



CITY OF BEAVERTON

CITY ORDINANCES

ORDINANCE 3440

AN ORDINANCE AMENDING THE SITE DEVELOPMENT CODE, BC 9.05.005 TO 9.05.170, BY ADOPTING THE COMPREHENSIVE PLAN FOR BEAVERTON'S NATURAL RESOURCES; AND DECLARING AN EMERGENCY.

NUMBER OF PAGES

15

ORDINANCE NO. 3440

CODE

AN ORDINANCE AMENDING THE SITE DEVELOPMENT CODE, BC 9.05.005 TO 9.05.170, BY ADOPTING THE COMPREHENSIVE PLAN FOR BEAVERTON'S NATURAL RESOURCES; AND DECLARING AN EMERGENCY.

WHEREAS, BC 9.05.005 to BC 9.05.170 is the "Site Development Code" of Beaverton; and

WHEREAS, pursuant to LCDC Statewide Land Use Planning Goal 5 the City has undertaken to develop a comprehensive plan for Beaverton's Natural Resources; and

WHEREAS, in order to provide internal consistency between City codes governing site development certain changes are needed in the Site Development Code; and

WHEREAS, the Council finds that an emergency exists because there are numerous development proposals which will be submitted to the City for review in the near future which may be affected by these amendments and their early passage will be in the best interest of the City and the public since certainty in the development process will result; now, therefore,

THE CITY OF BEAVERTON DOES ORDAIN AS FOLLOWS:

Section 1. Certain sections of the Site Development Code of the City of Beaverton, BC 9.05.005 to BC 9.05.170, are hereby amended as indicated below. New language in the Code is underlined; language to be deleted is shown as stricken.

Section 2. BC 9.05.010, Findings and Objectives, subsections B

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and C, are hereby amended to read as follows:

"9.05.010 Findings and Objectives.

"*****

"B. Protect property values by insuring the maximum preservation of the natural vegetation for wildlife and the scenic character and visual continuity of the City consistent with the reasonable economic enjoyment of property.

"C. Insure that the development of each parcel of land, as well as water courses, streets and other public lands and places, occurs in a manner harmonious with adjacent lands so as to minimize problems of flooding, drainage, erosion, earth movement and similar hazards; ~~and to maintain the visual continuity of the natural terrain;~~

"*****"

Section 3. BC 9.05.015, Definitions, is hereby amended to read as follows:

"9.05.015 Definitions.

"*****

"Board - The Board of Site and Design Review as established in BC 2.03.130. The Board's jurisdiction and powers are set out in the Development Code.

"Channelization - The process of modifying a waterway to reduce its floodway and/or floodplain by increasing the cross-sectional area of the waterway, to realign the waterway so that the centerline of the water will follow a new alignment, or for any other purpose.

"*****

"FIRM - The flood insurance rate map.

"*****

"Floodway - The channel of a river or other

watercourse and adjacent land areas that are capable of discharging and must be reserved in order to discharge water flow associated with the base flood.

"*****

"Natural Resource Area - The areas defined in the City's General Plan and designated on the General Plan Map As a Significant Natural Resources Area.

"*****

"Work (alone or as in "site development work" or "development work") - Any construction, alteration or the bringing about of any physical change in the use or appearance of land, including grading and excavation as defined herein."

Section 4. BC 9.05.020, Permits Required, subsections A, B, and C, are hereby amended to read as follows:

"9.05.020 Permits Required.

"A. No person shall ~~grade, excavate or fill~~ undertake site development work without first obtaining a permit from the city engineer ~~if the grading, excavating or filling will result in~~ for any of the following:

"1. an excavation, fill or combination thereof, in excess of fifty cubic yards on a site of more than one-half acre in extent;

"2. an excavation three feet or more below an imaginary two (horizontal) to one (vertical) descending slope from a property line, or a fill three feet or more above an imaginary two (horizontal) to one (vertical) ascending slope from a property line;

"3. an excavation or fill within a public sewer, water main, storm drain or power line easement;

"4. an excavation or fill that will encroach on or alter a natural drainage channel or water course;

"5. removal of the natural vegetation or ground cover from an area in excess of 2,000 square feet

or the removal of a tree greater than thirty feet in height;

"6. the construction, reconstruction, alteration, repair, or installation of a structure in any natural water course;

"7. the construction of a private driveway, private road or parking lot on a lot greater than one-half acre in area;

"8. site development work by a public utility, public agency, or City franchise holder in a Significant Natural Resource area.

"B. A separate permit ~~may~~ shall be required for each separate noncontiguous site. One permit may cover both an excavation and a fill on the same site.

"C. A permit shall be required for ~~a development any work in the a floodplain. district.~~"

Section 5. BC 9.05.025, Permit Exemptions, subsections B, C, D, and E, are hereby amended to read as follows:

"9.05.025 Permit Exemptions. The permit provided for in BC 9.05.020 shall not be required for the following:

"*****

"B. Site development work ~~Grading~~ in connection with a public improvement or public work for which inspection is provided by the City or other public agency as approved by the city engineer in an area other than a Significant Natural Resource Area.

~~"D~~C. An excavation below finished grade for basements and footings of a building, swimming pool or underground structure authorized by a valid building permit where the cost of the excavation is included in the building permit valuation. This exception shall not affect the applicability of this ordinance to, nor the

requirement of a grading permit for, a fill made with the material from the excavation.

"~~ED~~. Tilling of the soil for agricultural purposes."

Section 6. BC 9.05.035, Permit Application, subsections B 14 is hereby renumbered to be designated subsection B 16.

Section 7. BC 9.05.035, Permit Application, subsections B 14 and B 15, are hereby added and shall read as follows:

"9.05.035 Permit Application.

"*****

"B. The application shall contain the following:

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"14. for sites identified as significant Natural Resource areas, an environmental assessment report, prepared by a qualified biologist or other professionals qualified to assess the particular resource issues on the site. The Planning Director may waive the requirement if sufficient information already exists to address the issues present. For sites not identified as Significant Natural Resource areas, the City Engineer may require such an assessment to determine the impact on such factors as soil erosion and water quality.

"15. If the proposed work requires the approval of any other governmental agency or public utility, such as the Corps of Engineers or Oregon Division of State Lands, the applicant shall also submit evidence of having made such application for approval prior to or simultaneously with the City submittal."

Section 8. BC 9.05.040, subsection A 5, is hereby amended to read as follows:

"9.05.040 Requirements for Scale Plans and Drawings.

"*****

"5. a map or photo showing and describing the major plant materials, and a map delineating riparian and wetland boundaries on the site;"

"*****"

Section 9. BC 9.05.045, Application Referred to Planning Director or Board of Site and Design Review, is hereby renumbered to be designated BC 9.05.050 and further shall read as follows:

"9.05.050 Application Referred to Planning Director or Board of Site and Design Review.

"A. When the ~~grading work~~ to be done on a site ~~involves more than twenty thousand cubic yards of excavation or fill,~~ occurs in a Significant Natural Resource Area, the application shall be referred by the city engineer to the planning director for study review and recommendation. The planning director shall report ~~on any aspect of the proposed grading, excavation or fill that relates to or affects the comprehensive plan or any other zoning plan or zoning regulations of the City~~ how the proposal may impact the resource and aesthetic values of the site, alternative methods of development which could result in less loss or damage to scenic, wildlife or natural features of the site, and shall recommend possible preferred methods of mitigation or development. The planning director, on completion of investigation, shall transmit the report, with findings and recommendations to the city engineer. In addition, the report shall be transmitted to the City's Board of Site and Design Review if the proposal involves a development project within the Board's jurisdiction, or to the

Planning Commission, in the event the approval involves a subdivision, as set out in the Development Code. No permit shall be issued by the city engineer, Board or Planning Commission until the report has been received.

"B. Pursuant to the process set out in BC 9.05.083 the city engineer shall submit to the Board all approved permits for work within the Board's jurisdiction under the Development Code and all approved permits for channelization or relocation of the floodway. The Board shall review these applications under the Board's standards contained in the Development Code and may attach conditions to its approval."

Section 10. BC 9.05.045, Technical Standards, is hereby added to the Beaverton Code and shall read as follows:

"9.05.045 Technical Standards.

"A. The mayor or the mayor's designee may propose technical standards, such as best management practices, the mayor finds necessary and advisable to aid in the interpretation, application and implementation of the development standards contained in this ordinance.

"B. Before the implementation of any proposed standards, they shall be approved by resolution of the Council.

"C. Standards adopted under this section shall be kept on file in the office of the city engineer and shall be made available to the public."

Section 11. BC 9.05.050, Permit Fees, is hereby renumbered to be designated BC 9.05.032.

Section 12. BC 9.05.055 Permit Issuance or Denial by City Engineer, subsections A, B, and E are hereby amended to read as follows:

"9.05.055 Permit Issuance or Denial by City Engineer.

"A. Grounds For Denial. The application shall be denied when, in the judgment of the city engineer, the proposed work would:

"1. directly or indirectly create a hazard to human life, or

"2. endanger adjoining property or property at a higher or lower level, or

"3. cause damage to any public sewer, storm drain, watercourse, street, street improvement or any other public property, or

"4. cause irreparable or unreasonable harm to a Significant Natural Resource Area.

~~the application shall be denied.~~ If, in the opinion of the city engineer, the danger of hazard or damage can be eliminated or mitigated by the erection or installation of walls, cribs or other devices, or by a specified method of performing the work, or through redevelopment or rehabilitation of the site, the city engineer may grant the permit on the condition that the specified protection and precautionary work or mitigation shall be done to the city engineer's satisfaction or on the condition that a specified method of performing the work shall be used.

"B. Conditions On Issuance. In granting a permit under this ordinance, the city engineer may attach conditions to it that may be reasonably necessary to prevent danger to public or private property, ~~or~~ to prevent the operation from being conducted in a manner hazardous to life, ~~or~~ property or to the natural resources of the area, or in a manner likely to create a nuisance. No person shall violate any conditions imposed by the city engineer. Such conditions may include, but shall not be limited to:

"1. the time within which the work must be completed and limitations on the hours of operation or the period of year in which work may be performed;

"2. restrictions on the size and type of equipment;

"3. designation of routes on which materials may be transported;

"4. the place and manner of disposal of excavated materials;

"5. requirements as to the laying of dust and tracking of dirt, the prevention of noises and other results offensive or injurious to the neighborhood, the general public or any portion of the public or the neighborhood;

"6. designation of maximum or minimum slopes to be used if they vary from those prescribed in this ordinance;

"7. manner of use of public streets and places in the course of the work;

"8. regulations as to the degree of compaction of fill material;

"9. requirements as to standards for paving private driveways, roads and parking lots constructed under the permit;

"10. requirements to protect the environment and natural resources, on or off site.

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"E. The effective date of the permit is governed by BC 9.05.085."

Section 13. BC 9.05.065, Designation of Routes, is hereby amended to read as follows:

"9.05.065 Designation of Routes.

"*****

"C. The effective date of the permit is governed by

BC 9.05.085."

Section 14. BC 9.05.070, Security for Performance, subsection B, is hereby amended to read as follows:

"9.05.070 Security for Performance.

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"B. A surety bond shall obligate the principal, the principal's executors, administrators, successors and assigns, jointly and severally, with the surety, and shall inure to the benefit of the City, its officers, employees and to any person aggrieved by the principal's failure to comply with the conditions of it, and shall further provide that it will not be cancelled or terminated until ~~at least ten days notice has been filed with the city recorder~~ the City has approved the work.

"*****"

Section 15. BC 9.05.083, Approval by Board of Site and Design Review, is hereby added to the Beaverton Code and shall read as follows:

"9.05.083 Approval by Board of Site and Design Review. Where a permit also requires review by the Board under BC 9.05.050, the Board's approval must be obtained prior to the issuance of the permit by the city engineer. The city engineer shall transmit in writing preliminary approval and conditions based on this ordinance to the Board prior to the Board's decision. If the city engineer denies the permit, the denial is immediately appealable by the applicant under BC 9.05.091 and the denial does not need to be reviewed by the Board. If the Board denies the proposed work on grounds within its authority, the site development permit shall be automatically denied without any further action of the

city engineer. If application for a site development permit is made after the Board's approval of a site plan, the preliminary approval and conditions shall be submitted to the planning director who shall review it for conformity to the Board's approval, requirements and conditions. If the planning director finds it has a major impact on the Board's prior approval, the applicant shall be required to resubmit plans to the Board.

Section 16. BC 9.05.085, Effective Date of Permit, sub-sections A and B, are hereby amended to read as follows:

"9.05.085 Effective Date of Permit.

"B.A. Fill permits outside the floodplain district or outside a Protected or Sensitive Natural Resource Area or which do not require Board approval shall be effective when issued by the city engineer pursuant to this ordinance.

"B. Permits outside a floodplain district, but subject to review by the planning director or Board under BC 9.05.050 shall not be effective until:

"1. for permits subject to Board approval under BC 9.05.050 the provisions of BC 9.05.083 have been met;

"2. for a permit reviewed by the planning director under BC 9.05.050, but not the Board, the city engineer has mailed or caused to be delivered a notification of issuance of the permit to the planning director, the applicant and any other interested party who requested such notification;

"3. the time to petition for review as set out in BC 9.05.090 has elapsed; and

"4. any review proceeding initiated under BC 9.05.090 has been completed.

"A.C. Permits in the Floodplain District. Permits in the floodplain district shall not become

effective until:

"1. for a permit subject to Board approval under BC 9.05.050 the provisions of BC 9.05.083 have been met; and

"2. notice of a proposed alteration or relocation of a watercourse has been given to all adjacent communities and the Oregon Water Resources Department with copies of such notice given to FEMA; and

"3. the city engineer has delivered written notice of the decision to grant the permit by certified mail or personal delivery to those persons on a list provided by the permit applicant, certified to be accurate, of the names and addressess of all property owners within an area enclosed by lines parallel to and 300 feet from the boundary of the property on which the work is to be performed. The city engineer shall also cause notice to be published in a newspaper of general circulation in the City. The permit applicant shall bear the administrative expense of preparation of the notices, mailing and publications. The city engineer may require an advance deposit for costs before issuance of notice. Any unused deposit shall be returned to the permit applicant; and

"4. the time to petition for review as set out in BC 9.05.090 has elapsed; and

"5. any review proceeding initiated under BC 9.05.090 has been completed."

Section 17. BC 9.05.090, Revocation, Suspension, Modification, is hereby renumbered to be designated BC 9.05.092.

Section 18. BC 9.05.091, Appeal Authorized, is hereby amended to read as follows:

"9.05.091 Appeal Authorized. An applicant for a permit or a permittee aggrieved by any action or decision

of the city engineer which is not appealable under BC 9.05.085 B or C and BC 9.05.090, may appeal to the Council by filing with the city recorder a written notice of appeal, specifying the basis of the appeal, within ~~three~~ 10 days from the date of mailing ~~or receipt~~ of notice of the city engineer's action, ~~whichever occurs first~~. The aggrieved person shall be given a de novo hearing before the Council, after which the Council may grant or deny the appeal or modify the city engineer's decision. The decision of the Council shall be final."

Section 19. BC 9.05.092, Appeal by Affected Person, shall be renumbered to be designated BC 9.05.090, and shall further be amended to read as follows:

"9.05.090 Appeal by Affected Person.

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"D. The petition shall contain the following information:

"1. the name, address and telephone number of the petitioner, and of the petitioner's attorney, if any;

"2. the name and address of the permit applicant;

"3. if the petitioner contests the decision of the city engineer and/or Board to issue the permit, a statement to that effect;

"4. if the petitioner contests the adequacy of the conditions attached by the city engineer and/or Board, a statement to that effect;

"5. a statement of how the petitioner is affected by the issuance of the permit.

"E. If the decision to issue the permit is contested, the burden shall be on the permit applicant to establish that the requirements for issuance of a permit have been met. Evidence previously presented to the city

engineer shall not be considered by the Council unless presented on the record before the Council. If the adequacy of the conditions attached by the city engineer is contested, the petitioner shall have the burden of showing grounds for modification or addition of conditions. ~~The city engineer shall respond in defense of the conditions imposed.~~ hearing shall be de novo.

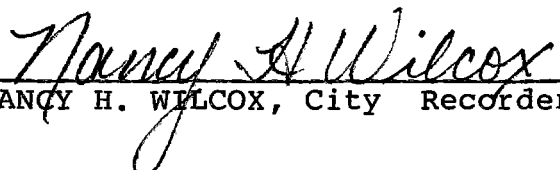
"F. At the conclusion of the evidence, and after argument if any, the Council shall rule on the issues presented. The order shall, as applicable, grant or deny the permit, and may attach conditions consistent with this ordinance.

"G. ~~The order shall be made orally, if practical, and shall be reduced to writing.~~ be in writing and contain findings on all contested issues, with specific reference to the evidence upon which the findings were based. If an emergency exists the order may be made orally and shall be reduced to writing as soon as practicable. A copy of the order shall be delivered to the permit applicant, the petitioner and the city engineer."

Section 20. Because it is necessary that these amendments take effect as soon as possible for the reasons outlined herein, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon adoption by the Council and approval by the Mayor.

First reading this ^{11th} day of March, 1985. ^{April}
Passed by the Council this ^{1st} day of ~~March~~, 1985.
Approved by the Mayor this ^{2nd} day of ~~March~~, 1985. ^{April}

ATTEST:


NANCY H. WILCOX, City Recorder

APPROVED:


LARRY D. COLE, Mayor