

**REMOVAL OF NON-CERTIFIED WOOD STOVES AND FIREPLACE INSERTS
WHEN A STRUCTURE CONTAINING THEM IS SOLD. (ORDINANCE NO. NS-1627)**

Section 1. The City Commission finds that it is necessary for the protection of the health, safety and welfare of the City's residents to require that non-certified wood stoves and fireplace inserts be removed when structures containing them are sold.

Section 2. Definitions:

"Non-certified wood stove or fireplace insert" means a residential space heating device that has not been certified by either the State of Oregon Department of Environmental Quality or Federal Environmental Protection Agency as complying with smoke emission standards. "Non-certified wood stove or fireplace insert" does not include (1) devices exempt from certification requirements such as pellet stoves (a wood burning heating appliance which uses wood pellets as its primary source of fuel), (2) cook stoves (an indoor wood burning appliance the design and primary purpose of which is to cook food), (3) antique wood stoves (a wood stove built before 1940 that has an ornate construction and a current market value substantially higher than a common wood stove manufactured in the same time period) and (4) fireplaces.

"Sale of structure" or "sale of structures" means any transaction whereby the ownership of a structure, or the real property upon which a structure is located, is transferred by an agreement for the sale and purchase of the structure or the real property.

"Structure" has the same meaning provided in the Zoning Ordinance of the City of Bend, Oregon.

Section 3. The responsibility for removal of non-certified wood stoves or fireplace inserts shall be the responsibility of the seller of the structure which contains the non-certified wood stoves or fireplace inserts, unless the seller and buyer agree in writing that it shall be the buyer's responsibility.

Section 4. Non-certified wood stoves and fireplace inserts must be removed from structures upon sale of structures containing the non-certified wood stoves and fireplace inserts. If the removal is the responsibility of the seller, then removal shall be accomplished prior to the closing of any real estate transaction involving the structure containing the non-certified wood stoves or fireplace inserts. If removal is to be the responsibility of the buyer, removal shall be accomplished within 30 days after the closing of the real estate transaction.

Section 5. The presence of all wood stoves or fireplace inserts in a structure shall be disclosed by the seller to the buyer as part of the sale and purchase of any such

structure. The disclosure shall be evidenced by a certificate which shall state whether any wood stoves or fireplace inserts are non-certified. The certificate shall be in substantially the following form:

WOOD STOVE/FIREPLACE INSERT DISCLOSURE CERTIFICATE

The undersigned seller discloses to the undersigned buyer the presence of wood stoves or fireplace inserts located at property which has the following address:

The wood stoves or fireplace inserts are generally described as:

The wood stoves or inserts are:

certified non-certified

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

Seller and buyer each understand that the City of Bend's wood stove/fireplace insert ordinance requires non-certified wood stoves or fireplace inserts to be removed from structures upon sale; and that the seller shall have the responsibility for the removal of the wood stoves or fireplace inserts, unless the seller and the buyer agree that it shall be the buyer's responsibility to remove the wood stoves or fireplace inserts.

The responsibility for removing any non-certified wood stoves or fireplace inserts shall be:

responsibility of the seller _____

responsibility of the buyer _____

The seller and buyer also understand that this certificate must be completed, signed by both the seller and buyer, and delivered by the seller to the buyer at the closing of the real estate transaction including the property where the stoves or fireplace inserts are located. A copy of the certificate must also be delivered to the City of Bend Development Services, Building Department by the seller.

9-18.5

BEND CODE

9-18.5

The penalty for not removing non-certified wood stoves or fireplace inserts is a fine not exceeding \$1000.

Dated: _____

Seller

Buyer

Section 6. The disclosure certificate must be prepared by the seller, executed by the seller and the buyer, and delivered by the seller to the buyer at the closing of any real estate transaction involving the real property upon which the structure containing the wood stoves or fireplace inserts is located. A copy of the disclosure certificate after execution and delivery must also be submitted to the City of Bend Development Services, Building Department by the seller. Delivery of the disclosure certificate is required whether the real estate transaction is closed in escrow or if the real estate transaction is closed by the seller and buyer without a closing escrow.

Section 7. Failure of the seller to provide the disclosure certificate required by this ordinance, and failure of the seller (or the buyer if the parties have so agreed) to remove non-certified wood stoves or fireplace inserts from a structure as required by this ordinance, shall be subject to a fine of not more than \$1000.

Section 8. This ordinance shall become effective 90 days after passage.

[Adopted by the City Commission February 15, 1995]