

**ORDINANCE NO. NS - 2279**

**AN ORDINANCE AMENDING THE BEND CODE CHAPTER 9.50, SIGNS TO ALLOW MURAL SIGNS IN THE "MAKERS DISTRICT".**

Findings:

- A. The application was submitted in accordance with BDC 4.1.500. Timely and sufficient notice pursuant to Section 4.1.515 of the Bend Development Code was provided.
- B. The Arts, Beautification and Culture Commission held a subcommittee meeting on August 18, 2016 to review draft code language to amend the Sign Code to allow murals in the Makers District.
- C. The Planning Commission reviewed the proposed amendments to the Sign Code during a work session on September 12, 2016 and held a public hearing on October 10, 2016 to accept testimony on the request. At the conclusion of the hearing, the Planning Commission voted to recommend the proposed text amendments as amended be approved by the City Council.
- D. Notice of the City Council public hearing was sent to the neighborhood associations on September 19, 2016, and published in the Bend Bulletin on September 25, 2016.
- E. The Bend City Council held a public hearing on October 19, 2016 to accept evidence, receive public testimony and consider the Planning Commission's recommendation. The City Council found that the text amendments satisfy the criteria for approval contained in Section 4.6.200 of the Bend Development Code and voted on the amendments to the Bend Development Code.
- F. The City Council finds that the amendments are limited to a small area defined as the "Makers District" which is comprised of commercial and industrial uses.
- G. The City Council also finds that there is support from business and property owners in the "Makers District" and that the text amendments will contribute to revitalization of the area.
- H. The City Council finds that there are many cities in the United States and around the world which allow murals, and that those mural programs have often contributed to cultural, artistic, and economic vitality in areas in need of revitalization or energy. Because freedom of expression is a central component of that vitality, the Council finds that murals in the Makers District do not at this time require extensive regulatory requirements or restrictions, and further finds that the geographic and architectural nature of the Makers District does not suggest any particular restrictions are necessary or appropriate.

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

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

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

First Reading: October 19, 2016

Second reading and adoption by roll call vote: November 2, 2016

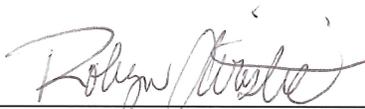
YES: Jim Clinton, Mayor  
Victor Chudowsky  
Sally Russell  
Nathan Boddie  
Casey Roats  
Barb Campbell

NO: Doug Knight

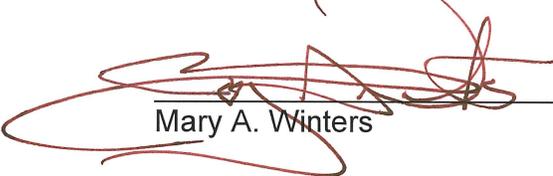
  
\_\_\_\_\_

Jim Clinton, Mayor

Attest:

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

Approved as to form:

  
\_\_\_\_\_  
Mary A. Winters

## Bend Code Update

Prepared by:

Planning Division

Note:

Text in underlined typeface is proposed to be added

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

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

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

## Chapter 9.50 SIGNS

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### 9.50.030 Definitions.

The following definitions apply in this chapter:

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

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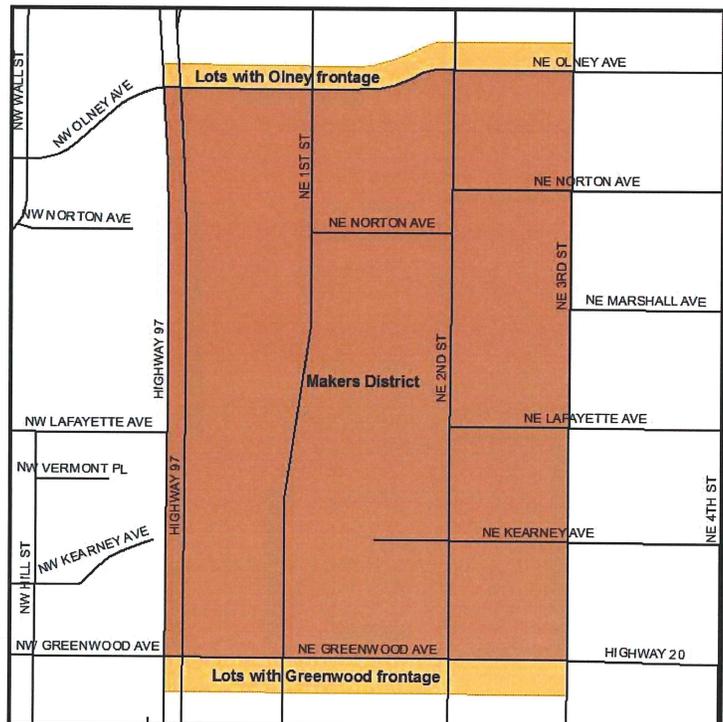
**Wall sign** means a single-sided sign that is parallel or approximately parallel to and within

18 inches of a building wall. A mural sign is a subcategory of a wall sign and is defined as follows:

**Mural sign** means a sign that is painted directly on the surface of a building or retaining wall, without any sign structure or additional surface.

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### 9.50.080 Sign District Regulations.



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

**Table 1**

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

P: Permitted as allowed in BC 9.50.090 and 9.50.100

N: Not permitted

\* Mural signs are permitted in the Makers District and non-permitted elsewhere.

**9.50.090 Standards for Permanent Signs.**

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

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10. Mural Signs.

- a. Mural signs are permitted in the Makers District in addition to any other sign allowed on a property.
- b. Mural signs are not subject to the size and height limitations applicable to wall signs.
- c. The mural must be kept in good condition until it is removed.

- d. A permit is required for mural signs. All artists and owners of the property must sign the mural sign permit application. All artists and owners of the property must agree that the mural sign may be removed or painted over at any time after 5 years from the date the mural sign permit is issued, or at any time the mural sign becomes non-compliant with this code.

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**EXHIBIT B  
FINDINGS OF FACT  
BEND CODE UPDATE  
AMENDMENT PZ 16-0667**

**Procedural Findings**

The application was initiated by the city in accordance with BDC 4.1.500. Timely and sufficient notice of the public hearings was provided pursuant to BDC 4.1.515. Notice of the proposed amendments was provided to the Department of Land Conservation and Development (DLCD) on August 10, 2016 and a revised notice was provided on September 16, 2016.

A notice of the Planning Commission's public hearing was printed in the Bend Bulletin on September 18, 2016 and sent to the neighborhood associations on September 13, 2016. A notice of the City Council's public hearing was printed in the Bend Bulletin on September 25, 2016 and sent to the neighborhood associations on September 19, 2016.

The Planning Commission held work sessions on September 12, 2016 and a public hearing on October 10, 2016 and recommended approval of the proposed text amendments as amended to the City Council. On October 19, 2016, the City Council held a public hearing and conducted the first reading and on November 2, 2016 they conducted the second reading and voted to approve the amendments.

**Criteria of Approval**

- (1) The Bend Area General Plan
- (2) Bend Development Code
  - (a) Chapter 4.6, Land Use District Map and Text Amendments;  
Section 4.6.200(B), Criteria for Legislative Amendments

**Applicable Procedures**

- (1) Bend Development Code
  - (a) Chapter 4.1, Land Use Review and Procedures

**Findings Regarding Compliance with Applicable Criteria:**

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

**4.6.200 Legislative Amendments.**

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

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

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

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

**FINDING:** The proposed amendments are consistent with the applicable State land use law. In particular, they satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, and Goal 9: Economic Development.

**Goal 1, Citizen Involvement,** is satisfied through following the City's acknowledged text amendment process that includes a Planning Commission public hearing, followed by a City Council public hearing.

**Goal 2, Land Use Planning,** requires a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. The Goal is met because the City followed the land use planning process and policy framework established in the City's acknowledged Comprehensive Plan (General Plan) and Development Code as a basis for the decisions and actions related to the new regulations regarding signs and to assure an adequate factual base for these decisions and actions. The proposed amendments will be adopted by the City Council after a public hearing. Multiple opportunities were provided for review and comment by citizens and affected governmental units during the preparation of this ordinance.

Goal 2 specifically states that minor plan changes such as amendments to the sign regulations to allow mural signs in the Makers District, should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established. During the work session held on September 12, 2016, the ABC Commission informed the

Planning Commission about how murals helped revitalize areas of Long Beach, CA; Portland, OR; Burns, OR; Newport, OR; Springfield, OR; and Honolulu, HI. Based on these examples, mural signs are justified because they can help revitalize the Makers District.

**Goal 3, Agricultural Lands and Goal 4, Forest Lands, Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces.** Goals 3 and 4 are not applicable because there are no Agricultural or Forest Lands in the Makers District. Goal 5 is not applicable because these amendments do not affect any regulation that implements Goal 5 and the City's acknowledged regulations implementing Goal 5 remain in effect with no change in applicability.

**Goal 6, Air, Water and Land Resources Quality** is not applicable because the City's acknowledged regulations implementing Goal 6 remain in effect with no change in applicability.

**Goal 7, Areas Subject to Natural Hazards** is not applicable because the City's acknowledged regulations implementing Goal 7 remain in effect with no change in applicability.

**Goal 8, Recreational Needs** is not applicable to the proposed Bend Code amendments because the amendments do not limit any recreational uses in any zone.

**Goal 9, Economic Development,** is implemented through Oregon Administrative Rule (OAR) Division 9 which is intended to ensure that each jurisdiction maintain an adequate land supply for economic development and employment growth. The Makers District includes a variety of commercial and industrial businesses and is a relatively new destination in the City of Bend. Allowing mural signs in the Makers District would create a unique vibrancy in the District which would attract visitors to the District that may not have gone there before. This would increase commerce in the District and therefore compliance with Goal 9 is maintained.

**Goal 10, Housing** is not applicable to the proposed Bend Code amendments because the amendments will not reduce residential inventories.

**Goal 11, Public Facilities and Services** is not applicable because the City's acknowledged regulations implementing Goal 11 remain in effect with no change in applicability.

**Goal 12, Transportation** requires the City to provide and encourage a safe and convenient and economic transportation system. The proposed amendments are not site specific and therefore do not affect the functional classification of any street. The proposed amendments will have no measurable impacts on the amount of traffic on the existing transportation system; therefore the proposed text amendments do not cause a

“significant effect” under ORS 660-012-0060. Therefore, compliance with Goal 12 is maintained.

**Goal 13, Energy Conservation** is not applicable because the City’s acknowledged regulations implementing Goal 13 remain in effect with no change in applicability.

**Goal 14, Urbanization**, requires the City to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. The proposed amendments do not encourage sprawl or lower than targeted densities, or uncoordinated development. The management of the City’s land use inventories is unaffected by these proposed amendments and therefore compliance with Goal 14 is maintained.

**Goal 15, Willamette River Greenway, Goal 16, Estuarine Resources, Goal 17, Coastal Shorelands, Goal 18, Beaches and Dunes, and Goal 19, Ocean Resources** are not applicable to the proposed Bend Code amendment.

Because the proposed code amendments are limited in scope, there are no other Administrative Rules applicable to this amendment. Likewise, there are no applicable Oregon Revised Statutes that are criteria applicable to these amendments (Note, consistency with the Transportation Planning Rule (TPR) is discussed further in this document).

Based on the above discussion, the proposed text amendments to the Bend Code are consistent with the statewide planning goals and therefore comply with the requirement that the amendment be consistent with state land use planning law.

**2. The request is consistent with the applicable Bend Area General Plan goals and policies;**

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

***Chapter 1: Plan Management and Citizen Involvement***

***Goals:***

- *Appearance of Structures* — Ensure that the “built environment” is as attractive as feasible.
- *Public/Civic Involvement* — Encourage involvement by all citizens, corporate and individual, to keep the city vital and the Plan an “evolving vision”.

## **Policies**

### **Citizen Involvement**

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

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

A notice of the Planning Commission public hearing was printed in the Bend Bulletin on September 18, 2016 and sent to the neighborhood associations on September 13, 2016. A notice of the City Council's public hearing was printed in the Bend Bulletin on September 25, 2016 and sent to the neighborhood associations on September 19, 2016.

The ABC Commission subcommittee held a public meeting on August 18, 2016 to review draft code language to allow mural signs in the Makers District. The ABC Commission identified the Makers District as an area where mural signs would be permitted because the built environment would become more attractive with the use of mural signs.

The Planning Commission held a work session on September 12, 2016 and a public hearing on October 10, 2016. The City Council held a public hearing on October 19, 2016 regarding the proposed amendments.

The City received a letter of support from James Lewis that was submitted during the Planning Commission's public hearing on October 10, 2016.

### **Chapter 3: Community Connections**

#### **Goals**

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

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

## **Chapter 6: The Economy and Lands for Economic Growth**

### *Goals*

- *Have a vital, diverse and sustainable economy, while enhancing the community's overall livability.*
- *Stimulate economic development that will diversify and strengthen economic activity and provide primary and secondary job opportunities for local residents.*

**FINDING:** The Makers District is a relatively new self-created District that includes a variety of commercial and industrial businesses. Mural signs would enhance the livability of the Makers District by providing a visual amenity in an area in need of renovation. Mural signs could increase tourism which would continue to stimulate economic development in the Makers District.

## **Chapter 9: Community Appearance**

### *Goals*

- To make a concerted effort to improve the appearance of the community, particularly in the commercial, industrial and multifamily areas.
- To initiate community action programs for the purposes of developing an awareness in the community's citizens of appearance-related issues, evaluating community appearance and developing specific improvement programs.
- To identify those characteristics that give the community its individual identity and to preserve and expand those characteristics as growth occurs.
- To significantly improve the appearance along the state highways and other transportation corridors as one means of recapturing the individual and distinct identity of the Bend area.

**FINDING:** The Makers District was formed by business and property owners within the area and is becoming a destination with a distinct identity. The ABC Commission chose the Makers District based on support from several of the business and property owners and because the appearance of the Makers District is in need of beautification. Several of the buildings are very utilitarian with limited exterior details and include cinderblock walls and metal siding. The addition of mural signs would improve the appearance of several of the buildings in the Makers District.

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

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

**FINDING:**

Mural signs are a unique and appealing way of adding personality to businesses rather than the typical wall coverings, signage and decorations. Also, the attractiveness of mural signs in the Makers Districts would promote economic development by increasing tourism in the Makers District. Therefore there is a benefit to allowing mural signs in the Makers District.

**4.6.500 Record of Amendments.**

**The City Recorder shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.**

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

**4.6.600 Transportation Planning Rule Compliance.**

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

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

**V. CONCLUSIONS:**

Based on the above Findings, the proposed text amendments meet all applicable criteria for adoption.

