

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

- 2.04 City Council**
- 2.08 Planning Commission**
- 2.12 Personnel Rules and Regulations**
- 2.16 Criminal Offender Information Checks for City Employees and Volunteers**
- 2.20 Municipal Court**
- 2.24 Emergency Code**
- 2.28 Police Department**
- 2.32 Fire Department**
- 2.36 Finance Director and Deputy Recorder**
- 2.40 Bay Area Public Access Television Agency and Board**
- 2.44 Municipal Swimming Pool Department**
- 2.48 Parks and Recreation Advisory Board**
- 2.52 Urban Renewal Agency**
- 2.56 Coos Bay-North Bend Tourism Promotions Committee**
- 2.60 Public Library Board**
- 2.64 Contract Review Board**
- 2.68 Airport Management**
- 2.72 Records Retention and Destruction**
- 2.76 Real Property Compensation Claims Procedures**

Chapter 2.04**CITY COUNCIL**

Sections:

2.04.010 Regular meetings.

2.04.010 Regular meetings.

Regular meetings of the council of the city of North Bend shall be held on the second and fourth Tuesday of each month at the hour of 7:30 p.m. in the City Hall of said city except when such Tuesday shall be a legal holiday and in such case, the regular meeting of the council shall be held on the next succeeding business day at the hour of 7:30 p.m. (Ord. 731 § 1, 1939; Ord. 403 § 2, 1918)

Chapter 2.08**PLANNING COMMISSION**

Sections:

2.08.010 Created.

2.08.020 Membership – Quorum – Meetings – Officers.

2.08.030 Appointment.

2.08.040 Existing members.

2.08.010 Created.

There is hereby created a planning commission of the city of North Bend under the terms and provisions of ORS Chapter 227, and such planning commission shall have all of the powers and duties prescribed in ORS Chapter 227, together with all of the other powers and duties that are now or may hereafter be provided in the ordinances of the city of North Bend. (Ord. 1277 § 1, 1964)

2.08.020 Membership – Quorum – Meetings – Officers.

The North Bend planning commission shall consist of nine commissioners, and those commissioners present at a regular or special meeting will constitute a quorum. The time for regular monthly meetings will be established by the commission, and special meetings may be called by the chairman or the city recorder. The commission will elect a chairman and vice chairman each year at the January meeting of the commission. (Ord. 1828, 1994; Ord. 1277 § 2, 1964)

2.08.030 Appointment.

Appointments to the office of planning commissioner shall be made as provided in the Charter of the city of North Bend from registered voters of the city. Such office shall be deemed vacant upon a commissioner's death, adjudicated incompetence, conviction of a felony, resignation, ceasing to possess the qualifications for the office, absence from meetings of the commission without prior notice to the commission secretary for two successive meetings, or failure to attend at least 50 percent of the meetings of the planning commission in any six-month period. (Ord. 1853 § 1, 1997; Ord. 1718, 1987; Ord. 1603, 1980; Ord. 1277 § 3, 1964)

2.08.040 Existing members.

Members of the planning commission appointed by the mayor under the terms of Ordinance No. 675* of the city of North Bend shall continue to be

members of such planning commission under the provisions of this chapter for their unexpired terms or until a vacancy shall occur as herein provided. (Ord. 1277 § 4, 1964)

*Code reviser’s note: Ordinance No. 675 was repealed by Ordinance No. 1277.

Chapter 2.12

PERSONNEL RULES AND REGULATIONS

Sections:

- 2.12.010 Vacation leave.
- 2.12.020 Sick leave.
- 2.12.030 Leave of absence.
- 2.12.040 Holidays.
- 2.12.050 Overtime.
- 2.12.060 Use of private vehicle.
- 2.12.070 Effective date.
- 2.12.080 Collective bargaining contracts.
- 2.12.090 Residence requirements.
- 2.12.100 Employee grievances.
- 2.12.110 Substance abuse regulations.

2.12.010 Vacation leave.

(1) Each regular full-time employee of the city of North Bend is entitled to accrue vacation time beginning with the first day of work following employment at the following rates:

12 – 26 days per bi-weekly pay period until completion of five full years of employment.

15 – 26 days per bi-weekly pay period until completion of five full years of employment.

20 – 26 days per bi-weekly pay period after completion of 10 full years of employment.

Administrative and supervisory employees not entitled to overtime under the Fair Labor Standards Act shall receive one additional week per year vacation in lieu of other forms of compensation for extra hours worked.

(2) For the purpose of determining vacation pay, the basic vacation day shall be considered to be that portion of each employee’s bi-weekly basic paycheck which is equivalent of one day’s pay computed on a basis of a five-day 40-hour week.

(3) The anniversary date for vacation purposes for all employees shall be the first day of the pay period following the date that the employee was hired.

(4) New employees are not entitled to a vacation or vacation pay until they have completed six full months of employment, but they shall accrue vacation time retroactively to the date they were hired.

(5) If earned, each employee must take time off equivalent to one consecutive calendar week at one time during the 12 months following their anniversary date. The remainder of an employee’s earned vacation may be taken in fewer consecutive days.

Unused vacation cannot exceed two years accrual, and any excess not used will be lost.

(6) Upon termination of employment with the city, a regular full-time employee, after having been employed by the city continuously for not less than six consecutive months, will be entitled to receive compensation for all unused vacation accrued up to and including the last full pay period prior to termination. Payment for unused accrued vacation will be made at the employee's regular rate of pay at the time of termination.

(7) Vacation leaves of employees shall be scheduled by the department supervisor. Employee preferences will be honored so long as the normal operations of the department are not impaired. Normal operations of the department are assumed to be impaired if more than one employee in a department is on vacation leave at one time. Advance vacation requests should be submitted to the department supervisor in a timely manner. Seniority shall be the deciding factor in resolving conflicts between overlapping vacation leave requests.

(8) An employee who is on personal leave, leave for temporary termination of work, or unpaid leave for sickness or disability will not accrue vacation for the duration of such leaves. (Ord. 1755 § 1, 1990; Ord. 1700 § 1, 1985; Ord. 1486 § 1, 1974; Ord. 1405 § 1, 1971)

2.12.020 Sick leave.

(1) Each permanent full-time employee of the city of North Bend shall be entitled to accumulate sick leave with pay at the rate of one day for each full month of employment; provided, however, that sick leave shall not be accumulated beyond a maximum of 90 days.

(2) No employee shall be entitled to the benefits of sick leave with pay until such employee has served a probationary period of six months, after which time such employee will be entitled to an accumulation of sick leave at the rate provided herein commencing from the date of his employment.

(3) Any employee receiving disability benefits by virtue of any law now or hereafter enacted shall be entitled to sick leave pay only in the amount that such pay exceeds the amount of such disability payment, and deductions from accumulated sick leave time shall be made in the proportion that the actual amount paid by the city during such sick leave bears to the total rate of pay of such employee.

(4) An employee shall be entitled to receive benefits under the sick leave provisions of this chapter when it is reported to his department head that he is unable to report to work due to illness or injury, but if it is found that an employee fraudulently obtains sick leave benefits, he may be suspended or discharged without further cause. (Ord. 1405 § 2, 1971)

2.12.030 Leave of absence.

Leaves of absence may be granted to employees of the city upon the following terms and conditions:

(1) Upon the request of an employee, a leave of absence without pay not to exceed 30 days may be granted by the head of a department with the approval of the city administrator.

(2) Upon the request of an employee, a leave of absence with pay and not to exceed three days may be granted by the head of a department by reason of a death in the employee's immediate family, or by reason of the death of a relative residing in the same household with the employee. Immediate family shall be defined as wife, husband, children, mother, father, father-in-law, mother-in-law, brother, or sister.

(3) A leave of absence for educational training relating to his employment may be granted to an employee with pay by the city administrator for a period not to exceed five days, and a leave of absence for such educational purposes may be granted with pay by the council for periods exceeding five days.

(4) Leaves of absence with or without pay may be granted by the council for the purpose of meeting necessary military training obligations of employees.

(5) Unauthorized leave of absence shall be grounds for immediate dismissal of the employee when such absence is found to be detrimental to the city. (Ord. 1405 § 3, 1971)

2.12.040 Holidays.

The following are designated as official paid holidays in the city of North Bend:

(1) New Year's Day on January 1st.

(2) Martin Luther King, Jr. Day on the third Monday in January.

(3) Presidents' Day on the third Monday in February.

(4) Memorial Day on the last Monday in May.

(5) Independence Day on July 4th.

(6) Labor Day on the first Monday in September.

(7) Veterans' Day on November 11th.

(8) Thanksgiving Day on the fourth Thursday in November.

(9) Christmas Day on December 25th.

Should any designated holiday fall on a Saturday, the preceding Friday shall be a holiday. Should the holiday designated fall on a Sunday, the following Monday shall be a holiday. (Ord. 1790, 1992; Ord. 1486 § 2, 1974; Ord. 1405 § 4, 1971)

2.12.050 Overtime.

Employees entitled to receive overtime pay under the Fair Labor Standards Act shall receive overtime compensation as provided in said Act. No employee shall work overtime except when such overtime is authorized by the city administrator or in case of an emergency. (Ord. 1700 § 2, 1985; Ord. 1405 § 5, 1971)

2.12.060 Use of private vehicle.

Employees using a private vehicle on business of the city of North Bend, with the prior approval of the city administrator, shall be given a mileage allowance in an amount established by a motion or resolution of the city council. (Ord. 1755 § 2, 1990; Ord. 1597, 1979; Ord. 1405 § 6, 1971)

2.12.070 Effective date.

The council hereby finds that this chapter is enacted to supersede and modify provisions of Ordinance No. 1174* and it is necessary in the interest of the public welfare and convenience that certain provisions of this chapter be made effective at specific times and therefor an emergency is hereby declared to exist, and computations for determining the accumulation of annual leave and sick leave shall be made the first day of January, 1971, and provisions relating to holiday leave shall be effective at the time of the enactment of this chapter. (Ord. 1405 § 8, 1971)

*Code reviser's note: Ordinance No. 1174 was repealed by Ordinance No. 1405.

2.12.080 Collective bargaining contracts.

Whenever there is a valid and existing contract between the city of North Bend and the recognized representative of a collective bargaining unit in the city which has provisions inconsistent or conflicting with the rules and regulations established in this chapter, then the provisions of such contract

shall prevail over the provisions of this chapter. (Ord. 1486 § 3, 1974; Ord. 1405 § 10, 1971)

2.12.090 Residence requirements.

Each permanent full-time employee of the city of North Bend who is an administrator, department head, supervisor or member of a collective bargaining unit shall become and remain a resident of the city of North Bend subject to the following conditions and qualifications:

(1) A person employed by the city on the effective date of the ordinance codified in this chapter who is within five years of compulsory retirement shall be exempt from the provisions of this section.

(2) A person who is a nonresident permanent full-time employee of the city on the effective date of the ordinance codified in this chapter may remain a nonresident until he changes his place of residence, at which time he shall become a resident of the city of North Bend.

(3) A nonresident who becomes a permanent full-time employee after the effective date of the ordinance codified in this chapter must become a resident of the city of North Bend within one year.

(4) A failure to become a resident or a failure to remain a resident of the city of North Bend as required in this section shall be sufficient reason for the discharge of an employee.

(5) The city council may grant a waiver of the residency requirements of this section upon making the following findings:

(a) Services performed for the city by the employee do not require a rapid response to problems or emergencies, having due regard to the distance of the residence to the place that the services are performed.

(b) The employee either has a sufficient personal interest in the economic operation of the city or the duties of the position do not involve making recommendations, decisions or carrying out policies relating to budgetary and tax matters.

(c) The employee has demonstrated an adequate concern for the economic and efficient operation of the city consistent with the duties of the position.

The waiver provided by the council under this subsection may be an extension of the one-year period or a total waiver of the residency requirement. (Ord. 1766 § 1, 1991; Ord. 1696, 1985; Ord. 1684, 1984; Ord. 1675 § 1, 1984; Ord. 1540, 1977; Ord. 1405 § 11, 1971)

2.12.100 Employee grievances.

(1) For purposes of this section, the term “employee” shall include full-time permanent employees of the city, but it shall not include employees in any office or position created under the Charter or any ordinance of the city, nor shall it include any confidential employee as defined in ORS 243.650 or employee subject to a collective bargaining agreement with the city; the term “grievance” shall mean a complaint of an employee relating to the application, enforcement or interpretation of the terms and conditions of employment, including pay, hours of work, fringe benefits or working conditions as provided in this chapter or otherwise, and disciplinary action taken by a superior; and the term “disciplinary action” shall include, but shall not be limited to, oral reprimand, written reprimand, extension of probation, demotion, suspension, reduction of pay, and discharge.

(2) An employee who has a grievance shall proceed to resolve such grievance under the following procedure:

(a) After first attempting to resolve the grievance informally with the employee’s superior or department head, the employee may file a grievance in writing with the department head within 15 days after the occurrence which is the subject of the grievance, or from the time of the employee’s knowledge thereof. The grievance shall contain a statement of the relevant facts, the nature of the grievance, and the relief or remedy requested. Within five days of the receipt of the grievance, the department head shall either respond in writing to the grievance or notify the employee in writing that the grievance has been referred to the city administrator. If the department head responds to the grievance, then, within five days of such response, the employee shall give written notice to the department head of whether or not the grievance is resolved.

(b) If the grievance shall remain unresolved for five days after having been submitted to the department head, then the employee may submit such grievance in writing to the city administrator. Whenever the city administrator shall receive a written grievance from an employee, or a referred grievance from a department head, he shall, within five days, either respond to the grievance in writing or request a conference with the employee for the purpose of resolving the grievance. The conference shall be held within 10 days after receipt of the grievance by the city administrator, and a written

response to the employee shall be made by the city administrator within five days after the conference. The administrator’s decision shall be final as to any grievance which does not involve discharge, demotion or permanent reduction of pay or benefits.

(3) Whenever proposed disciplinary action consists of discharge, demotion or permanent reduction in pay or benefits, then the employee shall be entitled to not less than 10 days’ written notice of such proposed action and of the reasons therefor. Within such 10-day period the employee may file a written grievance with the city administrator as provided in subsection (2)(b) of this section. In the event that the employee is dissatisfied with the decision of the city administrator following the conference provided herein, then the employee may, within 10 days after receipt of the written decision of the administrator, make a written request for either a hearing before the city council or the arbitration of the grievance. The hearing before the city council shall comply with constitutional due process, shall be held within 30 days of the request, and the decision of the city council shall be final and conclusive. Arbitration of the grievance shall be conducted under the following procedure:

(a) The city and the employee shall select one arbitrator, but if they cannot agree upon an arbitrator within the period of 10 days, then either party may request a list of five arbitrators from the Oregon Employment Relations Board. Within five days of the receipt of such list, the city and employee shall alternately strike names until one arbitrator remains.

(b) No question, issue, or matter shall be considered or decided in arbitration except those contained in the written grievance submitted to the administrator. The arbitration procedure shall comply with constitutional due process, including the right to have an attorney present, cross examine adverse witnesses and to present the witnesses and evidence on behalf of such employee. Decisions on all questions properly submitted to arbitration shall be final and binding upon the parties, and shall be issued within 30 days after the hearing.

(c) The arbitrator’s fee shall be borne by the city, but each party shall be responsible for the costs of presenting its case to arbitration.

(4) Any time limits provided in this section are stated in calendar days and may be waived by mutual agreement in writing by the parties. A failure by the city to respond within the time limits provided or agreed upon shall be deemed a rejection

tion of the grievance, and the grievance may be filed in the next step within the time provided from the date of rejection. A grievance may be terminated at any time upon receipt of a signed statement from the employee that the matter has been resolved, and a failure to submit or pursue the grievance as provided in this section or within the time limits prescribed or agreed upon shall constitute an abandonment of such grievance.

(5) Just cause for discharge, demotion, or permanent reduction in pay or benefits shall include, but not be limited to, the following:

(a) Any cause or reason which will contribute to the best interests of the city or the effective and economical administration thereof.

(b) Engaging in any activity detrimental or inimical to the best interests of the city.

(c) Failure to meet adequately the responsibilities or to perform diligently the duties required of the position.

(d) Ineffective, careless or defective performance of the work required or assigned.

(e) Failure to comply faithfully with lawful direction and control by superiors.

(f) Engaging in a course of conduct which causes or contributes to discord or dissatisfaction among employees, residents, or persons having dealings with the city, unless there is a lawful and legitimate purpose for such conduct.

(g) Making false statements or engaging in deceptive practices relating to the employee's duties and functions or to the government and administration of the city.

(h) Conviction of a crime involving moral turpitude or the willful violation of rules and regulations relating to the employee's duties and functions. (Ord. 1669 § 1, 1983; Ord. 1405 § 12, 1971)

2.12.110 Substance abuse regulations.

(1) Policy. For the purpose of securing an alcohol and drug-free work environment for the protection and safety of employees of the city of North Bend and the general public, and for promoting high standards of employee performance, productivity and reliability, the council of the city of North Bend declares its intention to adopt and implement a program which will:

(a) Identify problems of substance abuse at the earliest possible stage;

(b) Insure confidentiality;

(c) Motivate the abusing employee to seek help; and

(d) Direct the employee to the most appropriate community resource.

(2) Rules and Regulations. The council, by resolution, may adopt and amend rules and regulations consistent with the policies of this chapter to identify and resolve problems of substance abuse in order to maintain a drug-free workplace. (Ord. 1785 § 1, 1992; Ord. 1405 § 13, 1971)

Chapter 2.16**CRIMINAL OFFENDER INFORMATION
CHECKS FOR CITY EMPLOYEES
AND VOLUNTEERS**

Sections:

- 2.16.010 Findings.
- 2.16.020 Required authorizations.
- 2.16.030 Acquisition and disposition of reports.
- 2.16.040 Criteria for use of reports.

2.16.010 Findings.

The city council finds that city employees and volunteers may have access to public funds and property or may affect their use and disposition, they may have access to privileged and proprietary information, they may be in positions to affect the health and safety of citizens, including minors, and they are often in positions requiring public trust and confidence. The council also finds that it would be in the public interest to conduct “criminal offender information checks,” herein called “checks,” for all applicants for employment and volunteer service with the city of North Bend. (Ord. 1854 § 1, 1997)

2.16.020 Required authorizations.

All applicants for employment or volunteer service with the city of North Bend are required to authorize the city to conduct checks through the OSP LEDS system. Such authorization forms will be maintained by the city recorder and the recorder will request that the check be made by the police department. (Ord. 1854 § 2, 1997)

2.16.030 Acquisition and disposition of reports.

Based on the applicant’s authorization, the police department will perform the criminal history check through the LEDS system and report orally to the recorder that the record indicates “no criminal record” or “criminal record.” If “criminal record” is reported, then the recorder, under the provisions of OAR 257-10-025(1)(c), may request a written criminal history report from the OSP Identification Service section and pay the applicable fee for such service. The recorder will make such report available to the city official responsible for making the selection of the employee or volunteer. The record on persons not selected will be retained for three years, or such other time as required by law, and then destroyed. The record of

those hired or appointed will become part of their personnel file accessible only to officials with a need for access. (Ord. 1854 § 3, 1997)

2.16.040 Criteria for use of reports.

Applicants whose record shows a history of felony conviction or convictions of misdemeanors involving moral turpitude or theft will be carefully considered to determine whether the applicants possess character traits which would entitle them to public trust and confidence. Each case will be considered on an individual basis taking into account relevant factors such as age at the time of the offense, type of offense, subsequent rehabilitation, and duties of the position. Selection will require confirmation of the city administrator after full disclosure of the record. (Ord. 1854 § 4, 1997)

Chapter 2.20

MUNICIPAL COURT

Sections:

- 2.20.010 Appointment of municipal judge.
- 2.20.020 Defining civil offenses.
- 2.20.030 Procedure in municipal court.
- 2.20.040 Payment of penalties.
- 2.20.050 Contempt for nonpayment of civil penalty.
- 2.20.060 Collection of penalties.

2.20.010 Appointment of municipal judge.

The council shall appoint a municipal judge who need not be a duly licensed attorney of the state of Oregon. (Ord. 1552 § 1, 1978)

2.20.020 Defining civil offenses.

All offenses defined in ordinances of the city of North Bend which do not have as a penalty a jail sentence or a fine exceeding \$500.00 shall be deemed civil offenses and shall be subject to the rules and regulations provided in NBCC 9.04.010. (Ord. 1552 § 2, 1978)

2.20.030 Procedure in municipal court.

Except as otherwise provided by ordinance of the city of North Bend, procedures for pleading and trying civil offenses before the municipal court shall be subject to the rules applicable to the trial of civil offenses under the motor vehicle laws of the state of Oregon. (Ord. 1552 § 3, 1978)

2.20.040 Payment of penalties.

When a civil penalty has been levied against a defendant, the municipal court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is included in the assessment of the civil penalty it shall be paid forthwith. (Ord. 1552 § 4, 1978)

2.20.050 Contempt for nonpayment of civil penalty.

(1) When a defendant defaults in the payment of a penalty or any installment of such penalty, the court may require such defendant to show cause why the default should not be treated as a contempt of court, and may issue a show cause citation or a warrant of arrest for the defendant's appearance before the court.

(2) Unless the defendant shows that his default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good faith effort to make payment, the court may find that his default constitutes contempt.

(3) If it appears to the satisfaction of the court that the default in payment of a penalty is not contempt, the court may enter an order allowing defendant additional time for payment, reducing the amount thereof, or of each installment, or revoking the penalty for the unpaid portion thereof in whole or in part.

(4) Whenever the court shall find that a default in payment of a civil penalty is contempt, it may punish such contempt by levying a civil penalty against the defendant not to exceed the sum of \$500.00. (Ord. 1552 § 5, 1978)

2.20.060 Collection of penalties.

In addition to any other remedy provided by law, the city may institute a suit, action or claim for collection of a civil penalty on a default in payment and may declare unpaid installments of such penalty immediately due and payable. (Ord. 1552 § 6, 1978)

Chapter 2.24

EMERGENCY CODE

Sections:

- 2.24.010 Title.
- 2.24.020 Purpose.
- 2.24.030 Definitions.
- 2.24.040 Emergency management agency.
- 2.24.050 Duties of the city administrator and chief of police (co-managers of the plan) – Responsibility for execution.
- 2.24.060 Declaration and ratification of emergency.
- 2.24.070 Seeking declaration of state of emergency by the Office of the Governor.
- 2.24.080 Regulation of persons and property.
- 2.24.090 Termination of the emergency.

2.24.010 Title.

This chapter shall be known as the “City of North Bend Emergency Code.” (Ord. 1899 § 1, 2002)

2.24.020 Purpose.

The purpose of this chapter is to establish procedures to prepare for and carry out any activity to prevent, minimize, and respond to or recover from an emergency which is threatened or which exists within the corporate limits of the city of North Bend. (Ord. 1899 § 2, 2002)

2.24.030 Definitions.

“City administrator” means the city administrator of the city of North Bend, or such other person designated by the city administrator or the city council to serve in that capacity.

“Emergency” means any manmade or natural event or circumstance causing or threatening to cause loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants unmanageable by the county, civil disturbance, riot, sabotage and war.

“Emergency Program Manager.” The city administrator and the police chief shall co-manage

and administer the emergency operations plan for the city of North Bend. (Ord. 1899 § 3, 2002)

2.24.040 Emergency management agency.

There is hereby established an emergency management agency for the city of North Bend. The emergency management agency shall be comprised of the following officials: the mayor, fire chief, police chief, public works director, airport manager, city attorney, library director, and the city administrator.

The emergency management agency shall cause to be created and maintained an emergency operations plan. (Ord. 1899 § 4, 2002)

2.24.050 Duties of the city administrator and chief of police (co-managers of the plan) – Responsibility for execution.

(1) The co-managers shall be responsible for emergency management in the event an emergency is declared, and shall be responsible for preparation and implementation of the emergency management operations and the emergency management plan.

(2) The co-managers shall designate an emergency program director for the emergency management agency, who shall have the following powers and duties:

(a) To create a basic operations plan;

(b) To direct officials of city departments, bureaus and other offices with emergency service capabilities to prepare coordinated standard emergency operating procedures;

(c) To ensure that personnel, equipment, material and supplies are available or can be procured from public and private sources for use in the event of an emergency and to provide for an accounting of such items;

(d) To provide coordination for an emergency plan, other emergency programs, and operations of federal, state, and county agencies in the event of an emergency, and other public or private agencies or corporations with emergency service capabilities; and

(e) To provide training operations under simulated emergency conditions. (Ord. 1899 § 5, 2002)

2.24.060 Declaration and ratification of emergency.

(1) The co-managers shall have the authority to make a declaration that an emergency exists whenever he/she/they determine an emergency exists

which threatens to cause or is causing danger of injury or death to persons or damage to or the destruction of property, such that extraordinary measures must be taken to protect the public health, safety, and welfare.

(2) Upon determination that an emergency exists, the co-managers shall immediately make a declaration to that effect, and shall immediately contact the mayor, or, in the mayor's absence, the president of the council or his/her designee, who shall immediately convene a special session of the city council for the purpose of ratifying such declaration.

(3) The declaration of emergency shall state:

(a) The nature of the emergency;

(b) The geographic boundaries of the area which is subject to emergency controls, which shall be no larger than necessary to respond to the emergency; and

(c) Any special regulations imposed as a result of the emergency.

(4) Ratification of a declaration of emergency shall state the duration of time during which the geographic area subject to emergency controls shall remain an emergency area, and shall authorize the exercise of specific emergency powers by the co-managers for the duration of the period of time set forth in the ratification. (Ord. 1899 § 6, 2002)

2.24.070 Seeking declaration of state of emergency by the Office of the Governor.

(1) Upon determination that all local resources have been expended, that the emergency is continuing, and that the city is no longer able to adequately respond to the emergency, the co-managers shall seek authorization from the city council to seek a declaration of emergency from the Office of the Governor of the State of Oregon.

(2) If the city council authorizes the request for a declaration of emergency by the Office of the Governor, the co-managers shall prepare a certification, to be signed by the members of the city council, stating that all local resources have been expended and providing a preliminary assessment of injuries, deaths, and property damage or loss.

(3) The co-managers shall immediately forward the certification and preliminary assessment to the Coos County board of commissioners, with a request that the board of commissioners file the request with the State of Oregon Office of Emergency Management. (Ord. 1899 § 7, 2002)

2.24.080 Regulation of persons and property.

(1) Whenever an emergency is declared to exist within the city of North Bend, the city council may exercise its police power to the fullest extent authorized by the U.S. Constitution, the Oregon Constitution, and the Charter and ordinances of the city of North Bend to respond to the emergency. In the exercise of its police powers, the city council may, by resolution, authorize the co-managers to do any of the following:

(a) Re-direct city funds for emergency use, and, to the extent permitted by law, suspend standard city procurement procedures;

(b) Establish a curfew which fixes the hours during which all persons, other than officially authorized personnel, may not be upon the public streets or other public places;

(c) Prohibit or limit the number of persons who may gather or congregate upon any public street, public place, or any outdoor place;

(d) Barricade streets and prohibit vehicular and/or pedestrian traffic, or regulate the same on any public street leading to the emergency area for such distance as may be deemed necessary under the circumstances;

(e) Evacuate persons;

(f) Prohibit the sale of alcoholic beverages;

(g) Prohibit or restrict the sale of gasoline and/or other flammable or combustible liquids or gases;

(h) Prohibit the sale, carrying, or possession of any weapons or explosives of any kind on public streets, public places or any outdoor place;

(i) Curtail or suspend commercial activity;

(j) Turn off water, gas, or electricity;

(k) Order the seizure and/or destruction of property;

(l) Order such other measures as are necessary to provide for the public order, peace, health, safety, and welfare during the emergency.

(2) Any resolution authorizing summary action pursuant to this section shall contain provisions allowing affected persons to obtain prompt opportunity for review of the action. (Ord. 1899 § 8, 2002)

2.24.090 Termination of the emergency.

The co-managers shall terminate the declaration of emergency when the emergency no longer exists or the threat of emergency has passed. (Ord. 1899 § 9, 2002)

Chapter 2.28**POLICE DEPARTMENT**

Sections:

- 2.28.010 Police lieutenants – Office created.
 2.28.020 Police lieutenants – Responsibilities.

2.28.010 Police lieutenants – Office created.

There is hereby created one or more offices of police lieutenant which shall be filled by appointment as provided in the City Charter. The direct supervisor of a police lieutenant is the police chief and the compensation of a police lieutenant shall be within a salary range or a maximum amount established by the city council. (Ord. 1844 § 1, 1996)

2.28.020 Police lieutenants – Responsibilities.

Police lieutenants shall have the direct control and responsibility for the day-to-day operation of a patrol division or an administrative division of the police department, including coordinating reserve police units, responsibility for training and scheduling of all patrol officers and evaluation of division police officers. Police lieutenants will be responsible for preparing and implementing general and specific orders of the divisions and for conducting internal investigations regarding citizen complaints or violations of department policy or any other duties as may be assigned by the chief of police. In the absence of the police chief, a police lieutenant may be directed to assume the duties of the chief of the police department. (Ord. 1844 § 2, 1996)

Chapter 2.32**FIRE DEPARTMENT**

Sections:

- Article I. Volunteer Fire Department
- 2.32.010 Established.
 2.32.020 Members under direction of fire chief.
 2.32.030 Bylaws – Rules and regulations.
- Article II. Fire Inspector
- 2.32.040 Fire inspector – Office created.
 2.32.050 Fire inspector – Functions and duties.
 2.32.060 Fire inspector – Duties assigned to other employees.

Article I. Volunteer Fire Department**2.32.010 Established.**

There is hereby established the North Bend volunteer fire department for the purpose of providing protection of life and property and the extinguishing of fires. (Ord. 1657 § 1, 1982)

2.32.020 Members under direction of fire chief.

Whenever members of the volunteer fire department shall be engaged in either training activities or the performance of functions for protection of lives and property or the extinguishing of fires for the city of North Bend, they shall act under the direction and control of the fire chief or other designated officers of the North Bend fire department. (Ord. 1657 § 2, 1982)

2.32.030 Bylaws – Rules and regulations.

The volunteer fire department shall be governed by bylaws and by rules and regulations either enacted by the North Bend city council or proposed by the North Bend volunteer fire department and approved by the city council. The bylaws and the rules and regulations of the department may provide for the qualifications and appointment of members, the designation, duties and election of officers, the training of members, and the functions and duties of the department. The existing constitution and bylaws of the North Bend volunteer fire department are hereby approved to the extent that they are consistent with the provisions of this article. (Ord. 1657 § 3, 1982)

Article II. Fire Inspector

2.32.040 Fire inspector – Office created.

There is hereby created the office of fire inspector of the city of North Bend, and such office will be filled by appointment as provided by the City Charter. The fire inspector shall be under the supervision of the fire chief, and shall receive compensation within a salary range or a maximum amount established by the city council. (Ord. 1845 § 1, 1996)

2.32.050 Fire inspector – Functions and duties.

The fire inspector shall have the following functions and duties:

- (1) In the absence of the fire chief, to supervise the personnel in the fire department.
- (2) During the absence, or at the direction, of the fire chief, to perform the functions of the fire chief as described in ordinances of the city adopting the Uniform Fire Code and the National Fire Codes and establishing the North Bend volunteer fire department.
- (3) Perform functions of the city fire marshal, which includes duties to enforce or aid in the enforcement of laws, ordinances and regulations relating to fire hazards, conduct fire prevention campaigns, assist in the investigation of fires, make or supervise inspections of structures and carry out other activities for the bureau of fire prevention, and make annual reports of those activities to supervisors and city council.
- (4) Perform such other duties as may be assigned, from time to time, by the fire chief. (Ord. 1845 § 2, 1996)

2.32.060 Fire inspector – Duties assigned to other employees.

The administrator may assign another qualified city employee to perform some or all of the functions of the fire marshal as provided herein. (Ord. 1845 § 3, 1996)

Chapter 2.36

FINANCE DIRECTOR AND DEPUTY RECORDER

Sections:

- 2.36.010 Office created.
- 2.36.020 Duties.

2.36.010 Office created.

There is hereby created the separate office of finance director and deputy recorder, and such office shall be filled through appointment by the city administrator with the approval of the city council. (Ord. 1773 § 1, 1991)

2.36.020 Duties.

The finance director and the deputy recorder will be the fiscal officer of the city and will have such other duties as may be delegated by the city council. The recorder, who serves ex officio as clerk of the council, will have all of the other duties of the recorder which are provided in the Charter of the city of North Bend. (Ord. 1773 § 2, 1991)

Chapter 2.40

BAY AREA PUBLIC ACCESS TELEVISION AGENCY AND BOARD

Sections:

- 2.40.010 Findings and purpose.
- 2.40.020 Creation of agency and board.
- 2.40.030 Functions of the board.
- 2.40.040 Title to property.
- 2.40.050 Commencement and termination.

2.40.010 Findings and purpose.

The council of the city of North Bend finds that the cities of Coos Bay and North Bend have enacted similar franchise ordinances for the operation of a cable television communications system serving said cities and the surrounding area, that the franchises provide for channel availability for public, educational and governmental access under reasonable rules and procedures established by the cities and the cable operator. The council also finds that said cable operator has provided a one-time grant of \$10,000 to each city as an aid in developing public, educational and governmental access channels under a joint operating plan of the cities, and that it is necessary in order to carry out such plan that the cities enter into an intergovernmental agreement for its implementation. (Ord. 1800 § 1, 1993)

2.40.020 Creation of agency and board.

There is hereby created a public agency of the two cities to be known as "Bay Area Public Access Television" (BAPATV), which will be governed by a board of directors composed of five persons appointed by each city and to serve at the pleasure of their respective city councils. The board members may appoint an access channel manager who will be an ex officio member and serve at the pleasure of the board. Members appointed by the cities will have two-year staggered terms. (Ord. 1809 § 1, 1993; Ord. 1800 § 2, 1993)

2.40.030 Functions of the board.

The powers, functions and duties of the board of directors are as follows:

(1) The board of directors is authorized to adopt procedural rules and regulations as may be necessary or convenient to carry out its duties and functions, including the designation and election of officers and the specification of their duties.

(2) The board of directors may authorize the purchase of equipment, supplies and personal services out of funds which have been appropriated by the cities from grants, donations or other sources. The board may not obligate the agency or either city for any funds which have not been budgeted and appropriated. BAPATV funds will be included as a part of each city's budget and will be subject to city audits.

(3) The board will meet at least quarterly and will make quarterly reports to the councils of the two cities concerning rules, policies and actions taken by the board and all receipts and disbursements. Regular or special meetings may be called on not less than seven days' notice, and special meetings may be called by any two board members. Four board members will constitute a quorum; provided, that it consists of at least two of the members appointed from each city, and action may be taken on the affirmative vote of a majority of the quorum.

(4) The board of directors is authorized to determine the programs and events that will appear on the access channels allocated to BAPATV. The board may assign to another entity, agency or public body the function of arranging access channel programming or the physical operation of the system. (Ord. 1800 § 3, 1993)

2.40.040 Title to property.

Title to all property donated to the BAPATV or purchased with funds from the two cities will be vested jointly in the cities of Coos Bay and North Bend. Property loaned to BAPATV will be subject to the terms of the loan. (Ord. 1800 § 4, 1993)

2.40.050 Commencement and termination.

This chapter will become effective as an intergovernmental agreement 30 days after the enactment of similar ordinances by both Coos Bay and North Bend, and it will remain in effect until 30 days after the repeal of its ordinance by either of said cities. (Ord. 1800 § 5, 1993)

Chapter 2.44

MUNICIPAL SWIMMING POOL DEPARTMENT

Sections:

- 2.44.010 Municipal swimming pool department.
- 2.44.020 Pool manager.
- 2.44.030 Rules, regulations, rates and fees.
- 2.44.040 Temporary regulations and fees.
- 2.44.050 Civil penalties.

2.44.010 Municipal swimming pool department.

There is hereby created in the city of North Bend a municipal swimming pool department for the management, operation, maintenance and use of the North Bend municipal swimming pool. (Ord. 1820 § 1, 1994)

2.44.020 Pool manager.

There is hereby created the office of pool manager which shall be filled by appointment as provided in Section 3 of Chapter III of the Charter of the city of North Bend. The pool manager will be in charge of the operation, maintenance and use of the swimming pool and will schedule and direct the personnel within the department. The manager will have the duty of implementing and enforcing this chapter and the rules, regulations, and agreements relating to the swimming pool. (Ord. 1820 § 2, 1994)

2.44.030 Rules, regulations, rates and fees.

The council of the city of North Bend shall establish by motion or resolution a schedule of rules, regulations, fees, rates and charges for the efficient and economic management, operation, maintenance and use of the North Bend municipal pool, and the council may, from time to time, repeal, amend or make additions to such schedule by either a motion or resolution of the council. The terms and provisions of the schedule of rules, regulations, fees, rates and charges shall have the effect of law, and any violation of such rules and regulations enacted by the council under the terms of this chapter shall be deemed and held to be a violation of this chapter and subject to the enforcement and penalties permitted by law. Rates and fees previously approved by the council are hereby ratified. (Ord. 1820 § 3, 1994)

2.44.040 Temporary regulations and fees.

In addition to the schedule of rules, regulations, fees, rates and charges established by the council, the pool manager is hereby delegated the authority to make and issue such temporary orders, rules and regulations as may be necessary or convenient for the protection of persons or property or the effective operation of the pool. No order, rule or regulation made by the pool manager under the terms of this section shall remain in effect after the next succeeding regular meeting of the city council unless such order, rule or regulation shall have been adopted or approved by the council by motion or resolution at such meeting. Temporary rules and regulations will have the same force and effect as those adopted by the city council. (Ord. 1820 § 4, 1994)

2.44.050 Civil penalties.

Violation of this chapter is a civil offense subject to a penalty of not more than \$500.00. (Ord. 1820 § 5, 1994)

Chapter 2.48**PARKS AND RECREATION
ADVISORY BOARD**

Sections:

- 2.48.010 Created – Members.
- 2.48.020 Officers – Quorum.
- 2.48.030 Duties.
- 2.48.040 Director – Office created.
- 2.48.050 Director – Duties and responsibilities.

2.48.010 Created – Members.

There is hereby created a parks and recreation advisory board of the city of North Bend to be composed of up to nine members appointed by the mayor with the approval of the city council. City council members on the board will serve terms ending on the council meeting following each general election, and noncouncil members shall serve terms of three years each, except that of those first appointed, two shall serve for terms of three years, two shall serve for terms of two years, and two shall serve for terms of one year. (Ord. 1948 § 1, 2006; Ord. 1865 § 1, 1998)

2.48.020 Officers – Quorum.

The mayor will appoint one of the city council board members as chairman of the advisory board, and a vice chairman shall be appointed by the board to act in the absence of the chairman. The board shall make its own rules for calling and conducting meetings, five members of the board shall constitute a quorum to conduct business and a majority of the quorum shall be sufficient to pass on any recommendation or report. The chairman shall make reports and recommendations of the board to the city council or planning commission as provided in this chapter. (Ord. 1865 § 2, 1998)

2.48.030 Duties.

It shall be the duty of the parks and recreation advisory board, either on its own motion or at the request of the city council or planning commission, to evaluate existing and proposed parks, playgrounds, swimming pool, community center and other public areas over which the city has jurisdiction, and to make recommendation to the council or planning commission concerning the location, character, improvement, creation, acquisition, beautification, use or abandonment of such areas or facilities. (Ord. 1865 § 3, 1998)

2.48.040 Director – Office created.

Pursuant to Section 3 of Chapter III of the Charter of the city of North Bend, there is hereby created the office of parks and recreation director, and such office will be filled by appointment by the city administrator who will be the supervisor of such official. (Ord. 1859 § 1, 1997)

2.48.050 Director – Duties and responsibilities.

The director of parks and recreation shall have the primary responsibility for the management, financing and planning of programs, functions and operations of the city of North Bend parks, recreational and tourist facilities, including the employment and supervision of employees and volunteers involved in such operations; and such director shall have such other duties as may be assigned by the city administrator. (Ord. 1859 § 2, 1997)

Chapter 2.52

URBAN RENEWAL AGENCY

Sections:

- 2.52.010 Findings.
- 2.52.020 Powers and duties.
- 2.52.030 Title.
- 2.52.040 Advisory appointments.

2.52.010 Findings.

The council of the city of North Bend, Oregon, hereby finds and declares that blighted areas as defined in ORS 457.010 exist within the city of North Bend, Oregon, and that there is a need for an urban renewal agency to function in the city of North Bend for the purpose of removing, preventing or reducing blight or blighting factors or the causes of blight. For purposes of this declaration, blighted areas are deemed to be areas which by reason of deterioration, faulty planning, inadequate or improper facilities, deleterious land use or the existence of unsafe structures, or any combination of these factors, are detrimental to the safety, health or welfare of the city of North Bend. The term "blighted areas" is more particularly defined in ORS 457.010 and those definitions are incorporated herein by reference. The council specifically finds that these conditions have resulted in limitation of development and valuation and that an urban renewal agency's actions can deal with the conditions of blight, promote industrial and commercial growth and generally improve economic values and tax revenues to the benefit of the city. The council further finds that the purposes of the urban renewal agency are in conformance with policies and objectives of the city of North Bend and its comprehensive plan. (Ord. 1819 § 1, 1994)

2.52.020 Powers and duties.

All of the rights, powers, duties, privileges and immunities granted to and vested in an urban renewal agency by the laws of the state of Oregon shall be exercised by and vested in the council of the city of North Bend as provided for by ORS 457.045(3). The agency shall have the authority to perform any act or carry out any other function authorized or permitted by ORS Chapter 457, as now provided or hereafter amended. Any act of the North Bend city council acting for the urban renewal agency shall be considered the act of the urban renewal agency only and not the city or North Bend city council. (Ord. 1819 § 2, 1994)

2.52.030 Title.

The corporate name of the agency provided by this chapter shall be, and said agency shall be known as, "city of North Bend urban renewal agency." (Ord. 1819 § 3, 1994)

2.52.040 Advisory appointments.

The agency may appoint such advisors or advisory committees as it may require to aid in the performance of its duties, which appointees need not be residents of the city. (Ord. 1819 § 4, 1994)

Chapter 2.56**COOS BAY-NORTH BEND TOURISM
PROMOTIONS COMMITTEE**

Charleston, with the provision that such additional board member shall not have the right to vote. (Ord. 1920 § 2, 2004)

Sections:

- 2.56.010 Created.
- 2.56.020 Effective date.
- 2.56.030 Purposes.
- 2.56.040 Powers, duties and functions.
- 2.56.050 City of Charleston representative.

2.56.010 Created.

It is the intent of the council of the city of North Bend to create an intergovernmental entity by an intergovernmental agreement with the city of Coos Bay, and the agreement establishing the “Coos Bay-North Bend Tourism Promotions Committee” is hereby ratified. (Ord. 1864 § 1, 1997)

2.56.020 Effective date.

The effective date for the establishment of said agreement and the intergovernmental entity is January 1, 1998. (Ord. 1864 § 2, 1997)

2.56.030 Purposes.

The public purposes for which said entity is created are to provide for community promotions as authorized in Section 5 of Chapter II of the Charter of the city of North Bend, and to promote events and attractions in the Coos Bay-North Bend geographic area to attract tourists and benefit the local economy. (Ord. 1864 § 3, 1997)

2.56.040 Powers, duties and functions.

The powers, duties and functions of the said entity, as provided in the intergovernmental agreement, include employing and contracting for advertising and marketing services, acquiring property needed for promotional purposes, and budgeting and appropriating dedicated revenues and funds to carry out the purposes of the committee, and reporting its activities to the two city councils. (Ord. 1864 § 4, 1997)

2.56.050 City of Charleston representative.

The council of the city of North Bend hereby directs the mayor to amend the intergovernmental agreement establishing the Coos Bay-North Bend tourism promotions committee to include a representative of the business community of the city of

Chapter 2.60

PUBLIC LIBRARY BOARD

Sections:

- 2.60.010 Created – Members.
- 2.60.020 Library staff.
- 2.60.030 Schedule of rules, regulations, fees and charges.
- 2.60.040 Contracts and agreements.
- 2.60.050 Violation – Penalty.
- 2.60.060 Fund created.
- 2.60.070 Functions, powers, duties.

2.60.010 Created – Members.

There is hereby created a public library board, consisting of seven members who shall hold office for terms of four years, with vacancies to be filled by appointment by the council for the unexpired term. Library board terms of office shall be staggered, with terms of no more than two members expiring in any year. Members are limited to serving no more than two full consecutive terms; any member may be reappointed after an interval of one year. One appointee of the library board may, at any time, reside in Coos County within the boundaries of School District 13, but outside the city limits of North Bend. The office of a public library board member shall be deemed vacant upon such member's death, adjudicated incompetence, conviction of a felony, resignation, or absence from the meetings of the library board for two successive months or failure to attend at least 50 percent of the meetings of the library board in any six-month period without approval from the chair. Members of the public library board established under the terms of Ordinance No. 562* of the city of North Bend are hereby appointed as the members of the public library board under the terms of this chapter and their terms of office shall be the same terms as held as members of the public library board under Ordinance No. 562. The public library board shall select from their own members, a chairman and vice chairman at their first meeting at the beginning of each calendar year, and the board may adopt rules to govern its own proceedings. Such rules are subject to review and approval by the North Bend city council. (Ord. 1913, 2004; Ord. 1869 § 1, 1998)

*Code reviser's note: Ordinance No. 562 was repealed by Ordinance No. 1306.

2.60.020 Library staff.

The city administrator shall appoint a library director, following the city's hiring practice described in the city's personnel policy manual and pursuant to the city's 2000 City Charter. At least four members of the library board shall be a part of the hiring process. The board members' role shall be to review applications, serve on a selection committee and make recommendations to the city administrator.

The library director shall hire staff following the city's hiring practice described in the city's personnel manual. The city administrator shall approve compensation, working conditions and job descriptions relying on the recommendation of the library director. (Ord. 1913, 2004)

2.60.030 Schedule of rules, regulations, fees and charges.

The public library board shall enact a schedule of rules and regulations for the efficient management, control and operation of the North Bend Public Library. The board may, from time to time, amend, change or make additions to such schedule. All rules and regulations for the operation of the North Bend Public Library in existence at the time of the adoption of the ordinance codified in this chapter shall continue in full force and effect until changed or modified by the public library board as herein provided. Any future changes or modifications to the rules and regulations for the operation of the North Bend Public Library shall be subject to the review and approval of the North Bend city council. The terms and provisions of the schedule of rules and regulations shall have the effect of law; and a violation of any such rules and regulations shall be deemed and held to be a violation of this chapter and subject to the penalty provisions hereof. All city of North Bend Library fees and charges shall be presented by the library director to the library board for approval and submission to the city council for adoption by resolution. Such fees shall be posted in the North Bend Public Library and shall be available for public inspection. The North Bend Library is a member of the Coos County library service district and as such shall abide by all policies, procedures and fee schedules set by the library district as a user of the electronic catalog known as COASTLINE. (Ord. 1913, 2004)

2.60.040 Contracts and agreements.

All lawful contracts and agreements which are now in existence and were entered into either by the city of North Bend public library board, administration or city council under the terms of prior library board ordinances remain in full force and effect. From the date of the ordinance codified in this chapter forward, all future contracts and agreements shall be submitted to the North Bend city council for approval. The North Bend library board may advise the North Bend city council on all contracts and agreements. (Ord. 1913, 2004)

(e) Perform other activities as are necessary for the maintenance of the library. (Ord. 1913, 2004)

2.60.050 Violation – Penalty.

Violation of, or failure to comply with, any provision of this chapter is punishable upon conviction by a fine not to exceed \$300.00. (Ord. 1913, 2004; Ord. 1386 § 1, 1969)

2.60.060 Fund created.

There is a public library reserve fund in which all moneys deposited into the fund shall be maintained. The North Bend city council, through its administrative staff, shall maintain the library reserve fund where all library gifts, donations, grants and other special purpose moneys are deposited and used for their designated use. If moneys are given with no restricted use, but are given specifically for library purposes, then the city shall have the obligation to expend the moneys in the public library reserve fund solely for public library purposes and the library board shall recommend to the city council how the funds should be expended. (Ord. 1913, 2004)

2.60.070 Functions, powers, duties.

(1) The library board shall have such powers and duties which are assigned or delegated to it by the Charter, ordinances or resolutions of the city of North Bend.

(2) The library board shall:

(a) Formulate bylaws, rules and policies for the governance of the library. Such bylaws, rules and policies shall be subject to review and approval by the North Bend city council.

(b) Prepare and submit an annual budget request.

(c) Approve all expenditures from the library budget for submission to the city administration.

(d) Advise the city council regarding the selection of sites and locations for library buildings or other library facilities.

Chapter 2.64**CONTRACT REVIEW BOARD**

Sections:

2.64.010 Created.

2.64.010 Created.

A local contract review board is hereby created and the North Bend city council is hereby designated as the contract review board for the city of North Bend. (Ord. 1535, 1976)

Chapter 2.68**AIRPORT MANAGEMENT**

Sections:

2.68.010 Definitions.

2.68.020 Airport manager – Office created.

2.68.030 Schedule of rules, regulations, fees, rates and charges.

2.68.040 Temporary orders, rules and regulations.

2.68.050 Lien.

2.68.060 Liability for damages.

2.68.070 Airport reserve fund.

2.68.080 Airport operating fund.

2.68.090 Violation – Penalty.

2.68.010 Definitions.

(1) As used in this chapter, the term “airport” shall mean the North Bend Municipal Airport, and the boundaries of such airport shall include all of that land as described and shown on the latest North Bend Municipal Airport property map as it now exists or may hereafter be changed or amended.

(2) As used in this chapter and where the context permits, the term “person” shall mean any individual, partnership, firm, corporation, association, or body politic. (Ord. 1478 § 1, 1974; Ord. 1130 § 1, 1959)

2.68.020 Airport manager – Office created.

There is hereby created the office of airport manager, and unless the council of the city of North Bend shall designate otherwise, the city administrator shall be the airport manager ex officio. The city administrator may from time to time appoint one or more assistant airport managers who shall have the power to enforce the rules and regulations provided for in this chapter and shall have such further powers and duties of the airport manager as may be designated by the city administrator. The airport manager shall have the general supervision, management and control of the operation of the North Bend Municipal Airport and all of its facilities and property and he shall have the duty to enforce all of the rules and regulations and all of the contracts, agreements, and leases of airport property and all rates, fees, charges and rentals for the use of airport facilities, land, buildings and equipment and may institute proceedings for the prosecution of violations of this chapter. (Ord. 1130 § 2, 1959)

2.68.030 Schedule of rules, regulations, fees, rates and charges.

The council of the city of North Bend shall enact by motion or resolution a schedule of rules, regulations, fees, rates and charges for the efficient and economic management, development and use of the airport and for the health, safety and welfare of persons using airport facilities and of the general public. The council may, from time to time, amend, change or make additions to such schedule by either a motion or resolution of the council. The terms and provisions of the schedule of rules, regulations, fees, rates and charges shall have the effect of law, and any violation of any of the rules and regulations enacted by the council under the terms of this chapter shall be deemed and held to be a violation of this chapter and subject to the penalty provisions hereof. The schedule of rules, regulations, fees, rates and charges shall be filed with the city recorder and shall be available for public inspection. (Ord. 1130 § 3, 1959)

2.68.040 Temporary orders, rules and regulations.

In addition to the schedule of rules, regulations, fees, rates and charges enacted by the council, the airport manager is hereby empowered to make and issue such temporary orders, rules and regulations as may be necessary or convenient to safeguard and protect persons or property at or near the airport, and he shall have the authority to suspend or restrict any and all operations and activities at the airport, without regard to weather conditions, whenever such action is reasonably necessary for the safety of persons or property. No order, rule, or regulation made by the airport manager under the terms of this section shall remain in effect after the next succeeding regular meeting of the council of the city of North Bend unless such order, rule, or regulation shall have been adopted or approved by the council by motion or resolution at such meeting. (Ord. 1130 § 4, 1959)

2.68.050 Lien.

All lease and rental agreements made, executed or renewed after the effective date of the ordinance codified in this chapter shall be subject to the right of the city of North Bend to declare a lien upon all of the personal property and fixtures of the tenant or lessee located or situated at the airport upon the leased space or premises for the failure of such tenant or lessee to pay the rents, fees, rates or charges provided for in any written or oral lease or rental

agreement or as provided in the schedule of rules, regulations, fees, rates and charges enacted by the council. After such rents, fees, rates and charges shall have become 30 days delinquent the city may enforce its lien by taking possession of such personal property and delivering or mailing a notice to the lessee or tenant describing therein the property on which the lien has been imposed and the time and place that such property, or the lessee's or tenant's interest therein will be sold at public or private sale for the payment of the moneys owing to the city of North Bend. The city may be a purchaser at any public sale held under the terms of this section. From the proceeds of the sale the city shall first pay all costs of sale and the amount owing to the city of North Bend, and any excess shall be paid to the lessee or tenant. (Ord. 1130 § 5, 1959)

2.68.060 Liability for damages.

(1) Neither the city of North Bend nor its officers, agents or employees shall be liable for damages to persons or property at the North Bend Municipal Airport caused by unauthorized or illegal acts or omissions of any person or persons not employed by the city of North Bend in the ordinary course of its airport business, and the injured party shall rely only upon the person or persons whose act or omission cause such damage or injury.

(2) Any person using, renting or purchasing any services, facilities, or property at the airport which are owned by or under the control of the city of North Bend shall be deemed to have accepted such facilities or property under the conditions and circumstances then existing and shall not hold the city of North Bend nor any of its officers, agents or employees liable for any claim, damage, loss or injury resulting from the condition of any facilities or property of the city of North Bend at its airport or for any circumstances then existing. The use of the airport or any of its facilities, whether or not any charge shall be made therefor, shall be deemed an acceptance and acknowledgment that the privileges granted for such use are subject to the conditions set forth in this section.

(3) Any person who uses any airport property, building or facility under a lease or contract with the city of North Bend shall hold the city harmless from any injury or damage caused by the acts or omissions of such person or his agents or employees or caused by any condition of the property, premises or facility under such person's control, and this provision shall be deemed to be a part of every such lease or contract executed after the effective

date of the ordinance codified in this chapter. (Ord. 1130 § 6, 1959)

2.68.070 Airport reserve fund.

There is hereby created a special fund to be known as the “airport reserve fund” which shall be held and used by the city of North Bend for the repair or improvement of existing facilities or the purchase or construction of additional facilities upon the airport property or other properties used for airport purposes. All funds presently held by the city of North Bend for airport reserve purposes under existing ordinances shall be transferred to the airport reserve fund created by this chapter, and the council shall transfer into the airport reserve fund moneys from the airport operating fund as provided in this chapter and may, from time to time, transfer other moneys available for the purposes of such fund. (Ord. 1130 § 7, 1959)

2.68.080 Airport operating fund.

(1) There is hereby created a fund to be known as the “airport operating fund” in which there shall be deposited all revenues received by the city of North Bend from the operation of its airport property and facilities. At the end of each fiscal year, all unexpended funds in the airport operating fund, excepting those funds budgeted and transferred to the general fund during such fiscal year, shall be transferred to the airport reserve fund. At the beginning of any fiscal year the city may borrow necessary funds from the airport reserve fund to be deposited in the airport operating fund to pay the operating expenses of the airport until sufficient revenues are received for such purpose; provided, that such moneys shall be repaid to the airport reserve fund during the fiscal year during which they have been borrowed. The airport operating fund shall be used by the city to pay ordinary operating and maintenance expenses of the airport and may also be used for any purposes for which airport reserve funds may be used.

(2) The airport operating fund described in this section shall not come into existence until the beginning of the next fiscal year after the passage of the ordinance codified in this chapter or until the effective date of any supplemental budget enacted during the current fiscal year. (Ord. 1130 § 8, 1959)

2.68.090 Violation – Penalty.

Violation of, or failure to comply with, any provision of this chapter is punishable upon conviction

by a fine not to exceed \$300.00, and each day that such violation shall continue and persist after due notice thereof shall constitute a separate and distinct violation of this chapter. (Ord. 1386 § 2, 1969; Ord. 1130 § 9, 1959)

Chapter 2.72

RECORDS RETENTION AND DESTRUCTION

Sections:

- 2.72.010 Procedure.
- 2.72.020 Disposal – Destruction.

2.72.010 Procedure.

Records of the city of North Bend shall be retained and disposed of as provided in the Oregon Laws and Administrative Rules under the procedures established by this chapter. (Ord. 1652 § 1, 1982; Ord. 1116 §§ 1, 2, 1959)

2.72.020 Disposal – Destruction.

Whenever an official of the city has possession of records which are authorized to be disposed of or destroyed under Oregon Laws and Administrative Rules, then such official may prepare a certificate describing such records and submit it for the approval of the city administrator, city attorney, and the department head who has custody or responsibility for such records. When fully executed such certificate shall be filed in the office of the city recorder and retained as a permanent record of the city. The certificate shall be in substantially the following form:

CERTIFICATE OF RECORDS AUTHORIZED TO BE DESTROYED

I certify that the following records have been retained beyond the time period required by law and are no longer of value to the City of North Bend:

(DESCRIPTION OF RECORDS)

Dated this ____ day of _____, 20 ____.

Department Head

Approved By:

City Administrator City Attorney

(Ord. 1652 § 2, 1982; Ord. 1116 § 3, 1959)

Chapter 2.76

REAL PROPERTY COMPENSATION CLAIMS PROCEDURES

Sections:

- 2.76.010 Purpose.
- 2.76.020 Claim.
- 2.76.030 Definitions.
- 2.76.040 Claim filing procedures.
- 2.76.050 City administrator investigation and recommendation.
- 2.76.060 City council public hearing.
- 2.76.070 City council action on claim.
- 2.76.080 Processing fee.
- 2.76.090 Private cause of action.

2.76.010 Purpose.

This real property compensation chapter is intended to implement the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004). These provisions establish a prompt, open, thorough and consistent process that enables property owners an adequate and fair opportunity to present their claims to the city; preserves and protects limited public funds; and establishes a record of the city’s decision capable of circuit court review. (Ord. 1930 § 1, 2004)

2.76.020 Claim.

If the city enacts or enforces a new land use regulation, or enforces a land use regulation enacted prior to December 2, 2004, that restricts the use of private real property or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein, then the owner of the property shall be paid just compensation. (Ord. 1930 § 2, 2004)

2.76.030 Definitions.

As used in this chapter, the following words and phrases mean:

“City administrator” means the city administrator of the city of North Bend, or his or her designee.

“Claim” means a claim filed under Ballot Measure 37 and as described in NBCC 2.76.020.

“Exempt land use regulation” means a land use regulation that:

(a) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;

(b) Restricts or prohibits activities for the protection of public health and safety, such as fire

and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

(c) Is required in order to comply with federal law;

(d) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or

(e) Was enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

“Family member” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

“Just compensation” shall be equal to the reduction in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the owner makes written demand for compensation under this act.

“Land use regulation” includes:

(a) Any statute regulating the use of land or any interest therein;

(b) Administrative rules and goals of the land conservation and development commission;

(c) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;

(d) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and

(e) Statutes and administrative rules regulating farming and forest practices.

“Owner” means the present owner of the property or any interest therein.

“Valid claim” means a claim submitted by the owner of real property pursuant to NBCC 2.76.040 that is subject to a land use regulation adopted or enforced by the city that restricts the use of the private real property in a manner that reduces the fair market value of the real property. (Ord. 1930 § 3, 2004)

2.76.040 Claim filing procedures.

(1) A person seeking to file a claim under this chapter must be the present owner of the property that is the subject of the claim at the time the claim is submitted. The claim shall be filed with the city administrator’s office or another city office if so designated by the city administrator.

(2) A claim will not be accepted for filing and will not be considered filed under Ballot Measure 37 until all of the requirements contained in subsection (3) of this section are completed in the owner’s filing with the city.

(a) The administrator will conduct a completeness review within 15 days after submittal of the claim and will advise the owner in writing of any material remaining to be submitted. The owner must submit the material needed for completeness within 30 days of the written notice that additional material is required. If the owner fails to provide the additional materials within the 30-day period, the claim will not be accepted for filing.

(b) The 180-day period required for accrual of a cause of action for compensation under Ballot Measure 37 begins on the date the administrator deems the claim complete and accepts it for filing. The administrator will mark the date of completeness and filing on the claim form and provide a copy to the claimant.

(3) A claim shall include:

(a) The city administrator shall charge an application fee to be paid at the time of filing of the claim, as described in NBCC 2.76.080;

(b) The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each;

(c) The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting sole ownership of the property by the claimant, and the date the property was acquired;

(d) The current land use regulation(s) that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property;

(e) A copy of the land use regulation in existence, and applicable to the property, when the owner became the owner of the property, and a copy of the land use regulation in existence imme-

diately before the regulation that was enacted or enforced or applied to the property that the owner claims restricts the use of the property, and the owner claims caused a reduction in the fair market value due to the regulation described in subsection (3)(d) of this section being more restrictive;

(f) The amount of the claim, based on the alleged reduction in value of the real property supported by an appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the state of Oregon; and

(g) Copies of any leases or covenants, conditions and restrictions (CCRs) applicable to the real property, if any, that impose restrictions on the use of the property.

(4) Notwithstanding a claimant's failure to provide all of the information required by subsection (3) of this section, the city may review and act on a claim. (Ord. 1930 § 4, 2004)

2.76.050 City administrator investigation and recommendation.

(1) Following an investigation of a claim, the city administrator shall forward a recommendation to the city council that the claim be:

- (a) Denied;
- (b) Investigated further;
- (c) Declared valid, and waive or modify the

land use regulation, or compensate the claimant upon completion of an appraisal; or

(d) Evaluated with the expectation of the city acquiring the property by condemnation.

(2) If the city administrator's recommendation is that a claim be denied, and no elected official informs the city administrator within 14 days that the official disagrees, then the city administrator may deny the claim. If an elected official objects, then the city manager shall wait an additional seven days to see whether two more elected officials object to the proposed denial. If they do, then the city administrator shall schedule a work session with the city council. If not, the city administrator may deny the claim. (Ord. 1930 § 5, 2004)

2.76.060 City council public hearing.

The city council shall conduct a public hearing before taking final action on a recommendation from the city administrator. Notice of the public hearing shall be provided to the claimant, to owners and occupants of property within 100 feet of the perimeter of the subject property, and neighborhood groups or community organizations officially

recognized by the city council whose boundaries include the subject property. (Ord. 1930 § 6, 2004)

2.76.070 City council action on claim.

(1) Upon conclusion of the public hearing, and prior to the expiration of 180 days from the date the claim was filed, the city council shall:

(a) Determine that the claim does not meet the requirements of Measure 37 and this chapter, and deny the claim; or

(b) Adopt a resolution with findings therein that support a determination that the claim is valid and either direct that the claimant be compensated in an amount set forth in the resolution for the reduction in value of the property, or remove, modify or direct that the challenged land use regulation not be applied to the property.

(2) The city council's decision to waive or modify a land use regulation or to compensate the owner shall be based on whether the public interest would be better served by compensating the owner or by removing or modifying the challenged land use regulation with respect to the subject property.

(3) If the city council removes or modifies the challenged land use regulation, it may, at its discretion, put back into effect, with respect to the subject property, all of the land use regulations in effect at the time the claimant acquired the property.

(4) A decision by the city council to remove or modify a land use regulation shall be personal to the claimant(s) and shall automatically become invalid and void upon the transfer of any ownership interest in the subject property by the claimant to anyone. (Ord. 1930 § 7, 2004)

2.76.080 Processing fee.

The city administrator shall charge an application fee to be paid at the time of filing of the claim based on the projected costs of notice, publication, and copying. Following the filing of the application and fee, the city administrator shall maintain a record of the city's costs in processing a claim, including the costs of obtaining information required by NBCC 2.76.040, which a property owner does not provide to the city. Following final action by the city on the claim at the local level, the city administrator shall send the property owner a bill for the actual costs including staff and legal costs that the city incurred in reviewing and acting on the claim. (Ord. 1930 § 8, 2004)

2.76.090 Private cause of action.

If the city council's approval of a claim by removing or modifying a land use regulation causes a reduction in value of other property located in the vicinity of the claimant, the neighbor(s) shall have a cause of action in state circuit court to recover from the claimant the amount of the reduction and shall also be entitled to attorney's fees. (Ord. 1930 § 9, 2004)