

ORDINANCE NO. NS-2146

AN ORDINANCE AMENDING THE BEND CODE BY AMENDING SECTIONS 4.500 AND 4.506 RELATING TO SEWER LINES AND RESPONSIBILITY FOR MAINTENANCE AND REPAIRS

Findings:

- A. Bend Code Chapter 4 Sanitation contains various provisions relating to sewer lines. The existing provisions clearly provide for property owner responsibility for installation of "building sewers" (also known as laterals) but do not explicitly state that the property owner is responsible for maintenance and repair of building sewers.
- B. The City has reasonably relied on the definitions of "building sewer" and "public sewer" as well as provisions regarding responsibility for "public sewers" to conclude that property owners are responsible for maintenance and repair of building sewers. However, recently some property owners have challenged the City's interpretation and claimed that they are not responsible for maintenance and repair of portions of building sewers in rights-of-way.
- C. Standard practice in most cities is that property owners are responsible for building sewers up to the point where the building sewer connects to a sewer main.
- D. The changes being proposed in this ordinance are intended to clarify that the property owner is responsible for maintenance and repair of building sewers to the point that the building sewer connects with a public sewer main.

Based on these findings, the City of Bend ordains as follows:

Section 1. Bend Code Section 4.500(3) is amended as follows (additions are shown by **bold underlining** and deletions are shown by strikethrough):

"Building Sewer" means the ~~extension~~ sewer line extending from the building drain to the public sewer or other place of disposal. **Building sewers include not only sewer lines on private property, but lines within rights-of-way up to the point where the line connects with a sewer main. Building sewers are not part of the public sewer and are not owned by the City, even if located in rights-of-way.**

Section 2. Bend Code Section 4.500(12) is amended to read:

"Public Sewer" means a **any sewer main** ~~in which all owners of abutting property have equal rights, and is owned and controlled by the City of Bend.~~ **A building sewer is not a sewer main and is not a public sewer.**

Section 3. The title of Bend Code Section 4.506 is amended to Read "Building Sewer, Connections and Responsibilities" and Bend Code Section 4.506 is amended by adding a new Section (11) to read as follows:

The owner of property served by a building sewer shall be responsible for maintenance and repair of the building sewer from its connection to the building drain to the point where the building sewer is connected to a City sewer main. This responsibility includes responsibility for any costs of maintenance or repair. In the event of any break, leak or other damage to a building sewer, the owner of the property served by

the building sewer shall cause repairs to be made immediately to minimize any sewer spillage.

Section 4 A clean version of Sections 4.500 and 4.506, as amended, is shown on the attached Exhibit A.

Section 5. All other provisions of the Bend Code remain unchanged and in effect.

Read for the first time the 7th day of July, 2010.

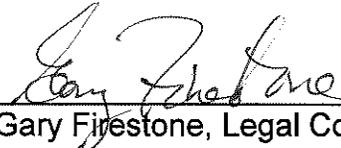
Read for the second time the 21st day of July, 2010.

Approved by roll call vote the 21st day of July, 2010.

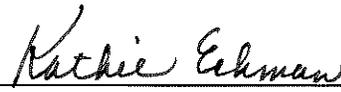
YES: 6 NO: 0

Authenticated by the Mayor the 21st day of July, 2010.

Approved as to form:



Gary Firestone, Legal Counsel



Kathie Eckman, Mayor

ATTEST:


Patricia Stell, City of Bend Recorder

EXHIBIT A

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/l)).

(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 sewer line extending from the building drain to the public sewer or other place of disposal. Building sewers include not only sewer lines on private property, but lines within rights-of-way up to the point where the line connects with a sewer main. Building sewers are not part of the public sewer and are not owned by the City, even if located in rights-of-way.

(4) "City" means the City of Bend or the City Council 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 any sewer main owned and controlled by the City of Bend. A building sewer is not a sewer main and is not a public sewer.

(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.

4.506 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 judgment 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.

(11) The owner of property served by a building sewer shall be responsible for maintenance and repair of the building sewer from its connection to the building drain to the point where the building sewer is connected to a City sewer main. This responsibility includes responsibility for any costs of maintenance or repair. In the event of any break, leak or other damage to a building sewer, the owner of the property served by the building sewer shall cause repairs to be made immediately to minimize any sewer spillage.