

ORDINANCE No. NS-2358

AN ORDINANCE AMENDING BEND CODE SECTION 9.10, BUILDING CODES

Findings:

A. In October 2019, the Oregon Building Codes Division made critical changes to Chapter 1 of the Oregon Structural Specialty Code (OSSC) and the Oregon Residential Specialty Code (ORSC).

B. The OSSC and ORSC changes remove provisions relied on by local building officials to regulate and enforce safety of structures.

C. The Oregon Building Codes Division and the Oregon Building Officials Association have authorized and recommended options for local jurisdictions to re-establish authority of their own to continue with the practices to which local jurisdictions and the industry have become accustomed. The proposed amendments to Bend Code Chapter 9.10 are intended to implement these recommendations and preserve local authority.

D. The City Council finds that the amendments to Bend Code Chapter 9.10 will provide for a continuation of best practices, and confirm the City Building Official's authority to ensure the safety of structures within the City of Bend.

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

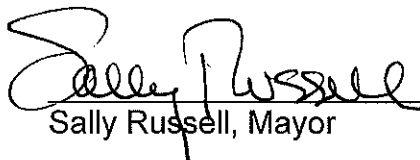
Section 1. Chapter 9.10 of the Bend Code is amended as shown on Exhibit A, attached.

Section 2. All other provisions of the Bend Code remain unchanged and in full effect.

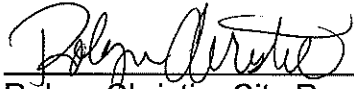
First Reading Date: December 4, 2019

Adopted by roll call vote on: December 18, 2019

YES: Sally Russell, Mayor NO: none
Bruce Abernethy
Barb Campbell
Bill Moseley
Justin Livingston
Gena Goodman-Campbell
Chris Piper

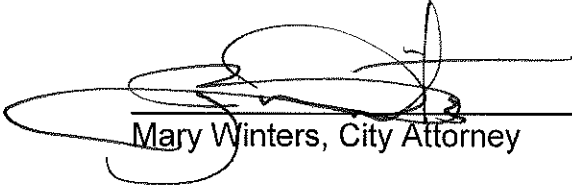

Sally Russell, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary Winters, City Attorney

Chapter 9.10
BUILDING CODES

Sections:

- 9.10.010 Authority of Building Official.
- 9.10.015 Additional Local Authority.
- 9.10.020 Stop Work Orders.
- 9.10.025 Occupancy Violations.
- 9.10.030 Validity of Permit.
- 9.10.040 Suspension/Revocation.
- 9.10.050 Permit Expiration, Extension and Reinstatement.
- 9.10.060 Fees.
- 9.10.070 Violation and Penalty.

9.10.010 Authority of Building Official.

The City of Bend Building Official is authorized to administer and enforce this chapter and the following State of Oregon Codes for the City of Bend, and shall have all authority granted by these codes:

- A. The Oregon Structural Specialty Code;
- B. The Oregon Mechanical Specialty Code;
- C. The Oregon Plumbing Specialty Code;
- D. The Oregon Electrical Specialty Code;
- E. The Oregon Residential Specialty Code;
- F. The manufactured dwelling park and mobile home park rules;
- G. The manufactured dwelling rules;
- H. The recreational park and organization camp rules; and
- I. All referenced material within the above codes. [Ord. NS-2179, 2012]

9.10.015 Additional Local Authority

The City of Bend building official has the additional authority to regulate the following:

A.

- 1. Pursuant to the regulation of dangerous buildings, the building official may adopt seismic rehabilitation plans that provide for phased completion of repairs that are designed to provide improved life safety but that may be less than the standards for new buildings.
- 2. Abatement of nuisances and dangerous buildings.
- 3. Fire safety during construction.
- 4. Demolition.
- 5. Protection of adjoining property.
- 6. Encroachments into the public way.
- 7. Retaining walls.
- 8. Fences

9. Tanks

10. Cellular phone, radio, television and other telecommunication and broadcast towers, in compliance with federal law.

11. Flagpoles.

12. Building Code aspects of signs.

13. Floating structures.

14. Docks.

15. Fixed piers or wharves.

16. Equipment shelters.

17. Administration and implementation of a National Flood Insurance Program (NFIP).

18. Transitional housing accommodations.

19. Matters related to structures that are not otherwise encompassed by this code.

B. Right of Entry. Where it is necessary to make an inspection to enforce the provisions of this Code or to exercise the authority of the building official, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this Code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry required. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

C. Certificate of Occupancy. Issuance of Certificate of Occupancy is contingent upon the requirements of the State of Oregon Building Codes as well as other applicable City requirements.

D. Service Utilities

1. Connection of Service Utilities. A person shall not make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this Code for which a permit is required, until released by the building official.

2. Temporary connection. The building official shall have the authority to authorize the temporary connection of the building or system to the utility, source of energy, fuel or power.

3. Authority to Disconnect Service Utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by the building code in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without the approval required by Sections 1 and 2 above. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter

E. Unsafe Structures and Equipment

1. Conditions. Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or that constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

2. Record. The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

3. Notice. If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

4. Method of Service. Such notice shall be deemed properly served if a copy thereof is: delivered to the owner personally; sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner on the owner's agent or on the person responsible for the structure shall constitute service of notice on the owner.

5. Restoration. Where the structure or equipment determined to be unsafe by the building official is restored to a safe condition, to the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions and change of occupancy shall comply with the requirements of the Building Code.

9.10.020 Stop Work Orders.

A. Authority. Whenever the Building Official finds any work regulated by any code of this jurisdiction being performed in a manner either contrary to the provisions of this code or any other code of this jurisdiction or dangerous or unsafe, the Building Official is authorized to issue a stop work order.

B. Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. [Ord. NS-2179, 2012]

9.10.025 Occupancy Violations.

When any structure regulated under this chapter is used contrary to the provisions of the codes adopted by this chapter, the Building Official may order the use discontinued and the structure (or a portion of the structure) vacated. The use of the structure (or portion of the structure) must be discontinued within the time prescribed by the Building Official in the notice and may not be resumed until the use and structure are brought into compliance as determined in writing by the Building Official. [Ord. NS-2205, 2013]

9.10.030 Validity of Permit.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other laws or ordinances of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other laws or ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent or vacate occupancy or use of a structure where in violation of this code or of any other laws or ordinances of this jurisdiction. [Ord. NS-2179, 2012]

9.10.040 Suspension/Revocation.

The Building Official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code. [Ord. NS-2179, 2012]

9.10.050 Permit Expiration, Extension and Reinstatement.

A. Every permit issued by the building official shall expire and become null and void if the building or work authorized by the permit is not commenced within 180 days from the date of the permit, or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The building or work authorized is considered suspended or abandoned if no approved inspections are acquired for 180 days.

B. Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. Extensions may be granted only if the following conditions exist:

1. The applicable building codes have not changed since the permit was issued.
2. The applicable land use standards have not changed since the land use approval or, for outright permitted uses, the date of the building permit application.

Extensions may only be granted if the building official determines that the building project is likely to be completed in a reasonable time.

C. Where a permit has expired, the permit may be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

1. The conditions listed above for extensions exist;
2. No changes have been made or will be made in the original plans and specifications for such work; and
3. The original permit expired less than one year from the request to reinstate.

The building official can review and approve exceptions at the building official's discretion if the preceding criteria cannot be met. The fee for a reinstated permit will be proportional to the amount of review and inspection required as compared to the amount required for a new application and permit. [Ord. NS-2179, 2012]

9.10.060 Fees.

Fees charged under this code shall be as provided by Council resolution. The Building Official may authorize the refunding of fees paid in accordance with the refund policy in effect in the jurisdiction. The determination of value or valuation under any provisions of this code shall be made by the Building Official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment. [Ord. NS-2179, 2012]

9.10.070 Violation and Penalty.

A violation of this chapter is a Class A civil 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. A person cited for a violation of this chapter has the right to a hearing before a hearings officer appointed by the City Manager. The hearings officer may be a City employee other than an employee of the Building Division. [Ord. NS-2179, 2012]