant.

SECTION 4. An application under Section 3 shall be forwarded to the City Commission by the City's Recorder-Treasurer. If the Commission finds it necessary or convenient to sell the real property in question it shall follow the procedures set forth in ORS 221.725. After holding the public hearing required by ORS 221.725, the Commission may sell the real property to the applicant or direct the City Recorder-Treasurer to solicit bids for the sale of City real property.

SECTION 5. If the city commission chooses to sell City real property by requesting bids on the realty, notice of the sale shall be published in a newspaper of general circulation within the City of Bend at least once prior to the sale. The notice shall contain a description of the property, the minimum sale price set by the City Commission, a notice that costs of sale are to be paid by the successful bidder and an announcement that the property will be offered for sale at public sale to be held in the City Commission room at the City Hall on a particular date and at a particular time. The notice shall recite that the City may reject any or all bids for the property. The notice may include the reason that the Commission has decided to sell the real property and any conditions of sale prescribed by the Commission.

Read for the first time the 18th day of September, 1985.

Read for the second time the 2nd day of October, 1985.

Placed upon its passage the 2nd day of October, 1985.

YES: 6 NO: 0

Submitted to and approved by the Mayor the 2nd day of October, 1985.

ATTEST:

Mayor

Recorder-Treasurer City of Bend

ORDINANCE NO. NS-1423

AN ORDINANCE AMENDING THE CITY OF BEND CRIMINAL AND TRAFFIC CODES, ORDINANCE NS-1361, AS AMENDED BY NS-1391, TO INCORPORATE 1985 STATE LEGISLATIVE AMENDMENTS TO THE TRAFFIC AND CRIMINAL CODES IN THE CITY'S ORDINANCE AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 5.005 of the City of Bend Criminal Code is amended to read as follows:

5.005 Application of the Oregon Criminal Procedures and Penalties. Provisions of the Oregon Criminal Code of 1971 as they now exist, relating to defenses, burden of proof, general principles of criminal liability, parties, general principles of justification, classification of offenses and penalties apply to offenses defined and made punishable by the City of Bend Criminal Code. Amendments to the above-mentioned provisions of the Oregon Criminal Code made by the 1983 and 1985 Oregon Legislatures shall be amendments to this section.

Section 2. Section 5.020 of the City of Bend Criminal Code is amended to read as follows:

5.020 Application of the Oregon Criminal Code. Violations of the Oregon Criminal Code for misdemeanors[,] and violations set forth in ORS Chapters 162, 163, 164, 166 and 167 and those provisions relating to controlled substances in ORS 475 and alcohol in ORS 471 and 472 are municipal ordinance offenses against the City of Bend. Amendments to the chapters of ORS incorporated herein made by the 1983 and 1985 Oregon Legislature shall be amendments to this section.

Section 3. Section 6.015 of the Bend Traffic Code is amended to read as follows:

6.015 Application of State Traffic Laws. A violation of the provisions of the Oregon Vehicle Code in ORS Chapters 153, 481, 482, 483, 484 and 487 is a[n] municipal ordinance offense against the City of Bend. Amendments to the chapters of ORS incorporated herein made by the 1983 and 1985 Oregon Legislatures shall be amendments to this section.

Section 4. Declaration of Emergency:

THE CITY COMMISSION HEREBY FINDS:

1. That the 1985 Oregon Legislature amended portions of the Oregon Traffic and Criminal Codes, and

2. The City of Bend's criminal and traffic codes incorporate several chapters of the Oregon Traffic and Criminal Codes, by reference, and it is in the best interest of the public health, safety and welfare that the laws of Oregon and the Bend Code be consistent in areas where they regulate the same acts of citizens, and

3. The amendments made by the 1985 Oregon Legislature take effect at various times and some amendments are already in effect.

WHEREFORE:

This ordinance being necessary for the immediate preservation of the peace, health and safety of the City, an emergency is declared to exist and this ordinance takes effect on its passage.

Read for the first time this 18th day of September, 1985.

Read for the second time this 16th day of October, 1985.

Placed upon its passage the 16th day of October, 1985.

YES: 5 NO: 0

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NS-1424

AN ORDINANCE AMENDING NS-1361 TO ENLARGE THE DOWNTOWN PARKING DISTRICT AND REPEALING PROVISIONS RELATED TO PARKING METERS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance NS-1361 which is codified as Bend Code 6.910 is amended as follows:

6.910 Downtown Parking District

(1) There is hereby established a downtown parking district which shall encompass the following areas:

[(a)] Both sides of Bond Street between Louisiana and Greenwood Avenues, both sides of Wall Street between Louisiana and Greenwood Avenues, the north side of Louisiana Avenue between the alley west of Wall Street and Bond Street, [the north side] both sides of Franklin Avenue between [Wall] the west side of Broadway Street and Bond Street[s], both sides of Minnesota Avenue between Wall Street and [the alley east of Bond Street] Tin Pan Alley, both sides of Oregon Avenue between Brooks and Harriman Streets, both sides of Irving Avenue between Bond and Harriman Streets, both sides of Brooks Street between Oregon and Newport Avenues, the west side of Harriman Street between Irving and Greenwood Avenues, [and] both sides of Greenwood Avenue between Wall and Harriman Streets, the Mirror Pond parking lots located to the west of Brooks Street and the public parking lot which is located between Minnesota Avenue and Healy Alley and directly to the east of Tin Pan Alley.

[(b) All off street metered parking spaces within the Central Business District Zone (C-B).]

(2) Within the downtown parking district designated in subsection (1) of this ordinance, the City Manager shall cause each parking space in a street or within an off-street parking area to be clearly marked. The City Manager shall determine the necessity for and the size and location of all parking spaces according to his reasonable determination of the safety, convenience and necessity of the public. Such markings may include markings to reserve one or more spaces exclusively for parking of motorbikes, motor scooters, motorcycles, bicycles and handicapped parking.

(3) [Except as provided in Subsections (1)(a) and (b),] No person shall, while at his or her place of employment or during his or her hours of work, cause[,] any motor vehicle owned, operated or controlled by that person, to be parked in any one or more parking spaces upon the public streets or public off-street parking areas within the downtown parking district between 10:00 a.m. and 4:30 p.m. on any day[.], except that:

(a) This section shall not apply on Sundays or holidays and to persons lawfully parked in a [limited-time parking space or] a paid rental parking space within the downtown parking area.

(b) Employer-owned or controlled vehicles shall be permitted in designated loading zones, subject to the limitations on the use of such zones contained in this ordinance.

(4) [(c)] Any person violating [any of] the provisions of [this section] Bend Code 6.910 [for which a special penalty has not been expressly provided may] shall pay a fine of $25.00. If this amount is not paid within five days after the notice was attached to the vehicle, the fine shall be increased to $50.00.

SECTION 2. That portion of Ordinance NS-1361 which is codified as Bend Code 6.225 to 6.280 and entitled PARKING METERS, as set forth below, is hereby repealed.

6.225 Deposit of Coins. No person shall park a vehicle, in a metered parking space, except as permitted otherwise by this code, without immediately depositing in the parking meter adjacent to the space the coin of the United States that is required by the meter, as designated by directions on the meter, unless the parking meter indicates that unexpired time remains from a previously deposited coin.

6.230 Legal Time Limit. Except as permitted otherwise by this code, no person shall leave a vehicle in a metered space when the meter adjacent to the space indicates that no unexpired time remains or beyond the time limit for parking in the space.

6.235 Extending Parking Time. No person shall cause to be deposited or deposit a coin in a parking meter to extend the parking time beyond the time limit for parking in a metered spot.

6.240 Mechanical Defect. Unintentional violation of provision of this code because of mechanical failure of a parking meter is not an offense within the meaning of this code.

6.245 Collections. The Chief of Police shall direct the collection of all coins deposited in parking meters.

6.250 Parking Meter Hoods. The City Manager or designee may issue a parking meter hood to a contractor engaged in construction, reconstruction or repair of a building or installation of equipment in a building adjacent to a street where parking meters are installed. A hood shall be issued only when available unmetered areas, including alleys that might be used or blocked off without interference with commerce, are not found reasonably close to the installation or construction site and shall be issued only for use during a particular construction job. A fee of $1.00 shall be paid each hour after proof of continuing need. The hood shall be returned to the City when use is terminated.

6.255 Use of Parking Meter Hoods. A person with a properly issued hood may place it over a parking meter reasonably close to the construction site to reserve the parking meter space for the permittee's vehicle while the permittee is actually engaged in the task for which the hood was issued.

6.260 Violation. No person shall use a parking meter hood for a purpose other than that for which the hood was issued. Failure to abide by this provision will result in forfeiture of the hood without refund of any of the fees paid, and the City Manager shall not issue another hood to the violator except with Commission approval.

6.265 Delivery of Service Permit Cards. The City Manager or designee may issue a service permit, including a vehicle identification card, to a person regularly using a passenger-type vehicle for delivery of service or delivery or pickup of merchandise. On proof of necessity, the City Manager may issue a service permit for a commercial-type

vehicle for performance of an essential service. The annual fee for a service permit shall be $50.00 for each vehicle.

6.270 Use of Service Permit Card. A person with a service permit may park the vehicle for which the identification card was issued in a loading zone in compliance with requirements for loading zones or in a metered space without depositing the required coin for a period not to exceed 30 minutes while actually engaged in delivery of service or pickup and delivery of merchandise.

6.275 Display. A person parking a vehicle with a properly issued permit shall display the identification card in plain sight within the driver's compartment of the vehicle.

6.280 Prohibited Use. No person shall use an identification card for a vehicle other than the vehicle for which it was issued or while using the vehicle for a purpose other than that authorized by the permit. Willful violation of these provisions will result in forfeiture of the permit and denial of future permits.

SECTION 3. That portion of Ordinance NS-1361 which is codified as Bend Code 6.285 is amended as follows:

6.285 Courtesy Permits. The City Manager or designee may make a courtesy parking permit available to a visitor to the City. The permit shall be valid for not more than three days and shall be free. The permit shall authorize the permittee to park a vehicle without regard to time limits [and without paying meter fees] in a parking space that allows over 30 minutes continuous parking. The permit shall be displayed in accordance with directions prescribed by the City.

Read for the first time the 20th day of November, 1985.

Read for the second time the 4th day of December, 1985.

Placed upon its passage the 4th day of December, 1985.

YES: 7 NO: 0

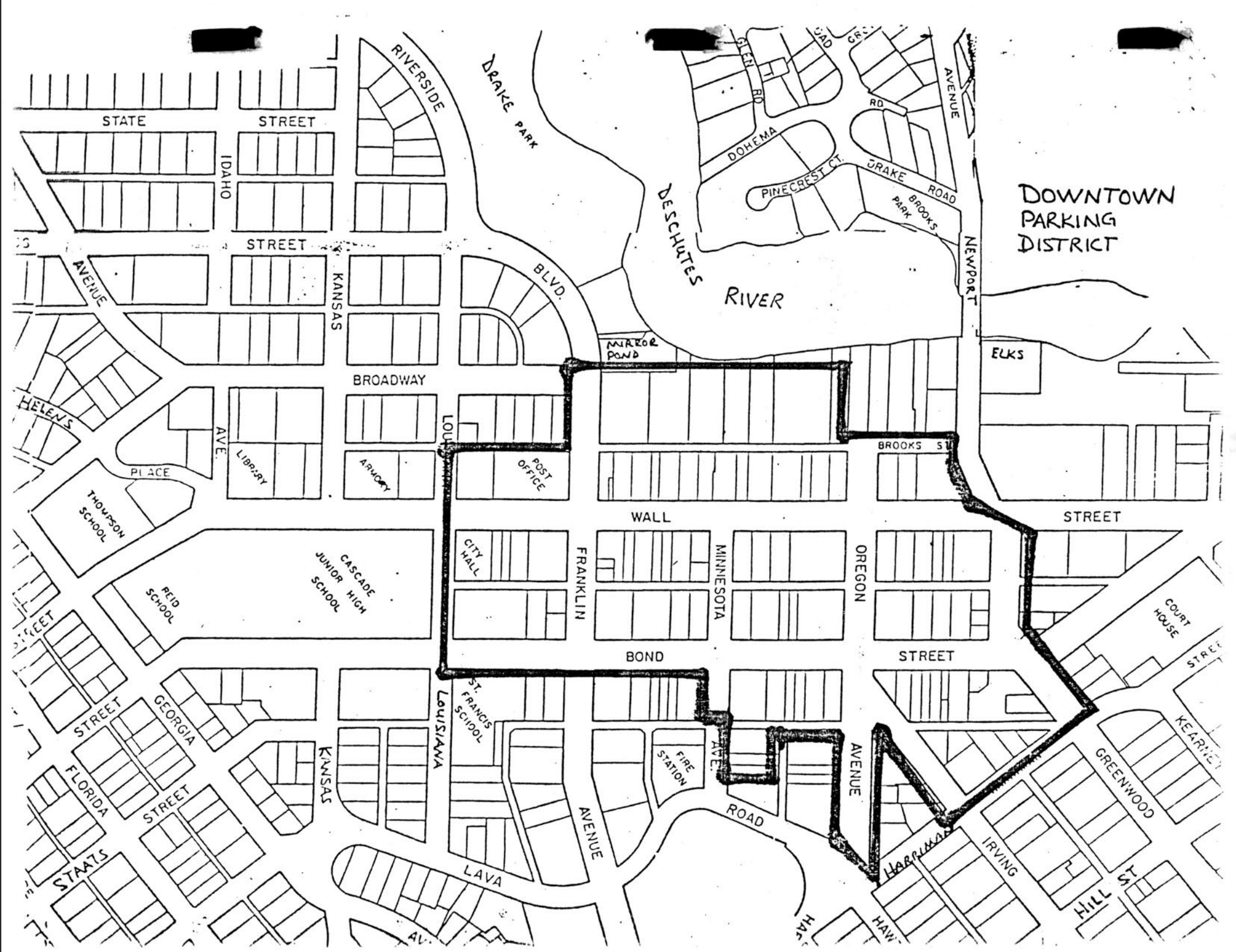
Submitted to and approved by the Mayor the 4th day of December, 1985.

MAYOR

ATTEST:

Recorder-Treasurer

NOTE: Those sections that are being added are underlined and those sections that are being deleted are enclosed in brackets.


DOWNTOWN
PARKING
DISTRICT
RIVERSIDE
DRAKE PARK
DESCHUTES
RIVER
DOHEMA
PINECREST CT.
DRAKE ROAD
BROOKS PARK
NEWPORT
AVENUE
STATE
STREET
IDAHO
AVENUE
KANSAS
BLVD.
MIRROR POND
ELKS
BROADWAY
HELENA
AVE.
PLACE
LIBRARY
ARMORY
POST OFFICE
BROOKS ST.
THOMPSON SCHOOL
WALL
STREET
CITY HALL
FRANKLIN
MINNESOTA
OREGON
COURT HOUSE
CASCADE JUNIOR HIGH SCHOOL
REID SCHOOL
BOND
STREET
GEORGIA
LOUISIANA
ST. FRANCIS SCHOOL
FIRE STATION
AVE.
AVENUE
KEARNEY
GREENWOOD
FLORIDA
STREET
KANSAS
AVENUE
ROAD
IRVING
HILL ST
STAATS
LAVA

ORDINANCE NS-1425

AN ORDINANCE AMENDING THE BEND SIGN CODE, ORDINANCE NS-1374.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 1.060 (16) of Ordinance NS-1374 is hereby repealed.

SECTION 2. Section 1.060 (20A) is added to and made a part of Ordinance NS-1374, after Section 1.060 (20), as follows:

1.060 SPECIFIC DEFINITIONS

20A. Model. Any three dimensional object displayed for advertising purposes including, but not limited to, models of people, beer bottles, animals, buildings, motor vehicles, ships, and aircraft; sculpture; vehicles; and hot air balloons.

SECTION 3. Section 1.060 (28)(Particular Signs) is amended to read:

1.060 SPECIFIC DEFINITIONS

28. Particular Signs

(1) Building Directory Sign. A sign giving the name, address number or location of the occupants of a building or buildings.

(2) Directional Sign. An on-premise sign designed to be read by a person already on the premises and used only to identify and locate an office, entrance, exit, motor vehicle route, telephone or similar place, service or route.

(3) [Free Standing Sign]. Ground Mounted Sign. A sign supported by one or more uprights or braces and not attached or incidentally attached to any building or structure [but does not include ground mounted signs].

[(4) Ground Mounted Sign. A sign which is not attached to any structure or building, and has a support which places the bottom thereof less than four (4) feet from the ground.]

[(5)](4) Internally Illuminated Sign. A sign which is wholly or partially illuminated by an internal light source from which source light passes through the display surface to the exterior of the sign.

[(6)](5) Mobile Sign. Any sign which is mounted or designed for mounting on wheels, or which is mounted or designed for mounting on self-propelled or towed vehicle, and the primary purpose of which is advertising.

[(7)](6) Motor Vehicle Directional Sign. A sign identifying motor vehicle entrances or exits to or from the premises on which the sign is located.

[(8)](7) Non-conforming Sign. A sign erected prior to the adoption of this ordinance which does not conform to the provisions contained herein.

[(9)](8) Outdoor Advertising Sign. A sign which advertises goods, products or services which are not sold, manufactured or distributed on or from the premises or facilities on which the sign is located.

[(10)](9) Parapet or Pergola Sign. Any sign or other commercial graphic attached to a parapet, ramada, pergola or other similar structure.

[(11)](10) Portable Sign. Any sign or other graphic which is designed to be or is capable of being transported from one place to another.

[(12)](11) Projecting Sign. A sign which extends perpendicular or nearly perpendicular from the building face to which it is attached.

[(13)](12) Roof Sign. A sign located on or above the roof of any building, not including a false mansard roof or other fascia.

[(14)](13) Temporary Sign. A banner, pennant, poster or advertising display constructed of cloth, canvas, plastic, sheet, cardboard, wallboard, sheet metal, plywood or similar materials and intended to be displayed for a limited period of time.

[(15)](14) Wall Sign. A sign painted or otherwise affixed to the face of a building, marquee, or roof overhang in a plane parallel to such face and extending not more than 18 inches therefrom.

SECTION 4. Section 2.020 of Ordinance NS-1374 is amended to read:

2.020 SIGN PERMIT

1. Except as provided in Section 2.050 of this ordinance, no sign shall be erected, structurally altered or relocated until a sign permit has been issued.

2. No sign permit will be issued if existing signs for a building or business do not comply with the provisions of this sign ordinance. A permit may be issued once the existing signs are brought into compliance with the sign ordinance.

SECTION 5. Section 2.030 (6) is added to and made a part of Ordinance NS-1374 as follows:

2.030 PROCEDURE

6. A permittee must remake, redo or remove any sign approved by the Sign Review Committee that is not executed as described in the sign permit within 15 days of receiving notice from the Committee that the sign was not properly executed.

SECTION 6. Section 2.040 of Ordinance NS-1374 is amended as follows:

2.040 MEASUREMENT.

1. The following criteria shall be used in measuring a sign to determine compliance with this ordinance:

   a. Area or Area of Sign. Area or area of a sign is the area within any perimeter which encloses the limits of any writing, representation, emblem, figure or character. The area of a sign having an irregular shape shall be computed by enclosing the surface area within a known plane geometric shape or shapes. The area of all signs in existence at the time of the enactment of this ordinance, whether conforming or nonconforming, shall be included when [establishing the permitted sign area of] calculating sign area available for all new signs to be allowed for an individual business or a premises. Where a sign is of a three dimensional or round or irregular solid shape, the largest cross section shall be used as though it were a flat surface to determine sign area.

   b. Clearance. Clearance of a sign is measured from the average grade at the base of the sign to the lowest point of the sign.

c. Height. Height is measured from the grade of the curb line closest to the base of the sign to the highest point of the sign. In the absence of a curb line, the edge of the street pavement shall be used.

2. Area of [front building] dominant facade. [When the area of the front building facade is used to determine sign area, said area shall be computed by multiplying the width of the building frontage or portion thereof by the height of the building or portion thereof which are devoted to the particular business.] "False fronts" and mansard roofs may be included when calculating the area of the [building] dominant facade.

SECTION 7. Section 2.050 (2) of Ordinance NS-1374 is amended to read:

2.050 PERMIT EXCEPTIONS

2. Temporary signs listed in Section 3.020[.], [P]provided, however, before signs under Subsections (5), (5A), (7) or (8) of Section 3.020 may be erected, a permit shall be obtained. [No fee shall be charged for said permit.]

SECTION 8. Section 3.010 (8) of Ordinance NS-1374 is amended to read:

3.010 EXEMPT SIGNS.

8. Interior non-illuminated signs designed primarily to be viewed from [a sidewalk or street when maintained inside a building including, but not limited to, signs attached to or painted on the inside of a window, provided, however, the permitted area for such signs shall be subject to the area requirements for wall signs and that such signs conform to the illumination requirements of this ordinance] inside a building. Interior non-illuminated signs which are designed to be viewed from outside of a building are exempt from the provisions of this ordinance if they do not advertise a business and are displayed for no longer than thirty days a year. All such signs must be located inside a building.

SECTION 9. Section 3.010 (14) is added to and made a part of Ordinance NS-1374 as follows:

14. Seasonal business signs for Fourth of July fireworks stands and Christmas tree lots, provided that such signs are securely attached to sales stands or to the ground, are not located in the vision clearance area as defined by the City Zoning Ordinance and are displayed for no longer than thirty days per year.

SECTION 10. Section 3.030 (10) of Ordinance NS-1374 is amended to read:

3.030 PROHIBITED SIGNS

10. [Are] Signs not otherwise in conformance with the provisions of this ordinance.

SECTION 11. Section 3.030 (12) and (13) are added to and made a part of Ordinance NS-1374 as follows:

3.030 PROHIBITED SIGNS

12. Models located any place other than inside of a building, except as specifically allowed by this Sign Code.

13. Banners, except as provided in Sections 4.030 (10) and 4.097 of this Sign Code.

SECTION 12. Section 4.010 of Ordinance NS-1374 is amended by adding subsection 8 as follows:

8. One non-illuminated name plate or home occupation sign having not more than one and one half (1-1/2) square feet in area per residence. Said sign shall not project beyond the property line.

SECTION 13. Section 4.020 (2) of Ordinance NS-1374 is amended to read:

4.020 SIGNS PERMITTED IN GENERAL COMMERCIAL ZONES

2. Ground Mounted Sign [or Free Standing Sign]. One ground mounted [or free standing] sign shall be allowed. Said sign may be sixteen feet in height plus one foot for each twenty feet of street frontage up to a maximum height of thirty feet. Said sign may have one square foot of sign area for each lineal foot of frontage up to 100 square feet with one-half square foot for each additional lineal foot of frontage with a maximum limit of 200 square feet. For a ground mounted[or free standing] sign only the frontage upon which the sign is located shall be used in determining area and height limits. In cases where it is unclear which frontage a sign is located on, the street frontage which will be used for sign area calculations shall be that street frontage that borders the street from which the sign and its advertising is most visible to passing motorists and pedestrians.

SECTION 14. Section 4.020 (9) of Ordinance NS-1374 is amended to read:

4.020 SIGNS PERMITTED IN GENERAL COMMERCIAL ZONES

9. Gasoline stations may also have one ground mounted sign displaying prices of fuel having an area no greater than [twelve] twenty square feet.

SECTION 15. Section 4.030 (6) of Ordinance NS-1374 is amended to read:

4.030 SIGNS PERMITTED IN THE CENTRAL BUSINESS DISTRICT (CB) ZONE

6. Gasoline stations may also have one ground mounted sign displaying prices of fuel having an area no greater than [twelve] twenty square feet.

SECTION 16. Section 4.030 (8) of Ordinance NS-1374 is amended to read:

4.030 SIGNS PERMITTED IN THE CENTRAL BUSINESS DISTRICT (CB) ZONE

8. Ground [or free standing] sign. One ground [or free standing] sign per business which is not in an integrated shopping center or business complex. Such signs may be sixteen feet in height plus one foot for each twenty feet of street frontage up to a maximum height of twenty-five feet. Such signs may have one square foot of sign area for each lineal foot of street frontage, up to a maximum of 100 square feet. Only the frontage upon which the sign is located shall be used in determining area and height limits. In cases where it is unclear which frontage a sign is located on, the street frontage which will be used for sign area calculations shall be that street frontage that borders the street from which the sign and its advertising is most visible to passing motorists and pedestrians.

SECTION 17. Section 4.030 (11) is added to and made a part of Ordinance NS-1374 as follows:

4.030 SIGNS PERMITTED IN THE CENTRAL BUSINESS DISTRICT (CB) ZONE

11. Each individual business in a business complex or an integrated shopping center may have one wall sign. The size of said sign shall be in conformance with Section 4.057.

SECTION 18. Section 4.040 (2) of Ordinance NS-1374 is amended to read:

4.040 SIGNS PERMITTED IN INDUSTRIAL ZONES

2. [Free-standing or] [g]Ground mounted signs. A business may have one [free-standing or] ground mounted sign. [not to exceed] Said sign may have one square foot of sign for each lineal foot of street frontage up to a maximum of seventy-five square feet in area [and shall be located adjacent to the street frontage providing direct vehicular access into the project.] The maximum

height of a [freestanding sign or] ground mounted sign shall not exceed twenty feet. Only the frontage upon which the sign is located shall be used in determining area and height limits. In cases where it is unclear which frontage a sign is located on, the street frontage which will be used for sign area calculations shall be that street frontage that borders the street from which the sign and its advertising is most visible to passing motorists and pedestrians.

SECTION 19. Section 4.040 (7) is added to and made a part of Ordinance NS-1374 as follows:

4.040 SIGNS PERMITTED IN INDUSTRIAL ZONES

7. Subdivision and PUD signs. All subdivisions and PUDs allowed in an industrial zone may have one ground mounted sign not to exceed sixty-four square feet in area.

SECTION 20. Section 4.045 of Ordinance NS-1374 is amended to read:

4.045 WALL SIGNS. Unless otherwise specified in this ordinance, the following criteria shall be applicable for attached wall signs:

1. The signable area of a wall sign shall be the space between the lower and upper limits [on the face] on the dominant facade of the building as defined below:

   a. The lower limit shall be the lintel or window head of the first story, but in no case shall it be lower than nine (9) feet from the finished grade immediately below.

   b. The upper limit shall be the window sill of the floor immediately above the lower limit and, in the absence of a window, two and one-half (2- 1/2) feet above such floor.

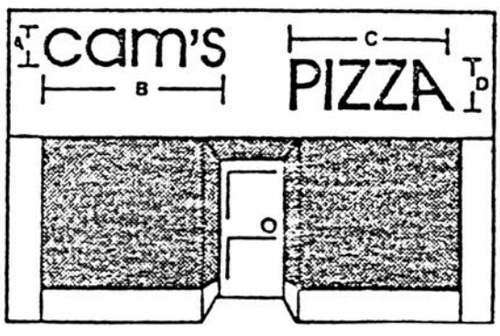
   c. For signs erected after the effective date of [this ordinance] Ordinance NS-1374, in the case of a one-story building, the upper limit shall be the roof line or the top of a parapet if there is one.

2. Sign area:

   a. The specific copy for wall signs shall not exceed fifteen percent (15%) of the signable area. However, this percentage may be increased to thirty percent (30%) if there is no projecting sign, and up to forty-five percent (45%) if there are no projecting signs, free standing signs and canopy signs. In no case shall the copy area exceed two (2) square feet per lineal foot of the [frontage of the premises] width of the dominant facade. [The "sign area" shall be the area enclosed by a frame, and in the absence of a frame to total permitted signable area.]

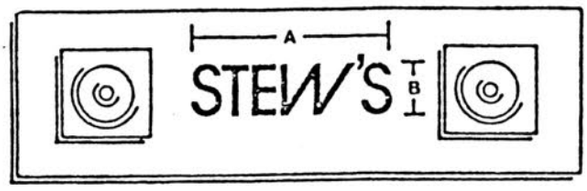
   [c.] b. Only the [frontage on which the sign is located] dominant facade shall be used for sign area calculations. The sign area may be divided between the dominant facade and subordinate facades, but the total sign area for the entire building may not exceed the total sign area allowed for the dominant facade.

   c. Copy area includes the entire area within a single continous perimeter composed of squares or rectangles, which enclose the extreme limits of the advertising message on a wall sign, as illustrated below.



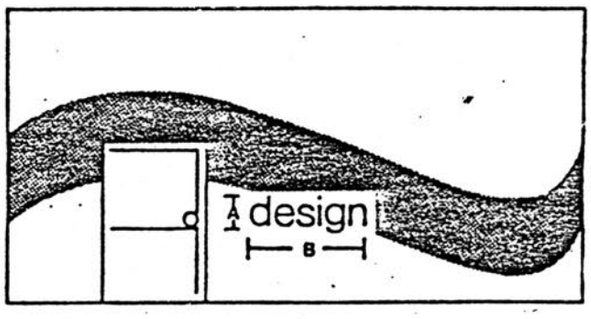
TOTAL AREA = (A)(B) + (C)(D)

d. Neutral surfaces intended only to integrate and harmonize a wall sign with the architecture of the building to which it is attached shall not be included in the calculation of sign area, as illustrated below.



TOTAL AREA = (A) x (B)

e. For wall graphics that include an advertising message, the area of the advertising, copy, logo, symbol or lettering shall be computed as sign area. Graphic design, wall murals and colored bands containing no advertising shall not be counted as sign area, as illustrated below, but shall be subject to the limitation contained in Section 3.010 (13) of this sign code.



TOTAL AREA = (A) x (B)

[b.] f. Identification wall signs with non-illuminated letters not higher than three inches, up to a total of four (4) square feet in area for each premises, shall be exempted from area calculations.

SECTION 21. Section 4.050 of Ordinance NS-1374 is amended to read:

4.050 [FREE-STANDING AND] GROUND MOUNTED SIGNS. Unless otherwise specified in this ordinance, the following criteria shall be applicable for all [free-standing signs and] ground mounted signs:

1. No sign or structure shall be located in a vision clearance area defined by the City Zoning Ordinance[.] [U]unless the bottom of the sign is higher than 8 feet above the grade at the curbs and the supporting pole is less than 12 inches in diameter.

2. [Ground s]Signs may have a display surface of combustible materials as established by City of Bend Ordinances and subject to the provisions of this code and the Uniform Building Code.

3. [Ground s] Signs shall be located at least 5 feet from a building, except when installed parallel to a building the distance shall be 10 feet from a building.

4. No [ground] sign shall be composed of vertical mounted modular cells or letters.

5. No [ground] sign shall project into a public right-of-way.

SECTION 22. Section 4.057 of Ordinance NS-1374 is amended to read:

4.057 SIGNS FOR A BUSINESS COMPLEX OR SHOPPING CENTER

1. One principal ground sign for an integrated shopping center or business complex. Such sign may be 16 feet in height plus one foot for each 20 feet of frontage with a maximum height of 30 feet. Such signs may have one square foot of sign area for each lineal foot of frontage, up to 100 square feet, with one-half a square foot for each additional lineal foot of frontage, with a maximum limit of 200 square feet.

2. Signs for interior businesses of shopping centers or a business complex shall be consistent with the provisions of Section [4.050] 4.045 [provided that if a business uses the part of the center's ground sign, his wall sign shall be reduced as provided in Section 4.045].

3. As an alternative to the above specifications and restrictions set forth for abusiness complex or shopping center developments or buildings, a complex or shopping center may utilize a comprehensive sign plan if they obtain the approval of the City of Bend Sign Review Committee. The business must submit a proposed comprehensive signing plan which must include the following:

   a. A scale drawing of each elevation showing existing and proposed signage for an entire complex.

   b. A list of the maximum number of tenant businesses projected to occupy the complex or shopping in the next three years if the business complex is not fully occupied at the time of approval of this plan.

   c. Paint color chips and material samples must be submitted with the proposal.

   d. Once a comprehensive sign plan is adopted by the Sign Review Committee for a business complex, the plan will supercede the requirements of Sections 4.057 (1) & (2).

   e. The approved comprehensive sign plan for a business complex will be kept on file in the City of Bend Building Department. All signs displayed by a business complex must then meet the requirements specified in the comprehensive sign plan.

   f. Once a comprehensive sign plan has been approved, any changes in signing for the complex must be approved by the sign review committee in the same manner as approval is obtained for an initial comprehensive sign plan.

SECTION 23. Section 4.070 (4) of Ordinance NS-1374 is amended to read:

4.070 AWNINGS AND CANOPY SIGNS

4. Lettering or logos shall be painted or otherwise permanently [placed] affixed in a space which shall not exceed[ing] the area allowed for a wall sign on the supporting building. [The sign area on the awning shall be deducted from the area allowed for a wall sign.]

SECTION 24. Section 4.097 of Ordinance NS-1374 is amended to read:

4.097 BANNERS. In the CB zone a business may have a street or sidewalk banner or banners described in Section 3.020 (5) and (5A) that do not advertise a product by name or business. Said banners shall be subject to review and approval by the Sign Review Committee.

SECTION 25. Section 6.020 of Ordinance NS-1374 is amended to read:

6.020 NON-CONFORMING SIGNS. Except as provided within Section 6.030 and Section 7.030, permanent signs in existence on the effective date of [this] [o] Ordinance NS-1374 which are not in conformance with the provisions of this ordinance shall be regarded as non-conforming signs but which do notcomply with this ordinance must be removed, altered, or replaced so as to conform within [two] ten years from [the date of official notification or three years from] the effective date of this ordinance. [whichever is less. Temporary signs which are not in conformance with the provisions of this ordinance shall be removed within thirty (30) days of the effective date of this ordinance. Provided, however, an owner of a temporary sign that is not located in a public right-of-way or is not a traffic hazard shall have one year from the effective date of this ordinance to remove that sign if they obtain a permit to retain that sign prior to July 1, 1983.] Provided, however, a change in use or occupation of a site shall require full compliance with the provisions of this ordinance. For areas annexed into the City, an owner of a non-conforming sign which complied with Deschutes County ordinances in effect at the time of sign installation shall have [two] ten years from the date of annexation by the City Commission to remove said sign.

SECTION 26. Section 6.030 of Ordinance NS-1374 is amended to read:

6.030. SPECIAL REQUIREMENTS FOR NON-CONFORMING SIGNS. A non-conforming sign which is structurally altered, relocated, [or] replaced or has its graphics altered shall immediately conform to the requirements of this ordinance except that:

[1. A sign may be removed from its sign structure for the purpose of repair, maintenance or a change of copy within the dimensions of the existing sign.]

[2.] 1. Such signs may be structurally altered where such alteration is necessary for public safety.

[3.] 2. Such signs may be reconstructed if they are moved for construction or repair of public works or public facilities and such reconstruction is completed within one year.

[4.] 3. Such signs may be reconstructed if they are damaged by an act of God or an accident, provided such damage does not exceed fifty percent of the cost of reconstruction of the entire sign, and provided that such sign is reconstructed within 180 days of the date the sign is damaged.

SECTION 27. Section 7.010 of Ordinance NS-1374 is amended to read:

7.010 VARIANCE APPLICATION An applicant for a sign permit or an applicant owning or leasing a sign that is not in [conformance] compliance with the provisions of this ordinance, may seek a variance to the provisions of this ordinance by filing an application for a variance with the City of Bend Sign ReviewCommittee. A variance request for sign location or for sign height or area may be allowed by the Building Official or designee [. Provided, however no] if the amount of the variance [shall exceed] requested is less than [twenty-five percent (25%)] ten percent (10%) of the applicable provision. All other variance requests must be approved by the City of Bend Sign Review Committee. [The] A decision of the Building Official or designee may be appealed to the [Hearings Officer] City of Bend Sign Review Committee within thirty days of the official's decision. [The decision of the Hearings Officer shall be final.] A variance may be granted upon a finding [by the appropriate review body] that all of the following criteria can be satisfied:

1. The request will be the minimum variance necessary to alleviate the special hardships or practical difficulties faced by the applicant in meeting the requirements of this ordinance.

2. There are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property that do not generally apply to other properties or uses in the same zoning district.

3. [In determining a variance] [t]The Building Official, Sign Review Committee or [Hearings Officer] Bend Urban Area Planning Commission may attach such conditions to granting all or a portion of any variance as necessary to achieve the purpose of this ordinance.

4. A variance application fee shall be set by resolution of the Bend City Commission. A variance fee shall be charged for all variance requests except those submitted to the Committee by the Building Official.

SECTION 28. Section 7.050 of Ordinance NS-1374 is amended to read:

7.050 Any decision of the [Building Official or] Sign Review Committee may be appealed to the [Hearings Officer] Bend Urban Area Planning Commission in accordance with the City of Bend land use procedures. A decision of the Planning Commission shall be final.

Read for the first time the 4th day of December, 1985.

Read for the second time the 18th day of December, 1985

Placed upon its passage the 18th day of December, 1985.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 18th day of December, 1985.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

Note: Those sections that are being added are underlined and those sections that are being deleted are enclosed in brackets.

ORDINANCE NS-1426

AN ORDINANCE AMENDING ORDINANCE NO. NS-1375, BEND CODE 7.810 - 7.822 WHICH REGULATE ANTIQUE, SECONDHAND AND JUNK DEALERS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Bend Code 7.810 is amended to read:

7.810. Definitions. As used in Bend Code 7.810 to 7.824, unless the context requires otherwise: [For the purposes of sections 7.810 to 7.822, the terms]

(1) "Business Days" are Monday, Tuesday, Wednesday, Thursday and Friday, excluding all legal holidays.

(2) "Daily ledger" is a pre-numbered, permanently bound book that has all of the pages in the book that were originally bound into the book in which all entries are kept in ink and in chronological and numerical order, which is on a form approved by the Chief of Police and supplied to the dealer by the Bend Police Department.

(3) ["Antique, secondhand and junk dealers"] "Dealer" shall mean persons who are [primarily] engaged in the business of selling, purchasing, trading, bartering or exchanging antique or secondhand goods for private gain or who have in their possession any junk such as old machinery, used machinery or appliance parts, metal, glass, lumber or wood and discarded material acquired for the purpose of resale.

(4) "Purchase" means, in addition to its commonly accepted meaning, acquisition of personal property for the purpose of resale on consignment and acquisition of personal property by trade, barter or exchange.

(5) "Secondhand Goods" means, in addition to its commonly accepted meaning, all personal property which has been used or possessed previously by another and includes, but is not limited to, previously owned precious metals, jewelry, coins, stamps, firearms, appliances, hand and power tools, binoculars, cameras, watches, televisions, radios, phonographs, stereos, recording devices, antiques, furniture, calculators, electronic devices, bicycles, appliances, tools, sporting goods and similar items.

SECTION 2. Bend Code 7.811 is amended to read:

7.811 License Required [Fee].

(1) No person shall engage in business as a [n antique, secondhand or junk] dealer without first obtaining a license from the City Manager. Agents and employees of a dealer who engage in the purchase of secondhand goods, must also obtain a license from the City Manager and are subject to all requirements of Bend Code 7.810 - .824.

(2) The initial annual license fee for a dealer shall be [$25.00] $50.00 for each place of business that the dealer maintains within the City of Bend. A licensed dealer who has complied with the provisions of this Code and whose license has not been revoked, may renew his or her license for an annual fee of $25.00 per place of business.

(3) An agent or employee of a licensed dealer who engages in the purchase of secondhand goods shall obtain a license for a fee of $5.00 per year.

SECTION 3. Bend Code 7.812 is amended to read:

7.812 Exemptions. The provisions of [sections] Bend Code 7.810 to 7.822 shall not apply to:

(1) any bona fide secondhand automobile establishment used or conducted solely [and exclusively] for the sale of used [automobiles] vehicles; [or to]

(2) any bona fide recycling center[.];

(3) a person or business that only sells used merchandise that was acquired as a trade-in and as partial consideration for the purchase of similar new merchandise from the person or business;

(4) an automobile wrecking yard used exclusively for the wrecking or sale of used vehicles;

(5) any person holding garage sales with a license issued pursuant to the authority of Bend Code 7.592;

(6) any person offering antique, secondhand, or junk goods for sale at a flea market, trade show or similar organized sales event three or fewer times annually and not to exceed five days per event.

(7) an individual or business that purchases or sells used books and that does not engage in the purchase or sale of secondhand goods that must be recorded in a daily ledger pursuant to Bend Code 7.816 (1).

(8) an individual or business that purchases or sells used clothing and that does not engage in the purchase or sale of secondhand goods that must be recorded in a daily ledger pursuant to Bend Code 7.816 (1).

(9) an individual or business whose only secondhand business transactions are the buying and selling of gold or silver bullion bars of 0.995 fine or better.

SECTION 4. Bend Code 7.814 is amended to read and is renumbered as follows:

7.81[4]6 Records Required.

(1) Every [antique] dealer [, junk dealer or secondhand dealer] conducting an establishment and all itinerant [antique] dealers [an itinerant junk dealer or an itinerant secondhand dealer] who conduct business in the City of Bend, shall keep a daily ledger, written in ink [or typewritten], in the English language, [of all junk or articles purchased,] of all purchases made by dealers or their agents of the following secondhand goods: jewelry, property made of precious metal excluding gold and silver bullion bars of 0.995 fine or better, firearms, appliances, sporting goods, binoculars, cameras, watches, televisions, radios, recording devices, calculators, electronic devices, hand and power tools, stereos, phonographs, bicycles, machinery and machinery parts. Said ledger must be completely filled out, including an accurate and sufficiently detailed description [thereof;] of the secondhand goods purchased; the name, date of birth, sex, race and address of the person from whom purchased or acquired [or to whom sold;] the day and hour of the sale or purchase and price paid[.]; all serial numbers of secondhand goods purchased; and the number of the seller's identification card required by Bend Code 7.816 (2).

When the dealer purchases secondhand goods from a corporate entity, the sales agent who sells the goods to the dealer shall be considered the person from whom the goods were purchased or acquired for purposes of this section. For secondhand purchases from a corporation, the dealer shall also list the name and address of the corporation.

(2) When a dealer purchases secondhand goods in the City of Bend, the dealer shall require the seller to display one of the following forms of identification:

(A) a valid drivers license;

(B) a valid state identification card;

(C) a valid military identification card;

(D) a valid passport, visa or alien registration card with photo.

(E) a valid federal firearms license, if the dealer is purchasing secondhand firearms.

(3) Bend Code 7.816 (2) shall not apply to the following secondhand purchases:

(A) purchases made at an auction;

(B) purchases from a dealer who is licensed by the City of Bend or Deschutes County;

(C) purchases which are shipped to the dealer from a dealer whose primary business location is outside of Deschutes County.

(D) purchases from governmental entities.

(4) The daily ledger shall be maintained by the dealer for a period of two years from the date of the latest transaction recorded therein.

(5) [All records required by this section] The daily ledger shall be open for inspection by any police officer at all reasonable times.

(6) No entry in [such records] a daily ledger may be changed, erased, obliterated or defaced. No original entry pages of the daily ledger shall be removed, detached or separated from the ledger. A copy of such record shall be mailed or delivered to the Chief of Police weekly. [All records required under this sectio shall be on a form approved by the Chief of Police.]

SECTION 5. Bend Code 7.814 is added to and made a part of Ordinance NS-1375, the Business Licensing Code of the City of Bend, as follows:

7.814 License Application and Review.

(1) Application for a secondhand business license shall be made pursuant to section 7.200 - .240 and shall include:

(A) The full name, date of birth, addresses of residences for five years prior to date of application and dates that the applicant resided at each address and names and addresses of all business locations and all of applicant's employers for five years prior to date of application.

(B) A specific description of the location of all places of business of the applicant.

(C) The names, addresses and dates of birth of any employees or agents of the employer.

(2) All applications for a dealer's license are to be investigated by the Bend Police Department. The Police Chief shall recommend to the City Manager whether to approve or deny the application.

(3) All approved applicants shall be issued a photo identification card by the Bend Police Department. New applicants for a secondhand business license may be fingerprinted by the Bend Police Department to ascertain the identity of the applicant.

SECTION 6. Bend Code 7.815 is added to and made a part of Ordinance NS-1375, the Business Licensing Code of the City of Bend, as follows:

7.815 Denial and Revocation of License. A license shall be issued only upon the signed, written application of the dealer, according to the procedures set forth in Bend Code 7.200 - .240. In addition to the grounds listed in Bend Code 7.218, grounds for the denial or revocation of a dealer's license include:

(1) A knowing false statement in the license application.

(2) Conviction of a crime that is prohibited as a felony in the State of Oregon or an offense in the nature of theft, deception or moral turpitude.

(3) Failure of the dealer to have obtained all necessary zoning, planning, building and sanitation permits for the dealer's place of business.

(4) Conducting business without a business license and allowing people who have not obtained a business license under this section to work as the dealer's agents or employees.

The City Manager may, with the concurrence of the Chief of Police, issue a secondhand business license to an applicant who does not comply with one or more of the above-listed factors or one or more of the factors listed in Bend Code 7.218, if the City Manager and Police Chief believe that the behavior evidenced by such factor is not likely to recur, or is remote in time, or occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this Code.

SECTION 7. Bend Code 7.822 is amended as follows:

7.822 Retention and Return of Articles.

(1) All [junk,] secondhand goods [or other articles purchased or received] that must be recorded in the dealer's ledger as required by Bend Code 7.816 (1), shall be retained for a period of five business days from the date that the Police Department copy of the ledger entry for the item purchased by the dealer or dealer's agent is received by the Bend Police Department. [before disposal, except old rags and paper.] If the police department copy of the ledger entry is mailed to the Bend Police Department from Bend, Oregon, the five business day period will be calculated from the date the envelope containing the ledger forms is postmarked. The provisions of this subsection shall not apply to items that a dealer purchases from other licensed dealers who have complied with this subsection.

(2) Whenever any [junk dealer or secondhand] dealer is notified by a police officer to retain any article purchased by such dealer so that the police can ascertain whether the article is stolen, the dealer upon receipt of the notice, shall retain, in his place of business, such articles for 15 days after receipt of the notice.

(3) Whenever secondhand property is identified by a city, county, state or federal police agency as stolen property, said dealer shall promptly turn the property over to any member of the police agency upon request. If requested by the dealer, the police officer shall give a receipt for all items received from the secondhand dealer and said receipt shall include the police agency's name, address and case number.

SECTION 8. Bend Code 7.824 is added to and made a part of Ordinance NS-1375, the Business Licensing Code of the City of Bend, as follows:

7.824 Burden of Proof. If a person is cited for violating Bend Code 7.811 to 7.822 and wishes to claim an exemption under Bend Code 7.812, that person shall have the burden of proving that he or she is covered by said exemptions.

Read for the first time the 15th day of January, 1986.

Read for the second time the 5th day of February, 1986.

Placed upon its passage the 5th day of February, 1986.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 5th day of February, 1986.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

Note: Those sections that are being added are underlined and those sections that are being deleted are enclosed in brackets.

ORDINANCE NO. NS-1427

AN ORDINANCE DISPENSING WITH THE ELECTION IN THE SUBJECT OF AN ANNEXATION TO THE CITY OF BEND, AND WITHDRAWAL FROM RURAL FIRE DISTRICT NO. 2; SETTING A DATE FOR PUBLIC HEARING; DESCRIBING THE PROPERTY PROPOSED TO BE ANNEXED; AND SETTING UP A PUBLICATION SCHEDULE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Whereas the City of Bend, in accordance with its existing annexation policy, is now annexing to the said City of Bend the following described real property, to-wit:

A tract of land lying in the SE 1/4 Section 20, the SW 1/4 Section 21, the NW 1/4 Section 28, and the NE 1/4 Section 29, all in Township 17 South, Range 12 East, W.M., consisting of three parcels: (1) the plat of Boyd Shopping Center; (2) a portion of the right of way of the New Dalles-California Highway lying westerly of said plat; and (3) that land in the SE 1/4 SE 1/4 of said Section 20 lying between the said highway and the easterly right of way of O. B. Riley Road. This tract is more particularly described as follows:

Beginning at the initial point of the said "Boyd Shopping Center", said point being also the south 1/16 corner common to said Sections 20 and 21; thence along the north line of the SW 1/4 SW 1/4 of said Section 21 S. 89°52'03" E., 218.24 feet to the westerly right of way line of Swalley Canal as relocated; thence along said right of way S. 13°51'13" E., 136.37 feet; thence along the arc of a 70.00 foot radius curve right, 12.47 feet; thence S. 03°39'04" E., 726.87 feet; thence along the arc of a 145.00 foot radius curve right, 82.20 feet; thence S. 28°49'46" W., 80.47 feet; thence along the arc of a 155.00 foot radius curve left, 94.97 feet; thence S. 06°38'48" E., 25.21 feet; thence along the arc of a 95.00 foot radius curve right, 59.52 feet; thence S. 29° 14'52" W., 253.65 feet; thence along the arc of a 220.00 foot radius curve right 90.94 feet; thence S. 52°55'57" W., 240.47 feet; thence along the arc of a 105.00 foot radius curve left, 56.20 feet to the point of intersection of the said Swalley Canal right of way with the easterly right of way of the said Dalles-Callifornia Highway; thence N. 08°43'02" W. along the said highway right of way line approximately 340 feet; thence along the arc of a 2,341.83 foot radius curve left, being 50 feet easterly of and concentric with the new surveyed centerline of the new alignment of the old Dalles-California Highway now commonly known as O.B. Riley Road, a distance of 1,185.3 feet; thence S. 52°17'00" W., 20.00 feet; thence continuing northwesterly along the easterly right of way line of O.B. Riley Road approximately 350 feet to its intersection with the north line of the SE 1/4 SE 1/4 of the said Section 20; thence S. 89°19'51" E. along the said north line 203.57 feet; thence N. 8°40'30" W., 271.43 feet; thence N. 81°19'30" E., 120.00 feet; thence S. 8°40'30" E., 300.00 feet; thence N. 81°19'30" E., 155.00 feet, said point being the most northwesterly corner of the said plat of "Boyd Shopping Center"; thence along the north line of said plat N. 81°16'59" E., 124.81 feet; thence S. 08°45'42" E., 37.29 feet; thence S. 89°17'42" E., 298.80 feet to the initial point of said plat and the true point of beginning of this description. Containing 25.73 acres more or less, all in Deschutes County, Oregon.

Section 2. In accordance with applicable State Statutes, the City Commission of the City of Bend, the City legislative body, elects to dispense with submitting the question of annexation to the registered voters of the City, and elects to withdraw from Rural Fire District No. 2, and by this ordinance does fix the 5th day of March, 1986 at the hour of 7:30 pm, in the City Commission Chambers at the City Hall as the time and place for a public hearing before the said City Commission on the question of annexation to the City of Bend and withdrawal from Rural Fire District No. 2, at which time the registered voters of the City may be heard on the said question.

Section 3. A copy of this ordinance shall be published once each week for two successive weeks prior to the day of hearing in a newspaper of general circulation in the City of Bend and shall likewise be posted in four public places in the City for a like period which said publication and posting shall be notice of the hearing.

Read for the first time the 5th day of February, 1986

Read for the second time the 19th day of February, 1986

Placed upon its passage the 19th day of February, 1986

YES: 7 NO: 0

Submitted to and approved by the Mayor, the 19th day of February, 1986

ATTEST:

Recorder-Treasurer

Mayor

ORDINANCE NO. NS-1428

AN ORDINANCE AMENDING ORDINANCE NO. NS-1178, AS AMENDED, BY THE ADDITION OF A DESCHUTES RIVER COMBINING ZONE, PROVIDING FOR A STUDY PERIOD AND PROVIDING STANDARDS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2 of this ordinance is added to and made a part of Ordinance No. NS-1178.

SECTION 2. Section 22A Deschutes River Combining Zone, or DR Zone.

In any Deschutes River Combining zone the requirements and standards of this Section shall apply in addition to those specified in this Ordinance for the underlying zone. In the event of a conflict in requirements and standards of this Section with the requirements and standards for the underlying zone, the provisions shall govern.

(1) Purpose. The purpose of the Deschutes River Combining Zone is to maintain the quality and quantity of the streamflows: fish and wildlife; and visual, environmental, and aesthetics of the Deschutes River, its tributaries, diversion points, and adjacent areas within the area of the DR zone.

(2) Combining Zone. The Deschutes River Combining Zone, as shown on the map marked Exhibit "A," attached hereto and by this reference incorporated herein, is hereby adopted as the Deschutes River Combining Zone map designating the area subject to this section.

(3) Uses Permitted Conditionally. In a zone with which the DR Zone is combined, those uses not otherwise exempt from this Section shall be permitted conditionally. The requirements and standards of this section shall apply in addition to the general conditional use criteria and the requirements and standards for the underlying zone.

(4) Specific Use Requirments and Standards. The following requirements and standards apply to land uses within the DR Zone:

(a) The use shall maintain existing stream flow of any affected river or stream at present quality and quantity.

(b) The use shall conserve and protect fish and wildlife habitat.

(c) The use shall maintain the scenic, visual, environmental and aesthetic qualities of the affected river or stream, and shall not diminish the economic benefits of the river through tourism to the local economy.

(d) The use shall not impair recreational opportunities of the river or stream by the public.

(e) The use shall have no significant negative impact, individually or cumulatively, on existing and potential uses of the river or stream.

(f) The use shall meet the State of Oregon Department of Environmental Quality noise standards.

(g) That any special district involved in any manner with an application for a land use permit has complied with the requirements of ORS 197.185 and the proposed activity is in conformity with the special district's intergovernmental cooperative agreement with Deschutes County.

(5) Study Period. A study shall be conducted, subject to available funding, as set out below by a joint City/County task force to be appointed by the City and County Commissions.

(a) There is hereby declared a study period for all land use activities within the area within the DR zone during which land use permits may not be issued unless the applicant affirmatively shows that the proposed use furthers or fulfills each and every requirement and standard set forth in this Section.

(b) The study period shall be for the period February 1, 1984 to April 30, 1986.

(c) The study period shall include the following:

1. Detailed mapping and instream flow studies of the Deschutes River, its tributaries, its diversion points, and its areas of special interest to allow precise review of the boundaries of the DR zone.

2. The development of a river system model at standards no less stringent than those adopted by the Northwest Power Planning Council to complete the requirements of the studies identified in Section 1204, Northwest Power Planning Council "Columbia River Basin Fish and Wildlife Program" and Chapter 10, Sections 14.2 and 14.3, Northwest Power Planning Council "Northwest Conservation and Electric Power Plan".

3. Identify uses and development that may be permitted utilizing the balancing tests set forth in Statewide Planning Goal 5, and establish detailed standards and criteria for development within the DR zone.

4. Study the individual and cumulative effects of all known and potential hydroelectric sites and sources on the Deschutes River, its tributaries, diversion points, adjacent areas, and stream flow.

5. Develop a program in recognition of the cumulative effects to balance the conflicting uses of the natural resource and the hydroelectric projects as required by Statewide Planning Goal 5.

6. To include in the study the river and stream diversion canals to the extent funding is identified for such purpose.

7. Preparation of amendments to the Bend Area General Plan to balance the conflicting uses on the Deschutes River, its tributaries and areas of special interest within the combining zone, and such amendments to the zoning ordinance as are necessary.

8. Identification of current and potential river uses, and the economic value of such uses.

(d) During the study period, the City shall participate with the Power Council in the completion of the Power Council's hydroelectric study and take affirmative action with respect to the apparent conflict between the provisions of PURPA and the Northwest Power Act in order to help facilitate resolution of the conflict.

(6) Directives. The city shall consider any application for a hydroelectric project where the applicant has sufficiently addressed those issues to be resolved during the study period and furthers the purpose of this section.

(7) Exemptions. The following shall be exemptions to the process set forth in this section:

(a) Continuation of nonconforming uses constructed prior to February 3rd 1984, subject to the standards of this ordinance.

(b) A use or structure, including a conforming or nonconforming use, or a conforming or nonconforming structure, for which a minor site plan for the construction, alteration, restoration, or replacement is necessary.

(c) Construction or reconstruction of a permitted residential use subject to the minimum setback of this zoning ordinance.

(d) The reconstruction or repair of an existing dam, provided such reconstruction or repair does not alter the characteristics of the water impoundment and does not otherwise affect existing streamflow.

(e) Nothing in this section shall prohibit the employment of land within the DR zone for farm or forest practices.

(f) The desiltification of Mirror Pond by the process of dredging.

(g) Any use or accessory use permitted outright or conditionally in the underlying zone approved prior to January 1, 1984 in a Cluster Development, Planned Development Destination Resort, Dude Ranch, Planned Community, or site plan approval, or in a Master Plan approved through the City of Bend Subdivision Ordinance.

SECTION 3. Repeal. This ordinance is repealed April 30, 1986, or upon completion of the study provided for in Section 22A of Ordinance No. NS-1178, City of Bend Zoning Ordinance, as amended, and the adoption of a recommended comprehensive plan and implementing ordinance amendments whichever occurs last.

SECTION 4. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this amendment or any part thereof, is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this code or any part thereof. The City Commission hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional or otherwise invalid.

SECTION 5. Declaration of Emergency:

THE CITY COMMISSION HEREBY FINDS:

1. That the City's River Study Ordinance, NS-1394, has expired and the river study has not yet been completed; and

2. That the River Study Ordinance created the Deschutes River Combining Zone, with special land use requirements for that zone; and

3. That it is in the best interest of the public health, safety and welfare of the citizens of the City of Bend that development on the Deschutes River be specially regulated to protect the public interest in the river; and

WHEREFORE:

This ordinance being necessary for the immediate preservation of the peace, health and safety of the City of Bend, an emergency is declared to exist and this ordinance takes effect on its passage.

Read for the first time this 5th day of February, 1986.

Read for the second time this 19th day of February, 1986.

Placed upon its passage this 19th day of February 1986.

YES: 7 NO: 0

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1429

AN ORDINANCE AMENDING THE CITY OF BEND TRAFFIC CODE, ORDINANCE NS-1361, AS AMENDED BY NS-1391 AND NS-1423, TO INCORPORATE 1983 AND 1985 STATE LEGISLATIVE AMENDMENTS TO THE STATE TRAFFIC CODE WHICH BECAME EFFECTIVE JANUARY 1, 1986 AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 6.015 of the City of Bend Traffic Code is amended to read as follows:

6.015 Application of State Traffic Law. A violation of the provisions of the Oregon Vehicle Code in ORS Chapters [153, 481, 432, 483, 484 and 487] 801 through 822 and ORS 476.715 is a municipal ordinance offense against the City of Bend. The provisions of ORS Chapter 153 shall be applicable to all actions filed in Bend Municipal Court which allege a violation of this section. Amendments to the chapters of ORS incorporated herein made by the 1983 and 1985 Oregon Legislatures shall be amendments to this section.

Section 2. Declaration of Emergency:

THE CITY COMMISSION HEREBY FINDS:

1. That the Oregon Vehicle Code was reorganized and renumbered by the 1983 and 1985 sessions of the Oregon Legislature; and

2. That said reorganization and renumbering became effective on January 1st 1986; and

3. That the City of Bend's traffic code incorporates the provisions of the Oregon Vehicle Code, by reference; and

4. That it is in the best interest of the public health, safety and welfare that the laws of the State of Oregon and the ordinances of the City of Bend be consistent in areas that regulate the same acts of citizens.

WHEREFORE:

This ordinance being necessary for the immediate preservation of the peace, health and safety of the City of Bend, an emergency is declared to exist and this ordinance takes effect on its passage.

Read for the first time this 5th day of February, 1986.

Read for the second time this 19th day of February, 1986.

Placed upon its passage this 19th day of February 1986.

YES: 7 NO: 0

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1430

AN ORDINANCE RECITING PROCEDURES ACCOMPLISHED IN THE ANNEXATION OF REAL PROPERTY TO THE CITY OF BEND AND WITHDRAWAL FROM RURAL FIRE DISTRICT NO. 2, DESCRIBING THE SUBJECT PROPERTY AND DECLARING THE ANNEXATION AND WITHDRAWAL.

THE CITY COMMISSION OF THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Under the provisions of Ordinance No. NS-1427, the City Commission of the City of Bend, the City legislative body, did elect to dispense with submitting the question of annexation of the following described real property from Rural Fire District No. 2 and did fix the 5 th day of March, 1986, at the hour of 7:30 PM, in the City Commission Chambers of the City Hall, Bend, Oregon, as the time and place for the registered voters of the City of Bend to appear and be heard on the question of annexation to the City and withdrawal from Rural Fire District No. 2 of the following described property, and did cause the notice thereof to be published once each week for two successive weeks prior to the day of hearing in a newspaper of general circulation in the City of Bend and did cause notice of the hearing to be posted in four public places in the City for a like period which said hearing was held at the time and place aforesaid.

Section 2. The following described real property located within the County of Deschutes, State of Oregon, more particularly described as follows:

A tract of land lying in the SE 1/4 Section 20, the SW 1/4 Section 21, the NW 1/4 Section 28, and the NE 1/4 Section 29, all in Township 17 South, Range 12 East, W.M., consisting of three parcels: (1) the plat of Boyd Shopping Center; (2) a portion of the right of way of the New Dalles-California Highway lying westerly of said plat; and (3) that land in the SE 1/4 SE 1/4 of said Section 20 lying between the said highway and the easterly right of way of O. B. Riley Road. This tract is more particularly described as follows:

Beginning at the initial point of the said "Boyd Shopping Center", said point being also the south 1/16 corner common to said Sections 20 and 21; thence along the north line of the SW 1/4 SW 1/4 of said Section 21 S. 89°52'03" E., 218.24 feet to the westerly right of way line of Swalley Canal as relocated; thence along said right of way S. 13°51'13" E., 136.37 feet; thence along the arc of a 70.00 foot radius curve right, 12.47 feet; thence S. 03°39'04" E., 726.87 feet; thence along the arc of a 145.00 foot radius curve right, 82.20 feet; thence S. 28°49'46" W., 80.47 feet; thence along the arc of a 155.00 foot radius curve left, 94.97 feet; thence S. 06°38'48" E., 25.21 feet; thence along the arc of a 95.00 foot radius curve right, 59.52 feet; thence S. 29° 14'52" W., 253.65 feet; thence along the arc of a 220.00 foot radius curve right 90.94 feet; thence S. 52°55'57" W., 240.47 feet; thence along the arc of a 105.00 foot radius curve left, 56.20 feet to the point of intersection of the said Swalley Canal right of way with the easterly right of way of the said Dalles-California Highway; thence N. 08°43'02" W. along the said highway right of way line approximately 340 feet; thence along the arc of a 2,341.83 foot radius curve left, being 50 feet easterly of and concentric with the new surveyed centerline of the new alignment of the old Dalles-California Highway now commonly known as O.B. Riley Road, a distance of 1,185.3 feet; thence S. 52°17'00" W., 20.00 feet; thence continuing northwesterly along the easterly right of way line of O.B. Riley Road approximately 350 feet to its intersection with the north line of the SE 1/4 SE 1/4 of the said Section 20; thence S. 89°19'51" E. along the said north line 203.57 feet; thence N. 8°40'30" W., 271.43 feet; thence N. 81°19'30" E., 120.00 feet; thence S. 8°40'30" E., 300.00 feet; thence N. 81°19'30" E., 155.00 feet, said point being the most northwesterly corner of the said plat of "Boyd Shopping Center"; thence along the north line of said plat N. 81°16'59" E., 124.81 feet; thence S. 08°45'42" E., 37.29 feet; thence S. 89°17'42" E., 298.80 feet to the initial point of said plat and the true point of beginning of this description. Containing 25.73 acres more or less, all in Deschutes County, Oregon.

Section 3. That prior to the time of the aforesaid public hearing at least one-half of the landowners who own or who also own at least one-half of the land in the area and of real property in the area did consent in writing to the annexation and filed a statement of their consent with the legislative body of the City of Bend.

Section 4. In view of the foregoing procedure having been had and held and it being affirmatively determined that the annexation as proposed should proceed, the City Commission of the City of Bend, by this ordinance does hereby and herewith declare that the territory above described is hereby and herewith annexed to the City of Bend and likewise withdrawn from Rural Fire District No. 2, and from and after the effective date of this ordinance shall be a legally constituted part of the City of Bend and the boundaries of the City shall be extended to include the aforedescribed real property.

Read for the first time the 5 th day of March, 1986

Read for the second time the 19th day of March, 1986

Placed upon its passage the 19th day of March, 1986

YES: 7 NO: 0

Submitted to and approved by the Mayor the 19th day of March, 1986.

Jack E. Stivers
Mayor

ATTEST:

James O. Kerfoot
Recorder-Treasurer

ORDINANCE NO. NS-1431

AN ORDINANCE VACATING VARIOUS PARCELS OF LAND LOCATED IN SHEVLIN CENTER ADDITION, IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

The Bend City Commission on the 13th day of December, 1985, on its own motion did request that the following described area be vacated:

> Portions of land in the following described Parcels one (1) to Six (6), inclusive, located in the City of Bend, Deschutes county, Oregon,

and stating the purpose for which the described property is to be used and the reason for such vacation; and the City Commission having set a time for formal hearing upon the said vacation; and the Recorder of the City of Bend having caused the following Notice:

NOTICE OF PUBLIC HEARING

FOR VACATION OF

PUBLIC PROPERTY

NOTICE IS HEREBY GIVEN that vacation proceedings have been initiated by the City Commission of the City of Bend; said vacation proceedings to vacate the following described property:

PARCEL 1: A parcel of land containing 0.007 acres, more or less, located in a portion of Lot 10, Block 1, Deschutes, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

> Beginning at the Southwest corner of said Lot 10; thence following the west line of said Lot 10 North 00° 22' 49" West a distance of 42.13 feet; thence following the arc of a 260.00 foot radius curve right a distance of 8.42 feet (chord bears North 50° 11' 04" East 8.42 feet); thence following a line lying 6.50 feet east of and parallel with the west line of said Lot 10 South 00° 22' 49" East a distance of 47.49 feet to the south line of said Lot 10; thence following the south line of said Lot 10 South 89° 43' 0;" West a distance of 6.50 feet to the Point of Beginning the terminus of this description.

Subject to: All easements, restrictions and rights-of-way of record and those common and apparent on the land.

PARCEL 2: A parcel of land containing 0.05 acres, more or less, located in a portion of Block 1 of Deschutes, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

> Beginning at the Southeast corner of Lot 12 of said Block 1; thence South 00° 22' 49" East a distance of 12.00 feet to the Northeast corner of Lot 6 of said Block 1; thence following the north line of Lots 6, 5, 4, 3 and 2 of said Block 1 South 89° 43' 01" West a distance of 168.06 feet; thence following the arc of a 260.00 foot radius curve right a distance of 14.68 feet (chord bears North 34° 53' 04" East a distance of 14.68 feet) to a point on the south line of Lot 9 of said Block 1; thence following the south line of Lots 9, 10, 11 and 12 North 89° 43' 01" East a distance of 159.50 feet to the Point of Beginning the terminus of this description.

Subject to: All easements, restrictions and rights-of-way of record and those common and apparent on the land.

PARCEL 3: A parcel of land containing 0.07 acres, more or less, located in a portion of the South one-half of the Southwest one-quarter of Section 32, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

> Beginning at a point on the south line of said Section 32 from which the Southwest corner of said Section 32 bears South 89° 43' 48" West a distance of 1266.61 feet and from which the West one-sixteenth corner common to said Section 32 and Section 5, Township 18 South, Range 12 East, bears North 89° 43' 48" East a distance of 50.87 feet;

thence following the easterly line of relocated Broadway the following course and distance and 1 curve: North 00° 04' 23" East a distance of 47.80 feet; following the arc of a 200.00 foot radius curve right a distance of 9.51 feet (chord bears North 01° 26' 08" East 9.51 feet) to a point on the westerly extension of the north line of Arizona Avenue; thence following the said westerly extension line North 89° 45' 23" East a distance of 59.86 feet; thence South 12° 20' 42" West a distance of 58.70 feet to a point on the south line of said Section 32; thence following the said south line 89° 43' 47" West a distance of 47.61 feet to the Point of Beginning the terminus of this description.

Subject to: All easements, restrictions and rights-of-way of record and those common and apparent on the land.

PARCEL 4: A parcel of land containing 0.25 acres, more or less, located in a portion of the South one-half of the Southwest one-quarter of Section 32, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point on the south line of said Section 32 from which the Southwest corner of Said Section 32 bears South 89° 43' 48" West a distance of 1,226.61 feet and from which the West one-sixteenth corner common to said Section 32 and Section 5, Township 18 South, Range 12 East, bears North 89° 43' 48" East a distance of 90.87 feet; thence following the west line of relocated Broadway North 00° 04' 23" East a distance of 48.04 feet; thence following the arc of a 240.00 foot radius curve right a distance of 6.01 feet (chord bears North 00° 47' 25" East 6.01 feet) to the most southerly corner of Lot 4, Block 1, of Broadway First Addition, a plat on file with the Deschutes County Clerk; thence following the easterly boundary of said Lot 4 the following curve and one course and distance: following the arc of a 240.00 foot radius curve right a distance of 81.96 feet (chord bears North 11° 17' 25" East 81.56 feet); North 21° 04' 23" East (North 21° 00' 00" East record per plat) a distance of 120.19 feet to the most northerly corner of said Lot 4, Block 1; thence following the easterly extension of the north line of said Lot 4, Block 1 North 63° 04' 56" East a distance of 36.02 feet; thence following the arc of a 20.00 foot radius curve right a distance of 17.78 feet (chord bears North 88° 33' 24" East 17.20 feet) to a point on the easterly line of relocated Broadway; thence following the said easterly line of relocated Broadway the 2 following courses and distances and 1 curve: South 21° 04' 23" West a distance of 153.54 feet; following the arc of a 200.00 foot radius curve left a distance of 73.30 feet (chord bears South 10° 34' 23" West 72.89 feet); South 00° 04' 23" West a distance 47.80 feet to a point on the south line of Said Section 32; thence following the said south line of Section 32 South 89° 43' 48" West a distance of 40.00 feet to the Point of Beginning, the terminus of this description.

Subject to: All easements, restrictions and rights-of-way of record and those common and apparent on the land.

PARCEL 5: A parcel of land containing 0.05 acres, more or less, located in a portion of Government Lot 1 of Section 6, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Northwest corner of Lot 5 of Enterprise Acres; thence following the West line of said Lot 5 (also being the east line of Columbia Avenue) South 00° 02' 07" West (South record per plat) a distance of 179.16 feet to the Southwest corner of said Lot 5; thence following the southerly line of said plat South 84° 51' 16" West (South 84° 49' West record per plat) a distance of 40.94 feet; thence following the arc of a 430.45 foot radius curve left a distance of 188.85 feet (chord bears North 12° 36' 15" East 187.34 feet) to the Point of Beginning the terminus of this description.

Subject to: All easements, restrictions and rights-of-way of record and those common and apparent on the land.

PARCEL 6: A parcel of land located in a portion of Colorado Street (formerly known as Main Street) as platted and shown on the plat of Deschutes in the City of Bend, Deschutes County, Oregon and located in the Southeast one-quarter of the Southwest one-quarter of Section 32, Township 17 South, Range 12 East, Willamette Meridian, being more particularly described as follows:

Beginning at the Southwest corner of Block 6 of said Deschutes; thence following the south line of said Block 6 North 89° 34' 45" East a distance of 206.80 feet to a point from which the Southeast corner of said Block 6 bears North 89° 34' 45" East a distance of 32.87 feet; thence following the arc of a 340.00 foot radius curve left a distance of 132.07 feet (chord bears South 64° 39' 57" West 131.24 feet); thence following the arc of a 55.00 foot radius curve right a distance of 8.65 feet (chord bears South 58° 02' 39" West 8.64 feet) to a point on the north line of Block 1 of Deschutes from which the Northeast corner of said Block 1 bears North 89° 39' 00" East a distance of 159.22 feet; thence following the north line of said Block 1 South 89° 39' 00" West a distance of 50.11 feet; thence following the arc of a 55.00 foot radius curve right a distance of 55.34 feet (chord bears North 34° 25' 37" West a distance of 53.03 feet); thence North 02° 43' 31" West a distance of 15.79 feet to the Point of Beginning the terminus of this description.

Subject to: All easements, restriction and rights-of-wayof record and those common and apparent on the land.

The City Commission of the City of Bend have fixed the 5th day of March, 1986, at 7:30 p.m., in the City Commission Chambers at 720 N.W. Wall Street, City of Bend as the time and place for the hearing upon said proceedings at which time the City Commission will receive and hear all objections to said vacation proceedings.

James W. Kerfoot
Recorder-Treasurer

to be published once each week for four consecutive weeks in the Bulletin, and said Recorder having also within 5 days after the first day of the publication of said notice caused a copy of said notice to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area, and the first publication and posting of said notice having occurred not less than 28 days before the hearing specified for said proposed vacation; and upon the appointed time specified in said notice the hearing having been held, and no objections made, and the City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated,

NOW THEREFORE, IT IS HEREBY ORDERED that the above described real property be and the same hereby is vacated but reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 5th day of March, 1986.

Read for the second time the 19th day of March, 1986.

Placed upon its passage the 19th day of March, 1986.

YES: 7 NO: 0

Submitted to and approved by the Mayor the 19th day of March, 1986.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NS-1432

AN ORDINANCE AMENDING THE CITY'S SUBDIVISION ORDINANCE NS-1349 AS IT RELATES TO PARK DEVELOPMENT AND DEDICATION FEES TO RESTRICT CITY COMMISSION DISCRETION ON EXPENDITURE OF FUNDS RAISED BY FEES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That Section 6.065 of Ordinance NS-1349, the City of Bend's subdivision ordinance, be amended to read as follows:

6.065 PARK DEVELOPMENT. PUBLIC PARK DEDICATION. PARK FUND.

A subdivider shall set aside and dedicate to the public for park and recreation purposes, not less than 8 percent of the gross area of said development if the land to be dedicated is suitable and adaptable for such purposes and is generally located in an area planned for parks.

The Planning Director, together with the Bend Metropolitan Parks and Recreation District, shall determine whether or not said land is, in fact, suitable for park purposes. Provided, further, that any such approval shall be subject to the condition that the Parks and Recreation District accept the deed dedicating such land.

Payment in lieu of land. In the event there is no suitable park or recreation area or site in the proposed subdivision or adjacent thereto, then the subdivider shall, in lieu of setting aside land, pay into a park acquisition and development fund a sum of money equal to the true cash value of the land that would have been donated under subsection one (1) of this section. For the purpose of determining the true cash value, the latest true cash value shown on the County Assessor's tax roll shall be used. The sum so contributed shall be used for acquisition of suitable area for park and recreation purposes or for the development of recreation facilities. Such expenditures shall be made for the neighborhood or community facilities within the area of the community that will reasonably benefit the contributing subdivision.

Expenditure of Funds. Funds contributed in lieu of park land shall be remitted to a park acquisition and development fund and shall be deposited with the City Recorder. Such funds may be expended only on order of the City Commission for the purpose of acquiring or developing land for park and recreation purposes. Application for expenditure of funds collected under this ordinance shall be made only by the Bend Metropolitan Park and Recreation District subject to approval of the Bend City Commission.

Read for the first time this 5th day of March, 1986.

Read for the second time this 19th day of March, 1986.

Placed upon its passage this 19th day of March, 1986.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 19 day of March, 1986.

Mayor

ATTEST:

Recorder-Treasurer City of Bend

Material to be deleted is in brackets [].
Material to be added is underlined.

ORDINANCE NO. NS-1433

AN ORDINANCE AMENDING THE CITY OF BEND SIGN CODE TO PERMIT BACK-TO-BACK BILLBOARDS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 4.095 of Ordinance NO. NS-1374 is amended to read:

4.095 BILLBOARDS. The following criteria shall be applicable for all the billboards allowed in the City of Bend:

1. [As used in this section, "double-faced sign" means a sign with multiple display surfaces with two or more separate and different messages visible to traffic from one direction of travel.] As used in this section, "back-to-back" means a sign with multiple display surfaces mounted on a single structure with display surfaces visible to traffic from opposite directions of travel.

2. The face size of any billboard located within the City of Bend shall not exceed 12 feet in vertical height or 24 feet in horizontal length.

3. Nothwithstanding the provisions of sub-paragraph (2) of this section, no sign shall exceed the maximum height established by the Zoning Ordinance of the City of Bend for structures.

4. All billboards erected or moved after the effective date of this ordinance shall be installed behind the legal set-back line of each parcel of property as determined by the Zoning Ordinance of the City of Bend.

5. All structural supports for billboards shall be constructed of steel.

6. All billboards shall be spaced a minimum of 500 feet apart along any street within the City of Bend.

7. Only flat, single or [double-faced] back-to-back signs shall be permitted.

8. Before erecting any billboard, a permit must be secured from the Building Official. Where applicable, evidence must be provided showing the obtaining of a State permit in compliance with the Oregon Motorists Information Act of 1971.

9. The maximum number of billboards allowed in the City of Bend is 23. These billboards are identified in Appendix C which is attached hereto and incorporated by reference. No new billboard may be erected after the effective date of this ordinance unless it replaces an existing billboard. Provided, however, billboards outside the City, inside the Bend Urban Area, and existing on the effective date of this ordinance may be added to the maximum number if the area in which they are located is annexed to the City of Bend. The Sign Review Committee and staff shall inventory those billboards existing outside the City but within the Urban Area. An owner whose billboard is not included in this inventory may request the committee add that billboard to the number allowed if it is shown the billboard was existing on the effective date of this ordinance.

10. After the effective date of this ordinance, no additional billboards may be erected on the following streets:

Newport Avenue	Colorado Drive
Simpson Avenue	Century Drive
Mt. Washington Drive	Division Street
14th Street	Galveston Avenue

Read for the first time this 7th day of May, 1986.

Read for the second time this 21st day of May, 1986.

Placed upon its passage this 21st day of May, 1986.

YES: 6 NO; 0

Submitted to and approved by the Mayor this 21st day of May, 1986.

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1434

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM IL LIGHT INDUSTRIAL TO CL LIMITED COMMERCIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from IL Light Industrial to CL Limited Commercial:

Lot 5, Block 1, Colorado Point, City of Bend, Deschutes County, Oregon

Read for the first time the 7th day of May, 1986.

Read for the second time the 21st day of May, 1986.

Placed upon its passage the 21st day of May, 1986.

YES: 6 NO: 0

Approved by the Mayor the 21st day of May, 1986.

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1435

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM URBAN MEDIUM DENSITY RESIDENTIAL TO RH URBAN HIGH DENSITY RESIDENTIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM Urban Medium Density Residential to RH Urban High Density Residential:

Lots 12 and 13, Block 11, Wiestoria Addition, City of Bend, Deschutes County, Oregon.

Read for the first time the 7th day of May, 1986

Read for the second time the 21st day of May, 1986.

Placed upon its passage the 21st day of May, 1986.

YES: 5 NO: 1

Approved by the Mayor the 21st day of May, 1986

Mayor

ATTEST:

Recorder-Treasurer

Material to be added is underlined.

ORDINANCE NO. NS-1436

AN ORDINANCE AMENDING ORDINANCE NS-1361 BY ADDING A NEW PROVISION GIVING THE CITY COMMISSION THE AUTHORITY TO ALLOW SWIMMING IN THE DESCHUTES RIVER FOR SPECIAL EVENTS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That portion of Ordinance NS-1361 known as Bend Code 5.310 is amended to read as follows:

5.310 Boating, Fishing, Swimming and Ice Skating.

(1) No unauthorized person shall operate a motor propelled boat on the Deschutes River within the limits of the City of Bend, or operate any boat, whether propelled or not, within 100 feet of the islands located immediately below the Tumalo Bridge in the Deschutes River. This one hundred foot prohibition [against boating] shall not apply to boats coming to or going from abutting properties provided these boats do not unnecessarily disturb wildlife.

(2) No person shall fish or dive from any bridge across the Deschutes River nor swim or wade in or ice skate on the Deschutes River. The City Commission may allow swimming in the Deschutes River in connection with an approved special event. The Commission may grant conditional approval of swimming in the Deschutes and require the special event sponsor to meet conditions prescribed by the Commission. Conditions that may be imposed on event sponsors include, but are not limited to, a requirement that sponsors obtain waivers of City liability from event participants, a requirement that sponsors conduct the event in a specified manner and a requirement of staffing of the event by emergency medical personnel and lifeguards. Failure to comply with Commission conditions, as determined by the Chief of Police or designee, will render the approval void. Before determining that Commission conditions are not being complied with, the Chief of Police or designee shall inform the event sponsor of the facts which indicate that the event sponsor has not complied with Commission conditions and shall give the sponsor an opportunity to remedy the situation or to explain why the sponsor has not violated the conditions. This notice provision shall not apply when immediate cancellation is necessary to protect the public safety and welfare or when the event sponsor can not be located prior to the time that swimming is to be allowed.

(3) No person shall place, leave or abandon a duck or goose along the banks of the Deschutes River or in any park along the Deschutes River.

(4) No person shall engage in any commercial activity upon the Deschutes River within the City limits of Bend without permission from the Bend City Commission or a valid special event permit specifically authorizing such activity. Commercial activity includes, but is not limited to, the following definitions:

(a) the providing of boat or raft rides for consideration, or

(b) the rental of property such as boats or other flotation devices for use exclusively upon the river within the City limits.

(5) Violation of this section is a Class B civil infraction.

Read for the first time this 21st day of May, 1986.

Read for the second time this 4th day of June, 1986.

Placed upon its passage this 4th day of June, 1986.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 4th day of June, 1986.

ATTEST:

Mayor

Recorder-Treasurer City of Bend

ORDINANCE NS-1437

AN ORDINANCE REPEALING THE PORTION OF ORDINANCE NS-1375 KNOWN AS BEND CODE 7.530 - 7.534 WHICH REQUIRES A BUSINESS LICENSE FOR THE PRACTICE OF OCCULT ARTS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That portion of Ordinance NS-1375 known as Bend Code 7.530 - 7.534 is hereby repealed.

Read for the first time this 21st day of May, 1986.

Read for the second time this 4th day of June, 1986.

Placed upon its passage this 4th day of June, 1986.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 4th day of June, 1986.

MAYOR

ATTEST:

Recorder-Treasurer City of Bend

ORDINANCE NO. NS-1438

AN ORDINANCE REPEALING FRANCHISE ORDINANCES WITH UNSPECIFIED EXPIRATION DATES

WHEREAS, the City of Bend granted a number of utility franchises that are over seventy years old and that do not specify the length of the franchise; and

WHEREAS, Oregon case law provides that a City does not have the power to grant such unlimited or perpetual franchises; now therefore,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

The following ordinances are hereby repealed:

NS Number	1913 Codification Number	1968 Compilation Number
NS-1	6	n/a
NS-2	7	11-1
NS-3	8	n/a
NS-6	13	n/a

Read for the first time this 21st day of May, 1986.

Read for the second time this 4th day of June, 1986.

Placed upon its passage this 4th day of June, 1986.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 4th day of June, 1986.

MAYOR

ATTEST:

Recorder-Treasurer City of Bend

ORDINANCE NO. NS-1439

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY DEFINING RESIDENTIAL CARE, RESIDENTIAL CARE FACILITY AND ALLOWING RESIDENTIAL CARE FACILITIES AS A CONDITIONAL USE IN THE RS ZONE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2 of this Ordinance is added to and made a part of Ordinance No. NS-1178 in Section 4.

SECTON 2. Residential Care. Services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

Residential Care Facility. A facility that provides residential care for six or more physically handicapped or socially dependent individuals and which is licensed by the State Department of Senior Services.

SECTION 3. Section 4 of this Ordinance is added to and made a part of Ordinance No. NS-1178 in Section 10 (3) as new subsection (y).

SECTION 4. (y) Residential Care Facility

Read for the first time this 21st day of May, 1986.

Read for the second time this 4th day of June, 1986.

Placed upon its passage this 4th day of June, 1986.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 4th day of June, 1986.

Mayor

ATTEST:

Recorder-Treasurer City of Bend

Material to be added is UNDERLINED.
Mater to be deleted is in Brackets [ ].

ORDINANCE NO. NS-1440

AN ORDINANCE AMENDING ORDINANCE NS-1375 AND CITY ZONING ORDINANCE NS-1178 CONCERNING ITINERANT MERCHANTS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance NS-1375 known as Bend Code 7.560 is amended to read as follows:

7.560 DEFINITION. An itinerant merchant is a person or organization that [who] sells goods, wares or merchandise, offering the same for retail sale or wholesale or who offers goods, wares or merchandise from a vehicle, trailer, [or] cart, or [of a] temporary structure or apparatus without making said business permanent and continuous in the city. [It does not include:] The following merchants are specifically excluded from this definition:

(1) A grower or employee of a grower of agricultural or farm products. [Agricultural products includes Christmas trees for sale, fish and other sea products.]

[(2) A person selling or offering for sale nursery products.]

(2) Vendors of fish and other sea products caught or raised by the vendor.

(3) A resident merchant who may sell some items from a trailer, truck or cart as an integral part of his business.

(4) Street vendors as defined by Bend Code 7.500.

(5) Organizations that have obtained a permit pursuant to Bend Code 7.552.

(6) Non-profit organizations that have obtained exemption from the payment of federal taxes from the Internal Revenue Service. Said organizations shall furnish to the City, upon demand, proof of the organization's non-profit status.

SECTION 2. That portion of Ordinance NS-1375 known as Bend Code 7.568 is amended to read as follows:

7.568 PERMIT REQUIRED. No person or organization shall engage in business as an itinerant merchant without first obtaining a permit from the City Manager. The permit fee shall be $30.00 per [day.] season for seasonal sales of fireworks and Christmas trees and $15.00 per day for all other itinerant merchants.

SECTION 3. That portion of Ordinance NS-1375 known as Bend Code 7.570 is amended to read as follows:

7.570 APPLICATION FOR PERMIT. An applicant for a permit shall submit the application to the City Manager or designee pursuant to [section 7.210] Sections 7.200 - 7.240. The application shall include the following information and attachments:

(1) The applicant's true name, permanent address, and an address the city may use for purposes of notifying the applicant.

(2) The true name and address of a person for whom the applicant is acting as an agent. If the applicant is acting as the agent of a corporation:

(a) The address of the registered office of the corporation in Oregon.

(b) The name and address of the registered agent of the corporation in Oregon.

(3) A description of the nature of the business operation the applicant will

conduct.

(4) A description of the goods, wares, merchandise or services the applicant will offer for sale.

(5) The location from which the applicant will operate.

(6) The length of time the applicant will conduct the business and the hours of operation.

(7) The past business experience of the applicant.

(8) Past criminal convictions involving unlawful trade practices as defined by ORS 646.608, fraud, or crimes involving moral turpitude.

(9) Known consumer complaints made to local and state consumer agencies.

(10) Proof of compliance with all relevant federal and state bonding and licensing requirements.

(11) Proof that the merchant has obtained permission, from the property owner or owner's leasing agent, to occupy the site upon which the merchant plans to sell merchandise.

(12) Proof of primary liability insurance coverage providing coverage consistent with the limits of the City's tort liability and naming the City of Bend as an additional insured. The liability insurance shall apply to, and provide primary coverage for, any and all claims for bodily injury and property damage arising from or caused by the merchant's activities.

SECTION 4. Bend Code 7.571 is added to and made a part of Ordinance NS-1375 as follows:

7.571 CITY REVIEW AND APPROVAL. All applications for itinerant merchant permits must be reviewed and approved as follows:

(1) The City Planning Department shall review the application to determine whether the City's zoning ordinance allows the type of business activities proposed by the applicant in the location or locations specified in the application for a permit.

(2) The City Police Department shall review and verify the information furnished on the merchant's application. This review process shall be accomplished within the thirty day period allowed for application review under Bend Code 7.212.

SECTION 5. That portion of Ordinance NS-1375 known as Bend Code 7.572 is amended to read as follows:

7.572 CRITERIA FOR DENIAL. In addition to conforming to the requirements of [section 7.350,] Bend Code 7.200 - 7.240, the permit shall not be granted if any of the following conditions exist:

(1) Any false or misleading information is supplied in the application or any information requested is omitted from the application.

(2) The applicant has been convicted of a crime involving unlawful trade practices as defined by ORS 646.608, fraud or moral turpitude within the last five years.

(3) [The applicant has been the subject of an unreasonable number of consumer complaints in the last five years.] The applicant has engaged in fraud, misrepresentation or false statement in connection with the selling of merchandise.

(4) The applicant has been the subject of an unlawful trade practices suit or investigation under ORS Chapter 646 which resulted in civil penalties being assessed against him/her.

(5) The applicant's proposed actual business operation presents a danger to the public health, safety morals or general welfare which cannot be alleviated through the imposition of a condition of operation.

(6) The applicant [is unable to provide insurance as required.] has failed to provide any of the information and documentation required by Bend Code 7.570.

(7) The applicant is unable to provide proof of compliance with all relevant federal and state bonding and licensing requirements.

(8) The applicant has failed to comply with any other applicable provision of this code relating to the proposed conduct of the business.

(9) The applicant's proposed activities are not allowed, by the City's zoning ordinance, in the zone in which the applicant wishes to operate.

SECTION 6. That portion of Ordinance NS-1375 known as Bend Code 7.574 is amended to read as follows:

7.574 CONDITIONS OF PERMIT. Conditions of operation that are necessary to protect the public health, safety, morals and general welfare may be imposed on a permit. A permit also shall be subject to the following conditions:

(1) The permit shall be valid for the period indicated thereon.

(2) The permit is not transferable.

(3) Conduct of the permittee's business operations shall conform with statements made in the application and with any special conditions of operation imposed on the permit.

(4) The permittee shall carry, and on request display, the permit during all hours of business operation.

(5) The permittee shall abide by all applicable city, state and federal laws, rules and regulations.

(6) The permittee may only conduct business upon the location or locations shown on the merchant's permit.

SECTION 7. New Subsection (25) is added to and made a part of Ordinance NS-1178 in Section 25 and reads as follows:

(25) Temporary Uses. Temporary structures and uses are permitted only as follows:

a. In the CC, CL, CG, CH, and CB zones:

1. Christmas tree sales from November 26th to December 31.

2. Fireworks sales from June 23 to July 4.

3. Non-profit organizations' fund-raising sales if the non-profit status of said organization is recognized by the Internal Revenue Service.

b. In the CH and CG zones:

Itinerant Merchants duly licensed by the City.

c. All produce, shelters and debris shall be removed by the merchant at the end of the activity.

Read for the first time this 4th day of June, 1986.

Read for the second time this 18th day of June, 1986.

Placed upon its passage this 18th day of June, 1986.

YES: 7 NO: 0

Submitted and approved by the Mayor this 18th day of June, 1986.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1441

AN ORDINANCE REPEALING SECTION 17 OF ORDINANCE NO. NS-1034 WHICH PROVIDES FOR RENEGOTIATION OF THE FRANCHISE FEE IMPOSED UPON CASCADE NATURAL GAS CORPORATION AT FIVE YEAR INTERVALS.

THE CITY OT BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 17 of Ordinance No. NS-1034 is hereby repealed.

SECTION 2. This ordinance shall become effective when Cascade Natural Gas Corporation files a written notice of acceptance of the provisions of this ordinance with the City Recorder-Treasurer, but in no event earlier than August 1st 1986.

Read for the first time this 18th day of June, 1986.

Read for the second time this 2nd day of July, 1986.

Placed upon its passage this 2nd day of July, 1986.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 2nd day of July, 1986.

MAYOR

ATTEST:

Recorder-Treasurer

Sections to be deleted are enclosed in brackets. []

AMENDED BY ORD. #NS-1509, NS-1510

ORDINANCE NO. NS-1442

AN ORDINANCE ADOPTING CHAPTER III OF THE CITY OF BEND CODE, ENTITLED "UTILITIES," AMENDING NS-1399 AND REPEALING ORDINANCES NS-193, NS-333, NS-628, NS-891 AND NS-1265.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City of Bend hereby adopts Chapter III of the Bend Code, a copy of which is attached hereto and incorporated by reference herein.

SECTION 2. That portion of Ordinance NS-1399 which is referred to as Bend Code 1.738 is amended as follows:

1.738 Specific Infraction Provisions. Infractions of specific Bend ordinances are classified as follows:

Bend City Ordinance No.		Class
NS-277	Explosives (licensing)	A
[NS-333	Electricity Tax	C]
NS-701	Buildings	B
[NS-891	Water Sprinkling	C]
NS-948	Fire Code	A
NS-1031	Building Code	B
NS-1049	Plumbing Code	B

SECTION 3. Ordinances numbered NS-193, NS-333, NS-628, NS-891 and NS-1265 are hereby repealed.

SECTION 4. This ordinance shall not affect:

(1) Any offense or act committed or done, or any penalty or forfeiture incurred

(2) Any prosecution, suit or proceeding at the time this ordinance is enacted;

(3) Any judgement rendered prior to the time this ordinance is enacted.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Read for the first time this 18th day of June, 1986.

Read for the second time this 2nd day of July, 1986.

Placed upon its passage this 2nd day of July, 1986.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 2nd day of July, 1986.

MAYOR

ATTEST:

Recorder-Treasurer

UTILITIES

Authority and Definitions

3.100 Authority. Sections 3.100 to 3.190 of this Code are enacted as an exercise of the City's power to license for revenue and to impose privilege taxes for use of the public streets, alleys and highways.

3.102 Definitions. As used in Bend Code 3.100 to 3.190, unless the context requires otherwise, the following definitions shall apply:

(1) "Gross Operating Revenue" means any revenue earned within the corporate limits of the City of Bend, after adjustment for the net write-off of uncollectible accounts, from the performance of the utility business; from the use, rental or lease of operating facilities of the utility; and from the furnishing or sale of communications or associated services by a telegraph or telephone business. Unless otherwise provided in this ordinance, there shall be no deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery cost, taxes or other expense. Gross revenue does not include revenue paid directly by the United States of America or its agencies. The following provisions apply to specific utilities:

(a) Telephone and Telecommunications Utilities

Gross operating revenue of a utility engaged in a telephone or telecommunications business includes all local service revenues, as presently defined in the uniform system of accounts adopted by the Federal Communications Commission applicable to said utility, earned within the City. In no event, however, shall gross operating revenue of a public utility engaged in a telephone or telecommunications business include proceeds from competitive telecommunications services, defined as service other than noncompetitive local exchange telecommunications access service.

(b) PUC Regulated Utilities

Gross operating revenue of utilities that are governed by the Public Utilities Commissioner shall include all revenues that are required to be credited by the taxpayer to the taxpayer's operations within the City of Bend under the uniform system of accounts prescribed for a particular utility by the Public Utilities Commissioner of the State of Oregon.

(c) Mutual and Cooperative Electric Utilities

Gross operating revenue of every association of persons, mutual or cooperative in character, whether incorporated or unincorporated, the principal business of which is the construction, maintenance and operation of an electric transmission and distribution system for the benefit of the members of such association without intent to produce profit and which has no other principal business or purpose shall not include the cost of power sold to said association.

2) "Person" means any individual, corporation, business, or partnership, excluding governmental entities.

(3) "Utility" includes the business of supplying electrical energy, gas, heat or steam, communications, or other services through or associated with telephone or telegraph and other operations for public service but does not include transportation or cable television service. The word "utility" also includes cooperative organizations that supply electrical energy, telephone or telegraph services, gas or steam to cooperative members within the City of Bend.

Licensing of Utilities

3.110 License Required. Any person or business operating a utility within the corporate limits of the City of Bend, shall apply for and obtain a license for such business according to the provisions of Bend Code 7.200 to 7.240 and shall pay the license fee required by Section 3.112 of this Code.

3.112 Fees and Payment. The license fee for all utilities, with the exception of gas utilities, shall be five percent of the gross revenues received by the utility for each month of licensed operation, commencing August 1st 1986 until July 31st 1991. The license fee for gas utilities shall be four and one-half percent of gross revenues. After July 31st 1991, the license fee shall be three

and a half percent for electric utilities and three percent for all other utilities licensed under this section unless said rate is changed by the City Commission. The licensee shall pay the license fee to the Treasurer of the City within 35 days of the end of the month of operation for which the license fee is due.

3.114 Offset of Franchise Fees. Franchise fees paid upon revenue received during a particular month may be offset against the license fee prescribed by Bend Code 3.112 for the month in which the revenue was received.

3.116 Records Required. It shall be the duty of each licensee to keep and enter in a proper book or set of books or records, an account which shall accurately reflect the amount of gross operating revenue.

3.118 Report Required. The licensee shall file, with the City Treasurer, along with the payment of the license fee, a report of the gross revenues of the licensed utility, setting forth the revenues according to their accounting subdivisions and any deductions claimed for the period upon which the license fee is computed. Said report shall be verified by the owner, officer or designee of owner or officer of the reporting utility.

3.120 Investigation. The Treasurer or his designee may conduct n investigation into the accuracy of the revenues listed in the revenue report. The licensee shall make available for investigation all records and books of the company for verification of the reports of the company and the fees paid by the company.

3.122 Adjustments to Fee. If the Treasurer finds, from his investigation of a utility's report, that the license fee paid is insufficient, the Treasurer shall send a statement to the licensee showing the amount underpaid and demanding payment of that amount within ten days of the date of the statement. If the Treasurer determines that a utility has overpaid its license fee, the Treasurer shall refund the amount overpaid to the utility.

3.124 Appeal and Collection. Within ten days from the date of notice by the Treasurer that the fee paid is insufficient, the licensee may appeal to the City Commission. Said appeal shall be in writing and shall specify the ground of such appeal. The licensee shall pay the amount found owing by the Commission within 24 hours of the Commission's decision.

Regulation of Use Right-of-Way

3.140 Generally. Utilities that use public rights-of-way within the City of Bend shall do so in a manner that does not interfere with the use of the right-of-way as a street, road, alley, bike path or sidewalk, except as specifically permitted by the City of Bend.

3.142 Location of Utility Lines. The City may require a utility to change the location of or to remove any pole, conduit, structure or facility within the public right of way when the public convenience requires such change or removal and the expense thereof shall be paid by the grantee. If the utility refuses to make a change requested by the City, the City may make the change and bill the utility for the cost of making said change.

3.144 No Waiver or Estoppel. Nothing in this code shall be regarded or held to estop or prevent the City of Bend from requiring a utility to cease use of public rights-of-way.

3.146 Compliance with City Ordinances. All utilities must comply with all provisions of state and local law concerning their use of public rights-of-way, including, but not limited to, City zoning and street and sidewalk cutting ordinances.

Penalties

3.190 Penalty. A licensee who fails to make timely payment of the license fee shall be assessed a late penalty of one percent of the gross revenues upon which the license fee is due. Said penalty shall be doubled for every month that the fee remains delinquent. Additionally, all violations of this ordinance may be enforced as a Class "A" civil infraction for each day of violation.

MUNICIPAL WATER UTILITY

Use of City Water

3.200 Restrictions on Use. No person supplied with water from the City of Bend water mains shall use City water for any purpose other than those stated in the user's application for City water service. Further, all City supplied water must be used on the premises described in the user's application for City water service and may not be given to others to be used off the user's premises.

3.202 Use of Fire Hydrants. No person, except a City employee in the discharge of his or her duty, shall open or in any way tamper with any City fire hydrant.

3.204 Obstruction of Fire Hydrants. No person shall place upon or about any hydrant or water gate connected with the water mains of the City Water Department, any building material or other substance which prevents free access at all times to the hydrant.

3.206 Alterations Prohibited. No person shall make connections to any pipe or fixture connected therewith, or to connect pipes that have been disconnected by the City, or to turn water off or on, on any premises, without permission from the City Water Department.

3.208 Sale of Water Prohibited. No person, firm, corporation or water user shall sell or collect any consideration for the use of water without permission from the City Water Department.

Irrigation Regulations

3.250 Irrigation Season. The irrigation season in the City of Bend and for all users of City water, for the irrigation of lawns and gardens shall extend from April 15th to October 15th of each year.

3.252 Hours. The City Manager shall fix and determine the hours during which City water may be used during the irrigation season by administrative regulation and declaration.

3.254 Changes of Hours. The City Manager may change existing regulations for hours of irrigation by written declaration filed with the City Recorder and shall publicly announce specified hours during which irrigation will be permitted.

3.256 Use of Hoses. No person shall use a hose for irrigation without having a nozzle or other water distributing device attached thereto.

3.258 Fire Emergencies. Upon the sounding of an alarm for a fire within the City, water users shall cease irrigation until the fire is extinguished.

3.260 Irrigation Prohibitions. No person shall use water for irrigation at any hour other than as permitted under regulations issued pursuant to this ordinance or permit water used for irrigation to flow into or upon any public thoroughfare or upon or over premises not under the user's control.

Penalties

3.290 Penalty. Any violation of Bend Code 3.200 to 3.260 is a Class "B" civil infraction and is to be enforced and prosecuted according to the provisions of Bend Code 1.700 to 1.738.

ORDINANCE NO. NS-1443

AN ORDINANCE CREATING THE "DESCHUTES BASIN RESOURCE COMMITTEE"; ESTABLISHING THE COMMITTEE'S PURPOSE, AUTHORITY, MEMBERSHIP, AND RESPONSIBILITY; AND DECLARING AN EMERGENCY

WHEREAS, the Deschutes County/City of Bend River Task Force recommended, through the "Deschutes County/City of Bend River Study", that a committee be created to serve as an ongoing forum for water resource issues related to the Deschutes River and its tributaries which were identified by the Task Force, and to make recommendations to Deschutes County and the City of Bend regarding how to accomplish the water resource goals and policies contained in the River Study; and

WHEREAS, the Deschutes County Planning Commission and the Bend Urban Area Planning Commission, after reviewing the River Study and hearing public testimony, also have recommended to the Deschutes County Board of County Commissioners and the Bend City Commission that such a committee be created, that it be called the "Deschutes Basin Resource Committee", and that it review and study state laws relating to water resources and make recommendations to the planning commissions; now, therefore,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. There is hereby created the Deschutes Basin Resource Committee.

(1) Purpose. The purpose of the Deschutes Basin Resource Committee is to recommend to the Deschutes County Board of County Commissioners and the Bend City Commission the means to accomplish the water resources goals and policies contained within the Deschutes County/City of Bend River Study, and to provide an ongoing forum for direction and policy for maintaining and enhancing the Deschutes River Basin.

Because many of the River Study goals and policies are beyond the scope of City or County jurisdiction and require action by state agencies or the Legislature, the committee's purpose also is to review and monitor state laws and to recommend to the Deschutes County Board of County Commissioners and the Bend City Commission changes in such laws necessary to carry out the goals and policies contained in the River Study.

(2) Authority. The Deschutes Basin Resource Committee is an advisory committee charged with making recommendations to the Deschutes County Board of County Commissioners and the Bend City Commission on how to implement the water resources goals and policies of the River study and other matters dealing with the Deschutes River and its tributaries.

(3) Committee Membership. The Deschutes Basin Resource Committee shall be made up of the following members, to be appointed jointly by the Deschutes County Board of County Commissioners and the Bend City Commission, and at least one member of which is from Jefferson County:

A. Two representatives from the irrigation districts.

B. One representative from the Oregon Department of Water Resources.

C. One representative from the Oregon Department of Fish and Wildlife.

D. One representative from nonconsumptive water resource users (e.g., recreators).

E. One representative from a local conservation or environmental organization.

F. One representative from the business community.

G. Two representatives from the public at large.

The County and City shall provide adequate staff and material support for the committee subject to applicable budget laws, rules and regulations.

4. Responsibilities. In providing advice and recommendations to the Deschutes County Board of County Commissioners and the Bend City Commission, the Deschutes Basin Resource Committee should:

A. Request assistance through Bonnebille Power Administration's (BPA's) technical assistance program for technical improvements in methods of irrigation and means of conservation of both water and energy, and request assistance from the Water Resources Department, Bureau of Reclamation, and the Soil and Conservation Districts, to initiate an in-depth study and set priority of actions that should be taken to improve the irrigation districts' delivery system.

B. Review and study of state water laws.

C. Study and make recommendations consistent with the goals and policies of the comprehensive plans related to water resources.

D. Report to the Board of County Commissioners and the Bend City Commission at least semi-annually.

Section 2. The Bend City Commission adopts as its findings and conclusions supporting this Ordinance, the Staff Report, dated May 21, 1986, relating to the Deschutes River Corridor.

Section 3. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Read for the first time the 2nd day of July, 1986.

Read for the second time the 16th day of July, 1986.

Placed upon its passage the 16th day of July, 1986.

VOTE: Yes - 4 No - 1 Abstention - 1

Approved by the Mayor this 16th day of July, 1986.

Mayor

ATTEST:

Recorder-Treasurer, City of Bend

ORDINANCE NO. NS-1444

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, TO ALLOW HYDROELECTRIC FACILITIES AS CONDITIONAL USES ON THE DESCHUTES RIVER, ESTABLISHING CONDITIONAL USE CRITERIA, ADOPTING FINDINGS AND CONCLUSIONS, AND DECLARING AN EMERGENCY

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 4 of Ordinance No. NS-1178 is amended to include the following definitions:

Conduit. Any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar man-made structure used to convey water.

Dam. Any man-made structure which is or may be used to impound water.

Diversion. Any man-made structure which is or may be used to deflect or divert water from a river or stream into a conduit.

Fish Passage Device. Any man-made structure which is or may be used to enable fish to pass over a dam to move upstream.

Fish Protection Device. Any man-made structure, such as a fish screen, which is or may be used to prevent fish from entering into or passing through conduits, penstocks, and other water-conducting structures or devices connected to a hydroelectric facility.

Hydroelectric Facility. All aspects of any project or development necessary for or related to the generation of hydroelectric energy, including, but not limited to, conduits, dams, diversions, fish ladders and screens, generators, impoundments, penstocks, turbines, transmission facilities, and related buildings, structures, storage areas, access roads, parking areas, and surrounding and adjacent lands which are necessary for or related to the facility.

Impoundment. Any man-made structure which is or may be used to impound water.

Penstock. Any conduit or other structure which is or may be used to convey water to the driving mechanism of the generator.

Transmission Facility. The conductors, lines, poles, towers, structures, corridors, and construction staging and assembly areas necessary for or associated with the transmission of electricity from a hydroelectric facility for distribution.

Section 2. Section 22A of Ordinance No. NS-1178 is repealed.

Section 3. Subsection 20 of Section 25 of Ordinance No. NS-1178 is repealed, and the following is substituted as Subsection 20:

(20) Hydroelectric Facilities

(a) No new hydroelectric facility shall be constructed, and no existing hydroelectric facilities shall be enlarged or expanded in size of area or generating capacity on Tumalo Creek within the City of Bend.

(b) Hydroelectric facilities are allowed as a conditional use on the Deschutes River within the City of Bend. Such conditional use shall be governed by the conditions set forth in (c) below:

(c) In addition to the general conditional use permit criteria set forth in Section 29, Subsection (3), the criteria set forth below shall apply to any construction or expansion of, or other modification to, hydroelectric facilities in areas where such facilities are permitted as a conditional use. A conditional use permit may be granted for the construction or expansion of, or other modification to, a hydroelectric facility only upon findings by the Hearings Body that the proposal meets each of the following criteria, where applicable:

1. The facility is located at and physically connected to an existing man-made diversion or impoundment.

2. The facility will not increase the maximum surface area or capacity of the impoundment created by the existing dam or diversion to which the facility will be connected.

3. The facility will maintain or enhance to the greatest extent possible, the existing scenic, visual, environmental, and aesthetic qualities of the affected stretch of the river.

4. The facility will maintain or enhance the existing recreational opportunities on or adjacent to the affected stretch of the river.

5. The facility will maintain or enhance existing fish and wildlife habitat, and will have no adverse impact upon any threatened or endangered fish, wildlife, or plant species or their habitat.

6. The facility and its operation will maintain or enhance existing water quality in the affected stretch of the river, except during construction of the facility, during which time adverse impacts on water quality will be minimized. Specifically, the facility and its operation will not:

   a. Deposit, or create a zone for the deposit of, sediments in the river at or adjacent to the site:

   b. Increase the temperature of the river in the affected stretch by any means, including but not limited to removal of vegetation or reduction in streamflow; or

   c. Create the potential for, or result in, spillage, leakage or discharge of oil, chemicals or other substances or waste products which could reach the river.

7. The facility and its operation will not increase soil or bank erosion or destroy bank habitat at or on land adjacent to the site, except during construction of the facility, during which time soil or bank erosion and destruction of bank habitat will be minimized.

8. The facility and its operation will maintain existing public access to the affected stretch of the river.

9. The facility will not be located at or immediately adjacent to any identified archaeological or historical site, national or state park, wildlife refuge, Bureau of Land Management Outstanding Natural Area or area of Critical Environmental Concern, Federal Research Natural Area, or U. S. Forest Service Special Interest Area.

10. The facility and its operation will comply with all applicable noise and pollution regulations of the Oregon Department of Environmental Quality.

11. The facility and its operation will comply with all applicable state fill-and-removal statutes and regulations.

(d) The applicant for a conditional use permit under Subsection (c) above shall submit the following for approval:

1. Detailed construction plans and profiles of all facility features, including building elevations of the powerhouse and other structures, excavation plans and narrative as to where blasting will occur, where excess material will be deposited, and landscaping and reclamation plans.

2. Detailed plans for meeting the criteria set forth in Subsection (c) above.

3. Detailed plans for river enhancement documenting both on-site and off-site enhancement plans consistent with adopted river-related goals and policies, such as plans and methods for conserving water and enhancing streamflows. The plan shall identify costs, time schedules and coordination activities with affected persons and agencies for such enhancement plans.

4. A cash deposit or performance bond in an amount equal to 100 percent of the estimated cost of river enhancement and landscaping.

5. Detailed plans for a water conservation and stream enhancement program to be funded by a portion of revenues generated by the operation of the proposed facility. The program plans shall contain the following:

a. A program timetable;

b. Projected gross revenues from the proposed facility;

c. Projected program expenditures and the percentage of gross revenue they represent;

d. Projected water savings and the percentage of known current water losses they represent;

e. A declaration by the applicant that at least fifty percent of the conserved water will remain undiverted by the applicant;

f. A declaration by the applicant that water diverted for power generation will not cause water flow in the affected stretch of the river (from the diversion to the tailrace exit) to fall below the minimum streamflow for that stretch as recommended by the Oregon Department of Fish and Wildlife; and

g. A declaration by the applicant that it will enter into an agreement with the City of Bend, prior to beginning construction of the facility, by which the applicant agrees to fulfill all of the requirements in paragraphs a through f of this subsection.

Section 4. Sections 10(3), 11(3), and 15(3), of Ordinance No. NS-1178 are hereby amended by adding the following new subsection:

Hydroelectric facility, subject to the provisions of Subsection (20) of Section 25.

Section 5. Nothing in these amendments shall apply to a conditional use permit for a hydroelectric project issued prior to adoption of these amendments.

Section 6. The Bend City Commission adopts as its findings and conclusions supporting the amendments in Section 1 through 5 of this Ordinance, the Staff Report dated May 21, 1986, relating to the Deschutes River Corridor.

Section 7. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Read for the first time the 2nd day of July, 1986.

Read for the second time the 16th day of July, 1986.

Placed upon its passage the 16th day of July, 1986.

VOTE: Yes - 6 No - 0

Approved by the Mayor this 16th day of July, 1986.

Jack E. Stamm
Mayor

ATTEST:

James M. Kerfoot
Recorder-Treasurer City of Bend

ORDINANCE NO. NS-1445

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 TO ADD DEFINITIONS, TO AUTHORIZE FILL AND REMOVAL AS A CONDITIONAL USE IN CERTAIN ZONES, AND TO CREATE EXCEPTIONS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 4 of Ordinance No. NS-1178 is amended to include the following definitions in alphabetical order:

Bank-Full Stage. The elevation at which water overflows the natural banks of a stream, river, or lake and begins to unundate the upland. In the absence of physical evidence, the two-year reoccurence interval flood elevation may be used to approximate bank-full stage.

Bed or Banks of Stream or River. The physical container of the waters of a stream or river lying below bank-full stage, and the land 10 feet on either side of the container.

Wetland. Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and other similar areas.

Section 2. Section 25 of Ordinance No. NS-1178, Provisions Applying to Special Uses, is amended to add the following new Subsection:

(26) Fill and Removal.

Except as otherwise provided in this Ordinance, no person shall fill or remove any material or remove any vegetation, regardless of the amount, within the bed and banks of any stream or river, or in any wetland, unless such fill or removal is approved as a conditional use by the Hearings Body in accordance with the following standards:

(a) An application shall be filed containing a plan with the following information:

1. A detailed explanation of the planned fill or removal including the amount of material to be filled or removed.
2. An explanation of why the fill or removal is necessary.
3. A site plan drawn to scale, and accompanied by such drawings, sketches, and descriptions as are necessary to describe and illustrate the proposed fill or removal. The site plan shall, at a minimum include:

(i) An inventory of existing vegatation.

(ii) The proposed modifications, if any, to the vegetation.

(iii) Existing and proposed site contours.

(iv) Location of property lines, easements, and high water marks.

(v) Other site elements or information which will assist in the evaluation of the proposed fill or removal.

4. A letter from the Oregon Department of Fish and Wildlife stating that there will be no adverse impacts upon fish or wildlife habitats from the proposed fill or removal.

(b) Public facility and service uses, such as construction or maintenance of roads, bridges, electric, gas, telephone, water, sewer transmission and distribution lines, and related facilities controlled by public utilities or cooperative associations, shall not be granted conditional use permits to fill or remove unless the following findings are made by the Hearings Body:

1. That all necessary state and federal permits will be obtained as a condition of approval of the conditional use.

2. That the roads, bridges, transmission and distribution lines, and related facilities cannot, as a practical matter, be located outside of the wetland, or bed and bank of the stream or river.

3. That the construction or maintenance requiring the fill or removal will be done in a manner designed to minimize the adverse impact upon the wetland, stream, or river.

4. That erosion will be adequately controlled during and after construction.

5. That the impacts on fish and wildlife habitat from the fill or removal will be minimized to the greatest extent practical.

(c) Fill or removal required for public park and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, public boat launching ramps, public docks and public walkways shall not be allowed as a conditional use unless the following findings are made by the Hearings Body:

1. That all necessary state and federal permits will be obtained as a condition of approval of the conditional use permit.

2. That only the minimum removal of vegetation or material and dredging or excavation necessary for construction and maintenance will be done.

3. That the specific location of the site will require the minimum amount of disturbance to the natural environment, considering alternative locations in the area and methods of construction.

4. That such construction and maintenance is designed and done in such a manner as to minimize the adverse impact on the site.

5. That erosion will be adequately controlled during and after construction.

6. That the impacts on fish and wildlife habitat by the fill or removal will be minimized to the greatest extent practical.

(d) Except for uses identified in subsections (2) and (3) above, an application for a conditional use permit for activity involving fill or removal of material or vegetation within the bed and banks of a stream, river, or wetland:

1. Shall be granted only after consideration by the Hearings Body of the following factors:

(i) The effects on public or private water supplies and water quality.

(ii) The effects on aquatic life and habitat.

(iii) The effects on wildlife habitat.

(iv) Recreational, aesthetic, and economic values of the affected water resources.

(v) Effects on the hydrologic characteristics of the water body, such as direction and velocity of flow, elevation of water surface, sediment transportation, capacity, stabilization of the bank, and flood hazards.

(vi) The character of the area, considering existing stream bank, stabilization problems, and fill or removal projects which have previously occurred.

2. Shall not be granted unless the Hearings Body finds that all of the following conditions are met:

(i) That all necessary state and federal permits will be obtained as a condition of approval of the conditional use.

(ii) That there is no practical alternative to the proposed project which will have less impact on the surrounding area, considering the factors established in subsection (4) a. above.

(iii) That there will be no significant impacts on the surrounding area, considering the factors established in subsection (4) a. above.

(iv) That erosion will be adequately controlled during and after the project.

(v) That vegetation will maintain the essential character, quality, and density of existing growth. Additional vegetation shall be required if necessary to protect aquatic life habitats, functions of the ecosystem, wildlife values, erosion, and aesthetic resources.

(vi) That the proposed fill or removal activity will be consistent with all relevant goals and policies of the Bend Area General Plan.

(vii) That a conservation easement, as defined in Section 4 of this Ordinance, shall be conveyed to the City, which provides at a minimum, that all elements of the project will be carried out and maintained as approved, in perpetuity, for the regulated fill or removal area, and all real property on the same lot within 10 feet of any wetland, river, or stream.

Section 3. Section 27, Interpretations and Exceptions, of Ordinance No. NS-1178 is hereby amended by adding the following new Subsection:

(12) Fill and Removal Exceptions

(a) The following fill and removal activities are permitted outright if the material to be filled or removed will not exceed 50 cubic yards in volume:

1. Removal of vegetation for the purpose of:

a. Removal of diseased or insect-infested trees or shrubs, or rotten or damaged trees that present safety hazards.

b. Normal maintenance and pruning of trees and shrubs.

(b) The following fill and removal activities may be authorized by the Planning Director upon a finding that no adverse impacts will occur to the water resources of the City of Bend:

1. Fill or removal for maintenance and repair of existing bridges, dams, irrigation facilities, and similar public and semi-public facilities, provided such fill or removal does not alter the existing characteristics of the stream, river, or wetland.

2. Fill or removal for maintenance and repair of nonconforming structures or boat docks.

3. Minor fill or removal required for vegetative enhancement, including excavation and preparation of the ground for planting additional vegetation.

Read for the first time the 2nd day of July, 1986.

Read for the second time the 16th day of July, 1986.

Placed upon its passage the 16th day of July, 1986.

VOTE: Yes - 6 No - 0

Approved by the Mayor this 16th day of July, 1986.

ATTEST: Mayor

Recorder-Treasurer City of Bend

ORDINANCE NS-1446

AN ORDINANCE AMENDING ORDINANCE NS-1375 RELATING TO MERCHANT PATROL AND DETECTIVE LICENSES

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That portion of Ordinance NS-1375 known as Bend Code 7.612 is amended to read:

7.612 Criteria Applicable to Employees. The employees of a person having or applying for a license shall be subject to the [criteria in section 7.366 and to all regulations of this code.] the regulations of this code and the following minimum criteria:

(1) Private detectives shall be 21 years of age or older.

(2) Unarmed merchant patrol employees shall be 18 years of age or older.

(3) Armed merchant patrol employees, armed guards or armored car service employeees shall be 21 years of age or older, be in good physical health, have received reasonable minimum training in law enforcement or have on-the-job experience in law enforcement, as specified and approved by the Chief of Police.

Read for the first time this 16th day of July, 1986.

Read for the second time this 6th day of August, 1986.

Placed upon its passage this 6th day of August, 1986.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 6th day of August, 1986.

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1447

AN ORDINANCE EXTENDING CONDITIONAL USE PERMIT NO. C-7-83.

WHEREAS, the City of Bend Commission is the hearings body that granted Conditional Use Permit No. C-7-83 to Jack Fuls; and

WHEREAS, construction has been delayed by reason of legal proceedings filed against the project;

THE CITY OF BEND COMMISSION DOES ORDAIN AS FOLLOWS:

That Conditional Use Permit No. C-7-83 is here extended for an additional year to October 25, 1987.

Read for the first time the 16th day of July, 1986.

Read for the second time the 6th day of August, 1986

Placed upon its passage the 6th day of August, 1986.

YES: 6 NO: 1

Submitted to and approved by the Mayor this 6th day of August, 1986.

Mayor

ATTEST:

Recorder-Treasurer, City of Bend

ORDINANCE NO. NS-1448

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS URBAN STANDARD DENSITY RESIDENTIAL TO RH URBAN HIGH DENSITY RESIDENTIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance NO. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RS Urban Standard Density Residential to RH Urban High Density Residential:

The North 80 feet of Lots 15 and 16, Block 28, Center Addition, City of Bend, Deschutes County, Oregon

Read for the first time the 6th day of August, 1986

Read for the second time the 3rd day of September, 1986

Placed upon its passage the 3rd day of September, 1986

YES: 5 NO: 1

Approved by the Mayor the 3rd day of September, 1986

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NS-1449

AN ORDINANCE AMENDING THE CITY OF BEND'S PROCEDURES FOR HANDLING ANIMALS THAT VIOLATE CITY ANIMAL CONTROL ORDINANCES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance NS-1361 known as Bend Code 5.250 is amended to read:

5.250 DEFINITIONS. As used in sections 5.250 to [5.290] 5.292:

[(2)] (1) "At Large" means off the premises of the owner while the dog or animal is not under the complete control of the owner by adequate leash or bridle. However, a dog in a duly recognized obedience school on field training exercise and under the direct supervision of a handler or a dog within a vehicle shall not be considered to be "at large" as defined in this section.

(2) "Dangerous Animal" means any animal which:

a) has, without provocation, placed a person in fear of imminent physical injury, said fear being reasonable under the circumstances; or

b) has attacked a person or domestic animal without provocation; or

c) is trained for or used in animal fighting.

(3) "Keeper" means, in addition to its ordinary meaning, the parents or guardian of an animal owner when the owner is under the age of 18 years and when the owner resides with the parent or guardian on the date of the alleged violation of Bend Code 5.250 to 5.292.

[(1)] (4) "Owner" means a person, firm, association or corporation owning, in possession, [or] in temporary control of, or who is responsible for the care of [a dog or] an animal [listed in section 5.265(1)].

(5) "Physical injury" means impairment of physical condition or substantial pain.

(6) "Unconfined" means not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner or keeper of a dangerous animal. Such pen or structure must be securely constructed and must be adequate to ensure the confinement of the dangerous animal.

SECTION 2. That portion of Ordinance NS-1361 known as Bend Code 5.252 is amended to read:

5.252 DOG AT LARGE.

[(1)] No dog shall run at large. The owner or keeper is responsible for a dog at large.

[(2) A violation of this section is a Class B Civil Infraction.]

SECTION 3. That portion of Ordinance NS-1361 known as Bend Code 5.255 is amended to read:

5.255 DOG LICENSING.

(1) Every dog within the city that has a set of permanent canine teeth shall be licensed. The license tag shall be attached to a collar worn by the dog.

(2) A person owning or controlling a dog within the city shall license the dog not later than 30 days after the person becomes the owner or in control of the dog.

(3) Licenses shall not be required for dogs owned by dealers, breeders or exhibitors if the dogs are kept in kennels exclusively for sale or exhibition purposes, or while such dogs are being transported by dealers, breeders, or exhibitors to and from a dog show or fair. Licenses are not

required for dogs used by blind persons.

[(4) A violation of this section is a Class C Civil Infraction.]

SECTION 4. That portion of Ordinance NS-1361 known as Bend Code 5.260 is amended to read:

5.260 [DOG] ANIMAL WASTE.

[(1)] It shall be unlawful for an owner or keeper to allow [the] a dog or an animal listed in Bend Code 5.265 (1) to deposit solid waste matter on any property other than that of the person owning or keeping said [dog] animal, but it shall be a defense to this action if the owner promptly removes the solid waste deposited by his [dog] animal on any property other than his own.

[(2) A violation of this section is a Class C Civil Infraction.]

SECTION 5. That portion of Ordinance NS-1361 known as Bend Code 5.265 is amended to read:

5.265 ANIMALS AT LARGE.

[(1)] No owner or keeper having the care or control of horses, cattle, sheep, or goats [or like animals] shall permit such animals to run at large.

[(2) A violation of this section is a Class B Civil Infraction.]

SECTION 6. That portion of Ordinance NS-1361 known as Bend Code 5.270 is amended to read:

5.270 ANIMAL NUISANCES. A dog or other animal is a nuisance if it:

[(1) Runs at large.]

[(2)] (1) [Howls or barks and thereby disturbs more than one household or barks continuously for more than fifteen minutes]. Disturbs any person by frequent or prolonged noises.

[(3)] (2) Bites, injures or attacks a person.

[(4)] (3) [Shows a propensity to bite persons.] Places a person in fear of imminent physical injury, without provocation, said fear being reasonable under the circumstances;

[(5)] (4) [Habitually] Chases vehicles [or persons].

(5) Chases people.

(6) Damages property belonging to [another] a person other than the owner or keeper of the animal.

(7) Injures or kills an animal or fowl belonging to a person other than the owner or keeper of the [dog or] animal.

(8) Scatters garbage.

[(8)] (9) The owner or keeper of an animal committing any of the acts set forth in this section is responsible for the animal's acts and is subject to a civil infraction citation. [A violation is a Class B Civil Infraction.]

SECTION 7. The following new section 5.272 is added to and made a part of that portion of Ordinance NS-1361 known as Bend Code 5.250 to 5.290 as follows:

5.272 DANGEROUS ANIMALS.

(1) No owner or keeper of a dangerous animal shall suffer or permit such animal to go unconfined on the premises of the owner or keeper.

(2) No owner or keeper of a dangerous animal shall suffer or permit such animal to go beyond the premises of such person unless such animal is securely leashed and humanely muzzled or otherwise securely restrained and humanely muzzled.

SECTION 8. That portion of Ordinance NS-1361 known as Bend Code 5.275 is amended to read:

5.275 IMPOUND.

(1) An animal that [is a nuisance as described in section] has violated Bend Code 5.252, 5.265, 5.270 or 5.272 or is unlicensed as required by law may be seized and impounded. If a member of the Bend Police Department is unable to apprehend such animals without risking injury to the officer or other people, the officer may kill the animal.

(2) An animal impounded [because of a violation of this code or any other ordinances or law] pursuant to subsection (1) of this section shall be [handled as in accordance with the administrative regulations of the Deschutes Humane Society.] held at the Humane Society of Central Oregon, S.P.C.A.

(3) Animals that have been impounded for violating Bend Code 5.270 (2), (3) or (7) or Bend Code 5.272 shall be held at the Humane Society until any citations issued to the animal's owner or keeper have been resolved by the court system or until the Society has received a court order directing the Society to release or humanely destroy the animal. If no citations have been issued to the impounded animal's owner or keeper within three days of the animal's impoundment or if the court has resolved the citations issued to the animal's owner or keeper and has not issued an order concerning the disposition of the animal, the animal may be humanely destroyed or handled according to Oregon law and Humane Society policies, rules and regulations.

(4) Animals that have been impounded for any violation of this Code or any other law, other than Bend Code 5.270 (2), (3) or (7) or 5.272, may be humanely destroyed or handled according to Oregon law and Humane Society policies, rules and regulations.

(5) If the owner or keeper of an impounded animal fails to appear in Bend Municipal Court to answer the charges filed against the owner which resulted in the animal's impoundment or if the owner later fails to appear as required by the Municipal Court, the court may issue an order terminating the rights of the owner to the animal. The court may also order that the animal be humanely destroyed. Prior to issuing a forfeiture order, the Court shall mail a notice to the owner advising the owner that their rights to the impounded animal will be forfeited unless they appear in court within five days of the date of the notice. The notice shall be mailed to the animal owner or keeper at the address shown on the citation to appear or at such address given to the court by the owner or keeper.

SECTION 9. That portion of Ordinance NS-1361 known as Bend Code 5.280 is amended to read:

5.280 SEIZING CERTAIN [DOGS] ANIMALS.

[A dog] Any animal found biting, attacking or injuring or which has [bitten] injured a person may be summarily seized by any person and promptly delivered to a member of the Bend Police Department. Further, any member of the Bend Police Department may apply to the Bend Municipal Court for a warrant authorizing the search for and seizure of any animal that has violated Bend Code 5.270 (2), (3) or (7) or Bend Code 5.272. Nothing in this section is intended to limit the search and seizure authority of City police officers.

SECTION 10. That portion of Ordinance NS-1361 known as Bend Code 5.285 is amended to read:

5.285 RABID DOGS.

(1) To safeguard the public from the dangers of rabies, the mayor shall, when necessary, issue a proclamation ordering every person owning or keeping a dog to confine it securely on the person's premises unless the dog has a muzzle of sufficient strength to prevent its biting a person. An unmuzzled dog running at large during the time of proclamation shall be seized and impounded, unless noticeably infected with rabies. All dogs noticeably infected with rabies [and displaying vicious propensities] may be killed by the city without notice to the owner.

(2) If a dog is believed to have rabies or has been bitten by a dog sus-

pected of having rabies, the dog shall be confined by a leash or chain on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of ten days. The owner shall notify the of the fact that his dog has been exposed to rabies, and the poundmaster may have the dog removed from the owner's premises to a veterinary hospital and there placed under observation for a period of ten days at the expense of the owner.

(3) No person, knowing or suspecting a dog has rabies, shall allow the dog to be taken off the person's premises or beyond the city limits without written permission of the poundmaster. An owner, or other person, on ascertaining a dog is rabid, shall immediately notify the poundmaster or a [policeman] police officer, who shall remove the dog to the pound or summarily destroy it.

(4) If a dog bites a human being, the owner of the dog shall display proof of a current rabies vaccination. If the dog owner fails to display proof of vaccination, the Bend Police Department shall impound the dog for ten days at the owner's expense. If the dog owner displays proof of a current rabies vaccination the City may impound the dog for ten days at the owner's expense or may require the owner to quarantine the dog for ten days. Failure by the owner to pay impound fees required by this section is a violation of this code.

[(4) A violation of this section is a Class A Civil Infraction.]

SECTION 11. That portion of Ordinance NS-1361 known as Bend Code 5.290 is amended to read:

5.290 VEHICLES INJURING ANIMALS.

(1) A person operating a vehicle who runs over, strikes, injures, maims or kills a domestic animal shall immediately stop and aid the animal if the animal is injured, or provide for the disposition of the carcass if the animal is killed. In either case, such person shall diligently inquire to determine the owner of the animal. If the owner is found, the person shall notify the owner of the occurrence and, if the owner is not found, [he/she] the person shall report it to the [Police Chief or his assistant] Bend Police Department.

[(2) A violation of this section is a Class B Civil Infraction.]

SECTION 12. The following new section 5.292 is added to and made a part of that portion of Ordinance NS-1361 known as Bend Code 5.250 to 5.290 as follows:

5.292 PENALTIES.

(1) A violation of Bend Code 5.270, 5.272 or 5.285 is a Class A civil infraction.

(2) A violation of Bend Code 5.252, 5.255, 5.260, 5.265 and 5.290 is a Class B civil infraction.

(3) The Bend Municipal Judge may order the owner or keeper of an animal that violates any provision of Bend Code 5.250 - 5.290 to pay a part of the court's fine to compensate any person for damages caused by the offending animal. Said damages shall be limited to those damages that could be recovered as special damages in a civil action based upon the animal's misconduct. The payment of compensation under this section is not intended to limit or impair the ability of an injured person to sue and recover damages from the defendant in a civil action.

(4) The Bend Municipal Court Judge may order the owner or keeper of an animal that violates any provision of Bend Code 5.250 - 5.290 to reimburse the City of Bend for any and all impound costs incurred by the City.

(5) The Bend Municipal Court Judge shall enter an order requiring that an animal that has violated Bend Code 5.270 (2) be humanely destroyed, unless the animal owner can establish by a preponderance of the evidence that the animal was provoked into biting, injuring or attacking.

(6) The Bend Municipal Court Judge shall enter an order requiring that an animal be humanely destroyed if the animal has committed a total of two

violations, within a five year period, of any of the following: Bend Code 5.270 (3), 5.270 (7) or 5.272. If the animal owner establishes, by a preponderance of the evidence, that the animal was provoked into committing one of the two violations, the Municipal Court Judge may suspend said order.

(7) If the Bend Municipal Court Judge determines that an animal should be humanely destroyed pursuant to Bend Code 5.292 (4) or (5) and the judge finds that the animal's violation of Bend Code 5.270 (2), (3) or (7) or Bend Code 5.272 was caused by the neglect, abuse or tormenting of the animal by its owner, the judge may enter an order terminating the animal owner's rights in the animal and prohibiting the owner from owning or possessing animals within the City of Bend. Further, the judge may allow such an abused animal to be placed with the Humane Society for possible adoption if the Court believes that the abuse was the primary cause of the animal's violation of Bend Code 5.270 (2), (3) or (7) or Bend Code 5.272. A person who violates an order entered pursuant to this subsection commits a Class A civil infraction.

(8) The Bend Municipal Judge may stay the execution of his or her order to humanely destroy an animal which has been entered pursuant to Bend Code 5.292 (4) or (5) if the animal's owner or keeper can demonstrate by a preponderance of the evidence that the animal is unlikely to be a repeat offender of Bend Code 5.270 (2), (3) or (7) or 5.272. The stay of execution may last for up to five years upon such conditions as are reasonably related to the animal's violation of this code. Such conditions may include, but are not limited to the following: a) confinement of the animal in a securely enclosed and locked pen or structure upon the premises of the owner or keeper or within the residence of the animal owner; b) muzzling the animal in a humane manner; c) a requirement that the animal or owner commit no further violations of animal related laws; d) a requirement that the animal owner post a bond of up to $5,000 which may be used to pay for future injuries caused to people, animals or property; e) a requirement that the animal owner pay Court ordered fines and restitution resulting from the animal's violation of this code.

SECTION 13. The following new section 5.293 is added to and made a part of that portion of Ordinance NS-1361 known as Bend Code 5.250 to 5.290 as follows:

5.293 APPEALS. The allowance of an appeal filed by the Defendant shall not stay the proceedings on the judgment unless the defendant:

1) Posts bail in the amount set by the Municipal Court bail schedule; and

2) For any offense that the animal has been impounded pending disposition of the infraction complaint, the animal owner must execute an undertaking with one or more sureties for the costs and disbursements that may be awarded against the appellant on appeal. Said costs shall include the cost incurred by the City for impounding the animal pending appeal and shall be set in an amount no less than the cost of impounding the animal for one year at the rate charged the City by the Humane Society of Central Oregon, S.P.C.A.

Read for the first time this 20th day of August, 1986.

Read for the second time this 3rd day of September, 1986.

Placed upon its passage this 3rd day of September, 1986.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 3rd day of September, 1986.

MAYOR

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS- 1450

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS URBAN STANDARD DENSITY RESIDENTIAL TO CC CONVENIENCE COMMERCIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RS Urban Standard Density Residential to CC Convenience Commercial:

A portion of the Southeast one-quarter Northwest one-quarter (SE 1/4 NW 1/4) Section Twenty-eight (28), Township Seventeen (17) South, Range Twelve (12) East, Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Northeast corner of said Southeast 1/4 Northwest 1/4, Section 28, Township 17 S., Range 12 E., Willamette Meridian, Deschutes County, Oregon; thence North 89° 23' 03" West, 409.62 feet along the North line of said Southeast 1/4 Northwest 1/4 to the westerly right of way of Boyd Acres Road, as located, the true point of beginning of this description; thence continuing North 89° 23' 03" West, 105.38 feet to the right of way of the Pilot Butte Canal, having a 100.00 foot right of way; thence along said canal right of way South 82° 34' 00" West, 227.11 feet; thence South 34° 56' 32" West, 191.46 feet; thence South 10° 95' 28" East, 94.48 feet to the right of way of Studio Road; thence along Studio Road right of way, along a curve to the right having a central angle of 27° 06' 21", a radius of 811.31 feet, an arc distance of 383.82 feet; thence North 75° 32' 22" East, 45.81 feet; thence along a curve to the right having a central angle of 2° 19' 28", a radius of 1,462.39 feet, an arc distance of 59.33 feet to the westerly right of way of Boyd Acres Road; thence North 11° 32' 58" West, 75.88 feet along said right of way to the true point of beginning.

Read for the first time the 3rd day of September, 1986

Read for the second time the 17th day of September, 1986

Placed upon its passage the 17th day of September, 1986

YES: 5 NO: 0

Approved by the Mayor the 17th day of September, 1986

Jack E. Thomas
Mayor

ATTEST:

James V. Kenfoot
Recorder-Treasurer

ORDINANCE NO. NS- 1451

AN ORDINANCE VACATING A PLANNED UNIT DEVELOPMENT WITHIN A PORTION OF KIWA MEADOWS IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Commission on the 6th day of August, 1986, requesting that the following described area be vacated:

A Planned Unit Development located on a portion of KIWA MEADOWS situated in the East One-Half of the Northeast One-Quarter of the Southeast One-Quarter of Section 4, Township 18 South, Range 12 East, Willamette Meridian, Deschutes County, City of Bend, Oregon, said lands platted being described as follows:

Commencing at the East One-Quarter corner of said Section 4, being a brass cap in a monument box; thence South 00°13'32" East 250.06 feet along the easterly line of said Section 4 also being the centerline of 15th Street; thence leaving said easterly line and said centerline South 89°46'28" West 40.00 feet to the true point of beginning, said point also being on the westerly right-of-way line of 15th Street, thence South 00°13'32" East 738.55 feet along said right-of-way to the south line of the KIWA MEADOWS plat; thence leaving said right-of-way North 89°34'45" West 618.45 feet along said south line of the west line of the KIWA MEADOWS plat; thence leaving said south line North 00°08' 35" West 156.55 feet along said west line; thence leaving said west line South 87°25'00" East 110.70 feet to the right-of-way of Lostine Circle; thence along the northerly line of said right-of-way along the arc of a 50.00 foot radius curve right 127.21 feet of which the chord bears North 75°27'30" East 95.57 feet; thence along the arc of a 15.00 foot radius Curve left 17.64 feet of which the long chord bears South 65°20'48" East 16.64 feet; thence North 80°58'24" East 62.84 feet; thence along the arc of a 180.00 foot radius curve right 89.08 feet of which the long chord bears South 84°50'38" East 88.17 feet; thence South 70°40'23" East 19.29 feet; thence along the arc of a 140.00 foot radius curve left 47.78 feet of which the long chord bears South 80°26'58" East 47.54 feet; thence leaving said right-of-way along the arc of a 15.00 foot radius curve left 23.56 feet of which the long chord bears North 44°46'28" East 21.21 feet to the right-of-way of Breitenbush Lane; thence along said right-of-way North 00°13'32" West 60.00 feet; thence along the arc of a 552.50 foot radius curve right 78.79 feet of which the long chord bears North 03°51'36" East 78.73 feet; thence along the arc of a 432.51 foot radius curve left 61.68 feet of which the long chord bears North 03°51'36" East 61.63 feet; thence North 00°13'32" West 260.00 feet; thence along the arc of a 15.00 foot radius curve left 17.64 feet of which the long chord bears North 33°54' 57" West 16.64 feet; thence along the arc of a 50.00 foot radius curve right 195.88 feet of which the chord bears North 44°37'30" East 92.57 feet; thence leaving said right-of-way North 77°32'44" East 106.36 feet to the point of beginning and there terminating, containing 4.60 acres, more of less,(All block corners and all street points of curvature are marked with 5/8"x24" iron rods. All lot corners are marked with 1/2"x24" iron rods),

and stating the purpose for which the described property is proposed to be used and the reason for such vacation, and the said petition being duly acknowledged; and the City Commission having set a time for formal hearing upon the petition, and the Recorder of the City of Bend having caused the following Notice:

NOTICE IS HEREBY GIVEN that vacation proceedings have been initiated by the City Commission of the City of Bend on a petition filed by Stan Banta; said vacation proceedings to vacate the following described area;

A Planned Unit Development located on a portion of KIWA MEADOWS situated in the East One-Half of the Northeast One-Quarter of the Southeast One-Quarter of Section 4, Township 18 South, Range 12 East, Willamette Meridian, Deschutes County, City of Bend, Oregon, said lands platted being described as follows:

Commencing at the East One-Quarter corner of said Section 4, being a brass cap in a monument box; thence South 00°13'32" East 250.06 feet along the easterly line of said Section 4 also being the centerline of 15th Street; thence leaving said easterly line and said centerline South 89°46'28" West 40.00 feet to the true point of beginning, said point also being on the westerly right-of-way line of 15th Street, thence South 00°13'32" East 738.55 feet along said right-of-way to the south line of the KIWA MEADOWS plat; thence leaving said right-of-way North 89°34'45" West 618.45 feet along said south line of the west line of the KIWA MEADOWS plat; thence leaving said south line North 00°08' 35" West 156.55 feet along said west line; thence leaving said west line South 87°25'00" East 110.70 feet to the right-of-way of Lostine Circle; thence along the northerly line of said right-of-way along the arc of a 50.00 foot radius curve right 127.21 feet of which the chord bears North 75°27'30" East 95.57 feet; thence along the arc of a 15.00 foot radius Curve left 17.64 feet of which the long chord bears South 65°20'48" East 16.64 feet; thence North

80°58'24" East 62.84 feet; thence along the arc of a 180.00 foot radius curve right 89.08 feet of which the long chord bears South 84°50'38" East 88.17 feet; thence South 70°40'23" East 19.29 feet; thence along the arc of a 140.00 foot radius curve left 47.78 feet of which the long chord bears South 80°26'58" East 47.54 feet; thence leaving said right-of-way along the arc of a 15.00 foot radius curve left 23.56 feet of which the long chord bears North 44°46'28" East 21.21 feet to the right-of-way of Breitenbush Lane; thence along said right-of-way North 00°13'32" West 60.00 feet; thence along the arc of a 552.50 foot radius curve right 78.79 feet of which the long chord bears North 03°51'36" East 78.73 feet; thence along the arc of a 432.51 foot radius curve left 61.68 feet of which the long chord bears North 03°51'36" East 61.63 feet; thence North 00°13'32" West 260.00 feet; thence along the arc of a 15.00 foot radius curve left 17.64 feet of which the long chord bears North 33°54' 57" West 16.64 feet; thence along the arc of a 50.00 foot radius curve right 195.88 feet of which the chord bears North 44°37'30" East 92.57 feet; thence leaving said right-of-way North 77°32'44" East 106.36 feet to the point of beginning and there terminating, containing 4.60 acres, more of less.(All block corners and all street points of curvature are marked with 5/8"x24" iron rods. All lot corners are marked with 1/2"x24" iron rods).

The City Commission of the City of Bend have fixed the 1st day of October, 1986, at 7:30 o'clock P.M., in the City Commission Chambers at 720 NW Wall Street, City of Bend, as the time and place for hearing upon said proceedings at which time the City Commission will receive and hear all objections to said vacation proceedings,

to be published once each week for four consecutive weeks in the Bulletin, and said Recorder having also within 5 days after the first day of the publication of said Notice caused a copy of said notice to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area, and the first publication and posting of said notice having occurred not less than 28 days before the hearing specified for said proposed vacation; and upon the appointed time specified in said notice the hearing having been held, and no objections made, and the City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the planned unit development should be vacated.

NOW THEREFORE, IT IS HEREBY ORDERED that the above described planned unit development be and the same hereby is vacated but reserving to the City of Bend all public streets, an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used, or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 1st day of October, 1986.

Read for the second time the 15th day of October, 1986.

Placed upon its passage the 15th day of October, 1986.

YES: 6 NO: 0

Submitted to and approved by the Mayor the 15th day of October, 1986.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1452

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM URBAN MEDIUM DENSITY RESIDENTIAL TO CL LIMITED COMMERCIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM Urban Medium Density Residential to CL Limited Commercial:

Lots 6 and 7, Block 70, Bend Park, City of Bend, Deschutes County, Oregon

Read for the first time the 15th day of October, 1986

Read for the second time the 5th day of November, 1986

Placed upon its passage the 5th day of November, 1986

YES: 5 NO: 0

Approved by the Mayor the 5th day of November, 1986

Jack E. Stivers
Mayor

ATTEST:

James W. Kerfoot
Recorder-Treasurer

ORDINANCE NO. NS-1453

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM CL LIMITED COMMERCIAL TO IL LIGHT INDUSTRIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from CL Limited Commercial to IL Light Industrial:

A portion of the Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) of Section 5, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, said portion being described as follows:

Beginning at a point which is located South 0° 49' 36" East, 100.29 feet and West 60.00 feet from the Northwest corner of said 1/16 Section; thence South 0° 49' 36" East, 115.69 feet; thence on a 27° 30' curve to the right for 4.31 feet; thence West 460.44 feet; thence North 120.00 feet; thence East 458.75 feet to the point of beginning. Together with that portion of vacated Southeast Second Street that inured thereto by vacating order recorded September 30, 1980, in Book 329, Page 451, Deed Records.

Read for the first time the 17th day of December, 1986

Read for the second time the 7th day of January, 1987

Placed upon its passage the 7th day of January, 1987

YES: 7 NO: 0

Mayor

ATTEST:

Recorder-Treasurer

(Underlined text is added; text enclosed in brackets is deleted)

ORDINANCE NO. NS-1454

AN ORDINANCE AMENDING THE CITY OF BEND'S GOVERNMENT CODE, ORDINANCE NS-1399, AS IT RELATES TO THE ORDER OF CITY BUSINESS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

1.106 Order of Business. Commission meetings shall be open to the public, except as provided by the charter and state law. Promptly at the hour set by law on the day of each regular meeting, the members of the Commission, the city recorder, and the city manager shall take their regular stations in the commission room, and the business of the Commission shall be taken up for consideration and disposition, after roll call, in the order that such business is listed on the Commission agenda. The city manager shall prepare the Commission agenda and make it available to the public and Commission prior to the Commission meeting. [the following order:]

[1. Roll Call]
[2. Consideration of minutes of previous meeting.]
[3. Visitors' propositions.]
[4. Communications]
[5. Petitions.]
[6. Unfinished business.]
[7. New business.]
[8. Resolutions.]
[9. Reading of ordinances - first time.]
[10. Reading of ordinances - second time.]
[11. Bills against the city.]
[12. Officers' reports.]
[13. Manager's report.]
[14. Good of the city.]

Read for the first time this 7th day of January, 1987.

Read for the second time this 21st day of January, 1987.

Placed upon its passage this 21st day of January, 1987.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 21st day of January, 1987.

Mayor

ATTEST:

(Underlined text is added; text enclosed in brackets is deleted)

ORDINANCE NO. NS-1455

AN ORDINANCE AMENDING THE CITY'S BUSINESS CODE, ORDINANCE NO. NS-1375, AS IT RELATES TO THE TRANSIENT ROOM TAX.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance No. NS-1375 known as Bend Code 7.010 (9) is amended to read:

(9) "Rent Package Plan" means the consideration charged for both food and rent where a single rate is made for the total of both. [The amount applicable to rent for determination of transient room tax under this code shall be the same charge made for rent when consideration is not a part of a package plan.]

SECTION 2. That portion of Ordinance No. NS-1375 known as Bend Code 7.012 is amended to read:

7.012 Tax Imposed. For the privilege of occupancy in any hotel, on and after the effective date of this code, each transient shall pay a tax in the amount of six percent (6%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis. If rent is paid in installments a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the city. In all cases the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks. When rent is charged under a rent package plan, as defined in Bend Coded 7.010 (9), an allowance of five dollars ($5.00) per person per meal or forty percent (40%) of the rent package plan price, whichever is less, may be deducted in the determination of the transient room tax under this code.

SECTION 3. That portion of Ordinance No. NS-1375 known as Bend Code 7.018 is amended to read:

7.018 Exemptions. No tax imposed under this code shall be imposed upon:

(1) Any occupant for more than thirty (30) successive calendar days; (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.)

(2) Any occupant whose rent is of a value less than $2.00 per day.

[(3) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof, except for facilities that meet the definition of a bed and breakfast inn as set forth in Ordinance No. NS-1178.]

(4) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for aged people.

(5) Any occupant whose rent is paid by a Deschutes United Way agency as a charitable assistance to the occupant.

Read for the first time this 4th day of March, 1987.

Read for the second time this 18th day of March, 1987.

Placed upon its passage this 18th day of March, 1987.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 18th day of March, 1987.

MAYOR

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1456

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM URBAN MEDIUM DENSITY RESIDENTIAL TO CL LIMITED COMMERCIAL.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM Urban Medium Density Residential to CL Limited Commercial:

Lot 1, the Southern 89 feet of Lot 2, the Southern 93 feet of Lot 3, and all of Lots 4, 5, and 6, Block 6, Deschutes Addition, City of Bend, Deschutes County, Oregon.

Read for the first time the 18th day of March, 1987

Read for the second time the 1st day of April, 1987

Placed upon its passage the 1st day of April, 1987

YES: 6 NO: 0

Approved by the Mayor the 1st day of April, 1987

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. 1457

AN ORDINANCE GRANTING TO PACIFICORP, DOING BUSINESS AS PACIFIC POWER & LIGHT COMPANY, A CORPORATION, AND TO IT SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE RIGHT AND FRANCHISE FOR A PERIOD OF TWENTY (20) YEARS TO CONSTRUCT, MAINTAIN AND OPERATE, IN, ON AND UNDER THE PRESENT AND FUTURE STREETS, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF BEND, DESCHUTES COUNTY, OREGON, ELECTRIC LIGHT AND POWER LINES AND APPURTENANCES FOR THE PURPOSE OF SUPPLYING ELECTRICITY AND ELECTRIC SERVICE TO THE CITY OF BEND, THE INHABITANTS THEREOF AND OTHERS, SUBJECT TO THE TERMS AND CONDITIONS AND TO THE MAKING OF PAYMENTS SPECIFIED IN THE ORDINANCE.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The City of Bend, Deschutes County, Oregon, hereinafter called the City, does hereby grant to PacifiCorp, doing business as Pacific Power & Light Company, a corporation, and to its successors and assigns, hereinafter called Grantee, a right and franchise for the period of twenty (20) years from and after the effective date of this ordinance, to construct, maintain, and operate in, on and under the present and future streets, alleys, bridges and public places of the City, hereinafter referred to as "streets", electric light and power lines, with all the necessary or desirable appurtenances, for the purpose of supplying electricity and electric service to the City and to the inhabitants thereof, subject to the terms and conditions and to the making of payments hereinafter specified.

Section 2. The right and franchise hereby granted shall not be exclusive; and the City expressly reserves the right, at any time during the term of this franchise, to grant rights or franchises for such purposes to other persons or corporations, as well as the right in its own name as a municipality to use said streets for such purposes in the event that the City shall hereafter decide to engage in the business of supplying electricity and electric services for municipal or other uses. If, during the term hereof, the City shall decide to engage in such business and shall elect to acquire by condemnation or otherwise the property used by Grantee in furnishing service hereunder, no value or damage of any kind shall be claimed by or allowed to Grantee in respect to the unexpired term of the franchise hereby granted.

Section 3. The locations and methods of installation and maintenance of all poles, wires, fixtures, underground lines, and appurtenances thereto (hereinafter referred to as "facilities") shall be subject at all times to reasonable regulation by the City, and all such facilities shall be so constructed and maintained as to interfere as little as practicable with street or other traffic. All of such facilities shall be installed and at all times maintained by Grantee in accordance with good electrical practice. Nothing contained in this agreement shall preclude the City from requiring Grantee to change the location of or to remove any pole, conduit, structure or facility within the public right of way when the public convenience requires such changes or removal. The expense of said change shall be paid by Grantee. If Grantee refuses to make a change requested by the City, the City may make the change and bill the utility for the cost of making said change.

Section 4. The service to be furnished hereunder by Grantee shall be continuous and shall be adequate for the requirements of the City and its inhabitants, subject to accidents, interferences or interruptions beyond the reasonable control of Grantee, and shall be furnished under such reasonable rules and regulations as Grantee may make from time to time for the proper conduct of its business. Such service and all rates and charges therefore and all rules and regulation pertaining thereto or to the making of necessary and proper extension of service shall be subject at all times to any rules, regulations, and order lawfully prescribed by the Public Utility Commissioner of Oregon, or by any other governmental authority having jurisdiction thereof.

Section 5. When necessary, in order to permit any duly authorized person to move any building or structure across or along any of said streets, Grantee shall temporarily raise or remove its facilities upon such streets, upon reasonable notice in advance from the Recorder of the City, and at such time and in such manner as may be necessary reasonably to accommodate such moving, consistent with the maintenance of proper service to Grantee's customers; provided, however, that the cost to Grantee of such temporary raising or removal, and of any interruption of Grantee's service to its customers caused thereby,

shall first be paid or satisfactorily secured to Grantee by the owner or mover of such building or other structure. Nothing contained in this section shall preclude the City from requiring Grantee to remove or relocate its facilities at Grantee's cost when required in accordance with Section 3 of this franchise agreement.

Section 6. The City shall have the right, upon reasonable notice to Grantee and without payment or charge therefore, to attached its fire alarm, police signal wires or traffic control systems to the poles of Grantee, but at its own risk and only in accordance with good electrical practice. If there is not sufficient space available thereon for said purposes, Grantee's structures may be changed, altered, or rearranged at the expense of the City so as to provide proper clearance for such wires or appurtenant facilities. Such facilities shall be subject to interference by Grantee only when and to the extent necessary for the proper construction, maintenance, operation or repair of Grantee's facilities.

Section 7. Grantee shall protect and save the City, its officers, employees and agents harmless against and from any and all damage claims, and any and all loss, liability, cost or expense, occasioned by any act or omission of Grantee in the construction, maintenance, operation or repair of Grantee's property or any use thereof; except such claims, loss, liability, cost or expense which may result solely from the negligent acts or omissions of City; and Grantee shall at all times comply with any lawful present or future charter provisions, ordinances, rules or regulations of the City relating to the manner of occupation or use, or to the repair or improvement of said streets.

Section 8. Grantee shall have the right and privilege of trimming all trees which overhang said streets, in such a manner and to such an extent as will prevent the branches or limbs or other parts of such trees from touching or interfering with its facilities; providing no such trees are trimmed or cut back further than may be reasonably necessary to prevent such interference and to allow the proper operation and maintenance of said facilities. Nothing contained in this section shall prevent Grantee, when necessary and with the approval of the owner of the property on which they may be located and with the approval of the City, from cutting down and removing any trees which overhang said streets.

Section 9.

(a) Grantee shall pay to the City a franchise fee or charge equivalent to three and one-half percent (3 1/2%) of Grantee's gross operating revenue as the same is defined herein. Grantee shall also pay the City's utility license fee if required by ordinance (now required by Bend Code 3.100 to 3.124).

(b) "Gross operating revenue," means Grantee's gross revenues from the sale and use of electricity and electric service within the corporate limits of the City and including revenue from the use, rental or lease of operating facilities of the utility, other than such revenues derived from business done with the government of the United States or any agency thereof. At the election of Grantee, Grantee may also deduct uncollectable accounts of customers within the City from gross operating revenue.

(c) Said franchise fee shall be offset against the sum total of the license fee required by City ordinance and any other occupation or excise taxes levied by the City against Grantee with respect to Grantee's electric business or the exercise of this franchise within the corporate limits of the City.

(d) Said franchise fee shall be paid monthly on or before the 20th of each month during the term hereof, and shall be computed upon the gross operating revenue accruing during the previous calendar month or portion thereof. The City license fee shall be paid as required by City ordinance.

Section 10. Grantee hereby agrees to comply with all City ordinances relating to the conduct of Grantee's business and with the provisions of this agreement. If Grantee is found, after having been given notice and an opportunity to be heard, to present evidence and to call and cross-examine witnesses, to have failed to comply with the material terms of this agreement or to have

committed fraud or deceit against City or its citizens, the City may revoke this agreement whereupon all rights of the Grantee shall immediately be divested without a further act upon the part of the Grantor. Prior to formal consideration by City of revocation of this agreement because of a failure to correct a fault attributed to Grantee, City shall make written demand on Grantee to correct the fault alleged. City shall also provide Grantee with written notice of any hearings set to consider termination of this agreement.

Section 11. This ordinance shall take effect thirty (30) days after its enactment by the Council and approval by the Mayor, but shall become null and void unless within sixty (60) days after such effective date Grantee shall file with the Recorder Grantee's written acceptance of the terms, conditions and obligations to be complied with or performed by it hereunder. By accepting the terms of this franchise, Grantee waives any and all objection whatsoever to City's 1986 repeal of Bend Ordinances No. 7 and No. 8 which granted a right of indeterminate duration to Bend Water, Light and Power Company to furnish water and electricity to City residents.

Read for the first time this 6th day of May, 1987.

Read for the second time this 20th day of May, 1987.

Vote: Yes - 5 No - 0

Placed upon its passage this 20th day of May, 1987.

Submitted to and approved by the Mayor this 20th day of May, 1987.

Mayor of the City of Bend

Attest:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1458

AN ORDINANCE AMENDING THE CITY OF BEND SIGN CODE, ORDINANCE NO. NS-1374 TO ALLOW THE PLACEMENT OF NONGOVERNMENTAL SIGNS ON PUBLIC PROPERTY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That portion of Ordinance NS-1374 which is known as the City of Bend Sign Code Section 2.010 (3) is amended as follows:

2.010 (3) No sign or other street graphic other than a CItyor other public agency sign shall be allowed to be erected, installed, replaced or maintained in over or on any public [property] right-of-way, except as provided in Section 3.020 (5) and (5A), 4.060 and 4.070 of this ordinance.

Read for the first time this 20th day of May, 1987.

Read for the second time this 3rd day of June, 1987.

Placed upon its passage this 3rd day of June, 1987.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 3rd day of June, 1987.

MAYOR

ATTEST:

Recorder-Treasurer

Note: Those provisions that are being deleted are enclosed in brackets. Those provisions that are being added are underscored.

(Janke property)

ORDINANCE NO. NS-1459

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 TO ALLOW AS A CONDITIONAL USE HEALING ARTS OFFICES AND CLINICS ON AN ADDITIONAL LOT IN THE RM URBAN MEDIUM DENSITY RESIDENTIAL ZONE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance No. NS-1178, Section 11(3) is amended by the revision of subsection (n) to read as follows:

(n) Offices for dentist, physician, or other practitioner of the healing arts, including physical therapy, medical, dental, and healing arts clinics and laboratories and pharmacies that are located within a medical, dental, or healing arts clinic or office in the following described area only:

A tract of land in the NE 1/4 NW 1/4 Section 34, T. 17 S., R. 12 E., W.M. Deschutes County, Oregon, more particularly described as follows: commencing at the north quarter corner of said Section 34; thence S. 89° 34' 36" W., [420.5] 340.5 feet along the Section line to the true point of beginning of this description; thence continuing along the Section line S. 89° 34' 36" W., [420] 500 feet; thence S. 00° 25' 34" E., 143.35 feet; thence S. 89° 02' 28" E., 160 feet; thence N. 00° 25' 34" W., 41.57 feet; thence N. 89° 34' 36" E., 40 feet; thence S. 00° 25' 34" E., 41.20 feet; thence S. 89° 02' 28" E., [220] 300 feet; thence N. 00° 25' 34" W., [153.90] 155.80 feet; to the true point of beginning. Except therefrom that portion of this description which lies within the right of way of Neff Road.

Read for the first time the 20th day of May, 1987

Read for the second time the 3rd day of June, 1987

Placed upon its passage the 3rd day of June, 1987

YES: 6 NO: 0

Mayor

ATTEST:

Recorder-Treasurer

Jake Young
PA-1-87/Z-1-87

ORDINANCE NO. NS-1460

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RH URBAN HIGH DENSITY RESIDENTIAL TO CL LIMITED COMMERCIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RH Urban High Density Residential to CL Limited Commercial:

Lots 12, 13, 14, and 15, Block 6, Wiestoria Addition, City of Bend, Deschutes County, Oregon

Read for the first time the 17th day of June, 1987

Read for the second time the 1st day of July, 1987

Placed upon its passage the 1st day of July, 1987

YES: 6 NO: 0

Approved by the Mayor the 1st day of JULY, 1987

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1461

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE REQUIREMENTS FOR SERVICE STATIONS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 25(1) of Ordinance No. NS-1178 is amended to read:

(1) Automobile Service Stations - Minimum Standards:

[(a) Location: No portion of any service station shall hereafter be constructed within 1,500 feet of any part of a building housing another service station, except where such other service station is abandoned and subject to removal under this section. This shall not prevent the remodeling of an existing service station.]

[(b)] (a) Minimum Lot Size: The minimum lot size for a service station site shall be 12,000 square feet. The minimum street frontage on the major traffic carrying street of a corner lot shall be 100 feet. The minimum street frontage for a service station site on an interior lot shall be 120 feet. The minimum lot depth shall be 100 feet.

[(c)] (b) Setbacks: Service stations shall set back from property lines not less than 10 feet. Attached or freestanding canopies may not extend closer than 10 feet to the property line. The minimum 10 foot distance between property line and building shall be appropriately landscaped as a continuation of the service station's required landscaping.

[(d)] (c) Screening: A sight obscuring fence or wall not less than 6 feet or more than 8 feet or an evergreen hedge planted at 4 feet and capable of obtaining 6 feet in height shall be provided between the service stations and abutting property in a residential zone or used for residential purposes. Said wall, fence, or hedge shall be reduced to $2\frac{1}{2}$ feet in vision clearance areas. A screened trash enclosure shall be provided on each station site.

[(e)] (d) Landscaping: Landscaping shall be installed and maintained occupying a minimum of 5 percent of the station site net area. Plans for landscaping shall be approved during site plan review.

[(f)] (e) Lighting: Lighting shall be of such illumination, direction, color and intensity as not to create a nuisance on adjacent property or to create a traffic hazard. Wiring for the business and its signs and light fixtures shall be underground.

[(g)] (f) Other Requirements: No storage of inoperative automobiles or parts thereof shall be permitted except in enclosed structures for any period exceeding 72 hours. Off-street parking space shall be provided for each attendant of the largest shift. Sales, storage and display of merchandise shall be conducted within a building, except for gasoline, oil, windshield wiper blades and other accessories of like size. Use of property for service station may also include the sale and installation of motor vehicle accessories, minor vehicle repairs (such as tune-ups, tire repair and the like), emergency vehicle repairs and any other sale, service or activity customarily incidental to the operation of a service station where such other sale, service or activity would otherwise be permitted within the zone.

[(h)] (g) Abandonment. Whenever a service station is not used as such for a continuous period of nine months, all structures and facilities above and below the ground shall be removed by the owner unless a site plan for a new use is submitted, approved and implementation has begun. Operation for at least 90 consecutive days shall be required to interrupt a continuous nine month period. All service stations which are unused for nine months as provided above are hereby declared to be nuisances and subject to abatement as provided by City law.

Read for the first time the 5th day of August, 1987

Read for the second time the 19th day of August, 1987

Placed upon its passage the 19th day of August, 1987

YES: 6 NO: 1

Approved by the Mayor the 19th day of August, 1987

Brian Peck

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1462

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY ADOPTING A NEW FLOOD PLAIN ZONE AND DECLARING AN EMERGENCY

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 4, Definitions, of Ordinance No. NS-1178 is amended by the addition of the following definitions in alphabetical order:

Area of Special Flood Hazard. The land in the flood plain within Bend subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

Base Flood. The flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters, and/or
(b) The unusual and rapid accumulation of runoff surface waters from any source.

Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 22(7).

Section 2. Section 22 of Ordinance No. NS-1178 is repealed, and the following is substituted as Section 22.

Section 22. Flood Plain Combining Zone, or FP Zone.

(1) Purpose. It is the purpose of this zone to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

(a) To protect human life and health;
(b) To minimize expenditure of public money and costly flood control projects;
(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
(d) To minimize prolonged business interruptions;
(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
(f) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazards so as to minimize future flood blight areas;
(g) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
(h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(2) Application of FP Zone.

(a) The FP Combining Zone shall apply to the areas identified on the Flood Insurance Rate Map (FIRM), as special flood hazard areas inundated by 100-year flood and floodway areas. The FIA Flood Insurance Study for Bend and the FIRM map are hereby adopted and by this reference included herein. The A and AE zones shown on the FIRM map are hereby zoned FP.

(b) When base flood elevation data has not been provided on the FIRM, the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source, in order to administer this section.

(c) Information to be Obtained and Maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study or required as in Subsection (2)(b), record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2. For all new or substantially improved floodproofed structures, record the actual elevation (in relation to mean sea level) of the structure's lowest floor. Obtain and maintain the floodproofing certifications required in Section 22(7)(b).

(3) Warning and Disclaimer of Liability. The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Bend, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision made hereunder.

(4) Alteration of Watercourses.

(a) Prior to any alteration or relocation of a watercourse, notice of the proposed alteration shall be given to affected, adjacent communities and the State Department of Water Resources, and submit evidence of such notification to the Federal Insurance Administration.

(b) The applicant shall maintain the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(5) Permit for Use or Development in an FP Zone. No development shall occur in an FP zone unless a permit has been received for the work. Except for improvement of an existing structure which is less than substantial, as determined by the City, no permit shall be issued unless the work will be reasonably safe from flooding, otherwise complies with this ordinance, and all necessary state, federal, and local permits will be obtained as a condition of approval on any permit in an FP zone. The following information shall be submitted with the permit application:

(a) The location of the property with reference to channel stations and flood profile elevations.

(b) The existing topography and proposed grading plan for the property. Contour intervals shall not be more than one-foot for ground slopes up to five percent and, for areas immediately adjacent to a stream, two-foot for ground slopes between five and ten percent, and five-foot for greater slopes.

(c) The location of existing and proposed diking or revetments, if any.

(d) Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding.

(6) Structural Elevation Data Required.

(a) A building permit application for substantial improvement to an existing structure or for a new structure within an FP zone shall contain the following data referenced to mean sea level:

(1) The level of the lowest habitable floor and of any basement floor whether or not intended to be habitable.

(2) The level to which the structure is to be floodproofed, if applicable.

(b) A statement which notes whether the structure contains a basement.

(c) The information required by this subsection shall be maintained in the files of the Building Department with the subject building permit.

(7) Regulation of Structures in an FP Zone.

(a) Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(b) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the City's Building Official.

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 22(7)(a)2.

5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

(c) Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH or AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 22(7)(a)2.

(8) Construction Materials and Methods.

(a) All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the com-

ponents during conditions of flooding.

(9) Land Development Standards in a Flood Hazard Area

(a) In addition to the terms of Subsections 9 and 10 of this Section, a subdivision or other land development, including all utility facilities, within an FP zone shall be designed and constructed to minimize flood damage, including special provisions for adequate drainage to reduce exposure to flood hazards.

(b) A land development which will alter or relocate a watercourse shall be designed, constructed and maintained to retain the flood-carrying capacity of the watercourse.

(c) A proposed land development of greater than either 50 lots or 5 acres shall include data showing the base flood elevation.

(10) Manufactured Home Development Standards

(a) All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 22(6)(e).

(b) The placement of a manufactured home in the floodway is prohibited.

(11) Utilities Standards in a Flood Hazard Area.

(a) A public utility or facility associated with a land development within a FP zone shall be designed, located and constructed to minimize or eliminate flood damage and to avoid raising the water elevation in a regulatory floodway.

(b) Any new or replacement water supply system shall be designed, located and constructed to minimize or eliminate infiltration of floodwaters into the system.

(c) Any new or replacement sewerage system shall be designed, located and constructed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into the flood waters.

(12) Floodways. Located within areas of special flood hazard established in Section 22((2)(a) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If Subsection (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 22(7), Provision for Flood Hazard Reduction.

(13) Technical Variances. A technical variance from the requirements of Section 22 may be granted by the Hearings Body for new construction and for improvements to existing structures which could not otherwise be authorized, provided the construction or improvements are to be erected or installed on a parcel of land one-half acre or less in size, contiguous to or more or less surrounded by lots with existing structures constructed below the minimum floor elevation established for flood protection purposes. A parcel of land in excess of the one-half acre in single ownership on the effective date of this ordinance is not excluded from the granting of a technical variance, but the burden of proof required for issuing the variance increases as the size of the property under single ownership increases, and the variance shall be granted only if required to equalize circumstances, considering previously developed land adjacent to the parcel for which a variance is sought.

(14) Historic Variance. A variance for historic preservation may be granted for the reconstruction, rehabilitation or restoration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

(15) Other Variances. All other variance applications shall be considered according to the terms of Section 31 of this ordinance and the following criteria:

(a) The danger that materials may be swept onto others property.

(b) The danger to life and property due to flooding or erosion damage.

(c) The susceptibility of the proposed facility to the flood damage and the effect of such damage on the individual owner.

(d) The importance of the services provided to the community by the proposed facility.

(e) The necessity to the use of a waterfront location, where applicable.

(f) The availability of alternative locations not subject to flooding or erosion damage.

(g) The relationship of the use to the area floodplain management program.

(h) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(i) The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effect of wave action, if applicable, expected at the site.

(j) The cost of providing governmental and utility services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, streets and bridges.

(16) Applicants for a variance shall include with their application the following information:

(a) The location of the property with reference to channel station and flood profile elevation.

(b) The existing topography and proposed grading plan for the property. Contour intervals shall not be more than one foot for ground slopes up to five percent and for areas immediately adjacent to a stream, two feet for ground slopes between five and ten percent, and five feet for greater slopes.

(c) The location of existing and proposed diking or revetments if any.

(17) Granting of Variances.

If the findings warrant, the Hearings Body may grant a variance if it finds the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense.

Section 3. Whereas, the federal regulations require this ordinance to be adopted by September 4, 1987, for federal flood insurance to be available within the City; therefore, this Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Read for the first time the 19th day of August, 1987

Read for the second time the 2nd day of September, 1987

Placed upon its passage the 2nd day of September, 1987

YES: 6 NO: 0

Approved by the Mayor this 2nd day of September, 1987

Brian Derby
Mayor

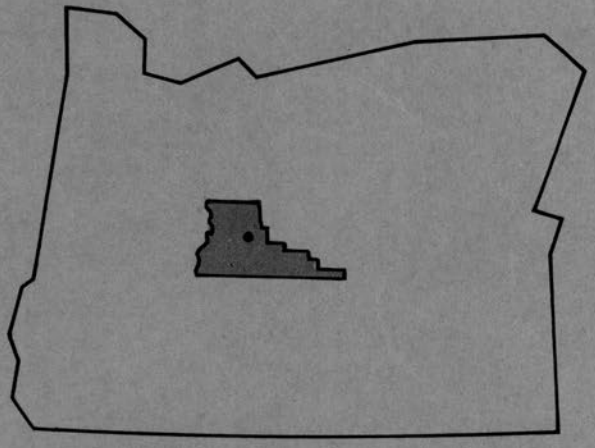
ATTEST:

James W Kerfoot
Recorder-Treasurer

NS-1462

FLOOD INSURANCE STUDY

CITY OF BEND, OREGON
DESCHUTES COUNTY



SEPTEMBER 4, 1987

Federal Emergency Management Agency

COMMUNITY NUMBER - 410056

NOTICE TO
FLOOD INSURANCE STUDY USERS

Communities participating in the National Flood Insurance Program have established repositories of flood hazard data for flood plain management and flood insurance purposes. This Flood Insurance Study may not contain all data available within the repository. It is advisable to contact the community repository for any additional data.

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FLOOD INSURANCE STUDY

1.0 INTRODUCTION

1.1 Purpose of Study

This Flood Insurance Study investigates the existence and severity of flood hazards in the City of Bend, Deschutes County, Oregon, and aids in the administration of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. This study has developed flood risk data for various areas of the community that will be used to establish actuarial flood insurance rates and assist the community in its efforts to promote sound flood plain management. Minimum flood plain management requirements for participation in the National Flood Insurance Program (NFIP) are set forth in the Code of Federal Regulations at 44 CFR, 60.3.

In some states or communities, flood plain management criteria or regulations may exist that are more restrictive or comprehensive than the minimum Federal requirements. In such cases, the more restrictive criteria take precedence and the State (or other jurisdictional agency) will be able to explain them.

1.2 Authority and Acknowledgments

The sources of authority for this Flood Insurance Study are the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973.

The hydrologic and hydraulic analyses for this study were performed by U.S. Army Corps of Engineers (COE), Portland District, for the Federal Emergency Management Agency (FEMA), under Inter-Agency Agreement No. IAA-EMW-E-1153, Project Order No. 1, Amendment No. 29. This study was completed in October 1985.

1.3 Coordination

The initial coordination meeting was held on July 11, 1983, in the City of Bend. The meeting was attended by representatives from FEMA, COE, and the city. The purpose of the meeting was to inform the city of its status in the NFIP, gather all available pertinent data on flooding in the community, and reach an agreement on areas to be studied.

The U.S. Bureau of Reclamation, U.S. Geological Survey (USGS), U.S. Soil Conservation Service, Oregon Water Resources Department, Oregon Department of Transportation, and the State Director of the Bureau of Land Management were contacted for available flood information and pertinent flood data.

On September 29, 1986, the results of the study were discussed at the final community coordination meeting, which was attended by representatives of FEMA, the study contractor, and the community. All significant problems raised at that meeting have been addressed in this study.

2.0 AREA STUDIED

2.1 Scope of Study

This Flood Insurance Study covers the incorporated areas of the City of Bend, Deschutes County, Oregon. The area of study is shown on the Vicinity Map (Figure 1).

The study area includes an 8.2-mile section of the Deschutes River, beginning approximately 162 miles upstream of its confluence with the Columbia River and ending at the southern corporate limits of Bend. Approximately 7.5 miles of the Deschutes River within Bend have been studied by detailed methods, and the remainder by approximate methods.

The areas studied by detailed methods were selected with priority given to all known flood hazard areas and areas of projected development or proposed construction through October 1990.

Approximate analyses were used to study those areas having a low development potential or minimal flood hazards.

2.2 Community Description

Bend, located in central Deschutes County, in central Oregon, is on the banks of the Deschutes River. The city was originally named "Farewell Bend" and was founded by A.M. Drake in 1900. The "Farewell" was dropped by the postal authorities, and Bend was incorporated in 1904. Railroads came in 1911, and lumbermills were established by 1915 (Reference 1).

The county seat of Deschutes County, Bend is a trade center for central Oregon, and its income is derived mostly from wood products, agriculture, and tourism (Reference 1).

The population of Bend increased approximately 51 percent between 1950 and 1980 (populations of 11,409 and 17,263, respectively), and the 1984 population estimate was about 18,300 (Reference 2).

The climate of Bend is characterized by cold winters and warm, dry summers. The average annual precipitation is 11.5 inches, and the average temperatures range from 63°F in July to 31°F in January (Reference 2).

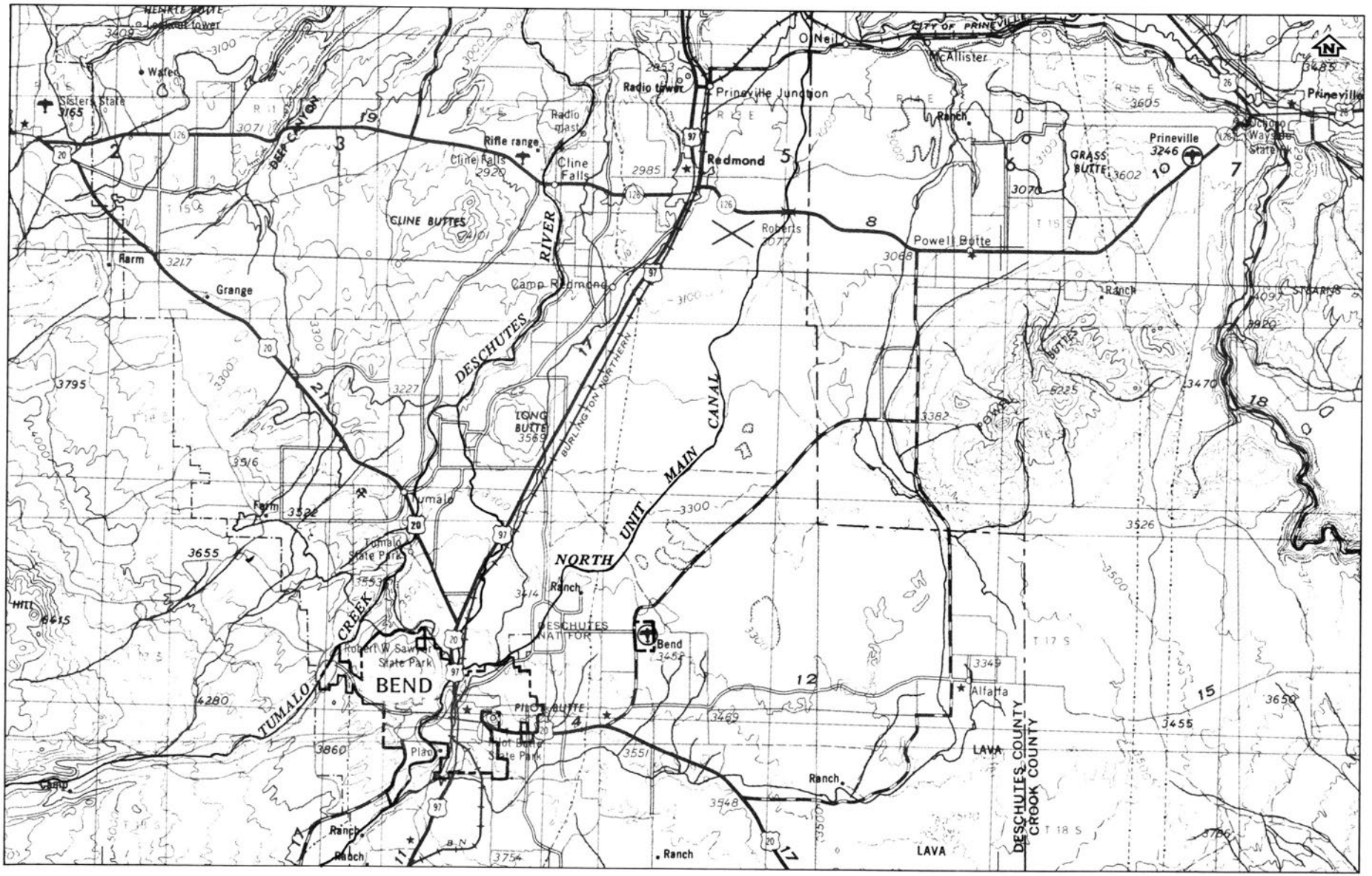


FIGURE 1

FEDERAL EMERGENCY MANAGEMENT AGENCY

CITY OF BEND, OR
(DESCHUTES CO.)

APPROXIMATE SCALE

4 0 4 8 12 MILES

VICINITY MAP

The Deschutes River Basin upstream of Bend contains pumice sand underlain by highly permeable basalt. These very porous soils of volcanic origin contain a large amount of subsurface storage. This storage has a dampening effect on floodflows, and the Deschutes River in the vicinity of Bend has some of the lowest discharge rates per square mile of any comparably sized basin in the State (Reference 3).

The native vegetation in the vicinity of Bend is mostly grass, brush, and small trees or shrubs, with some pine trees on the higher hills away from the river.

2.3 Principal Flood Problems

The annual flood season extends from November through June, with a majority of the larger floods occurring in November and December. Some high waters result from snowmelt that occurs in late spring. Floods are possible whenever the rainfall is abnormally intense or prolonged, especially if the rain falls on an existing snowpack in the surrounding mountains.

The record flood on the Deschutes River below the Little Deschutes River confluence occurred on November 27, 1909, with a discharge at the Benham Falls Stream gage of 5,000 cubic feet per second (cfs) and at the gage below Bend of 4,820 cfs. A natural frequency curve has not been developed for the Deschutes River main stem because of the operation of Wickiup Dam, which began in 1922; therefore, no frequency has been assigned to this preregulation flood.

The most significant discharge in the past 15 years downstream of Bend, Oregon, was 1,820 cfs below the Bend gage station. It occurred on March 20, 1972, and had a recurrence interval of approximately 8 years.

The most significant discharge in the past 15 years upstream of the North Unit Dam occurred on July 23-24, 1976. The release from Wickiup Reservoir was 2,140 cfs, and the Benham Falls gage recorded 2,780 cfs. The Wickiup release was approximately a 7-year frequency discharge, and the Benham Falls discharge was approximately a 3-year frequency discharge.

In December 1983, Bend experienced flooding due to blockage of the channel by ice. Several consecutive days of freezing temperatures combined with high flows to form frazil ice and ice jams. Frazil ice is generated in turbulent open-water areas of a river having velocities in excess of 2.0 to 2.5 feet per second, when the water temperature is a few hundredths of a degree below freezing. Prolonged cold spells of below-zero temperatures, low relative humidity, and high wind velocity can supercool water to below freezing. Frazil ice consists of small crystals of ice that are adhesive and readily attach to objects in the channel, such as rocks and logs. Frazil

ice that does not become attached to objects flocculates and rises to the surface. The flocs freeze together and form clumps of slush ice, which then form ice pans. These ice pans grow large enough to be considered icefloes (Reference 4).

At Bend, two ponds are formed on the Deschutes River: Mirror Pond, formed by the Pacific Power and Light (PP&L) Dam, and an upstream pond, formed by a low-level dam at the Colorado Avenue bridge. The upstream pond was used as a log storage area until 1973. Between the two ponds, there is a 0.5-mile section of river channel that has a much narrower cross section than the ponds. The unattached frazil ice generated in upstream river reaches congeals to form surface icefloes by the time it gets to the log pond. These floes drift to the PP&L Dam, where they become trapped. They subsequently begin to freeze together to form an ice cover that grows upstream as icefloes accumulate. When the ice sheet gets to that portion of the river between the ponds, icefloes begin to be forced under the ice sheet because of the greater velocities that exist in that narrow portion of channel. These floes thus become lodged under the surface ice, causing damming. Velocities in this river segment may be swift enough to generate frazil ice, which could also adhere to the surface ice, compounding the problem (Reference 4).

Local officials report that there were no ice-jam flooding problems prior to 1973, when logs were stored in the upstream pond. Apparently, the stored logs acted as an icefloe barricade, and the ice cover formed from that point upstream. Presumably, ice jams formed upstream of the log pond prior to 1973, but areas that were overtopped were unimproved and suffered little damage (Reference 4).

Figures 2 and 3 show estimated 100-year flood elevations for the Deschutes River.

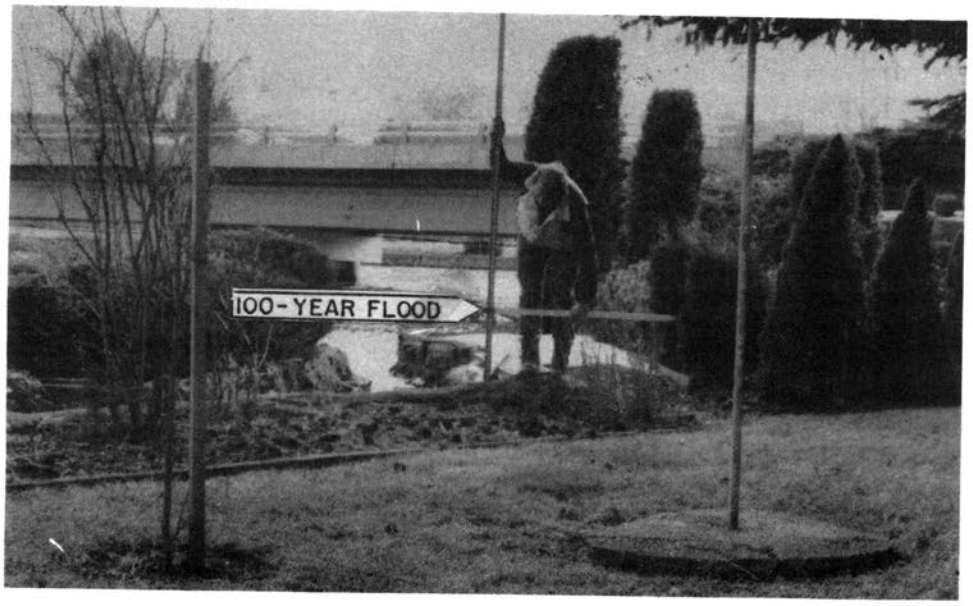


Figure 2. Portland Avenue Bridge, 100-Year Flood Elevation

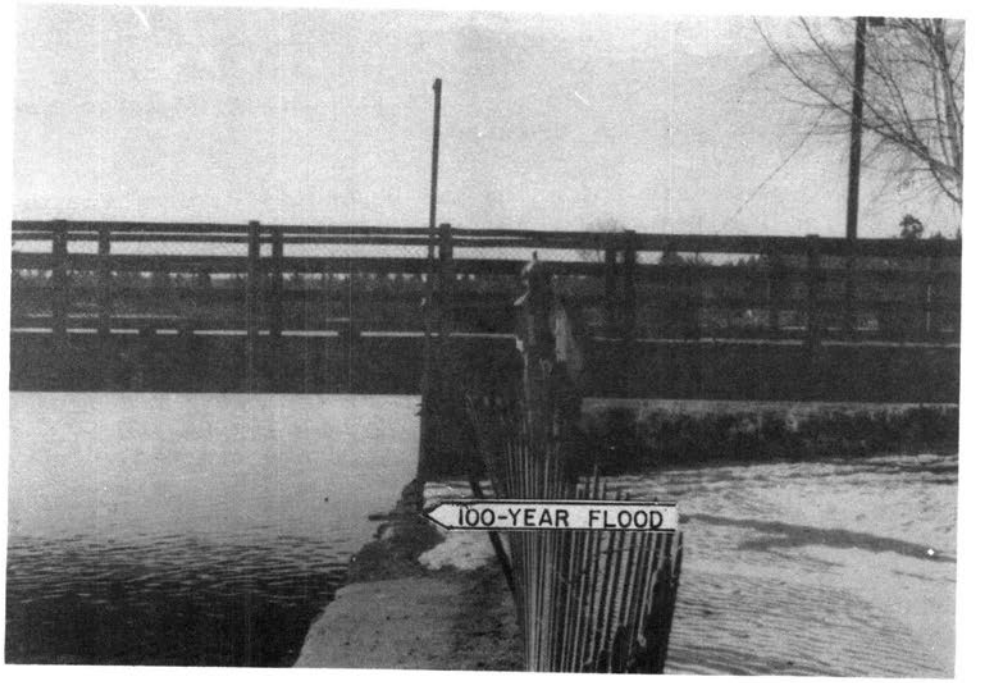


Figure 3. Drake Park Foot Bridge, 100-Year Flood Elevation

2.4 Flood Protection Measures

There are three water storage reservoirs in the Upper Deschutes River basin (Crane Prairie, Wickiup, and Crescent Lake) that are operated by the U.S. Bureau of Reclamation. Although no flood-control storage is authorized for these reservoirs, the large amount of irrigation storage available does, in fact, reduce winter and spring flows downstream.

There are a series of irrigation diversion structures located on the Deschutes River. The structures are used to divert some of the flow for irrigation purposes. Although the total flow is reduced, they are not considered to be recognized flood-control devices.

In November 1984, the City installed an ice boom just upstream of the Colorado Avenue bridge to intercept icefloes above Mirror Pond and prevent ice-jam flooding in residential areas of the city.

The COE is preparing a detailed report to determine the feasibility of constructing an icefloe barricade. The COE is continuing efforts on the study at the request of the City because early results indicate a stronger ice boom would be needed farther upstream than the city's, at a location more favorable to intercepting frazil ice.

No other structural flood protection measures exist or are proposed for Bend. Nonstructural measures, however, are being used to aid in the prevention of future flood damage. These are in the form of an ordinance passed by the City Council on March 2, 1983, authorizing the City to control future development or redevelopment within the 100-year flood plain. The City requires building permits for construction and reviews those permits to ensure that sites are reasonably safe from flooding.

3.0 ENGINEERING METHODS

For the flooding sources studied in detail in the community, standard hydrologic and hydraulic study methods were used to determine the flood hazard data required for this study. Flood events of a magnitude which are expected to be equaled or exceeded once on the average during any 10-, 50-, 100-, or 500-year period (recurrence interval) have been selected as having special significance for flood plain management and for flood insurance rates. These events, commonly termed the 10-, 50-, 100-, and 500-year floods, have a 10, 2, 1, and 0.2 percent chance, respectively, of being equaled or exceeded during any year. Although the recurrence interval represents the long-term average period between floods of a specific magnitude, rare floods could occur at short intervals or even within the same year. The risk of experiencing a rare flood increases when periods greater than 1 year are considered. For example, the risk of having a flood which equals or exceeds the 100-year flood (1 percent chance of annual exceedence) in any 50-year period is approximately 40 percent (4 in 10), and, for any 90-year period, the risk increases to approximately 60 percent (6 in 10). The analyses reported herein reflect flooding potentials based on conditions existing in the community at the time of completion of this study. Maps and flood elevations will be amended periodically to reflect future changes.

3.1 Hydrologic Analyses

Hydrologic analyses were carried out to establish the peak discharge-frequency relationships for each flooding source studied in detail affecting the community.

The Upper Deschutes River subbasin, including all of the Deschutes River watershed above the stream gage below Bend, contains 1,899 square miles, which is about 18 percent of the total area of the Deschutes Basin.

The subbasin is bounded on the west by the Cascade Range; on the south by the divide between the Deschutes and Klamath Basins; on the east by the Walker Rim, Crater Buttes, and Paulina Mountains; and on the north by an arbitrary divide that extends from the Paulina Mountains through Bend to the Three Sisters in the Cascades (Reference 3).

In general, the Deschutes River is subject to high water caused by spring snowmelt. In only two years, 1944 and 1964, out of the 44 years since the river has been regulated by all three storage projects (Wickiup, Crane Prairie, and Crescent Lake), was the peak discharge caused primarily by rainfall.

Because there were only two significant rain-on-snow events, it was determined that a reliable rain-on-snow, discharge-frequency curve could not be derived.

The three reservoirs regulate an area of approximately 540 square miles, or 28 percent of the subbasin (Reference 5). For this reason and because of numerous irrigation withdrawals, it was determined that a frequency curve based on observed data best represents existing conditions. U.S. Water Resources Council guidelines were used with a generalized skew of -0.36 (Reference 6). From analysis of the total record since 1907, the December 1964 event is the largest in 68 years.

For the reach of the Deschutes River between the North Unit Dam and approximately 5.4 miles upstream, Benham Falls discharges were used. Three major irrigation diversions are located at the North Unit Dam. Therefore, the discharges for the 2.8-mile reach below the dam were from the Deschutes River USGS stream gage below the City of Bend.

Peak discharge-drainage area relationships for the Deschutes River in the vicinity of Bend are shown in Table 1.

3.2 Hydraulic Analyses

Analyses of the hydraulic characteristics of flooding from the sources studied were carried out to provide estimates of the elevations of floods of the selected recurrence intervals.

The hydraulic analyses were performed using the COE HEC-2 step-backwater computer program (Reference 7). Cross sections for the Deschutes River were developed from field surveys and orthophoto topographic maps developed from July 1984 aerial photography (Reference 8). The model was calibrated using engineering judgment and information about past flooding events from local officials and residents along the Deschutes River.

Bridges and dams were field surveyed where no as-built drawings existed. Where as-built drawings were available, their elevation datum was checked by field survey.

The river was divided into four reaches separated by three dams. To estimate the backwater effects for two of the dams, the spillways were modeled as cross sections with a steep starting slope. The HEC-2 program forced the water surface to critical depth. The

Table 1. Summary of Discharges

Flooding Source and Location	Drainage Area (Square Miles)	Peak Discharges (cfs) 10-Year	50-Year	100-Year	500-Year
Deschutes River					
Upstream of North Unit Dam	1,835	3,070	3,320	3,400	3,560
Downstream of North Unit Dam	1,895	1,920	2,460	2,685	3,200

third dam was modeled with a known water-surface elevation determined from manual weir-flow calculations.

The starting water-surface elevations for the channel reach downstream of the last dam were determined by specifying the starting slope. The starting slope was determined from a combination of field survey notes and topographical maps. Approximate water-surface elevations were obtained from the field survey notes.

Locations of selected cross sections used in the hydraulic analyses are shown on the Flood Profiles (Exhibit 1). For stream segments for which a floodway was computed (Section 4.2), selected cross section locations are also shown on the Flood Insurance Rate Map (Exhibit 2).

Roughness factors (Manning's "n") used in the hydraulic computations were chosen by engineering judgment and based on field observations of the stream and flood plain areas. The roughness value used for the main channel of the Deschutes River was 0.043; the flood plain roughness values ranged from 0.10 to 0.12 for all floods.

The hydraulic analyses for this study were based on unobstructed flow. The flood elevations shown on the profiles are thus considered valid only if hydraulic structures remain unobstructed, operate properly, and do not fail.

All elevations are referenced to the National Geodetic Vertical Datum of 1929 (NGVD). Elevation reference marks used in this study are shown on the maps; the descriptions of the marks are presented in Elevation Reference Marks (Exhibit 3).

4.0 FLOOD PLAIN MANAGEMENT APPLICATIONS

The NFIP encourages State and local governments to adopt sound flood plain management programs. Therefore, each Flood Insurance Study provides 100-year flood elevations and delineations of the 100- and 500-year flood plain boundaries and 100-year floodway to assist communities in developing flood plain management measures.

4.1 Flood Boundaries

To provide a national standard without regional discrimination, the 1 percent annual chance (100-year) flood has been adopted by FEMA as the base flood for flood plain management purposes. The 0.2 percent annual chance (500-year) flood is employed to indicate additional areas of flood risk in the community. For each stream studied in detail, the 100- and 500-year flood plain boundaries have been delineated using the flood elevations determined at each cross section. Between cross sections, the boundaries were inter-

polated using topographic maps at a scale of 1:4,800, with a contour interval of 4 feet (Reference 8).

The 100- and 500-year flood plain boundaries are shown on the Flood Boundary and Floodway Map (Exhibit 2). On this map, the 100-year flood plain boundary corresponds to the boundary of the areas of special flood hazards (Zones A and AE), and the 500-year flood plain boundary corresponds to the boundary of areas of moderate flood hazards. In cases where the 100- and 500-year flood plain boundaries are close together, only the 100-year flood plain boundary has been shown. Small areas within the flood plain boundaries may lie above the flood elevations but cannot be shown due to limitations of the map scale and/or lack of detailed topographic data.

For the portion of the stream studied by approximate methods, only the 100-year flood plain boundary is shown on the Flood Insurance Rate Map (Exhibit 2).

4.2 Floodways

Encroachment on flood plains, such as structures and fill, reduces flood-carrying capacity, increases flood heights and velocities, and increases flood hazards in areas beyond the encroachment itself. One aspect of flood plain management involves balancing the economic gain from flood plain development against the resulting increase in flood hazard. For purposes of the NFIP, a floodway is used as a tool to assist local communities in this aspect of flood plain management. Under this concept, the area of the 100-year flood plain is divided into a floodway and a floodway fringe. The floodway is the channel of a stream, plus any adjacent flood plain areas, that must be kept free of encroachment so that the 100-year flood can be carried without substantial increases in flood heights. Minimum Federal standards limit such increases to 1.0 foot, provided that hazardous velocities are not produced. The floodways in this study are presented to local agencies as minimum standards that can be adopted directly or that can be used as a basis for additional floodway studies.

The floodways presented in this study were computed for certain stream segments on the basis of equal conveyance reduction from each side of the flood plain. Floodway widths were computed at cross sections. Between cross sections, the floodway boundaries were interpolated. The results of the floodway computations are tabulated for selected cross sections (Table 2). The computed floodways are shown on the Flood Insurance Rate Map (Exhibit 2). In cases where the floodway and 100-year flood plain boundaries are either close together or collinear, only the floodway boundary is shown.

The area between the floodway and 100-year flood plain boundaries is termed the floodway fringe. The floodway fringe encompasses

FLOODING SOURCE		FLOODWAY			BASE FLOOD WATER SURFACE ELEVATION			
CROSS SECTION	DISTANCE[1]	WIDTH (FEET)	SECTION AREA (SQUARE FEET)	MEAN VELOCITY (FEET PER SECOND)	REGULATORY	WITHOUT FLOODWAY	WITH FLOODWAY	INCREASE
					(FEET NGVD)			
Deschutes River								
A	2,060	45/30[2]	227	11.8	3,377.8	3,377.8	3,377.8	0.0
B	11,715	120/30[2]	810	3.3	3,508.1	3,508.1	3,508.2	0.1
C	12,605	52/20[2]	237	11.3	3,508.7	3,508.7	3,508.8	0.1
D	13,415	50	294	9.1	3,518.3	3,518.3	3,518.7	0.4
E	13,965	58	535	5.0	3,521.2	3,521.2	3,521.7	0.5
F	14,705	45	214	12.6	3,524.5	3,524.5	3,524.5	0.0
G	15,125	293	2,802	1.2	3,560.4	3,560.4	3,560.5	0.1
H	16,155	140	1,656	2.1	3,560.5	3,560.5	3,560.6	0.1
I	17,530	155	1,287	2.6	3,560.7	3,560.7	3,560.9	0.2
J	18,510	150	1,044	3.3	3,561.1	3,561.1	3,561.3	0.2
K	19,090	88	314	10.8	3,564.4	3,564.4	3,564.4	0.0
L	19,680	152	602	5.7	3,570.5	3,570.5	3,570.5	0.0
M	19,785	202	1,978	1.7	3,578.9	3,578.9	3,568.9	0.0
N	20,315	185	2,056	1.7	3,579.0	3,579.0	3,579.0	0.0
O	22,252	367	2,894	1.2	3,594.7	3,594.7	3,594.7	0.0
P	23,027	121	1,099	3.1	3,594.8	3,594.8	3,594.8	0.0
Q	23,727	234	1,984	1.7	3,595.1	3,595.1	3,595.1	0.0
R	24,566	321	2,335	1.5	3,595.3	3,595.3	3,595.3	0.0
S	25,238	471	2,527	1.4	3,595.4	3,595.4	3,595.4	0.0
T	25,836	107	1,091	3.1	3,595.5	3,595.5	3,595.5	0.0
U	26,416	184	958	3.6	3,595.9	3,595.9	3,595.9	0.0
V	27,434	131	1,412	2.4	3,596.8	3,596.8	3,596.8	0.0
W	28,144	246	1,421	2.4	3,597.0	3,597.0	3,597.0	0.0
X	29,082	452	2,424	1.4	3,604.8	3,604.8	3,604.8	0.0

[1]Feet Above Limit of Detailed Study [2]Width/Width Within Corporate Limits

TABLE 2

FEDERAL EMERGENCY MANAGEMENT AGENCY

CITY OF BEND, OREGON
(DESCHUTES COUNTY)

FLOODWAY DATA

DESCHUTES RIVER

FLOODING SOURCE		FLOODWAY			BASE FLOOD WATER SURFACE ELEVATION			
CROSS SECTION	DISTANCE[1]	WIDTH (FEET)	SECTION AREA (SQUARE FEET)	MEAN VELOCITY (FEET PER SECOND)	REGULATORY	WITHOUT FLOODWAY	WITH FLOODWAY	INCREASE
					(FEET NGVD)			
Deschutes River (Continued)								
Y	29,872	365/240[2]	1,924	1.8	3,604.9	3,604.9	3,604.9	0.0
Z	31,022	138/100[2]	1,118	3.0	3,605.3	3,605.3	3,605.3	0.0
AA	31,632	106/80[2]	824	4.1	3,605.6	3,605.6	3,605.6	0.0
AB	32,337	355/200[2]	2,291	1.5	3,606.1	3,606.1	3,606.1	0.0
AC	33,147	289/130[2]	1,688	2.0	3,606.2	3,606.2	3,606.3	0.1
AD	34,517	254/130[2]	1,713	2.0	3,607.0	3,607.0	3,607.0	0.0
AE	35,327	218/170[2]	1,791	1.9	3,607.2	3,607.2	3,607.2	0.0
AF	36,327	194/190[2]	1,202	7.8	3,607.4	3,607.4	3,607.5	0.1
AG	37,637	180/140[2]	1,109	3.1	3,608.3	3,608.3	3,608.3	0.0
AH	38,347	97/70[2]	327	10.4	3,610.0	3,610.0	3,610.0	0.0
AI	39,137	111/60[2]	544	6.3	3,617.0	3,617.0	3,617.0	0.0

[1]Feet Above Limit of Detailed Study

[2]Width/Width Within Corporate Limits

TABLE 2

FEDERAL EMERGENCY MANAGEMENT AGENCY

CITY OF BEND, OREGON

(DESCHUTES COUNTY)

FLOODWAY DATA

DESCHUTES RIVER

the portion of the flood plain that could be completely obstructed without increasing the water-surface elevation of the 100-year flood by more than 1.0 foot at any point. Typical relationships between the floodway and the floodway fringe and their significance to flood plain development are shown in Figure 4.

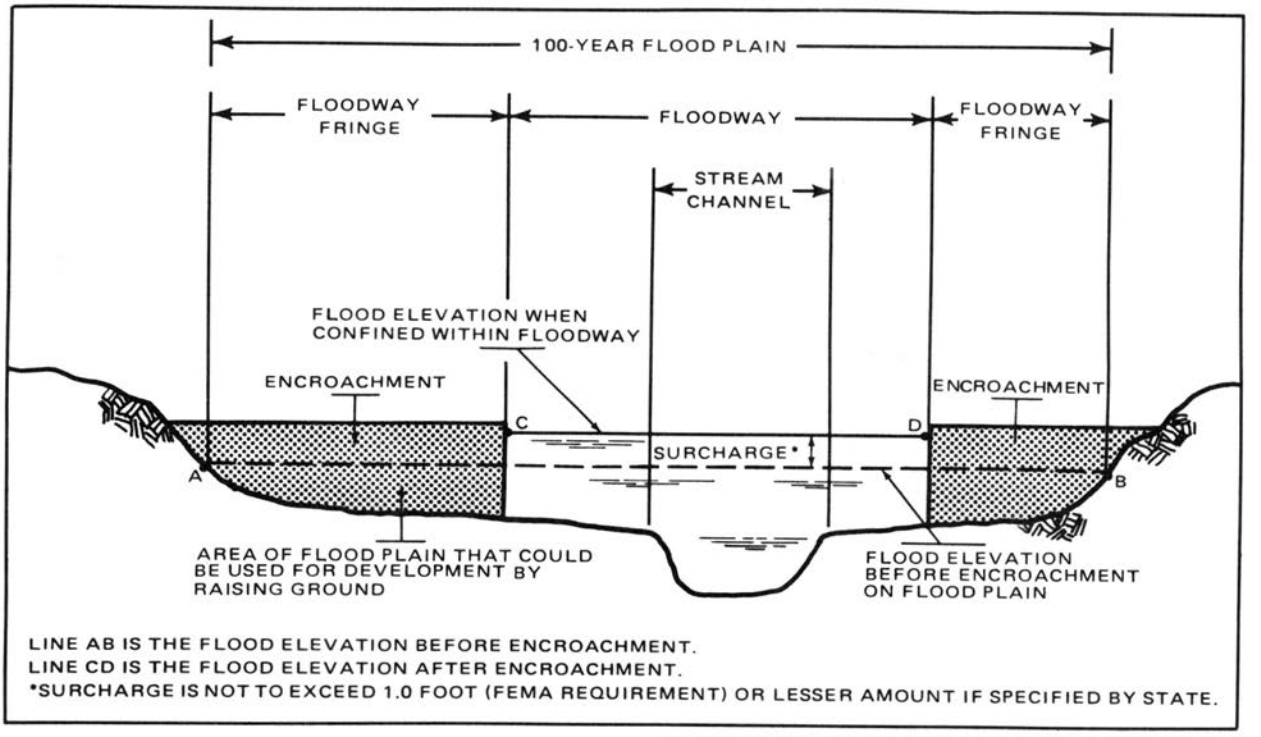


Figure 4. Floodway Schematic

5.0 INSURANCE APPLICATION

For flood insurance rating purposes, flood insurance zone designations are assigned to a community based on the results of the engineering analyses. These zones are as follows:

Zone A

Zone A is the flood insurance rate zone that corresponds to the 100-year flood plains that are determined in the Flood Insurance Study by approximate methods. Because detailed hydraulic analyses are not performed for such areas, no base flood elevations or depths are shown within this zone.

Zone AE

Zone AE is the flood insurance rate zone that corresponds to the 100-year flood plains that are determined in the Flood Insurance Study by detailed methods. Whole-foot base flood elevations derived

from the detailed hydraulic analyses are shown at selected intervals within this zone.

Zone X

Zone X is the flood insurance rate zone that corresponds to areas outside the 500-year flood plain, areas within the 500-year flood plain, areas of 100-year flooding where average depths are less than 1 foot, areas of 100-year flooding where the contributing drainage area is less than 1 square mile, and areas protected from the 100-year flood by levees. No base flood elevations or depths are shown within this zone.

6.0 FLOOD INSURANCE RATE MAP

The Flood Insurance Rate Map is designed for flood insurance and flood plain management applications.

For flood insurance applications, the map designates flood insurance rate zones as described in Section 5.0 and, in the 100-year flood plains that were studied by detailed methods, shows selected whole-foot base flood elevations or average depths. Insurance agents use the zones and base flood elevations in conjunction with information on structures and their contents to assign premium rates for flood insurance policies.

For flood plain management applications, the map shows by tints, screens, and symbols, the 100- and 500-year flood plains, the floodways, and the locations of selected cross sections used in the hydraulic analyses and floodway computations.

7.0 OTHER STUDIES

A Flood Insurance Study is in progress for the unincorporated areas of Deschutes County (Reference 9), including the area surrounding Bend. The results of this study and those of the Deschutes County Flood Insurance Study will be in agreement.

8.0 LOCATION OF DATA

Information concerning the pertinent data used in the preparation of this study can be obtained by contacting the Natural and Technological Hazards Division, FEMA, Federal Regional Center, 130 228th Street, SW., Bothell, Washington 98021-9796.

9.0 BIBLIOGRAPHY AND REFERENCES

1. Bend Visitor and Convention Bureau, Points of Interest Brochure, 1982-83, Bend, Oregon, 1983

2. Barbara Roberts, Secretary of State, Oregon Blue Book, 1985-86, March 1985

3. State Water Resources Board, Deschutes River Basin, January 1961

4. U.S. Department of the Army, Corps of Engineers, Portland District, Memo to Files, "Deschutes River at Bend, Oregon, Ice-Jam Flooding," October 5, 1984

5. Columbia Basin Inter-Agency Committee, River Mile Index, Deschutes River, June 1963

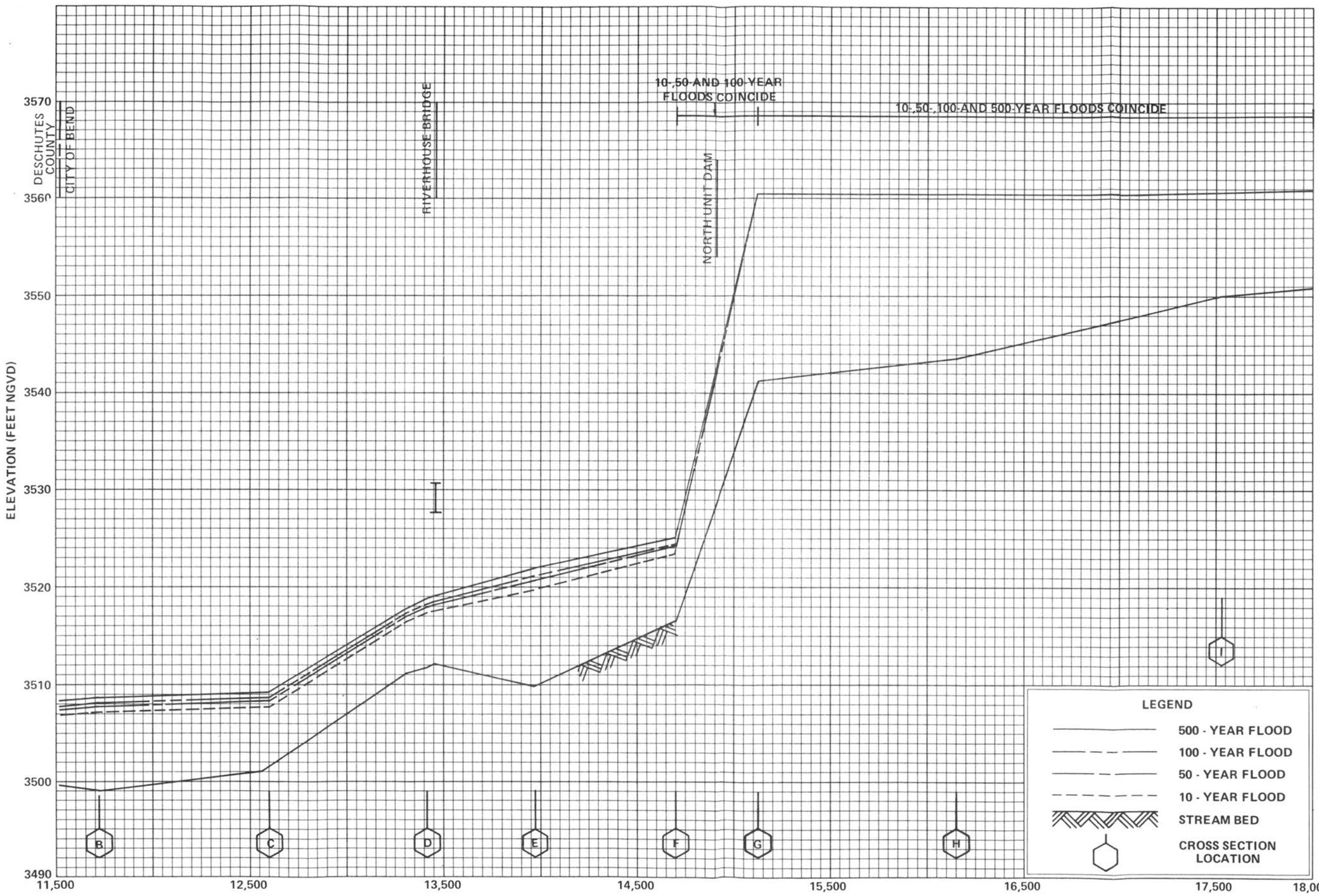
6. U.S. Water Resources Council, "Guidelines for Determining Flood Flow Frequency," Bulletin 17, March 1976

7. U.S. Department of the Army, Corps of Engineers, Hydrologic Engineering Center, HEC-2 Water-Surface Profiles, Generalized Computer Program, Davis, California, November 1976, updated May 1982

8. U.S. Department of the Army, Corps of Engineers, Portland District, Deschutes River Work Map, Scale 1:4,800, Contour Interval 4 feet, July 27, 1984

9. Federal Emergency Management Agency, Flood Insurance Study, Deschutes County, Oregon (Unincorporated Areas), unpublished

NS-1462



FLOOD PROFILES

DESCHUTES RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY

CITY OF BEND, OR
(DESCHUTES CO.)

02P

NS-1462

GALVESTON AVENUE

SOUTHERLY FOOTBRIDGE

MIRROR POND

RAILROAD TRESTLE

SHEVLIN BRIDGE/BAM

COLORADO AVENUE

50-, 100-AND 500-YEAR FLOODS COINCIDE

10-, 50-, 100-AND 500-YEAR FLOODS COINCIDE

50-, 100-AND 500-YEAR FLOODS COINCIDE

50-, 100-AND 500-YEAR FLOODS COINCIDE

10-, 50-, 100-AND 500-YEAR FLOODS COINCIDE

ELEVATION (FEET NGVD)

3630
3620
3610
3600
3590
3580

R S T U V W X Y

LEGEND

500 - YEAR FLOOD
100 - YEAR FLOOD
50 - YEAR FLOOD
10 - YEAR FLOOD
STREAM BED
CROSS SECTION LOCATION

24,500 25,500 26,500 27,500 28,500 29,500 30,500 31,000

STREAM DISTANCE IN FEET ABOVE LIMIT OF DETAILED STUDY

FLOOD PROFILES

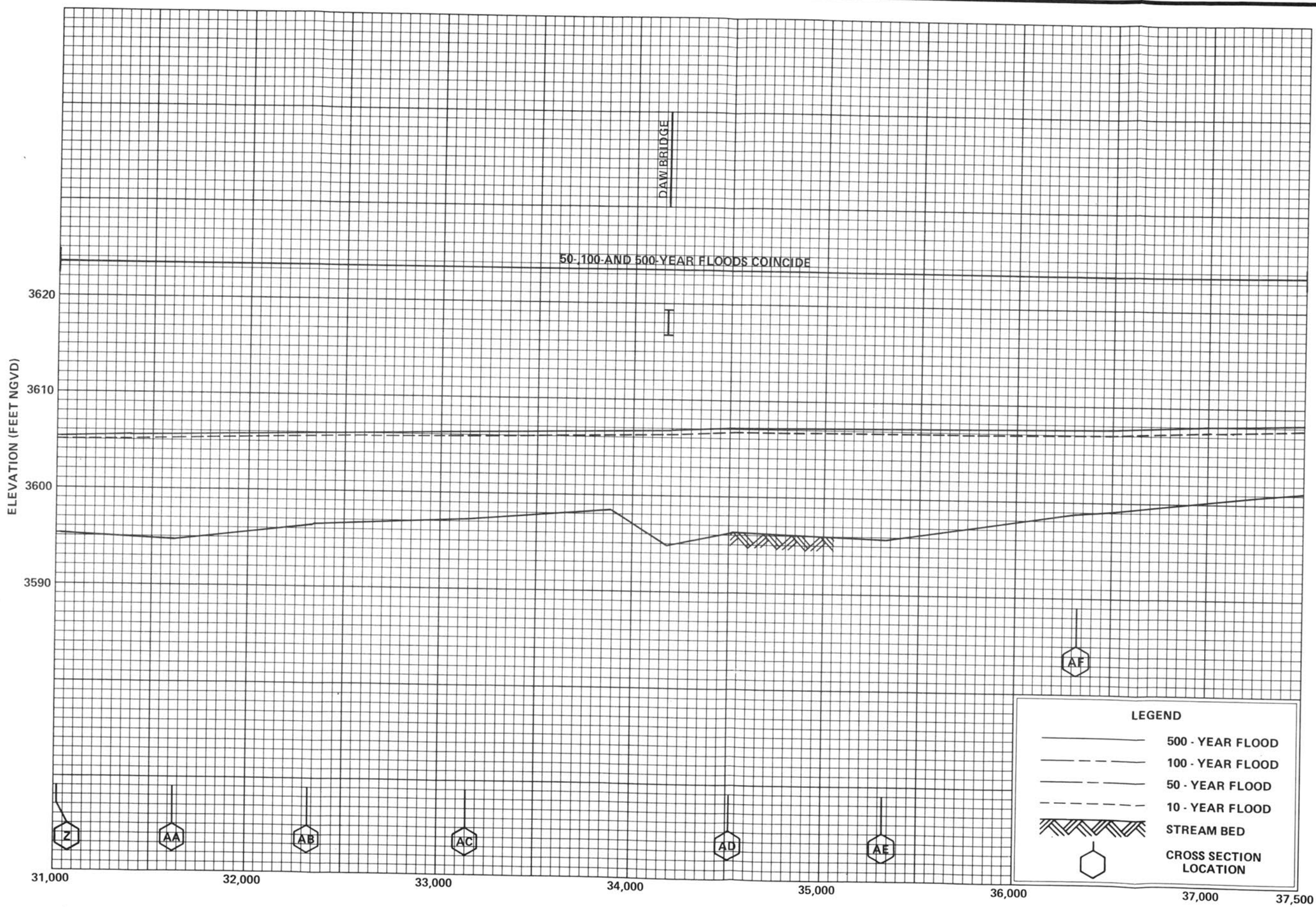
DESCHUTES RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY

CITY OF BEND, OR
(DESCHUTES CO.)

04P

NS-1462



FLOOD PROFILES

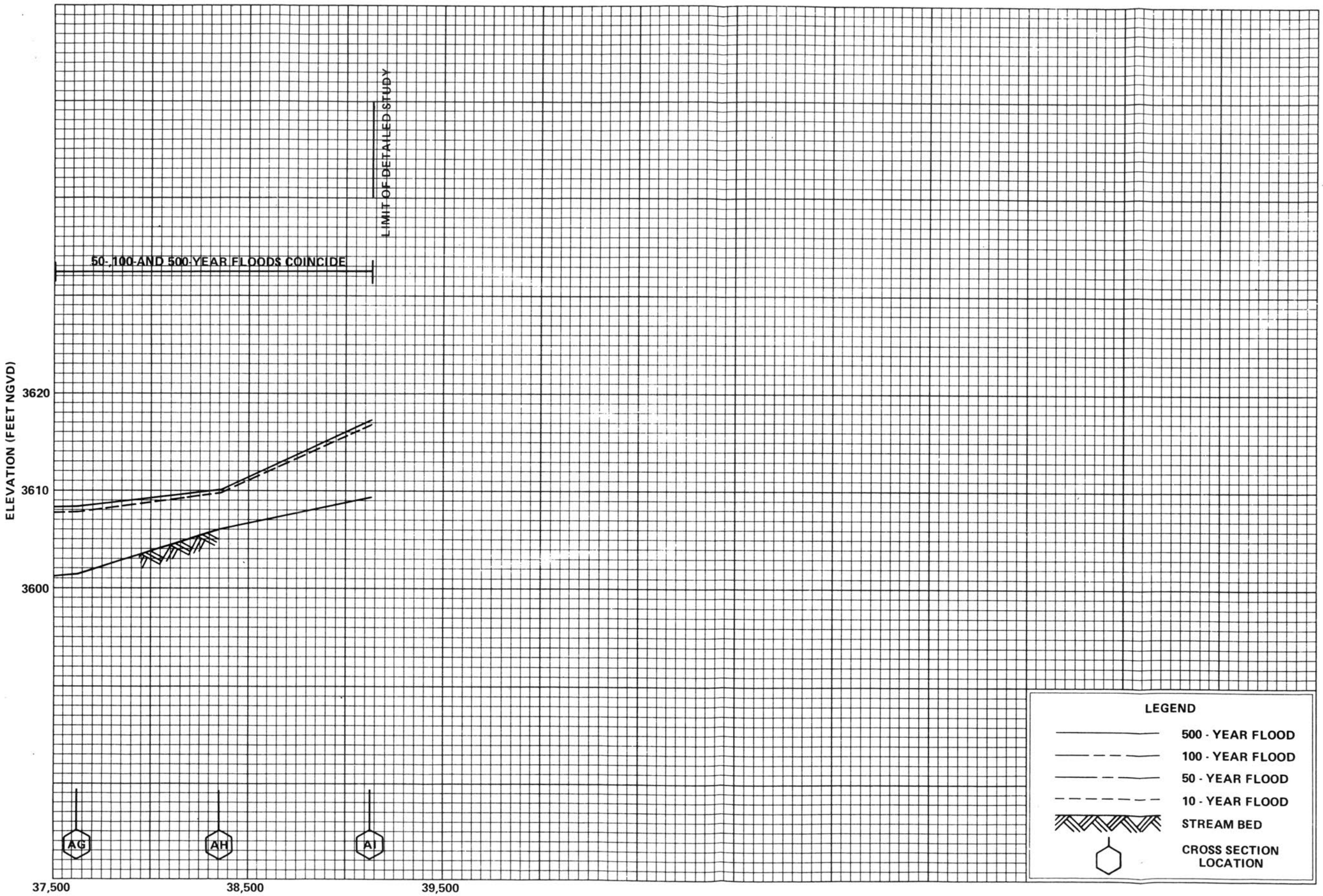
DESCHUTES RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY

CITY OF BEND, OR
(DESCHUTES CO.)

05P

NS-1462



FLOOD PROFILES

DESCHUTES RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY

CITY OF BEND, OR
(DESCHUTES CO.)

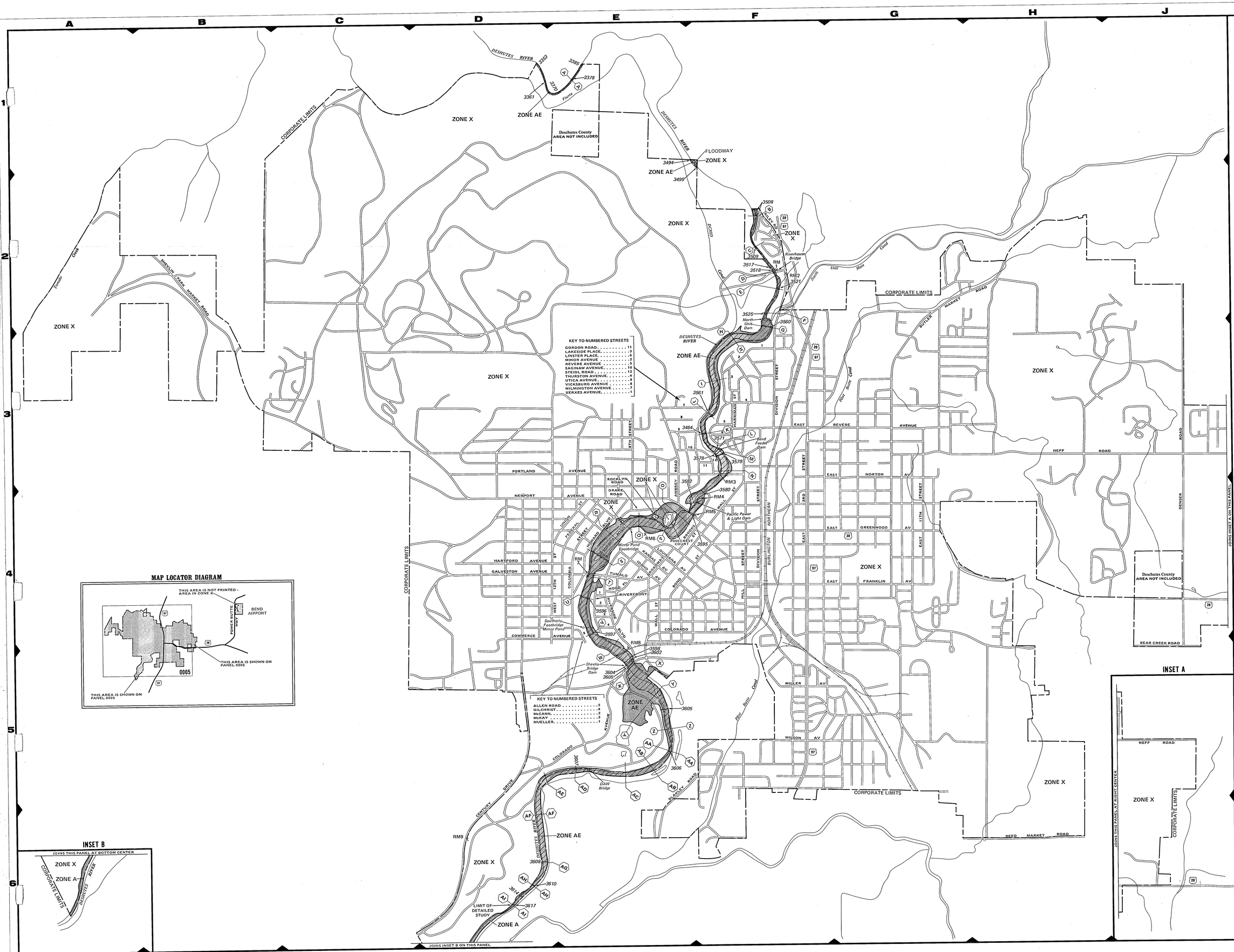
06P

Exhibit 3 - Elevation Reference Marks

REFERENCE MARK	FIRM PANEL	ELEVATION (FEET NGVD)	DESCRIPTION OF LOCATION
RM1	0005	3,530.81	COE brass disk set in concrete on northeastern corner of bridge just south of Riverhouse Motel.
RM2	0005	3,534.13	PK nail set 5 feet east of western edge of pavement southwest across U.S. Highway 97 from Izzy's Pizza, white "+" painted on pavement, witness post westerly 9.5 feet, 2.6 feet west of fogline, approximately 80 feet south of southerly entrance to Riverhouse Motel, set R.P. nail and aluminum flasher in 16 inch ponderosa pine S 74°W 35.10 feet (COE).
RM3	0005	3,586.68	Brass disk in concrete at northwestern corner of Portland Avenue bridge over Deschutes River (COE).
RM4	0005	3,595.17	Pacific Power & Light Company brass disk, 1926, on eastern wingwall of dam, 1 foot north of top of stairway by powerhouse.
RM5	0005	3,608.98	COE brass disk in southeastern corner of Newport Avenue bridge, in sidewalk.
RM6	0005	3,596.48	Brass disk in rock in Drake Park between rest-rooms and river, by flagpole.
RM7	0005	3,601.93	Brass disk in sidewalk, left bank of river, on downstream side of Galveston Avenue bridge over Deschutes River, 20 feet west of end.

Exhibit 3 - Elevation Reference Marks (Cont'd)

REFERENCE MARK	FIRM PANEL	ELEVATION (FEET NGVD)	DESCRIPTION OF LOCATION
RM8	0005	3,604.21	COE brass disk in concrete footing of trestle, right bank, west side of asphalt bike path, downstream from Colorado Avenue bridge.
RM9	0005	3,753.35	U.S. Coast and Geodetic Survey brass disk, 1942, in 7- by 10-foot boulder, east of Century Drive, at entrance to Mt. Bachelor at Village, S 62°E 43'. from SHRW monument.



LEGEND

SPECIAL FLOOD HAZARD AREAS INUNDATED BY 100-YEAR FLOOD

- **ZONE A** — No base flood elevations determined.
- **ZONE AE** — Base flood elevations determined.
- **ZONE AH** — Flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations determined.
- **ZONE AO** — Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
- **ZONE A99** — To be protected from 100-year flood by Federal flood protection system under construction; no base elevations determined.
- **ZONE V** — Coastal flood with velocity hazard (wave action); no base flood elevations determined.
- **ZONE VE** — Coastal flood with velocity hazard (wave action); base flood elevations determined.

FLOODWAY AREAS IN ZONE AE

OTHER FLOOD AREAS

- **ZONE X** — Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood.

OTHER AREAS

- **ZONE X** — Areas determined to be outside 500-year flood plain.
- **ZONE D** — Areas in which flood hazards are undetermined.

Flood Boundary

Floodway Boundary

Zone D Boundary

Boundary Dividing Special Flood Hazard Zones, and Boundary Dividing Areas of Different Coastal Base Flood Elevations Within Special Flood Hazard Zones.

513 — Base Flood Elevation Line; Elevation in Feet*

D — D — Cross Section Line

(EL 987) — Base Flood Elevation in Feet Where Uniform Within Zone*

RM7 X — Elevation Reference Mark

*Referenced to the National Geodetic Vertical Datum of 1929

NOTES

This map is for flood insurance and flood plain management purposes; it does not necessarily show all areas subject to flooding in the community or all planimetric features outside Special Flood Hazard Areas.

Certain areas not in Special Flood Hazard Areas may be protected by flood control structures.

Boundaries of the floodways were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the Federal Emergency Management Agency.

Floodway widths in some areas may be too narrow to show to scale. Floodway widths are provided in the Flood Insurance Study Report.

Coastal base flood elevations apply only landward of the shoreline.

Elevation reference marks are described in the Flood Insurance Study Report.

MAP REPOSITORY
City of Bend Public Works, 1375 Northeast Forbes Road, Bend, Oregon, 97701 (Map available for reference only, not for distribution)

INITIAL IDENTIFICATION:
JUNE 28, 1974

FLOOD HAZARD BOUNDARY MAP REVISIONS:
AUGUST 8, 1975

FLOOD INSURANCE RATE MAP EFFECTIVE:
SEPTEMBER 4, 1987

Refer to Flood Insurance Rate Map Effective date shown below to determine when actuarial rates apply to structures in zones where elevations or depths have been established.

To determine if flood insurance is available, contact an insurance agent or call the National Flood Insurance Program at (800) 638-6620.

APPROXIMATE SCALE IN FEET
1000 0 1000

NATIONAL FLOOD INSURANCE PROGRAM

NS-1462

FIRM
FLOOD INSURANCE RATE MAP

CITY OF
BEND,
OREGON
DESCHUTES COUNTY

ONLY PANEL PRINTED

COMMUNITY-PANEL NUMBER
410056 0005 B

EFFECTIVE DATE:
SEPTEMBER 4, 1987

Federal Emergency Management Agency

(Underlined text is added; text enclosed in brackets is deleted.)

ORDINANCE NO. NS-1463

AN ORDINANCE AMENDING THE CITY OF BEND PUBLIC PROTECTION AND TRAFFIC CODE, ORDINANCE NS-1361, AS AMENDED, TO INCORPORATE 1987 STATE LEGISLATIVE AMENDMENTS AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 5.005 of the City of Bend Public Protection and Traffic Code, Ordinance No. NS-1361, as amended, is amended to read as follows:

> 5.005 APPLICATION OF THE OREGON CRIMINAL PROCEDURES AND PENALTIES. Provisions of the Oregon Criminal Code of 1971 as they now exist, relating to defenses, burden of proof, general principles of criminal liability, parties, general principles of justification, classification of offenses and penalties apply to offenses defined and made punishable by the City of Bend Criminal Code. Amendments to the above-mentioned provisions of the Oregon Criminal Code made by the 1983, [and] 1985 and 1987 Oregon Legislatures shall be amendments to this section.

SECTION 2. Section 5.020 of the City of Bend Public Protection and Traffic, Ordinance No. NS-1361, as amended, is amended to read as follows:

> 5.020 APPLICATION OF THE OREGON CRIMINAL CODE. Violations of the Oregon Criminal Code for misdemeanors and violations set forth in ORS Chapters 162, 163, 164, 166 and 167 and those provisions relating to controlled substances in ORS 475 and alcohol in ORS 471 and 472 are municipal ordinance offenses against the City of Bend. Amendments to the chapters of ORS incorporated herein made by the 1983, [and] 1985 and 1987 Oregon Legislatures shall be amendments to this section.

SECTION 3. Section 6.015 of the City of Bend Public Protection and Traffic Code, Ordinance No. NS-1361, as amended, is amended to read as follows:

> 6.015 APPLICATION OF STATE TRAFFIC LAWS. A violation of the provisions of the Oregon Vehicle Code in ORS Chapters 801 through 822 and ORS 476.715 is a municipal ordinance offense against the City of Bend. The provisions of ORS Chapter 153 shall be applicable to all actions filed in Bend Municipal Court which allege a violation of this section. Amendments to the chapters of ORS incorporated herein made by the 1983, [and] 1985 and 1987 Oregon Legislatures shall be amendments to this section.

SECTION 4. All references to Oregon law contained in City of Bend ordinances are hereby amended to refer to Oregon law as it exists and as amended by the 1987 State Legislature.

SECTION 5. The effective dates for the 1987 amendments to Oregon law made by the State Legislature shall be the same effective dates for the City of Bend's adoptions and references to Oregon law.

SECTION 6. This ordinance shall not affect:

(1) Any offense or act committed or done, or any penalty or forfeiture incurred prior to the effective date of this ordinance; nor

(2) Any prosecution, suit or proceeding at the time this ordinance is enacted; nor

(3) Any judgment rendered prior to the time this ordinance is enacted.

SECTION 7. If any section, subsection, clause, phrase, or portion of this ordinance or the State laws that it adopts or refers to is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemend a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 8. This ordinance is an emergency measure needed for the immediate preservation of the peace, health and/or safety of the City for the reason that State law requires uniformity between the State and City's adopting state criminal laws as municipal ordinances and that most of the 1987 State criminal law amendments will be effective on September 27, 1987, and this ordinance

shall be effective immediately and when provided in Section 5 of this ordinance.

Read for the first time this 2nd day of September, 1987.

Read for the second time this 16th day of September, 1987.

Placed upon its passage this 16th day of September, 1987.

YES: NO:

Submitted to and approved by the Mayor this 16th day of September, 1987.

Bruce Dede
MAYOR

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1464

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY DELETING GARAGE SIZE LIMITATIONS IN THE RS URBAN STANDARD DENSITY RESIDENTIAL ZONE

Section 1. Section 10 of Ordinance No. NS-1178 is hereby amended to read as follows:

Section 10. Urban Standard Residential Zone or RS Zone.

(1) Purpose. The RS Zone is intended to provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accommodate, maintain and protect a suitable environment for family living.

(2) Permitted Uses. The following uses are permitted:

(a) Single-family dwelling.

(b) Agriculture, excluding the keeping of livestock.

(c) Rooming and boarding of not more than two persons.

(d) Home occupations subject to the provisions of subsection (15) of Section 25.

(e) One private garage for each dwelling unit [and the garage shall not exceed 720 square feet in floor area].

(f) Central Oregon Community College, subject to site plan approval for new building or structures.

(g) Park rehabilitation, minor betterment and repairs.

(3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Section 29.

(a) Mobile home subdivision subject to standards of subsection (11) of Section 25.

(b) Churches.

(c) Cemeteries and mausoleums, crematories, columbariums and mortuaries within cemeteries provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential zone.

(d) Dwelling groups, subject to the provisions of subsection (13) of Section 25.

(e) Public, parochial and private schools, including nursery schools, kindergartens and day nurseries; but not including business, dancing, trade, technical or similar schools.

(f) Parks and recreation facilities, fire stations, libraries, museums; but not including storage or repair yards, warehouses or similar uses.

(g) Recreation facility, including country clubs, golf courses, swimming clubs, tennis clubs; but not including such intensive commercial recreation uses as a race track or amusement park.

(h) Utility substations or pumping stations with no equipment storage and sewage treatment facilities.

(i) Planned Unit Developments subject to provisions of Section 30.

(j) Temporary subdivision tract offices.

(k) Rear lot development subject to Site Plan Approval as provided in Section 23 and subsection (14) of Section 25.

(l) Lodge and fraternal organizations, except those carried on as a business for profit.

(m) Duplex in areas designated RS provided that each lot occupied by a duplex shall have a minimum area of 12,000 square feet.

(n) Two single-family dwellings on one lot in areas designated RS provided that each lot occupied by two single-family dwellings shall have a minimum area of 12,000 square feet and also provided that all yard and coverage requirements set forth in subsection (5) of Section 10 are observed. In addition, no dwelling unit shall be located within 10 feet of any other dwelling unit on the same lot. There shall be provided for the rear dwelling unoccupied and unobstructed access not less than 15 feet wide to the street fronting the lot.

(o) Keeping of livestock, subject to subsection (7) of Section 25.

(p) Moving in a single-family dwelling built prior to January 1, 1961.

(q) Mobile home park.

(r) Radio and Television Transmission facilities.

(s) Plant nursery subject to Section 25, subsection (19).

(t) Condominiums.

[(u) Garage that exceeds 720 square feet in floor area.]

[(v)] (u) A building or structure over 30 feet in height.

[(w)] (v) Timeshare unit or the creation thereof, subject to the provisions of Section 25.

[(x)] (w) Bed and Breakfast Inn, subject to the standards set forth in Section 25(24).

[(y)] (x) Residential care facility.

[(z)] (y) Hydroelectric facility, subject to the provisions of Section 25, subsection (20).

(4) Height Regulations. No building or structure shall be hereafter erected, enlarges or structurally altered to exceed 30 feet in height without a conditional use permit.

(5) Lot Requirements. The following lot requirements shall be observed, provided that the Hearings Body may allow smaller lots of different housing types in a new subdivision approved pursuant to this Ordinance and consistent with the Comprehensive Plan designations for preservation of forested areas or significant rock outcroppings when these lots are internal to the subdivision or after hearing if they are located on the edge of the new plat.

(a) Lot Area: Every lot shall have a minimum area of 6,000 square feet.

(b) Lot width: Every lot shall have a minimum width of 60 feet.

(c) Front Yard: The front yard shall be a minimum of 20 feet except an existing 40 or 50 foot corner lot may have one front yard of 10 feet, provided that the garage or carport is at least 20 feet from the property line.

(d) Side Yard: A side yard shall be a minimum of 5 feet and the sum of the two side yards shall be a minimum of 15 feet.

(e) Rear Yard: The rear yard shall be a minimum of 5 feet.

(f) Lot Coverage: Maximum lot coverage by buildings and structures shall be 35 percent of the lot area.

(g) Zero Lot Line Subdivision or Partition: Regulations for a side yard setback may be waived for an approved zero lot line subdivision or partition.

(h) Solar Setback: The solar setback as prescribed in Section 26A.

(6) Off-Street Parking. Off-street parking shall be provided as required in Section 24.

(7) Other Required Conditions. See Section 25 applying to Special Uses.

Read for the first time this 4th day of November, 1987

Read for the second time this 18th day of November, 1987

Placed upon its passage this 18th day of November, 1987

YES: 6 NO: 0

Bruce Dahl
Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1465

AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE TO BEND CABLE COMMUNICATIONS, INC. TO OPERATE AND MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF BEND UPON EXPIRATION OF ORDINANCE NO. NS-806, AS AMENDED, ON JULY 17, 1989.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Short Title. This ordinance shall be known as the "Bend Cable Franchise Ordinance."

SECTION 2. Definitions. For the purposes of this ordinance, the following terms shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

(1) "City" is the City of Bend, Oregon.

(2) "Company" is Bend Cable Communications, Inc., the grantee of rights under this franchise, including its successors or assigns.

(3) "Commission" is the City Commission of the City of Bend.

(4) "FCC" means Federal Communications Commission.

(5) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(6) "Technical facilities" or "facilities" shall mean all real property, equipment and fixtures used by Company in the distribution of its cable television services throughout its system, whether located in City or out, and includes but is not limited to poles, cables, wires, microwave transmitters, antennas, amplifiers, etc.

(7) "Television system service" or "system services" or "services" shall mean all of the services provided by Company or available to Company to provide throughout its technical facilities by the grant of this franchise, and shall include but not be limited to the distribution of television and radio signals.

SECTION 3. Grant of Authority. City grants to Bend Cable Communications, Inc. the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in City; poles, wires, cables, conduits and other technical facilities necessary for the construction, maintenance and operation in City of a cable television system for the interception, sale, and distribution of television system services. This franchise is not exclusive, and City reserves the right to grant a similar use of streets, alleys, public ways and places to any other person at any time during the period of this franchise.

SECTION 4. Compliance with Laws, Rules and Regulations. At all times during the term of this franchise Company shall comply with all applicable laws, rules and regulations of the United States of America, the State of Oregon and the City of Bend; including all agencies and subdivisions thereof. Company shall be subject to the lawful exercise of the police power of City and to such reasonable regulations as City may from time to time hereafter by resolution or ordinance provide.

SECTION 5. Company Liability, Indemnification of City and Insurance.

(1) Company shall at all times conduct its operations under this franchise, including installation, construction or maintenance of its facilities, in a safe and workmanlike manner so as not to present a danger to the public or City.

(2) Company shall pay, save harmless and indemnify City from any loss or claim against City on account of or in connection with any activity of Company in the construction, operation or maintenance of its technical facilities and system services.

(3) This franchise shall not be effective until Company secures, and shall at all times be conditioned upon Company maintaining, a comprehensive

liability insurance policy which shall contain the following provisions:

(a) Bodily injury policy limits of $500,000 for each person and $500,000 for each occurrence.

(b) Property damage policy limits of $500,000.

(c) An endorsement for completed operations coverage.

(d) A designation of City, its officers, agents and employees, as additional insured for liability arising from or in connection with this franchise.

(e) A certificate evidencing insurance as described in this ordinance shall be deposited with City.

(f) In the event that the City's tort liability limits are raised by the Oregon Legislature to exceed the limits described in this section, Company shall obtain and maintain insurance in the amount of the City's tort liability limits.

SECTION 6. System Standards. For the term of this franchise, Company shall construct, operate and maintain its technical facilities and provide system services as follows:

(1) Company shall provide its subscribers within City with good quality television and radio reception, station selection and other system services within the limits of its technical facilities. Company's technical facilities and system services shall at least meet FCC system standards, regulations and criteria as those standards and criteria presently exist and as they may be improved during the term of this franchise.

(2) Company shall maintain and improve the technical facilities of its system according to generally accepted practices and standards in the cable television industry and according to the technical requirements of providing improved system services to Bend. Company's obligation to improve its technical facilities shall not extend to extraordinarily costly improvements developed in the industry if the cost of such improvements would impair a reasonable return on Company's investment for the services Company provides; and

(3) Any program service or station selection change made by Company during the term of this franchise shall not adversely affect the mix, quality or level of cable service. In the case of a service or a station becoming unavailable, Company shall notify City of such revision, in advance of the revision, if possible. Services or stations which become unavailable shall be replaced with comparable services or stations, if available. If Company believes a service is becoming infeasible, as opposed to unavailable, and desires to discontinue or replace the service, Company shall so notify City. Company shall not discontinue or replace the service without first demonstrating to the satisfaction of the Commission that the mix, quality and level of cable service required by this franchise will be maintained after discontinuance or replacement of the service. The Commission shall consider the dollar cost to subscribers of the proposed change as well as the dollar cost of maintaining the service in arriving at this decision.

(4) Company shall make available to its subscribers all signals, stations and system services available with the limits of the technical facilities, provided they are warranted by reasonable subscriber interest and reasonable economic viability.

(5) Attached hereto, and by this reference incorporated herein, is a document marked "Exhibit A" which sets forth Company's current system station selection.

SECTION 7. Company Rules. Company shall have authority to promulgate such reasonable rules and regulations governing the conduct of its business as shall be reasonably necessary to enable Company to exercise its rights and perform its obligations under this franchise, and to assure uninterrupted service to its customers. Company rules and regulations shall be subject to the provisions of this ordinance and any other governmental regulations. A copy of said rules and all amendments thereto shall be filed with the Office of City Manager.

SECTION 8. Conditions on Street Occupancy. Company agrees to comply with the following conditions:

(1) Use. All transmission and distribution structures, lines and equipment erected by Company within City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways or places.

(2) Restoration. In case of any disturbance of pavement, sidewalk, driveway or other surfacing by Company, Company shall, at its own cost and expense and in a manner approved by City, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before the disturbance. If Company fails to make restoration as required, City shall cause the repairs to be made at the expense of Company.

(3) Relocation. City may require Company to change the location of or to remove any pole, conduit, structure or facility within the public right of way when the public convenience requires such change or removal and the expense thereof shall be paid by Company. City shall give Company reasonable notice of any changes required and Company shall have a reasonable time within which to make the requested change. If the Company refuses to make the change requested by the City or does not make the change within a reasonable time after the request of City, the City may make the change and bill the utility for the cost of making said change.

(4) Placement of Facilities. Company shall not place its technical facilities where they will interfere with any gas, electric or telephone fixture or sewer or water facility. All facilities placed in the street shall be placed as the City directs.

(5) Temporary Rearrangement of Facilities. Company shall, upon receipt of seven days written notice from anyone desiring to move a building or other object according to City ordinances regulating the moving of buildings, arrange to temporarily raise, lower or otherwise move its facilities to permit the moving of buildings or other objects if the person wishing to move the building or other object makes a reasonable arrangement to reimburse Company for its expenses in rearranging its facilities. Nothing contained in this section shall preclude the City from requiring Company to move its facilities at its own expense when public convenience requires the move, as described in subsection 3 of this section.

(6) Tree Trimming. Company may trim trees upon or overhanging streets, alleys, sidewalks and public places of City so as to prevent the branches from coming into contact with the facilities of Company, all trimming to be done under the supervision of City or its designee and at the expense of Company.

SECTION 9. Discriminatory Practices Prohibited. Company shall make its system services available to all citizens of City without discrimination and shall not give any person any preference or advantage not available to all persons similarly situated. Cable service may not be denied to any group of potential residential cable subscribers because of the income of the residents of the area in which such group resides.

SECTION 10. Extension of System Services. Company shall extend the services of its system to all citizens of City within the limits of the system's technical facilities.

SECTION 11. Transfer of Franchise. Company shall not sell, assign, dispose of or transfer in any manner whatsoever any interest in this franchise or in the technical facilities used with this franchise, nor transfer or permit transfer of controlling interest in Company without prior written approval of Commission. Such approval shall be based upon the following criteria: Company shall be required to demonstrate to the satisfaction of the Commission that Company's proposed purchaser, assignee or transferee has such financial and managerial resources as are sufficient to maintain the then current quality of service and to comply fully with the terms of this franchise prior to the Commission granting such approval. Such approval, based upon the above criteria, shall not be unreasonably withheld by the Commission.

SECTION 12. City Rights in Franchise.

(1) Use of System by City. City shall have the right to use Company's technical facilities without service charge for police and fire alarm systems or any other City owned facilities and City uses of any nature. City use of Company facilities shall at all times comply with the reasonable rules and regulations of Company, and shall not compete or interfere with Company's use.

(2) City Supervision and Inspection. City shall have the right to supervise all construction or installation of Company facilities subject to the provisions of this ordinance and to make such inspections as it shall find necessary to ensure compliance with governing laws, rules and regulations.

(3) Termination or Abandonment of Franchise. Upon any termination of this franchise, whether before the expiration of the franchise or upon expiration, or by any abandonment of the franchise by Company, all technical facilities installed or used by Company shall be removed by Company at Company's expense and the property upon which the technical facilities were used restored by Company to the condition it was in before installation, except that City or its designee shall have the following options after termination of this franchise:

(a) City or its designee may elect to acquire the cable system and Company's technical facilities, including Company's microwave and other facilities outside City, for their fair market value as provided by law; and

(b) Value shall be determined by an expert cable television system appraiser who is mutually acceptable to City and Company.

(c) City agrees to provide Company with written notice of its intention to acquire Company's facilities pursuant to this section within one hundred and twenty days after expiration of this franchise by its terms, revocation of the franchise by City or City's declaration of system abandonment by Company, with the closing of the acquisition to occur as soon thereafter as is practicable.

SECTION 13. Franchise Fee.

(1) As compensation for the franchise granted by this ordinance, Company shall pay to City an amount equal to five (5) percent of the gross receipt collected by Company for its system services to customers served by this franchise. Gross receipts shall include all amounts collected by Company from City customers.

(2) The fee required by this section shall be due and payable on or before the 15th day of each month for the preceding month.

(3) With each payment, Company shall furnish the City Recorder-Treasurer with a written statement, under oath, executed by an officer of the Company, verifying the amount of gross receipts of Company within City for the period covered by payment computed on the basis set out in subsection (1) of this section.

(4) City's acceptance of any payments due under this section shall not be considered a waiver by City of any breach of this franchise.

(5) Regarding Company's microwave facilities, which are capable of serving other communities and areas, Company shall pay City five (5) percent of the gross receipts collected by Company for microwave relay services and other services to other CATV systems or any other person who distributes services like Company distributes to ultimate subscribers. If Company does not charge such other CATV system or person for Company's microwave relay or other services, or if Company furnishes these services to a corporation or other person wholly or partly owned by Company, then City shall receive five (5) percent of the allocated cost of these services. The services described in this subsection as subject to this five (5) percent charge do not include services to subscribers or other such ultimate users of the services.

(6) Company understands that City prefers that the portion of a subscriber's bill attributable to the franchise fee not be stated as a separate item on the subscriber's bill. Company intends to honor this request whenever possible, all with the understanding, however, that

there is no obligation to do so under this franchise.

SECTION 14. Review of System Standards. At any time upon reasonable request by City, Company shall supply a qualified electronic technician who is satisfactory to City to test the performance of Company's technical facilities. These tests shall be conducted in representative geographic areas within City. Criteria to be used in the tests are described in "Exhibit B" which is attached to and by this reference made a part of this ordinance and the criteria contained in FCC system standards regulations as they presently exist and as improved during the term of this franchise. As industry testing devices and procedures improve during the term of this franchise, new or improved testing devices and procedures approved or used by the FCC shall be incorporated in the tests of the technical facilities, unless waived by City.

SECTION 15. Services Provided.

(1) Company shall provide a good cable system with adequate technical facilities to deliver a variety of broadcast television stations representing the three major networks and population center of Portland; plus Oregon Public Broadcasting; plus satellite-delivered television program services covering news, sports and programming of general interest; and a local weather channel.

(2) Company shall provide one cable channel for public, educational and governmental use and shall insure access to said channel to public, educational and governmental users. Company may use said channel for its purposes when said channel is not being utilized for public educational and governmental use.

SECTION 16. Rate and Services Reregulation. City regulated rates and services in the previous franchise granted to Company (Ordinance No. NS-806). This franchise does not regulate rates and services except to the extent specifically provided herein. City may, at its discretion, reregulate rates and services at any time during the term of this franchise provided:

(1) City is not prohibited by any applicable federal or state law or regulation from doing so, and

(2) City gives Company at least one year's written notice of its intention to reregulate rates and/or services, and

(3) City's reregulation of rates and/or services shall not impair a reasonable rate of return on Company's investment.

SECTION 17. Customer Service Requirements.

(1) Company shall promptly resolve customer problems and complaints. Company shall keep a record of all customer problems and complaints and shall submit monthly reports to City of customer complaints and how and when they were resolved by Company. Company shall comply with all applicable provisions of Company's "Customer Service Policies and Procedures" a copy of which is attached to this ordinance as "Exhibit C" and made a part hereof.

(2) Requests for repairs will be received by telephone, letter or office visits. During normal business hours, repair requests will be handled by system personnel trained to assist in solving problems. Requests or calls which result in the need for a field visit are to be scheduled for repair work according to the following plan:

(a) A call involving loss of reception on all channels is dispatched to the field immediately by two-way radio. Repairs are made immediately. Outages involving single customers will be corrected on the same day received, except if reported after 9:00 PM, in which case correction may be postponed to the following day.

(b) Calls involving degraded reception or single channel outages are handled on the same day if received prior to 3:00 PM, if at all possible. Calls received after 3:00 PM but before midnight shall be handled no later than the following day.

(c) Requests for repair made after business office hours or on weekends are answered by a telephone answering service. Outage call are referred immediately to the standby technician for resolution in accordance with A, above. Calls involving degraded service are recorded by the answering service and passed on to the office

staff on the next business day. The staff will call the customer to schedule a visit in accordance with B, above.

(3) Upon activation of the cable distribution system in any area, Company shall provide service to any requesting subscriber as follows:

(a) basic and other entertainment services within ten business days of the receipt of subscriber deposits or prepayment;

(b) interactive and similar innovative services will be provided within forty-five days of the receipt of deposits or advance payments. Any delay in providing a service beyond the maximum period shall be deducted from the first month's charges for the service at the rate of two days of deduction for each day of delay beyond the maximum period.

(4) Company shall interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system. A written log shall be maintained by Company of all service interruptions and shall be made available to City upon request. For interruption of more than 24 hours, Company shall provide written notice of the interruption and its length by mail to all affected subscribers at least five days prior to the interruption. Said notice shall inform subscribers that they are eligible to receive, if they so notify Company, billing credit for the period during which service will not be delivered.

(5) The foregoing notwithstanding, Company will not be considered to be in default of its franchise obligations in the event of an Act of God such as storm, lightning damage, accident or other emergency interruption, provided Company has given every reasonable effort to restore the service promptly to normal operation.

SECTION 18. Company Records and Reports. Company shall keep accurate books of accounts at an office within the State of Oregon throughout the term of this franchise. Company shall produce its books of account for inspection by City at any time during normal business hours and City may audit Company's books from time to time. City may require periodic reports from Company relating to its operation and revenue within City.

SECTION 19. System Data. Company shall maintain, at a local office, all current maps and other operational data relating to its system operations in the City of Bend. City may inspect these maps and data at any time during normal business hours.

SECTION 20. Permit and Inspection Fees. Nothing in this ordinance shall be construed to limit the right of City to require Company to pay reasonable costs incurred by City in connection with the issuance of a permit, making an inspection, or performing any other service for or in connection with Company or its facilities, whether pursuant to this ordinance or any other ordinance or regulation now in effect or hereafter adopted by City.

SECTION 21. Enforcement and Termination of Franchise for Violation.

(1) In the event that the City believes that the Company has not complied with the terms of this franchise, City shall notify Company of the nature of the alleged noncompliance.

(2) Company shall have ten days from receipt of the notice described in Section 21 (1) to acknowledge receipt of the notice of violation and Company's intent to contest or cure. Company shall have thirty days from the receipt of the notice to:

(a) respond to the notice of violation contesting the assertion of noncompliance; or

(b) to cure such default or, in the event that, by the nature of default such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify City of the steps being taken and the projected date that they will be completed.

(3) In the event that Company fails to respond to the notice described in section 21 (1) pursuant to the procedures set forth in section 21 (2), or in the event that the alleged default is not remedied within sixty

days after the Company is notified of the alleged default pursuant to section 21 (1), City shall schedule a public meeting to investigate the default. City shall notify Company of the time and place of such meeting and shall provide Company with an opportunity to be heard at that meeting.

(4) In the event that City, after such meeting, determines that Company is in default of any provision of this franchise, City may:

(a) Commence an action at law for monetary damages or seek equitable relief;

(b) Seek specific performance of any provision, which reasonably lends itself to such remedy;

(c) Authorize City staff to cite Company for violation of City ordinance. All violations of this ordinance are Class A civil infractions and may be enforced as allowed by State law and City's civil infraction procedure;

(d) In the case of a substantial default of a material provision of this franchise, declare the franchise agreement to be revoked.

SECTION 22. Remedies Not Exclusive. All remedies provided by this franchise, including termination of the franchise, are cumulative, and recovery or enforcement of one is not a bar to the recovery or enforcement of any other remedy. Remedies contained in this ordinance, including termination of the franchise, are not exclusive and City reserves the right to enforce civil and penal provisions of any ordinance, including this franchise, and also use any remedy available to City at law or in equity. Failure to enforce any provision of this ordinance shall not be construed as a waiver of a breach of any other term, condition or obligation of this ordinance.

SECTION 23. Franchise Term. This franchise is granted for a term of ten (10) years beginning at the expiration of Ordinance No. NS-806, as amended, on July 16th 1989. Company shall have an option to renew this franchise ordinance for another ten (10) years upon the following terms and conditions: Company shall not be in default in its performance of any of the terms or conditions of this franchise, and shall be providing acceptable system services as determined by the system review standards of Section 14 of this franchise.

SECTION 24. Acceptance of Franchise. Within thirty days from the effective date of this ordinance, Company shall file with the City Recorder-Treasurer a written, unconditional acceptance of this franchise and all of its terms and conditions. If Company fails to do so, this ordinance shall be void and of no effect whatsoever.

SECTION 25. Constitutionality. If any section, subsection, sentence, clause or portion of this ordinance is, for any reason, held invalid or is rendered unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the constitutionality of the remaining portion hereof. If for any reason the franchise fee is invalidated or amended by the act of any court or governmental agency, then the highest reasonable franchise fee allowed by law shall be the franchise fee allowed by this franchise.

Read for the first time this 18th day of November, 1987.

Read for the second time this 2nd day of December, 1987.

Submitted to and approved by the Mayor this 2nd day of December, 1987.

YES: 5 NO: 0

Bruce Dunlap
Mayor

ATTEST:

Recorder-Treasurer, City of Bend

BEND CABLE PROGRAM SERVICE LISTING

AT SEPTEMBER 14, 1987

Basic Services

KATU - Portland
KTVZ - Bend
KOIN - Portland
KOAB - Bend
KGW - Portland
KEZI - Eugene
KVAL - Eugene
KPTV - Portland
Time & Weather/Community Happenings
USA Network
WTBS - Atlanta
Trinity Broadcasting - Bend
C-SPAN - Satellite
Arts & Entertainment - Satellite
Christian Broadcasting - Satellite
Lifetime Network - Satellite
Cable News Network - Satellite
Nashville Network - Satellite
ESPN - Satellite

PROOF OF PERFORMANCE

Carrier to Noise

To eliminate any uncontrolled variables in the system, a measurement of the Carrier-to-Noise (C/N) ratio is used rather than Signal to Noise. Since the signals are received from varying distances and are therefore not uniform to each other, these signals could have a noise component of their own which could be misconstrued as system noise, hence the procedure of using the system channel carrier as reference.

At the point in the system that has been selected for measurement, a Field Intensity Meter, properly terminated, should be attached. The modulation associated with the selected channel under measurement should be removed, leaving only the Carrier. It should have been previously determined that all Carrier levels have been properly adjusted at the Head end. The reading on the FI Meter representing the Visual Carrier should be recorded, then the Carrier removed (turned off at the Head-end) and the reading on the FI Meter recorded for the noise on that channel. The difference between these readings signifies the Carrier-to-Noise Ratio. This value can be given to dB or Direct. If this ratio is small (noise high), it should be determined if it is really noise or a spurious signal on the channel. The modulation of some of the other channels can be systematically removed, while observing the FI Meter for any change. If removal of modulation does change the reading, cross-modulation products are being read along with noise. If no change is detected, then systematic removal of the other channel will determine if any harmonics are present in the channel.

The anticipated noise at any point in the system can be calculated and made a part of the original engineering. Should a radical departure from the "calculated" be experienced, this would in all likelihood be a defective amplifier, rather than system noise. Since noise is random in nature, noise addition is a power function, following the pattern of a 3 dB increase each time the number of amplifiers is doubled, and a 10 dB increase for each time the number of amplifiers is multiplied by 10.

When measured in this manner, the system Signal-to-Noise (S/N) ratio must be higher than 37 dB, providing the S/N ratio of the received signal is at least 40 dB.

In determining the overall performance of a system, the combination of the Carrier-to-Noise ratio of the plant and the Signal-to-Noise ratio of the received signal will determine the ultimate ratio that exists between the picture video and noise, whether this noise combination is predominant at the Head-end receiver or over the cable plant. In either case, the S/N ratio of the terminals of the house drop will be slightly worse than the lowest ratio. The total degradation below the worst ratio will be the summation of the two ratios, with the worst condition when both ratios are equal, producing a 3 dB degradation. These anticipated ratios can easily be calculated, and should be part of the original engineering, tabulated for each channel on the system.

Maintaining a proper S/N ratio is of prime importance due to the transmission of color signals. While the noise component in a monochrome picture might not severely degrade the picture, the same ratio on a color picture is significantly more objectionable; therefore, a system should be designed and maintained for the highest reasonable S/N ratio.

Cross-Modulation Distortion

In a multichannel distribution system, each picture carrier cross-modulates every other picture carrier, and the combined cross-modulation increase with the number of channels depends on the coherence between the modulation signals on the various channels. This cross-modulation is induced in the nonlinear response characteristics of the amplifiers. The cross-modulation (CM) increases materially with signal levels, number of signals, and signal coherence. Presently, the exact level of CM that is detectable in a picture is not accurately defined in the CATV industry. Sylvania designs all systems to ensure that the pictures delivered to the customer contain no visible cross-modulation.

The initial check for CM is performed with a standard TV receiver connected identically as a customer drop. With all channels operating at normal levels and modulation, the TV receiver should be adjusted to a desired picture. The modulation should be removed from the channel at the Head-end, leaving only the pure carrier.

Optical observation of the blank screen should not disclose any trace of "sync walk" or video cross talk. This procedure should be repeated for each channel, always having full modulation on all but the channel under observation. The same test should be repeated at various points in the system.

CHANNEL CHARACTERISTICS

Inasmuch as the majority of stations are transmitting an increasing amount of color, good frequency characteristics must be maintained across the 6 mc channel.

Channel frequency response can be checked by the following method:

A signal generator can be inserted into the main trunkline at the Head-end and adjusted to the proper output level. At a selected point in the system, a Field Intensity Meter is used to determine the relative levels of the visual carrier, aural carrier, and color subcarrier points, as the signal generator is tuned to these three frequencies. The deviation in these three levels in each channel bandwidth should be less than $\pm$ 1.5 dB.

System Hum Modulation

This test is to determine the modulation, if any, to the carriers by the AC necessary to power the system amplifiers. Insert in the transmission system a CW signal for the picture carrier of any channel to be used on the system--the level of the signal inserted should be approximately equal to the mean value of the signals which will be received from the system feed point. At the extremities of the trunkline of the system, insert a detector and examine the resultant signal on an oscilloscope. Measure the average DC level. Measure the peak-to-peak AC hum variation. The ratio in percentage of the peak-to-peak AC variation to the average DC level is the percentage of system hum modulation and will not be more than 5%. A low-frequency oscilloscope must be used to prevent noise from obscuring the observed wave form.

CUSTOMER SERVICE POLICIES AND PROCEDURES

INTRODUCTION

I. INSTALLERS

II. SERVICE TECHNICIANS

III. OFFICE & DISPATCH PERSONNEL

IV. CONSTRUCTION CREW

CUSTOMER SERVICE

Introduction

Bend Cable Communications, Inc., is an Oregon corporation which provides cable television service to residents of the City of Bend, Oregon, and surrounding unincorporated areas of Deschutes County. Officers of the Corporation are Donald E. Tykeson, President; Thomas Palmer, Vice President/Treasurer; and Ann Koffler, Secretary. Bend Cable Communications' General Offices are located at 63090 Sherman Road, Bend, Oregon 97701. General Manager is Mary Chase; Plant Manager, Raymond Hoffman; and Office Manager, Vonda Perrigan.

Bend Cable Communications, Inc., provides quality reception of several broadcast television stations and a variety of satellite-delivered programming networks, plus related communications services within the Bend metropolitan area. It is the prime goal of Bend Cable Communications to see that each cable Customer receives clear reception, a balanced choice of television viewing options, and prompt, courteous response to any service or billing problems which may arise. As a service organization, it is imperative that the quality of our service to customers be outstanding! Quality customer service helps to insure the success of our business and, as a result, our continuing employment.

It is Company's intent to provide upward mobility and job enrichment for its employees, and to foster a sense of commitment and pride in each employee through a program of open communications, teamwork, and participative decision making. Bend Cable supports the concept of equal employment opportunity in its hiring practices and implements EEO guidelines as established by the Federal Communications Comission and Company policy. Company also strives to be a good corporate citizen, supporting the overall needs of our community.

The nature of services rendered by Company to the public necessitates furnishing continuous and regular service, which may require availability of Service Technicians primarily, but all employees occasionally, on a twenty-four (24) hour basis for Standby Duty or in case of emergency. In recognition of the services rendered to Customers, all employees realize Company may call for their services at any time, day or night, whenever Company deems such a call necessary.

To insure the best possible reception throughout Company's service area, an audit is conducted as part of the normal operating procedure on a continual basis.

It is the policy of Bend Cable Communications, Inc., that anything worth doing is worth doing well and that the proper time can be taken to do the work safely. Applicable OSHA, state, and local safety regulations and suggestions will be complied with at all times by Company and all employees. Safety is everyone's responsibility, and a safety training program is operational at all times including:

1. The training of new employees to provide them the knowledge and skills necessary for them to do their jobs properly and safely.

2. Monthly safety meetings attended by all operational personnel with attendance and agenda recorded.

3. Monthly vehicle safety inspections.

Current Red Cross and First Aid cards are required of all field personnel and two (2) office employees at all times. (See section on "Safety Training for New Employees" of this Policy Manual.)

The policies and procedures outlined in this "Customer Service" section of Company's internal Policy Manual provide guidelines established by generally acknowledged business practices, by the many years of experience provided from various sources in the cable television industry. and by the staff of Bend Cable Communications, Inc.

Installers

Please remember that you, the Installer, are the closest contact many people will ever have with the cable company. In most cases, the Installer is the only Company representative to meet face-to-face with Customer. You represent both the Company and the cable television industry. You may spend up to an hour in Customer's home, and when you leave Customer should feel comfortable with the service provided by Bend Cable Communications. Without these Customers, our cable system could not exist and, as an Installer, you may be the only person a Customer has personally met. An Installer must work and act accordingly, with a sincere desire to provide a service to Customer and a strong sense of responsibility and commitment to Company.

It is the Installer's responsibility to communicate to the Customers that we are here to provide them a service--excellent television reception, a wide choice of television viewing options, and quick, capable response when there is a service problem. You must get this message across to Customer, in order to reduce future

callbacks and disconnects, and to make Customer fully familiar with the service he/she is receiving. Explain that local channels KTVZ, KOAB, and Trinity Broadcasting are carried on the cable, and that "rabbit ears" are no longer necessary. Also explain the multiple-channel service provided, and show Customer the channel listing card and how to read it to understand converter settings and channel dial selections. Discuss color quality and reception, explaining the fact that Company's microwave system delivers stronger than off-air signals from Portland and Eugene television stations across the mountains, and that Company's satellite-receiving dishes provide a wide selection of satellite program services. Mention the names of a few of Company's services, particularly the premium services, in case Customers might be interested in upgrading their service. Invite Customer to call us with any service problems or billing questions, with the idea that we want to know about any problems and take care of them right away.

Be sure that Customer is aware that additional outlets are available at a nominal rate. In the event that more than one outlet is desired, be sure that Customer understands the installation and monthly charges.

As in all businesses, quality control is very important. Supervisory spot-checks will be made on signal quality, installation, workmanship, and the impression left with Customer. We are confident that our employees will appreciate the need for this type of control since most will be working without direct supervision.

Most of the contents of this booklet are advisory in nature and are designed to make your work easier and to insure proper operation of the system. The following, however, are some Company procedures that should be completely understood and adhered to. If you are in doubt at any point, be sure to ask your Supervisor as he/she will be more than happy to help.

1. Never argue or be abrupt with a Customer. If you are unable to solve the problem in a diplomatic manner, have Customer call the office. If Customer is abusive, excuse yourself and immediately call the office.

2. If you happen to damage anything inside or outside Customer's home, bring it to Customer's attention immediately and let the General Manager know so that compensation or repair can be arranged.

3. Work quickly, but not at the expense of neatness.

4. Maintain all tools in safe working condition. Remember, it is the responsibility of each employee to safeguard Company equipment against loss or damage including the assigned vehicle, small tools, meters, ladders, television monitors, and other types of equipment used during the course of the workday.

5. Check the name, address, spelling, phone number, and instructions on the Work Order to be sure that they meet with Customer's wishes. On entering the house, ask the location of the set Customer wants hooked up and ask if Customer is interested in additional outlets for FM or extra sets. If the wishes are less than the Work Order, just complete the installation and note in the Comments section the portion of the installation that was canceled. If additional outlets are required, experience will determine whether the work can be done at that particular time or whether the job should be scheduled at a later date.

6. Be neat and precise in filling out your Work Orders; they are the only records we will have as to what was done at that house, as well as follow-ups if a service call comes in.

7. If you injure yourself on the job, report the injury to your immediate Supervisor and the General Manager immediately so that proper filings can be submitted on Workers' Compensation insurance, if appropriate.

8. Remove hooks and body belts as soon as you have dismounted the pole and never wear hooks or body belts into a Customer's home. Be careful not to scratch walls or furniture with your tools. Ask to clear the top of the TV set before installation. Avoid marring walls with ladders or dirty hands, especially when entering or leaving attic crawl spaces.

9. Do not diagnose any set problems. We are not TV repairmen; we only attach to the antenna terminals. We will, however, check the reception of Customer's television set by comparing its reception with that of a standard test set. In addition, we will fine-tune the TV set and VCR, if necessary, in accordance with guidelines established by the Installation Supervisor; see that the TV set, VCR unit, and converter are all connected properly; and make sure that Customer understands their operation.

10. If a job looks like it will take an unusual length of time to complete, contact the Installation Supervisor,

as it may be necessary to reschedule the job or provide additional help to complete the work.

11. Since Customer may object to the method you decide to use for installing the cable, be sure to show Customer what you intend to do and explain why you feel this method is the best way to go. Before drilling a hole, it is always a good practice to point out the place you intend to drill. Customer may decide to move the TV set rather than have a hole in that location.

12. Be sure to make the best impression possible. Have a neat appearance and keep your uniform shirt neat and clean. Coveralls will be provided, and should be worn, when crawling subfloor areas of homes, then removed prior to entering the home for completion of the job. All field personnel are required to wear uniforms. Respect Customer's home as if it were your own; in bad weather, wipe your boots clean or remove your overshoes before entering the home.

13. Do not promise a Customer that you will be back to complete a job unless scheduling has been cleared by the office.

14. If you realize that you cannot complete your assigned orders, you should notify the Installation Supervisor by 3 p.m. so other arrangements can be made to complete, or reschedule, the work.

15. The landlord's permission must be obtained before installing any cable into a multiple-unit dwelling. Never run the service into an apartment complex without approval by the Installation Supervisor and complex manager.

16. The homeowner, or someone over 18 years of age, should be present during the entire installation. They cannot open the door for you and then leave the premises.

17. Explain to Customer that only cable can be attached to the terminals. A joint attachment with antenna and cable will affect reception and cause signal leakage, unless a proper A/B switch is utilized.

18. Leave a "Sorry We Missed You" door tag if Customer is not home. Fill in the time and specific information for Customer. Make a note on the Work Order.

19. Official Installation Specifications must be followed at all times (see section on "Installation Specification" of this Policy Manual).

20. Standby Duty will be assigned to the Installer once the Plant Manager deems him/her qualified to do the work. Standby Duty policies and procedures will be followed, in accordance with the items listed under the "Service Technician" portion of this manual.

21. After each job is completed, call the office and notify the Dispatcher of the job completion and which job you will be going to next.

22. Reception quality, when installation is completed, must meet or exceed FCC technical standards of quality.

23. Any customer modification to cable wiring inside the home may be subject to service charge in case of reception difficulties.

Service Technicians

1. Regular Duty

Keep in mind that, after the Installer, as a Service Technician you may be the only person representing Bend Cable Communications to personally visit Customer. You may spend time in Customer's home diagnosing reception difficulty, and also in the yard and area immediately adjacent to the home. When you leave, Customer should either have the reception difficulty resolved, or should be informed of a time schedule for resolving the problem. At all times, Customer should perceive you to be responsive, dependable, and professional. Without our Customers' continuance of cable service, the Company could not succeed and our jobs could not continue. Our Service Technicians must work with a sincere desire to correct the reception problem and with a strong sense of responsibility and commitment to Company, and, most importantly, Customer.

Clothing must be neat and clean. Uniform shirts are required, and jackets will also be provided for colder weather.

Whenever you enter Customer's home, treat it as if it were your own. Wipe your boots clean or remove your overshoes before entering the home, and respect Customer's property as you would like to have your home respected.

When service work is completed, let Customer know that we welcome service calls when they are having reception problems, as this may be the only way we can know if problems exist. Service is provided as

part of Customer's monthly service fee, with no additional charge for coming out to Customer's home. It is our responsibility to provide trouble-free service, and we appreciate being called. (Also invite Customer to call if there are any billing problems or other questions about the programming or cable service in general.)

If Customers are interested, convey the nature of the problem in terms appropriate to their level of technical understanding. Be careful not to confuse Customer with technical jargon beyond Customer's level of technical knowledge.

Quality control is critical in service work, and service jobs will be spot-checked by your Supervisor. In addition, a Customer Response Card will be mailed to Customer after the job is completed. This card is then completed by Customer and returned to Company's office for additional feedback on the level of satisfaction with Company's service, the improved reception, and the job that you did. An unsatisfactory response on the Customer Response card will be pointed out to the Lead Technician, who will see that a Service Order is prepared and returned to the Service Technician to be cleared. The Lead Technician will follow up to see that the problem is resolved, and report back to the General Manager. Any service problem beyond the ability of the Service Technician to resolve should be reported immediately to the Lead Technician.

All the procedures which apply to Installation work also apply to Service work.

If you injure yourself on the job, report the injury to your immediate Supervisor and the General Manager immediately so that proper filings can be submitted on Workers' Compensation insurance, if appropriate.

All Trouble Tickets must be responded to within twenty-four (24) hours maximum, with same-day service if at all possible. Major, Primary, and Secondary outages have priority over Single-Customer outages.

2. Standby Duty

Standby Duty will be assigned to Service Technicians, or to others who have been deemed qualified to handle the duties of Standby, as determined by the Plant Manager.

It is the duty of the Standby Technician to be sure he/she has sufficient equipment and spare parts to effect repairs during his/her period of duty.

Employees assigned to Standby Duty will be provided a mobile device to keep in touch with the answering service during off hours when they are away from the telephone. At all times, they must be reachable, either by telephone or a paging device, and should remain within a close-enough distance of the system to enable response to outages within 30 minutes maximum.

It is the responsibility of the Standby Technician to call the answering service twice a day on weekends and holidays. If there are any tickets at the answering service, the Standby Technician is to drive to the answering service, review each ticket, and make a call to Customer to see if the problem needs to be corrected immediately. In any event, if Customer has no service and has called prior to 5 p.m., his/her service is to be restored on that same day.

The Standby Technician will provide the Lead Technician with a list of all calls and outages responded to either in person or by telephone at the end of Standby Duty. This information will include Customer's name, address, phone number, problem reported, time responded, and action taken, plus any other notations deemed useful.

The Standby Technician will advise the answering service of his/her duty period at the time he/she takes Standby Duty, and will confirm that the answering service knows how to reach him/her during off hours each day of Standby Duty. (See section on "Employment" of this Policy Manual for standby pay schedule.)

3. Outage Classification and Response

a. Single Customer Outage: Complete loss of all channels, or loss of premium service, to any one customer.

Take care of within twenty-four (24) hours, or sooner if the Technician judges that the risk exists of losing Customer. On weekends and holidays, any call to the answering service that comes in before 5 p.m. should be handled that same day.

b. Secondary Outage: A number of customers in a central area have no service. Such an outage might be caused by the failure of certain passive devices, a line extender amplifier, or a bridger amplifier.

Respond immediately. If the condition has not been corrected within one (1) hour, the Standby Technician will notify his/her Supervisor, the Plant Manager, or the General Manager to obtain the assistance required to correct the problem.

c. Primary Outage: A large number of customers in a central area with no service. Such an outage would probably be due to a limited trunk amplifier section failure, power supply failure, or plant damage. Any headend failure is a primary outage.

Respond immediately and notify the Lead Technician, Plant Manager, or General Manager.

d. Major Outage: A loss of all services to 5% or more of the customers or operating plant; or a loss of two or more channels from the headend; or a loss of any or all premium or pay services.

Respond immediately, and notify the Lead Technician, Plant Manager, and General Manager.

Office and Dispatch Personnel

Since Bend Cable's Customer Service Representatives (CSRs) working in the office are the first contact made between the potential customer and the Company, it is imperative that each CSR be polite and accommodating, as well as skilled in efficiently describing the services provided by Company. It is the responsibility of the CSR to sell Customer on the benefits of Company's service and to answer any questions Customer may have relating to the nature of the program services, Company's billing procedures, or potential problems with the service.

Many customers drop by the office personally, either to inquire about Company's services or billing procedures. For this reason, we must always be neat, clean, responsive, and friendly.

Never argue or be abrupt with a customer, either in person or on the telephone. In the event a customer behaves rudely or uses profane language in an abusive manner, refer this customer immediately to the Office Manager or General Manager.

Office hours are 8 a.m. to 5 p.m., Monday through Friday, with office telephones activated for incoming calls from 8:30 a.m. to 5 p.m. The answering service forwards calls which occur between 5 p.m. and 8:30 a.m. on weekdays and twenty-four (24) hours per day on weekends and holidays.

When telephones ring, they must be answered as soon as possible, preferably by the third ring.

All data entry forms must be completed in full detail as requested on the Computer Data Entry Form. This is important for accurate data entry and preparation of work orders for the field crew.

All trouble calls received in the office must be forwarded by the radio dispatcher to the field Service Technician for repair as soon as possible. The call must be recorded on a Trouble Call ticket and forwarded to the Service Technician. When the repair has been completed, the Service Technician signs off on the ticket and returns his/her copy to Dispatch for matching with the office copy and recording on the monthly Trouble Call Summary report. Tracking the timely (within twenty-four (24) hours if possible) completion of repair work is one of the most important aspects of the Dispatcher's job.

In addition, the Dispatcher should see that the mobile radio is covered at all times, as this is the only efficient communication link between office and field vehicles. Installers and Service Technicians will utilize the radio for many purposes including checking customer account status, requesting additional information on trouble calls, asking Dispatcher to call customers for "at home" verification, and other purposes relating to the progress of their work during the day.

Construction Crew

During any construction work, whether new extensions of cable plant, plant upgrades, or drop burials, Customer and/or potential Customer must be accommodated at all times. If landscaping is damaged by trenching work or driveways affected through road bore work, it is Company's responsibility to restore the property to the condition it was in prior to the work.

Tree trimming required for establishing and maintaining proper line clearances must be approved by the property owner if the tree is situated on private property. If the tree is within the utility easement, advise the General Manager of specifics of the job in order to insure we have necessary approvals from the City or County public works departments. After trimming, be sure that all branches, etc., are removed, with the easement or private property left in neat condition.

National Electric Safety Code standards must be met at all times, plus any state and/or local electrical safety procedures.

Any damage to private property or utility easements incurred during construction work must be reported to the General Manager for Company restoration.

When burying drops in underground areas, the following policies must be adhered to:

1. Make door contact to advise Customer of work to be done, whenever possible.

2. Route all burials to the area of least possible excavation.

3. All drop wire must be RG-6 flooded.

4. Bury cable a minimum of 6 inches deep, and 18 inches whenever possible.

5. Drops must be brought up through bottom of closure leaving pedestal in original condition or better, and pedestals must be red-tagged.

6. Drops must be tagged with the correct colors and addresses, and secured properly at the ground block.

7. Landscape must be returned to original condition or better.

8. Locates must be called in for any machine burial with 24-hour notice to telephone, water, power, or gas company. Locate telephone number established with Central Oregon Underground Utilities Council is 389-6676.

If you injure yourself on the job, report the injury to your immediate Supervisor and the General Manager immediately so that proper filings can be submitted on Workers' Compensation insurance, if appropriate.

Clothing must be neat and clean, and uniforms must be worn whenever appropriate.

Standby Duty will be assigned to construction crewmen who are qualified, as determined by the Plant Manager. Standby Duty policies and procedures will be followed in accordance with items listed under the "Service Technician" portion of this manual.

Any locates for cable, called in by other parties, must be completed on a timely basis.

Prewiring homes, apartments, motels, etc., will normally be referred to the electrical contractor who is responsible for that particular job. Occasionally, upon

agreement between Bend Cable Communications and the property owner, Company's construction crew will complete prewiring facilities. In addition, we will occasionally prewire individual homes, upon request of the homeowner, with a cost estimate provided to the homeowner prior to commencing prewire work.

ORDINANCE NO. NS-1466

AN ORDINANCE AMENDING THE CITY'S BUSINESS CODE, ORDINANCE NO. NS-1375, TO RAISE THE CITY'S TRANSIENT ROOM TAX FROM SIX PERCENT TO SEVEN PERCENT.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance No. NS-1375, as amended, known as Bend Code 7.012 is amended to read:

7.012 TAX IMPOSED. For the privilege of occupancy in any hotel, on and after the effective date of this code, each transient shall pay a tax in the amount of [six percent (6%)] <u>seven percent (7%)</u> of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis. If rent is paid in installments a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the city. In all cases the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks. When rent is charged under a rent package plan, as defined in Bend Coded 7.010 (9), an allowance of five dollars ($5.00) per person per meal or forty percent (40%) of the rent package plan price, whichever is less, may be deducted in the determination of the transient room tax under this code.

SECTION 2. That portion of Ordinance No. NS-1375, as amended, known as Bend Code 7.014 is amended to read:

7.014 COLLECTION OF TAX BY OPERATOR; RULES FOR COLLECTION.

(1) Every operator renting rooms in this city, the occupancy of which is not exempted under the terms of this code, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owed by the operator to the city.

(2) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made.

(3) The Tax Administrator shall enforce provisions of this code and shall have the power to adopt rules and regulation not inconsistent with this code as may be necessary to aid in the enforcement.

(4) For rent collected on portions of a dollar, the first one cent ($.01) of tax shall be collected on nine cents ($.09) through twenty-four cents ($.24), inclusive; and the second one cent ($.01) of tax on twenty-five cents ($.25) through forty-one cents ($.41); the third one cent ($.01) of tax on forty-two cents ($.42) through fifty-eight cents ($.58); the fourth one cent of tax on fifty-nine cents ($.59) through seventy-four cents ($.74); the fifth one cent of tax on seventy-five cents ($.75) through ninety-one cents ($.91); the sixth one cent ($.01) of tax on ninety-two cents ($.92) through the next one dollar and eight cents ($1.08) of rent.]

SECTION 3. That portion of Ordinance No. NS-1375, as amended, known as Bend Code 7.036 (1) is amended to read:

7.036 Administration.

(1) Tourist Promotion Fund. A special fund called a Tourist Promotion Fund shall be established for the purpose of promoting tourism within the City of Bend. [25%] 21.42857% of the monies collected pursuant to the tax imposed by this code shall be paid directly into this fund. [No monies from the city's general fund shall be used in the tourist promotion fund.] The tourist promotion fund shall be used for the promotion of tourism and the city is authorized to enter into a contract with the Bend Chamber of Commerce to carry out this purpose.

Read for the first time this 18th day of November, 1987.

Read for the second time this 2nd day of December, 1987.

Placed upon its passage this 2nd day of December, 1987.

YES: 5 NO: 0

Submitted to and approved by the Mayor this 2nd day of December, 1987.

Bruce Dent
Mayor

ATTEST:

James O Kerfoot
Recorder-Treasurer City of Bend

ORDINANCE NO. NS - 1467

AN ORDINANCE VACATING A PARCEL OF PUBLIC RIGHT-OF-WAY LOCATED IN LYTLE ACRES TRACT AND THE CENTER ADDITION SUBDIVISIONS, CITY OF BEND, DESCHUTES COUNTY, OREGON.

The Bend City Commission on the 2nd day of September, 1987 on its own motion did request that the following described area be vacated:

Tract V - All four parcels together

A tract of land in the NE 1/4 and in the SE 1/4, SE 1/4 Section 32, T17S R12 E.W.M. more particularly described as follows:

Commencing at the NE corner of the said SE 1/4 NE 1/4 Section 32; Thence S 89° 57' 41" W along the north line of said SE 1/4 NE 1/4, 472.35 feet to the vacated right-of-way of East 1st Street and the true point of beginning; Thence S 8° 19' 25" W along said vacated right-of-way, 158.03 feet; Thence S 89° 59' 26" W, 32.30 feet to the easterly railroad spur right-of-way granted to the Oregon Trunk Railway; Thence along the said right-of-way line on an arc of a 592.96 foot radius curve left, 58.74 feet (the chord bears N 16° 04' 17" W, 58.72 feet); Thence N 18° 54' 34" W along said right-of-way line, 137.32 feet; Thence N 90° 00' E, 120.31 feet; Thence S 8° 19' 25" E, 30.28 feet to the point of beginning.

Excepting therefrom a 10 foot wide easement on an existing sanitary sewer lying 5 feet on either side of the following described centerline:

Commencing at the NE corner of the said SE 1/4 NE 1/4 Section 32; Thence S 89° 57' 41" W along the north line of said SE 1/4 NE 1/4, 472.35 feet; Thence N 8° 19' 25" E, 6.03 feet to the true point of beginning; Thence S 89° 48' 44" W, 25.08 feet; Thence S 00° 10' 16" W, 164.82 feet to the terminus of this description;

and stating the reason for which the property is to be vacated; and the City Commission having set a time for formal hearing upon the said vacation; and the City Recorder of the City of Bend having caused a public notice for a public hearing giving the date, time and place of the public hearing on the proposed vacation to be published once each week for four consecutive weeks in the Bulletin, and said Recorder having also within 5 days after the first day of the publication of said notice caused a copy of said notice to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area, and the first publication and posting of said notice having occurred not less than 28 days before the hearing specified for said proposed vacation; and upon the appointed time specified in said notice the hearing having been held, and no objections made, and the City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated.

NOW THEREFORE, IT IS HEREBY ORDERED that the above described real property be and the same hereby is vacated but reserving to the City of Bend easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 16th day of December, 1987

Read for the second time the 6th day of January, 1988

Placed upon its passage the 6th day of January, 1988

YES - 5 NO - 0

Submitted to and approved by the Mayor the 6th day of January 1988.

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1468

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM URBAN MEDIUM DENSITY RESIDENTIAL TO IL LIGHT INDUSTRIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM Urban Medium Density Residential to IL Light Industrial:

A parcel of land which is a portion of Tract 7, Boyd's Acreage, a recorded subdivision, with said parcel being located in the Northeast One-Quarter of the Northwest One-Quarter of Section 28, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, and being more particularly described as follows:

Beginning at a point on the East boundary of said Tract 7, Boyd's Acreage, with said point being located South 20.00 feet from the Northeast corner of said Tract 7; thence along the East boundary of said Tract 7, South 285.00 feet; thence leaving said East boundary, West 173.00 feet; thence North 36° 38' 39" West 355.20 feet to a point which is 20.00 feet South of, when measured at a right angle to, the North boundary of said Tract 7; thence running parallel to, and 20.00 feet from, when measured at a right angle to, the North boundary of said Tract 7, East 385.00 feet to the point of beginning.

Read for the first time the 6th day of January, 1988

Read for the second time the 20th day of January, 1988

Placed upon its passage the 20th day of January, 1988

YES: 5 NO: 0

Approved by the Mayor the 20th day of January, 1988

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1469

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM CL LIMITED COMMERCIAL IL LIGHT INDUSTRIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from CL Limited Commercial to IL Light Industrial:

> A portion of the Southeast Quarter Northeast Quarter (SE ¼ NE ¼) of Section Five (5), Township Eighteen (18) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, City of Bend, Oregon, being more particularly described as follows:
>
> Beginning at the East One-Quarter corner to Section 5, T. 18 S., R. 12 E. W. M., Deschutes County, Oregon; thence South 89° 28' 54" West, 60.00 feet to the West right of way of Second Street; thence North 00° 46' 25" West 603.38 feet along said right of way to the true point of beginning of this description; thence North 89° 58' 28" West, 467.36 feet to the East right of way of Division Street; thence North 00° 03' 12" East, 360.00 feet along said East right of way; thence South 89° 58' 28" East, 462.22 feet to the West right of way of Second Street; thence South 00° 46' 25" East, 360.00 feet along said Second Street right of way to the true point of beginning.
>
> Excepting therefrom a one foot wide strip lying easterly of and parallel to the Division Street right of way and running the entire length of the above-described property.

Read for the first time the 17th day of February, 1988

Read for the second time the 2nd day of March, 1988

Placed upon its passage the 2nd day of March, 1988

YES: 5 NO: 0

Approved by the Mayor the 2nd day of March, 1988

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1470

RELATING TO BEND AIRPORT COMMISSION; AMENDING BEND CODE 1.500 (ORDINANCE NO. NS-1399, AS AMENDED).

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Bend Code 1.500 is amended to read:

1.500 Membership. The Bend Airport Commission consists of [six] five members appointed by the Mayor with the approval of the City Commission. [Three] Two of the [six] five members shall be City Commissioners. The three non City Commissioner members shall be appointed to two year terms but shall serve at the pleasure of the City Commission. In addition to the [six] five members the City Manager or designee and the City Public Works Superintendent shall serve as members ex officio. The chairman of the Airport commission shall be elected annually from and by the [six] five Airport Commission members.

Read for the first time this 2nd day of March, 1988.

Read for the second time this 16th day of March, 1988.

Placed upon its passage this 16th day of March, 1988.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 16th day of March, 1988.

MAYOR

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1471

AN ORDINANCE RELATING TO PUBLIC PARKS AND AMENDING BEND CODE 5.320 (ORDINANCE NO. NS-1361, AS AMENDED).

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Bend Code 5.320 is amended to read:

5.320 Violations.

(1) Persons using public parks and other city property shall obey the following rules and regulations:

(a) No person shall cut, remove or damage flowers, trees or trails.

(b) No person shall build a fire except in a stove or fireplace provided. Fires shall not be left unattended and every fire must be extinguished before its user leaves the park. Portable gas, gasoline, charcoal and oil camp stoves may be used in the parks only if in safe operating condition and only if operated in a safe manner.

(c) No person shall camp except in areas designated for camping or in connection with activities authorized by the commission.

(d) No person shall damage or injure a building, installation, equipment or other property in public parks.

(e) No person shall sell merchandise or services, or operate a concession in public parks without permission of the Bend Metropolitan Park & Recreation District and shall possess, on their person, evidence of such approval as set forth in 5.320, subsection 3.

(f) No person shall litter in the parks. Garbage and refuse shall be deposited in proper receptacles provided for this purpose. Garbage and refuse shall not be brought to parks.

(g) No person shall operate or park a motor vehicle with a gross weight exceeding five tons in a public park, except buses carrying passengers to the park.

(h) No person shall operate or park a motor vehicle except on roads or designated parking areas.

(i) Except as authorized by the city or Park District, no person shall ride or lead a horse in a public park except on a designated bridle path. Horses or other animals shall not be tied to a tree or shrub in such a manner as to cause damage to the tree or shrub.

(j) No person shall use golf clubs, archery equipment, discus, javelin, shot put or model aircraft in parks except as permitted by the city or Park District.

(k) Except as authorized by the Oregon State Fish and Game Commission or Park District, no person shall hunt, pursue, trap, kill, injure or disturb the habitat of a bird or animal.

(l) Except those person authorized to carry firearms under ORS 166.260, no person shall possess a loaded firearm in the park.

(m) No person shall dig up, deface or remove dirt, stones, rock or other substances nor make any excavation.

(n) No person shall erect signs, markers or instructions without city permission.

(o) No person shall wash clothing or materials or clean fish in streams, springs, pools or wells.

(p) Except as authorized by the City Commission, no person shall use any device that amplifies sound nor play a radio, tape recorder or record player in public parks or in vehicles parked on streets adjacent to public parks if the sound can be heard outside the vehicle. This regulation shall not apply to Vince Genna Stadium.

(q) Persons operating bicycles in public parks shall walk their bicycles on sidewalks that are marked by the Bend Metropolitan Park & Recreation District, "Walk Your Bike."

(r) All public parks and adjacent parking lots, with the exception of Brandis Square, shall be open from 5:00 a.m. until 10:00 p.m. and closed from 10:00 p.m. until 5:00 a.m. It shall be unlawful to enter or remain in said parks and parking lots when the park or lot is closed. A person may, however, enter and remain in a closed parking lot for up to five minutes when going to and retrieving a vehicle lawfully parked in the closed parking lot during those hours when the lot was open. Vehicles lawfully parked in a parking lot adjacent to a public park while the lot is open may be left in the lot after the lot has closed. Additionally, a pedestrian may travel upon park sidewalks to destinations outside of park premises. Further, governmental employees may enter closed areas in the course of executing their governmental functions. Nothing provided in this section shall preclude use of public parks for special events during hours when the parks are closed when allowed under the special events permit.

(s) No person shall consume an alcoholic beverage or possess an open container of an alcoholic beverage in a public park without first obtaining an alcohol consumption permit or special events permit which specifically allows alcohol consumption from the Bend Police Department. The fee for an alcohol consumption permit shall be $5.00 and the permit shall be valid for a period of up to one day. The Chief of Police may prescribe the form of application required of applicants for permits and all applications shall be truthfully and completely filled out. No permit will be issued to a person who has previously violated any provision of Bend Code 5.320 within a period of one year preceding the date of the permit requested. Nothing provided in this section shall supersede the provisions of the City's special events ordinance.

(2) A violation of this section is a Class B Civil Infraction.

(3) Evidence of permission to engage in activities as required by B.C. 5.320 (1) (e) [, Section 1, (e),] shall include the name, address and phone number of the permittee, a specific description of the location where the activity is to be conducted, the date or period for which said activity is authorized and the signature of the authorizing Park and Recreation District official.

SECTION 2. Declaration of Emergency:

THE CITY COMMISSION HEREBY FINDS:

1. That recently City parks have been used for illegal drug use and sale, especially at night, and

2. That City parking lots adjacent to public parks have attracted large numbers of people who have created a large amount of noise and public disruption in the parking lots;

NOW WHEREFORE:

This ordinance being necessary for the immediate preservation of the peace, health and safety of the City, an emergency is declared to exist and this ordinance takes effect on its passage.

Read for the first time this 2nd day of March, 1988.

Read for the second time this 16th day of March, 1988.

Placed upon its passage this 16th day of March, 1988.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 16th day of March, 1988.

MAYOR

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1472

RELATING TO SECONDHAND DEALERS; AMENDING BEND CODE 7.810 AND 7.816 (ORDINANCE NO. NS-1375, AS AMENDED).

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Bend Code 7.810 (5) is amended to read:

7.810 DEFINITIONS. As used in Bend Code 7.810 to 7.824, unless the context requires otherwise:

(5) "Secondhand Goods" means, in addition to its commonly accepted meaning, all personal property which has been used or possessed previously by another and includes, but is not limited to, previously owned precious metals, jewelry, coins which are purchased or sold by a dealer for other than their face value, stamps, firearms, appliances, hand and power tools, binoculars, cameras, watches, televisions, radios, phonographs, stereos, recording devices, antiques, furniture, calculators, electronic devices, bicycles, appliances, tools, sporting goods, audio and video recordings and similar items.

SECTION 2. Bend Code 7.816 (1) is amended to read:

7.816 RECORDS REQUIRED.

(1) Every dealer conducting an establishment and all itinerant dealers who conduct business in the City of Bend, shall keep a daily ledger, written in ink, in the English language, of all purchases made by dealers or their agents of the following secondhand goods: jewelry, property made of precious metal excluding gold and silver bullion bars of 0.995 fine or better, firearms, appliances, sporting goods, binoculars, cameras, watches, televisions, radios, recording devices, calculators, electronic devices, hand and power tools, stereos, phonographs, audio and video recordings, bicycles, machinery and machinery parts. Said ledger must be completely filled out, including an accurate and sufficiently detailed description of the secondhand goods purchased; the name, date of birth, sex, race and address of the person from whom purchased or acquired; the day and hour of the purchase and price paid; all serial numbers of secondhand goods purchased; and the number of the seller's identification card required by Bend Code 7.816 (2).

Read for the first time this 4th day of May, 1988.

Read for the second time this 18th day of May, 1988.

Placed upon its passage this 18th day of May, 1988.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 18th day of May, 1988.

MAYOR

ATTEST:

Recorder-Treasurer

Brad Hoover
Z-2-88

ORDINANCE NO. NS-1473

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM CL LIMITED COMMERCIAL IL LIGHT INDUSTRIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from CL Limited Commercial to IL Light Industrial:

A portion of the Southeast Quarter Northeast Quarter (SE ¼ NE ¼) of Section Five (5), Township Eighteen (18) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, City of Bend, Oregon, being more particularly described as follows:

Beginning at a point which is located South 0°49'36" East, 220.29 feet and West 59.97 feet from the Northwest corner of said 1/16 section; thence on a 27°30' curve to the right for 85.95 feet; thence South 24°00' West, 13.47 feet; thence on a 21°18' curve to the left for 28.34 feet; thence West, 427.18 feet; thence North, 120.00 feet; thence East, 460.44 feet to the point of beginning; together with that portion of vacated SE Second Street that inured thereto by vacating order recorded September 30, 1980 in Book 329, Page 451, Deed Records.

Read for the first time the 18th day of May, 1988

Read for the second time the 1st day of June, 1988

Placed upon its passage this 1st day of June, 1988

YES: 5 NO: 0

Submitted to and approved by the Mayor this 1st day of June, 1988

Mayor

ATTEST:

Recorder-Treasurer

124 Amended by NS-1519
Repealed by NS-1474

ORDINANCE NO. NS-1474

AN ORDINANCE PROVIDING FOR UNIFORM LAND USE PERMIT PROCEDURES, AND REPEALING ORDINANCE NO. NS-1359.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Purpose. This ordinance is enacted to provide uniform procedures for land use and other administrative actions and hearings. This ordinance shall be known as the City of Bend Uniform Land Use Procedure Ordinance.

Section 2. Development Permit. The words "Development Permit", as used in this ordinance, mean any permit required by the City's zoning and subdivision ordinances.

Section 3. Development Permit Procedures. There are three types of procedures for processing all development permits. Where there is a question as to the appropriate type of procedure, the Planning Director shall determine the type procedure to be utilized based upon the most similar development permit procedure specified by this ordinance or other established policy. Where a proposal involves more than one application for the same property, the applicant may submit concurrent applications which shall be processed simultaneously. The three procedures include but are not limited to the following activities:

(1) Type I Procedure: Code interpretations, lot line adjustments, minor partitionings, site plan reviews, final planned unit development plans, final subdivision plats, and all other development permits not included in a Type II or III review.

(2) Type II Procedure: Major partitionings, variances, conditional use permits, fill and removal permits, and Type I and II subdivision plats.

(3) Type III Procedure: Zone changes and comprehensive plan amendments.

Section 4. Pre-Application Conference. The Director and the applicant, or the applicant's authorized representative, should arrange a pre-application conference, unless the applicant and Director agree that the conference is not needed.

Section 5. Application Forms. Applications shall be submitted on forms prescribed by the City. At the time a completed application requiring a hearing is filed, a hearing date shall be determined.

Section 6. Type I Procedure.

(1) Under the Type I procedure, an application shall be processed by the Director without need for public hearing or notification of other property owners. A sign shall be posted on the site. The Director may refer a Type I review directly to the hearings body for decision.

(2) Conditions and/or restrictions may be applied to the approval of any development permit granted under a Type I procedure in accordance with the City's zoning and subdivision ordinances. The decision on a Type I procedure shall be in writing and mailed to the applicant.

Section 7. Type II Procedure.

(1) A Type II application may be processed by the Director without a public hearing. Written notice shall be mailed to abutting property owners and shall summarize the criteria and standards that must be met by the applicant. The notice shall invite persons to submit information relevant to the standards that are pertinent to the proposal within seven days of notification giving reasons why the application should or should not be approved or proposing modifications the person believes are necessary for approval according to the standards. The applicant shall post notices as set forth in Section 10 of this Ordinance.

(2) The Director or hearings body shall review the application, written comments, and testimony, if any, and make a finding for each point in dispute and make a decision on the application by approving, conditionally approving, or denying the application.

(3) The Director shall, within 30 days of receipt of the completed application, issue a decision in writing with notice to the applicant and all persons who requested notice in writing or who filed written comments. The Director may refer

any Type II application to the hearings body for hearing.

(4) The applicant and all persons commenting as provided in this Section shall constitute parties to the Type II administrative decision. Any party can appeal the decision in accordance with this ordinance. The Director's decision may be appealed, and a de novo hearing shall be held. Unless appealed, the written decision shall become effective ten (10) days after it is mailed. A hearings body decision may be appealed to the City Commission as provided in Section 19.

Section 8. Type III Procedure.

(1) Under the Type III Procedure, an application is scheduled for public hearing before the hearings body. The Director shall cause notice to be published pursuant to Section 10. In addition, the Director shall notify all property owners within 250 feet of the subject property. The applicant shall also post notice as set forth in Section 10.

(2) A Planning Department staff report shall be completed seven days prior to the hearing. The report shall be made available to the public and the applicant at City Hall. The staff may change and supplement its report at any time.

(3) At the public hearing, the staff, applicant, and interested persons may present testimony relevant to the proposal. The hearings body shall adopt a finding for each of the criteria applicable.

(4) If the hearings body has recommended against a proposal, the City Commission will not consider the proposal except on appeal by the applicant. For a proposal on which the hearings body has made a favorable recommendation, the City Commission shall review the proposal within 45 days of the hearings body's recommendation. At the Commission meeting, the staff shall review the report and findings of the hearings body and provide other pertinent information.

(5) The Commission may, at its discretion, review the application solely on the record of the previous hearing or call for a de novo public hearing. For a hearing, the form of notice and persons to receive notice are the same as for hearings body review. Interested persons shall be given the opportunity to present testimony and information relevant to the proposal and make final arguments why the matter should or should not be approved and, if approved, the conditions desired in approving the action.

(6) The City Commission shall adopt a finding for each of the criteria applicable to the request and in doing so may sustain or reverse a finding of the hearings body. The City Commission may delete, add, reject, or modify any of the provisions pertaining to the proposal or recommendation of the hearings body, or attach certain development or use conditions in accordance with the relevant provisions of City ordinances.

Section 9. Notice

(1) Notice of a hearing or Type II or III administrative action shall be reasonably calculated to give actual notice and, other than for a legislative action, shall contain the following information:

(a) The date, time, and place of the hearing.

(b) A description reasonably calculated to inform a person of the location of the property for which a development permit or other action is pending, including but not limited to use of a map or postal address, or a subdivision lot and block designation, or a metes and bounds description, or the tax map designation of the County Assessor.

(c) The nature of the issue presented for hearing.

(d) A summary of the plan and ordinance criteria applicable to the request.

(e) Where information may be examined and when and how written comments addressing findings required for a decision by the hearings body may be submitted.

(f) A statement that failure to raise an issue in person by in writing precludes appeal and that failure to specify to which criterion the comment is directed precludes appeal on that criterion.

(2) Notice of an application for a Type II or III development shall be mailed at least ten (10) days prior to the hearing for those matters set for hearing, or

ten (10) days prior to an administrative action. Written notice shall be sent by mail to the following persons:

(a) The applicant.

(b) All owners of property abutting the property which is the subject of the application. For the purpose of determining whether property abuts another property, intervening public and private ways and water courses shall not be considered.

(c) All owners of property located within 250 feet of property which is the subject of a Plan Amendment application or Zone Change application.

(d) All owners of record for solar access permits shown on the application.

(3) Notice for all development permits shall also be posted on the property and be visible from any adjacent public way, where practicable. Further notice of a solar access application shall be posted on each lot identified in the application.

(4) In addition to notice by mail or posting, for a Type III Development Permit, notice of a hearing shall be published in a newspaper in the City at least ten (10) days prior to the hearing, or as may be required by State law.

(5) The failure of a property owner to receive mailed notice shall not invalidate any permit.

Section 10. Compliance and Waiver of Notice.

(1) If the City has mailed notice as required by this ordinance, failure of the addressee to actually receive notice shall not invalidate the land use proceeding.

(2) Posted notice is deemed given when the sign is first posted.

(3) The requirement for notice shall be deemed satisfied as to any person who, in any manner, obtains actual knowledge of the time, place, and subject matter of the hearing prior thereto.

(4) Appearance and testimony or comment on the merits of the proposed action by any person at a hearing, or submission by any person of written comment directed to the merits of the proposed action at or prior to the hearing and after the proceeding was initiated shall be deemed a waiver of such person of any defect in notice.

Section 11. Hearings Body. The following shall serve as Hearings Body in this order:

(1) Hearings Officer

(2) City Commission

Section 12. Hearing Procedure. A hearing shall be conducted in the following order:

(1) The hearings body shall explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.

(2) A statement by the hearings body regarding pre-hearing contacts, bias, prejudice, or personal interest shall be made.

(3) Any facts received, noticed, or recognized outside of the hearing shall be stated into the record.

(4) Challenges to the hearings body's qualifications to hear the matter shall be stated.

(5) A description of applicable substantive criteria shall be made to those in attendance along with a statement that testimony and evidence must be directed toward the criteria, and that failure to address a criterion precludes appeal based on that criterion.

(6) Order of presentation:

(a) Staff report
(b) Proponents' presentation

(c) Opponents' presentation
(d) Proponents' rebuttal
(e) Opponents' rebuttal may be allowed at the discretion of the hearings body
(f) Staff comment
(g) Questions from or to the chair may be entertained at any time, at the hearings body's discretion.

Section 13. Notice of Decision. The final decision shall be in writing and mailed to all parties; provided, however, one person may be designated by the hearings body to be the recipient of the decision for a group, organization, group of petitioners, or similar collection of individuals constituting parties.

Section 14. Challenge for Bias, Prejudgment or Personal Interest.

(1) Prior to or at the commencement of a hearing, any party may challenge the qualification of the hearings body, or a member thereof, for bias, prejudgment, or personal interest. The challenge shall be documented with specific reasons supported by facts.

(2) Should qualifications be challenged, the hearings body or the member shall disqualify itself, withdraw, or make a statement on the record of its capacity to hear.

Section 15. Objections to Jurisdiction, Procedure, Notice, or Qualifications. Any objections to jurisdiction, procedure, notice, or qualifications not raised prior to or during the hearing are waived.

Section 16. Participation by Interested Officer or Employees. No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with, or give an official opinion or staff report to, the hearings body on the proposal without first declaring for the record the nature and extent of such interest.

Section 17. Burden and Nature of Proof. Except for a legislative determination, the burden of proof is upon the applicant. The proposal must be supported by proof that it conforms to the applicable criteria for the particular type of decision under consideration.

Section 18. Record of Proceedings

(1) The hearings body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after all appeal periods have expired, at which time the exhibits may be released to the person identified thereon or otherwise disposed of.

(2) The staff report and decision shall be included in the record.

(3) A person shall have access to the record of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to obtain copies of the record at the person's own expense.

Section 19. Appeals.

(1) A decision of the Director may be appealed to the hearings body by an affected party by filing a "Notice of Appeal" with the Director within ten (10) days of mailed notice of the decision. An appeal shall be scheduled for hearing before the hearings body.

(2) A decision of the hearings body may be appealed to the City Commission by an affected party by filing a "Notice of Appeal" within 10 days of mailed notice of the decision. The "Notice of Appeal" shall indicate the decision that is being appealed and the person's standing.

(3) Within the appeal period, the City Commission, acting upon the recommendation of the City Manager or upon its own motion, may order a de novo review of any lower level decision. Such review shall be conducted in accordance with appeal procedures as specified herein.

(4) For any appeal proceeding, the Director shall cause notice to be provided in the same manner as provided for the original decision and shall provide notice to any other parties to the proceedings who have requested notice in writing.

Section 20. Requirements of Notice of Appeal. A "Notice of Appeal" shall contain:

(1) An identification of the decision sought to be reviewed, including the date of the decision.

(2) A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings.

(3) The specific criteria relied upon for appeal and a statement that the issue was raised at the previous review level. The issues raised by the appellant must be stated with sufficient specificity so as to afford the governing body and applicant, if appropriate, an adequate opportunity to resolve each issue.

(4) If de novo review is requested, a statement summarizing the new evidence which will be offered and the criteria to which it will relate.

Section 21. Scope of Review. The governing body shall determine the scope of review on appeal to be one of the following:

(1) Restricted to the record made on the decision being appealed.

(2) Limited to such issues as the governing body determines necessary for a proper resolution of the matter.

(3) A de novo hearing on the merits.

Section 22. Review on the Record.

(1) The reviewing body may hear the entire matter on the record; or it may admit additional testimony and other evidence in a de novo hearing if it is satisfied that the additional testimony or other evidence could not reasonably have been presented at the prior hearing. The reviewing body shall consider all of the following in making such a decision:

   (a) Prejudice to the parties.

   (b) Convenience or availability of evidence at the time of the initial hearing.

   (c) Surprise to opposing parties.

   (d) The competency, relevancy, and materiality of the proposed testimony or other evidence.

(2) When an appeal is on the record, the record shall include:

   (a) A factual report prepared by the Planning Director.

   (b) All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and received or considered in reaching the decision under review.

   (c) A written transcript of the previous hearing or, if agreed upon by the parties, the minutes of the hearing including a detailed summary of the evidence.

(3) When an appeal is on the record, the reviewing body may make its decision based only upon the record. The reviewing body may grant the right of oral argument, to all affected parties, but shall not allow the introduction of additional evidence.

Section 23. De Novo Hearing. "De Novo Hearing" shall mean a hearing by the review body as if the action had not been previously heard and as if no decision had been rendered, except that all testimony, evidence, and other material from the record of the previous consideration may be included in the record of the review.

Section 24. Commission Decision. Upon review, the Commission may affirm, remand, reverse, or modify in whole or part a determination or requirement of the decision that is under review. When the Commission modifies or renders a decision that reverses a decision of the hearing body, the Commission shall set forth its findings and state its reasons for taking the action. When the Commission elects to remand the matter back to the previous hearings body for such further consideration as the Commission deems necessary, it may include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.

Section 25. Duration of Permit. All Land Use Permits shall be valid for a period of one year after the date of approval, unless a longer duration is granted as part of the approval. The date of the approval is the date the final written decision is mailed to the parties.

Section 26. Reapplication Limited. If a specific application is denied, no re-application for substantially the same proposal may be made for one (1) year, following the date of the final decision. However, an application may be refiled within one year of a denial of the application if the substantive law concerning the application is amended.

Section 27. Temporary Permit. The Planning Director or City Commission may authorize a Temporary Land Use Permit for a period not to exceed six (6) months, provided:

(1) An application for the Land Use Permit has been submitted.

(2) The applicant has demonstrated good and sufficient cause for such a temporary permit.

(3) It appears that the application will be approved in substantially the form submitted by applicant.

(4) The applicant accepts each and every risk of loss and damage that may result if the application is denied, and further agrees to hold City, its officers, agents, and employees harmless from said loss and damage.

Section 28. Extension. Any land use permit may be extended, prior to expiration, by the Planning Director for periods of three months up to an aggregate period of one year. Such extension shall be administrative, without notice, and in writing.

Section 29. Liabilities. The repeal of any Ordinance, or part thereof, by this Ordinance shall not release or extinguish any penalty, forfeiture, nuisance, obligation or liability incurred under such ordinance, unless a provision of this ordinance shall so expressly provide, and such ordinances repealed shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, nuisance, obligation or liability.

Section 30. Repeal. Ordinance No. NS-1359 is hereby repealed.

Read for the first time the 6th day of July, 1988

Read for the second time the 20th day of July, 1988

Placed upon its passage the 20th day of July, 1988

YES: 7 NO: 0

Approved by the Mayor the 20th day of July, 1988

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1475

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 AMENDING THE PROCEDURES FOR VARIANCE, CONDITIONAL USE, PLANNED DEVELOPMENTS, AND ZONE CHANGES; ADDING NEW STANDARDS FOR MANUFACTURED HOMES AND MANUFACTURED HOME SUBDIVISIONS IN THE RS ZONE; ADDING NEW STANDARDS TO THE FLOOD PLAIN ZONE; ADDING NEW LANDSCAPING STANDARDS, AND REVISING THE USES ALLOWED IN THE IL ZONE

Section 1. Section 4. of Ordinance No. NS-1178 is amended by adding the following definition:

Approval Authority. The City Commission, Planning Commission, City Hearings Officer, or Planning Director or his designee.

Section 2. Section 14 (3) (a) of Ordinance No. NS-1178 is amended to read as follows:

(a) Residential dwelling units excluding mobile home parks.

Section 3. Section 15 (3) (a) of Ordinance No. NS-1178 is amended to read as follows:

(a) New residential dwelling units excluding mobile home parks.

Section 4. Section 16 (3) (i) of Ordinance No. NS-1178 is amended to read as follows:

(i) Residential use excluding mobile home parks.

Section 5. Section 17 (3) (c) of Ordinance No. NS-1178 is amended to read as follows:

(c) Residential use subject to the standards of the RH zone excluding mobile home parks.

Section 6. Section 20 (2) (h) of Ordinance No. NS-1178 is amended to read as follows:

(h) Assembly, manufacture, or preparation of articles and merchandise from the following previously prepared types of materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, leather, precious or semiprecious metal or stones, shell, textiles, tobacco, wax, wire, wood (excluding sawmills, [lumber mills,] planing mills, [and molding plants] particle board, wafer board, plywood, and pulp process), yarns and paint not employing a boiling process,.

Section 7. Section 22 (7) (a) of Ordinance No. NS-1178 is hereby amended by adding the following new paragraph:

(iii) The bottom of all openings shall be no higher than one foot above grade.

Section 8. Sections 25 (8) and (11) of Ordinance No. NS-1178 are hereby repealed.

Section 9. Section 25A as follows is hereby added to and made a part of Ordinance No. NS-1178

Section 25. Manufactured Homes

(1) General Provisions.

(a) Manufactured homes parks are permitted with site plan review approval in the RM and RH zones in accordance with the standards of this Section and the standards for site plan approval.

(b) In addition, manufactured home parks and subdivision may be planned under the provisions for Planned Developments, which may be used to provide for individual ownership of manufactured homes and sites and common ownership and maintenance of other lands and facilities.

(c) Manufactured home subdivision for Class A manufactured homes are permitted with site plan approval in the RS zone in accordance with the standards in this section and all other provisions of this ordinance. Manufactured home subdivisions for Class B manufactured homes are permitted as a conditional use in the RS zone in accordance with the standards of this ordinance.

(d) Nothing in these provisions shall be interpreted as superseding deed covenants or restrictions.

(e) Same Standards Apply as for Conventional Development. Except as specified otherwise by this Section, the standards for subdividing and developing land within manufactured home parks and subdivisions shall be the same as for all other developments in accordance with the provisions of this ordinance.

(f) State Requirements. Where standards for manufactured home developments are established by state law or Department of Commerce Administrative Rule, such requirements shall be in addition to the provisions of this Section.

(g) Manufactured Housing Construction and Safety Standards Code (also referred to as the HUD Code). Title VI of the 1974 Housing and Community Development Act (42 U.S.C. 5401 et sequentia), as amended (previously known as the federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder (including information supplied by the home manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, and agent of the U. S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of said code by the Oregon Department of Commerce, all of which became effective for mobile/manufactured home construction on June 15, 1976, shall be utilized as the minimum construction standard of the City of Bend to which all manufactured home placements shall comply except as may be exempted by this Section.

(h) Definitions. For purposes of this Section only, the definitions of terms used herein and not defined in Section 4 of this Ordinance shall be as defined in ORS Chapter 446 or Oregon Administrative Rules Chapter 814, Division 23 as amended.

(2) Manufactured Home Classes. For purposes of these regulations, manufactured homes are divided into the following types:

(a) A Class A manufactured home shall:

1. Have more than one thousand (1,000) square feet of occupied space in a double-section or larger multi-section unit;

2. Be placed onto a permanent foundation as specified in Paragraph 2 of Subsection C;

3. Have wheels, axles, and hitch mechanisms removed;

4. Have utilities connected, in accordance with Oregon Department of Commerce requirements and manufacturer's specifications.

5. Bear an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code and is either:

   a. A new, not previously occupied unit; or

   b. The unit is found upon inspection to be in good condition and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.

6. Have shake, shingle, composition, or tile roofing materials similar in appearance to the most predominant type in the area. The roof pitch shall be a minimum of 3/12;

7. Siding materials and trim shall be similar in appearance or complementary to other homes in the area including the type, color, and horizontal or vertical placement of materials;

8. If a garage or carport will be provided, it shall be of like materials and color to the dwelling.

9. The location and design of porches, patios, driveways, walkways, and landscaping shall be reflective of and complementary to the features of homes in the area;

10. If new and previously unoccupied, shall be certified to meet energy efficiency performance standards equivalent to energy efficiency standards required of homes conforming to the Uniform Building Code.

(b) A Class B manufactured home shall:

1. Have more than seven hundred fifty (750) square feet of occupied space in a single, double, expando, or multi-section unit (including those with add-a-room units);

2. Be placed onto a permanent foundation as required in Section 25 (3) (b) of this ordinance.

3. Have wheels, axles, and hitch mechanisms removed.

4. Have utilities connected in accordance with manufacturer's specifications and Oregon Department of Commerce requirements;

5. Bear an insignia of compliance with the Manufactured Housing Construction and Safety Standard Code as of June 15, 1976.

6. Have composition, shake, shingle, or tile roofing materials and a minimum pitch of 2/12;

7. Have nonreflective siding materials and trim typical of new conventional built homes within the community;

8. Have a carport or garage of like materials and color;

9. Be in good repair and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.

(c) A Class C manufactured home shall:

1. Have more than three hundred and twenty (320) square feet of occupied space in a single, double, expando, or multi-section unit (including those with add-a-room units);

2. Be placed onto a support system in accordance with approved installation standards as specified in Section 25 (3) (b);

3. Be enclosed with foundation siding/skirting in accordance with approved installation standards as specified in Section 25 (3) (b);

4. Have utilities connected in accordance with manufacturer's specifications and Oregon Department of Commerce requirements;

5. Bear an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976.

6. Be in good repair and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.

(d) A Class D manufactured home is any such unit built prior to June 15, 1976, and under ORS Chapter 481 is not defined as a recreation vehicle. For purposes of determining appropriateness for placement, Class D manufactured homes shall:

1. Have more than three hundred and twenty (320) square feet of occupied space;

2. Be placed onto support system in accordance with approved installation standards as specified in Section 25 (3) (b).

3. Be enclosed with foundation siding/skirting in accordance with approved installation standards as specified in Section 25 (3) (b).

4. Have utilities connected in accordance with manufacturer's specifications and Oregon Department of Commerce requirements;

5. Be in good repair and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.

(3) Manufactured Home Placement Standards. All manufactured homes placed within the City after the effective date of adoption of this ordinance shall comply with the following:

(a) As defined in Section 25 (2), each manufactured home shall be classified as Class A, B, C, or D, and shall be permitted within the following areas:

1. Class A - Permitted in manufactured home subdivisions in the RS zone and in manufactured home parks, and as replacements to existing nonconforming manufactured homes.

2. Class B - Permitted in manufactured home subdivisions approved as a conditional use in the RS zone and manufactured home parks; also permitted as replacements to existing nonconforming manufactured homes which would classify as Class B, C, or D.

3. Class C - Permitted in all manufactured home parks. Also allowed as replacements to existing nonconforming manufactured homes in a manufactured home subdivision or park for units which would classify as Class C or D and as replacements to any other Class D unit.

4. Class D - Permitted only in manufactured home parks.

(b) Foundations/Skirting Support Systems:

1. All load bearing foundations, supports, and enclosures shall be installed in conformance with the Oregon Department of Commerce regulations and with the manufacturer's installation specifications (Reference OAR, Chapter 814, Division 23). Where required, all perimeter foundations shall be constructed in accordance with the "Oregon State Structural Specialty Code."

2. All Class A and Class B manufactured homes outside of manufactured home parks shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled.

3. Classes A and B manufactured homes inside of manufactured home parks and Classes C and D manufactured homes must have perimeter foundations as specified above or be installed with an approved foundation siding/skirting enclosing the entire perimeter of the home. Foundation siding/skirting and backup framing shall be weather-resistent, noncombustible, or self-extinguishing materials which blend with the exterior siding of the home. Below-grade level and for a minimum distance of six (6) inches above finish grade, the materials shall be resistant to decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendation or approved equal standards.

(c) Except for a structure which conforms to the state definition of a mobile home accessory structure, no other extension shall be attached to a manufactured home, except a garage or carport constructed to the Oregon State Structural Specialty Code.

(d) All manufactured home lots and spaces shall be provided with storm drainage, sanitary sewer, electric, telephone, and potable water utility services with easements dedicated where necessary to provide such services. All such utilities shall be located underground unless waived by the Planning Director where underground service would require an exception to local prevalent conditions.

(e) Manufactured homes shall not be used for living purposes unless connected to local water, sewers, and electrical systems.

(4) Placement Permits.

(a) Requirements. Prior to the location, relocation, or establishment of any manufactured home, the homeowner or authorized representative shall secure from the Building Official a placement permit which states that the building and its location conform with this ordinance. Each application for a placement permit shall be accompanied by:

1. A plot plan as required for all dwelling units but which at a minimum includes elevations or photographs of all sides of the home, exterior dimensions, roof materials, foundation support system, and enclosure design;

2. A copy of the manufacturer's approved instructions which will be used for installation purposes, where applicable;

3. Such other information as may be required by the Building Official or Planning Director for proper enforcement of this ordinance.

4. An agreement signed by the homeowner or authorized representative pledging compliance with the terms set by the Building Official in the placement permit; and

5. For a manufactured home park, these requirements may be consolidated with concurrence of the Building Official for multiple placement in accordance with the approved park plan.

(b) Issuance of Permit. After receipt of the information required for the Placement Permit, the Building Official shall review the standard set forth in this ordinance. If the applicant has met all required standards, then within ten (10) working days, the placement permit shall be issued.

(c) Additional Action Necessary. If, after receipt of the information required for a placement permit, the Building Official finds that the applicant has not fully met the standards set forth in this ordinance, and the changes or additional actions needed are deemed by the Building Official to be relatively minor or simple, within ten (10) working days a conditional approval may be issued with the stated conditions which must be met prior to occupancy spelled out and the reasons for change clearly stated in writing. If the applicant agrees in writing to the further conditions, approval is given and the applicant proceeds. If the applicant does not agree, the application is denied with reasons stated in writing.

(d) Denial of Permit. The Building Official may, in writing, suspend or revoke a Placement Permit issued under the provisions of this ordinance whenever such permit has been issued in error or on the basis of incorrect information or upon the failure of the applicant to comply with minimum standards or conditions upon which the permit approval was issued.

(5) Certificate of Completion

(a) Occupancy Requirement. Prior to the occupancy of any manufactured home, the homeowner or authorized representative shall secure from the Building Official a Certificate of Completion stating that the building and its use comply with all provisions of the ordinance applicable to the building or the use in the zone in which it is to be located.

(b) Issuance of Certificate. After request for a Certificate of Completion, the Building Official shall inspect the property and make such referrals to other local officials for technical determinations, as he deems appropriate, for conformance with conditions of the Placement Permit and the standards set forth in this ordinance. If the applicant has conformed with all of the required conditions and standards, a Certificate of Completion shall be issued.

(c) Temporary Certificate. If, after request for Certificate of Completion and the examination by the Building Official, it is found that the applicant has not fully met the required conditions and standards, a temporary Certificate of Completion, along with a written statement of necessary modifications, may be issued for a period not to exceed thirty (30) days pending completion of the modifications.

(d) Denial of Certificate. If any of the major conditions or standards have not been complied with, the Certificate of Completion shall not be issued and the home shall not be occupied until such conditions or standards have been met.

(6) Manufactured Home Subdivisions

(a) Minimum Area Required. A manufactured home subdivision shall consist of a minimum area of five acres. Manufactured home subdivisions for Class B manufactured homes or manufactured home subdivisions or expansions thereof less than five acres in size may be considered by Conditional Use Permit application.

(b) Lot Size and Dimension Requirements. The minimum lot area and dimensions within a manufactured home subdivision shall be the same as that allowed within the zone.

(c) Permitted Uses. Manufactured home subdivisions may contain manufactured homes, and related accessory structures.

(d) Setbacks. Setbacks for manufactured homes, modular homes, and accessory structures shall be the same as provided in the zone except that no manufactured home shall be located within 15 feet of another manufactured home.

(7) Manufactured Home Parks

(a) Minimum area Required. All manufactured home parks shall consist of a minimum area of five acres.

(b) Density. The maximum number of manufactured homes allowed within a manufactured home park shall not exceed 10 units per acre. The average area of a mobile home site shall not be less than 4,000 square feet excluding roadway, recreation areas, and other accessory facilities. No manufactured home site shall be less than 2,000 square feet in area.

(c) Access. Manufactured home park accesses shall be located on public streets improved to a minimum width of 36 feet and which are improved to a point intersecting a collector or arterial street.

(d) Permitted Uses. Manufactured home parks may contain manufactured homes and accessory structures permitted in Section 25, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a manufactured home for the use of a caretaker or a manager responsible for maintaining or operating the property.

(e) Minimum Site Requirements.

1. Park Streets. The minimum surfaced width of the roadway within an accessway shall be 24 feet if there is no parking allowed and 30 feet if parking is allowed on both sides. The first 50 feet of the accessway measured from the public street shall be surfaced to a minimum width of 30 feet and shall be connected to the existing public street according to plans approved by the City Engineer.

2. Improvement Standards. The improvement of driveways, walkways, streets, drainage and other utilities shall conform to adopted State standards for such or shall conform to the City's standard specifications manual, whichever is more restrictive.

Section 10. Section 29 of Ordinance No. NS-1178 is hereby amended to read as follows:

Section 29. Conditional Use Permits.

(1) Purpose. In certain zones, Conditional Uses may be permitted subject to the granting of a Conditional Use Permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, Conditional Uses require special consideration so that they may be properly located with respect to the objectives of this Ordinance and their effect on surrounding properties.

(2) [Hearings Body] Approval Authority. The [Hearings Body] Approval Authority shall have the authority to approve, approve with conditions, or disapprove [, or revoke] Conditional Use Permit subject to the provisions of this section.

(3) General Conditional Use Permit Criteria. A Conditional Use Permit may be granted only upon findings by the [Hearings Body] Approval Authority that the proposal meets all of the criteria in this section, as well as all other applicable criteria contained in this Ordinance. The general criteria are:

(a) That the location, size, design and operating characteristics of the proposed use are such that it will have a minimal adverse impact on the property value, livability and permissible development of the surrounding area. Consideration shall be given to compatibility in terms of scale, coverage, and density, to the alteration of traffic patterns and the capacity of surrounding streets, and to any other relevant impact of the proposed use.

(b) That the site planning of the proposed use will, as far as reasonably possible, provide an aesthetically pleasing and functional environment to the highest degree consistent with the nature of the use and the given setting.

(c) If the use is permitted outright in another zone, that there is substantial reason for locating the use in an area where it is only conditionally allowed, as opposed to an area where it is permitted outright.

(d) That the proposed use will be consistent with the purposes of this Ordinance, the Comprehensive Plan, Statewide Goals, and any other statutes, ordinances or policies that may be applicable.

(4) Application. A request for a Conditional Use may be initiated by a property owner or his authorized agent by filing an application with the City Planning Director. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The [Hearings Body] Approval Authority may request other drawings or material essential to an understanding of the proposed use and its relationship to the surrounding properties.

[(5) Public Hearings. Before a Conditional Use is permitted, the proposed Conditional Use shall be considered by the Hearings Body at a public hearing. Notice of said hearing shall be given as provided in section 35.]

[(6) Action by the Commission. The Hearings Body may approve, approve with conditions, or disapprove the application for a Conditional Use Permit subject to the standard procedures of section 35. In permitting a Conditional Use the Hearings Body may impose in addition to regulations and standards expressly specified in this Ordinance, other conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the City as a whole. Any future enlargement or alteration of the use shall be reviewed by the City and new conditions may be imposed.]

[(a) In order to grant any Conditional Use, the Hearings Body must find that the establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the City.]

[(b) A Conditional Use Permit shall become void after one year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted in the premises. The Hearings Body may extend the permit for a period of one year.]

[(7) Effect. No building or other permit shall be issued in any case where a Conditional Use Permit is required by the terms of this Ordinance until five days after the approval of the conditional Use by the Hearings Body. An appeal from an action of the Hearings Body shall automatically stay the issuance of a building or other permit until such appeal has been completed.]

([8] 6) Violation of Condition. The [Planning Commission, on its own motion,] Approval Authority may revoke any Conditional Use Permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing as provided in section 35. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a Conditional Use Permit.

[(9) Time Limit on Approval of a Conditional Use. Authorization of a Conditional Use shall be void after one year unless a building permit has been issued and substantial construction has taken place. However, the authorization may be extended for an additional year on request and approval of the Hearings Body.]

[(10) Special Requirements. The request for a building to exceed 45 feet in height shall be considered in light of the Fire Department's fire fighting apparatus and the location of that apparatus. The community should have adequate apparatus before taller structures are allowed.]

[(11) Notification of Action. The Hearings Body shall notify the applicant for a Conditional Use in writing of the Hearings Body's action within five days after the decision has been rendered.]

Section 11. Section 30 of Ordinance No. NS-1178 is hereby amended to read as follows:

Section 30. Planned Unit Development Approval. The purpose of Planned Unit Development Approval is to allow and to make possible greater variety and diversification in the relationships between buildings and open spaces in planned building groups, while insuring compliance with the purposes and objectives of the various zoning regulations and the intent and purpose of this Ordinance.

(1) [Hearings Body] Approval Authority Required. Where use is made of the Planned Unit Development process as provided in this section, no building or other permit shall be issued for such development or part thereof until the [Hearings Body has approved said development] Planned Unit Development has been approved as a Type II development.

(2) Application. The owner or authorized agent may file an application for Planned Unit Development Approval [with the Hearings Body]. The application shall be accompanied by a filing fee in an amount established by the City Commission.

(3) Minimum Size for Planned Unit Developments. No application shall be made for an area of less than 10 acres in any "R" Zone, or for an area of less than 4 acres in any other zone.

(4) Limitation on Application. No application shall be accepted for a use which will require a change of zone unless accompanied by an application for a zoning amendment as set forth in section 33.

(5) Plan Required. All applications shall be accompanied by a general development plan drawn to scale showing the use or uses, dimensions and locations of proposed structures and of areas to be reserved for vehicular and pedestrian circulation, parking, public uses, landscaping and other open spaces, and drawings and sketches demonstrating the design and character of the proposed uses and the physical relationships of the uses. Such other pertinent information shall be included as may

be considered necessary by the [Planning Commission] Approval Authority to make a determination that the contemplated arrangement or use makes it necessary and desirable to apply regulations and requirements differing from those ordinarily applicable under this Ordinance and the Subdivision Ordinance.

[(6) Public Hearing. A public hearing shall be held by the Hearings Body on a Planned Unit Development. Notice for this hearing shall be given as set forth in section 35.]

([7] 6) Standards for Approval. In granting approval for Planned Unit Developments the [Commission] Approval Authority shall be guided by the following:

(a) The applicant has, through investigation, planning and programming, demonstrated the soundness of his proposal and his ability to carry out the project as proposed, and that the construction shall begin within six months of the conclusion of any necessary action by the City, or within such longer period of time as may be established by the [Hearings Body] Approval Authority.

(b) The proposal conforms with the general plans of the City in terms of location and general development standards.

(c) The project will accrue benefits to the City and the general public in terms of need, convenience, service and appearance sufficient to justify any necessary exceptions to the regulations of the Zoning and Subdivision Ordinance.

(d) The project will satisfactorily take care of the traffic it generates by means of adequate off-street parking, access points and additional street right-of-way and improvements and any other traffic facilities required.

(e) The project will be compatible with adjacent developments and will not adversely affect the character of the area.

(f) The project will satisfactorily take care of sewer and water needs consistent with City policy and plans.

(g) A Planned Unit Development shall not be approved in any "R" Zone if the housing density of the proposed development will result in an intensity of land use greater than permitted by the Comprehensive Plan.

([8] 7) Standards and Requirements. Approval of a request for a Planned Unit Development is dependent upon the submission of an acceptable plan and satisfactory assurance that it will be carried out. The following minimum standards and requirements shall apply:

(a) A dwelling use permitted in any zone may be permitted in a PUD.

(b) A mobile home may be permitted in a PUD. However, mobile home parks shall not be allowed in any commercial or industrial zone.

(c) Developments which either provide for or contemplate private streets and ways and common areas which will be or are proposed to be maintained by the owners of units or lots within a development must organize and maintain an owner's association. The owner's association shall consist of all the owners of units or lots within the development and membership in the association must be required of all owners; adopt and record bylaws as provided by ORS 91.555; adopt bylaws that contain the provisions required by ORS 91.560; and have the power to create a lien upon the unit or lot for services, labor or material lawfully chargeable as common expenses as provided in ORS 91.580. The association's power to create such a lien shall exist whether or not the property is submitted to the Oregon Unit Ownership Law (ORS 91.505 - 91.675).

(d) If the property is not submitted to the Unit Ownership Law the association shall also create by contract the right to claim a lien upon any unit or lot for services, labor or material chargeable as common expenses. This lien may be created by covenants between the association and the property owners and shall supplement the lien created by (c) above, be approved by the City and require all

owners of units or lots within the development to consent to and pay the reasonable value of services, labor or material expended by the City for common expenses where such City expenditures are made because the owners or the owner's association does not provide the necessary services, labor or material for common expenses.

(e) Streets and roads in PUD designated developments shall be public roads and ways developed to City standards or be private roads of a minimum 14 feet wide paved surface for one-way traffic; minimum 20 feet wide paved surface for two-way traffic; parallel parking as permitted shall require minimum additional 8 feet of width for each side of parking. In addition to these requirements the hearings body may specify other requirements including but not limited to increased or decreased pavement width.

(f) Pedestrian walkways shall be provided for adequate pedestrian and bicycle traffic; shall be constructed with Portland cement or asphaltic concrete to City Standards except as varied by the provisions of this section or by the [Hearings Body] Approval Authority.

(g) All utility facilities shall be installed underground and in accordance with City standards.

(h) The design of all PUD projects shall provide direct access for all units and lots to open space areas and facilities.

(i) A statement relative to the solar access to be provided by the planned unit development.

([9] 8) [Hearings Body] Approval Authority Action. In taking action, the [Hearings Body] Approval Authority may approve, approve with conditions, or deny an application as submitted. Any Planned Unit Development as authorized shall be subject to all conditions imposed and shall be excepted from other provisions of this Ordinance only to the extent specified in said authorization. [Any approval of a Planned Unit Development granted hereunder, shall lapse and become void unless, within 12 months after the final granting of approval or within such other period of time as may be stipulated by the Hearings Body as a condition of such approval, construction of the buildings or structures involved in the development has begun and been diligently pursued. The Hearings Body may further impose other conditions limiting the time within which the development of portions thereof must be completed. The decision of the hearings body shall be final unless appealed to the City Commission according to the procedures set forth in Section 34.]

[(10) Violation of Conditions. The hearings body on its own motion may revoke any Planned Unit Development approval for noncompliance with the conditions set forth in the order granting the said approval, after first holding a public hearing and giving notice of such hearing as provided in Section 35. The foregoing shall not be the exclusive remedy, and it shall be unlawful and an offense punishable hereunder for any person to construct any improvement in violation of any condition imposed by the order granting the Planned Unit Development Approval.]

Section 12. Section 31 of Ordinance No. NS-1178 is hereby amended to read as follows:

Section 31. Variances.

(1) Authorization to Grant or Deny Variances. Except as provided for in Subsection (3), the [Hearings Body] Approval Authority may authorize variances from the standards of this ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this ordinance would cause an undue or unnecessary hardship; except that no variance shall be granted to allow the use of the property for purposes not authorized within the pertinent zone, or to alter any procedural requirements of this ordinance. In granting a variance, the [Hearings Body] Approval Authority may attach conditions found necessary to protect the best interest of the surrounding property or neighborhood and to otherwise achieve the purposes of this ordinance.

(2) Type A Criteria. No variance shall be granted pursuant to the provisions of Subsection (1) unless the applicant can establish:

(a) That special conditions exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings, or structures in the same zone.

(b) That strict interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zone under the terms of this ordinance.

(c) That the special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience.

(d) That granting the variance will be in harmony with the objectives of this ordinance, and not injurious to the neighborhood or otherwise detrimental to the public welfare.

(3) Authorization to Grant or Deny Variances to On-Site Requirements. The Planning Director or, if the variance is reviewed in conjunction with site plan review, the Site Plan Committee may authorize a variance from the standards of this ordinance relating to on site requirements (e.g. yards, parking, etc.) Provided, however, that no variance under this section shall be greater than 25% of the requirement from which the variance is sought.

(4) Type B Criteria for Variances Granted Under Subsection 3.

(a) In the case of a yard variance, the applicant shall show the approval will result in:

(i) More efficient use of the site.

(ii) Preservation of natural features, where appropriate.

(iii) Adequate provisions of light and privacy to adjoining properties.

(iv) Natural features of the site (topography, vegetation and drainage) which would be adversely affected by application of required parking standards.

(b) For variances to other on site requirements of 25% or less the applicant shall show that approval of the variance will be consistent with the overall objectives of the Comprehensive Plan and this Ordinance where applicable and that the variance will have a minimal adverse impact on the livability, value or development of abutting properties and the surrounding area.

(5) Application for a Variance. A property owner may initiate a request for a variance by filing an application with the Planning Director. The application shall be accompanied by a plan, drawn to a suitable scale, showing the condition to be varied and the dimensions and arrangement of the proposed development. The application shall be reviewed in the manner provided for in the City of Bend's land use procedures.

Section 13. Section 32 of Ordinance No. NS-1178 is hereby amended to read as follows:

Section 32. Revocation of Permits or Variances.

[(1) Revocation of Permits, Automatic if not Used. Any Planned Unit Development Permit, Conditional Use Permit or Variance granted in accordance with the terms of this Ordinance shall be deemed revoked if not used within one year from the date of approval or such time as specified by the Planning Commission. Said permit shall not be deemed used until the applicant has actually obtained a building permit and commenced construction thereunder, or has actually commenced the permitted use on the premises.]

([2] 1) Revocation for Noncompliance with Conditions. Any Planned Unit Development Permit, Conditional Use Permit or Variance granted in accordance with the terms of this Ordinance may be revoked if any of the

conditions or terms of such permit or variance are violated, or if any law or ordinance is violated in connection therewith. If, after notice and hearing, a Planned Unit Development is revoked for a substantial violation of any of its conditions, the City Commission may reconsider any zone change granted in connection with the Planned Unit Development and restore the zoning existing prior to the permit notwithstanding improvements constructed prior to such revocations, but any such proposed change of zone shall follow the procedures otherwise specified for zone changes herein.

([3] 2) Public Hearing. The [Planning Commission] Approval Authority shall hold a public hearing on any proposed revocation after giving written notice to the permittee and to other owners of property as set forth in section 35. The [Planning Commission] Approval Authority shall render its decision within 45 days after the conclusion of the hearing. In case the permittee is not satisfied with the action of the Commission, he may appeal the [Planning Commission] Approval Authority decision to the City Commission in the manner provided in this section and section 35.

Section 14. Section 33 of Ordinance No. NS-1178 is hereby amended to read as follows:

Section 33. Amendments. This Ordinance may be amended by changing the boundaries of zones or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment. Such a change may be proposed by the City Commission on its own motion or by motion of the Planning Commission, or by petition as hereinafter set forth. [Any such proposed amendment or change shall first be submitted to the Planning Commission and the Planning Commission shall, within 40 days after a hearing, recommend to the City Commission approval, disapproval or modification of the proposed amendment.]

(1) Application. An application for amendment by a property owner or his authorized agent shall be filed with the City Planning Director. The application shall be made on the forms provided by the City. Before taking final action on a proposed amendment, the Approval Authority shall hold a public hearing thereon. The Approval Authority shall follow the procedures set forth in the city of Bend's land use procedures for map changes.

[(2) Public Hearing on an Amendment. Before taking final action on a proposed amendment, the Hearings Body shall hold a public hearing thereon. The Hearings Body shall follow the procedures set forth in the City of Bend's land use procedures for map changes. For amendments to the text, notice of the time and place of the public hearing before the Hearings Body and of the purpose of the proposed amendment shall be given by three publication[s] in a newspaper of general circulation in the City at least ten days prior to the date of the hearing.]

([3] 2) Standards for Zone Change. The burden of proof is upon the one seeking change. The degree of that burden increases proportionately with the degree of impact of the change which is sought. The applicant shall in all cases establish:

(a) That the change conforms with the Comprehensive Plan. Specifically, the change is consistent with the plan's intent to promote an orderly pattern and sequence of growth.

(b) That the change will not interfere with existing development on, development potential, or value of other land in the vicinity of the proposed action.

(c) That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

(d) That the change will result in the orderly and efficient extension or provisions of public services. Also, that the change is consistent with the City of Bend policy for provision of public facilities.

(e) That there is proof of a change of circumstance or a mistake in the original zoning.

([4] 3) Action by the City Commission. The City Commission may enact an ordinance granting the zone change or amendment, or may by motion deny the granting of the zone change or amendment.

(4) Text Amendments. For amendments to the text, notice of the time and place of the public hearing before the Approval Authority and of the purpose of the proposed amendment shall be given by publication in a newspaper of general circulation in the City at least ten days prior to the date of the hearing.

(5) Record of Amendments. The signed copy of each amendment to the text and the map of this Ordinance shall be maintained on file in the office of the City Recorder. A record of such amendments shall be maintained in a form convenient for the use of the public.

(6) Resolution of Intent to Rezone. If, from the facts presented and findings and the report and recommendations of the [Planning Commission] Approval Authority as required by this section, the City Commission determines that the public health, safety, welfare and convenience will be best served by a proposed change of zone, the City Commission may indicate its general approval in principal of the proposed rezoning by the adoption of a "resolution of intent to rezone." This resolution shall include any conditions, stipulations or limitations, which the City Commission may feel necessary to require in the public interest as a prerequisite to final action, including those provisions which the City Commission may feel necessary to prevent speculative holding of the property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such a resolution a binding commitment on the City Commission. Such a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning. Upon completion of compliance action by the applicant, the City Commission shall by ordinance effect such rezoning. The failure of the applicant to meet any or all conditions, stipulations or limitations contained in the resolution, including the time limit placed in the resolution, shall render the resolution of intent to rezone null and void, unless an extension is granted by the City Commission upon recommendation of the Planning Commission.

(a) Content of Site Plan. Where a site plan is required pursuant to section 23, it shall include location of existing and proposed buildings, structures, accesses, off-street parking and loading spaces and landscaping; topography, existing and proposed; mechanical roof facilities if subject property is so oriented as to become part of the view from adjacent properties; architectural perspective, layout and all elevations drawn without exaggeration except where noted including locations, area and design of signs and all landscaping.

(b) Resolution of Intent Binding. The fulfillment of all conditions, stipulations and limitations contained in the resolution of intent, on the part of the applicant, shall make the resolution binding on the City Commission. Upon compliance with the resolution by the applicant, the City Commission shall by ordinance effect such reclassification.

(c) Resolution of Intent Void Upon Failure to Comply. The failure of the applicant to substantially meet any or all conditions, stipulations or limitations contained in a resolution of intent, including the time limit placed in the resolution, shall render said resolution null and void, unless an extension is granted by the City Commission upon recommendation of the Planning Commission.

Section 15. Section 23 (9) of Ordinance No. NS-1178, is hereby amended by deletion of subparagraphs (a) through (h):

(9) Required Minimum Standards.

[(a) Landscaping Requirements.

1. A minimum of 15% of the area of a project shall be landscaped for multifamily, commercial, and industrial developments, subject to site plan approval.

2. In addition to the requirements of subpart (i) of subsection (a) above, a parking or loading area exceeding 20 parking stalls shall be required to be improved with defined landscaped areas totaling no less than 15 square feet per parking space.

(b) A landscaped strip separating a parking or loading area from a street shall contain:

1. Street trees spaced as appropriate to the species, not to exceed 50 feet apart, on the average; and

2. Low shrubs, not to reach a height greater than 3'0", spaced no more than eight feet apart, on the average; and

3. Vegetative ground cover spaced as appropriate to the species.

(c) Landscaping in a parking or loading area shall have a width of not less than five feet. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

(d) Provision shall be made for the irrigation of planting area.

(e) Required landscaping shall be continuously maintained.

(f) Shared Areas. Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development as follows:

1. Units with one or two bedrooms: 200 square feet of lawn per unit.

2. Units with three or more bedrooms: 300 square feet of lawn per unit.

(g) Storage. Areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc.

(h) Drainage. Surface drainage shall be contained on site.]

Section 16. Section 23 (9) is hereby amended to read as follows:

(9) Required Minimum Standards.

(a) Minimum Landscaping Standards. All developments subject to site plan approval shall meet the following minimum standards for landscaping:

(i) A minimum of 15 percent of the area of a project shall be landscaped for multifamily, commercial, and industrial developments subject to site plan approval.

(ii) Street Trees. The placement, spacing, and pruning of street trees shall be as follows, provided that the site plan committee can adjust the placement standard for special site conditions:

a. Street trees shall be located a minimum of three feet from the face of a curb.

b. Trees shall be placed a maximum of thirty feet apart. Trees shall be evenly spaced, with variations to the spacing permitted for specific site limitations and safety purposes.

c. An approved tree grate shall be used for trees planted in paved or concrete areas.

d. As trees grow they shall be pruned to provide a minimum clearance of eight feet above sidewalk and fourteen feet above streets, alleys, or roadway surfaces.

e. Existing trees may be used as street trees if they are not killed or damaged from any new development. Sidewalks of variable width and elevation may be utilized to save existing street trees.

f. Existing street trees removed by development projects shall be replaced by the developer with those from the approved street tree list which is maintained by the City Planning Department.

(iii) Areas of commercial and industrial zones used for vehicle maneuvering, parking, loading, or storage, shall be landscaped and screened as follows:

a. Landscape coverage of the landscape area shall be fifty percent at the time of installation and ninety percent at five years.

b. Parking lot landscaping shall consist of a minimum of seven percent of the total parking area plus a ratio of one tree per ten parking spaces to create a canopy effect.

c. Landscape buffers between parking areas and streets shall have a minimum width of three feet with no car overhang and eight feet with a car overhang.

d. Landscape buffers between parking abutting a property line shall have a minimum width of three feet.

e. Front or exterior yard landscaping may not be substituted for the interior landscaping required for interior parking stalls.

f. There shall be a minimum distance of five feet between parking areas and buildings in parking areas adjacent to residential dwellings and a five foot minimum height and width of continuous evergreen hedge screen (or five foot minimum height of wall or fence) in two years.

g. There shall be a minimum width of ten feet for landscape buffers between buildings adjacent to streets.

h. Landscape buffers shall consist of evergreen ground cover and shrubs mixed with a variety of flowering and deciduous plant species of trees and shrubs.

i. Landscaping in a parking or loading area shall have a width of not less than five feet. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

(iv) Provision shall be made for the irrigation of planting area.

(v) Required landscaping shall be continuously maintained.

(vi) Vegetation planted in accordance with an approved site plan shall be maintained by the owner, any heir, or assign. Plants or trees that die or are damaged shall be replaced and maintained.

(b) Shared Areas. Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development as follows:

(i) Units with one or two bedrooms: 200 square feet of lawn per unit.

(ii) Units with three or more bedrooms: 300 square feet of lawn per unit.

(c) Storage. Areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc.

(d) Drainage. Surface drainage shall be contained on site.

Read for the first time the 6th day of July, 1988

Read for the second time the 20th day of July, 1988

Placed upon its passage the 20th day of July, 1988

YES: 7 NO: 0

Approved by the Mayor the 20th day of July, 1988

Mayor

ATTEST:

Recorder-Treasurer

ORDINANCE NO. NS-1476

AN ORDINANCE ADOPTING CHAPTER 10 OF THE CITY OF BEND CODE ENTITLED "PLANNING" AND REPEALING ORDINANCE NO. NS-1289.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City of Bend hereby adopts Bend Code Chapter 10, a copy of which is attached hereto and incorporated by reference herein.

SECTION 2. Ordinance No. NS-1289 is repealed.

SECTION 3. This ordinance shall not affect any offense or act committed or done, or any penalty or forfeiture incurred or any prosecution, suit or proceeding pending at the time this ordinance is enacted, or any judgment rendered prior to the time this ordinance is enacted.

SECTION 4. If any portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Read for the 1st time this 6th day of July, 1988.

Read for the 2nd time this 20th day of July, 1988.

Placed upon its passage this 20th day of July, 1988.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 20th day of July, 1988.

MAYOR

ATTEST:

Recorder-Treasurer, City of Bend

CHAPTER 10

PLANNING

PRESERVATION OF HISTORIC BUILDINGS AND SITES

10.100 Purpose. Districts, buildings and sites in the City of Bend that have special historic and prehistoric association or significance should be preserved as a part of the heritage of the citizens of the city and for the education, enjoyment and pride of the citizens, as well as the beautification of the city and enhancement of the value of such property. To that end, the regulatory controls and administrative procedures contained in Bend Code 10.100 to 10.126 are necessary.

10.102 Administration. This ordinance shall be administered by the Landmarks Commission. The Landmarks Commission shall be appointed by the Deschutes County Board of Commissioners and the Mayor of the city in accordance with County Ordinance No. PL-21 and shall act in accordance with County Ordinance No. PL-21 and this ordinance.

10.104 Definitions. For purposes of Bend Code 10.100 to 10.126, the following terms are defined as indicated:

(1) Alteration: The word "alteration" shall mean the addition to, removal of or from, or physical modification of any exterior part or portion of a structure.

(2) Architectural Significance: The term "architectural significance" shall mean that the structure building or district (a) portrays the environment of a group of people in an era of history characterized by a distinctive architectural style, or (b) embodies those distinguishing characteristics of an architectural type, or (c) is the work of an architect or master builder whose individual work has influenced the development of the city, or (d) contains elements of architectural design, detail, materials, or craftsmanship which represent an architectural innovation.

(3) City: The word "City" shall mean the City of Bend.

(4) Demolish: The word "demolish" shall mean to raze, destroy, dismantle, deface or, in any other manner, cause partial or total ruin of a designated structure.

(5) Exterior: The word "exterior" shall mean any portion of the outside of a designated historic structure and/or building or a structure and/or building in a designated historic district or any addition thereto.

(6) Historical Significance: The term "historical significance" shall mean that the structure or historical district (a) has character, interest, or value as part of the development, heritage, or cultural characteristics for the city, county, state, or nation; (b) is the site of a historic event with an effect upon society; (c) is identified with a person or group of persons who had some influence on society, or (4) exemplifies the cultural, political, economic, social, or historic heritage of the community.

(7) Landmarks Commission: This term shall mean the Deschutes County Historical Landmarks Commission.

(8) A "major alteration" is an alteration which affects the historical or architectural significance of a structure or building.

(9) A "minor alteration" is an alteration which does not affect the historical or architectural significance of a structure.

(10) Structure: Anything constructed or built, any edifice or building or any kind, or any pieces of work architecturally built or composed of parts joined together in some definite manner.

10.106 Criteria. The evaluation and designation of sites, structures, and historical districts shall be based on the following:

(1) The factors listed on the Deschutes County Landmarks Commission Rating Sheet, a copy of which is marked Appendix "A," attached hereto and, by

this reference, incorporated herein.

(2) Economic, social, environmental, and energy (ESEE) consequences as outlined in OAR 660-16.

10.108 Designation of Historical Building or Site.

(1) Upon receipt of a request by the Landmarks Commission to designate a particular building or site within the city limits of Bend as a historical building or site, or upon direction by the Bend City Commission on its own motion, the City Planning Department shall advise the owner of such building or site and shall fix a date and time for a public hearing before the City Commission thereon.

(2) The Planning Department shall notify the Bend Urban Area Planning Commission and shall transmit a copy of the request to the Landmarks Commission unless such a request has come from the Landmarks Commission.

(3) The Landmarks Commission shall submit its recommendation to the Bend City Commission at least 10 days prior to the public hearing. The Landmarks Commission, as part of its report, may request an inspection of the property from the building department and/or the fire prevention division to determine the condition of the building or site.

(4) At such public hearing, the owner of the property involved, a representative of the Landmarks Commission, and all other interested parties shall be entitled to be heard by the City Commission.

(5) If the City Commission determines that a building inside the city limits proposed for designation as a historical building has architectural or historical significance based upon past or present use, the Commission may designate such building as a historical building. The Commission shall use the criteria listed in Bend Code 10.106 to determine historical or architectural significance.

(6) If the City Commission finds that a particular site had a prior use involving the establishment, growth, or particular incidents relating to the history of the city, the Commission may designate the same as a historical site.

(7) If any historical building has been demolished or destroyed, the City Commission, on its own motion or upon recommendation of the Landmarks Commission, may remove the historical building designation therefrom.

(8) If the designation is proposed to be removed from any historical building or site for any other reason than set forth in Bend Code 10.108(7), then similar notices, recommendations, and hearings shall be held as upon the designation of a building or site as historical in the first instance.

(9) A historical or architecturally significant interior space or other portion of a building may be designated as a historic building in the same manner as provided in his section; provisions of this ordinance relating to historical buildings shall be applicable to such designated interior space or other portion of a building.

(10) The City Commission may make a recommendation regarding any request to designate a particular building or site within the urban growth area as a historical building or site.

(11) At the time of annexation to the city, all designated historical sites within the annexed area shall retain their historical designation and shall fall under the jurisdiction of the City unless a public hearing is held by the City to remove the historical designation from the site or structure.

10.110 Designation of Historical District.

(1) Upon receipt of a request by the Landmarks Commission to designate an area as a historical district or upon direction by the City Commission, the Planning Director shall fix a date and time for a public hearing before the City Commission thereon.

(2) The Planning Department shall notify owners within the proposed historical

district, the Bend Urban Area Planning Commission, and shall transmit a copy of the request to the Landmarks Commission unless such request has been made by the Landmarks Commission.

(3) The Landmarks Commission shall submit its recommendation to the Bend City Commission at least 10 days prior to the public hearing. The Landmarks Commission, as part of its report, may request an inspection of the property from the building department and/or the fire prevention division to determine the condition of the building or site.

(4) At such public hearing, the owners of the properties involved, a representative of the Landmarks Commission and all other interested parties shall be entitled to be heard by the City Commission.

(5) If the City Commission determines that an area proposed to be designated as a historical district has architectural or historical significance, based upon past or present use, the City Commission may designate such area as a historic district.

(6) If the City Commission determines that an area outside the city limits but inside the adopted urban growth boundary has historical significance, the City Commission may recommend to the Board of County Commissioners that such area be designated as a historical district.

(7) All sites and structures within a district need not be of historical or architectural significance, provided the district as a whole is of such importance or significance.

(8) If the primary or significant buildings within a historical district have been demolished or destroyed, the City Commission, on its own motion, may remove the historical district designation.

(9) If the designation is proposed to be removed from any historical district for any other reason than set forth in Bend Code 10.110(8), then similar notices, recommendations, and hearings shall be held as upon the designation of the historical district in the first sentence.

(10) If part or all of a designated historical district is annexed to the city, that historical district or portion thereof shall retain its historical designation and shall fall under the jurisdiction of the City unless a public hearing is held to remove the historic district designation.

10.112 Designation Not a Recommendation for Federal Action. Nothing in this ordinance nor the designation of a historical district under Bend Code 10.110 shall be interpreted as a recommendation by the City Commission supporting designation of any building or structure as a "Certified Historic Structure" for purposes of Section 191 (d), (1), (b), or (c) of the Federal Tax Reform Act of 1976.

10.114 Exterior Alteration and New Construction.

(1) No person may alter any structure within a historic district or designated historic structure in such a manner as to change its exterior appearance, nor may any new structure be constructed within a historic district unless a certificate of approval has been issued by the Landmarks Commission and the City Planning Director, provided nothing in this ordinance shall be construed to prevent ordinary maintenance or repair of exterior architectural features which does not involve a change in design or type of materials.

(2) Application for a certificate of approval shall be made to the City Planning Department and shall be referred to the Landmarks Commission for review and hearing, provided that minor alterations may be acted upon by the Planning Director or designee by administrative review.

(3) A certificate of approval is not required for ordinary maintenance and repair of a structure that does not affect historic or architectural design. All applications for a certificate of approval must be accompanied by appropriate plans and specifications.

(4) Any request for a certificate of approval must be filed prior to or in conjunction with an application for any building or land use permit.

(5) For exterior alterations of structures in a historic district or a designated historic structure, the criteria to be used by the Landmarks Commission in reaching its decision on the certificate of approval shall include the following:

(a) The reasonableness of the proposed alteration considering public interest in the structure's historical significance.

(b) Whether the alteration will be harmonious and compatible with the appearance and character of the historic structure or district.

(c) Whether the physical condition of the structure necessitates repairs or alterations.

(d) The design guidelines attached hereto as Appendix "B" and, by this reference, incorporated herein.

(6) For construction of new structures in a designated historic district, the criteria to be used in the issuance of a certificate of approval shall include the following:

(a) The economic effect of the new structure on the historical structure in the district.

(b) The effect of the proposed new structure on the historical character of the district.

(c) Whether the new structure will be harmonious and compatible with the appearance and character of the historic structure or district.

(d) The design guidelines attached hereto as Appendix "C" and, by this reference, incorporated herein.

(7) All decisions on certificates of approval shall be in writing.

10.116 Demolition, Moving or Building Condemnation.

(1) If an application is made for the demolition of any designated historic structure or a structure within an historic district, the City shall send the application for a demolition permit to the Landmarks Commission within seven days of receipt by the City.

(2) The Landmarks Commission shall hold a public hearing within thirty days of the receipt of the application by the Commission.

(3) The applicant, the owner of the property and any interested parties shall be entitled to be heard.

(4) In determining the appropriateness of the demotion as proposed in the application, the Landmarks Commission shall consider the following:

(a) Plans, drawings and photographs of the structure submitted by the parties.

(b) Information presented at a public hearing held concerning the proposed demolition.

(c) The criteria used in the original designation of the structure or district in which the structure is located.

(d) Whether delay of the permit will involve substantial hardship to the applicant and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this ordinance.

(e) Whether there is a viable economic use for the structure as it exists.

(f) Whether there is a feasible means of rehabilitation.

(g) Whether the structure poses a threat to the public health, and safety fire hazard and whether there is a technically feasible means of alleviating the public health, safety, or fire hazard.

(5) The Landmarks Commission may approve the demolition request after considering the criteria contained in Bend Code 10.116 (4).

(6) If the Landmarks Commission approves a demolition permit and no appeal is filed, the building official may issue the permit.

(7) The Landmarks Commission may suspend the application for a demolition permit if it is determined that, in the interest of preserving historical values, the structure should not be demolished. In that event, issuance of the permit shall be suspended for a period fixed by the commission as follows:

The Landmarks Commission may invoke a stay of demolition for a period not to exceed thirty days from the date of public hearing. The commission may invoke an extension of the suspension period if it determines that there is a program or project under way which could result in public or private acquisition or relocation of such structure or site and that there are reasonable grounds to believe that such program or project may be feasible. In that event, the Commission may extend the suspension period in thirty day increments to a total of not more than one hundred twenty days from the date of receipt of the demolition permit. During such period of suspension, no demolition permit shall be issued for such structure nor shall any person demolish the structure. If all proposed programs or projects are demonstrated to the commission to be impractical, the building official may issue such permit.

(8) Action by the Landmarks Commission suspending issuance of a permit for demolition may be appealed to the City Commission by the applicant for permit by filing a notice of appeal in the same manner as provided for in Bend Code 10.124.

(9) Before the City condemns a structure designated as an historical building or site or any structure within a designated historic district, the Fire Prevention Division or Building Department shall forward a report to the Landmarks Commission describing the condition of the building and the premises and the extent of its danger, deterioration or decay. The Landmarks Commission shall review the report and make a recommendation concerning city action to the City Commission before the structure is condemned.

(10) The City Commission may exempt specific structures within a designated historical district from the provisions of this section.

(11) The same procedure as state in this section for demolition shall apply to moving a building.

10.118 Record of Demolished Historical Building/Artifacts. If a designated historical building is to be demolished, insofar as practical and as funds are available, the Landmarks Commission shall keep a pictorial and graphic history of the historic building or site and obtain artifacts from the building or site which it deems worthy of preservation.

10.120 Signs/Plaques. No sign may be displayed on an historical property except for signs owned and placed by the Deschutes Historical Society.

10.122 Redevelopment and Neighborhood Improvement Projects.

(1) In any redevelopment project or neighborhood improvement project administered by a department of the city or submitted to the City Commission for its review and recommendation, the proposed action relating to a designated historical district, building, or site shall be submitted to the Landmarks Commission for its review and recommendation.

(2) A report thereon by the Landmarks Commission shall be filed with the City Commission and a copy shall be sent to the appropriate city department.

10.124 Appeals. Appeals from actions of the Landmarks Commission shall be to

the Bend City Commission and may be filed by a party who participated in the initial hearing. Appeals must be filed within fifteen days from the date of written decision by the Landmarks Commission and shall be accompanied by a fee established by the Bend City Commission. The appeal shall be conducted in conformance with the City's Uniform Land Use Procedure Ordinance.

10.126 Penalties. A violation of Bend Code 10.100 to 10.124 is a Class A infraction.

APPENDIX "A"

RATING _____

Scoring on Scale of 1-5
5 - Excellent
4 - Very Good
3 - Good
2 - Fair
1 - Poor
0 - Non-existent

BUILDING/STRUCTURE _____
LOCATION _____
TOWN/VICINITY _____

EVALUATOR _____

DATE _____

DESCHUTES COUNTY LANDMARKS COMMISSION RATING SHEET

Factors	Relative Importance		Score	Weighted Rating
1. Interpretive Potential: Property is associated with historic or famous events, is related to the broad cultural history of the nation, state, or community, or is included on the National Register of Historic Places.	3.0	x	_____	_____
2. Rarity of Type and/or Style: Property represents a period or style of architecture, or method of construction of extraordinary or unusual design, detail, materials, or craftsmanship; or is identified as the work of an architect, designer, or master builder whose work has influenced development in the nation, state or community.	2.0	x	_____	_____
3. Identification: Property is identified with a person or persons who have significantly contributed to the history of the city or county.	1.5	x	_____	_____
4. Symbolic Value: Property is identified as a unique object representing an aesthetic or educational feature of the community, or has contributed to the cultural or economic history of the area.	1.5	x	_____	_____
5. Chronology: Property was developed early in the relative scale of local history or was early expression of type or style.	1.0	x	_____	_____

APPENDIX "B"

DESIGN REVIEW GUIDELINES
ALTERATIONS/ADDITIONS

A. SITING

1. In addition to the zoning requirements, the relationship of new additions to the street and to the open space between buildings shall be compatible with adjacent historic buildings and with the historic character of the surrounding area.

2. New additions shall be sited so that the impact to the primary facades(s) is kept to a minimum. Additions shall generally be located at the rear portions of the property or in such locations where they have the least visual impact from public ways.

B. LANDSCAPE

1. Traditional landscape elements evident in the district--grass, trees, shrubs, picket fences, etc.--should be preserved and are encouraged in site redevelopment.

2. Inappropriate landscape treatments, such as berms and extensive ground cover, are discouraged.

C. BUILDING HEIGHT

1. In addition to the zoning requirements, the height of new additions shall not exceed the height of the historic building, or of historic buildings in the surrounding area.

D. BUILDING BULK

1. New additions smaller than the historic building or the historic buildings in the surrounding area are encouraged.

   (a) Where new additions must be larger, the new addition shall be articulated in such a manner that no single element is visually larger than the historic building or larger than the surrounding historic buildings.

E. PROPORTION AND SCALE

1. The relationship of height to width of new additions and their subelements, such as windows and doors and of alterations, shall be compatible with related elements of the historic building and with the historic character of the surrounding area.

2. The relationship of solids to voids (wall to window) shall be compatible with related elements on the historic building and with the historic character of the surrounding area.

F. EXTERIOR FEATURES

1. General:

(a) To the extent practicable, original historic architectural elements and materials shall be preserved.

(b) Architectural elements and materials for new additions shall be compatible with related elements of the historic building and with the historic character of the surrounding area.

(c) The preservation, cleaning, repair, and other treatment of original materials shall be in accord with the Secretary of Interior's Standards of Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

2. Foundations:

(a) Concrete or masonry foundations to replace deteriorated wood foundations are encouraged. Such new foundations shall be covered with board skirting or similar treatment to match the original appearance and extend to within six to eight inches (6" - 8") of the ground level.

(b) Concrete or masonry foundations for new additions need not be covered with material that stimulates earlier construction.

(c) New foundations shall not significantly alter the historic elevation of the building.

3. Roofs:

(a) Roofs on new additions shall be of forms (gabled, hipped, etc.) that are compatible with the historic building and the historic character of the district.

MASONRY
(Adobe, Brick, Stone, Terra Cotta, Concrete, Stucco, Mortar)

RECOMMENDED*	NOT RECOMMENDED
Retaining original masonry and mortar, whenever possible, without the application of any surface treatment.	Applying waterproofing or water repellant coating or surface consolidation treatments unless required to solve a specific technical problem that has been studied and identified. Coatings are frequently unnecessary, expensive, and can accelerate deterioration of the masonry.
Repointing only those mortar joints where there is evidence of moisture problems or when sufficient mortar is missing to allow water to stand in the mortar joint.	Repointing mortar joints that do not need repointing. Using electric saws and hammers to remove mortar can seriously damage the adjacent brick.
Duplicating old mortar in composition, color, and texture.	Repointing with mortar of high Portland cement content can often create a bond that is stronger than the building material. This can cause deterioration as a result of the differing coefficient of expansion and the differing porosity of the material and the mortar.
Duplicating old mortar in joint size, method of application, and joint profile.	Repointing with mortar joints of a differing size or joint profile, texture, or color.
Repairing stucco with a stucco mixture that duplicates the original as closely as possible in appearance and texture.	

MASONRY (Continued)

Cleaning masonry only when necessary to halt deterioration or to remove graffiti and stains, and always with the gentlest method possible, such as low pressure water and soft, natural bristle brushes.

Sandblasting, including dry and wet grit and other abrasives, brick, or stone surfaces; this method of cleaning erodes the surface of the material and accelerates deterioration. Using chemical reaction with the masonry materials, i.e., acid on limestone or marble.

Repairing or replacing, where necessary, deteriorated material with new material that duplicates the old as closely as possible.

Applying new material which is inappropriate or was unavailable when the building was constructed, such as artificial brick siding, artificial cast stone, or brick veneer.

Replacing missing significant architectural features, such as cornices, brackets, railings, and shutters.

Removing architectural features such as cornices, brackets, railings, shutters, window architraves, and doorway pediments.

Retaining the original or early color and texture of masonry surfaces, including early signage wherever possible. Brick or stone surfaces may have been painted or whitewashed for practical and aesthetic reasons.

Removing paint from masonry surfaces indiscriminately. This may subject the building to damage and change its appearance.

WOOD
(Clapboard, Weatherboard, Shingles, and Other Wooden Siding)

RECOMMENDED	NOT RECOMMENDED
Retaining and preserving significant architectural features wherever possible.	Removing architectural features such as siding, cornices, brackets, window architraves, and doorway pediments. These are, in most cases, an essential part of a building's character and appearance that illustrate the continuity of growth and change.
Repairing or replacing, where necessary, deteriorated material that duplicates in size, shape, and texture, the old as closely as possible.	Resurfacing frame buildings with new material that is inappropriate or was unavailable when the building was constructed, such as artificial stone, brick veneer, asbestos, or asphalt shingles, and plastic or aluminum siding. Such material can also contribute to the deterioration of the structure from moisture and insects.

ARCHITECTURAL METALS
(Cast Iron, Steel, Pressed Tin, Aluminum, and Zinc)

RECOMMENDED	NOT RECOMMENDED
Retaining original material, whenever possible.	Removing architectural features that are an essential part of a building's character and appearance, illustrating the continuity of growth and change.
Cleaning when necessary with the appropriate method. Metals should be cleaned by methods that do not abrade the surface.	Exposing metals which were intended to be protected from the environment. Do not use cleaning methods which alter the color, texture, and tone of the metal.

ROOFS AND ROOFING

RECOMMENDED	NOT RECOMMENDED
Preserving the original roof shape.	Changing the essential character of the roof by adding inappropriate features such as dormer windows, vents, or skylights.
Retaining the original material, whenever possible.	Applying new roofing material that is inappropriate to the style and period of the building and neighborhood.
Providing adequate roof drainage and ensuring that the roofing materials provide a weathertight covering for the structure.	
Preserving or replacing, where necessary, all architectural features that give the roof its essential character, such as dormer windows, cupolas, cornices, brackets, chimneys, cresting, and weather vanes.	Stripping the roof of architectural features important to its character.

WINDOWS AND DOORS

RECOMMENDED**	NOT RECOMMENDED
Retaining and repairing window door openings, frames, sash, glass, doors, lintels, sills, pediments, architraves, hardware, awnings, and shutters where they contribute to the architectural and historic character of the building.	Introducing or changing the location or size of windows, doors, and other openings that alter the architectural and historic character of the building.
	Replacing window and door features on significant facades with historically and architecturally incompatible materials such as anodized aluminum, mirrored or tinted glass.
	Removing window and door features that can be repaired where such features contribute to the historic and architectural character of the building.
Improving the thermal performance of existing windows and doors through adding or replacing weatherstripping and adding storm windows and doors which are compatible with the character of the building and which do not damage window or door frames.	Installing on significant facades shutters, screens, blinds, security grills, and awnings which are historically inappropriate and which detract from the character of the building.
	Installing new exterior storm windows and doors which are inappropriate in size or color, or which are inoperable, or which require removal of original windows and doors.
	Installing interior storm windows that allow moisture to accumulate and damage the window.

WINDOWS AND DOORS (continued)

RECOMMENDED	NOT RECOMMENDED
Replacing missing or irreparable windows on significant facades with new windows that match the original in material, size, general muntin and mullion proportion and configuration, and reflective qualities of the glass.	Replacing sash which contribute to the character of the building with those that are incompatible in size, configuration, and reflective qualities or which alter the setback relationship between window and wall.
	Installing heating/air conditioning units in the window frames when the sash and frames may be damaged. Window installations should be considered only when all other viable heating/cooling systems would result in significant damage to historic material.

STOREFRONTS

RECOMMENDED

Retaining and repairing existing storefronts, including windows, sash, doors, transoms, signage, and decorative features where such features contribute to the architectural and historic character of the building.

Where original or early storefronts no longer exist or are too deteriorated to save, retaining the commercial character of the building through (1) contemporary design which is compatible with the scale, design, materials, color, and texture of thee historic buildings, or (2) an accurate restoration of the storefront based on historical research and physical evidence.

NOT RECOMMENDED

Introducing a storefront or new design element on the ground floor, such as an arcade, which alters the architectural and historic character of the building and its relationship with the street or its setting or which causes destruction of significant historic fabric.

Using materials which detract from the historic or architectural character of the building, such as mirrored glass.

Altering the entrance through a significant storefront.

ENTRANCES, PORCHES, AND STEPS

RECOMMENDED	NOT RECOMMENDED
Retaining porches and steps that are appropriate to the building and its development. Porches or additions reflecting later architectural styles are often important to the building's historical integrity and, wherever possible, should be retained.	Removing or altering porches and steps that are appropriate to the building's development and style.
Repairing or replacing, where necessary, deteriorated architectural features of wood, iron, cast iron, terra cotta, tile, and brick.	Stripping porches and steps of original material and architectural features, such as hand rails, balusters, columns, brackets, and roof decoration of wood, iron, cast iron, terra cotta, tile, and brick.
	Enclosing porches and steps in a manner that destroys their intended appearance.

* *

*** For more information, consult Preservation Briefs:**

1) "The Cleaning and Waterproofing of Masonry Buildings"

2) "Repointing Mortar Joints in Historic Brick Buildings" (Washington, D.C.; Heritage Conservation and Recreation Service, 1975 and 1976). Both are available from the Government Printing Office or State Historic Preservation Officers.

**** For more information, consult Preservation Briefs:**

3) "Conserving Energy in Historic Buildings" (Washington, D.C.; Heritage Conservation and Recreation Service, 1978). It is available from the Government Printing Office or State Historic Preservation Office.

APPENDIX "C"

DESIGN REVIEW GUIDELINES
NEW CONSTRUCTION

A. GENERAL

1. New construction shall be compatible in size, form, scale, materials, and texture with adjacent historic buildings and with dominant architectural character of the district.

2. Contemporary designs expressing the elements described in 1. above are encouraged.

3. Imitating in detail an earlier style of architecture is discouraged.

B. SITING

1. In addition to the zoning requirements, the relationship of new construction to the street and to the open space between buildings shall be compatible with surrounding historic buildings and with the historic character of the district.

C. LANDSCAPE

1. Traditional landscape elements evident in the district--grass, trees, shrubs--are encouraged in new development.

2. Inappropriate landscape treatment such as berms and extensive ground cover areas are discouraged.

D. BUILDING HEIGHT

1. In addition to the zoning requirements, the height of new construction shall not exceed the height of the tallest historic building of similar type in the district.

E. BUILDING BULK

1. The apparent size of primary elements of new construction shall not exceed that of the largest historic building in the district.

F. PROPORTION AND SCALE

1. The relationship of height to width of primary and secondary elements of new construction shall be compatible with the dominant historic character of the

district, such as the typical historic windows which have an approximate proportion of 2 vertical to 1 horizontal.

2. The relationship of solid to void (wall to window) shall be compatible with the dominant historic character of the district.

G. EXTERIOR FEATURES

1. General:

(a) Exterior features such as bays, porches, balconies, and other architectural elements that establish the district's historic character are encouraged in new construction.

2. Materials:

(a) New construction should employ materials traditional to the district--wood, stone, and brick. Such materials should be employed in their traditional configuration, e.g., drop siding, common brick, standard shingles.

(b) Inappropriate materials such as plywood, plastic and metal sidings, imitation brick and stone, and raw aluminum window frames are discouraged.

3. Roof Form:

(a) Primary roofs shall be gabled with pitches in the range of 12/12 to 12/8 to reflect the dominant roof pitches of the district's primary historic buildings.

4. Garages/Carports:

(a) When feasible, garages and carports should be located on the site where they have the minimum visual impact from public ways.

(b) Where garages must face the street front, they should be designed to minimize their bulk and visual impact. Single-car garage doors should be employed.

5. Signs:

(a) In addition to the sign code regulations, the size, placement, type, design, and materials of signs shall be compatible with the historic building and the historic character of the district.

(b) Standard back-lighted metal framed plastic signs are discouraged.

ORDINANCE NO. NS-1477
(as corrected)

AN ORDINANCE VACATING A PORTION OF NW PANAMA STREET LOCATED BETWEEN BLOCKS 1 AND 2 VIEW ADDITION, IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Commission requesting that the following described area be vacated:

That portion of NW PANAMA STREET beginning at the southerly boundary of Wilmington Avenue and extending south 300 feet lying between Blocks 1 and 2, Bend View Addition, in the City of Bend,

and stating the purpose for which the described property is proposed to be used and the reason for such vacation, and the said petition being duly acknowledged; and the City Commission having set a time for formal hearing upon the petition, and the Recorder of the City of Bend having caused the following notice:

NOTICE IS HEREBY GIVEN that vacation proceedings have been initiated by the City Commission of the City of Bend; said vacation proceedings to vacate the following described property:

The portion of NW PANAMA STREET beginning at the southerly boundary of Wilmington Avenue and extending south 300 feet and lying between Blocks 1 and 2, Bend View Addition.

The City Commission of the City of Bend have fixed the 7th day of September 1988, at 7:30 p.m. in the City Commission Chambers at 720 NW Wall Street, City of Bend, as the time and place for the hearing upon said proceedings at which time the City Commission will receive and hear all objections to said vacation proceedings.

to be published once each week for four consecutive weeks in the Bulletin, and said recorder having also within 5 days after the first day of the publication of said notice caused a copy of said notice to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area, and the first publication and posting of said notice having occurred not less than 28 days before the hearing specified for said proposed vacation; and upon the appointed time specified in said notice the hearing having been held, and no objections made, and the City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the planned unit development should be vacated.

NOW THEREFORE, IT IS HEREBY ORDERED that the above described property be and the same hereby is vacated by reserving to the City of Bend all public streets, an easement for the existing use, or future installation, construction, maintenance continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used, or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon

Read for the first time the 7th day of September, 1988.

Read for the second time the 21st day of September, 1988.

Placed upon its passage the 21st day of September, 1988.

Yes: 7 No: 0

Submitted to and approved by the Mayor the 21st day of September, 1988.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1478

AN ORDINANCE VACATING A PORTION OF NW 12th STREET LYING BETWEEN THE NORTH RIGHT-OF-WAY OF SUMMIT DRIVE AND THE SOUTH RIGHT-OF-WAY OF PROMONTORY DRIVE, IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Commission requesting that the following described area be vacated:

That portion of NW 12th STREET lying between the North right-of-way of Summit Drive and the South right-of-way of Promontory Drive, more fully described as:

"A strip of land located in Section 30, Township 17 South, Range 12 E.W.M., City of Bend, Deschutes County, being 60.00 feet in width and lying 30.00 feet on each side of the following described property:

Beginning at a point on the centerline of the 12th Street, said point being a projection of the North right-of-way line of Summit Drive and from which a brass cap marking the East one-quarter ($E\frac{1}{4}$) corner of said Section 30 bears South 81° 01' 40" East 1833.29 feet; thence along the arc of a 592.98 foot radius curve to the left 94.74 feet, the chord of which bears North 34° 55' 54" West 94.64 feet; thence North 39° 30' 32" West 208.33 feet; thence along the arc of a 215.00 foot radius curve to the left 159.93 feet, the chord of which bears North 60° 49' 09" West 156.27 feet; thence North 82° 07' 45" West 132.66 feet; thence along the arc of a 350.00 foot radius curve to the right 78.35 feet, the chord of which bears North 75° 43' 00" West 78.18 feet; thence North 69° 18' 14" West 80.00 feet; thence along the arc of a 170.00 foot radius curve to the right 142.13 feet, the chord of which bears North 45° 21' 07" West 138.03 feet; thence North 21° 24' 01" West 21.63 feet to the South right-of-way of Promontory Drive and the terminus of this description.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation, and the said petition being duly acknowledged; and the City Commission having set a time for formal hearing upon the petition, and the Recorder of the City of Bend having caused the following notice:

NOTICE IS HEREBY GIVEN that vacation proceedings have been initiated by the City Commission of the City of Bend; said vacation proceedings to vacate the following described property:

That portion of NW 12th STREET lying between the North right-of-way of Summit Drive and the South right-of-way of Promontory Drive, more fully described as:

"A strip of land located in Section 30, Township 17 South, Range 12 E.W.M., City of Bend, Deschutes County, being 60.00 feet in width and lying 30.00 feet on each side of the following described property:

Beginning at a point on the centerline of the 12th Street, said point being a projection of the North right-of-way line of Summit Drive and from which a brass cap marking the East one-quarter ($E\frac{1}{4}$) corner of said Section 30 bears South 81° 01' 40" East 1833.29 feet; thence along the arc of a 592.98 foot radius curve to the left 94.74 feet, the chord of which bears North 34° 55' 54" West 94.64 feet; thence North 39° 30' 32" West 208.33 feet; thence along the arc of a 215.00 foot radius curve to the left 159.93 feet, the chord of which bears North 60° 49' 09" West 156.27 feet; thence North 82° 07' 45" West 132.66 feet; thence along the arc of a 350.00 foot radius curve to the right 78.35 feet, the chord of which bears North 75° 43' 00" West 78.18 feet; thence North 69° 18' 14" West 80.00 feet; thence along the arc of a 170.00 foot radius curve to the right 142.13 feet, the chord of which bears North 45° 21' 07" West 138.03 feet; thence North 21° 24' 01" West 21.63 feet to the South right-of-way of Promontory Drive and the terminus of this description.

Subject to: All easements, restrictions and rights-of-way of record, and those common and apparent on the land.

The City Commission of the City of Bend have fixed the 7th day of September 1988, at 7:30 p.m. in the City Commission Chambers at 720 NW Wall Street, City of Bend, as the time and place for the hearing upon said proceedings at which time the City Commission will receive and hear all objections to said vacation proceedings.

to be published once each week for four consecutive weeks in the Bulletin, and said recorder having also within 5 days after the first day of the publication of said notice caused a copy of said notice to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area, and the first publication and posting of said notice having occurred not less than 28 days before the hearing specified for said proposed vacation; and upon the appointed time specified in said notice the hearing having been held, and no objections made, and the City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the planned unit development should be vacated.

NOW THEREFORE, IT IS HEREBY ORDERED that the above described property be and the same hereby is vacated by reserving to the City of Bend all public streets, an easement for the existing use, or future installation, construction, maintenance continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used, or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon

Read for the first time the 7th day of September, 1988.

Read for the second time the 21st day of September, 1988.

Placed upon its passage the 21st day of September, 1988.

Yes: 7 No: 0

Submitted to and approved by the Mayor the 21st day of September, 1988.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1479

AN ORDINANCE VACATING A STRIP OF LAND INDICATED AS A BIKE PATH ON THE PLAT OF SHEVLIN CENTER IN LOT 1, BLOCK 2, IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

The Bend City Commission on the 6th day of July, 1988, on its own motion did request that the following described area be vacated:

A portion of that 11.00 foot wide strip of land indicated as "BIKE PATH" on the plat of Shevlin Center in Lot 1, Block 2, a plat in the City of Bend, Deschutes County, Oregon.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation, and the said petition being duly acknowledged; and the City Commission having set a time for formal hearing upon the petition, and the Recorder of the City of Bend having caused the following notice:

NOTICE OF PUBLIC HEARING
FOR VACATION OF
PUBLIC PROPERTY

NOTICE IS HEREBY GIVEN that vacation proceedings have been initiated by the City Commission of the City of Bend; said vacation proceedings to vacate the following described property:

A portion of that 11.00 foot wide strip of land indicated as "BIKE PATH" on the plat of Shevlin Center in Lot 1, Block 2, a plat in the City of Bend, Deschutes County, Oregon lying 5.50 feet on each side of the following described centerline:

Beginning at the corner common to Lot 1 and 2, of said Block 2, and Colorado Avenue; thence following the easterly line of said Lot 1 North 47° 40' 14" West a distance of 36.02 feet to a point on the centerline of an existing 11.00 foot wide Bike Path; thence following the centerline of said existing Bike Path easement South 46° 52' 34" West a distance of 195.68 feet to the "TRUE POINT OF BEGINNING" for this centerline description; thence continuing along the centerline of said existing Bike Path around a 94.43 foot radius curve right 124.83 feet (chord bears South 84° 44' 52" West, 115.94 feet); thence North 57° 22' 50" West a distance of 27.52 feet; thence around a 94.34 foot radius curve left 67.21 feet (chord bears North 77° 47' 19" West 65.79 feet); thence around a 25.00 foot radius curve left 44.72 feet (chord bears South 30° 33' 25" West, 38.99 feet); thence South 20° 41' 23" East a distance of 95.39 feet; thence around a 231.94 foot radius curve left 90.88 feet (chord bears South 31° 54' 53" East, 90.30 feet); thence South 43° 08'21" East a distance of 0.28 feet to a point on the southeasterly line of said Lot 1, being the terminus of this described centerline; said terminus point bears South 46° 51' 39" West a distance of 425.63 feet from the said corner common to Lots 1 and 2, of Block 2 and Colorado Avenue.

Subject to: All easements, restrictions and rights-of-way of record, and those common and apparent on the land.

The City Commission of the City of Bend have fixed the 7th day of September 1988, at 7:30 p.m. in the City Commission Chambers at 720 NW Wall Street, City of Bend, as the time and place for the hearing upon said proceedings at which time the City Commission will receive and hear all objections to said vacation proceedings.

James W. Kerfoot
Recorder-Treasurer

to be published once each week for four consecutive weeks in the Bulletin, and said recorder having also within 5 days after the first day of the publication of said notice caused a copy of said notice to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area, and the first publication and posting of said notice having occurred not less than 28 days before the hearing specified for said proposed vacation; and upon the appointed time specified in said notice the hearing having been held, and no objections made, and the City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the planned unit development should be vacated.

NOW THEREFORE, IT IS HEREBY ORDERED that the above described property be and the same hereby is vacated by reserving to the City of Bend all public streets, an easement for the existing use, or future installation, construction, maintenance continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used, or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon

Read for the first time the 7th day of September, 1988.

Read for the second time the 21st day of September, 1988.

Placed upon its passage the 21st day of September, 1988.

Yes: 7 No: 0

Submitted to and approved by the Mayor the 21st day of September, 1988.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

Brooks/Elks
Z-3-88

ORDINANCE NO. NS-1480

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM IL LIGHT INDUSTRIAL TO CL LIMITED COMMERCIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from IL Light Industrial to CL Limited Commercial:

A parcel of land located in the NW 1/4 Section 5, Township 18 S., Range 12 E., W.M., Deschutes County, City of Bend, Oregon, more particularly described as follows:

Beginning at a point on the easterly right of way of Colorado Avenue, from which the northwest corner of said Section 5 bears north 10° 27' 30" west 2,025.72 feet, thence following along said easterly right of way of Colorado Avenue along the arc of a 721.41 foot radius curve to the left 252.65 feet, the chord of which bears north 07° 32' 02" west 251.36 feet; thence north 17° 34' 01" west 167.12 feet; thence along the arc of a 495.55 foot radius curve to the right 140.26 feet, the chord of which bears north 09° 27' 29" west 139.80 feet; thence leaving said Colorado Avenue right of way and following along the southerly right of way of Simpson Avenue along the arc of a 55.00 foot radius curve to the right 92.67 feet, the chord of which bears north 46° 55' 10" east 82.09 feet; thence along the arc of a 363.43 foot radius curve to the left 197.42 feet, the chord of which bears north 79° 37' 36" east 195.00 feet; thence leaving said Simpson Avenue right of way south 09° 15' 29" east 256.57 feet; thence south 76° 07' 27" east 46.45 feet; thence south 03° 13' 22" east 385.00 feet; thence north 87° 30' 03" west 253.64 feet to the point of beginning and terminus of this description.

Read for the first time the 7th day of September, 1988

Read for the second time the 21st day of September, 1988

Placed upon its passage the 21st day of September, 1988

YES: 7 NO: 0

Approved by the Mayor the 21st day of September, 1988

Mayor

ATTEST:

Recorder-Treasurer

City/Cole
Z-5-88

ORDINANCE NO. NS-1481

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM URBAN MEDIUM DENSITY RESIDENTIAL TO CC CONVENIENCE COMMERCIAL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM Urban Medium Density Residential to CC Convenience Commercial:

A parcel of land in the NE 1/4 NW 1/4 Section 28 T 17 S Range 12 E W.M. in the southerly part of Tract 7 of the Plat of Boyds Acreage more particularly described as follows:

Commencing at the southeast corner of the said NE 1/4 NW 1/4 Section 28;

Thence N 89° 23' 03" W along its south line, 445.17 feet to the true point of beginning;

Thence North 88.20 feet to the centerline of the Pilot Butte Irrigation Canal;

Thence along the physical centerline, the following five curves and four tangents:

Along the arc of a 50 foot radius curve left, 10.06 feet (chord bears S 61° 08' 07" W 10.04 feet);

S 55° 22' 07" W, 48.43 feet;

Along the arc of a 100 foot radius curve right, 19.47 feet (chord bears S 60° 56' 45" W, 19.44 feet);

S 66° 31' 22" W, 24.23 feet;

Along the arc of a 120 foot radius curve right, 20.11 feet (chord bears S 71° 19' 25" W, 20.09 feet);

S 76° 07' 27" W, 84.32 feet;

Along the arc of a 50 foot radius curve right, 27.02 feet (chord bears N 88° 19' 48" W, 26.69 feet);

N 72° 55' 03" W, 40.16 feet;

Along the arc of a 70 foot radius curve left 78.22 feet (chord bears S 75° 04' 09" W, 74.22 feet) to its intersection with the south line of the said NE 1/4 NW 1/4 Section 28;

Thence S 89° 23' 03" E along said south line, 325.56 feet to the true point of beginning.

Read for the first time the 7th day of September, 1988

Read for the second time the 21st day of September, 1988

Placed upon its passage the 21st day of September, 1988

YES: 7 NO: 0

Approved by the Mayor the 21st day of September, 1988

Mayor

ATTEST:

Recorder-Treasurer City of Bend

Those provisions being added are underscored. Those provisions being deleted are enclosed in [brackets.]

ORDINANCE NO. NS-1482

AN ORDINANCE AMENDING THOSE PROVISIONS OF ORDINANCE NO. NS-1361 (BEND CODE CHAPTER 6) RELATING TO ROLLERSKATING, SKATEBOARDING AND SLEDDING WITHIN THE CITY OF BEND.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance No. NS-1361 known as Bend Code 6.345 is amended to read:

6.345 ROLLERSKATES, SKATEBOARDS, SLEDS, ETC. No persons shall:

(1) Use streets for traveling on downhill skis, toboggans, sleds, or similar devices, except [where authorized by the City] on a designated play street.

(2) Use rollerskates, [or] skateboards, coasters or similar devices [on sidewalks in any business district] in the downtown district as defined in Bend Code 6.910. [or on streets, except to cross at a crosswalk or as authorized.]

(3) Use rollerskates, skateboards or coasters on any streets except to cross at a crosswalk or as authorized by the City.

SECTION 2. This ordinance shall not affect any offense or act committed or done, or any penalty or forfeiture incurred or any prosecution, suit or proceeding pending at the time this ordinance is enacted, or any judgment rendered prior to the time this ordinance is enacted.

SECTION 3. If any portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Read for the 1st time this 7th day of September, 1988.

Read for the 2nd time this 21st day of September, 1988.

Placed upon its passage this 21st day of September, 1988.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 21st day of September, 1988.

Mayor

ATTEST:

Recorder-Treasurer for the City of Bend

ORDINANCE NO. NS-1483

AN ORDINANCE AMENDING ORDINANCE NO. NS-1361, THE CITY OF BEND TRAFFIC CODE, TO CHANGE THE BOUNDARIES OF THE DOWNTOWN PARKING DISTRICT AND TO CREATE NEW PROVISIONS RELATING TO PARKING PERMITS AND PENALTIES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance No. NS-1361 known as Bend Code 6.910 (1), is amended to read:

6.910 Downtown Parking District.

(1) There is hereby established a downtown parking district which shall encompass the following areas:

Both sides of Bond Street between Louisiana Avenue and [Greenwood Avenues,] the intersection of Bond Street and Wall Street, both sides of Wall Street between Louisiana Avenue and [Greenwood Avenues,] Vermont Place, the north side of Louisiana Avenue between the alley west of Wall Street and Bond Street, both sides of Franklin Avenue between the west side of Broadway Street and Bond Street, both sides of Minnesota Avenue between Wall Street and Tin Pan Alley, both sides of Oregon Avenue between Brooks and Harriman Streets, [both sides] the north side of Irving Avenue between Bond and [Harriman Streets,] Tin Pan Alley, both sides of Brooks Street between Oregon and Newport Avenues, [the west side of Harriman Street between Irving and Greenwood Avenues,] both sides of Greenwood Avenue between Wall and Harriman Streets, the Mirror Pond parking lots located to the west of Brooks Street, [and the public parking lot which is located between Minnesota Avenue and Healy Alley and directly to the east of Tin Pan Alley.], both public parking lots adjacent to the Oregon Street Mall Building which are within the area enclosed by Oregon Street, Lava Road, Minnesota Avenue and Tin Pan Alley and the public parking lot which is located to the south of Hawthorne Avenue between Harriman Street and Lava Road.

SECTION 2. That portion of Ordinance No. NS-1361 known as Bend Code 6.910 (3), is amended to read:

(3) No person shall, while at his or her place of employment or during his or her hours of work, cause any motor vehicle owned, operated or controlled by that person, to be parked in any one or more parking spaces upon the public streets or public off-street parking areas within the downtown parking district between 10:00 a.m. and 4:30 p.m. on any day, except that:

(a) This section shall not apply on Sundays or holidays and to persons lawfully parked in a paid rental parking space within the downtown parking area.

(b) Employer-owned or controlled vehicles shall be permitted in designated loading zones, subject to the limitations on the use of such zones contained in this ordinance.

(c) The provisions of Bend Code 6.910 (3) shall not apply to vehicles that display a sticker issued by the City pursuant to Bend Code 6.915.

SECTION 3. Sections 4 and 5 of this act are added to and made a part of Bend Code Chapter 6.

SECTION 4.

6.915 The City Manager or designee may issue up to 15 special downtown parking permits on a first-come, first-served basis. The permit will allow the purchaser to park one vehicle without time restriction within the downtown parking district in any City owned or controlled lot in spaces designated for vehicles displaying City issued parking permits or in any one or two hour parking space.

SECTION 5.

6.990 Penalties.

A violation of Bend Code Chapter 6 is a Class C civil infraction unless specified otherwise.

Read for the first time this 19th day of October, 1988.

Read for the second time this 2nd day of November, 1988.

Placed upon its passage this 2nd day of November, 1988.

YES: 6 NO: 1

Submitted to and approved by the Mayor this 2nd day of November, 1988.

MAYOR

ATTEST:

Recorder-Treasurer City of Bend

ORDINANCE NO. NS-1484

AN ORDINANCE BANNING THE PURCHASE OF READILY DISPOSABLE POLYSTYRENE FOAM PRODUCTS BY THE CITY OF BEND, BY LESSEES OF CITY REAL PROPERTY AND BY CITY LICENSE HOLDERS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2 of this ordinance is added to and made a part of Bend Code Chapter 1.

SECTION 2. CITY PURCHASING

1.590 Polystyrene Foam Products. No readily disposable products containing or composed of polystyrene foam (styrofoam) shall be purchased by the City of Bend.

SECTION 3. Section 4 of this ordinance is added to and made a part of Bend Code Chapter 1.

SECTION 4. CITY LEASES

1.820 Lessee Restrictions. No readily disposable products containing or composed of polystyrene foam (styrofoam) shall be purchased or sold by lessees who initially lease or renew a lease for space from the City of Bend after January 1, 1990.

SECTION 5. Section 6 of this ordinance is added to and made a part of Bend Code Chapter 7.

SECTION 6.

7.250 Polystyrene Foam Product Use. No readily disposable products containing or composed of polystyrene foam (stryofoam) shall be sold or used by any person or entity that is required to obtain a City license by the provisions of Bend Code 7.200 - 7.924 in the conduct of their business or in any of their licensed activities.

Read for the first time this 16th day of November, 1988.
Read for the second time this 7th day of December, 1988.
Placed upon its passage this 7th day of December, 1988.

YES: 4 NO: 3

Submitted to and approved by the Mayor this 7th day of December, 1988.

MAYOR

ATTEST:

Recorder-Treasurer City of Bend

ORDINANCE NO. NS-1485

AN ORDINANCE RELATING TO THE ESTABLISHMENT OF A FEE AND SERVICE CHARGE REVENUE/COST COMPARISON SYSTEM.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. The following fee and service charge revenue/cost comparison system is hereby adopted as Bend Code 1.800 to 1.814 and made a part of Bend Code Chapter 1:

FEE AND SERVICE CHARGE REVENUE/COST COMPARISON SYSTEM

1.800 Policy. It is the policy of the City of Bend to require the ascertainment and recovery of City costs from fees and charges levied therefor in providing City services, products and regulation hereinafter enumerated in this Ordinance. Nothing contained in this Bend Code 1.800 to 1.814 shall supersede any existing contractual obligations of City or the mandatory provisions of State law.

1.802 Definition of Costs. "Costs" as used in Bend Code 1.800 to 1.814 consist of the following elements:

(1) All applicable direct costs including, but not limited to salaries, wages, fringe benefits, services and supplies, operation expenses, contracted services, special supplies, and any other direct expense incurred.

(2) All applicable indirect costs including, but not limited to, building maintenance and operations, equipment maintenance, communication, printing and reproduction, and like expenses when distributed on a rational proration system.

(3) Fixed assets recovery expenses, consisting of depreciation of fixed assets, and additional fixed asset expenses recovery charges calculated on the current estimated cost of replacement, divided by the approximate life expectancy of the fixed asset.

(4) General overhead, expressed as a percentage, distributing and charging the cost of each department head and his or her supporting expenses as enumerated in Subsections (1), (2), and (3) of this section.

1.804. Establishing Fees. The City Manager shall periodically cause a review of City fees and charges to recover the percentage of City costs incurred in providing City services, products and regulations as enumerated in Bend Code 1.806 and recommend adjustments to the Bend City Commission. Fees and charges to recover City costs as determined to the extent reasonably practical shall be established by resolution adopted by the City Commission.

1.806. Schedule of Fees and Service Charges

The percentages of cost listed in this section shall be used as a guide in setting fees and charges.

City Service, Product or Regulation	Percentage of Costs To be Recovered
DEVELOPMENT SERVICES:	
1. Construction Plan Check	100% +
2. Building Permits	100% +
3. Plumbing Permits	100% +
4. Mechanical Permits	100% +
5. Sign Permits	50%
6. Mobile Home Inspection	100% +
7. Sewer Line Inspection	100%
8. Water Line Inspection	tbd
9. Zone Change Review	100%
10. Variance Application	100%
11. Conditional Use Application	100%
12. Comprehensive Plan Review	100%
13. Right-of-Way Vacation	100%

14.	Partitioning	100%
15.	Subdivision Review & Appeal	100%
16.	Site Plan Review	100%
17.	Street Cut Permits	100%
18.	Engineering Plan Checking	100%
19.	Public Improvement Inspections	100%
20.	Land Use Appeals	100%
21.	Street Dedication Review	100%
22.	Housemoving Permit	100%

LEGAL, JUDICIAL, POLICE, FIRE AND REGULATORY SERVICES:

23.	Setting Aside Criminal Record	100%
24.	Cassette Tape Duplication	100% *
25.	Criminal Case Discovery	tbd *
26.	Court Costs	tbd
27.	Regulatory Licenses (B.C. 7)	100%
28.	Special Events Review & License	100%
29.	Police Accident Reports	100% *
30.	Police Clearance Letter	tbd
31.	Fingerprinting	tbd
32.	Bicycle Licensing	tbd
33.	Parking Permits	100%
34.	YES Counseling Fee	tbd
35.	Woodstove Inspection (Existing)	100%
36.	Woodstove Inspection (New)	100%
37.	Special Fire Permit	100%
38.	High Fire Hazard Inspections	100%
39.	Ambulance & EMT Services	50% City residents 100% nonresidents
40.	Fire Reports	tbd *
41.	Demolition Permits	100%

UTILITY AND ENTERPRISE SERVICES:

42.	Bulk Water Sales	100% or market price, whichever greater
43.	Water Rates - Flat	100% (phased in irrigation rates)
44.	Water Rates - Metered	100%
45.	Water General Benefit Charge	tbd
46.	Voluntary Water Turn On/Off	tbd
47.	Delinquent Utility Account Notice	tbd
48.	Delinquent Water Turn On/Off	100%
49.	Water Line Extension	100%
50.	Water Meter Installation	100%
51.	Fire Line Inspection	100%
52.	Water Service Installation	100%
53.	Water Service Agreements	100%
54.	New Utility Account Fee	tbd
55.	Sewer Service	100%
56.	Connection to Sewer	100%
57.	Sewer General Benefit Charge	Res. 1613 & 1630
58.	Industrial Discharge Permit	100%
59.	Waste Dumping Fee (Septic Tanks)	100%
60.	Phase II Sewer Agreements	100%
61.	Cemetery Plot Sales	100%
62.	Cemetery Interment	100%
63.	Cemetery Perpetual Maintenance	100%

MAINTENANCE SERVICES:

64.	Parking Lot Spaces	100% or market, whichever is less

ADMINISTRATIVE AND FINANCE SERVICES:

65.	Photocopy and Look Up Fee	100% *
66.	Map & Publication Sales	100% *
67.	Document Certification	100%
68.	Research City Records	tbd
69.	Returned Check Collection	tbd
70.	City Lien Checks	tbd
71.	Bancroft Bond Administration	100%
72.	New Services	100%

tbd - Fees that are shown as "tbd" are to be set by the City Commission by resolution at a percentage of recovery to be determined by the Commission when the rate is set.

+ - Fees that are marked by a cross shall be set at the percentage listed in this ordinance or at the fee set by State law, whichever is lower.

* - Those items that are marked by a star are controlled by the provisions of the Oregon Public Records law. In such cases, it is the City's intent to recover 100% of the costs that may be recovered pursuant to that law.

SECTION 2. Bend Code 7.212 (Ordinance No. NS-1375, as amended) is amended to read:

7.212 Application Requirements. Application for all licenses required by sections 7.270 to 7.924 shall be made to the city on forms prescribed by the Manager. Application shall be made at least 30 days prior to the date the license is requested to be effective. The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of any business, activity or device to be licensed and shall provide for other information as required by specific license provisions of this code or as necessary for review. The application shall be signed by the applicant and shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications by the city. All fees shall be paid at the time of application. Fees shall be refunded if an application is denied, less [$10.00 for the] the investigation fee [.] set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 3. Bend Code 7.270 - 7.278 (Source: Ordinance No. NS-1375, as amended) is repealed.

SECTION 4. Bend Code 7.280 (1)(a) (Ordinance No. NS-1375, as amended) is amended to read:

7.280 Issuance of Permit.

(1) The City Manager, or the Manager's designee, may issue a permit for an outdoor cafe allowing the service of food or beverages within a public right of way provided the following conditions are met:

(a) The permit applicant pays an application fee established by [the City Manager;] resolution pursuant to the Bend Cost Recovery Code.

SECTION 5. Bend Code 7.356 (1) (Ordinance No. NS-1375, as amended) is amended to read:

7.356 Permit Required; Fee.

(1) No assembly shall be held unless the person sponsoring the assembly obtains a permit [.] and pays the fee set by resolution pursuant to the Bend Cost Recovery Code. The fee for the permit is to cover the cost of inspecting facilities and issuing and administering the permit prior to the event. [Costs] All other costs incurred and required to be paid by the city shall be paid in addition to [the following:] said permit fee.

[(a) Up to 300 persons reasonably anticipated to attend - $20.00.]

[(b) 300 to 1,000 persons reasonably anticipated to attend - $30.00.]

[(c) 1,000 to 2,500 persons reasonably anticipated to attend - $50.00.]

[(d) 2,500 or more persons reasonably anticipated to attend - $100.00.]

SECTION 6. Bend Code 7.404 (Ordinance No. NS-1375, as amended) is amended to read:

7.404 License Fee. The fee for an aerial event is [$50.00 per day] the fee set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 7. Bend Code 7.456 (Ordinance No. NS-1375, as amended) is amended to read:

7.456 License Fee. The annual fee for a bingo license is [$25.00] the fee set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 8. Bend Code 7.512 (2) (Ordinance No. NS-1375, as amended) is amended to read:

7.512 Separate License for Each Mobile Type Device or Pedestrian Vendor.

(2) The annual license fee for each mobile type device or pedestrian vendor shall be [$100.00.] set by resolution pursuant to the Bend Cost Recovery Code. [The fee may be waived by either the City Manager of Commission if the applicant is a nonprofit organization.]

SECTION 9. Bend Code 7.568 (Ordinance No. NS-1375, as amended) is amended to read:

7.568 Permit Required. No person or organization shall engage in business as an itinerant merchant without first obtaining a permit from the City Manager. The permit fee shall be [$30.00 per season for seasonal sales of fireworks and Christmas trees and $15.00 per day for all other itinerant merchants.] set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 10. Bend Code 7.586 (Ordinance No. NS-1375, as amended) is amended to read:

7.586 Application and Fee. Application to sell any item, effect, paraphernalia, or drugs shall, in addition to all the license requirements established in this Code be accompanied by affidavits by the applicant and each and every employee authorized to sell such items that such person has never been convicted of a drug-related offense. Licensees shall pay [The] the annual license fee [is $75.00.] set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 11. Bend Code 7.592 (5) (Ordinance No. NS-1375, as amended) is added to and made a part of Bend Code Chapter 7 and to read as follows:

(5) A fee established pursuant to the Bend Cost Recovery Code shall be paid and collected prior to issuance of a garage sale permit.

SECTION 12. Bend Code 7.594 (3) (Ordinance No. NS-1375, as amended) is amended to read:

7.594 Tree Topping and Removal.

(3) The license fee for such business is [$25.00 per calendar year.] that fee set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 13. Bend Code 7.596 (3) (Ordinance No. NS-1375, as amended) is amended to read:

7.596 Blasting.

(3) The license fee for such business is [$25.00 per calendar year.] the fee set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 14. Bend Code 7.598 (5) (Ordinance No. NS-1375, as amended) is amended to read:

7.598 Auctioneers.

(5) The license fee for auctioneers is [$25.00 per day or $50.00 per calendar year.] the fee set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 15. Bend Code 7.614 (Ordinance No. NS-1375, as amended) is amended to read:

7.614 License Fee. A license shall be issued to a qualified applicant upon payment of a license fee [of $25.00.] set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 16. Bend Code 7.636 (Ordinance No. NS-1375, as amended) is amended to read:

7.636 Fees. Any owner or person desiring to conduct a business engaged in the transportation of sick, injured or disabled persons in the City of Bend shall, at the time of filing the application for a license with the City Recorder, pay to the City Recorder a license fee [of Fifty Dollars ($50), per annum for each vehicle, payable in advance.] set by resolution pursuant to the Bend Cost Recovery Code. At the time of filing the application, such applicant shall also pay to the City recorder [the sum of Ten Dollars ($10)] an application fee set by resolution pursuant to the Bend Cost Recovery Code to cover the cost of making inspections under the provisions of section 7.632, which sum shall be in addition to the license fee and which sum shall be retained by the city whether the application for a license be granted or not.

SECTION 17. Bend Code 7.644 (7) (Ordinance No. NS-1375, as amended) is amended to read:

7.644 Applications for Drivers and Emergency Technicians' Licenses. Applications for driver's and emergency medical technician's licenses hereunder shall be made upon such forms as may be prepared or prescribed by the City Recorder and shall contain:

(7) A license fee [of $15.00] set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 18. Bend Code 7.670 (Ordinance No. NS-1375, as amended) is amended to read:

7.678 Fees. A person engaged in the business of operating taxicabs shall pay an annual fee [of $15.00 for each taxicab and $25.00 for each taxicab stand.] set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 19. Bend Code 7.706 (Ordinance No. NS-1375, as amended) is amended to read:

7.706 Franchise Fee. [The City Commission may, but is not required to charge a fee to each franchise holder.] The fee for a bus franchise shall be set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 20. Bend Code 7.756 (Ordinance No. NS-1375, as amended) is amended to read:

7.756 License Fee. The annual fee for a massage technician is [$25.00.] the fee set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 21. Bend Code 7.802 (Ordinance No. NS-1375, as amended) is amended to read:

7.802 License Required; Fee. No person shall engage in business as a pawnbroker without obtaining a pawnbroker's license from the Manager. The annual fee for a pawnbroker's license shall be [$150.] the fee set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 22. Bend Code 7.811 (Ordinance No. NS-1375, as amended) is amended to read:

7.811 License Required.

(1) No person shall engage in business as a dealer without first obtaining a license from the City Manager. Agents and employees of a dealer who engage in the purchase of secondhand goods, must also obtain a license from the City Manager and are subject to all requirements of Bend Code 7.810 - .824.

(2) The initial annual license fee for a dealer shall be [$50.00 for each place of business that the dealer maintains within the City of Bend. A licensed dealer who has complied with the provisions of this Code and whose license has not been revoked, may renew his or her license for an annual fee [of $25.00 per place of business.] set by resolution pursuant to the Bend Cost Recovery Code.

(3) An agent or employee of a licensed dealer who engages in the purchase of secondhand goods shall obtain a license for a fee [of $5.00 per year.] set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 23. Bend Code 7.922 (Ordinance No. NS-1375, as amended) is amended to read:

7.922 Fees. The City Commission may, by resolution, pursuant to the Bend Cost Recovery Code, establish reasonable monthly charges for keying automatic protection devices to the unlisted telephone lines installed in the Fire or Police Departments.

SECTION 24. Section 2 of Ordinance No. NS-352, as amended, is amended to read:

Section 2. The city manager is hereby directed and authorized to cause a tract of land, to be described as follows: SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 33, T. 17 S., R. 12 E., W.M., and all of Blocks 1, 2, 5, 6, 7, 8 and 9, Bend Park, and all of Blocks 124, 125, 126 and 127 in First Addition to Bend Park, to be laid off into proper streets and alleys, and to have a plat of said plot, so laid off, made and recorded in the office of the county clerk of Deschutes County. Said plat shall be officially designated as Section One of the Pilot Butte Cemetery.

It shall be the duty of the city commission to make such rules and regulations as are necessary for the proper care, protection, and government of the cemetery and for the guidance and control of the sexton, not in conflict with the provisions of this ordinance. It shall be the duty of the city manager to see that the provisions of this ordinance and such rules and regulations as made by the city commission are properly enforced and obeyed. The said manager is hereby empowered and directed to draw up regulations. [and fix a] A schedule of annual maintenance fees, permanent maintenance charges, lot openings and prices for which lots or spaces in the cemetery may be sold, [which said schedule and regulations shall be approved by the city commission, and said schedule and regulations may by the city manager upon the approval of the commission, be at any time amended. Upon approval of the commission as above provided, said schedule or amendment shall be filed with the recorder and shall thereafter be followed and shall govern in the sale and maintenance of all lots in the cemetery until the filing of the next succeeding schedule, as in this ordinance provided.] shall be set by resolution pursuant to the provisions of the Bend Cost Recovery Code.

SECTION 25. Section 12 of Ordinance No. NS-352, as amended, is amended to read:

Section 12. Either monuments or markers may be placed in the cemetery but one shall be placed therein until a permit has been obtained from the city recorder, the fee for which shall be [$1.00] set by resolution pursuant to the Bend Cost Recovery Code and which permit shall state the dimensions of the monument or marker and the lot on which same is to be placed; and the sexton shall not allow any monument or marker to be placed in the cemetery until the permit therefor has been exhibited to him.

SECTION 26. Bend Code 1.350 - 1.354 (Source: Ordinance No. NS-1399, as amended) is repealed.

SECTION 27. Bend Code 1.620 (Ordinance No. NS-1375, as amended) is amended to read:

COURT COSTS

1.620 Amount. Court costs in [the amount of $5.00 for violations and civil infractions and $10.00 for any offense punishable by imprisonment] an amount set by resolution pursuant to the Bend Cost Recovery Code shall be assessed against each defendant being cited into the Municipal Court of the city for any violation of a municipal ordinance or code provision whether the defendant appears, fails to appear, or is convicted after a trial in the court, except for violations of municipal provisions pertaining to motor vehicle parking violations and regulations, unless a warrant is issued to enforce defendant's appearance. The Municipal Court shall also retain a percentage of bail money posted with the Court when and to the extent authorized by the laws of the State of Oregon.

SECTION 28. Bend Code 6.330 (Ordinance No. NS-1361, as amended) is amended to read:

6.330 Licensing:

(2) The owner of a bicycle shall obtain a license from the Police Department[.] after paying the fee set by resolution pursuant to the Bend Cost Recovery Code.

SECTION 29. Bend Code 6.900 (Ordinance No. NS-1361, as amended) is amended to read:

6.900 Parking Penalties. A violation of sections 6.150 to 6.285 is punishable by:

[Parking Meter Violation:]

[First overtime.....$ .50]
[Each additional overtime unit.....$ 3.00]
[If not paid within 5 days of the ticket]
[(per violation).....$ 6.00]

2-Hour Parking Violation		
First overtime.....	[$ 3.00]	$5.00
Each additional overtime unit (2 hours).....	[$ 6.00]	$10.00
If not paid within 5 days of the ticket.....	[$10.00]	$15.00
All Other Parking Violations.....	[$ 5.00]	$15.00
If not paid within 5 days of the ticket.....	{$10.00]	$30.00

SECTION 30. Bend Code 5.320 (1)(s) (Ordinance No. NS-1361, as amended) is amended to read:

(s) No person shall consume an alcoholic beverage or possess an open container of an alcoholic beverage in a public park without first obtaining an alcohol consumption permit or special events permit which specifically allows alcohol consumption from the Bend Police Department. The fee for an alcohol consumption permit shall be [$5] set by resolution pursuant to the Bend Cost Recovery Code and the permit shall be valid for a period of up to one day. The Chief of Police may prescribe the form of application required of applicants for permits and all applications shall be truthfully and completely filled out. No permit will be issued to a person who has previously violated any provision of Bend Code 5.320 within a period of one year preceding

the date of the permit requested. Nothing provided in this section shall supersede the provisions of the City's special events ordinance.

SECTION 31. This ordinance shall not affect:

(1) Any offense or act committed or done, or any penalty, forfeiture, fee or charge incurred; and

(2) Any prosecution, suit or proceeding pending at the time this ordinance is enacted or that is brought based upon repealed or amended provisions of City law which occurred prior to repeal or amendment; and

(3) Any judgment rendered prior to the time this ordinance is enacted.

SECTION 32. If any portion of this ordinance is found to be unconstitutional or invalid, the City Commission hereby declares that it would have enacted the remainder of this ordinance regardless of the absence of any such invalid part.

SECTION 33. Sections 1, 3, 31 and 32 of this ordinance shall take effect and be in force thirty (30) days after passage of this ordinance. All other sections take effect on the effective date of the first resolution adopted by the Commission as provided in Section 1.

Read for the first time the 7th day of December, 1988.

Read for the second time the 21st day of December, 1988.

Placed upon its passage the 21st day of December, 1988.

Yes: 6 No: 0

Submitted to and approved by the Mayor this 21st day of December, 1988.

Mayor

ATTEST:

Recorder-Treasurer City of Bend

ORDINANCE NO. NS-1486

Section "2" of NS-1486 repealed by NS-1497, passed 7-19-89

AN ORDINANCE AMENDING BEND CODE 7.712 (2) AND ORDINANCE NO. NS-772 TO INCREASE CITY INSURANCE REQUIREMENTS TO THE LIMITS OF THE CITY'S STATE TORT LIABILITY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Bend Code 7.712 (2) (Ordinance No. NS-1375, as amended) is amended to read:

7.712 Obligations of Franchise Holder.

(2) Insurance. Franchise holders shall indemnify and hold the City of Bend harmless from any liability arising from any activity in connection with the operation of their franchises. Each Franchise holder shall furnish the City of Bend with a certificate of insurance certifying the franchise holder as the named insured under an automobile liability policy of insurance with a reputable insurer, with minimum policy limits [of $100,000.00/$300,000.00 bodily injury and $25,000.00 property damage.] consistent with the tort liability limits of the city as established by the Oregon Legislature.

SECTION 2. Section 5 of Ordinance No. NS-772, as amended, is amended to read:

Section 5. Insurance. Each applicant shall submit with his application a certificate of insurance designating him as the named insured under a policy of public liability insurance [with policy limits of $50,000.00 - $100,000.00 for bodily injury and $25,000.00 for property damage,] with policy limits consistent with the tort liability limits of the city as established by the Oregon Legislature together with an endorsement for completed operations.

SECTION 3. All City ordinances that require that a person or corporation obtain and/or maintain liability insurance as condition of granting a City license or permit or as a precondition of doing any act are hereby amended to require that the amount of insurance be obtained in an amount consistent with the City's tort liabilities as set by the Oregon Legislature.

Read for the 1st time this 7th day of December, 1988.

Read for the 2nd time this 21st day of December, 1988.

Placed upon its passage this 21st day of December, 1988.

YES: 6 NO: 0

Submitted to and approved by the Mayor this 21st day of December, 1988.

MAYOR

ATTEST:

Recorder-Treasurer

Underlined text is added
Bracketed text is deleted

ORDINANCE NO. NS-1487

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 ALLOWING FENCES IN THE FRONT SETBACK AREA UNDER CERTAIN CIRCUMSTANCES.

The City of Bend does ordain as follows:

Section 1. Section 27(2)(d) of Ordinance No. NS-1178 is amended to read:

(d) Fences [, sight obscuring,] may be located in a required front yard [or in a vision clearance area provided that they shall not exceed 2-1/2 feet in height measured from the top of the curb] provided that clear vision requirements are met.

Read for the first time the 7th day of December, 1988.
Read for the second time the 21st day of December, 1988.
Placed upon its passage the 21st day of December, 1988.

Yes: 6 No: 0

Submitted to and approved by the Mayor this 21st day of December, 1988.

Glenn E. Read
Mayor

ATTEST:

James W. Kuffel
Recorder-Treasurer City of Bend

Underlined text is added
Bracketed text is deleted

ORDINANCE NO. NS-1488

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY DELETING A REQUIREMENT THAT ABANDONED SERVICE STATIONS BE REMOVED.

The City of Bend does ordain as follows:

Section 1. Section 25(1)(d) of Ordinance No. NS-1178 as shown below is hereby deleted:

[(g) Abandonment. Whenever a service station is not used as such for a continuous period of nine months, all structures and facilities above and below the ground shall be removed by the owner unless a site plan for a new use is submitted, approved and implementation has begun. Operation for at least 90 consecutive days shall be required to interrupt a continuous nine month period. All service stations which are unused for nine months as provided above are hereby declared to be nuisances and subject to abatement as provided by City law.]

Read for the first time the 7th day of December, 1988.
Read for the second time the 21st day of December, 1988.
Placed upon its passage the 21st day of December, 1988.

Yes: 6 No: 0

Submitted to and approved by the Mayor this 21st day of December, 1988.

Glenn E. Read
Mayor

ATTEST:

James W. Kuffel
Recorder-Treasurer City of Bend

(CORRECTED)

ORDINANCE NO. NS-1489

AN ORDINANCE VACATING A STRIP OF RIGHT-OF-WAY OF NW 12th STREET IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

The Bend City Commission on the 7th day of December 1988, on its own motion did request that the following described area be vacated:

A small strip of right-of-way of NW 12th STREET in the NE ¼ SE ¼ Section 30, T17S, R12 EWM in the City of Bend, Deschutes County, Oregon,

and stating the purpose for which the described property is to be vacated, and the City Commission having set a time for formal hearing upon the vacation, and the Recorder of the City of Bend having caused the following notice to be posted and published:

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that vacation proceedings have been initiated by the City Commission of the City of Bend; said vacation proceedings to vacate the following described property:

A small STRIP of right-of-way of NW 12th Street in the NE ¼ SE ¼ Section 30, T17S, R12 EWM in the City of Bend, Deschutes County, Oregon, more particularly described as follows:

Commencing at the S.W. corner of the SE ¼ SE ¼ of Section 30; Thence N 0° 7' 50" West, 1616.96 feet as described in that certain deed recorded in Vol. 125, page 140, Deschutes County Deed Records, and the true point of beginning; Thence S 89° 43'E.60.00 ft; Thence S 0° 07' 50" East, 300.00 feet to the south line of the NE ¼ SE ¼ of Section 30; Thence along the easterly right-of-way of NW 12th Street as described in Vol. 6, page 825, Deschutes County Deed Records, the following two curves and one tangent; along the arc of a 535.69 foot curve left, 147.37 feet (the chord bears N 07° 35' 52" W, 146.91 feet); Thence N 15° 28' 44" W 100.07 feet; Thence along the arc of a 470 foot radius curve right, 59.55 feet (the chord bears N 11° 51' W, 59.51 feet) to its intersection with a line 300 feet north and parallel with the south line of the NE ¼ SE ¼ Section 30 and the terminus of this description. (Containing 7461 sq. ft. more or less.)

The City Commission of the City of Bend have fixed the 15th day of March 1989, at 7:30 p.m. in the City Commission Chambers at 720 NW Wall Street, City of Bend, as the time and place for the hearing upon said proceedings at which time the City Commission will receive and hear all objections to said vacation proceedings.

To be published once each week for four consecutive weeks in the Bulletin, and said recorder having also within 5 days after the first day of the publication of said notice caused a copy of said notice to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area, and the first publication and posting of said notice having occurred not less than 28 days before the hearing specified for said proposed vacation; and upon the appointed time specified in said notice the hearing having been held, and no objections made, and the City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the planned unit development should be vacated.

NOW THEREFORE, IT IS HEREBY ORDERED that the above described property be and the same hereby is vacated by reserving to the City of Bend all public streets, an easement for the existing use, or future installation, construction, maintenance continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used, or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon

Read for the first time the 15th day of March, 1989.

Read for the second time the 5th day of April, 1989.

Placed upon its passage the 5th day of April, 1989.

Yes: 6 No: 0

Submitted to and approved by the Mayor the 5th day of April, 1989.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1490

AN ORDINANCE VACATING A PORTION OF THURSTON AVENUE, RIM WALKWAY, AND THE ALLEY BETWEEN RIVERSIDE ADDITION AND THE REPLAT OF BLOCKS 1 AND 2 RIVERSIDE ADDITON IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

A petition having been presented to the Bend City Commission requesting that the following described area be vacated:

> That portion of Thurston Avenue, Rim Walk Way, and the alley between Riverside Addition and the Replat of Blocks 1 and 2 of Riverside Addition,

and stating the purpose for which the described property is proposed to be used and the reason for such vacation, and the said petition being duly acknowledged; and the City Commission having set a time for formal hearing upon the petition, and the Recorder of the City of Bend having caused the following notice:

> NOTICE IS HEREBY GIVEN that vacation proceedings have been initiated by the City Commission of the City of Bend; said vacation proceedings to vacate the following described property:
>
> > That portion of Thurston Avenue, Rim Walk Way, and the alley between Riverside Addition and the Replat of Blocks 1 and 2 of Riverside Addition.
>
> The City Commission of the City of Bend have fixed the 7th day of September 1988, at 7:30 p.m. in the City Commission Chambers at 720 NW Wall Street, City of Bend, as the time and place for the hearing upon said proceedings at which time the City Commission will receive and hear all objections to said vacation proceedings.

to be published once each week for four consecutive weeks in the Bulletin, and said recorder having also within 5 days after the first day of the publication of said notice caused a copy of said notice to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area, and the first publication and posting of said notice having occurred not less than 28 days before the hearing specified for said proposed vacation; and upon the appointed time specified in said notice the hearing having been held, and no objections made, and the City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the planned unit development should be vacated.

NOW THEREFORE, IT IS HEREBY ORDERED that the above described property be and the same hereby is vacated by reserving to the City of Bend all public streets, an easement for the existing use, or future installation, construction, maintenance

continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used, or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon

Read for the first time the 7th day of September, 1988.

Read for the second time the 5th day of April, 1989.

Placed upon its passage the 5th day of April, 1989.

Yes: 6 No: 0

Submitted to and approved by the Mayor the 5th day of April, 1989.

Mayor

ATTEST:

Recorder-Treasurer of the City of Bend

ORDINANCE NO. NS-1491

AN ORDINANCE AMENDING ORDINANCE NO. NS-1375, BEND CODE 7.036, RELATING TO ADMINISTRATION OF THE CITY'S TRANSIENT ROOM TAX ORDINANCE AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance No. NS-1375, as amended, known as Bend Code 7.036 (1) is amended to read:

(1) Tourist Promotion and Economic Development Fund. A special fund called a Tourist Promotion and Economic Development Fund shall be established for the purpose of promoting tourism and economic development within the City of Bend. 21.42857% of the monies collected pursuant to the tax imposed by this code shall be paid directly into this fund. The tourist promotion and economic development fund shall be used for the promotion of tourism and economic development and the city is authorized to enter into [a] contracts with the Bend Chamber of Commerce or others to carry out this purpose.

SECTION 2. The City Commission finds that it is necessary that this ordinance become effective immediately so that it can adopt a budget for fiscal year 1989-1990 containing the above revisions prior to the commencement of that fiscal year. As this ordinance and the economic development of the City are necessary for the immediate preservation of the public peace, health and safety of the City, an emergency is declared to exist, and this ordinance takes effect on its passage.

Read for the first time this 17th day of May, 1989.

Read for the second time this 7th day of June, 1989.

Placed upon its passage this 7th day of June, 1989.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 7th day of June, 1989.

Mayor

ATTEST:

Recorder-Treasurer City of Bend

ORDINANCE NO. NS-1492

AN ORDINANCE AMENDING PORTIONS OF BEND CODE CHAPTERS 1, 5, 6 AND 7 (ORDINANCES NS-1399, NS-1361 & NS-1375) AS THEY RELATE TO PUBLIC CONTRACTS, DOGS, VEHICLE PARKING, DOWNTOWN PARKING DISTRICT AND ALARM SYSTEMS AND REPEALING BEND CODE 6.350 RELATING TO ABANDONED VEHICLES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance No. NS-1399, as amended, known as Bend Code 1.552 is amended to read:

1.552 Definitions. For the purpose of [Sections] Bend Code 1.550 - 1.568, the following mean:

(1) Board. The local contract review board as established in Section 1.550.

(2) Informal Bid. For purchases, an informal bid shall be considered the procedure whereby the City Manager, or designee, ascertains by correspondence, telephone calls or by direct contact, the various prices for the items involved, quoted by a number of reliable firms that have the items for sale. For sales, an informal bid shall be considered the procedure whereby the City Manager, or designee, ascertains by correspondence, telephone calls or by direct contact what price can be obtained for City personal property that is no longer needed for City purposes. [The City Manager shall be the keeper of all records and evidence of the informal bids.] For purchases, [A]after the low bid is determined, the purchase may be made by the City Manager or designated agent. For sales, after the high bid has been determined, the sale may be made by the City Manager or designated agent.

(3) Public Contract. Any purchase, lease or sale by the City of personal property, public improvements or services other than agreements which are for personal services.

(4) Public Improvement. Any construction of improvements on real property by or for the City.

SECTION 2. That portion of Ordinance No. NS-1399, as amended, known as Bend Code 1.554 is amended to read:

1.554 Competitive Bids Exemption.

(1) All contracts shall be based on competitive bids except:

(a) Contracts made with, or the cost of which is provided by, other public agencies or the federal government.

(b) Contracts for any purchase, sale or lease, the amount of which is less than [$1,000] $2,500.

(c) Contracts for any item which is available only through one company, firm or individual.

(d) Contracts for any purchase, sale or lease the amount of which is [more than $1,000] $2,500 or more and less than [$5,000] $7,500, which may be by informal bid.

(e) Contracts for the purchase of computer equipment and software, which may be by informal bid.

(2) The contract review board may by resolution exempt other contracts from competitive bidding if it finds:

(a) Lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and

(b) The exemption will result in substantial cost savings. In making such findings, the board may consider the type, cost, amount of the contract, number of persons available to bid and such other factors as the board may deem appropriate.

SECTION 3. That portion of Ordinance No. NS-1361, as amended, known as Bend Code 5.255, is amended to read:

5.255 Dog Licensing.

(1) Every dog within the City that has a set of permanent canine teeth shall be licensed. The license tag shall be attached to a collar worn by the dog. The owner and/or keeper of the dog shall be found in violation of this ordinance if the dog is not wearing its collar and tag or if the tag is not present on the dog's collar at any time.

SECTION 4. That portion of Ordinance No. NS-1361, as amended by Ordinance No. NS-1449, known as Bend Code 5.292 (7), is amended to read:

5.292 (7) If the Bend Municipal Court Judge determines that an animal should be humanely destroyed pursuant to Bend Code 5.292 [(4) or (5)] (5) or (6) and the judge finds that the animal's violation of Bend Code 5.270 (2), (3) or (7) or Bend Code 5.272 was caused by the neglect, abuse or tormenting of the animal by its owner, the judge may enter an order terminating the animal owner's rights in the animal and prohibiting the owner from owning or possessing animals within the City of Bend. Further, the judge may allow such an abused animal to be placed with the Humane Society for possible adoption if the Court believes that the abuse was the primary cause of the animal's violation of Bend Code 5.270 (2), (3) or (7) or Bend Code 5.272. A person who violates an order entered pursuant to this subsection commits a Class A civil infraction.

SECTION 5. That portion of Ordinance No. NS-1361, as amended by Ordinance No. NS-1449, known as Bend Code 5.292 (8), is amended to read:

5.292 (8) The Bend Municipal Judge may stay the execution of his or her order to humanely destroy an animal which has been entered pursuant to Bend Code 5.292 [(4) or] (5) or (6) if the animal's owner or keeper can demonstrate by a preponderance of the evidence that the animal is unlikely to be a repeat offender of Bend Code 5.270 (2), (3) OR (7) or 5.272. The stay of execution may last for up to five years upon such conditions as are reasonably related to the animal's violation of this code. Such conditions may include, but are not limited to the following: a) confinement of the animal in a securely enclosed and locked pen or structure upon the premises of the owner or keeper or within the residence of the animal owner; b) muzzling the animal in a humane manner; c) a requirement that the animal or owner commit no further violations of animal related laws; d) a requirement that the animal owner post a bond of up to $5,000 which may be used to pay for future injuries caused to people, animals or property; e) a requirement that the animal owner pay Court ordered fines and restitution resulting from the animal's violation of this code.

SECTION 6. That portion of Ordinance No. NS-1361, as amended, known as Bend Code 6.155 is amended to read:

6.155 Prohibited Parking or Standing. In addition to those areas designated in [ORS 487.580] the Oregon Vehicle Code, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places:

(1) A motor truck in excess of 12,000 pounds between the hours of 9:00 p.m. and 7:00 a.m. in front of or adjacent to a residence.

(2) A vehicle in an alley, except for a stop of not more than [30] 15 consecutive minutes for loading or unloading persons or materials.

(3) A vehicle in violation of lawfully erected parking limitation sign.

SECTION 7. That portion of Ordinance No. NS-1361, as amended, known as Bend Code 6.350 and relating to the disposition of abandoned vehicles, is hereby repealed.

SECTION 8. That portion of Ordinance No. NS-1361, as amended, known as Bend Code 6.910 is amended to read:

6.910 Downtown Parking District.

(1) There is hereby established a downtown parking district which shall encompass the following areas:

Both sides of Bond Street between Louisiana Avenue and the intersection of Bond Street and Wall Street, both sides of Wall Street between Louisiana Avenue and Vermont Place, the north side of Louisiana Avenue between the alley west of Wall Street and Bond Street, both sides of Franklin Avenue between the west side of Broadway Street and Bond Street, both sides of Minnesota Avenue between Wall Street and Tin Pan Alley, both sides of Oregon Avenue between Brooks and Harriman Streets, the north side of Irving Avenue between Bond and Tin Pan Alley, both sides of Brooks Street between Oregon and Newport Avenues, both sides of Greenwood Avenue between Wall and Harriman Streets, the Mirror Pond parking lots located to the west of Brooks Street, both public parking lots adjacent to the Oregon Street Mall Building which are within the area enclosed by Oregon Street, Lava Road, Minnesota Avenue and Tin Pan Alley, the public parking lot which is located to the west of Bond Street and which is bordered by the D&D Tavern (Lot 8 and the S. 1/2 of Lot 9, Plat of Bend), and the public parking lot which is located to the south of Hawthorne Avenue between Harriman Street and Lava Road.

SECTION 9. That portion of Ordinance No. NS-1375, as amended, known as Bend Code 7.908 is amended to read:

7.908 Alarm Equipment Supplier - Licensing Procedure. Every alarm equipment supplier shall apply to the City Recorder for a license on a form to be furnished by the City and shall pay to the City Recorder an annual license fee [of $25.00.] set by resolution pursuant to Bend Code 1.800 - 1.806.

SECTION 10. Section 5 of this ordinance shall be effective on the effective date of Ordinance No. NS-1485.

Read for the first time this 17th day of May, 1989.

Read for the second time this 7th day of June, 1989.

Placed upon its passage this 7th day of June, 1989.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 7th day of June, 1989.

Mayor

ATTEST:

Recorder-Treasurer City of Bend

DOWNTOWN PARKING DISTRICT

SECTION 6.910, BEND CODE
(1989)
ORDINANCE NO NS-1492

ORDINANCE NO. NS-1493

AN ORDINANCE AMENDING BEND CODE 7.352 - 7.396 RELATING TO SPECIAL EVENTS AND ASSEMBLIES, AMENDING BEND CODE 5.320 (1)(p) RELATING TO AMPLIFIED SOUND IN PARKS AND REPEALING BEND CODE 6.090 TO 6.110 RELATING TO SPECIAL EVENTS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance No. NS-1361 known as Bend Code 6.090, 6.095, 6.100, 6.105 and 6.110 is hereby repealed.

SECTION 2. That portion of Ordinance No. NS-1375 known as Bend Code 7.350 - 7.396 is amended to read:

SPECIAL EVENTS

7.350 Definitions. As used in [sections] B.C. 7.352 to 7.396, the following shall mean:

(1) "Assembly." Except as provided in [section] B.C. 7.354, the term assembly includes all gatherings of a group or groups of the public of more than [100] 75 persons, in a public park or on public property [or of gatherings of 50 to 100 persons where the city finds there is reason to believe the assembly may present a danger to the public safety and welfare.] This term shall also include a parade as defined in B.C. 7.350 (3).

(2) "Beer Garden." A temporary outdoor facility located on public property or premises open to the public for dispensing beer or wine in accordance with a Special Beer or Wine License issued by the Oregon Liquor Control Commission. The term does not include the dispensing of alcoholic beverages at Vince Genna Stadium during regularly scheduled and sponsored sports contests, or a temporary Special Dispenser Licence issued to a Dispenser by the Oregon Liquor Control Commission for use upon the premises of the licensee.

[(2)] (3) "Chief of Police." The Chief of Police of the city and his/her duly authorized officers and representatives.

(4) "Parade." A procession of persons using the public right-of-way and consisting of 10 or more persons or 3 or more vehicles, with the exception of funeral processions which must comply with B.C. 6.115.

(5) "Premises Open to the Public." Any premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.

[(3)] (6) "Public Property." Property owned by or under the control of the City of Bend, the Bend Metro Park and Recreation District or private property and premises open to the public. [as defined in ORS 487.535.]

(7) "Special Event." An assembly as defined in B.C. 7.350 (1).

7.352 Assembly Prohibited. No person shall allow, promote, conduct or cause to be advertised an assembly of persons in a public park or on public property when the person believes or has reason to believe that [100] 75 or more persons will attend, unless a valid city permit has been obtained for the use of the park or other property for the assembly. [If the Chief of Police reasonably finds an assembly of 50 to 100 persons presents a danger to the public safety or welfare, he shall notify the operator or organizers of said assembly that a permit will be required. Once notified, the] The organizer or operator must apply to the City Recorder for a permit. The city shall process said application as soon as is practicable. One permit shall be required for each assembly. Liability for failure to comply with the provisions of [sections] B.C. 7.352 to 7.396 shall attach to persons who are responsible for obtaining permits under those provisions.

7.354 Exclusions. [Sections] B.C. 7.350 to 7.394 shall not apply to any regularly organized and supervised school district activity or program of the city or to athletic contests organized by the Bend Metro Parks and Recreation District which do not utilize public streets and rights-of-way. Further, the City Manager shall be authorized to waive the permit requirement for certain limited assemblies when no significant public health, safety or welfare issues are involved and when no police service or other city service is determined to be necessary. These assemblies may include, but are not limited to: family picnics, weddings, and retail parking lot sales. All such events must, however, comply with park rules and ordinances if the event is being held in a public park.

7.356 Permit Required; Fee.

(1) No assembly shall be held unless the person sponsoring the assembly obtains a permit and pays the fee set by resolution pursuant to Bend Code 1.800 - 1.806. That fee shall be $100 until the effective date of Ordinance No. NS-1485. The fee for the permit is to cover the cost of inspecting facilities and issuing and administering the permit prior to the event. [All other costs incurred and required to be paid by the city shall be paid in addition to said permit fee.] The applicant shall also pay for City costs incurred as a result of the assembly. These costs may include, but are not limited to, expenses for police officers, fire personnel, ambulance services, public works service and materials. These additional costs shall be determined in the application review process and shall be paid prior to the event, except for expenses that cannot be determined until after the completion of the event.

(2) Unless the time limit is waived by the City Manager, written application for each assembly permit shall be made to the city 30 or more days prior to the first day on which the assembly is to be held as required by B.C. 7.212. [by filing the application with the Recorder. It shall be on forms furnished by the city and shall be signed by the person or persons organizing and sponsoring the assembly.] In addition to the information required by B.C. 7.212 to 7.216, [E]each application shall state the location to be used for the assembly, the number of persons reasonably anticipated to attend, and that the applicant will abide by all rules and regulations of [sections] B.C. 7.352 to 7.396 and other regulations and laws for the protection of the health, morals, peace and safety of the persons employed at the location, the patrons or participants, and the public. No permit shall be transferable or assignable without the consent of the issuing body.

(3) For parades, the application shall also include the desired route of the parade and assembly points, the proposed starting and ending time and the approximate number of persons, vehicles and animals anticipated to participate in the parade.

7.358 Application Procedure. Within 10 days after the application for the permit is made, the applicant must obtain written approval and assurance from each of the appropriate city officials or departments that satisfactory arrangements have been made by the applicant to comply with all of the conditions specified in [sections] B.C. 7.360 to 7.370. The City Recorder shall identify the appropriate officials to be contacted for completion of the permit. The officials or departments may approve the permit, subject to conditions necessary to assure compliance with the appropriate criteria enumerated in those sections. When any type of physical facility is required or subject to approval, preliminary approval may be granted based upon specific plans proposed and submitted by the applicant. The approval shall be on forms provided and shall be filed with the Recorder.

7.360 Sanitary Facilities. The applicant shall provide [Proof that] sanitary facilities that are in accordance with state regulations and proof that the necessary permits have been procured. [shall be provided by the applicant.]

7.362 Fire Protection Standards. If required, applicant shall show that the appropriate [Fire Chief has approved the] type, size, number and location of fire protection devices and equipment is available at, in or near any location, including outdoor sites, buildings, tents, stadiums or enclosures, where more than 10 persons may be expected to congregate at any time during the course of the assembly, as determined by the Fire Chief.

7.364 Medical Services. If required, each assembly of more than 1,000 persons shall have at least a first-aid station approved by the Fire Chief and staffed by a person trained for emergency medical care. If the assembly exceeds 2,500 persons, at least one ambulance or rescue vehicle may be required to [shall] be in attendance. [at all times.]

7.366 Public Safety.

[(1) The applicant shall submit plans for public safety at the assembly to the Chief of Police for approval.]

[(2)] (1) Adequate traffic control and crowd protection [policing] security shall be contracted for or otherwise provided by the applicant, as required by the Chief of Police. Security personnel shall conform to the standards required by the Chief of Police. [The Chief of Police may require at least one traffic control person for each 200 persons expected or reasonably expected to be in attendance at any time during the event. The Chief may also require at least one crowd control person for each 500 persons expected or reasonably expected to be in attendance at any time during the event.] The number of adequate fire control personnel, if needed, shall be determined by the Fire Chief.

[(3) The applicant shall submit the names and necessary background information, on forms provided by the Chief of Police, for all traffic control and crowd control personnel to be used during the assembly for investigation by the Chief of Police as to fitness. All the personnel must meet the following minimum standards in order to be approved as suitable by the Chief of Police:]

[(a) Be 21 years of age or older.]

[(b) Be in good physical health.]

[(c) Never have been convicted of a felony or misdemeanor involving moral turpitude.]

[(d) Have received reasonable minimum training in law enforcement or have on-the-job experience in law enforcement.]

[(4)] (2) The [policing] security personnel [must] may be required to wear appropriate identification or a uniform approved by the Chief of Police and must be on duty during the entire assembly unless a relief schedule has been planned and approved. [A relief schedule will be approved by the Chief of Police only when sufficient policing strength on duty has been maintained to meet the above-described minimum strength standards.]

[(5)] (3) It shall be the duty of the [policing] security personnel to report any violations of law to the Chief of Police and to take whatever action is reasonable and necessary to enforce the terms of the permit.

7.368 Parking Facilities. The applicant shall [provide the Chief of Police with a reasonable representation showing] demonstrate that adequate parking facilities have been made available within or adjacent to the location for which the permit is requested. Adequate access shall be provided for the parking area to facilitate the movement of vehicles at any time to or from the parking area. If buses are used to transport the public to the event, it shall be shown that public parking or parking as described above is available at a site from which buses are scheduled to pick up persons to transport them to the event.

7.370 Inspection of Required Facilities. All facilities shall be in place a sufficient time, but not less than two hours, before the [event] assembly for which an application is submitted and shall be subject to inspection by the city. If the actual facility, [or] construction or other condition fails to meet the standards approved in the proposed plans, preliminary approval [shall] may be withdrawn and all permits granted subject to such approval [shall] may be withdrawn.

7.372 Beer Gardens. Alcohol may be served in conjunction with an assembly only in an approved beer garden, under the following conditions:

(1) The applicant has obtained a special retail beer or wine license from the Oregon Liquor Control Commission and City Commission approval.

(2) Minors under the age of 21 years shall be excluded from the premises where alcohol is to be served.

(3) The beer garden must comply with the City's beer garden policies.

(4) The applicant has paid the beer garden fee set pursuant to Bend Code 1.800 - 1.806. Until the effective date of Ordinance No. NS-1485, that fee shall be $250.

7.374 Insurance. The permit applicants shall be required to furnish evidence of liability insurance providing primary coverage [consistent with the limits of the City's tort liability] in an amount which is no less than the City's tort liability limits established by the Oregon Legislature and naming the city as an additional insured. The liability insurance shall apply to, and provide coverage for, any and all claims for bodily injury and property damage arising from or caused by the assembly for which the permit is granted and shall be the primary coverage. In lieu of meeting the insurance requirements of this section, any governmental entity may enter into an agreement with the City to indemnify and hold the City harmless in the event of any damage or injury resulting from the assembly.

7.376 Street Closures. No City street will be closed for an assembly unless the applicant has specifically requested that the street be closed at least 30 days prior to the date of closure and has obtained City Manager approval of that request (see B.C. 6.025 & 6.030). In the event that the street to be closed is a state highway, the applicant shall obtain approval from the Oregon Department of Transportation to close the highway. Notwithstanding the foregoing time limit, the City Manager may order closure of streets that are not arterial, collector or commercial streets, provided that the Manager has received a request to close the street at least 72 hours prior to the time of closure.

7.377 Sound Regulation. All assemblies must comply with the City's noise and sound regulation ordinances, including but not limited to B.C. 5.320 (p) and B.C. 5.385 (2). If an assembly will be utilizing amplified sound at any location within the City or radios, tape recorders or record players on public property, the applicant shall obtain City Commission or City Manager approval, as specified in B.C. 5.320 (p) and B.C. 5.385 (4)(b) and in the City's amplified sound policy.

7.378 Permit Approval.

(1) The City Manager shall grant and issue the assembly permit if, after consideration, he or she finds:

(a) All city officials and departments have issued their approval pursuant to [sections] B.C. 7.358 to 7.368[.] and all other provisions of B.C. 7.350 - 7.396 have been complied with.

(b) The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

(c) The facilities desired have not been reserved for other use at the day and hour required in the application[.] and the event will not conflict with another event for which a permit has already been issued.

(d) The conduct of the activity will not substantially interrupt the safe and orderly movement of traffic.

(e) The conduct of the activity will not require the diversion of so great a number of city personnel of the city to properly police the activity and the contiguous areas as to prevent normal police protection to the city.

(f) The conduct of the activity is not reasonably likely to cause injury to persons or property so as to incite violence, crime or disorderly conduct.

(g) The appropriate provisions of [section] B.C. 7.374 have been complied with.

(h) The proposed activity or use of a park or park facility will not unreasonably interfere with or detract from the general public enjoyment of the park.

(2) In order to assure compliance with the criteria of this section, the City Manager may impose conditions on the grant of a permit reasonably designed to assure compliance. The permit will not be issued if the applicant refuses to agree to abide by or comply with all conditions of the permit.

7.380 Permit Denial. The City Manager shall deny the assembly permit if he finds that [the criteria of section 7.378] the requirements of B.C. 7.350 - 7.396 have not been or cannot be complied with. If the permit is denied, the applicant shall be notified of the denial and the reason for denial.

7.382 Appeal. If the permit is denied the applicant may appeal the denial to the City Commission in accordance with the provisions of [section] B.C. 7.228.

7.384 Permit Information. A permit issued pursuant to [sections] B.C. 7.356 to 7.378 shall contain the following information:

(1) Date of the activity.

(2) Location of the activity, including, if applicable, restrictions to certain areas of a park.

(3) Hour when the activity will start and terminate.

(4) Number of persons anticipated to attend or participate.

[(4)] (5) Special conditions imposed on the activity.

(6) Full name and signature of applicant.

7.386 Inspection. The City Manager or Chief of Police or designee or its authorized representatives shall have the right to go on the premises or facilities for which the permit has been granted for the purpose of inspection and enforcement of this Code and state law.

7.388 Crowd Limitation. If at any time during the assembly the size of the crowd exceeds the number of persons reasonably anticipated to be in attendance, the Chief of Police may require the permittee or sponsor to limit further admissions until sanitation, parking, fire, health, medical, traffic and crowd control requirements have been brought into conformity with the standards under which the permit was issued.

7.390 Duty to Preserve Order Placed on Operator. It is the purpose of [section] B.C. 7.350 to 7.396 to put the burden of preserving order upon the operator of the assembly. If the assembly is not operated in accordance with the rules and regulations prescribed by those sections, the permit shall be subject to revocation.

7.392 Rules and Regulations. The rules and regulations for parks set forth in [this Code] B.C. 5.320 shall govern and control the permitted use of all

city parks and public property during an assembly unless otherwise specifically provided in the permit.

7.394 Revocation of Permit.

(1) If an assembly is not being operated according to the rules and regulations of [sections] B.C. 7.352 to 7.392, the Manager shall have the right to revoke the permit and the applicant or other responsible individual shall be subject to applicable penalties under this Code, city ordinances and state law. Failure to comply with the terms and conditions of [sections] B.C. 7.350 to 7.392 shall constitute a public nuisance and shall be subject to all criminal and civil remedies.

(2) The revocation decision of the Manager shall be subject to the appeal procedures of [section] B.C. 7.224.

[7.396 Waiver. The City Manager or City Commission may waive any of the requirements set forth in section 7.356 to 7.374 if it is found that the proposed event is of general benefit to the entire community and meets the criteria set forth in section 7.378 excepting subsection (g).]

7.396 Offenses Against Special Events.

(1) No person shall knowingly interfere with the conduct of a licensed special event or authorized activities of an event participant.

(2) No person shall operate a vehicle that is not part of a special event between the vehicles or persons in the event.

7.398 Penalties.

(1) Failure to obtain a permit for an assembly or to pay permit fees or City costs, as required by B.C. 7.352 and 7.356 (1), is a Class A civil infraction.

(2) Failure to provide the facilities and services required by B.C. 7.360 - 7.366 or to comply with the conditions of the assembly permit is a Class A civil infraction.

(3) A violation of B.C. 7.372 (3) and (4), 7.390 and B.C. 7.396 (1) is a Class A civil infraction and a violation of B.C. 7.396 (2) is a Class A traffic infraction.

(4) Closure of a City street or right of way in violation of B.C. 7.376 is a Class A infraction.

(5) Failure to comply with the directives of the Police Chief relating to crowd limitation is a Class A infraction.

SECTION 3. That portion of Ordinance No. NS-1361 known as Bend Code 5.320 (1)(p) is amended to read:

Except as authorized by the City Commission or by the City Manager in accordance with the City policy on amplified sound, no person shall use any device that amplifies sound nor play a radio, tape recorder or record player in public parks or in vehicles parked on streets adjacent to public parks if the sound can be heard outside the vehicle. This regulation shall not apply to Vince Genna Stadium.

SECTION 4. This ordinance shall not affect:

(1) Any offense or act committed or done, or any penalty or forfeiture;

(2) Any prosecution, suit or proceeding at the time this ordinance is enacted;

(3) Any judgment rendered prior to the time this ordinance is enacted.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Read for the first time this 21st day of June, 1989.

Read for the second time this 5th day of July, 1989.

Placed upon its passage this 5th day of July, 1989.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 5th day of July, 1989.

MAYOR

ATTEST:

Recorder-Treasurer

BEER GARDEN POLICY

This policy is adopted to supplement the provisions of B.C. 7.372 relating to beer gardens which are held as a part of special events.

(1) No request for a beer garden will be accepted by the City in advance of two months before the scheduled event.

(2) All City costs for police officers needed for the beer garden, as required by the Chief of Police, must be paid in advance of when the beer garden is held.

(3) A beer garden may not be operational for over two hours without special permission by the City Commission and the Bend Metropolitan Park and Recreation District.

Adopted this 21st day of June, 1989.

This policy supersedes and replaces the City policy on Special Events which was adopted in April, 1983.

ORDINANCE NO. NS-1494 293 - 2196
93-08998

AN ORDINANCE VACATING A PORTION OF AN ALLEY IN BLOCK 5, CENTER ADDITION, CITY OF BEND DESCHUTES COUNTY, OREGON.

WHEREAS the Bend City Commission on the 2nd day of February, 1989, did request that proceedings be initiated to vacate the following described property:

> The Westerly portion of the alley in Block 5, Center Addition, lying South of Lots 1 through 6 and North of Lots 13 through 18, being 20 feet in width and 300 feet more or less in length, in the NE 1/4 SE 1/4 Section 32, T17S, R12 EWM, City of Bend, Deschutes County, Oregon, and

WHEREAS the City Commission having set a time for formal hearing upon the said proposed vacation; and the City Recorder of the City of Bend having caused a public notice for a public hearing giving the date, time and place of the public hearing on the proposed vacation to be published once each week for four consecutive weeks in the Bulletin, and said Recorder having also within 5 days after the first day of the publication of said notice caused a copy of said notice to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area, and the first publication and posting of said notice having occurred not less than 28 days before the hearing specified for said proposed vacation; and upon the appointed time specified in said notice the hearing have been held, and no objections made, and the City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated.

NOW, THEREFORE, IT IS HEREBY ORDERED that the above described real property be and the same hereby is vacated but reserving to the City of Bend easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 5th day of July, 1989.

Read for the second time the 19th day of July, 1989.

Placed upon its passage the 19th day of July, 1989.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 19th day of July, 1989.

Mayor

ATTEST:

Recorder-Treasurer

RETURN TO: CITY OF BEND
710 NW WALL ST.
BEND, OR 97702

ORDINANCE NO. NS-1495 293 - 2197

AN ORDINANCE ADOPTING CHAPTER NINE OF THE CITY OF BEND CODE ENTITLED "BUILDING CODE" AND REPEALING CERTAIN CITY ORDINANCES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City of Bend hereby adopts Chapter IX of the Bend Code as attached hereto and incorporated by reference herein.

SECTION 2. Ordinances Numbered NS-701, NS-702, NS-778, NS-941, NS-1031, NS-1049, NS-1096, NS-1141, NS-1152, NS-1172, NS-1318, NS-1329, NS-1358 and that portion of NS-1399 known as B.C. 1.738 are repealed.

SECTION 3. The adoption of this ordinance does not affect the City of Bend Sign Code, Ordinance No. NS-1374, as amended. The Sign Code shall not be a part of Bend Code Chapter IX, but shall be included in the City Code book, after Chapter IX as a separate code section.

SECTION 3. This ordinance shall not affect:

(1) Any offense or act committed or done, or any penalty or forfeiture;

(2) Any prosecution, suit or proceeding at the time this ordinance is enacted;

(3) Any judgment rendered prior to the time this ordinance is enacted.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Read for the 1st time this 5th day of July, 1989.

Read for the 2nd time this 19th day of July, 1989.

Placed upon its passage this 19th day of July, 1989.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 19th day of July, 1989.

Michael Kaser
Mayor

ATTEST:

James V. Kyser
Recorder-Treasurer

STATE OF OREGON)
COUNTY OF DESCHUTES) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND RECORDER OF CONVEYANCES, IN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS RECORDED THIS DAY:

93 MAR 25 PM 4:40

MARY SUE PENHOLLOW
COUNTY CLERK

BY. M Bartko DEPUTY
NO. 93-08998 FEE 10.00
DESCHUTES COUNTY OFFICIAL RECORDS

BEND CODE

CHAPTER IX - BUILDING CODE

MOVING BUILDINGS

9.100	Movement of Buildings to Locations Inside City
9.102	Movement of Buildings to Locations Outside City
9.104	Issuance of Permit
9.106	Pneumatic Equipment
9.108	Limits of Permit
9.110	Penalty

BUILDING CODES

9.200	City Adoption of State Specialty Codes
9.202	City Adoption of Uniform Dangerous Building Code
9.204	City Administration of Code
9.206	Code Fees
9.208	Violations and Penalties

MOVING BUILDINGS

9.100 Movement of Buildings to Locations Inside City. Every person, firm, or corporation desiring to move a building located within the City of Bend or desiring to place an existing building, that has been moved from a location outside of the City, on a lot within the City of Bend shall comply with the following requirements, in addition to complying with the requirements of the State of Oregon's Specialty Codes in effect at the time the building is moved, shall do the following:

(1) Submit an application to the City specifically describing the route to be taken in moving the building, the approximate length of time which may be consumed in the moving process, the day on which the moving shall start and end and the dimensions of the vehicle used to transport the house when loaded with the house which is being moved. The building or part of a building moved shall not be moved on a route other than that specified in the application, unless the route is revised by the City prior to issuance of a moving permit. Applicant shall provide at applicant's expense an escort for the building along the route to be taken in the moving of the building. The escort shall be either a regular or reserve City of Bend Police Officer or some 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.

(2) Notify all utility companies controlling or maintaining electric power, telephone, telegraph, or other overhead lines in the City at least one week before the moving date, indicating the applicant's intention to move a building or part thereof, the proposed route, and the date of moving. The applicant shall attach proof of utility company approval of the route and date of moving.

(3) At the time of applying for a permit, the applicant shall submit to the Building Official a letter or other written notification from the utility companies stating the time they were notified of the proposed moving of the building.

(4) The permittee shall:

(a) Conform to all requirements which are now or may be hereafter established by the City Commission; and

(b) Promptly repair and make good to the satisfaction of the City of Bend, any damage to pavement, sidewalks, crosswalks, hydrants, sewers, water lines, streets, alleys, or other public or private property done or caused by the applicant, his employes, or agents in moving a building or part of a building.

(c) If the applicant fails to repair damage promptly as required in B.C. 9.100 (4)(b), the City may repair the damage and deduct the cost of repairs from the funds deposited with the City pursuant to subsection (e), below, and may take appropriate legal action to collect damages in excess of those posted with the City, if appropriate.

(d) The applicant shall file with the City Development Services Department a Certificate of Insurance certifying applicant as the named insured under a comprehensive public liability policy of insurance with a reputable insurer, with minimum policy limits in the amount of City's tort liability limits established by State law. Said policy shall include the City of Bend, its officers and employees as additional insureds for all actions relating to the issuance of the permit and movement of the building.

(e) Deposit with the City $5,000 in cash, cashier's check or bond or other security satisfactory to the City. City's costs and expenses incurred in issuing and enforcing the permit, which may be set as a fee by the City Commission pursuant to B.C. 1.800 - 1.806, shall be deducted from the deposit and the balance shall be returned to the permittee upon complete performance of all of the following:

i) Permittee shall not move the building 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; and

ii) The permittee has completed moving of the building and has installed the building on a permanent foundation in conformance with all applicable laws, codes and regulations within 60 days, or such further time as the City Commission may extend, after issuance of the permit; and

iii) The moved building must comply with all applicable laws, codes and regulations within 120 days, or such further time as the City Commission may extend, from the issuance of the permit.

iv) Applicant has completed all repairs required by subparagraph (b), above.

(f) Secure a building permit for the site to which the moved building is to be relocated.

9.102 Movement of Buildings to Locations Outside City. Every person, firm or corporation desiring to move a building from a location outside or inside of the City of Bend to another location outside of the City of Bend over streets or public rights-of-way located within the City of Bend shall comply with the provisions of B.C. 9.100 (1), (2), (3) and (4)(a), (b) and (d).

9.104 Issuance of Permit.

(1) If the applicant has complied with all of the requirements of applicable ordinances, the Building Official shall issue a permit to move the building, or shall refer the matter to the City Commission and its decision thereafter shall be final.

(2) If a permit is refused, the City Commission shall provide for a hearing at which the applicant may present information or relevant considerations to the City Commission.

9.106 Pneumatic Equipment. A person, firm, or corporation moving a building or part of a building over or across a street, alley, or other public property shall support the building being moved on equipment with pneumatic tires. The inflated pneumatic tires shall be of sufficient size to reasonably carry the load being moved without damage to the surface on which the load is moved.

9.108 Limits of Permit. The issuance of a permit does not authorize the permittee, in moving a building, to break, injure, damage, or move public utility facilities, trees, or other public or private property without permission from the owner of such property.

9.110 Penalty. A violation of the provisions of this ordinance is a Class A infraction. In the case of a continuing violation, every day's continuance of the violation shall be considered a separate offense.

BUILDING CODES

9.200 City Adoption of State Specialty Codes. The City of Bend hereby adopts, by reference, the following State Specialty Codes relating to building construction as City ordinances:

(1) The 1986 Oregon State Structural Specialty Code and Fire and Life Safety Regulations; and

(2) The 1987 Oregon State Plumbing Specialty Code; and

(3) The 1985 Oregon Mechanical Specialty Code and Mechanical Fire and Life Safety Regulations.

9.202 City Adoption of Uniform Dangerous Building Code. The City of Bend does hereby adopt the 1988 edition of the Uniform Code for the Abatement of Dangerous Buildings, as published by the International Conference of Building Officials, by reference herein, as a City ordinance.

9.204 City Administration of Code. The City Building Official shall administer the codes listed in Bend Code 9.200 and 9.202.

9.206 Code Fees. Fees for permits issued pursuant to the above Codes shall be paid to the City in the amount provided on the State of Oregon's permit fee schedules, unless some lesser fee has been set by the City Commission pursuant to the provisions of Bend Code 1.800 - 1.806 or, prior to the effective date of Ordinance No. NS-1485, by the City Manager.

9.208 Violations and Penalties.

(1) No person, organization or corporation shall violate the codes adopted in Bend Code 9.200 and 9.202.

(2) A violation of Bend Code 9.200, 9.202 and 9.208 (1) is a Class A 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.

ORDINANCE NO. NS-1496

AN ORDINANCE ADOPTING CHAPTER FOUR OF THE CITY OF BEND CODE ENTITLED "SANITATION CODE" AND REPEALING CERTAIN CITY ORDINANCES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City of Bend hereby adopts Chapter IV of the Bend Code as attached hereto and incorporated by reference herein.

SECTION 2. Ordinances Numbered NS-352, NS-389, NS-462, NS-962, NS-1368 and NS-1376 are repealed.

SECTION 3. Ordinance Number NS-1272 shall be moved to, and shall become a part of, the franchise section of the City ordinance book.

SECTION 4. This ordinance shall not affect:

(1) Any offense or act committed or done, or any penalty or forfeiture;

(2) Any prosecution, suit or proceeding at the time this ordinance is enacted;

(3) Any judgment rendered prior to the time this ordinance is enacted.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Read for the 1st time this 5th day of July, 1989.

Read for the 2nd time this 19th day of July, 1989.

Placed upon its passage this 19th day of July, 1989.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 19th day of July, 1989.

Mayor

ATTEST:

Recorder-Treasurer

CHAPTER IV - SANITATION CODE

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4.102	Cemetery Description
4.104	Rules and Regulations
4.106	Duties of Sexton
4.108	Conveyance of Lots
4.110	Sale of Cemetery Spaces
4.112	Application and Permit
4.114	Record of Permits
4.116	Landscaping
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4.120	Permanent Maintenance Fund
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BEND CODE CHAPTER 4

CITY CEMETERY

4.100 Cemetery Name. The municipal cemetery is hereby named Pilot Butte Cemetery.

4.102 Cemetery Description. The municipal cemetery is a parcel of land described as follows: SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 33, T. 17 S., R. 12 E., W.M., and all of Blocks 1, 2, 5, 6, 7, 8 and 9, Bend Park, and all of Blocks 124, 125, 126 and 127 in First Addition to Bend Park, a plat of said plot, so laid off, having been made and recorded in the Office of the County Clerk of Deschutes County. Said plat is officially designated as Section One of the Pilot Butte Cemetery.

4.104 Rules and Regulations. The City Commission may make such rules and regulations as are necessary for the proper care, protection, and government of the cemetery and for the guidance and control of the sexton, not in conflict with the provisions of this ordinance. It shall be the duty of the City Manager to see that the provisions of this ordinance and such rules and regulations as made by the City Commission are properly enforced and obeyed. Fees for lots, monument and marker permits and permanent and annual maintenance shall be set by resolution of the City Commission (see Bend Code 1.800 - 1.806).

4.106 Duties of Sexton.

(1) The sexton shall keep a record showing:

(a) The name of the deceased.

(b) Date of burial or disinterment.

(c) Number of lot in which burial or from which disinterment is made.

(d) Number of permit.

(2) The sexton shall keep an up-to-date map of the cemetery showing all burials properly marked on said map.

(3) The sexton shall prepare all graves or cause them to be prepared, and shall attend to all duties appertaining to his office at the interment of bodies. The sexton shall, upon proper application, disinter, or cause to be disinterred, all bodies. All graves within the limits of the cemetery must be opened and closed by the sexton or designee. The sexton shall set or supervise the setting of all markers, stones, or monuments in the cemetery.

4.108 Conveyance of Lots. Every conveyance of a lot or grave space in the cemetery shall be by certificate executed by the mayor and attested by the recorder, under the seal of the City. Such conveyance shall only have the effect of giving the perpetual use of a lot for burial purposes subject to the laws of the state and the rules and regulations made by the City of Bend for the government thereof. Said certificate will not be issued until the price of the space or lot and permanent maintenance is paid in full.

4.110 Sale of Cemetery Spaces. The City Recorder is hereby empowered to sell spaces in the cemetery at prices fixed by aforementioned price schedules and must, before issuing an interment permit, collect the price of space and opening for said burial. No permit shall be issued to anyone who owes the city for unpaid cemetery charges. The City Recorder shall keep a record of all certificates issued, giving name of purchaser, date of sale, number of space and price of each space or spaces.

4.112 Application and Permit.

(1) Whenever an interment is to be made, application must be made to the City Recorder, and a permit obtained therefor. The application must state the following:

(a) The full name of the deceased.

(b) Place of nativity, if known.

(c) Age, if known.

(d) Date and place of decease.

(e) Date of interment and location of grave.

(f) Name of undertaker.

(g) Outside size of coffin or box.

(h) Cause of death, if known.

(2) Any person or persons desiring to disinter a body buried in the cemetery shall make application to the City Recorder, who shall, if everything is regular, issue a permit allowing such disinterment. In no case shall a permit be granted unless the party applying for a permit shall produce a certificate of title to lot or space or the records in the City Recorder's office show that the applicant is an owner of a lot or space. The sexton shall not permit an interment or disinterment to be made in said cemetery until authorized to do so by the burial or disinterment permit mentioned above, which permit shall be kept on file. The owner of a lot may allow the interment of the remains of any person in their lot, but may not do so for compensation.

(3) When a body is to be removed from one part of the cemetery to another, a permit must be obtained for such removal. When bodies are brought from other burial grounds for interment, the same procedures provided for the original burial of bodies shall be followed.

4.114 Records of Permits. A record shall be kept by the City Recorder of all burial permits issued by him, which record shall contain:

(1) The name of the deceased.

(2) Place of birth, if known.

(3) Age, if known.

(4) Date and place of death.

(5) Cause of death.

(6) Number and date of said permit issued.

(7) Name of undertaker.

(8) Lot or grave space in which buried.

4.116 Landscaping. The sexton is responsible for landscaping and maintaining the grounds of the cemetery in accordance with the cemetery landscaping plan. The sexton may remove trees, plants or shrubs that become detrimental to cemetery lots or avenues or which pose a safety hazard to the public.

4.118 Annual Maintenance Charge. In order to maintain the cemetery lawn and grounds, an annual maintenance charge shall be billed to owners of cemetery spaces. If said owners are deceased, then the near relatives of said owners shall be billed. In cases where said owners or near relatives of said owners neglect to pay annual maintenance charges, the City Recorder may, after 10 days notice by publication once in a newspaper published in the City of Bend, sell all unused spaces and apply the proceeds received therefrom as a credit to maintenance charges on the remaining used spaces, if any.

4.120 Permanent Maintenance Fund. A permanent maintenance cemetery fund shall be established and receipts from permanent maintenance sales shall be credited to this fund. This fund shall be safely invested with the approval of the City Commission, and all interest earned by said fund shall be credited to the annual cemetery

income account and used to help defray the cost of cemetery upkeep each year.

4.122 Monument and Marker Permits. Monuments or markers may be placed in the cemetery, however, neither shall be placed therein until a permit has been obtained from the City Recorder. The permit shall state the dimensions of the monument or marker and the lot on which same is to be placed. The sexton shall not allow any monument or marker to be placed in the cemetery until the permit therefor has been exhibited to him.

PROHIBITION OF THE ADDITION OF FLUORIDE COMPOUNDS TO THE CITY OF BEND WATER SUPPLY

4.200 Fluoridation Prohibited. No person, persons, firm, corporation (municipal or otherwise), partnership, or any other entity shall cause any of the chemical fluorine (whether natural or artificial in the process known as fluoridation) to be added to the water supply of the City of Bend, nor shall any such person, persons, firm, corporation (municipal or otherwise), partnership, or any other entity install or attempt to install at any phase or point of the water system of the City of Bend any apparatus, equipment or machine designed to augment, assist or do the process of adding the chemical fluorine (whether natural or artificial) into the water supply of the City of Bend.

Source: Ordinance No. NS-462, approved by the voters of the City of Bend at a primary nominating election for the City of Bend on May 18, 1956, and repealed and readopted by the ordinance adopting this code.

DEVELOPING SEWER ASSESSMENT DISTRICTS AND ASSESSING SEWER COSTS

4.300 Definitions.

(1) "Owner" or "property owner" shall include persons, firms or corporations having an interest in real property by deed or contract for purchase.

(2) "Sewer facilities" shall include but not be limited to sewer mains, interceptors, drains, manholes, pump stations and any other device used in the delivery of sewage to a sewer plant.

(3) "Sewer assessment district" shall mean the property benefited by the installation of sewer facilities.

4.302 Authority to Create District. The City of Bend may create a sewer assessment district for the development of sewer facilities within the district either upon its own motion or upon the petition of the owners of one-half of the property within the district that will be benefited by the project.

4.304 Resolution of Intent. After receipt of a petition for creation of a sewer assessment district or upon its own motion the City Commission shall declare its intention to create a sewer assessment district by resolution. The resolution shall:

(1) Describe the boundaries of the sewer assessment district which shall include all of the property to be benefited by the installation of sewer facilities, and

(2) Describe the sewer facilities to be installed within the sewer assessment district, and

(3) Recite the City's estimated cost of the project, and

(4) Describe how the cost of the project will be paid, and

(5) Recite the place, time and date when remonstrances to the project will be heard.

4.306 Notice of Resolution. Notice of the resolution directing creation of the sewer assessment district shall be given as follows:

(1) The resolution shall be published at least once in a newspaper of general circulation within the City of Bend at least 15 days before the date set by the resolution for hearing remonstrances, and

(2) The City Engineer shall post the resolution as nearly as possible at each end and on each side of the sewer assessment district within five days after the passage of the resolution. The City Engineer shall file an affidavit of posting the resolution with the City Recorder.

(3) The City Recorder shall mail a copy of the resolution to property owners within the district.

4.308 Remonstrance.

(1) Any remonstrance to the project must be filed with the City Recorder within 15 days from the date the City Engineer posts a copy of the resolution directing creation of the sewer assessment district. If the remonstrance is signed by the owners of two-thirds or more of the square foot area within the sewer assessment district then the City Commission shall not proceed with the project until it has reconsidered the project and its necessity.

(2) After effective remonstrance and after reconsideration of the project the City Commission may direct that the project continue according to the original resolution directing creation of the sewer assessment district, by modifying the project and amending the resolution or the City Commission may abandon the project.

4.310. Manner of Doing Work. The project work may be done in whole or in part by the City, by contract, by any other governmental agency, or by any combination thereof. Work must be done according to City standards and specifications.

4.312 Assessment of Project Cost. The City Commission in adopting a method of assessment for the project may:

(1) Use any fair and reasonable method of determining the properties specially benefited by the project and the extent of their benefit within the sewer assessment district.

(2) Use any fair and reasonable method of apportioning the sum to be assessed between the properties determined to be specially benefited.

(3) Authorize the City to pay any part or all of the project.

(4) The City Engineer shall apportion the project's costs to each parcel of land within the sewer assessment district and file this apportionment with the City Recorder.

4.314 Notice of Proposed Assessment. Prior to assessment of the project's cost to benefited properties within the sewer assessment district the City Commission shall cause the City Recorder to give notice of the proposed assessment to each property owner affected by the proposed assessment within the sewer assessment district as follows:

(1) The notice of proposed assessment shall contain a description of the project; the total actual cost if the work is already done, or total estimated cost based upon the contract award, or estimated City departmental cost of the project; that part of the project's cost to be assessed against the property specially benefited by the project; the record owner of each parcel of property to be assessed; the description of each parcel of property to be assessed and the amount of each assessment.

(2) The time and place at which objections to the proposed assessment may be made and that all objections to the proposed assessment must be filed with the City Recorder prior to the time set for hearing objections.

(3) The notice of proposed assessment shall be mailed to the owner of each parcel of property sought to be assessed at least 15 days before the time set for hearing objections.

(4) The notice of proposed assessment shall be published at least once, giving 15 days' notice of the time and place at which objections to the proposed assessment may be made.

(5) The notice of proposed assessment shall be posted at three public places within the City of Bend at least 15 days before the time at which objections to the proposed assessment may be made.

4.316 Objections to Assessment. Any objections to the proposed assessment must be filed with the City Recorder within 15 days after publication of the notice of proposed assessment in the newspaper.

4.318 Assessment by the City Commission.

(1) At the time and place specified in the notice of proposed assessment, the City Commission shall consider all objections timely filed to the proposed assessment. The Commission may adopt, correct, modify or revise proposed assessment and shall determine the amount of assessment to charge against each property to be assessed according to the special benefits accruing to the property from the project and shall, by ordinance, spread the assessment. The ordinance spreading the assessment may be passed either before or after the actual work on the project is done.

(2) Upon passage of the ordinance spreading the assessment, the City shall enter the assessment in the docket of City liens at which time the assessment shall become a lien upon the property assessed superior to any other lien as provided by law. The entry in the docket of City liens shall contain the description of each property liable for the assessed cost of the project, the name of the record owner, or the reputed owner thereof, or that the name of the owner is unknown, together with the sum assessed upon the property and the day of entering the same into the docket.

4.320 Notice of Assessment. Within ten days after the ordinance spreading the assessments has been passed and entered in the docket of City liens, the City Recorder shall publish and mail a notice of assessment to the owners of the assessed property. The notice of assessment shall recite the date of the assessment ordinance and shall state that upon failure of the owner of the property assessed to make application to pay the assessment in installments within ten days from a certain date, which shall be the day notice of assessment was published, or upon the failure of the owner to pay the assessment in full within 20 days from the date of the assessment ordinance, then interest will commence to run on the assessment and the property assessed will be subject to foreclosure; and notice of assessment shall further set forth a description of the property assessed, the name of the owner of the property, and the amount of each assessment.

4.322 Method and Effect of Giving Notice.

(1) Whenever any notice by mail is required by this code section, it may be sent by either registered or certified mail and, if directed to the record owner of real property, shall be sent to the record owner's address as shown on the records of the Deschutes County Assessor. Recorded land contract purchasers shall receive notice in the same manner. Notice to any agent of the record owner or recorded land contract purchaser shall be considered notice to the principal.

(2) Any mistake, error, omission, or failure with respect to such mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or, if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper.

(3) Publication of notice shall be done in a newspaper of general circulation within the City of Bend.

4.324 Foreclosure. Any assessment pursuant to this code section not paid within 20 days after it is entered in the docket of City liens, or which has not been

bonded pursuant to the Bancroft Bonding Act (see ORS 223.205 - 223.295) may be foreclosed as provided in the Charter of the City of Bend and as otherwise provided by law.

4.326 Errors in Assessment Calculations. Claimed errors in the calculation of assessments shall be directed to the City Recorder, who shall determine whether there has been an error in fact. If the Recorder shall find that there has been an error in fact, he or she shall recommend to the Commission an amendment to the assessment ordinance to correct such error, and upon enactment of such amendment, the City Recorder shall make the necessary correction in the docket of City liens and send a correct notice of assessment by mail.

4.328 Deficit Assessment. In the event that an assessment shall be made before the total cost of the project is ascertained and if it is found that the amount of the assessment is insufficient to pay the actual cost of the project, the Commission may, by ordinance, declare and assess the deficit. Notice of proposed assessment for the deficit shall be given as provided in Bend Code 4.322. There shall be a hearing on objections to the proposed deficit assessment as provided in Bend Code 4.318. The deficit shall be assessed as provided in Bend Code 4.318 and 4.320.

4.330 Rebates. If upon the completion of the project it is found that the assessment previously made is more than sufficient to pay the costs of the project, or at the end of any fiscal year in which the project is operated there is any net income after the payment of the operating costs, then the Commission must ascertain and declare the same by resolution. When so declared, the excess amounts must be entered on the lien docket as a credit upon the appropriate assessments and shall be apportioned and credited to the respective property owners on the same basis and according to the same formula as the original assessment. In the event that an assessment has been paid, the person who paid it, or his legal representative or assigns, shall be entitled to the rebate.

4.332 Abandonment of Proceedings. The Commission shall have full power and authority to abandon and rescind proceedings for any sewer assessment district under this code section at any time prior to the final completion of the project.

4.334 Reassessment. Whenever any assessment, deficit, or reassessment for any sewer assessment district made by the City has been, or will be, set aside, annulled, declared or rendered void, or its enforcement restrained by any court of this State, or any federal court having jurisdiction thereof, or when the City Commission shall be in doubt as to the validity of any assessment, deficit assessment, or reassessment, or any part thereof, then the City Commission may make a reassessment in the manner provided by the laws of the State of Oregon.

4.336 Separation of Assessments. Whenever property shall have been assessed in an entire tract, parcel or acreage and subsequently divided into smaller lots or parcels or divided among different owners, any person desiring to have the total assessment apportioned between said smaller lots or parcels may make an application to the City for a separation of the assessment and a determination of the amount due on the portion owned by him. All costs of any separation shall be paid by the person applying for the separation. Separation of assessment shall be solely at the discretion of the City, and upon such terms and conditions required by the City. No separation of an assessment shall become effective until the applicant has executed an agreement acknowledging the validity of the assessments as separated and waiving any and all errors and irregularities in the proceedings.

4.338 Curative Provisions. No assessment by this code section shall be rendered invalid by reason of a failure to have all of the information required to be in the resolution of intent, the assessment ordinance, the lien docket, or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the record owner of any property as required by this code section, or by reason of any other error, mistake, delay, omission or irregularity, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the City Commission shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

4.340 Sewers Outside City. The City shall have full power pursuant to ORS 224.010 to 224.170 to extend its sewer facilities outside the City; and to assess the costs of such sewer facilities outside the City to the property specially benefited by

the sewer facilities whether such property is inside or outside the City. All such extensions of sewer facilities outside the City and assessments therefor shall be made according to the provisions of this code section and the provisions of ORS 224.010 to 224.170.

USE OF CITY SANITARY SEWERS FOR THE DISCHARGE OF INDUSTRIAL WASTEWATER

GENERAL PROVISIONS

4.400 Purpose and Policy. This section sets forth requirements for the discharge of industrial wastewater into the wastewater collection and treatment system of the City of Bend and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the general Pretreatment Regulations (40 CFR, Part 403).

4.402 Objectives. The objectives of this code section are:

(1) To prevent the introduction of pollutants into the City's wastewater system which will interfere with the operation of the system or contaminate the resulting sludge and effluent waters.

(2) To prevent the introduction of pollutants into the City wastewater system which will pass through the system, inadequately treated, into ground waters or the atmosphere or otherwise be incompatible with the City's effluent disposal system.

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(4) To provide for equitable distribution of the cost of the City wastewater system.

4.404 Overview of Section Provisions. This section provides for the regulation of discharge to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

4.406 Application. This code section shall apply to the City of Bend and to persons outside the City of Bend who are, by agreement, users of the City's wastewater collection and treatment system. Except as otherwise provided herein, the Director of Public Works shall administer, implement, and enforce the provisions of this code section.

4.408 Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this code section, shall have the following meanings:

(1) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

(2) Approval Authority. The Director of the Department of Environmental Quality for Oregon.

(3) Authorized Representative of Industrial User. An authorized representative of an industrial user may be: (1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation; (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the industrial discharge originates.

(4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory proce-

dure, five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/1).

(5) Building Sewer. A sewer conveying wastewater from the premises of a user to the City system.

(6) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard as established by the Environmental Protection Agency.

(7) City. The City of Bend or the City Commission of Bend.

(8) City Collection and Treatment System. The collection and treatment system which is owned by the City of Bend. This definition includes any sewers that convey wastewater to the City's treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Ordinance, the City collection and treatment system shall also include any sewers that convey wastewaters to the treatment plant from persons outside the City of Bend who are, by agreement with the City of Bend, served by the City's wastewater system.

(9) City Treatment Plant. That portion of the City's system designed to provide treatment to wastewater.

(10) Code section. B.C. 4.400 - 4.490.

(11) Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(12) Compatible Pollutant. Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in the City's Water Pollution Control Facilities Permit, where the treatment plant treats such pollutants to the degree required by the City's permit.

(13) Control Authority. The term "control authority" shall refer to the "Approval Authority," defined under (b) above or the Director of Public Works if the City has an approved Pretreatment Program under the provisions of 40 CFR 403.11.

(14) Director of Public Works. The person designated by the City to supervise the operation of the city owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

(15) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

(16) Grab Sample. A sample which is taken from a waste stream on a onetime basis with no regard to the flow in the waste stream and without consideration of time.

(17) Holding Tank Waste. Any waste from holding tanks such as chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

(18) Incompatible Pollutant. All pollutants other than compatible pollutants as defined in sub-paragraph (i) of this section.

(19) Industrial Discharge. The discharge or the introduction of nondomestic pollutants from any source, this includes partial domestic and partial nondomestic wastewater, regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the City's collection and treatment system (including holding tank waste discharged into the system).

(20) Industrial User. A source of discharge or the introduction of nondomestic pollutants from any source regulated under section 307 (b) or

(c) of the Act, (33 U.S.C. 1317), into the City's collection and treatment system (including holding tank waste discharged into the system).

(21) Interference. The inhibition or disruption of the City's treatment processes or operations which contributes to a violation of any requirement of the City's D.E.Q. Permit. The term includes prevention of sewage sludge use or disposal by the City in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title V of SWDA) applicable to the method of disposal or use employed by the City.

(22) National Categorical Pretreatment Standard or Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.

(23) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

(24) New Source. Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c)(33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(25) National Pollution Discharge Elimination System or NPDES Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

(26) Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

(27) pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(28) Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(29) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(30) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the City's sewer system. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR Section 403.6(d).

(31) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

(32) Shall is mandatory; May is permissive.

(33) Significant Industrial User. Any industrial user of the City's wastewater disposal system who (1) has a discharge flow of 50,000 gallons

or more per average work day, or (2) has a flow greater than 5% of the flow in the City's wastewater treatment system, or (3) has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act, or (4) is found by the City, D.E.Q. or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(34) State. State of Oregon.

(35) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(36) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(37) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(38) Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307 (a) or other Acts.

(39) User. Any person who contributes, causes or permits the discharge of wastewater into the City's collection and treatment facilities.

(40) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions whether treated or untreated, which is contributed into or permitted to enter the City's collection and treatment system.

(41) Waters of the State. All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of any portion thereof.

4.410 Abbreviations. The following abbreviations shall have the designated meanings:

- BOD - Biochemical oxygen demand.
- CFR - Code of Federal Regulations.
- COD - Chemical oxygen demand.
- EPA - Environmental Protection Agency.
- l - Liter.
- mg - Milligrams.
- mg/l - Milligrams per liter.
- NPDES - National Pollutant Discharge Elimination System.
- O&M - Operation and maintenance.
- SIC - Standard Industrial Classification.
- SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
- TSS - Total suspended solids.

REGULATIONS

4.420 General Discharge Prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the City's wastewater collection and treatment system. These general prohibitions apply to all such users of the City facilities whether or not the user is subject to National Categorical Pretreatment Standards or any other National, State of Oregon, or local Pretreatment Standards or Requirements. A user shall not discharge the following substances into the City sewer system in such amounts that interfere with the operation of the sewer system:

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(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the sewer system or to the operation of the pump stations and treatment plant. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides and any other substances which the City, the State of Oregon or EPA has notified the users is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to: Grease, garbage with particles greater than one-half inch (½") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spend lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spend grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding, or polishing wastes.

(3) Any wastewater having a pH less than 5.0, or higher than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the collection system, pump stations or treatment plant.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with maintenance of the wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving water of the plant or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act. See B.C. 4.490.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

(6) Any substance which may cause the treatment plant's effluent or any other product of the plant such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the plant is pursuing a reuse and reclamation program. In no case shall a substance discharged into the system cause the treatment plant to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State of Oregon criteria applicable to the sludge management method being used.

(7) Any substance which will cause the treatment plant to violate its State Disposal System Permit.

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the treatment plant, but in no case wastewater with a temperature at the introduction into the system which exceeds 65°C (149°F) for users with a daily wastewater flow of 25,000 gallons or more.

(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow and/or pollutant concentration which a user knows or has reason to know will cause interference to the treatment plant. In no case shall a slug load have a flow rate, or contain concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the State of Oregon or Federal regulations.

(12) Any nondomestic wastewater which causes a hazard to human life or creates a public nuisance.

4.422 Federal Categorical Pretreatment Standards. Upon the promulgation of the Federal Categorical Pretreatment Standard for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this code section for sources in that subcategory, shall immediately supersede the limitations imposed under this code section. The Director of Public Works shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

4.424 Modification of Federal Categorical Pretreatment Standards. Where the City's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to the Approval Authority for modification of specific limits in the Federal Pretreatment Standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95 percent of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The City may modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained.

4.426 Specific Pollutant Limitations. No person shall discharge wastewater containing in excess of:

0.5 mg/1 arsenic
0.5 mg/1 cadmium
1.5 mg/1 copper
0.5 mg/1 cyanide
1.5 mg/1 lead
0.05 mg/1 mercury
1.5 mg/1 nickel
0.5 mg/1 silver
0.5 mg/1 total chromium
1.5 mg/1 zinc

4.428 State of Oregon Requirements. State of Oregon requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this code section.

4.430 City's Right of Revision. The City reserves the right to establish by code section more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives of this code section.

4.432 Excessive Discharge. No user shall ever increase the use of process water or, in anyway, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State. (Comment: Dilution may be an acceptable means of complying with some of the prohibitions set forth in Bend Code 4.420, e.g. the pH prohibition.)

4.434 Accidental Discharges.

(1) User Responsibilities. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this code section. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. All existing users shall complete such a plan by January 1, 1984. No user who commences contribution to the City Sewer System after the effective date of this code section shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this code section. In case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the City of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(2) Written Notice. Within five (5) days following an accidental discharge; the user shall submit to the Director of Public Works a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the City facilities, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(3) Notice to Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees to call the City in the event of a dangerous discharge. Employers shall insure that all employees who may suffer or cause such a dangerous discharge to occur are advised of the emergency notification procedure.

FEES

4.440 Fees. It is the purpose of this section to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. The applicable extra strength charge will be set forth in the City's Schedule of Charges and Fees.

4.442 Amount of Fees.

(1) The permit fees for sewer service for industrial wastes that require a pretreatment permit shall be as follows:

(a) Base fee for all industrial pretreatment permits - $50.00.

(b) Plan review for pretreatment and accidental discharge facilities - $50.00 minimum plus any additional actual cost.

(c) Minimum annual fee for monitoring inspections and surveillance - $75.00.

(d) Other fees the City determines are necessary to pay for carrying out the requirements of this code section.

(2) The above fees relate solely to industrial pretreatment and are separate from all other fees charged by the City, such as connection charges.

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ADMINISTRATION

4.450 Wastewater Dischargers. It shall be unlawful to discharge any industrial wastewater to the City sewer system without first obtaining a permit from the City of Bend.

4.452 Wastewater Contribution Permits.

(1) General Permits. All significant industrial users proposing to connect to or to contribute added flow to the City's sewer system shall obtain an Industrial Wastewater Discharge Permit before connecting to or contributing to the system. All existing significant users connected to or contributing to the system shall obtain an Industrial Wastewater Discharge Permit within 180 days after being notified by the City.

(2) Permit Application. Users required to obtain an Industrial Wastewater Discharge Permit shall complete and file with the City an application in the form prescribed by the City and accompanied by the appropriate fee set pursuant to Bend Code 4.442. Existing users shall apply for a Wastewater Discharge Permit within 180 days after notification. In support of the application, the user along with a Professional Engineer, shall submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address, and location, (if different from the address);

(b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(c) Wastewater constituents and characteristics, including, but not limited to, those mentioned in section 2 of this code section as determined by an EPA approved analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, part 136, as amended;

(d) Time and duration of contribution;

(e) Average daily and 3 minutes peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;

(g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the user to meet applicable Pretreatment Standards;

(i) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule: (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.); (2) No increment referred to in paragraph (1) shall exceed nine (9) months; (3) Not later than fourteen

(14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director of Public Works including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Director of Public Works.

(j) Each product produced by type, amount, process or processes and rate of production;

(k) Type and amount of raw materials processed (average and maximum per day);

(l) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(m) Any other information as may be deemed by the City to be necessary to evaluate the permit application.

(3) Staff Review. The City staff will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City Manager may issue an Industrial Wastewater Discharge Permit subject to terms and conditions provided herein.

(4) Appeals. Any applicant for an Industrial Use Permit who wishes to appeal the administration of this code section may submit a written appeal to the Bend City Commission for review by the Commission Sewer and Water Committee.

(5) Permit Modifications. Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit or users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for an Industrial Wastewater Discharge Permit as required by 4.2(b), the user shall apply for an Industrial Wastewater discharge Permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing Industrial Wastewater Discharge Permit shall submit to the Director within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by paragraph (8) and (9) of section 4.2(b).

(6) Permit Conditions. Industrial Wastewater Discharge Permits shall be expressly subject to all provisions of this code section and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:

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(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(b) Limits on the average and maximum wastewater constituents and characteristics;

(c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(d) Requirements for installation and maintenance of inspection and sampling facilities;

(e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(f) Compliance schedules;

(g) Requirements for submission of technical reports or discharge reports;

(h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto;

(i) Requirements for notification of the City or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(j) Requirements for notification of slug discharges;

(k) Other conditions as deemed appropriate by the City to ensure compliance with this code section.

(7) Permits Duration. The permits will not specify a specific time period. The permits will remain in force until there is any change in the wastewater discharge; changes in the terms of the permit or modifications in the requirements of this code section; or if other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(8) Permit Transfer. Industrial Wastewater Discharge Permits are issued to a specific user for a specific operation. An Industrial Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

4.454 Reporting Requirements for Permittee.

(1) Compliance Date Report. Within 90 days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the City sewer system, any user subject to Pretreatment Standards and Requirements shall submit to the Director of Public Works a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the user facility which are limited by such Pretreatment Standards or Requirements. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User, and prepared by a qualified professional engineer.

(2) Periodic Compliance Reports.

(a) Any user subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the City sewer system, shall submit to the Director of Public Works during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Director, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in paragraph (b)(4) of this section. At the discretion of the Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Director may agree to alter the months during which the above reports are to be submitted.

(b) The Director of Public Works may impose mass limitations on users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (1) of this paragraph shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Director, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the applicable Pretreatment Standard. All analysis shall be performed in accordance with procedures established by the Environmental Protection Agency pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Environmental Protection Agency. Sampling shall be performed in accordance with the techniques approved by the Environmental Protection Agency.

(Comment: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Environmental Protection Agency.)

4.456 Monitoring Facilities.

(1) The City shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.

4.458 Inspection and Sampling. The Director of Public Works shall inspect the facilities of any user to ascertain whether the purpose of this code section is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, State, D.E.Q., and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

4.460 Pretreatment.

(1) Users shall provide necessary wastewater treatment as required to comply with this code section and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this code section. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(2) All records relating to compliance with Pretreatment Standards shall be made available to officials of the EPA or State of Oregon D.E.Q. upon request.

4.462 Confidential Information.

(1) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(2) When requested by the person furnishing a report, the portions of a report which would disclose trade secrets or secret processes shall not be made available for inspection by the public, expect when disclosure is required by the Oregon Public Records Law (ORS 192.410 - 192.505).

(3) Wastewater constituents and characteristics will not be recognized as confidential information.

ENFORCEMENT

4.470 Harmful Contributions.

(1) The City may suspend the wastewater treatment service and/or an Industrial Wastewater Discharge Permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare, of persons, to the environment, causes interference to the treatment plant or causes the City to violate any condition of its operating permit.

(2) Any person notified of a suspension of the wastewater treatment service and/or the Industrial Wastewater Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the City sewer system or endangerment to any individuals. All reconnection expenses shall be the responsibility of the user. The City shall reinstate the Industrial Wastewater Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within 15 days of the date of occurrence.

4.472 Revocation of Permit. Any user who violates the following conditions of this code section, or applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of section 5 of this code section:

(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,

(4) Violation of conditions of the permit.

4.474 Notification of Violation. Whenever the City finds that any user has violated or is violating this code section, or the Industrial Wastewater Discharge Permit, or any prohibition, or limitation of the requirements contained within this code section, the City may serve upon such person a written notice stating the nature of the violation. Said notice may include a wastewater discharge limit as set by the director of Public Works. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by the user.

4.476 Show Cause Hearing.

(1) The City may order any user who causes or allows an unauthorized discharge to show cause before the City Commission why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Commission regarding the violation, the reason why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City Commission why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The City Commission may itself conduct the hearing and take the evidence, or may designate any of its members or any officer to:

(a) Issue in the name of the City Commission notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(b) Take the evidence;

(c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Commission for action thereon.

(3) After the City Commission has reviewed the evidence, it may issue an order to the user responsible for the discharge that the sewer service be discontinued after a specified time period. Discontinued service may occur unless adequate treatment facilities, devices or other related appurtenances are properly operated; or devices or other related appurtenances are installed on existing treatment facilities. Further orders and directives as are necessary and appropriate may be issued.

4.478 Legal Action. If any person discharges sewage, industrial wastes or other wastes into the City's wastewater disposal system contrary to the provisions of this code section, Federal or State Pretreatment Requirements or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief in the courts of Deschutes County or of the City of Bend.

PENALTIES AND COSTS

4.480 Penalties. An infraction of an order of the City Commission or willful or negligent failure to comply with any provision of B.C. 4.400 - 4.490, and the orders, rules, regulations and permits issued hereunder, is subject to a Class A infraction. Each day on which a violation shall occur or continue shall be deemed a separate and distinct violation.

4.482 Fees and Costs. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate civil suit at law against the person found to have violated B.C. 4.400 - 4.490 or the orders, rules, regulations, and permits issued hereunder.

4.484 Falsifying Information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to Bend Code 4.400 - 4.490 or Industrial Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction, be punished as a Class A infraction.

4.490 65 Toxic Pollutants Listed in 307(a) of the Federal Clean Water Act of 1977

Acenapthene
Acrolein
Acrylonitrile
Aldrin/Dieldrin
Antimony and compounds
Arsenic and compounds
Asbestos
Benzene
Benzidine
Beryllium and compounds
Cadmium and compounds
Carbon tetrachloride
Chlordane
Chlorinated benzenes
Chlorinated ethanes
Chlorinalkyl ethers
Chlorinated naphthalene
Chlorinated Phenols
Chloroform
2-chlorophenol
chromium and compounds
Copper and compounds
Cyanides
DDT and metabolities
Dichlorobenzenes
Dichlorobenzidine
Dichloroethylenes
2,4-dichlorophenol
Dichloropropane
Dicholorpropene
2,4-dimethylphenol
Dinitrotoluene
Diphenylhydrazine
Endosulfan & metabolites
Endrin and metabolites
Ethylbenzene
Fluoranthene
Haloethers
Halomethanes
Heptachlor and metabolites
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachlorocylohexane
Isophorone
Lead and compounds
Mercury and compounds
Naphthalene
Nickel and compounds
Nitrobenzene
Nitrophenols
Nitrosamines
Pentachlorophenol
Phenol
Phthalate esters
Polychlorinated byphenyls (PCB)
Polynuclear aromatic
Hydrocarbons
Selenium and compounds
Silver and compounds
2,3,7,8,-Tetrachlorodibenzo-p-dioxin (TCDD)
Tetrachloroethylene
Thallium and compounds
Toluene
Toxaphene
Trichloroethylene
Vinyl chloride
Zinc and compounds

USE OF PUBLIC AND PRIVATE SEWERS, DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS AND THE DISCHARGE OF ALL WASTEWATER EXCEPT INDUSTRIAL WASTEWATER INTO THE PUBLIC SEWER SYSTEM.

4.500 Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

(1) "Biochemical Oxygen Demand" (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (MG/1).

(2) "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

(3) "Building Sewer" means the extension from the building drain to the public sewer or other place of disposal.

(4) "City" means the City of Bend or the City Commission of Bend.

(5) "Combined Sewer" means a sewer receiving both surface runoff and sewage.

(6) "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(7) "Industrial Discharge" means the discharge or the introduction of domestic pollutants from any source. This includes partial domestic and partial nondomestic wastewater, regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the City's collection and treatment system (including holding tank waste discharged into the system).

(8) "Natural Outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

(9) "Person" means any individual, firm, company, association, society, corporation or group.

(10) "pH" means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(11) "Properly Shredded Garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1.2 inches (1.27 centimeters) in any dimension.

(12) "Public Sewer" means a sewer in which all owners of abutting properties have equal rights, and is owned and controlled by the City of Bend.

(13) "Sanitary Sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

(14) "Sewage" means a combination of the water-carried wastes from residences, business buildings, and institutions together with such ground, surface and storm waters as may be present.

(15) "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.

(16) "Sewage Works" means all facilities for collecting, pumping, treating and disposing of sewage.

(17) "Sewer" means a pipe or conduit for carrying sewage.

(18) "Slug" means any discharge of any wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration or flows during normal operation.

(19) "Storm Drain" or Storm Sewer" means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(20) "Suspended Solids" means a total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(21) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

4.502 Use of Public Sewers Required.

(1) No person shall place, deposit, or permit any human or animal excrement, garbage or other objectionable waste to be deposited in any unsanitary manner on public or private property within the City of Bend, or on any City property outside the City.

(2) No person shall discharge any sewage or other polluted waters into any natural outlet within the City of Bend, or in any area under the jurisdiction of the City, except where suitable treatment has been provided in accordance with this provision.

(3) Except as hereinafter provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(4) All property used for human occupancy or employment which is within 100 feet of a public sanitary sewer shall be hooked up to the sewer provided the property can be served by the sewer from a public street, alley or right of way or a sewer easement. The property shall be hooked up to the public sanitary sewer within 90 days after the date official notice is given to hook up (unless extended pursuant to City policy). The hookup shall be accomplished in compliance with all applicable Federal, State and City laws, regulations and policies.

(5) City water service may be terminated to any property which has not hooked up to the sewer system in compliance with the provisions of this ordinance or any other applicable law, rule or regulation.

4.504 Private Sewage Disposal.

(1) Where a public sanitary sewer is not available under the provisions of Bend Code 4.502 (4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this ordinance and the regulations of the State of Oregon Environmental Quality Commission.

(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the State Department of Environmental Quality and the County Health Department.

(3) A private sewage disposal system shall not be used until the installation is completed to the satisfaction of the State Department of Environmental Quality and the County Health Department.

(4) The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations of the Department of Environmental Quality of the State of Oregon. No septic tank or cesspool shall be permitted to discharge into any natural outlet.

(5) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with Bend Code 4.500 - 4.520, and any septic tanks, cesspools or other private sewage disposal facilities shall be abandoned and filled with suitable material unless otherwise specifically permitted by City.

(6) The owner shall operate and maintain the private sewage facilities in a sanitary manner at all times.

(7) Nothing in this section shall be construed to interfere with any additional requirements that may be imposed by the State or County Health Officer.

4.506 Building Sewers and Connections.

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

(2) The owner or his agent shall make application on a form furnished by the City of Bend. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the City.

(3) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(4) A separate and independent building sewer shall be provided for each building.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City, to meet all requirements of this ordinance.

(6) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall conform to the requirements of the State Building and Plumbing Codes and applicable rules and regulations of the City of Bend. In the absence of code provisions or in amplification thereof, the "Standard Specifications for Public Works Construction" 1970, Oregon Chapter American Public Works Association shall apply.

(7) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(8) The connection of the building sewer into the public sewer shall conform to the requirements of the State Building and Plumbing Codes and applicable rules and regulations of the City of Bend. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and material must be approved by the City before installation.

(9) The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to a public sewer. The connection shall be made under the supervision of the City.

(10) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City of Bend.

4.508 Use of the Public Sewers.

(1) No person shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, unreasonably large amounts of uncontaminated cooling water or unpolluted process waters to any sanitary sewer.

(2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City. Industrial cooling water or unpolluted process waters may be discharged, on approval of the City and State of Oregon, D.E.Q., to a storm sewer or natural outlet.

(3) No person shall discharge, or cause to be discharged, any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the effluent disposal system of the sewage treatment plant, including but not limited to cyanides in excess of 0.5 mg/1 as CN in the wastes as discharged to the public sewer.

(c) Any water or wastes having a pH lower than 5.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction of the flow in sewers, or other interference with the proper operation of the sewage works including, but not limited to: Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

(4) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the City that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the effluent disposal system, or can otherwise endanger life, limb, public property or constitute a nuisance. In review of the acceptability of these wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than 149° F. (65° C.).

(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: Grease, garbage with particles greater than one-half inch (½") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble, dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding, or polishing wastes.

(c) Any waters or wastes containing iron, chromium, copper, zinc, lead and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City for such materials.

(d) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite sewage, to meet the requirements of the State or Federal Government.

(e) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the State or Federal regulations.

(f) Any waters or wastes having a pH in excess of 11.0.

(g) Materials which exert or cause:

(1) Unusual concentrations or inert suspended solids, (including but not limited to: Fullers earth, lime slurries, and lime residues) or of dissolved solids (including, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (including, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(h) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the State and Federal agencies having jurisdiction over discharge to the receiving water.

(5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 5(4), and which in the judgment of the City, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

(a) Reject the wastes,

(b) Require pretreatment to an acceptable condition for discharge into the public sewers,

(c) Require control over the quantities and rates of discharge, or,

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City and subject to the requirements of all applicable codes, ordinances and laws.

(6) Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located and the capacity sized to the approval of the City.

(7) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(8) All measurement, tests and analysis of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

4.510 Protection from Damage.

(1) No unauthorized person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works.

4.512 Powers and Authority of Inspectors.

(1) The City shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance.

(2) While performing the necessary work on private properties referred to in Section 4.512 (1), the City shall observe all safety rules applicable to the premises established by the company.

(3) The City shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspections, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

4.520 Penalties and Costs.

(1) Penalties. An infraction of an order of the City Commission or willful or negligent failure to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, is subject to a Class A misdemeanor. Each day on which a violation shall occur or continue shall be deemed a separate and distinct violation.

(2) Costs and Fees. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate civil suit at law against the person found to have violated this ordinance or the orders, rules, and regulations, and permits issued hereunder.

(3) Falsifying Information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or Industrial Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction, be punished as a Class A Misdemeanor.

ORDINANCE NO. NS-1497

AN ORDINANCE ADOPTING CHAPTER TWO OF THE CITY OF BEND CODE ENTITLED "LOCAL IMPROVEMENTS CODE" AND REPEALING CERTAIN CITY ORDINANCES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City of Bend hereby adopts Chapter II of the Bend Code, entitled "Local Improvements Code," as attached hereto and incorporated by reference herein.

SECTION 2. Ordinances Numbered 25 (1913 Codification), 256, 273, NS-94, NS-168, NS-481, NS-746, NS-772, NS-854, NS-935, NS-989, NS-1046 and Section 2 of NS-1486 are repealed.

SECTION 3. This ordinance shall not affect:

(1) Any offense or act committed or done, or any penalty or forfeiture;

(2) Any prosecution, suit or proceeding at the time this ordinance is enacted;

(3) Any judgment rendered prior to the time this ordinance is enacted.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Read for the 1st time this 5th day of July, 1989.

Read for the 2nd time this 19th day of July, 1989.

Placed upon its passage this 19th day of July, 1989.

YES: 7 NO: 0

Submitted to and approved by the Mayor this 19th day of July, 1989.

MAYOR

ATTEST:

Recorder-Treasurer

BEND CODE

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BEND CODE CHAPTER II - LOCAL IMPROVEMENTS

SIDEWALKS, DRIVEWAY APPROACHES AND CURB CUTS

2.100 Definitions. For the purpose of B.C. 2.100 to 2.162, the following definitions shall apply:

(1) Apron. The apron is that portion of the driveway approach extending from the property side of the curb to the sidewalk section and lying between the end slopes of the driveway approach.

(2) Curb return. The curb return is the curved portion of a street curb at street intersections or the curved portion of a curb in the end slopes of a driveway approach.

(3) Driveway. A driveway is an area on private property where automobiles and other vehicles are operated or allowed to stand.

(4) Driveway approach. A driveway approach is an area, construction or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to a definite area of the private property, such as a parking area, a driveway, or a door at least seven feet wide, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or the curb return, and the sidewalk section.

(5) End slopes. The end slopes are those portions of the driveway approach which provide a transition from the normal curb and sidewalk elevations to the grade of the apron, either by means of a sloping surface or by means of a curb return together with the area between the projected tangents of the curb return.

(6) Property Owner. The owner of the property adjacent to the sidewalk area.

(7) Sidewalk. That portion of the sidewalk area intended for the use of pedestrians and improved by surfacing, including the curb if the sidewalk abuts the curb.

(8) Sidewalk Area. The area on the side of a street between the lateral line of the street and the adjacent property line.

(9) Sidewalk section. The sidewalk section is that portion of the driveway approach lying between the back, or property edge of the sidewalk, and the apron plus the end slopes measured at the front, or street, edge of the sidewalk.

2.102 Maintenance of Sidewalks. All property owners shall maintain sidewalks and driveway approaches within sidewalk areas adjacent to their property in good repair. If any sidewalk or driveway approach is not maintained in good repair, the City may utilize the procedure provided in B.C. 2.150 - 2.162 to effect repair of the sidewalk or driveway approach.

2.104 Liability for Injuries. The property owner is responsible for constructing, maintaining and removing obstructions from a sidewalk or driveway approach located in a sidewalk area adjacent to the owner's property and shall be liable for all personal injury or property damage arising from the property owner's fault or negligence in failing to keep clear, maintain or to properly construct a sidewalk. If the City is required to pay damages for an injury to persons or property caused by the failure to perform a duty which this section imposes, the property owner failing to perform the duty shall compensate the City for the full amount of the damages paid and all City legal fees incurred in defense of such a claim. The City may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

2.106 Permit Required. No person, firm or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other

improvement in any public street, alley or other property owned by or dedicated to or used by this city and over which it has jurisdiction to regulate the matters covered hereby, without first filing an application and obtaining a permit from the City's Development Services Department. The applicant shall also submit two copies of a drawing showing the location and size of all such proposed improvements with the permit application.

2.108 Permit Fee. The applicant for a permit shall pay the fee established by the City Commission pursuant to B.C. 1.800 - 1.806 when filing the application for a permit.

2.110 Review of Application. The City Development Services Department shall review the permit application and shall issue a permit if the proposed improvement is in conformance with this Code and City sidewalk, curb and driveway approach standards, as established by the City Engineer.

2.112 City Construction Standards. All sidewalks and driveway approaches constructed within the sidewalk area in the City of Bend shall be constructed in accordance with City sidewalk and driveway approach standards. City sidewalk standards shall be established by the City Engineer. City driveway approach standards are set forth in B.C. 2.114 to 2.222, below.

2.114 Prohibited Locations.

(1) No driveway approach or sidewalk shall be permitted to encompass any municipal or other public utility facilities. Under the permit provided for herein, applicant may be authorized by the City to relocate any such utility, including any utility within the limits of a curb return which may be encroached upon as allowed under subsections (3) and (4) of this section, upon application to the subject utility provider and upon making suitable arrangements for financial reimbursement to said utility provider.

(2) At street intersections no portion of any driveway approach, including end slopes, shall be permitted between the limits of the intersection of the prolonged property lines and the curb, except as may be allowed under subsections (3) and (4) of this section.

(3) At street intersections no portion of any driveway approach, including end slopes, shall be permitted between the limits of the intersection of the prolonged back edges of the sidewalks and the curb, except as may be allowed under subsection (4) of this section.

(4) On all curb returns at street intersections where the radius is 25 feet or more, driveway approaches, including end slopes, may encroach upon each end of the return for a distance equal to $12\frac{1}{2}$ percent of the total length of the arc of the curb return, thus leaving at least 75 percent of the length of the arc of the curb return face free from driveway encroachment.

(5) Notwithstanding the provisions of subsections (2) and (3) of this section, at street intersections no portion of any driveway approach, including end slopes, shall be permitted between the points of curvature of the curb return where the radius of the curve is 20 feet or less.

2.116 Length of Driveway Approach Apron. The width of driveway approach aprons shall not exceed the following dimensions:

(1) For residential driveways, 14 feet for single driveways and 20 feet for double driveways and not more than one driveway approach shall be permitted per lot when said lot is 50 feet or less in width fronting on any street or avenue.

(a) An additional driveway approach will be allowed when any particular lot has 65 feet or more of frontage on any street or avenue.

(b) Sidelines of lots may also have driveway approaches in conformity with the provisions of this subsection, notwithstanding that said lots have driveway approaches on their frontage area.

(2) For commercial driveways, no single apron shall exceed 35 feet in width. When a commercial establishment controls 50 feet or more of street frontage the number of driveway aprons shall be limited to two for the first 100 feet or part thereof and not more than 35 percent of the frontage exceeding the initial 100 feet thereafter. A safety island of not less than 16 feet of full height curb shall in all cases be provided between driveway approaches serving any one property frontage.

(3) Property frontage referred to herein includes approach areas directly in front of property owned or under the control of the applicant, and such area as may be directly in front of adjoining property which is used for approach purposes by right of easement or agreement with the adjoining property owner.

(4) The provisions of this code section shall not supersede the City's arterial access policy.

2.118 Construction Details.

(1) All driveway approaches between the curbline and the property line shall be constructed of Portland Cement concrete proportioned to the satisfaction of the City Engineer, except as provided in B.C. 2.122. The concrete of the driveway approach, including the sidewalk section, shall be at least four inches thick for residential approaches and at least six inches thick for commercial approaches.

(2) The sidewalk section of the driveway approach shall be finished and scored as specified by the City Engineer for typical sidewalk construction. Apron and end slope areas of the driveway approach shall be finished, after troweling smooth and scoring, with a fiber push broom drawn over the surface parallel to the curbline.

2.120 Driveway Approaches Near Alleys. Driveway approaches located within five feet of the existing curb return at an alley intersection may be merged with the alley intersection pavement, thus requiring the removal of the existing curb return; the total apron length plus the alley width, measured at the curbline of the apron to the opposite alley line, shall not exceed 40 feet, except when there is a driveway approach on both sides of an alley, then the maximum apron length plus alley width shall not exceed 60 feet.

2.122 Areas of Limited Street Improvements.

(1) Where standard gutters and curbs have been installed but concrete sidewalks have not been, the permit may authorize the applicant to construct the driveway approach from the curbline to the applicant's premises of the same materials as those used for paving applicant's premises, or of any other material satisfactory to the City Engineer. Such driveway approach shall be constructed to establish grade and shall be adequate and suitable for the traffic to be carried by it. The permit shall provide and the applicant shall agree that if and when thereafter concrete sidewalks are constructed the applicant or his successor shall install concrete driveway approaches.

(2) Where standard gutters and curbs have not been installed, the apron widths set forth in Bend Code 2.210 shall be measured along the property line and there shall be not less than 16 feet of frontage between driveway approaches serving any one property. Permits shall not be issued for any surface improvement or paving on the street right-of-way between driveway approaches unless a concrete curb or other physical obstruction, of a design satisfactory to the City Engineer, is constructed and maintained by the applicant along his property line, so that the entrance and exit of vehicles to and from the applicant's property will be restricted to the established drive-

way approaches. Pursuant to the permit provided for herein, applicant may surface the driveway approaches or other areas within the right-of-way by extending the same type of paving used on the applicant's premises so that it merges with the street pavement, provided applicant's paving is adequate and suitable for the traffic to be carried; such extended paving between the property line and the street pavement shall be to establish grade or other slope fixed by the City Engineer to provide for proper runoff. Such paving between the property line and the street pavement may meet the street pavement at a point ahead of the curb opening in order to provide for safe deceleration of vehicles turning into the applicant's premises. If applicant's paving is extended beyond the property line into a street right-of-way at an intersection or crossroad, the City Engineer may require applicant to construct a suitable traffic island or curb to provide for the protection of such municipal facilities as may be necessary.

2.124 Public Property. City street rights-of-way may not be used for private or commercial purposes. A permit for the construction of driveway approaches shall not be issued unless vehicles to be served or serviced can be parked entirely within the private property lines.

2.126 Unusual Conditions. The City Engineer is hereby authorized to grant, in writing, variances from the regulations and requirements of B.C. 2.112 to 2.222, provided he or she first determines that the following conditions are present:

(1) The variance requested arises from peculiar physical conditions not ordinarily existing in similar districts in the City, or is due to the nature of the business or operation upon the applicant's property;

(2) That the variance requested is not against the public interest, particularly safety, convenience, and general welfare;

(3) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or tenants; and

(4) That the terms of this B.C. 2.112 to 2.222 will work unnecessary hardship upon the applicant, property owner, or tenant.

COMMISSION ORDERED SIDEWALK AND DRIVEWAY APPROACHES

2.150 Notice of Required Improvements. Whenever the commission shall consider it necessary to construct, alter, repair, or remove any sidewalk, curb or driveway approach within the City of Bend, the commission shall cause the City Recorder to notify, by registered mail, the record owner as shown by the latest record in the office of the tax collector of Deschutes County, Oregon, of all real estate abutting upon said proposed construction, alteration, repairing, or removal, to proceed with such improvement within 30 days, or, in the case of removal, within 10 days, from the date of receipt of such notice, as shown by the returned registry receipt, and if he fails so to do, that the City will cause such improvement to be made and the cost thereof assessed upon such abutting real estate; provided, that if the name or address of the abutting owner cannot be found upon the tax rolls of Deschutes County, Oregon, a copy of said notice shall be posted in a conspicuous place upon such abutting real estate for the period herein designated, said period of time to run from the date of said posting.

2.152 City Improvements and Bids. Whenever the owner of the abutting real estate shall fail to make required improvements, after service of notice as hereinbefore provided, the City Manager shall require the City Engineer to forthwith furnish an estimate of the probable cost of said improvement and, when deemed necessary by said City Manager, plans and specifications thereof, and file the same with the City Recorder. The City Recorder shall thereupon invite bids of said construction of said proposed improvement and shall give 10

days' notice thereof by publication in a newspaper published in the City of Bend, or by posting notices thereof in three public places in said city not less than 10 days prior to the time of letting such contract.

2.154 Content of Bid Notice. The bid notice shall specify the time and place where said bids shall be considered by the commission and that the commission reserves the right to reject any and all bids; bids on different improvements may be invited in one notice, and contracts for the construction of the same may be included in one memorandum or agreement, the consideration for each being specifically stated. The commission may impose such conditions for the construction of said improvement as it deems necessary to protect the interests of the City and all interested property holders.

2.156 Determination and Assessment of Improvement Cost. The contract price, the right-of-way, and expense, if any, of condemned land, together with all costs and accrued interest, if any, shall be deemed to be the cost of such sidewalk or curb improvement. The City Engineer, taking the cost of said improvement as herein defined, shall apportion the same upon the lot or lots, tract or tracts of land benefited by said improvement, which said apportionment of cost shall be a proposed assessment and shall be filed with the City Recorder. The cost of said improvement as herein defined shall be assessed against the lot or tract of land abutting upon said improvement, each lot or tract of land being chargeable with the cost of that portion of said improvement immediately abutting thereon.

2.158 Notice of Assessment. The Recorder shall thereupon cause to be published in a newspaper published in said city a notice, stating that said proposed assessment has been apportioned and is on file in the office of the City Recorder and subject to examination, and that any objections to such apportionment that may be made, must be made in writing to the City Commission and filed with the City Recorder within 10 days from the publication of such notice, and that the same will be heard by the Commission before the passage of any resolution assessing the cost of said improvement; provided, however, that the Recorder may include in the same notice, notice of hearing on more than one proposed assessment at the same time and place.

2.160 Commission Review of Assessment. After the time specified in said notice has elapsed, the Commission shall consider said proposed assessment and the objections made thereto, if any, and shall have the power at its discretion and without further notice to consider, ascertain, and decide whether the amount of said proposed assessment against each lot or tract of land has been assessed by the City Engineer in accordance with the provisions of the City's charter, and the assessment against each lot or tract of land shall be reduced or increased by the Commission so as to conform with the provisions of the charter, if there be any error in the computation of the City Engineer. After the Commission shall have ascertained the just apportionment of said cost in accordance with the City charter, it shall declare said assessment by resolution, and direct the Recorder to enter into the docket of city liens a statement thereof, containing:

(1) A description of each lot or tract of land liable for such improvement.

(2) The name of the owner or reputed owner thereof, or that the name of the owner is unknown.

(3) The sum assessed upon said property, and the date of entering the same in the said docket of city liens, but such date need be made but once for all entries made upon the same day.

2.162 Charter Provisions. The subsequent proceedings relating to said assessments shall be as provided in the charter of the City of Bend.

PENALTIES

2.190 Penalties. A violation of Bend Code 2.100 - 2.162 is a Class A infraction and is subject to the penalties specified in Bend Code 1.732. Every violator shall be deemed guilty of a separate offense for each and every day,

or portion thereof, during which any violation of any of the provisions of this Code section is committed, continued, or permitted.

OFF-STREET VEHICLE PARKING FACILITIES

2.300 Statutory Authority. Bend Code 2.300 - 2.338 is adopted pursuant to the provisions of ORS 223.805 - 223.845, which gives cities the authority to establish, operate, and finance off-street motor vehicle parking facilities. Bend Code 2.300 - 2.338 is also based upon ORS 223.387 to 223.401, which gives cities the authority to make local assessments upon benefited property for off-street motor vehicle parking facilities and requires the City Commission to prescribe the procedure to be followed in making local assessments for property specially benefited by an off-street motor vehicle parking facility.

2.302 Initiation of Proceedings and Report.

(1) The City of Bend may acquire and/or develop an off-street motor vehicle public parking facility either upon its own motion or upon the petition of the owners of one-half of the area of property which will be specifically benefited by such a project. For purposes of determining the property area to be considered in a petition to initiate such a project, property which is actually used for public parking purposes or for customer (but not employe) parking shall not be included.

(2) If the proposed off-street motor vehicle parking facility is to be paid for in whole or in part by special assessment according to its benefits, then the City Commission may, by motion, direct the City Manager or a committee appointed for the purpose to make a written report for the project and file it with the City Recorder. The report may contain, when applicable, the following matters:

(a) A map or plat showing the general nature, location, and extent of the proposed off-street motor vehicle parking facility and the land to be assessed for the payment of any part of the cost thereof.

(b) General plans and estimates of the work to be done.

(c) An estimate of the probable cost of the project, including any legal, administrative, and engineering costs.

(d) A recommendation as to the method of assessment to be used and an estimate of the cost to be assessed to each of the specially benefited properties.

(e) The description and assessed value of each lot, parcel of land, or portion thereof, to be specially benefited by the off-street motor vehicle parking facility, with the names of the record owners or contract purchasers.

(f) A statement of outstanding assessments against each property to be assessed.

2.304 Commission Action on Report. After the report is filed with the City Recorder, the Commission may by motion approve the report; modify the report and approve it as modified; require additional or different information for the project; or it may abandon the project.

2.306 Resolution and Notice of Hearing.

(1) If the City Commission approves the report, it shall declare its intention to establish an off-street motor vehicle parking facility by resolution. The resolution shall designate the project, provide the manner and method of carrying out the project, and describe the boundaries of the district to be assessed for the project.

(2) The City Recorder shall give notice to record owners of property within the district which is proposed to be assessed for the project by mail at least 15 days before the date set for hearing of objections to the project. Notice shall also be published in a newspaper of general circulation within the City of Bend at least once a week for two consecutive weeks, with the last publication to be published at least 10 days before the date set for the hearing.

(3) The notice shall recite:

(a) That the report is on file in the office of the City Recorder for public examination.

(b) That the Commission will hold a public hearing on the proposed off-street parking facility on a specified date; that objections to the project will be heard by the Commission at the hearing; and that if prior to the hearing there shall be presented to the Recorder written objections by more than one-half of the owners of property proposed to be assessed, based either upon percentage of area or upon the percentage of assessed valuation within the proposed assessment area, then the improvement will be abandoned for at least one year.

(c) A description of the district proposed to be assessed; the total estimated cost of the project; the total estimated cost of the project to be paid for by special assessments; the record owner's description of each property to be assessed; and an estimate of the amount to be assessed against each property within the district.

2.308 Remonstrance, Hearing.

(1) If prior to the time set for the hearing one-half of the record owners of property proposed to be assessed, based either upon area to be assessed or assessed valuation according to the current records of the Deschutes County Assessor within the area to be assessed, object to the project in writing filed with the Recorder, then the project will be abandoned for at least one year.

(2) If less than one-half of the owners of property proposed to be assessed object in writing, the City Commission shall hear and consider objections at the hearing but may in its discretion proceed with the project according to its resolution of intent, modify the project, and amend the resolution of intent without further hearings or it may abandon the project.

2.310 Manner of Doing Work. The work may be done in whole or in part by the City, by contract, by any other governmental agency, or by any combination thereof.

2.312 Call for Bids. The commission may, in its discretion, direct the City Recorder to advertise for bids for construction of all, or any part of the project, provided, however, that no contract shall be let until after the public hearing has been held to hear objections to the proposed off-street parking facility. In the event that any part of the work of the project is to be done under contract, then the commission shall determine the time and manner of advertisement for bids and the terms and conditions of the contract.

2.314 Method of Assessment. The commission in adopting a method of assessment of the costs of the off-street parking facility may:

(1) Use any fair and reasonable method of determining the properties specially benefited by the project and the extent of their benefit.

(2) Use any fair and reasonable method of apportioning the sum to be assessed between the properties determined to be specially benefited.

(3) Authorize the city to pay any part or all of the project.

(4) Not include property which is actually used for public parking purposes or for customer (but not employe) parking in the property to be assessed for the cost of the project.

2.316 Notice of Proposed Assessment.

(1) Prior to any assessment for an off-street motor vehicle parking facility, the City Commission shall cause the City Recorder to give notice of proposed assessment to each property owner of record affected by the proposed assessment.

(2) The notice of proposed assessment shall contain a description of the project; the total actual cost if the work is already done, or total estimated cost based upon the contract award, or estimated City departmental cost of the project; that part of the project's cost to be assessed against the property specially benefited; the record owner of each parcel of property to be assessed; the description of each parcel of property to be assessed and the amount of each assessment. The notice shall also specify the time and place at which objections to the proposed assessment may be made and that all objections to the proposed assessments must be filed with the City Recorder prior to the time set for hearing the objections.

(3) The notice of proposed assessment shall be mailed to the record owner for each parcel of property sought to be assessed at least 15 days before the time set for hearing objections.

(4) The notice of proposed assessment shall be published at least once giving 15 days notice of the time and place at which objections to the proposed assessment may be made.

(5) The notice of proposed assessment shall be posted at three public places within the City of Bend at least 15 days before the time at which objections to the proposed assessment may be made.

2.318 Assessment by the City Commission.

(1) At the time and place specified in the notice of proposed assessment, the City Commission shall consider all objections timely filed to the proposed assessment. The Commission may adopt, correct, modify, or revise the proposed assessments and shall determine the amount of assessment to be charged against each property to be assessed according to the special and peculiar benefits accruing thereto from the project and shall by ordinance spread the assessments. The ordinance spreading the assessment may be passed either before or after the actual work on the project is done.

(2) Upon passage of the ordinance spreading the assessment the City Recorder shall enter the assessment in the docket of city liens at which time the assessment shall become a lien upon the property assessed superior to any other lien as provided by law. The entry in the docket of city liens must contain the description of each property liable for the assessed cost of the project, the name of the record owner, or the reputed owner thereof, or that the name of the owner is unknown, together with the sum assessed upon the property and the day of entering the same into the docket.

2.320 Notice of Assessment. Within 10 days after the ordinance spreading the assessments has been passed and entered in the docket of city liens, the City Recorder shall publish and mail a notice of assessment to the record owners of the assessed property. The notice of assessment shall recite the date of the assessment ordinance and shall state that upon the failure of the owner of the property assessed to make application to pay the assessment in installments within 10 days from a certain date, which shall be the date of publication, as provided by the provisions of the Bancroft Bonding Act (ORS 223.205 to 223.295), or upon the failure of the owner to pay the assessment in full within 20 days from the date of the assessment ordinance, then interest will commence to run on the assessment and the property assessed will be subject to

foreclosure; and said notice shall further set forth a description of the property assessed, the name of the owner of the property, and the amount of each assessment.

2.322 Method and Effect of Giving Notice.

(1) Whenever any notice by mail is required by B.C. 2.300 - 2.338, it may be sent by either registered or certified mail and if directed to the record owner of real property shall be sent to the record owner's address as shown on the records of the Deschutes County Assessor. Recorded land contract purchasers shall receive notice in the same manner. Notice to any agent of the record owner or recorded land contract purchaser shall be considered notice to the principal.

(2) Any mistake, error, omission, or failure with respect to such meaning shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or, if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper of general circulation in the City of Bend.

(3) Publication of notice shall be done in a newspaper of general circulation within the City of Bend.

2.324 Foreclosure. Any assessment pursuant to this B.C. 2.300 - 2.338 not paid within 20 days after it is entered in the docket of city liens, or which has not been bonded pursuant to the Bancroft Bonding Act (ORS 223.205 through ORS 223.295), may be foreclosed as provided in Section 5.18 of the Amended Charter of the City of Bend and as otherwise provided by law.

2.326 Errors in Assessment Calculations. Claimed errors in the calculation of assessments shall be directed to the City Recorder, who shall determine whether there has been an error in fact. If the Recorder shall find that there has been an error in fact, he shall recommend to the Commission an amendment to the assessment ordinance to correct such error, and upon enactment of such amendment, the City Recorder shall make the necessary correction in the docket of city liens and send a correct notice of assessment by mail.

2.328 Deficit Assessment. In the event that an assessment shall be made before the total cost of the project is ascertained and if it is found that the amount of the assessment is insufficient to pay the actual cost of the project, the Commission may by ordinance declare and assess the deficit. Notice of proposed assessment for the deficit shall be given as provided in Bend Code 2.316. There shall be a hearing on objections to the proposed deficit assessment as provided in Bend Code 2.318. The deficit shall be assessed as provided in Bend Code 2.318 and 2.320.

2.330 Rebates. If upon the completion of the project it is found that the assessment previously made is more than sufficient to pay the costs of the project, or at the end of any fiscal year in which the project is operated there is any net income after the payment of the operating costs, then the Commission must ascertain and declare the same by resolution, and when so declared, the excess amounts must be entered on the lien docket as a credit upon the appropriate assessments and shall be apportioned and credited to the respective property owners on the same basis and according to the same formula as the original assessment. In the event that an assessment has been paid, the person who paid it, or his legal representative or assign, shall be entitled to the rebate.

2.332 Abandonment of Proceedings. The Commission shall have full power and authority to abandon and rescind proceedings for off-street motor vehicle parking facilities under Bend Code 2.330 - 2.338 at any time prior to the final completion of the project.

2.334 Curative Provisions. No assessment by B.C. 2.300 - 2.338 shall be rendered invalid by reason of a failure of the report to contain all of the information required by Bend Code 2.302, or by reason of a failure to have all of the information required to be in the resolution of intent, the assessment

ordinance, the lien docket, or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the record owner of any property as required by B.C. 2.300 - 2.338, or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the City Commission shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

2.336 Reassessment. Whenever any assessment, deficit, or reassessment for any off-street motor vehicle parking facility made by the City has been, or will be, set aside, annulled, declared or rendered void, or its enforcement restrained by any court of this state, or any federal court having jurisdiction thereof, or when the City Commission shall be in doubt as to the validity of any assessment, deficit assessment, or reassessment, or any part thereof, then the City Commission may make a reassessment in the manner provided by the laws of the State of Oregon.

2.338 Application. The procedures described in Bend Code 2.300 - 2.336 shall be applicable to either the development by the City of an off-street parking facility or to the purchase and/or financing of an existing off-street parking facility.

STREET AND SIDEWALK CUTTING

2.400 Definition of Terms.

(1) Person. A natural person, firm, copartnership, association, or corporation.

(2) Street. A way or place open as a matter of right to the use of the public, including sidewalks and alleys.

(3) Excavation. A hole, tunnel, or other cavity in, through, across, or under a street, not including the driving or forcing of pipes through the ground, or the placement of utility poles.

2.402 Prohibition. No person shall cut, break, dig up, excavate, damage in any manner, undermine, or tunnel under any street without first making an application to the City of Bend Public Works Department and obtaining a permit as provided in Bend Code 2.400 - 2.430. This shall not apply to sidewalk surface repair.

2.404 Application for Permit.

(1) Application for permits shall be made to and on a form prescribed by the Director of Public Works. Permits may be issued on an annual basis or for a limited time and shall specify the extent of the authority granted by the permit.

(2) The application shall specify the applicant's name and address, the date the work is to start, the date the work is to be completed, the location of the work, the nature of the street involved, the purpose of the work and the size and nature of the work.

(3) The applicant shall agree to deposit as security for his performance a bond or other security required by the provisions of B.C. 2.400 - 2.430, undertaking to save the City of Bend, its property and its employes harmless from any injury or damage which may result from the acts of the applicant, and to file a report of the work done within two working days of completion.

(4) The application shall be accompanied by the permit fee required by B.C. 2.412.

2.406 Security.

(1) Before the issuance of any permit, the applicant shall file with the Director of Public Works either a performance bond with a sufficient

corporate surety or cash or certified check in an amount equal to the estimate of the cost of repairing the street to be excavated, including the cost of re-excavating and refilling with proper materials, if necessary, as determined by the Director of Public Works.

(2) If a performance bond is submitted, it should undertake to secure performance of the work in accordance with all the provisions of B.C. 2.400 - 2.430, to be effective for a period of two years after completion of the work, and to reimburse the City of Bend for any work it is required to do in order to place the excavation in the necessary condition according to the terms of B.C. 2.400 - 2.430.

(3) No security shall be required for the excavation of unimproved streets unless, in the opinion of the Director of Public Works, security is necessary for the protection of the public interest.

2.408 Insurance. Each applicant shall submit with his application a certificate of insurance designating him as the named insured under a policy of public liability insurance with policy limits in the amount of the City's tort liability limits, as set by the Oregon Legislature, together with an endorsement for completed operations.

2.410 Liability. Each applicant shall submit with his application his agreement to pay, save, and hold the City of Bend harmless from any liability of any kind resulting from or in connection with his activities in excavating any street as provided in B.C. 2.400 - 2.430. Any person who excavates or obstructs a street as defined in B.C. 2.400 (2) shall be responsible for injury to any person or property where such obstruction or excavation is the proximate cause of the injury.

2.412 Permit. When the Director of Public Works is satisfied that the excavation applied for is feasible and proper, and that the application is in accordance with the terms B.C. 2.400 - 2.430, he may issue a permit which shall designate the name and address of the person to whom the permit is granted, the date the permit is issued, the date the work is to begin, the date the work is to be completed, and such other conditions or restrictions as may be required, including but not limited to the following:

(1) Requiring that access to fire hydrants be available at all times.

(2) Requiring that the actual work be confined to the hours of 7:00 a.m. to 9:00 p.m., unless otherwise specified, or to certain days.

(3) Setting forth the maximum lengths of breaks or excavation to be open at any one time.

(4) Requiring that access to driveways be maintained.

(5) Requiring that the permittee reimburse the City of Bend for the cost of relocating or reestablishing City monuments, and the giving of notice where the work will interfere with monuments.

(6) Requiring that provision be made for routing and protection of traffic.

(7) Relating to the care and disposition of excavated material during construction.

(8) Making provision for water courses during excavation.

(9) Setting forth minimum or maximum depths of excavation or structures.

(10) Providing for control of noise, dust, and debris during excavation.

(11) Prescribing acceptable methods and materials for securing proper backfill and pavement resurfacing, including temporary surfacing if necessary.

2.414 Conduct of Work.

(1) Work shall be done in conformity with the provisions of B.C. 2.400 - 2.430 and the terms of the application and permit, shall be prosecuted diligently to completion, shall be done in a manner approved by the Director of Public Works, shall not interfere with access to fire hydrants, and shall not interfere with City or public utilities.

(2) Upon completion of the work, any excavation shall be filled, compacted, and the street surface restored to as good or better condition than before the work and in conformity with City standards for the particular street surface. Cold-mix asphalt patching will only be allowed as a temporary measure during adverse weather conditions, and the permanent patching shall be placed as soon as weather permits. Any person who has made an excavation in a street shall maintain the restored street surface according to City standards for two years from the date of restoration.

(3) Traffic signs or signals or other signs shall be returned to their prior location and condition, unless otherwise directed.

2.416 Abandoned Materials. Any materials abandoned by any person in or on a street may be removed by the City at the expense of the person who abandoned the materials.

2.418 Inspection Maintenance of Excavation. The permittee shall notify the Director of Public Works within 48 hours after completion of the work and it shall be inspected and approved by the Director of Public Works or his representative. The permittee shall be required to maintain the area worked upon for a period of two years from its completion, and any repairs necessitated by the work within two years of its completion may be made by the City, after notice to the permittee and paid from permittee's security deposit.

2.420 Compliance. No work shall be undertaken other than as specified in the application and permit, and failure to comply with all the terms of the application, permit, and B.C. 2.400 - 2.430 shall be cause for revocation of the permit and the immediate termination of the work. In such event, if permittee does not promptly restore the street service, the City may do so at permittee's expense.

2.422 Barricades. Whenever any person, under authority of B.C. 2.400 - 2.430, places obstructions in the street or makes any excavation therein for any purpose, it shall be his duty to keep the obstruction or excavation property safeguarded by substantial barricades and the display of lighted red lanterns or other lights or flares or other warning devices approved by the City from dusk until daylight. Whenever the public safety requires that obstructions or excavations require constant supervision the permittee shall be responsible for furnishing such constant supervision.

2.424 Notification of Work. Each permittee shall notify the City of Bend Police and Fire Departments, abutting owners and owners of other public utilities affected, of the proposed work. Permittee shall also submit maps, when required by the Director of Public Works, indicating all utility lines placed in any street by permittee.

2.426 City Work. The provisions of B.C. 2.400 - 2.430 shall not apply to any work by the City to be performed by its employes or by persons operating under contract with the City.

2.428 Permit Fees. The fee for a permit shall be charged as set by the City Commission according to B.C. 1.800 - 1.806. Until the effective date of Ordinance No. NS-1485, that fee shall be $3.00 for each 100 feet of work or fraction thereof, or $50.00 for an annual permit, unless otherwise provided for by franchise ordinance or other agreement.

2.430 Emergencies. An excavation may be made in a street in the event of an emergency affecting the public safety or welfare, providing that a report of

such excavation shall be made to the Superintendent of Public Works within 48 hours and all provisions of B.C. 2.400 - 2.430 are complied with as though making application for an original permit.

2.432 Penalties. A violation of Bend Code 2.400 - 2.430 is a Class A infraction and subject to the penalties specified in Bend Code 1.732. Any violator shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code section is committed, continued or permitted.

WATER ASSESSMENT DISTRICTS

2.500 Definitions.

(1) "Owner" or "property owner" shall include persons, firms or corporations having an interest in real property by deed or contract for purchase.

(2) "Water facilities" shall include but not be limited to water mains, transmission lines, distribution lines, valves, hydrants, reservoirs, pump stations and any other device used in the delivery of water.

(3) "Water assessment district" shall mean the property benefited by the installation of water facilities.

2.502 Formation of District. The City of Bend may create a water assessment district for the development of water facilities within the district either upon its own motion or upon the petition of the owners of one-half of the property within the district that will be benefited by the project.

2.504 Resolution of Intent. After receipt of a petition for creation of water assessment district or upon its own motion the City Commission shall declare its intention to create a water assessment district by resolution. The resolution shall:

(1) Describe the boundaries of the water assessment district which shall include all of the property to be benefited by the installation of water facilities, and

(2) Describe the water facilities to be installed within the water assessment district, and

(3) Recite the City Water Department's estimated cost of the project, and

(4) Describe how the cost of the project will be paid, and

(5) Recite the place, time and date when remonstrances to the project will be heard.

2.506 Notice of Resolution. Notice of the resolution directing creation of the water assessment district shall be given as follows:

(1) The resolution shall be published at least once in a newspaper of general circulation within the City of Bend for the date set by resolution for hearing remonstrances, and

(2) The City Engineer shall post the resolution as nearly as possible at each end and on each side of the water assessment district within five days after the passage of the resolution. The City Engineer shall file an affidavit of posting the resolution with the City Recorder. The City Recorder shall mail a copy of the resolution to property owners within the district.

2.508 Remonstrance. Any remonstrance to the project must be filed with the City Recorder within 15 days from the date the City Engineer posts a copy of the resolution directing creation of the water assessment district. If the remonstrance is signed by the owners of two-thirds or more of the square foot area within the water assessment district then the City Commission shall not

proceed with the project until it has reconsidered the project and its necessity. After effective remonstrance and after reconsideration of the project, the City Commission may direct that the project continue according to the original resolution directing creation of the water assessment district, by modifying the project and amending the resolution or the City Commission may abandon the project.

2.510 Manner of Doing Work. The project work may be done in whole or in part by the City, by contract, by any other governmental agency, or by any combination thereof. Work must be done according to City Water Department standards and specifications.

2.512 Assessment of Project Cost. The City Commission in adopting a method of assessment for the project cost may:

(1) Use any fair and reasonable method of determining the properties specially benefited by the project and the extent of their benefit within the water assessment district.

(2) Use any fair and reasonable method of apportioning the sum to be assessed between the properties determined to be specially benefited.

(3) Authorize the City to pay any part or all of the project.

(4) The City Engineer shall apportion the project's costs to each parcel of land within the water assessment district and file this apportionment with the City Recorder.

2.514 Notice of Proposed Assessment. Prior to assessment of the project's cost to benefited properties within the water assessment district the City Commission shall cause the City Recorder to give notice of the proposed assessment to each property owner affected by the proposed assessment within the water assessment district as follows:

(1) The notice of proposed assessment shall contain a description of the project; the total actual cost if the work is already done, or total estimated cost based upon the contract award, or estimated City departmental cost of the project; that part of the project's cost to be assessed against the property specially benefited by the project; the record owner of each parcel of property to be assessed; the description of each parcel of property to be assessed and the amount of each assessment.

(2) The time and place at which objections to the proposed assessment may be made and that all objections to the proposed assessment must be filed with the City Recorder prior to the time set for hearing objections.

(3) The notice of proposed assessment shall be mailed to the owner of each parcel of property sought to be assessed at least 15 days before the time set for hearing objections.

(4) The notice of proposed assessment shall be published at least once giving 15 days notice of the time and place at which objections to the proposed assessment may be made.

(5) The notice of proposed assessment shall be posted at three public places within the City of Bend at least 15 days before the time at which objections to the proposed assessment may be made.

2.516 Objections to Assessment. Any objections to the proposed assessment must be filed with the City Recorder within 15 days after publication of the notice of proposed assessment in the newspaper.

2.518 Assessment by the City Commission.

(1) At the time and place specified in the notice of proposed assessment the City Commission shall consider all objections timely filed to the proposed assessment. The Commission may adopt, correct, modify or

revise proposed assessment and shall determine the amount of assessment to charge against each property to be assessed according to the special benefits accruing to the property from the project and shall by resolution spread the assessment. The resolution spreading the assessment may be passed either before or after the actual work on the project is done.

(2) Upon passage of the resolution spreading the assessment the City Recorder shall enter the assessment in the docket of City liens at which time the assessment shall become a lien upon the property assessed superior to any other lien as provided by law. The entry in the docket of City liens shall contain the description of each property liable for the assessed cost of the project, the name of the record owner, or the reputed owner thereof, or that the name of the owner is unknown, together with the sum assessed upon the property and the day of entering the same into the docket.

2.520 Notice of Assessment. Within ten days after the resolution spreading the assessments has been passed and entered in the docket of City liens, the City Recorder shall publish and mail a notice of assessment to the owners of the assessed property. The notice of assessment shall recite the date of the assessment resolution and shall state that upon failure of the owner of the property assessed to make application to pay the assessment in installments within ten days from a certain date which shall be the day notice of assessment was published, or upon the failure of the owner to pay the assessment in full within 20 days from the date of the assessment resolution, then interest will commence to run on the assessment and the property assessed will be subject to foreclosure; and notice of assessment shall further set forth a description of the property assessed, the name of the owner of the property, and the amount of each assessment.

2.522 Method and Effect of Giving Notice.

(1) Whenever any notice by mail is required by B.C. 2.500 - 2.538, it may be sent by either registered or certified mail and if directed to the record owner of real property shall be sent to the record owner's address as shown on the records of the Deschutes County assessor. Recorded land contract purchasers shall receive notice in the same manner. Notice to any agent of the record owner or recorded land contract purchaser shall be considered notice to the principal.

(2) Any mistake, error, omission, or failure with respect to such mailing shall not be jurisdictional or invalidate any assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or, if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper of general circulation in the city where such property is located.

(3) Publication of notice shall be done in a newspaper of general circulation within the City of Bend.

2.524 Foreclosure. Any assessment pursuant to 2.500 - 2.538 not paid within 20 days after it is entered in the docket of City liens, or which has not been bonded pursuant to ORS 223.205 to ORS 223.295 (Bancroft Bonding Act) may be foreclosed as provided in Section 5.18 of the Amended Charter of the City of Bend and as otherwise provided by law.

2.526 Errors in Assessment Calculations. Claimed errors in the calculation of assessments shall be directed to the City Recorder, who shall determine whether there has been an error in fact. If the Recorder shall find that there has been an error in fact, she shall recommend to the Commission an amendment to the assessment ordinance to correct such error, and upon enactment of such amendment, the City Recorder shall make the necessary correction in the docket of City liens and send a correct notice of assessment by mail.

2.528 Deficit Assessment. In the event that an assessment shall be made before the total cost of the project is ascertained and if it is found that the amount of the assessment is insufficient to pay the actual cost of the project,

the Commission may by ordinance declare and assess the deficit. Notice of proposed assessment for the deficit shall be given as provided in Bend Code 2.520. There shall be a hearing on objections to the proposed deficit assessment as provided in Bend Code 2.518. The deficit shall be assessed as provided in Bend Code 2.518 and 2.520.

2.530 Rebates. If upon the completion of the project it is found that the assessment previously made is more than sufficient to pay the costs of the project, or at the end of any fiscal year in which the project is operated there is any net income after the payment of the operating costs, then the Commission must ascertain and declare the same by resolution, and when so declared, the excess amounts must be entered on the lien docket as a credit upon the appropriate assessments and shall be apportioned and credited to the respective property owners on the same basis and according to the same formula as the original assessment. In the event that an assessment has been paid, the person who paid it, or his legal representative or assigns, shall be entitled to the rebate.

2.532 Abandonment of Proceedings. The Commission shall have full power and authority to abandon and rescind proceedings for any water assessment district under B.C. 2.500 - 2.538 at any time prior to the final completion of the project.

2.534 Reassessment. Whenever any assessment, deficit, or reassessment of any water assessment district made by the City has been, or will be, set aside, annulled, declared or rendered void, or its enforcement restrained by any court of this state, or any federal court having jurisdiction thereof, or when the City Commission shall be in doubt as to the validity of any assessment, deficit assessment, or reassessment, or any part thereof, then the City Commission may make a reassessment in the manner provided by the laws of the state of Oregon.

2.536 Separation of Assessments. Whenever property shall have been assessed in an entire tract, parcel or acreage and subsequently divided into smaller lots or parcels or divided among different owners, any person desiring to have the total assessment apportioned between said smaller lots or parcels may make an application to the City for a separation of the assessment and a determination of the amount due on the portion owned by him. All costs of any separation shall be paid by the person applying for the separation. Separation of assessments shall be solely at the discretion of the City, and upon such terms and conditions required by the City. No separation of an assessment shall become effective until the applicant has executed an agreement acknowledging the validity of the assessments as separated and waiving any and all errors and irregularities in the proceedings.

2.538 Curative Provisions. No assessment made pursuant to B.C. 2.500 - 2.538 shall be rendered invalid by reason of a failure to have all of the information required to be in the resolution of intent, the assessment resolution, the lien docket, or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the record owner of any property as required by this ordinance, or by reason of any other error, mistake, delay, omission, irregularity, or other herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the City Commission shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.