

ORDINANCE NO. 2373

AN ORDINANCE AMENDING BEND MUNICIPAL CODE SECTION 15.10.010, TITLE 15, SEWER, TEMPORARILY MODIFYING THE EXISTING CITYWIDE SEPTIC TO SEWER CONVERSION PROGRAM DUE TO THE COVID-19 PANDEMIC

Findings

- A. On March 11, 2020, the World Health Organization declared COVID-19 (novel coronavirus) a pandemic, acknowledging the virus will likely spread to all countries around the world.
- B. Coronaviruses are a group of viruses that can cause respiratory disease, with the potential to cause serious illness or loss of life.
- C. On March 8, 2020, Governor Kate Brown declared a state of emergency due to the COVID-19 outbreak in Oregon (Executive Order No. 20-03), finding that COVID-19 has created a threat to public health and safety, and constitutes a statewide emergency under ORS 401.025(1).
- D. On March 23, 2020, Governor Brown issued a Stay Home, Save Lives Order. (Executive Order No. 20-12).
- E. On May 1, 2020, by Executive Order 20-24, the Governor extended the statewide state of emergency (Executive Order 20-03) for an additional 60 days, through July 6, 2020, unless extended or terminated earlier by the Governor.
- F. On May 14, 2020, the Governor rescinded the Stay Home, Save Lives Order, and in its place established a phased, regionally-tailored framework for reopening the state (Executive Order 20-25). The reopening framework keeps in place a majority of the restrictions set forth in the Stay Home, Save Lives Order, but relaxes the restrictions on local gatherings and allows certain business sectors to reopen in counties that meet state public health criteria.
- G. On March 16, 2020, the City Manager declared a Local State of Emergency in the City of Bend as a result of COVID-19 through April 15, 2020, which was ratified by the City Council on March 18, 2020, and submitted to the Deschutes County Commissioners, pursuant to Bend Municipal Code 1.60.015. The City Manager has since extended this Local State of Emergency several times, including an extension through Phases I and II of the Deschutes County Reopening Plan.
- H. In May of 2020 under the authority of the Administrative Order(s) Declaring a Local State of Emergency in Bend as a Result of the COVID-19 Pandemic, by Resolution No. 3203, the City Council established a Septic to Sewer COVID-19 Relief Program (Program). The Program provides financial relief to property owners receiving sewer service from the Desert Woods and Neighborhood Extension Project

and Southeast Interceptor Project. The findings in the Resolution are incorporated by reference into this Ordinance to support its adoption.

I. Federal, state and local programs are being developed to respond to the economic impacts of the pandemic, with measures to relieve the pressure on businesses and residents if possible. This program is intended to provide economic relief to property owners impacted by the pandemic, and is authorized through the Emergency Declaration(s) and the authority in Bend Code 1.30 and 1.60.

J. Bend Code Title 15.010.10(F) requires property owners who signed the Neighborhood Extension Project (NEP) petition application to connect to public sewer within two years of issuance of the Notice of Operational Completion (NOC). Bend Code Title 15.010.10(I)(1)(c)(i) requires property owners with legally available sewer and a failing septic system to connect to public sewer. Sewer is considered legally available when a sewer main with capacity exists along the property frontage.

K. Property owners bound by either of these requirements may be financially impacted by the public health emergency. Therefore, this Relief Program provides a one-year extension to the deadline to connect for the Desert Woods and Neighborhood Extension Project, approved by Council on November 6, 2019, and scheduled to be completed by Spring of 2021. The 41 property owners who signed the NEP petition application receiving sewer service from the Desert Woods and Neighborhood Extension Project will be required to connect within three years from issuance of the NOC. Staff will issue revised NOCs to the 20 property owners who already received an NOC.

L. Bend Code Title 15.010.10(I)(1)(d) provides that property owners who connect to public sewer within two years of receiving the NOC will receive a 50 percent discount on the Connection Fee. To remain consistent with the three-year connection requirement provided above, the Relief Program will also extend 50 percent discount on the Connection Fee for one year.

M. The discount option also applies to property owners who did not sign the petition application but either choose to connect or who are required to connect because of a failing septic system. In sum, any of the 140 property owner receiving sewer service from the Desert Woods and Neighborhood Extension Project will receive a 50 percent discount on the Connection Fee, if connected within three years from issuance of the NOC.

N. Bend Code Title 15.010.10(I)(1)(e) allows qualifying property owners to apply for a Connection Fee waiver. Property owners qualify for the waiver if their income is 80 percent of the Bend median income, calculated per HUD guidelines.

O. This Relief Program modifies the existing Connection Fee waiver approval criteria. Property owners required to connect because of a failing septic system may be financially impacted by the public health emergency and may not be prepared to

connect since a failure is an unplanned event. Property owners who signed the NEP petition to connect may have changed circumstances due to the pandemic. The modified criteria will allow property owners who are financially impacted by the pandemic to receive the Connection Fee Waiver. The property owner(s) must provide proof of loss of wages related to the pandemic, including a letter of unemployment, furlough, or other circumstance deemed qualifying by staff. Additionally, property owners who provide proof of receiving public benefits, including but not limited to unemployment benefits, SNAP food stamps, or TANF benefits, will also receive the waiver. Property owners who apply must provide a septic system failure report dated within six months from a licensed plumber or septic tank servicing company.

P. This modified criteria will expire three years from issuance of the NOC for property owners receiving sewer service from the Desert Woods and Neighborhood Extension Project.

Q. The Southeast Interceptor (SEI) Project was completed in 2017 and provided sewer service to 144 properties. A NOC was issued on March 15, 2019 and stated that the Connection Fee was waived until March 15, 2021. Property owners that connect within two years are exempt from the Connection Fee. To remain consistent with the three-year connection provided for the Desert Woods and Neighborhood Extension Project, the Relief Program would provide a 50 percent discount to the Connection Fee for an additional year. Therefore, any property owner who received sewer service from the SEI that connects between March 16, 2021 and March 15, 2022 would receive a 50 percent discount on the Connection Fee.

R. Because this program may extend beyond the expiration of the State and Local emergency orders, the City Council finds that it is appropriate to reference the Resolution in the City code to alert property owners to the temporary program for specific areas of the City.

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

Section 1. Section 15.10.010 of Chapter 15.10, General Sewer Regulations, is amended as shown on the attached Exhibit A.

Section 2. Due to the COVID-19 pandemic and the adoption of the Resolution establishing the Septic to Sewer COVID-19 Relief Program, this ordinance is critical to ensure public health and safety. The ordinance is therefore necessary on an emergency basis and will be effective immediately upon adoption on its second reading.

Section 3. If any provision, section, phrase, or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

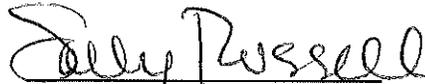
Section 4. The provisions of this ordinance shall be null, void, and of no further force and effect, and the Code amendment under this ordinance shall be repealed, on and after July 31, 2024 or three years from the date of issuance of the final NOC for the

Desert Woods and Neighborhood Extension Project, whichever occurs first.

First Reading: May 20, 2020

Second reading and adoption by roll call vote: June 3, 2020

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 Alice Winters, City Attorney

Exhibit A

Bend Code Update

May 20, 2020

Note:

Text in underline typeface is proposed to be added.

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

Chapter 15.10

15.10.010 Use of Public Sewer – Requirements for New Development and Septic to Sewer Conversion Program.

F. Septic to Sewer Conversion Program. There is hereby established a City of Bend Septic to Sewer Conversion Program with the goal of connecting properties served by private onsite septic systems to the City's public sewer system over time. The program applies to properties within the City limits shown on the City of Bend Comprehensive Plan Map at the time of the urban growth boundary expansion on December 6, 2016, Ordinance NS-2271. In furtherance of the Septic to Sewer Conversion Program, the City will engage in Neighborhood Extension Projects (NEP Projects) in a systematic manner, as funds are available and allocated. NEP Projects may be selected based on a pool of applicants. The City Manager is authorized to solicit and receive applications from property owners who wish their neighborhood or street(s) be considered for a sewer extension project. Any property owner who signs a NEP Project application that is selected for funding will be required to connect to sewer within two years of receiving the City-issued Notice of Operational Completion.* Applications will be considered at least annually, based on the following considerations:

1. Cost of the sewer extension project, including design;
2. Total number of homes or properties to be connected to the public

sewer system from the project;

3. Whether other City construction projects are planned for the street identified in the application;
4. The percentage of property owners who would be served by the neighborhood sewer extension project who have joined or signed onto the application;
5. The age of existing septic systems that would be replaced by the proposed neighborhood sewer extension project and evidence of failing septic systems; and
6. Other factors established by the City Manager.

I. Timing of Connection and Payment of Fees*

1. The following sections apply to properties that receive sewer service from a NEP Project or CIP Project after establishment of the Septic to Sewer Conversion Program by Ordinance No. 2320, approved on December 19, 2018.
 - a. Upon completion of a NEP Project or CIP Project, the City will issue a Notice of Operational Completion to all property owners with frontage along the newly completed public sewer line within 30 days of operational completion. The notice will be recorded and will run with the land, explaining the provisions of this section (I). City issuance of the Notice of Operational Completion indicates legal availability of sewer service.
 - b. Property owners who signed the successful application for the NEP Project are required to connect to the public sewer within two years of the Notice of Operational Completion.*

- c. Connection is voluntary for property owners with frontage along a NEP Project who did not sign the application for the project or with frontage along a CIP Project, except that connection is always mandatory when any of the following occurs at any time:
 - (i) The existing onsite septic system requires repair as defined by Deschutes County Environmental Soils Division and/or OAR 340-071-0100; or
 - (ii) The property owner applies for New Development, as defined in section (C).

- d. Connection Fees and System Development Charges (SDCs). The connection fee will be established by the City Council in the annual fee resolution, adjusted annually for inflation (using the Engineering News Record (ENR) construction cost index). Except as provided in subsection (l)(1)(e) of this section, a property owner must pay all connection fees in effect at the time of plumbing permit issuance, except that any property that connects within two years from the Notice of Operational Completion will be granted a 50 percent discount to the current sewer connection fee. Properties that do not connect within the two-year frame must pay the full sewer connection fee established by Council at the time of application for connection.* All property owners must pay the SDCs in effect at the time of application for connection.

- e. A qualifying property owner required or requesting to connect to public sewer under the Septic to Sewer Conversion Program can request that the City fund their connection fees under the City's customer assistance program. "Qualifying property owner" means a property owner with a household income at or below 80 percent of the area ~~medium~~ median income based on the most recent HUD calculation available (US Census Bureau's ACS estimate for Bend, OR MSA).*

* A Septic to Sewer COVID-19 Relief Program was established by City Council Resolution in 2020 due to the novel coronavirus pandemic, to provide financial relief to qualifying affected residents. The temporary Program applies to property owners receiving sewer service from the Southeast Interceptor Project and the Desert Woods and Neighborhood Extension Project and includes modified connection timing, Connection Fee discount timing, and Connection Fee Waiver approval criteria. See Resolution No. for the information on the criteria and administration of this temporary Program.