



ORDINANCE NO. NS-2541

AN ORDINANCE OF THE CITY COUNCIL AMENDING THE BEND DEVELOPMENT CODE (BDC) CHAPTERS 1.0, HOW TO USE THE DEVELOPMENT CODE, 1.1, GENERAL ADMINISTRATION, 1.2, DEFINITIONS, 2.1, RESIDENTIAL DISTRICTS, 2.2, COMMERCIAL ZONING DISTRICTS, 2.3, MIXED-USE ZONING DISTRICTS, 2.4, INDUSTRIAL ZONING DISTRICTS, 2.6, PUBLIC FACILITIES ZONING DISTRICT, 2.7, SPECIAL PLANNED DISTRICTS, REFINEMENT PLANS, AREA PLANS AND MASTER PLANS, 2.8, URBANIZABLE DISTRICT, 3.1, LOT, PARCEL AND BLOCK DESIGN, ACCESS AND CIRCULATION, 3.2, LANDSCAPING, STREET TREES, FENCES AND WALLS, 3.3, VEHICLE PARKING, LOADING AND BICYCLE PARKING, 3.4, PUBLIC IMPROVEMENT STANDARDS, 3.5, OTHER DESIGN STANDARDS, 3.6, SPECIAL STANDARDS AND REGULATIONS FOR CERTAIN USES, 3.8, DEVELOPMENT ALTERNATIVES, TITLE 4, APPLICATIONS AND REVIEW PROCEDURES, 4.0, APPLICATIONS AND REVIEW PROCEDURES, 4.1, DEVELOPMENT REVIEW AND PROCEDURES, 4.2, MINIMUM DEVELOPMENT STANDARDS REVIEW, SITE PLAN REVIEW AND DESIGN REVIEW, 4.3, LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS, 4.4, CONDITIONAL USE PERMITS, 4.5, MASTER PLANS, 4.6, LAND USE DISTRICT MAP AND TEXT AMENDMENTS, 4.7, TRANSPORTATION ANALYSIS, 4.8, TRANSPORTATION AND PARKING DEMAND MANagements (TPDM) PLAN, 4.9, ANNEXATIONS, (NEW) 4.10, INTERPRETATIONS AND DETERMINATIONS, 5.1, VARIANCES, 5.2, NONCONFORMING USES AND DEVELOPMENTS, AND 5.3, ADJUSTMENTS.

Recitals

- A. The amendments to the Bend Development Code (BDC) update various land use criteria and process to provide consistency with Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) and streamline the process for private development.
- B. Specifically, the amendments include design improvements that staff have identified over the last

three years through implementing the BDC with respect to specific projects . For example, the amendments reduce rear setback in the Low Density Residential (RL) District, and introduce new bicycle parking options, among other things.

- C. The amendments also update several existing procedures used to process development applications, including for legal lot of record determinations, Deschutes River Design Review, noticing requirements, duration of approvals and extensions, modifications of approval and statutory development agreements.
- D. The amendments also create a new minor replat process and clearly identify the existing quasi-judicial process (Type III-CC) where the final decision is made by the City Council after a public hearing; and replace BDC 4.1.1400, Declaratory Ruling, with a new Chapter 4.10, Interpretations and Determination.
- E. The application was processed in accordance with Bend Development Code (BDC) 4.1.500, Type IV Legislative Procedures. The City provided timely and sufficient notice of the legislative changes pursuant to Section 4.1.515 of the Bend Development Code.
- F. The City submitted a Notice of Proposed Amendment to the Oregon Department of Land Conservation and Development (DLCD) on August 1, 2025.
- G. A notice of the September 22, 2025, Planning Commission public hearing was printed in the Bend Bulletin on August 31, 2025, and mailed and emailed to the Neighborhood District Land Use Chairs on August 29, 2025. A notice of the November 5, 2025, City Council public hearing was printed in the Bend Bulletin on October 12, 2025, and mailed and emailed to the Neighborhood District Land Use Chairs on October 10, 2025.
- H. On September 22, 2025, the Planning Commission held a public hearing on this package of amendments (Project Number PLTEXT20250392) and deliberated on the matter. The Planning Commission voted to recommend that the City Council approve the proposed text amendments in Exhibit A as amended.
- I. The City Council held a public hearing on November 5, 2025, to accept evidence, receive public testimony, and consider the Planning Commission's recommendations. At the public hearing, staff proposed further amendments to the BDC to include a definition for "fuel break" to BDC Chapter 1.2, Definitions, replace the term "fire break" to "fuel break" in BDC 4.1.600, Deschutes River Design Review, add a Type I review process for tree removal to BDC 2.7.700, Upland Areas of Special Interest Overlay Zone and to clarify that any public or private open space otherwise permitted in a Community Master Plan in BDC 4.5.200, Community Master Plans may not be fenced off unless it is related to a park or approved public or private recreational facility.
- J. The City Council found that the amendments satisfy the criteria for approval contained in Section 4.6.200 of the Bend Development Code and voted to approve the package of text amendments to

the Bend Development Code presented to the Planning Commission, as well as the amendments to BDC Chapter 1.2, Definitions, and BDC Sections 4.1.600, Deschutes River Design Review Procedures, 2.7.700, Upland Areas Of Special Interest Overlay Zone and 4.5.200, Community Master Plan, as presented at the November 5, 2025, public hearing.

- K. Following the November 5, 2025, public hearing, staff updated the findings attached as Exhibit B to include supplemental findings to support the presented amendments.
- L. The proposed amendments support the 2025-2027 City Council housing goal to “Develop and implement strategies to meet community housing needs, reduce homelessness, and create complete, walkable neighborhoods through data-driven policies, reliable funding, and innovative development codes.” The goal includes a strategy to “accelerate complete neighborhoods” with an action to “Adopt development code and entitlement process improvements that remove barriers and speed up missing middle-income, affordable housing and infill development.”
- M. In addition, the proposed amendments support the 2025-2027 City Council transportation and infrastructure goal to “Make travel safer and more reliable for everyone, ensure water and wastewater systems meet growth, housing, and economic prosperity needs, and improve transportation projects with sustainable funding and planning.” The goal has a strategy to “enhance safety, accessibility and increased options for all modes of travel” and an action to “create and begin implementation of Pedestrian and Bike Master Plans that address system gaps, costs, and priorities and are aligned to the Transportation System and Climate Friendly and Equitable Communities plans and policies” and to “update transportation design standards and specifications for all users, aiming for zero fatalities”.

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

- Section 1.** The Bend Development Code is amended as shown on the attached Exhibit A.
- Section 2.** In addition to the findings set forth above, the City Council adopts and incorporates by reference the findings attached in Exhibit B, which includes supplemental findings added to support the amendments presented at first public hearing on November 5, 2025.
- Section 3.** If any provision, section, phrase, or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.
- Section 4.** All other provisions of the Bend Development Code remain unchanged by this ordinance and remain in effect.

First Reading Date: November 5, 2025

Second Reading and adoption by roll call vote: November 19, 2025

YES: Kebler, Franzosa, Méndez, Norris, Platt

NO:

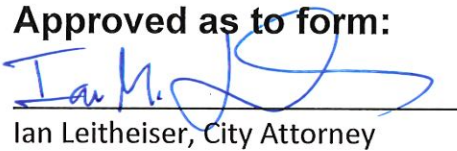


Melanie Kebler, Mayor

Attest:


Ashley Bontje, City Recorder

Approved as to form:


Ian Leitheiser, City Attorney

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Exhibit A

Development Code Update November 5, 2025

Prepared by:
City of Bend Planning Division

File #: PLTEXT20250392

Note:

Text in underlined typeface is proposed to be added

Text in ~~strike through~~ typeface is proposed to be deleted

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

Staff comments are ***bold and italicized***

Rename “Community and Economic Development Director” to “Community Development Director”

Rename “Planning Manager” to “Community Development Director”

Rename “townhouse” to “townhome”

Rename “manufactured home park” to “manufactured ~~home~~dwelling park”

Rename “declaratory ruling” to “formal interpretations and determinations”

Rename “temporary use permit” to “temporary use authorization”

Rename “zoning map” with “Bend Zoning Map”

Rename “Bend Urban Area Zoning Map” to “Bend Zoning Map”

Rename “Chapter 4.6, Land Use District Map and Text Amendments” to “Chapter 4.6, Map and Text Amendments”

Bend Development Code

Chapter 1.0

HOW TO USE THE DEVELOPMENT CODE

BDC Title 4 – BDC Title 4 provides ~~all of the~~ application requirements and procedures for obtaining ~~permits~~ land use approval required by this code. ~~Four~~ Five types of permit review procedures are covered: Type I (nondiscretionary, “ministerial” decision); Type II (discretionary, “administrative” decision); Type III (discretionary, “quasi-judicial” decision with public hearing and decision by the Planning Commission or Hearings Officer); Type III-CC (discretionary, “quasi-judicial” decision with public hearing and decision by City Council); and Type IV (“legislative” decision with public hearing and decision by City Council).

Chapter 1.1

GENERAL ADMINISTRATION

1.1.500 Pre-Existing Approvals.

C. *Duration of Exemption from Subsequently Adopted Land Use Ordinance.* For the purposes of ORS 92.040(2) and (3), after September 9, 1995, construction within an approved subdivision ~~is shall be~~ subject to the land use laws that were in effect on the date of the subdivision application and ~~shall will~~ not be subject to subsequently adopted land use laws. This exemption from subsequently adopted local land use laws ~~shall terminates~~ three years one year from the date the local land use decision becomes final. *(In light of frequent revisions to state law and the need for local regulations to adapt in a constantly changing development environment, the City must balance the requirement that approved subdivisions can develop under previous standards with the need to ensure the City develops in a manner consistent with those updates and revisions. Reducing the time period to one year achieves that balance.)*

Chapter 1.2 DEFINITIONS

Affordable Housing means housing with a sales price or rental amount that is within the means of a household that may occupy moderate- and low-income housing. Unless otherwise specified, affordable housing must meet one of the thresholds defined below in subsections (1) and (2) of this definition.

1. In the case of dwelling units for sale, “affordable” means housing in which the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a family household at 80 percent of the area median income, based upon most recent HUD Income Limits for the Bend Metropolitan Statistical Area (Bend MSA).
2. In the case of dwelling units for rent, “affordable” means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a family household at 60 percent of the area median income, based upon most recent HUD Income Limits for the Bend MSA.

Bicycle parking means a space designated and reserved for the parking of one or more bicycles.

- Long-term bicycle parking spaces accommodate employees, commuters, students, residents and other persons who expect to leave their bicycles for more than two hours.
- Short-term bicycle parking spaces accommodate visitors, customers, and other persons expected to depart within approximately two hours.

Development application, Type III means a development application where the final decision is made by the Planning Commission, ~~or~~ Hearings Officer, or Landmarks Commission after a public hearing following the quasi-judicial procedures required and described in BDC 4.1.800, Quasi-Judicial Hearings. ~~The City Council is the final decision maker in Type III development applications that require the adoption of an ordinance.~~ Type III applications are identified in Table 4.1.1600 and generally meet the factors for Type III quasi-judicial decisions

in BDC 4.1.426, Quasi-Judicial Hearings. ***(A Type III-CC application process is being proposed where the City Council will be the final decision maker.)***

Development application, Type III-CC means a development application where the final decision is made by the City Council after a public hearing following the quasi-judicial procedures required in BDC 4.1.800, Quasi-Judicial Hearings. Type III-CC applications are identified in Table 4.1.1600 and generally meet the factors for Type III-CC quasi-judicial decisions in BDC 4.1.426, Type III and Type III – CC Quasi-Judicial Factors.

Development application, Type IV means a legislative decision where the final decision is made by the City Council after a public hearing following the legislative procedures required ~~and described~~ in BDC 4.1.500. Type IV applications are identified in Table 4.1.1600. Such applications generally involve broad public policy or discretionary decisions that apply to other than an individual property or small number of properties, and do not meet the factors for Type III or Type III-CC quasi-judicial decisions in BDC 4.1.426, Type III and Type III – CC Quasi-Judicial Factors.

Final action means when the Review Authority has issued a written decision for a Type I, Type II, Type III or III-CC application, the decision or notice of the decision has been provided and the local appeal period has ended in compliance with BDC 4.1, Development Review and Procedures. Also, may be referred to as “final decision”. ***(Consistent with 4.1.325, Decision and 4.1.910, Decision and ORS 227.178)***

Fuel break means a strategically located strip of land where flammable vegetation is reduced or modified to slow the spread of wildfire. ***(Added by the City Council on November 5, 2025)***

Hearing, initial means a quasi-judicial public hearing authorized and conducted by the Hearings Body to determine if a Type III or Type III-CC land use permit request ~~shall~~ will be granted or denied.

Map and text amendments means changes to the Bend Development Code, the Bend Comprehensive Plan, the Bend Comprehensive Plan Map and/or the Bend Zoning Map. ***(Consistent with BDC Chapter 4.6, Land Use District Map and Text Amendments)***

Modification of approval means an application to revise a development approval by changing one or more of the following components: proposed uses, operating characteristics, intensity, scale, site layout (including but not limited to changes in setbacks, vehicle access points, building design, size, location or orientation, parking, traffic or pedestrian circulation plans), or landscaping. A Modification of Approval may also involve a request to remove or revise a condition of approval (*Provides thresholds for a Modification of Approval process in BDC 4.1.1325.*)

Overhead door means any upward-operating door that swings or rolls open from the ground level, assuming a horizontal position above the doorway when opened. Overhead doors are commonly used as residential garage doors as well as in commercial storefronts, warehouses, car washes, storage facilities, etc. (*Definition needed for the new section in BDC 2.1.1100(G) which helps clarify the difference between a storage room that is not intended for vehicle parking and a garage.*)

Owner means (i) the owner(s) of the title to real property on the most recent deed recorded with the County Clerk or the authorized agent who has written ~~notarized~~ authorized authorization from such owner(s), or (2) the contract purchaser(s) holding equitable title of to real property of record as shown on the last available complete tax assessment roll or County Clerk's records under a purchase and sale agreement. "Owner" does not include an interest created for security purposes. ~~For purposes of annexation, "owner" means a legal owner of record or, where a recorded land sale contract is in force, a purchaser under the land sale contract.~~

Parent site (also referred to as parent property) means a lot or parcel that ~~was~~ is the subject of a development application.

Party means one who ~~takes part~~ appears or participates in a Type II, III or III-CC application, or participates in a Type IV application or a legislative action. A party includes any person who otherwise has legal standing as provided by applicable law. A person can become a party by appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing, or by being a

property owner whose property would be burdened by a solar access permit. A person may also be a party in a Type II decision if they are adversely affected or aggrieved by the initial decision. (Consistent with ORS 197.830, Review procedures; standing; fees; deadlines; rules; issues subject to review; attorney fees and costs; publication of orders; mediation; tracking of reviews.) For Type IV legislative decisions, a person whose only participation is the signing of a petition will be considered a party only if they have taken a position on the merits (not just “for” or “against”). ~~The City may designate a representative for persons whose participation consists only of signing a petition.~~

Prefabricated structure means a prefabricated structure, as defined in ORS 455.010, that is relocatable, more than eight and one-half feet wide and designed for use as a single-unit dwelling-unit.

Primary Use. See “Use, primary”.

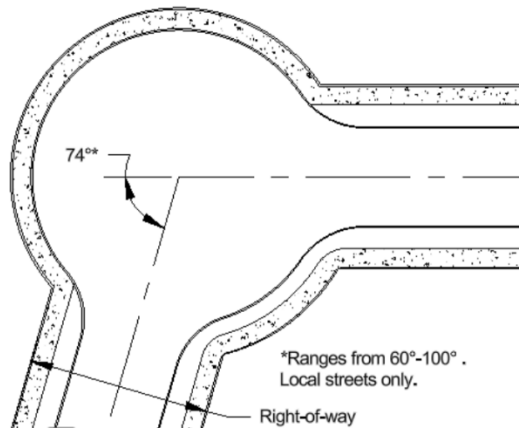
Recreational facilities, public means a ~~publicly owned~~ facility, land, or improvements designated for leisure and recreational activities, open to the general public, with or without payment of fees. This includes facilities owned and operated by a homeowner association for use by residents of a residential development.

Replat means the act of platting lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision. See BDC 4.3.500, Minor and Major Replats.

Review Authority means the Community and Economic Development Director, Planning Commission, Hearings Officer, or City Council of the City of Bend. See BDC 4.1.275, Review Authority.

Review period means a specific timeline a development review process is governed by as outlined in the Oregon Revised Statutes (ORS). See BDC 4.1.413, Final Action in Type II, III, and III-CC Applications.

Street knuckle means the area where two local streets meet in termination and the angle of deflection between the two centerlines of the streets range from 60 to 100 degrees.



T-court means a paved accessway to dwelling units. See BDC 3.8.400(C), T-Courts.

Trash receptacle means a trash can, cart, bin, container, drop box or other vessel into which solid waste, recyclable materials, yard debris, compostable material, and similar items may be placed for such disposal.

Vertical construction means building the above-ground components of a structure, like walls, columns, habitable floor area, roofs, and exterior finishes.

Chapter 2.1

RESIDENTIAL DISTRICTS (UAR, RL, RS, RM-10, RM AND RH)

2.1.300 Setbacks.

C. Front Setbacks.

1. **RL and UAR Districts.** The minimum front setback is 20 feet.

- a. **Exception.** On lots with multiple frontages ~~within a platted land division~~, the 20-foot front setback must be applied to one of the frontages and the other frontages may be 10 feet; provided, that a garage and/or carport with a street access is set back a minimum of 20 feet.

D. Rear Setbacks.

1. **RL and UAR Districts.** The minimum rear setback is ~~20~~ 10 feet.

~~Exception. In the RL Zone on corner lots within a platted subdivision, the minimum rear setback is 10 feet.~~

Table 2.1.300 – Typical Residential District Setbacks

	Front	Rear	Side
UAR	10 ft./20 ft.	20 <u>10</u> ft.	10 ft.
RL	10 ft./20 ft.	10 ft./ 20 ft.	10 ft.
RS	10 ft., except garages and/or carports must be set back 20 ft.	5 ft.*	5 ft.*
RM-10, RM and RH	10 ft., except garages and/or carports must be set back 20 ft.	5 ft.*	5 ft.*

*When multi-unit residential, single-room occupancies with more than six units or nonresidential uses abut one or more dwelling units in the RL or RS District, the setback abutting the RL or RS District must increase one-

half foot for each foot by which the building height exceeds 20 feet. Where a fractional number results, the number may be rounded down to the nearest whole number.

F. Additional Setback Requirements.

8. Solar Setback Standards. Solar setback standards apply to all structures on RS and RM zoned lots, 5,000 square feet or greater, with a minimum north-south lot dimension of 80 feet. See BDC 3.5.400(C), Solar Setback Standards.

2.1.500 Lot Area and Dimensions.

Lot areas and lot dimension standards for residential uses are listed in Table 2.1.500. For other residential uses listed in Table 2.1.200, the lot area and dimensions are subject to the type of residential structure being occupied. Lot development must be in conformance with BDC 2.1.600, Residential Density. Lot area and dimensions exceptions for affordable housing, see BDC 3.6.200(C).

Table 2.1.500. Lot Areas and Dimensions in the Residential Districts by Housing Type and Zone

Residential Use	Zone	Minimum Lot Area	Minimum Lot Width/Depth	Exceptions
Single-Unit Detached Dwelling; Manufactured Homes on Lots (See BDC 3.6.200(E)); Residential Care Homes and Facilities (See BDC 3.6.200(J))	UAR	10 acres	Width: 300 ft. min. average lot width with a min. street frontage of 150 ft.	No exceptions permitted
	RL	10,000 sq. ft.	Width: 50 ft. at front property line Depth: 100 ft.	Bulb of a cul-de-sac <u>and</u> <u>street knuckle</u> minimum width: 30 ft. min. at the front property line except for townhomes and flag lots
	RS RM-10	4,000 sq. ft.	Width: 40 ft. at front property line Depth: 50 ft.	
	RM	2,500 sq. ft.	Width: 30 ft. at the front property line Depth: 50 ft.	Except for townhomes, corner lots or parcels must be at least five feet more in width than the minimum lot width required in the zone
	RH	Not applicable	Not applicable	
	UAR	Not applicable	Not applicable	Lots or parcels existing prior to November 5, 2021, that are less than 2,500 square

Duplex, Triplex, and Quadplex. See BDC 3.6.200(H)	RL	Duplex: 10,000 sq. ft. Triplex: 10,000 sq. ft. Quadplex: 10,000 sq. ft.	Width: 50 ft. at front property line Depth: 100 ft.	feet in the RH Zone may have a triplex or a quadplex Development alternatives: see BDC Chapter 3.8
	RS RM-10	Duplex: 4,000 sq. ft. Triplex: 4,000 sq. ft. Quadplex: 4,000 sq. ft.	Width: 40 ft. at front property line Depth: 50 ft.	
	RM	Duplex: 2,500 sq. ft. Triplex: 4,000 sq. ft. Quadplex: 4,000 sq. ft.	Width: 30 ft. at the front property line Depth: 50 ft.	
	RH	Duplex: 1,250 sq. ft. Triplex: 2,500 sq. ft. Quadplex: 2,500 sq. ft.		
Single-Room Occupancy See BDC 3.6.200(O)	UAR	Not applicable	Not applicable	
	RL	10,000 sq. ft.	Width: 50 ft. at front property line Depth: 100 ft.	
	RS RM-10	4,000 sq. ft.	Width: 40 ft. at front property line Depth: 50 ft.	
	RM	4,000 sq. ft.	Width: 30 ft. at front property line	
	RH	2,500 sq. ft.	Depth: 50 ft.	
Townhomes See BDC 3.6.200(D)	UAR	Not applicable	Not applicable	
	RL, RS, RM-10, RM	Average minimum lot or parcel size: 1,500 sq. ft. for each unit	Width: 20 ft. at front property Depth: 50 ft.	
	RH	Average minimum lot or parcel size: 1,200 sq. ft. for each unit		
	UAR	Not applicable	Not applicable	

Multi-Unit Dwelling (more than 4 units)	RL*, RS*, RM-10	4,000 sq. ft. for each unit	Width: 30 ft. at front property line Depth: 50 ft.	
	RM, RH	None		

* When permitted as part of a master plan subject to BDC Chapter 4.5, Master Plans.

2.1.900 Architectural Design Standards.

C. **Standards.** All buildings that are subject to this section ~~shall~~ must comply with all of the following standards. The graphics provided with each standard are intended to show examples of how to comply. Other building styles and designs can be used to comply, so long as they are consistent with the text of this section. An architectural feature (i.e., as shown in the graphics) may be used to comply with more than one standard.

1. **Building Form.** All buildings ~~shall~~ must incorporate design features such as offsets, balconies, projections, window reveals, or similar elements to preclude large expanses of uninterrupted building surfaces, as shown in the figure below. ~~Along the vertical face of a structure, such features shall occur at a minimum of every 40 feet, on each floor, and shall contain at least two of the following features~~ Building elevations that are 40 feet or more in length must provide at least two of the following features along that facade of the structure on each floor, with at least one feature occurring every 40 feet:

- a. Recess (e.g., deck, patio, courtyard, entrance or similar feature) that has a minimum depth of six feet;
- b. Extension (e.g., floor area, deck, patio, entrance, or similar feature) that projects a minimum of two feet and runs horizontally for a minimum length of four feet; and/or
- c. Offsets or breaks in roof elevation of two feet or greater in height.

3. **Detailed Design.** All buildings ~~shall~~ must provide detailed design along all elevations which are visible from the street(s) adjacent to the property (i.e., front, rear and sides). There are two options for complying with this requirement.

- b. Design Review Option (Type II). Detailed design ~~shall~~ must be provided by showing compliance with the following design criteria through a Type II application and review per BDC 4.1.400, Type II, ~~and~~ Type III Applications.
- i. The general size, shape, and scale of the structure(s) are architecturally compatible with the site and with the surrounding neighborhood, unless such compatibility with existing structures does not reflect the long-term purpose or intent of the underlying zoning of the subject site.
 - ii. If the project includes a large structure or structures (greater than 20,000 square feet), the design ~~shall~~ must incorporate changes in direction and divide large masses into varying heights and sizes by breaking up building sections, or by the use of such elements as variable planes, projections, bays, dormers, setbacks, canopies, awnings, parapets, changes in the roofline, materials, color, or textures.
 - iii. ~~Exterior finish on vertical surfaces shall must be primarily of materials such as masonry/wood siding, shingles, fiber cement, or stucco. The use of sheet metal or plywood shall must not exceed 50 percent of the wall area. No s~~Smooth-faced cinder block construction ~~shall be~~ is not permitted on front facades. Cinder block construction for side and rear facades shall be ~~is~~ permitted by approval as part of this review process. **(Amended by the Planning Commission on September 22, 2025)**

2.1.1000 Multi-Unit Residential (RM, RH).

- B. Development Standards for Multi-Unit Developments in the RM and RH Districts.** In addition to the site development standards in BDC Chapter 4.2, the following standards apply to multi-unit developments of five units or more and single-room occupancies with more than six units, unless otherwise stated:

- ~~3. **Trash Receptacles.** Trash receptacles must not be located within setbacks for property lines shared with single-unit detached and attached dwellings and must be screened on at least three sides with an evergreen hedge or solid fence or wall of not less than six feet in height. Receptacles must be located~~

for easy access by trash pick-up vehicles. (*Relocated to BDC 2.1.1100, Other Design Standards and revised.*)

2.1.1100 Other Design Standards.

- C. Garage and carports must be accessed from abutting alleys in compliance with—See BDC 3.1.200(E), Lot and Parcel Access, and BDC 3.1.400(F), Access Management Requirements.

- E. Front Door Orientation Standards.

2. **Standards.** The following front door orientation standards are required for lots and parcels with frontage onto a street. For purposes of this section, a “street” also means a tract for mid-block developments and T-courts. For duplexes, triplexes and quadplexes, this standard is only required to be met for one of the dwelling units. For townhome units, this standard only applies to the interior units. For single room occupancies, this standard is only required to be met for one entrance. The front door entrance must either:
- a. Face the street;
 - b. Be at an angle of up to 45 degrees from the street;
 - c. Face a common open space that abuts the street and is abutted by dwellings on at least two sides; or
 - d. Open onto a porch. The porch must:
 - i. ~~be~~ Be at least 20 square feet in area; and
 - ii. ~~have~~ Have at least one entrance facing the street or have a roof. A covered walkway or breezeway is not a porch.

(Clarify the requirement from HB 2001 Model Code)

F. *Secondary Kitchen.* The following provides regulations for a second kitchen within a dwelling unit without creating a new dwelling unit:

1. The second kitchen may be in a portion of a dwelling unit only if internal access between the second kitchen and the ~~main dwelling~~ rest of the unit's livable space is maintained within the ~~main~~ same dwelling unit. ***(Clarify that a second kitchen can be part of any dwelling unit on-site.)***
2. The second kitchen cannot be in a detached accessory structure.
3. The second kitchen must comply with current building code requirements.
4. A second kitchen may only be installed within a dwelling unit if the property owner signs and records a use compliance covenant, in a form approved by the City, acknowledging that the structure will remain a single-unit dwelling and that the second kitchen ~~is not part of~~ does not create an additional dwelling unit without obtaining a building permit for the creation of the additional dwelling unit.

G. Overhead doors eight feet or wider are permitted to provide access to garages and enclosed livable space. All other overhead doors must be less than eight feet in width. ***(Amendments help clarify the difference between a storage room that is not intended for vehicle parking and a garage to help with setback and vehicle access requirements.)***

H. Multi-unit residential, single-room occupancy with more than six units and all nonresidential uses must screen outdoor and rooftop mechanical equipment, as well as trash receptacles, from view from the rights-of-way.

Chapter 2.2

COMMERCIAL ZONING DISTRICTS (CB, CC, CL, CG)

2.2.300 Permitted and Conditional Uses.

The land uses listed in Table 2.2.300 are allowed in the Commercial Districts, subject to the provisions of this code. Uses that are listed in Table 2.2.300 and land uses that are similar are permitted or conditionally allowed.

The land uses identified with a “C” in Table 2.2.300 require Conditional Use Permit approval prior to development, in accordance with BDC Chapter 4.4.

Table 2.2.300 – Permitted and Conditional Uses

(Other uses in Table remain unchanged)

Land Use	CB	*CC	CL	CG
Residential				
*Conversion From Commercial to Residential Uses <i>(Added by the Planning Commission on September 22, 2025)</i>	<u>See BDC 3.6.200(C)</u>			
Commercial				
Retail Sales and Service (non-automobile dependent/oriented)	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
building footprint less than 50,000 square feet	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
building footprint greater than 50,000 square feet	<u>P</u>	<u>C</u> <i>(Conditional Use should be use related and not design related)</i>	<u>P</u>	<u>P</u>
* Medical Marijuana Dispensary and Marijuana Retailer	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
building footprint 50,000 square feet or less	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
building footprint greater than 50,000 square feet	<u>P</u>	<u>C</u> <i>(Conditional Use should be use related and not design related)</i>	<u>P</u>	<u>P</u>

Key to Permitted Uses

P = Permitted

N = Not Permitted

C = Conditional Use

*Special standards for certain uses subject to BDC Chapter 3.6.

2.2.400 Development Standards.

The following table provides the general numerical development standards within the Commercial Districts. Additional standards are contained in subsections (A), and (B) and ~~(C)~~ of this section.

Table 2.2.400. Commercial Zoning District Development Standards

(Other standards in Table remain unchanged)

STANDARD	CB	CC	CL	CG
Maximum Building Footprint, see note (2) below	None	50,000 sq. ft.	None	None

1 Subject to the special setback standards of BDC Chapter 3.4 and the site layout and building orientation standards of BDC 2.2.500.

~~**2** See subsection (C) of this section.~~

~~C. **Convenience Commercial Development Standards.** The purpose of this subsection is to provide special development standards for the development of new uses within the CC Zone. The zone is intended to provide locations for a wide range of small and medium-sized businesses and services as a convenience to surrounding residents. The CC Zone has the following limitation on uses:~~

~~1. **Maximum Building Size.** The maximum building size is 50,000 square feet per building, unless a larger area is approved through a conditional use permit. *(Deleted references to this section in Table 2.2.400, Commercial Zoning District Development Standards)*~~

2.2.600 Commercial Design Review Standards.

C. For developments subject to site plan or design review, the following standards must be met. A design feature used to comply with one standard may be used to comply with another standard.

2. Commercial Design Review. The following standards apply to all commercial and mixed-use buildings:

- c. The predominant building materials should be characteristic of Central Oregon such as brick, wood, native stone, fiber cement and tinted/textured concrete masonry units and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or prefabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building.

- h. Exterior lighting must comply with the outdoor lighting provisions of BDC 3.5.200. Light poles and/or fixtures ~~and flag poles~~ must not exceed 25 feet in height. ***(Allows the corresponding zone's height regulations apply to flag poles.)***
- i. Outdoor and rooftop mechanical equipment as well as trash ~~cans/dumpsters~~ receptacles must be ~~architecturally~~ screened from view from the abutting public rights-of-way. Heating, ventilation and air conditioning units must have a noise attenuating barrier to protect ~~adjacent~~ abutting residential districts from mechanical noise.

Chapter 2.3

MIXED-USE ZONING DISTRICTS (ME, MR, PO, MU AND MN)

2.3.200 Permitted and Conditional Uses.

Table 2.3.200. Permitted and Conditional Uses

(Other uses in Table remain unchanged)

Land Use	ME	MR	PO	MU	MN
Residential					
*Conversion From Commercial to Residential Uses <i>(Added by the Planning Commission on September 22, 2025)</i>	<u>See BDC 3.6.200(C)</u>				
Commercial					
Veterinary clinic (small animal)	P	N	N	N	N
Veterinary clinic (large animal)	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>

2.3.300 Development Standards.

A. **Setbacks.** Building setback standards provide building separation for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation. Building setbacks are measured from the building footprint to the respective property line. The setback standards outlined in Table 2.3.300 apply to all new buildings and any building expansion, including primary structures and accessory structures.

D. Other Requirements.

- Outdoor and rooftop mechanical equipment as well as trash cans/dumpsters receptacles ~~shall~~ must be architecturally screened from view from the abutting public rights-of-way. Heating, ventilation and air

conditioning units ~~shall~~ must have a noise attenuating barrier to protect adjacent ~~adjacent~~ abutting Residential Districts from mechanical noise.

2.3.400 Site Layout and Building Orientation.

In addition to the site layout and building orientation standards of BDC 2.2.500, all of the following standards ~~shall~~ apply to new and expanded development within the Mixed-Use Districts, unless otherwise specified in this code, ~~in order~~ to reinforce streets as public spaces and encourage alternative modes of transportation, such as walking, bicycling and transit.

A. *Walkway Connections.* ~~Walkways may be installed in setbacks as necessary to provide direct and convenient pedestrian circulation between developments and neighborhoods. On-site W~~walkways shall ~~shall~~ must conform to the standards in BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.

B. *Parking.*

1. In the MU and MN Zones, parking and maneuvering areas ~~shall be~~ are prohibited between the street(s) and the building.
2. In the ME and PO Zones, parking and maneuvering areas are prohibited between the street(s) and the building when on-street parking is allowed on the street fronting the development property. Parking ~~shall~~ must be provided in conformance with BDC Chapter 3.3.

2.3.500 Architectural Standards.

A. ~~All d~~Developments in the Mixed-Use Districts are subject to commercial design review, BDC 2.2.600, or BDC 2.1.900, Architectural Design Standards, for multi-unit residential uses, as applicable, and shall ~~and~~ must be reviewed for conformance with the standards in this section unless otherwise specified in this code.

- A.1.** In the MU and MN Districts, building facades that are oriented to the street and are within the maximum front setback standard under BDC 2.3.300 (referred to as “street walls”) ~~shall~~ must be designed to provide visual interest for pedestrians as follows:

4a. Ground-floor windows must be installed for at least 50 percent of the length of the street wall and have an area equal to 60 percent of the ground-floor wall area of the street wall. Ground-floor wall area includes all wall areas up to 10 feet above finished grade. Windows are required to be transparent to foster both a physical and visual connection between activities in the building and pedestrian activities on the street.

2b. Weather protection ~~shall~~ must be provided along 50 percent of the street wall and at all street-facing entrances. Weather protection projections may include but are not limited to awnings, marquees, balconies, overhangs, or building appendages. Weather projections are required to extend five feet over the sidewalk ~~in order~~ to meet this standard and must not obstruct or prevent the placement of street trees, tree canopies or other improvements within the public right-of-way.

B. Exceptions to Architectural Standards.

1. Triplexes, quadplexes, townhomes and single-room occupancies with six or fewer units must comply with BDC 2.1.950, Design Standards (Triplex, Quadplex, Townhome, and Single-Room Occupancy) and BDC 2.1.1000(E), Front Door Orientation Standards.
2. Multi-unit residential and single-room occupancies with more than six units must comply with BDC 2.1.900, Architectural Design Standards.

2.3.600 Special Development Standards for the MR Zone.

~~A. *Development Plans Required.* The Mixed-Use Riverfront Zone shall only be applied to the area designated Mixed Riverfront on the Bend Comprehensive Plan Map. Before development of properties can occur in the MR Zone, a Facilities Plan shall be reviewed for conformance with this chapter. Before development of properties, other than property described in subsection (C)(4) of this section, can occur in the MR Zone, a Master Development Plan and a Facilities Plan must be approved.~~

- ~~1. The Facilities Plan shall be reviewed through a Type II procedure.~~
- ~~2. The Master Development Plan shall be reviewed by the Planning Commission through a Type III procedure.~~

B. Facilities Plan. Prior to or concurrent with submitting a Master Development Plan, a Facilities Plan that shows how the area will be served by roads and utilities shall be reviewed by the City through the Type II procedure.

1. Due to the size and physical variations of the MR Zone area, the Facilities Plans shall be prepared for three sub-areas:

a. West of the river and north of Colorado Avenue.

b. West of the river and south of Colorado Avenue.

c. East of the river.

2. The Facilities Plan shall, at a minimum, include:

a. A map of existing and planned water and sewer facilities to serve the sub-area including line sizes, general location or routes, and how the lines will tie in with areas adjacent to the MR Zone.

b. A map of existing and planned collector and arterial streets adjacent to the sub-area and of the general route of planned collector, arterial, and major local streets through the sub-area and where the streets will connect with the existing collector or arterial street system.

c. Such other utility or transportation information as the City may determine is necessary.

d. The function and location of any private utility systems.

e. A written narrative that explains or describes how the Facilities Plan meets the following approval criteria:

i. The proposed water, sewer, and street system will be adequate to serve the type and size of development planned for the area;

ii. The location and sizing of facilities on-site will be consistent with the existing and planned utilities; and

iii. Adequate water flow volumes will be provided to meet fire flow and domestic demands.

~~3. The Facilities Plan shall be approved by the Review Authority if it is determined to be consistent with the criteria in subsection (B)(2)(e) of this section, and with the City's Sewer and Water Public Facility Plans and Transportation System Plan.~~

~~C. MR Zone Master Development Plan. The minimum acreage for an MR Zone Master Development Plan is 10 acres unless specifically exempted as described in subsection (C)(4) of this section. The MR Zone Master Development Plan shall include information that meets the requirements of subsections (C)(1) and (2) of this section.~~

~~1. The MR Zone Master Development Plan shall include a plan view drawing with dimensions that show the following elements and how they fit together as a functional design:~~

- ~~a. Building envelope;~~
- ~~b. Parking area location, size and access;~~
- ~~c. Access points to local streets and major street network;~~
- ~~d. Pedestrian/bicycle corridors;~~
- ~~e. Landscape areas;~~
- ~~f. Other open space and common areas;~~
- ~~g. The expected uses to be developed and approximate square footage of building area in each category;~~
- ~~h. Any private development covenants, conditions or restrictions that will be recorded with the property; and~~
- ~~i. Any other information the City may require.~~

~~2. The MR Zone Master Development Plan shall demonstrate that the proposal satisfies the following approval criteria:~~

- ~~a. Creation of a stimulating and attractive mixed-use environment through the use and inter-relationship of open spaces, building locations, building scale and design, and pedestrian amenities;~~

- ~~b. Providing pedestrian access and movement to and through the site in a manner that maximizes foot traffic exposure to goods and services and minimizes conflicts with vehicle circulation areas;~~
- ~~c. Encouraging access to and enjoyment of the Deschutes River;~~
- ~~d. Providing for traffic and service vehicle circulation between on-site uses as appropriate;~~
- ~~e. Maintaining and improving the aesthetic and location advantages provided by the terrain and natural features of the site and minimizing alteration thereof as much as practicable;~~
- ~~f. Reducing to a minimum any negative impacts of proposed uses on adjacent properties and ensuring the livability of residential areas when applicable;~~
- ~~g. How the types and levels of uses are consistent with the planned function, capacity and level of service of transportation facilities.~~

~~3. Upon approval of an MR Zone Master Development Plan, all subsequent building and site development must comply with the approved MR Zone Master Development Plan and the standards and conditions in this section. Minor alterations to an approved MR Zone Master Development Plan may be processed as a Type II application using the standards in this section. A minor alteration to a master plan may include adjustments to local street and pedestrian corridor alignments, alterations to site design guidelines, changes to lot configurations, and the relocation of plazas and open space within the master plan area provided the approved MR Zone Master Development Plan concept is not compromised.~~

~~4. Exemptions.~~

- ~~a. Properties less than 10 acres in size that are not a part of a previously approved and valid MR Zone Master Development Plan and cannot practicably be combined with surrounding properties in the MR Zone may apply independently for an MR Zone Master Development Plan in accordance with this subsection (C); and~~
- ~~b. As an alternative to subsection (C)(4)(a) of this section, properties that were less than 10 acres in size on or before August 4, 1995, and that are not part of a previously approved and valid Master Development Plan may develop after obtaining Site Plan and Design Review approval from the Planning Commission after demonstrating compliance with BDC Chapter 4.2, Site Plan Review and Design Review, BDC 2.2.600, Commercial Design Review Standards, and BDC Chapter 3.3,~~

~~Vehicle Parking, Loading and Bicycle Parking. The Commission shall use the master planning and design objectives set forth in subsection (C)(2) of this section to the extent applicable to the subject property. When determining compliance with BDC Chapter 4.2, BDC 2.2.600 applies even if BDC 2.2.600, by its express terms, would not otherwise apply to such an application.~~

~~Any proposed development that is on property within 100 feet of the ordinary high water mark of the Deschutes River is also subject to the design review standards in BDC 2.7.600, Waterway Overlay Zone (WOZ).~~

~~D. *Building and Site Development Standards.* In addition to the Master Development Plan approval above, the development of individual buildings and related areas shall comply with the following standards:~~

~~1. *Deschutes River Corridor Design Review.* Property within 100 feet of the ordinary water mark of the Deschutes River shall comply with BDC 2.7.600, Waterway Overlay Zone (WOZ).~~

~~2. *Building Design.* Buildings and structures shall have architectural elements and features which are in scale with each other. The colors and exterior material of buildings within the Master Development Plan shall be compatible. Buildings housing retail uses shall provide ample window area oriented toward pedestrian walkways or plazas.~~

~~3. *Landscaping and Open Space.* The design and development of landscaping and open space shall:~~

~~a. Retain and conserve riparian vegetation within the bed and banks of the Deschutes River and adjacent to the river to the maximum extent practicable. There shall be no net loss of natural wetlands adjacent to the river.~~

~~b. Emphasize the use of native trees, shrubs, or other plants adapted for survival and growth in the high desert life zone.~~

~~c. Include street trees and parking area trees which are in scale with the development.~~

~~d. Provide a cohesive open space and pedestrian network within the development, with appropriate connections to surrounding properties and uses.~~

~~e. Provide pleasing transitions between uses, soften and buffer utility and loading areas, and provide pleasing textures and variety particularly next to buildings, along walkways, and within pedestrian plazas.~~

- f. ~~Include open spaces and plazas which are in scale with the development and invite activity appropriate to adjoining uses.~~
4. ~~*Operations within Buildings.* For industrial and commercial uses all manufacturing, processing, assembling, packaging, repairing, and storing of equipment, materials and supplies shall occur within enclosed buildings. Exceptions to this requirement may be allowed as necessary to comply with State and local safety regulations.~~
5. ~~*Refuse Collection and Recycling.* Refuse collection and recycling areas for businesses shall be enclosed with a fence, wall or structure high enough to screen all collection bins.~~
6. ~~*Outside Mechanical Equipment.* Industrial or commercial heating, ventilation, air conditioning, or other mechanical equipment on rooftops or ground shall be screened with a material and design that is visually compatible with the building.~~
7. ~~*Drainage.* All drainage from buildings, parking/loading areas, and other impervious surfaces shall be retained on the development site or directed to a drainage facility as part of an overall drainage master plan using dry wells or other City-approved method such as landscaping, retention basin, swale, or similar bio-filtration systems that are not directly connected to a surface stream or canal.~~
8. ~~*Parking.* Motor vehicle and bicycle parking shall comply with the standards in BDC Chapter 3.3. The following exceptions to the parking standards may be allowed as part of the approved Master Development Plan:~~
- ~~•The use of parking areas away or separated from the building or uses; and~~
 - ~~•Parallel parking on collector streets if bicycle lanes and adequate vehicle lanes are provided.~~
9. ~~*Utilities.* Electric power, natural gas, telephone and cable lines shall be installed underground.~~
10. ~~*Industrial Air Emissions.* There shall be no emission of odorous, toxic, noxious matter, or dust in such quantities from industrial operations as to produce a public nuisance or hazard.~~
11. ~~*Local Streets.* Local streets approved as part of the Master Development Plan may be public or private streets. If private streets are proposed as part of a Master Development Plan, they shall comply with the standards for private streets found in BDC Chapter 3.4.~~

(BDC 2.3.600 Special Development Standards for the MR Zone pre-dates the current Master Plan standards and these standards are not required for any other zoning district in the city. These were relevant when the Old Mill District was first developing, and prior to the current requirements for a Sewer and Water analysis and transportation impact analysis. There is no current reason to retain these standards.)

Chapter 2.4

INDUSTRIAL ZONING DISTRICTS (IG, IL)

2.4.300 Permitted and Conditional Uses.

Table 2.4.300 – Permitted and Conditional Uses

(Other uses in Table remain unchanged)

Land Use	IG	IL
Commercial		
Small-scale personal and professional services uses and incidental sales. See BDC 2.4.800(A).	P	P
• up to 2,500 square feet of gross floor area (e.g., coffee shop/deli, dry cleaners, barber shops and salons, copy center, banks, and financial institutions and similar uses)*	C	C
* No limit to size (e.g., child care facility and similar uses)*. See BDC 2.4.800(B)	C	C
Medical marijuana dispensary and marijuana recreational retailer <i>(Relocated from 2.4.800(D), Prohibited Uses)</i>	N	N

Key to Districts:

Key to Permitted Uses

IG = General Industrial District

P = Permitted

IL = Light Industrial District

N = Not Permitted

C = Conditional Use

*Special standards in conformance with BDC Chapter 3.6, Special Standards for Certain Uses, ~~and BDC 2.4.800, Special Development Standards.~~

2.4.400 Setbacks.

Setbacks provide separation between industrial and nonindustrial uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation. All developments ~~shall~~ must meet applicable fire and building code standards, which may require greater setbacks than those listed in this section (e.g., for combustible materials, etc.).

A. Front Yard Setbacks.

1. **General Industrial District.** The minimum front yard setback is 10 feet.

2. **Light Industrial District.** The minimum front yard setback is 10 feet.

3. **Exceptions.**

a. Other special setbacks in conformance with BDC 3.4.200(J), Special Setbacks, may apply.

B. Rear Yard Setbacks. There is no required rear yard setback in the IG or IL Industrial Districts, ~~except when development is abutting a Residential Zone. In this situation, no building or structure shall be constructed less than 20 feet from the Residential District.~~ Portions of buildings or structures that exceed 35 feet in height shall be set back an additional one-half foot for each foot by which the building height exceeds 35 feet.

C. Side Yard Setbacks. There are no required side yard setbacks in the IG or IL Industrial Districts, ~~except when development is abutting a Residential Zone. In this situation, no building or structure shall be constructed less than 20 feet from the Residential District.~~ Portions of buildings or structures that exceed 35 feet in height shall be set back an additional one-half foot for each foot by which the building height exceeds 35 feet.

D. Additional Rear and Side Setbacks. A minimum width of 20 feet is required between industrial development and any abutting Residential Zoning District. The setback must provide landscaping to screen the industrial activities, such as parking, service and delivery areas, from the Residential Districts. The setback must not contain trash receptacles or be used for the storage of equipment, materials, vehicles, etc.

2.4.700 Orientation and Architectural Design Standards.

A. ***Industrial Development Orientation.*** All industrial developments shall must be oriented on the site to minimize off-site adverse impacts of noise, glare, smoke, dust, exhaust, vibration, etc., and protect the privacy of adjacent Nonindustrial Zones to the extent practicable. The following standards apply to all development in the Industrial Districts when abutting nonindustrial zoning districts.

1. Equipment Standard.

a. Mechanical equipment, lights, emissions, shipping/receiving areas, and other components of an industrial use that are outside of an enclosed building shall must be located away from abutting Residential Zones, schools, parks and other nonindustrial zoned areas as practicable;

b. Outdoor and rooftop mechanical equipment as well as trash receptacles must be screened from view from abutting public rights-of-way. Heating, ventilation and air conditioning units must have a noise attenuating barrier to protect abutting Residential Districts from mechanical noise.

2.4.800 Special Development Standards.

~~The Industrial Districts accommodate a range of manufacturing, industrial office uses, and small personal service commercial uses.~~

~~A. ***Small Scale Personal and Professional Services.*** Small scale personal and professional services and incidental sales uses as specified in Table 2.4.300 shall comply with the following development standards:~~

~~1. Small scale personal service commercial uses may be allowed when accessory to a primary user of the industrial development (in the case of a large industrial area). No more than 10 percent or 2,500~~

square feet (whichever is greater) of a permitted or conditionally allowed industrial development may be occupied by an accessory commercial use, unless otherwise approved through a Conditional Use Permit.

~~2. Primary use, small-scale personal and professional and incidental sale uses may occur as stand-alone businesses when the total gross floor area of each use does not exceed 2,500 square feet. For multiple uses, where the uses share one building, the total building area shall not exceed 5,000 square feet. A single use may occupy 5,000 square feet if approved through a Conditional Use Permit. These nonindustrial use buildings shall comply with the provisions of BDC 2.2.600, Commercial Design Review Standards.~~

A. Personal and Professional Service Uses and Incidental Sales. Personal and professional services and incidental sales as specified in Table 2.4.300 must comply with the following development standards:

1. Accessory Personal and Professional Service Uses and Incidental Sales. No more than 25 percent or 2,500 square feet (whichever is greater) of a permitted or conditionally allowed industrial development may be occupied by an accessory personal and professional service use. In no case can an accessory personal and professional service use exceed 50 percent of the square footage of a permitted or conditionally allowed industrial development.

2. Standalone Personal and Professional Service Uses and Incidental Sales.

a. Personal and professional service uses are permitted as a standalone use when the total area occupied by the use does not exceed 5,000 square feet. For multiple stand-alone personal and professional service uses on a site, the total area must not exceed 5,000 square feet, cumulatively.

b. Buildings associated with these nonindustrial uses must comply with the standards of BDC 2.2.600, Commercial Design Review Standards.

3. Incidental Sales. Accessory and standalone personal and professional service uses may include incidental sales.

4. Prohibited Uses. Drive-through facilities are not permitted as part of personal and professional service uses.

(The current code refers to use, building, or square footage when measuring and the amendments clarify it is the area where this “use” is occurring, whether in a building or not.)

~~B. **Location Standards.** Child care centers and other similar uses shall be limited to properties located at the perimeter of the Industrial Districts with frontage on arterial or collector streets, unless they are accessory to a primary permitted use. **Child Care Facilities.** When these uses a child care facility occurs as in a stand-alone building, the provisions standards of BDC 2.2.600, Commercial Design Review Standards, apply. *(Implements HB 3109)*~~

~~C. **Buffering.** A buffer with a minimum width of 20 feet is required between industrial development and any adjacent Residential Zoning District. The buffer shall provide landscaping to screen the industrial activities, such as parking, service and delivery areas, from the Residential Districts. The buffer shall not contain trash receptacles or be used for the storage of equipment, materials, vehicles, etc. *(Relocated to 2.4.400(D) Exceptions to Rear and Side Setbacks.)*~~

~~D. **Prohibited Uses.** Retail medical marijuana dispensaries and marijuana recreational facilities. *(Relocated to Table 2.4.300 – Permitted and Conditional Uses)*~~

Chapter 2.6

PUBLIC FACILITIES ZONING DISTRICT (PF)

2.6.300 Development Standards

A. Other Requirements.

3. Outdoor and rooftop mechanical equipment as well as trash receptacles must be screened from view from abutting public rights-of-way. Heating, ventilation and air conditioning units must have a noise attenuating barrier to protect abutting residential districts from mechanical noise.

Chapter 2.7

SPECIAL PLANNED DISTRICTS, REFINEMENT PLANS, AREA PLANS AND MASTER PLANS

Special Planned Districts, Refinement Plans, Area Plans and Master Plans describe in more detail the type of development planned for a specific area than is typically found in a Comprehensive Plan, ~~zone map~~ Bend Zoning Map, or public facilities plan. A Special Planned District, Refinement Plan or Area Plan may be initiated by the City Council at its own initiative in compliance with BDC Chapter 4.1, Development Review and Procedures, and BDC Chapter 4.6, Land Use District Map and Text Amendments and the Area Plan policies contained in BCP Chapter 11 (~~Type IV process~~), or at the request of property owners in compliance with BDC Chapter 4.5, Master Plans, and BDC Chapter 4.6, Land Use District Map and Text Amendments (~~Type III process~~).

Special Planned Districts, Refinement Plans, Area Plans and Master Plans adopted and effective before January 1, 2021, may allow a net residential density of at least eight dwelling units per acre.

Special Planned Districts, Refinement Plans, Area Plans and Master Plans adopted and effective before January 1, 2021, must allow a triplex, quadplex, townhome or cottage cluster development on lots or parcels developed with a single-unit detached dwelling or a duplex.

Article II. Northwest Crossing Overlay Zone.

2.7.300 Northwest Crossing Overlay Zone.

2.7.320 Districts.

H. Commercial/Mixed Employment Overlay District.

8. Site Plan Review. The provisions of BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, shall apply in the Commercial/Mixed Employment District, except ~~the provisions of BDC Chapter 4.2 pertaining to Commercial Design Review and BDC 2.2.600, Commercial Design Review Standards, shall do not apply in the Commercial/Mixed Employment District; provided, that West Bend Property Company maintains design review standards and process consistent with the May 2003 NorthWest Crossing Commercial Rules and Design Guidelines.~~

I. Industrial Employment Overlay District.

5. Lot Requirements. The following lot requirements shall must be observed:

h. Site Plan Review and Design Review. The provisions of BDC Chapter 4.2 , Minimum Development Standards Review, Site Plan Review and Design Review, shall apply in the Industrial Employment Overlay District, except ~~the provisions of BDC 4.2.3600, Design Review shall do not apply in the Industrial Employment Overlay District; provided, that West Bend Property Company maintains design review standards and process consistent with the May 2003 NorthWest Crossing Rules and Design Guidelines.~~

Article IV. Medical District Overlay Zone

2.7.510 Purpose and Applicability.

A. **Purpose.** The purpose of the Medical District Overlay Zone is to allow for the continuation and flexible expansion of the hospitals, medical clinics and associated uses in a planned and coordinated manner. Flexibility is essential to allow existing and future uses to respond and adapt to changes in technology, the medical profession, and society as a whole. The primary uses in the Medical District Overlay Zone are hospitals and other medical clinics and uses. Related uses may be located within the hospital or clinic

buildings or as independent uses within the overlay zone area. The overlay zone is intended to enhance the underlying zones of the Urban Medium Density Residential (RM) Zone, Urban High Density Residential (RH) Zone, and the Convenience Commercial (CC) Zone. The overlay zone standards will:

1. Strengthen the role currently played by the Medical District area around 27th Street and Neff Road as a regional center for healthcare and related services.
2. Provide flexibility within the underlying zones to allow medical uses.
3. Allow limited commercial/retail uses to supplement the Medical District.
4. Balance the need for residential development within the overlay zone to provide options for medical services development.

(No changes are proposed. Included for reference only to support the proposed change to permit hospitals in the Medium Density Residential (RM) Zone in Table 2.7.520, Permitted and Conditional Uses within the Medical Overlay Zone)

2.7.520 Permitted Land Uses.

- A. **Permitted Uses.** The land uses listed in Table 2.7.520 are permitted in each of the applicable districts, subject to the provisions of this chapter. Only land uses that are specifically listed in Table 2.7.520, and land uses that are approved as similar to those in Table 2.7.520, may be approved.
- B. **Determination of Similar Land Use.** Similar land use determinations shall ~~shall~~ must be made in conformance with the procedures in BDC 4.1.1400, Declaratory Ruling 4.10, **Interpretations and Determinations**.

Table 2.7.520 Permitted and Conditional Uses within the Medical District Overlay Zone

(Other uses in Table remain unchanged)

Land Use	RM	RH	CC
Public and Institutional			

Hospitals	N-P	P	P
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(Amendment adds hospitals as a permitted use in the Medium Density Residential (RM) Zone. This is consistent with the purpose statement in BDC 2.7.510(A), Purpose, which states the Medical District Overlay Zone is to allow for the continuation and flexible expansion of the hospitals, medical clinics and associated uses in a planned and coordinated manner. See BDC 2.7.510(A) Purpose (located above for reference) for further support.)

Article V. Waterway Overlay Zone (WOZ)

2.7.610 Purpose.

B. *Applicability.* Provisions of this section apply to all property within the boundaries of the WOZ as shown on the Bend Urban Area Zoning Map and consistent with WOZ boundary determination procedures of subsection (C) of this section. Many parcels within the WOZ are affected by more than one sub-zone. Where this is the case, applicable development standards for each sub-zone shall apply within that sub-zone's boundaries. Standards of this section shall apply in addition to applicable standards of the underlying zone. Where there are conflicts between sub-zone standards, the more restrictive standards shall control. The WOZ includes the following sub-zones which are included in this chapter as BDC 2.7.620 through 2.7.650:

D. Tree Removal.

1. ~~**Removal.**~~ Removal of ~~existing~~ trees greater than four inches DBH within the WOZ is prohibited, except as provided in BDC 4.1.600, Deschutes River Design Review Procedures as follows:
 - a. ~~Where necessary to accommodate an approved development activity; or~~
 - b. ~~Where the tree is determined by a qualified professional to be diseased or hazardous; or~~

~~c. Where necessary to mitigate potential fire hazard as determined by the Fire Code Official.~~

- ~~2. **Findings.** Tree removal under this subsection may be authorized by the Review Authority, based on findings demonstrating conformance with criteria in subsection (D)(1)(a), (D)(f1)(b), or (D)(1)(c) of this section. Where tree removal is proposed apart from an approved development activity, Review Authority may authorize removal as a development action. If no hazard will be created, a tree or snag requested for removal may be required to be left in place as wildlife habitat.~~

(Relocated to BDC 4.1.600, Deschutes River Design Review Procedures, and clarifies that removal of diseased or hazardous trees, or tree removal to mitigate a fire hazard can be authorized through a Type I application.)

E. Review Process.

- ~~1. **State Agency Coordination.** Within the WOZ, the State of Oregon has jurisdiction over certain development activities. In order to ensure coordination between the City of Bend and affected State agencies, notice of proposed activities within the WOZ will be provided to the Division of State Lands, the Oregon Department of Fish and Wildlife, the Oregon Parks and Recreation Department, and the Department of Environmental Quality, in accordance with provisions of BDC 4.1.245, Notice to Public Agencies. *(Relocated to BDC 4.1.600, Deschutes River Design Review Procedures)*~~

- ~~2. **Application Information.** In addition to application information required under BDC 4.1.220, Application Requirements, an application for a development or land use action within the WOZ shall include the following:~~

~~a. A detailed written explanation of the proposal, including the location, amount, and type (species) of any vegetation to be removed or planted, and any material to be graded, excavated, or filled.~~

~~b. An explanation of why any proposed grading, excavation, or fill of material and/or vegetation is necessary.~~

~~c. A site plan drawn to scale, accompanied by such drawings, sketches, photos, and descriptions as are necessary to describe and illustrate the proposed activity. The site plan must, at a minimum, include:~~

- ~~• Any proposed structures or impervious surfaces on the site;~~

- ~~Location of property lines, easements, existing and proposed structures;~~
- ~~Identification of existing vegetation on the site, indicating areas of native and nonnative plant species;~~
- ~~Any proposed modifications to existing vegetation;~~
- ~~Location of existing trees, the tree size (diameter at breast height), proposed tree status (trees to be removed or preserved) and location of the root protection zone of each tree proposed to be preserved.~~
- ~~A grading and drainage plan, showing existing and proposed site contours at two-foot intervals, or less;~~
- ~~All applicable WOZ sub-zone boundaries;~~
- ~~Location of the ordinary high water mark; and~~
- ~~Location of designated wetlands on or abutting the site; boundaries of designated wetlands shall be delineated using methods accepted by the Oregon Division of State Lands.~~

(Relocated to BDC 4.1.600(B), Submittal Requirements)

2.7.620 Riparian Corridor Sub-Zone

E. **Restoration Plan.** The Review Authority may require that a restoration plan be prepared by a qualified professional and submitted with an application for a development or land use action within the Riparian Corridor Sub-Zone. The Review Authority may require that the applicant post a performance bond in an amount sufficient to ensure fulfillment of an approved planting plan. A restoration plan ~~shall~~ must demonstrate conformance with criteria of subsection (D) of this section; ~~the plan shall~~ and include the following elements, in addition to those items required under BDC ~~2.7.640(E)(2)~~ 4.1.600(B), Submittal Requirements:

Article VI. Upland Areas of Special Interest Overlay Zone

2.7.700 Upland Areas of Special Interest Overlay Zone.

B. Applicability.

3. Exemptions. Activities exempt from this section include:

- a. The sale of property.
- b. Temporary emergency action necessary for the safety and protection of property or the public.
- c. Commercial forest practices regulated by the Oregon Forest Practices Act.
- d. The removal of noxious weeds and nonnative grasses (e.g., knap weed, toad flax or cheat grass) when practicable with minimal disturbance to the ASI.

C. ASI Review Process. For all activity subject to the Upland Area of Special Interest Overlay review, the following ~~shall apply~~ applies:

1. The ASI Review ~~shall will~~ be processed as a “~~Land Use Permit~~” as defined in ~~BDC Chapter 4.1, Development Review and Procedures-Type II Application~~, except as indicated below. When practicable, the ASI Review ~~shall will~~ be processed concurrently with other land use permits.

a. **Removal of Trees.** The following proposed tree removal activities are processed as a Type I application, unless elevated to a Type II application by the Community Development Director when there is a need to interpret or exercise policy or legal judgment. The Community Development Director’s decision to elevate a Type I application to a Type II application is not an appealable decision.

- i. Creation of fire fuel breaks in association with appropriate fire prevention authorities.
- ii. Where necessary to mitigate potential fire hazard as determined by the Fire Code Official.
- iii. Where the tree is determined by a qualified professional to be diseased or hazardous. If no hazard will be created, the tree or snag may be required to be left in place within the Upland Area of Special Interest to provide wildlife habitat.

D. Development Standards. The ASI Boundary is delineated by the outside edge of the boundary line shown on the Bend Comprehensive Plan Map and the City Zoning Map. No development as defined in this

chapter must occur within an Upland Area of Special Interest boundary unless expressly permitted by the provisions of this chapter.

The development standards apply to structures, fences, impervious surfaces including streets and driveways except where provided for in this section and landscaping as described in subsection (D)(5) of this section. In addition, no stockpiling of fill materials, parking or storage of equipment or personal property must be placed within an Upland Area of Special Interest.

4. **Removal of Vegetation.** Removal of existing vegetation from an Upland Area of Special Interest is prohibited, except as indicated below:

- ~~a. A tree in danger of falling and thereby posing a hazard to life or property may be removed, following an assessment evaluation from a Qualified Professional. If no hazard will be created, the tree or snag may be required to be left in place within the Upland Area of Special Interest to provide wildlife habitat.~~
- ~~b. Diseased or dying trees that may pose a threat to the health of surrounding vegetation as determined by a Qualified Professional.~~
- a. For the creation of fuel breaks in association with appropriate fire prevention authorities.
- b. Where necessary to mitigate potential fire hazard as determined by the Fire Code Official.
- c. Where the tree is determined by a qualified professional to be diseased or hazardous. If no hazard will be created, the tree or snag may be required to be left in place within the Upland Area of Special Interest to provide wildlife habitat.
- ~~e. The removal of noxious weeds and nonnative grasses (e.g., knap weed, toad flax or cheat grass) is encouraged when practicable with minimal disturbance to the ASI. **(Relocated as an exempt activity in 2.7.700(B)(3)(d))**~~

(Added by the City Council on November 5, 2025)

Article XI. Juniper Ridge Overlay Zone

2.7.2030 Employment Sub-District.

F. *Development Standards.*

Table 2.7.2030.C Development Standards

Maximum Building Height	65 feet
Minimum Front Setback <u>See BDC 2.7.2030(F)(5)</u>	10 feet
Maximum Front Setback on Primary Street Frontage <u>See BDC 2.7.2030(F)(5)</u>	30 feet
Minimum <u>Lot Width for the Primary</u> Street Frontage	50 feet
Minimum Side Setback	0 feet (30 feet when abutting a residential zone)
Minimum Rear Setback	0 feet (30 feet when abutting a residential zone)
Maximum Building Coverage	50 percent of total lot area

5. ~~Corner Lots and Through Lots~~ Setbacks.

a. **Maximum Front Setback Calculation for the Primary Frontage.** If there is one building on a site, at least 60 percent of the length of the building elevation facing the street that is subject to the maximum front setback standard must be at or within the maximum setback. If there are multiple buildings on the site, at least 60% of the length of the cumulative building elevations facing the street that is subject to the maximum setback standard must be at or within the maximum setback.

b. **Multiple Frontage Lots.**

i. **Minimum Front Setback.** For buildings on lots with more than one street frontage or through lots, the minimum front setback standards in Table 2.7.2030.C must be applied to all street frontages.

ii. **Maximum Front Setback on Primary Frontage.** For buildings on lots with more than one street frontage or through lots, ~~the maximum front setback standard must be applied~~ applies

to only one of the frontages. Where the abutting streets are of different classifications, the maximum setback standard must be applied to the higher classification of street.

(Amendments help clarify the setback requirements. They also provide consistency with the definition for Primary Frontage)

Article XIV. Bend Central District

2.7.3240 Design Standards.

A. Development in the BCD is subject to the following design standards. These standards are in addition to the regulations of BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, but replace design standards of the underlying zoning district and the standards in BDC 3.6.200(D), Townhomes, BDC 3.6.200(I), Residential Uses within Commercial Districts, BDC 2.3.400, Site Layout and Building Orientation and BDC 2.2.500, Site Layout and Building Orientation.

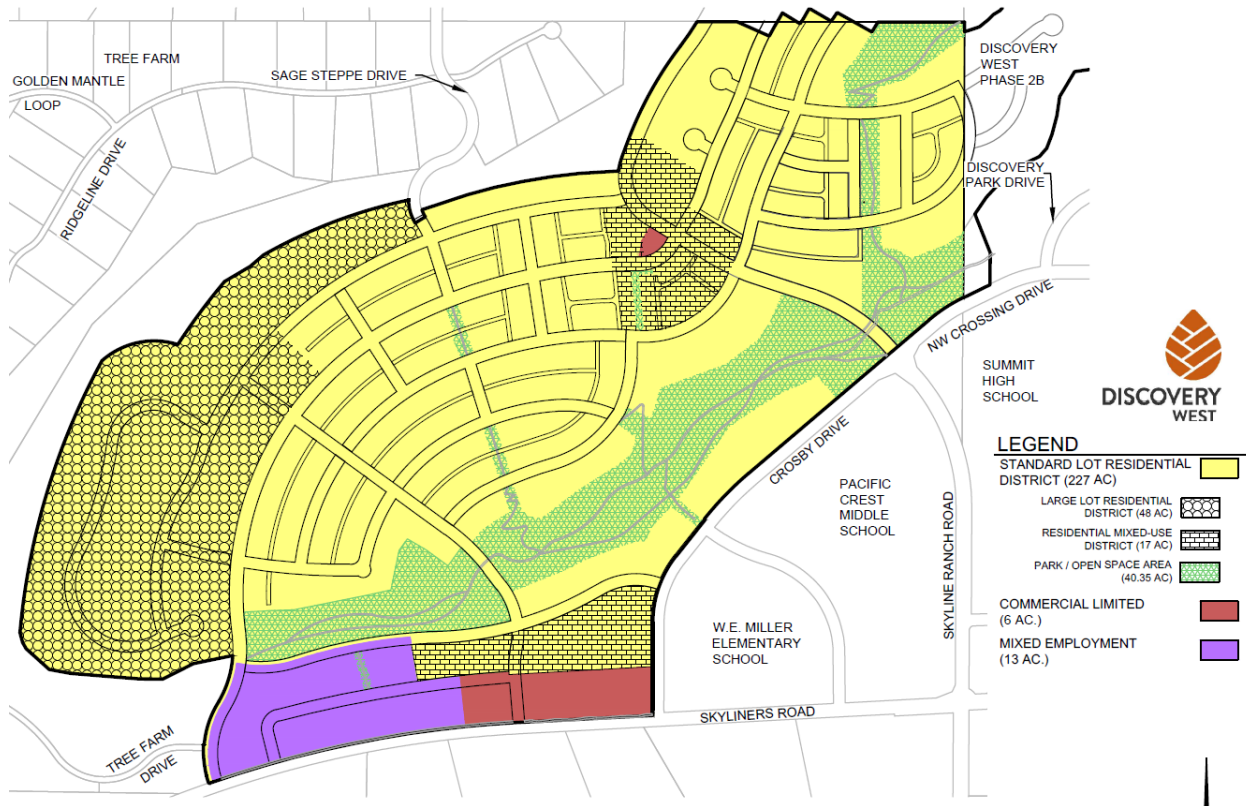
B. Exemption. ~~Exterior design alterations to existing buildings are exempt from the design standards in this section and from BDC 4.2.600, Design Review.~~ Exterior alterations to existing buildings are exempt from the design standards in this section and from BDC 4.2.600, Design Review, if the alterations result in no more than a 50 percent net reduction in ground floor transparency/glazing on the street facing facade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by subsection (A)(3) of this section. (Core Area Advisory Board [CAAB] Development Code Subcommittee held a work session on February 20, 2025, and supported removing design review requirements for existing building alterations. Amended by the Planning Commission on September 22, 2025)

Article XIX.

Discovery West Master Planned Development

2.7.3730 Districts.

Figure 2.7.3730. Districts



A. Large Lot Residential District.

- Purpose.** The purpose of the Large Lot Residential District is to implement the low-density residential lot component of the west side transect as identified in the Bend Comprehensive Plan. The increased setbacks in this district are intended to serve as greater buffers for wildlife passage and greater separation between structures for increased wildfire resilience.
- Density.** The Large Lot Residential District will accommodate approximately 50 single-unit detached dwelling and duplex lots. *(Not clear and objective)*

B. Standard Lot Residential District.

1. *Purpose.* The purpose of the Standard Lot Residential District is to allow higher density detached single-unit and duplex lots on smaller lots than otherwise permitted in the underlying Low-Density Residential Zone (RL) to offset the larger lots and lower density necessary for the Large Lot Residential District which implements the transect concept.
2. ~~*Density.* The Standard Lot Residential District is intended to accommodate approximately 400 detached single-unit and duplex residential lots. **(Not clear and objective)**~~

Article XXI. Petrosa Master Planned Development

2.7.3950 Residential Zoning Districts.

Table 2.7.3950 – Permitted and Conditional Uses

(Uses in Table remain unchanged)

	RS	RM	RH
*Public and Institutional			
Parks	P	P	P
Recreational Facilities	P	P	P
*** **Schools	P	P	P

*Subject to special standards as described in BDC Chapter 3.6, Special Standards and Regulations for Certain Uses.

~~**Subject to BDC 3.8.500. **(There is no ** in Table 2.7.3950)**~~

*** **Schools are permitted in the RS, RM, and RH Districts, subject to the provisions of BDC 2.6.300, Development Standards.

Chapter 2.8 Urbanizable Area District

2.8.100 Purpose and Applicability.

C. *Development Applications.*

1. **Area and Master Planning.** The City has the authority to process area plans under BDC Chapters 4.1, Development Review and Procedures, and 4.6, Land Use District Map and Text Amendments (~~Type IV process~~), and master plans under BDC Chapters 4.5, Master Plans, and 4.6, Land Use District Map and Text Amendments (~~Type III process~~), in the UA District prior to annexation. However, development of the property with the uses authorized by the area or master plan may only occur after annexation.
2. The City has the authority to process development applications for uses authorized in BDC Table 2.8.200, Permitted Land Uses, and for land divisions consistent with Table 2.8.300, Lot Area and Dimensions.

Chapter 3.1

LOT, PARCEL AND BLOCK DESIGN, ACCESS AND CIRCULATION

3.1.200 Lot, Parcel and Block Design.

C. *General Requirements for Lots and Parcels.*

1. Depth and width of new lots or parcels must meet the minimum standards where specified for the zoning district. ~~Where no minimum standards are specified, the depth and width must be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.~~ **(Not clear and objective)**

2. ~~On steep slopes, increased lot or parcel sizes may be required to avoid excessive cuts, fills and steep driveways.~~ **(Not clear and objective)**

3. ~~On tracts containing watercourses or rock outcroppings, increased lot or parcel sizes may be required to allow adequate room for development and protection of the topographic or natural feature.~~ **(Not clear and objective)**

4. 2. Each lot or parcel must abut ~~upon~~ a street other than an alley for the minimum width required for lots or parcels in the zone, except:
 - a. For lots or parcels fronting on the bulb of a cul-de-sac or street knuckle, the minimum frontage is 30 feet, except for townhomes;
 - b. For approved flag lots or parcels, the minimum frontage is 15 feet;
 - c. For townhomes and lots or parcels in zero lot line developments, the minimum frontage is 20 feet; ~~and~~
 - d. In zones where a minimum frontage width is not specified, the minimum frontage is 50 feet;
 - e. For lots or parcels created through a middle housing land division, see BDC 4.3.700, Expedited and Middle Housing Land Division; and
 - f. For lots or parcels approved in compliance with a development alternative in BDC Chapter 3.8, Development Alternative, see BDC Chapter 3.8.

5. 3. All side lot or parcel lines ~~shall~~ must be at right angles ~~to~~ from the street right-of-way lines or radial to curved streets ~~for at least one-half the lot or parcel depth wherever practical.~~ for at least half of the minimum lot depth of the corresponding zone, or 25 feet if not specified in the zone.
 - a. Exception: When the property line needs to jog around existing structures to meet setback requirements

b. Discretionary Track. If the applicant states in the written narrative they are electing to use a Type II discretionary track, then the applicant may request that the Review Authority make an exception to the requirement in subsection (3) of this section if the applicant can demonstrate that the property line needs to jog around sensitive lands.

(Revised to be clear and objective)

6- 4. Corner lots or parcels must be at least five feet more in width than the minimum lot width required in the zone, except for townhomes.

7- 5. All permanent utility service to new lots or parcels ~~shall~~ must be provided from underground facilities. The developer ~~shall be~~ is responsible for complying with requirements of this section, and ~~shall~~ must:

D. **Street Connectivity and Formation of Blocks.** To promote efficient multi-modal circulation along parallel and connecting streets throughout the City, developments must produce complete blocks bounded by a connecting network of streets, in accordance with the following standards:

~~3. New street connections to arterials and collectors are governed by BDC 3.1.400, Vehicular Access Management. (BDC 3.1.400 does not address this.)~~

4- 3. Except as otherwise provided in an approved Master Plan, private streets, where allowed by this code, must be constructed to public standards and must contain a public access easement along the length and width of the private facility.

3.1.300 Multi-Modal Access and Circulation.

B. **On-Site Pedestrian Facilities.** For all developments except single-unit detached, manufactured dwellings, accessory dwelling units, townhomes, duplexes, triplexes, quadplexes, and shared courts, pedestrian access and connectivity must meet the following standards:

1. Pedestrian ~~ways~~ facilities must:

- ~~a. Connect all building entrances within the development to one another.~~
- ~~b. Connect all parking areas including accessible parking spaces, transit stops, existing or planned pedestrian facilities in the abutting rights-of-way, storage areas, recreational facilities, common areas (as applicable), and abutting development to the building's entrances and exits.~~
- a. Connect all building entrances with:
 - i. Other onsite building entrances;
 - ii. Storage areas;
 - iii. Recreational facilities; and
 - iv. Common areas.
- b. Connect throughout the parking lot(s) at a minimum the following:
 - i. Building entrances;
 - ii. Existing or planned pedestrian facilities in the abutting rights-of-way;
 - ii. Transit stops; and
 - ii. Accessible parking spaces.
- c. Connect the primary entrance of each building to an abutting street. For commercial, industrial, mixed-use, public, and institutional building entrances, the **primary entrance** is the main public entrance to the building. In the case where no public entrance exists, connections must be provided to each employee entrance. For multi-unit dwellings, the primary entrance is the front door. For buildings in which each unit does not have its own exterior entrance, the primary entrance may be a lobby, courtyard or breezeway which serves as a common entrance for more than one dwelling.
- e-d. Extend throughout the development site, and connect to all future phases of development, abutting trails, public parks and open space areas ~~whenever possible~~ as described in subsection (C) of this section, Off-Site Multi-Modal Facilities. **(Not clear and objective)**

~~d e.~~ Connect or stub to an abutting streets and private property, in intervals no greater than the block perimeter standards.

~~e.~~ Provide pedestrian facilities within developments that are safe, accessible, reasonably direct and convenient connections between primary building entrances and all abutting streets, based on the following:

~~i.~~ *Convenient and Direct.* A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out of direction travel for users.

~~ii.~~ *Safe.* Bicycling and pedestrian routes that are free from hazards and safely designed by ensuring no hidden corners, sight-obscuring fences, dense vegetation or other unsafe conditions.

(Not clear and objective)

~~iii.~~ *Accessible.* All pedestrian access routes must comply with all applicable accessibility requirements. **(The building code will dictate this during the building permit review.)**

~~iv.~~ *Primary Entrance Connection.* A pedestrian access route must be constructed to connect the primary entrance of each building to the abutting streets. For commercial, industrial, mixed-use, public, and institutional building entrances, the **primary entrance** is the main public entrance to the building. In the case where no public entrance exists, connections must be provided to each employee entrance. For multi-unit dwellings, the primary entrance is the front door (i.e., oriented toward the street). For buildings in which each unit does not have its own exterior entrance, the primary entrance may be a lobby, courtyard or breezeway which serves as a common entrance for more than one dwelling and be accessible. **(Relocated to (B)(1)(c) above)**

C. Access Corridor Facilities.

3. Design Standards for Multi-Use Paths.

- e. Discretionary Track. When a multi-use path is not otherwise required, if the applicant may states in the written narrative they are electing to use a Type II discretionary track, ~~then the applicant may~~ and request that the Review Authority make a determination that a multi-use path can be constructed in place of a required sidewalk. The multi-use path may meander in between intersections. It must be located between four feet and 50 feet from the back of the curb to the edge of the path, and may be located more than 50 feet for up to 50 percent of the length.

3.1.400 Vehicular Access Management.

- B. **Applicability**. This section ~~shall apply~~ applies to vehicular access for all properties that abut public ~~and or~~ private streets.

- D. ~~**Traffic Study Requirements**~~. A transportation impact analysis (TIA) may be required under BDG Chapter 4.7, Transportation Analysis, for certain types and intensities of development proposals and to determine access restrictions of driveways onto arterial and collector roadways. ***(This subsection does not require anything on its own and only suggests that something else may be required if a project triggers another section of the code.)***

- F. **Access Management Requirements**. Access to the street and alley system must meet the following standards:

1. Lots and parcels in all zones ~~and all uses~~ can have one street or alley access point. Except as authorized in subsection (F)(4) of this section, lots or parcels with more than one existing access may be required to close ~~an~~ existing street access(es) in accordance with the following:
 - a. When a property has more than one permitted street access, the City Engineer will require all but one of the existing street accesses to be closed and replaced with curb, sidewalks/pathways, and

landscaping, in accordance with the provisions of this code and the City of Bend Standards and Specifications.

- b. The City Engineer will require a residential development to close ~~all an~~ existing street accesses if ~~they have~~ it has access to an alley and replace ~~it them~~ with curb, sidewalks/pathways, and landscaping in accordance with this code and the City of Bend Standards and Specifications, ~~with exception of the following unless:~~

- i. Access to an existing permanent garage structure would be removed, or-
- ii. ~~Removal of the access would make the site nonconforming by removing required parking~~
Removal of the street access would result in eliminating access to the only on-site parking for an existing dwelling unit.

(No longer have required parking minimums)

- iii. The applicant may state in the written narrative they are electing to use a Type II discretionary track and request that the Review Authority make a determination that ~~the~~ alley access is impractical.
- iv. ~~For Triplexes and quadplexes and cottage developments, see-~~ See subsection (F)(3)(b) of this section.

2. When street access is permitted and- if a lot or parcel has frontage on two or more streets of different street classifications, the property must access the street with the lowest classification.

- a. *Exception.* Where adjacent to two streets and one street is designated as a bicycle low stress route as shown in the Transportation System Plan Figure 5-1, Bicycle Low Stress Network, access

3. ***Alley Access.***

a. Single-Unit Detached Dwellings, Townhomes, Duplexes and Accessory Dwelling Units.

- i. ***Clear and Objective Track.*** For lots or parcels abutting an alley, access must be taken from the alley.

- ii. **Discretionary Track.** If the applicant states in the written narrative they are electing to use a Type II discretionary track, then the applicant may request that the Review Authority make a determination if access to the alley is impractical due to physical or topographical constraints or natural features.

b. Triplexes, Quadplexes and Cottage Developments.

i. Clear and Objective Track.

(A) For lots or parcels abutting an alley, access must be taken from the alley.

(B) In addition to alley access, triplexes, ~~and~~ quadplexes and cottage developments may have one street access permitted on a local street with a maximum 24-foot-wide driveway approach. Access to a street is not permitted when the local street includes a bicycle low stress route as shown in the Transportation System Plan Figure 5-1, Bicycle Low Stress Network.

(C) Where an alley provides the only access, the lot coverage may be increased by an additional 10 percent.

- ii. **Discretionary Track.** If the applicant states in the written narrative they are electing to use a Type II discretionary track, then the applicant may request the Review Authority to make a determination if access to the alley is impractical due to physical or topographical constraints or natural features.

4. Additional Access Points.

a. Single-unit detached dwellings and duplexes with no alley access may have an additional access point in compliance with the following:

- i. Corner lots or parcels at the intersection of two local streets may have one access point per frontage.
- ii. Lots or parcels on a local street that are not corner lots and have a frontage of 80 feet or wider may have two access points. The accesses must be separated by a minimum of 10 feet as measured between the edge of the approaches.

iii. Through lots with two frontages on local streets may have one access point per frontage.

6. **Access Operations Requirements.**

- a. Backing from an access onto a public street is not permitted except for single-unit, duplex, triplex or quadplex dwellings backing onto a local street, ~~or for~~
- b. ~~For any use when, backing into an alley if adequate backing distance is provided that is a~~ minimum of 20 feet in width is permitted. Where an existing alley is less than 20 feet in width, the setback abutting the alley must be increased to provide a minimum of 24 feet for maneuvering and backing movements from garages, carports and/or parking areas. The design of driveways and on-site maneuvering and loading areas must include the anticipated storage length for entering and exiting vehicles, in order to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.
- c. The driveway landing lengths must comply with BDC 3.3.300(H), Driveway Landing Lengths.

(Revised to be clear and objective)

- ~~8. Driveway widths, designs, and materials shall comply with City of Bend Standards and Specifications. (BDC 3.1.400(H) and (L) cover the widths, designs and materials for driveways.)~~

- 9.8. **Ribbon Driveways.** Ribbon driveways may be used to provide access to single-unit detached dwellings, accessory dwelling units, townhomes, duplexes, triplexes and quadplexes; provided, that:
- a. The ribbons are located only on the driveway and are paved with asphalt, concrete or comparable surfacing across its entire width;
 - b. The ribbons are at least two feet wide; and
 - c. The ribbons are not more than three feet apart measured from their nearest edges. See Figure 3.1.400.

Figure 3.1.400. Concrete Ribbon Driveway



H. **Driveway Widths.** Driveway openings (or curb cuts) must be the minimum width necessary to provide the required number of vehicle travel lanes (10 feet minimum width for each travel lane). When obtaining access to off-street parking areas backing onto a public street is not permitted except for single unit, duplex or triplex dwellings backing onto a local street or when backing into an alley for all uses if adequate backing distance is provided. **(Repetitive with (F)(6) above)**. The following standards provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians: **(Not clear and objective)** Driveway openings (or curb cuts) must comply with the following:

1. Single-unit detached dwellings must have a minimum driveway opening width of 10 feet, and a maximum width of 24 feet. Wider driveways may be necessary to accommodate approved paved recreational vehicle pads; however, the driveway opening or connection to the street cannot be wider than 24 feet. For townhomes, see BDC 3.6.200(D), Townhomes, and for duplexes, and triplexes, and quadplexes, see BDC 3.6.200(H), Duplex, Triplex and Quadplex Development.

I. **Fire Access and Parking Area Turn-around.** A fire equipment apparatus access drive shall must be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment apparatus access drive as measured around the building. Parking areas shall provide adequate aisles or turn-around areas for service and delivery vehicles so that all vehicles may enter the street in a forward manner (except for single unit dwellings and alleys that provide adequate backing width). **(Addressed in BDC 3.1.400(F)(6), Access Operations Requirements)**

L. **Driveway Construction.** The following development and maintenance standards apply to all driveways. The City of Bend Standards and Specifications prevail in the case of conflicting rules related to the design and construction of public infrastructure.

1. **Surface Options.** Driveways, required parking areas, aisles, and turn-arounds must be paved with asphalt, concrete or comparable surfacing or a durable nonpaving material (e.g., grass-crete, eco-stone) may be used to reduce surface water runoff and to protect water and air quality. Gravel is not allowed.
2. **Surface Water Management.** When an impervious surface is used, all driveways, parking areas, aisles and turn-arounds must have on-site collection or infiltration of surface waters to prevent the flow of stormwater onto abutting property and public rights-of-way, unless otherwise permitted in BDC 3.5.600, On-Site Drainage and abutting property. Surface water facilities must be constructed in conformance with City specifications. ~~Durable nonpaving materials (e.g., grass-crete, eco-stone) are encouraged to facilitate on-site infiltration of stormwater.~~ ***(Consistent with Bend Municipal Code (BMC)16.15.040.A.4 and the City of Bend Standards and Specification’s stormwater requirements, where they can discharge stormwater to the right of way under conditions. Last sentence is not clear and objective.)***

Chapter 3.2
LANDSCAPING, STREET TREES, FENCES AND WALLS

3.2.300 New Landscaping.

E. Landscape Design Standards.

3. **Landscape Buffering and Screening Required.** Landscape buffering and screening are required under the following conditions:

c. **Screening of Mechanical Equipment, Outdoor Storage, Trash Receptacles, Service and Delivery Areas, and Automobile-Oriented Uses.** All ground level mechanical equipment, outdoor storage, trash receptacles, manufacturing, and service and delivery areas must be screened from view from all abutting public streets, abutting residential districts, and dwelling units on the same site. Screening must be provided by one or more of the following: decorative wall (i.e., masonry or similar quality material as the building), evergreen hedge, non-see-through fence, or a similar feature that provides a non-see-through barrier. Walls, fences, and hedges ~~shall~~ must comply with the vision clearance requirements and provide for pedestrian circulation, in accordance with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation. (See BDC 3.2.500 for other standards related to fences and walls.)

F. **Landscape Installation Requirement.** All required landscaping and related improvements must be completed prior to any building permit final inspection.

1. **Deferral of Installation.** Installation of the required landscape and related improvements may be eligible for deferral in the following instances, with supporting documentation, and provided the City approves a financial or other guarantee in a form acceptable to the City. In no case may the deferral be for more than eight months.

a. Installation and establishment of the landscaping would not be successful due to weather; or

b. The ground is frozen; or

c. The approved plant species is not available due to the time of year.

~~Only during winter months when the ground is frozen may the required landscape improvements be eligible for deferral, provided the City approves a financial or other guarantee in a form acceptable to the City.~~

G. **~~Soil Preparation, Planting and Care~~ Tree Planting.** Soil preparation, ground cover material, staking, and irrigation must be installed in accordance with the provisions of the American National Standards Institute ANSI A300 (Latest Edition). **(Required in OAR 660-012-0405(4)(e) and is specific to tree planting.)**

H. **~~Maintenance and~~ Water Efficient Irrigation.** Water efficient irrigation must be provided for new landscaping and be designed to apply water with an even and directed distribution to prevent runoff, over spray onto nonlandscaped areas, low head drainage and other similar conditions. **(Adds the definition for water efficient irrigation into the requirement.)**

I. **Maintenance.** ~~If the plantings~~ any required landscaping fails to survive, the property owner must immediately replace ~~them~~ it with an equivalent specimen (i.e., evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.) in compliance with the minimum size requirements in BDC 3.2.300(D), Landscaping. All other landscape features required by this code must be maintained in good condition, or otherwise replaced by the owner.

3.2.400 Street Trees and Planter Strip Landscaping.

D. ***Installation.*** All street trees, landscaping and irrigation in the planter strips must be installed in compliance with the City of Bend Standards and Specifications, the requirements of this section and the City's approved street tree and plant list.

1. **Deferral of Installation.** Installation of the required street trees, landscaping and irrigation in the planter strips may be eligible for deferral in the following instances, with supporting documentation, and provided the City approves a financial or other guarantee in a form acceptable to the City. In no case may the deferral be for more than eight months.

a. Installation and establishment of the street tree or landscaping would not be successful due to weather; or

b. The ground is frozen; or

c. The approved street tree or plant species is not available due to the time of year.

3.2.500 Fences and Retaining Walls.

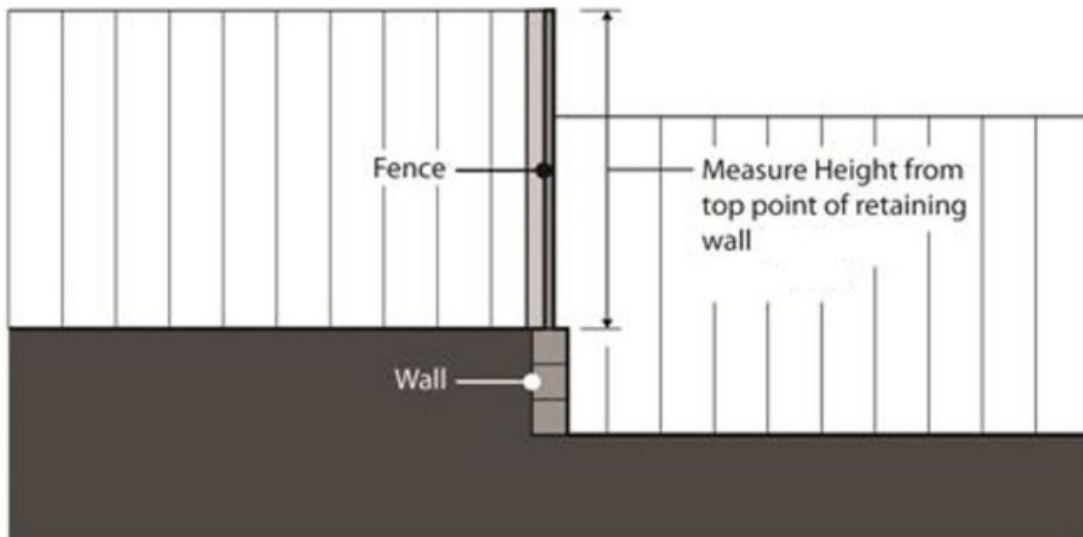
This section sets standards for new fences and retaining walls, including maximum allowable height and materials, to promote security, personal safety, and privacy. The following standards apply to all fences and retaining walls:

A. The City may require installation of fences and retaining walls as a condition of development approval.

B. All fences and retaining walls, regardless of district or location, ~~shall~~ must comply with the following requirements:

1. The allowable height must be measured from the lowest grade at the base of the fence or retaining wall unless stated otherwise. Posts, trellises, lattice and any other material placed on top of the fence is considered to be part of the fence when measuring the overall height. As illustrated in Figure 3.2.500.A, when a fence is placed atop a retaining wall, the height of the fence is determined exclusive of the height of the retaining wall such that the top of the retaining wall is considered the finished grade. **(Relocated to BDC 3.2.500(E), Arbors, Trellises, Lattices and Similar Features)**

Figure 3.2.500.A.



C. Fences.

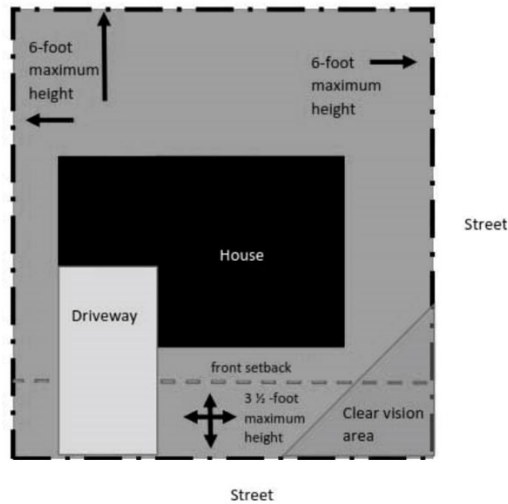
1. Residential Districts.

- a. Fences located in the front setback must not exceed three and one-half feet in height. For front setbacks, see BDC 2.1.300.

b. Exceptions.

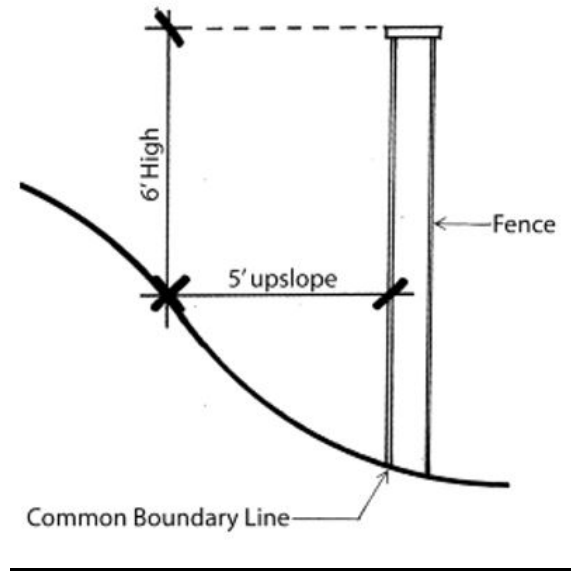
- i. On corner lots, as illustrated in Figure 3.2.500.B, only one front setback area restriction applies relative to the three and one-half feet fence height restriction. The fence along the nonfront designated area must not exceed six feet in height from the area subject to the front setback to the rear property line.
- ii. On through lots the three and one-half feet fence height restriction only applies to the front setback which includes the front entrance to the dwelling unit. The fence along the nonfront designated area must not exceed six feet in height.
- iii. ~~Decorative arbors, gates, and similar features must not exceed six feet in length. (Relocated to BDC 3.2.500(E), Arbors, Trellises, Lattices and Similar Features)~~
- iv. iii. Fences located in the front setback must not exceed four feet in height for child care facilities and registered or certified family child care homes.

Figure 3.2.500.B – Fence Example



- c. Fences must not exceed six feet in height in the side and rear setbacks. When the fence is located outside of the required side and rear setback area, it may be constructed to a maximum height of eight feet.
- d. If there is a grade difference between two sites which would make a six-foot-high fence inadequate to provide for privacy, such fence must be no higher than six feet above the highest grade within five feet of the common boundary line, as illustrated in Figure 3.2.500.C.

Figure 3.2.500.C.



e. ~~g.~~ Barbed wire and razor wire fencing is prohibited.

E. Arbors, Trellises, Lattices and Similar Features.

1. Arbors, trellises, and similar features must not exceed six feet in length.
2. Arbors, trellises, lattices and similar features placed on top of the fence are considered to be part of the fence when measuring the overall height.
 - a. Exception. An arbor-style entry structure is permitted when it is located over a walkway. The total structure must not exceed nine feet in height, six feet in length, and three feet in depth.

Chapter 3.3

VEHICLE PARKING, LOADING AND BICYCLE PARKING

3.3.300 Vehicle Parking Standards for On-Site Parking.

D. Development With More Than One-Half Acre of New Surface Parking Lot Area.

2. Climate Mitigation Actions Requirement. Development must provide one of the following:

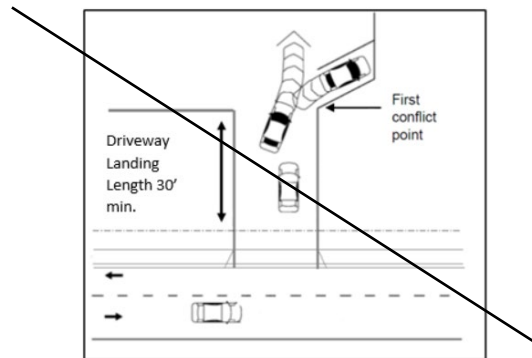
- a. Tree canopy that will cover at least 40 percent of the new surface parking lot area at maturity but no more than 15 years after planting (see BDC 3.2.300(E)(1)(b)).
- b. Installation of solar panels in conjunction with trees planted along parking lot driveways and drive aisles in compliance with BDC 3.2.300(E)(2), Parking Lot Driveway and Drive Aisles. The solar panels must have a generation capacity of at least one-half kilowatt per new parking space. Panels may be located anywhere on the property.
- c. A combination of the tree canopy requirements in subsection (a) and the installation of solar panels in subsection (b) of this section. For the area not covered by the 40% tree canopy, trees must be planted along parking lot driveways and drive aisles in compliance with BDC 3.2.300(E)(2), Parking Lot Driveway and Drive Aisles. (OAR 660-012-0405(4)(a)(D))

- H. **Driveway Landing Lengths.** Driveway landing lengths must be a minimum of ~~30~~ 20 feet measured from the property line to the first on-site conflict point for all nonresidential, mixed-use and multi-unit residential developments that access from a collector or an arterial. See Figure 3.3.300.H.

Figure 3.3.300.H.

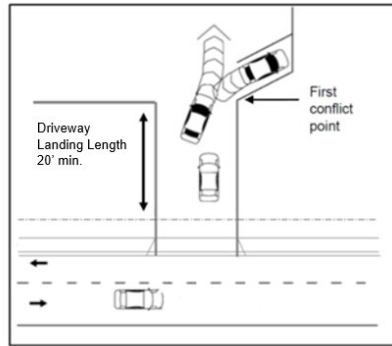
Delete Figure

Figure 3.3.300.H.



Add Figure

Figure 3.3.300.H.



3.3.600 Bicycle Parking Standards.

A. Applicability. All uses that are subject to Site Plan Review or Minimum Development Standards Review in BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, must provide bicycle parking, in conformance with the following standards. ~~This section does not apply to single-unit detached, manufactured dwellings, accessory dwelling units, duplexes, triplexes, quadplexes, townhomes or cottage developments, or home businesses.~~

1. **Exemption.** Applications for a single-unit detached, manufactured dwellings, accessory dwelling units, duplexes, triplexes, quadplexes, townhomes or cottage developments, or home businesses are exempt from this section.

~~A. Number of Bicycle Parking Spaces~~ A minimum of one u-rack must be located outside of each building and sheltered under an eave, overhang, independent structure, or similar cover and must provide two bicycle parking spaces in accordance with subsection (C)(1) of this section. Table 3.3.600 lists additional standards that apply to specific types of development. Where a fractional number of spaces results, the required number of spaces is rounded up to the nearest whole number. ***(Revised and relocated to 3.3.600E(1)(b), which requires sites that have more than one building to distribute the bicycle parking to serve all buildings.)***

B. Number of Bicycle Parking Spaces Required.

1. The required minimum number of short-term and long-term bicycle parking spaces for each land use is listed in Table 3.3.600, Required On-Site Bicycle Parking.
2. When the number of required spaces results in a fractional number, the total number of required spaces will be rounded up to the next whole number. When application of the long- and short-term bicycle parking percentages results in a fractional number of long- and short-term spaces, the number of long-term spaces required will be rounded up to the next whole number; the remaining number of required spaces will be designated as short-term bicycle parking.

Table 3.3.600. Required On-Site Bicycle Parking

Use	Requirement	<u>Long-and Short-Term Bicycle Parking Percentages</u>	<u>Additional Requirements and Exemptions</u>
<p>Multi-unit dwellings, mixed-use residential and micro-units with 5 units or more and single room occupancies with more than six units (OAR 660-012-0630(2)(a) requires 0.5 covered space per unit.)</p>	<p>1 covered space per unit. Covered bicycle parking spaces may be located within a garage, storage shed, basement, utility room or similar area. In those instances in which the residential complex has no garage or other easily accessible storage unit, the bicycle parking spaces may be sheltered under an eave, overhang, an independent structure, or similar cover. The required bicycle parking spaces must also include a minimum of 1 covered u-rack providing 2 bicycle parking spaces located outside of each building for visitors.</p>	<p><u>75% long-term</u> <u>25% short-term</u></p>	

Age restricted multi-unit	1 covered space per 10 units. Covered bicycle parking spaces may be located within a garage, storage shed, basement, utility room or similar area. In those instances in which the residential complex has no garage or other easily accessible storage unit, the bicycle parking spaces may be sheltered under an eave, overhang, an independent structure, or similar cover.	<u>75% long-term</u> <u>25% short-term</u>	
Retirement home or assisted living complex	1 per 10 beds	<u>75% long-term</u> <u>25% short-term</u>	
Hospital	1 space per 3,000 square feet for floor area	<u>75% long-term</u> <u>25% short-term</u>	
*General commercial such as retail trade, services, restaurants, and office uses	1 per 2,500 square feet of floor area or and 1 per food truck; 25 percent must be sheltered under an eave, overhang, independent structure, or similar cover.	<u>25% long-term</u> <u>75% short-term</u>	
*Bulky merchandise	1 per 10,000 square feet of floor area; 25 percent must be sheltered under an eave, overhang, independent structure, or similar cover.	<u>25% long-term</u> <u>75% short-term</u>	

Hotels/motels	1 space per 10 rooms, 50 percent must be sheltered under an eave, overhang, independent structure, or similar cover.	<u>75% long-term</u> <u>25% short-term</u>	
Street vendors, itinerant merchants, and similar temporary sales operations	No bicycle spaces required	<u>N/A</u>	
Parks	Two bicycle parking spaces within 50 feet of each developed playground, ball field, and shelter OR 8 per park	<u>100% short-term</u>	<u>Parks are exempt from BDC 3.3.600(E)(1).</u>
Stadium, arena, theater, clubs, lodges, places of worship, or similar uses	1 covered space for every 20 seats, or 1 space per 20 persons allowed by Building Code in the main assembly room or auditorium <u>if fixed seats are not provided</u>	<u>100% short-term</u>	
*Public or private recreational facility	1 per 1,000 square feet of <u>floor area</u> , 25 percent must be sheltered under an eave, overhang, independent structure, or similar cover.	<u>25% long-term</u> <u>75% short-term</u>	
<u>Parking lots Public and commercial parking lots and parking structures</u>	All public and commercial parking lots and parking structures must provide a minimum of one <u>1</u> bicycle parking space for every 10	<u>50% long-term</u> <u>50% short-term</u>	

	motor vehicle parking spaces.		
<u>Mobility Hubs</u>	See BDC 3.6.300(D), Mobility Hubs		
Industrial uses without retail trade or service	1 space per 20,000 square feet, 100 percent must be sheltered under an eave, overhang, independent structure, or similar cover.		
Industrial uses <u>with or without retail trade or service</u>	1 space per 20,000 square feet plus 1 space per 2,500 square feet of retail space; 75 percent must be sheltered under an eave, overhang, independent structure, or similar cover.	<u>75% long-term</u> <u>25% short-term</u>	
	<u>1 space per 2,500 square feet of retail trade or service floor area</u>	<u>75% long-term</u> <u>25% short-term</u>	
Schools (elementary through high school)	1 covered space for every 10 students. All spaces should be sheltered under an eave, overhang, independent structure, or similar cover.	<u>100% short-term</u>	<u>The required bicycle parking must be sheltered under an eave, overhang, independent structure, or similar cover.</u>
College, university or trade school <u>and dormitory units</u>	1 <u>bicycle space</u> for every 10 motor vehicle spaces plus 1 covered space for every dormitory unit. 50 percent of	<u>25% long-term</u> <u>75% short-term</u>	

	<p>the bicycle parking spaces must be sheltered under an eave, overhang, independent structure, or similar cover.</p>		
	<p><u>1 space for every dormitory unit</u></p>	<p><u>50% long-term</u></p> <p><u>50% short-term</u></p>	
All other uses	<p>A minimum of two spaces 4 u-rack located outside of each building and sheltered under an eave, overhang, independent structure, or similar cover to provide two bike parking spaces.</p>	<p><u>100% short-term</u></p>	
<p><u>Central Business District</u></p> <p><i>(Relocated from BDC 3.3.600(B) and revised)</i></p>	<p><u>1 space per 3,000 square feet of floor area. Only when providing the required bicycle parking spaces is not feasible as determined by the City, the developer may pay a fee established by City.</u></p> <p><u>For new multi-unit dwellings and mixed-use residential, see requirement in table above.</u></p>	<p><u>25% long-term</u></p> <p><u>75% short-term</u></p>	<p><u>Short-term</u></p> <ul style="list-style-type: none"> • <u>May be provided in the right-of-way along the street either on the sidewalks or in specially constructed areas such as pedestrian curb extensions or be located on-site meeting the requirements of (E).</u> • <u>Must not exceed six bicycles per parking area.</u> <p><u>Long-term</u></p>

			<ul style="list-style-type: none"> • <u>Must be located on-site and comply with the requirements of (D).</u>
--	--	--	---

* Where the floor area is 10,000 square feet or less, the required parking is 100% short-term and 25% must be sheltered under eaves, overhangs, independent structures, or similar covers.

~~**B. Special Standards for the Central Business District.** Within the Central Business District, bicycle parking for customers shall be provided in the right-of-way along the street either on the sidewalks or in specially constructed areas such as pedestrian curb extensions at a rate of one space per 3,000 square feet of gross floor area of the building. In addition, individual uses shall provide covered bicycle parking at the rate of one bicycle space for every 10 employees. At a minimum, each use shall provide one covered bicycle parking space. The bicycle parking shall not exceed six bicycles per parking area. Only when providing the required bicycle parking spaces is not feasible as determined by the City, the developer may pay a fee established by City. **(Relocated to Table 3.3.600 Required On-Site Bicycle Standards)**~~

~~**C. Bicycle Parking Requirements.** Required bicycle parking must include inverted “U” style racks or similar designs in compliance with subsection (C)(1) of this subsection or be located within a lockable space only available to authorized users in compliance with subsection (C)(2) of this section. Except for residential uses, a minimum of 75 percent of the required bicycle parking must be “U” style racks located outside of a building. Required bicycle parking must comply with the following:~~

~~1. **Inverted “U” Style Racks.** Inverted “U” style racks or similar designs as illustrated below must have the following design features comply with the following:~~

~~a. Inverted “U” style rack or similar design as illustrated below.~~

~~b. a. Allow ways to lock at least two points on a standard bicycle frame.~~

~~b. c. The bike rack must have rounded surfaces and corners.~~

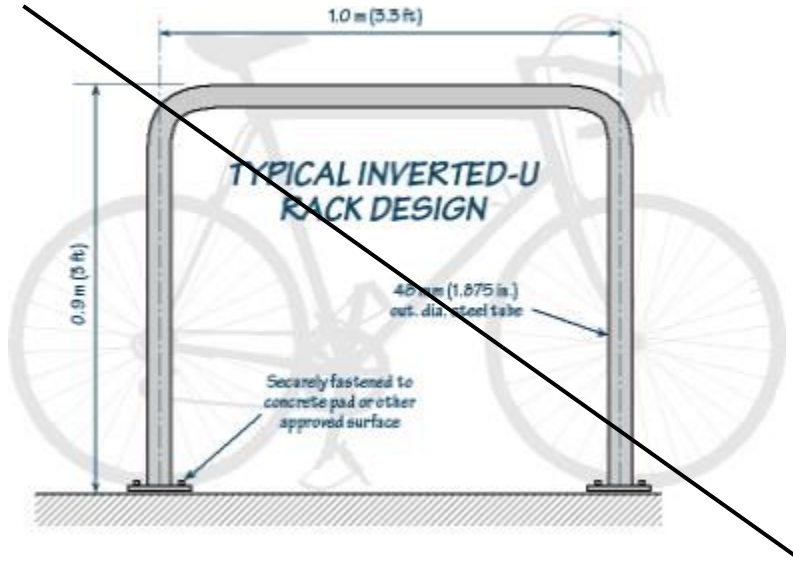
~~c. d. The bike rack must be coated in a material that will not damage the bicycle’s painted surfaces constructed of a durable, low maintenance finish such as galvanized or powder coated.~~

~~d. Be securely anchored to the ground.~~

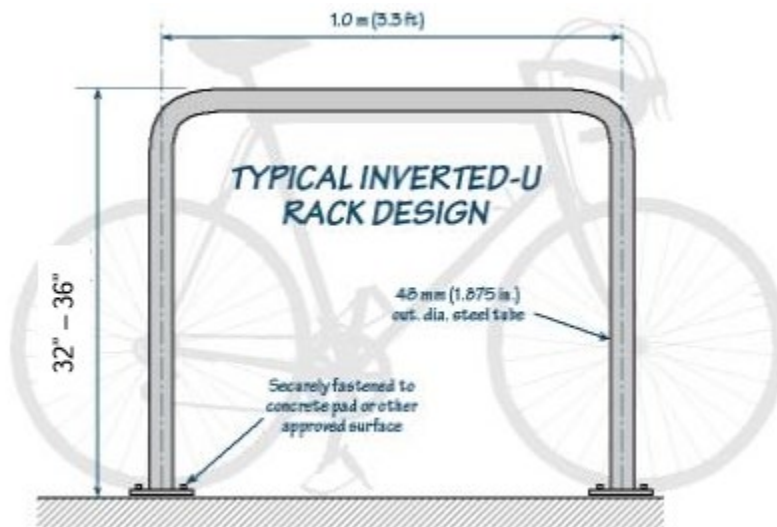
~~e. Each bicycle parking space must be at least 2 feet wide and 6 feet long, with 4 feet spacing between adjacent racks.~~

- i. Exception. Oversized Bicycles and Alternative Bicycle spaces must be at least 4 feet wide and 8 feet long, with 8 feet spacing between adjacent racks.
- f. A bicycle parking space must be at least 2 feet from a curb.

Delete Bike Rack Figure



Add Bike Rack Figure



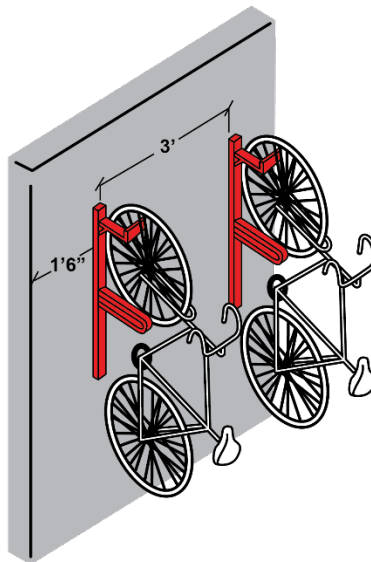
2. ~~Bicycle Storage.~~ Bicycle parking requirements can be provided in a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building. Bicycle parking must be provided at ground level unless a ramp no less than two feet in width or an elevator with a minimum depth or width of six feet is easily accessible to an approved bicycle parking area. Space within dwelling units or on balconies or porches are not counted toward satisfying bicycle parking requirements. ***(Relocated to long-term bicycle parking requirements.)***

2. Vertical Wall-Mounted Racks. Vertical wall-mounted racks must comply with the following:

- a. Provide a minimum of three feet parallel spacing between each rack; or a minimum of one foot six inches parallel spacing combined with a minimum of an eight (8) inch vertical off-set between each rack.
- b. Provide a minimum of one foot six inches for user access between a wall or other obstruction and the side of the nearest parked bicycle.

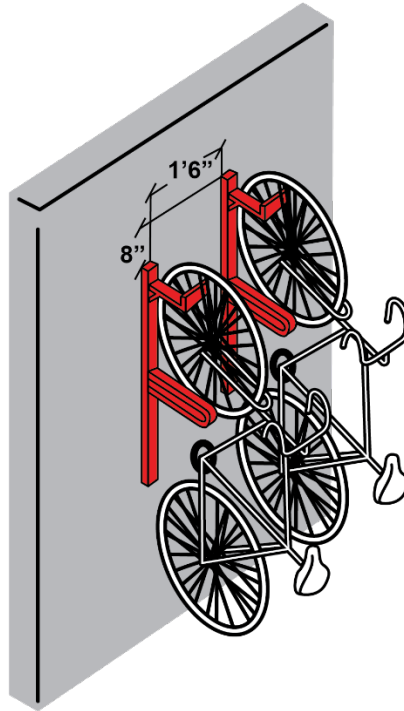
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Wall-mounted bicycle racks without vertical off-sets



Add figure

Wall-mounted bicycle racks with vertical off-sets



3. **Bicycle Lockers.** Bicycle lockers must comply with the following:

- a. Be securely anchored to the ground.
- b. Except pie-shaped lockers, bicycle lockers must be at least 6 feet long, 2 feet wide and 4 feet high. Pie-shaped bicycle lockers must be at least 6 feet long, 3 feet wide at the widest end, and 4 feet high.

4. **Oversized Bicycles and Alternative Bicycle Types.** Bicycle parking that accommodates oversized bicycles and alternative bicycle types must comply with the following:

- a. Each space must be at least 4 feet wide and 8 feet long, with 8 feet spacing between adjacent racks.
- b. Be securely anchored to the ground.

D. Long-Term Bicycle Parking Requirements. Long-term parking must comply with the following:

1. Long-term parking must be located on-site:
 - a. Within a building, parking structure or garage; or
 - b. Within 200 feet of the main entrances, primary point of entry to the use, or employee entrance.
2. When located in a building, parking structure or garage, bicycle parking must be provided at ground level unless a ramp no less than two feet in width or an elevator with a minimum depth or width of six feet is easily accessible to an approved bicycle parking area.
3. Required long-term bicycle parking must be:
 - a. Provided in racks or lockers in compliance with BDC 3.3.600(C), Bicycle Parking Requirements with a minimum of 25% of the bicycle parking as inverted “U” style racks or similar designs; or
(Accommodates those who cannot lift a bicycle into a vertical position and to provide parking for cargo, tandem, long-tailed or similar bicycles that do not fit into vertical racks.)
 - b. Located within a lockable area with racks complying with the spacing standards in 3.3.600(C), Bicycle Parking Requirements. The walls of the lockable area must be at least seven feet tall or be floor-to-ceiling and the area must only be available to authorized users.
4. When more than 20 long-term bicycle parking spaces are required, at least five percent of the spaces must accommodate oversized bicycle parking. **(New requirement)**
5. Exterior long-term bicycle parking spaces must be sheltered. Shelters include eaves, overhangs, independent structures, or similar covers.
6. Space within dwelling units or on balconies or porches are not counted toward satisfying bicycle parking requirements.

E. Short-Term Bicycle Parking Requirements. Short-term bicycle parking must comply with the following:

1. Short-term bicycle parking must:
 - a. Be located on-site no further than 100 feet from at least one building entrance, but not further away than the closest on-site automobile parking space excluding designated accessible parking spaces, whichever distance is less.
 - i. Exception. If on-site parking is located in a public parking structure, then 75 percent of the short-term bicycle parking may be located inside the structure.
 - b. For sites that have more than one building, the bicycle parking must be distributed to serve all buildings.
 - c. Where bicycle parking facilities are not directly visible from the building entrance(s), signs must be provided to direct bicyclists to the bicycle parking.

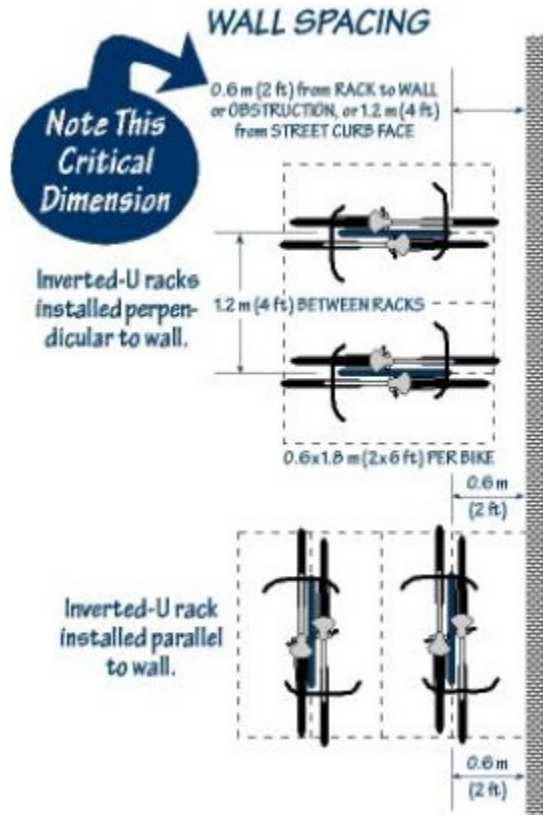
- d. Be available to the public.
- 2. The required short-term bicycle parking must include inverted “U” style racks or similar designs or vertical wall mounted racks in compliance subsection (C)(1) and (2) of this section. A minimum of 50 percent of the bicycle parking must be inverted “U” style racks or similar designs. **(Accommodates those who cannot lift a bicycle into a vertical position and to provide parking for cargo, tandem, long-tailed or similar bicycles that do not fit into vertical racks.)**
- 3. Short-term bicycle parking must be sheltered as follows:
 - a. If ten or fewer short-term bicycle parking spaces are required, no shelter is required. If more than ten short-term bicycle parking spaces are required, at least 50 percent of the short-term bicycle parking spaces in excess of ten must be sheltered. When the number of required spaces to be sheltered results in a fractional number, the total number of required spaces will be rounded up to the next whole number. **(Long term still has to provide sheltered bike parking.)**
 - i. Exception. Short-term bicycle parking in the Central Business District does not need to be sheltered.
 - b. Shelters include eaves, overhangs, independent structures, or similar covers.

D E. Bicycle Parking Location. Bicycle parking must comply with the following:

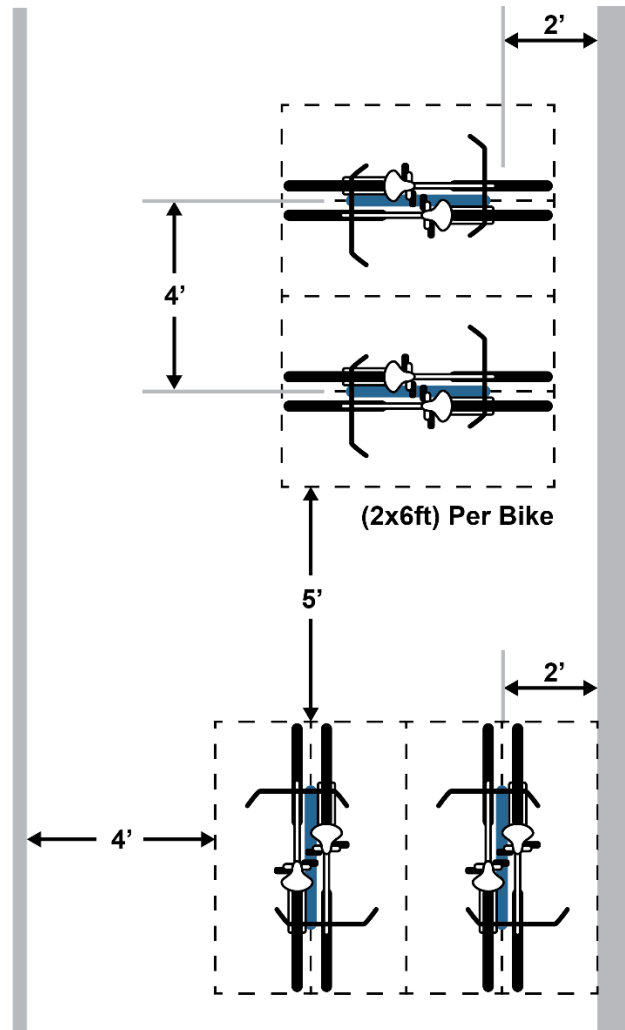
- 1. **Surface.** Each required bicycle parking space must be on asphaltic concrete, Portland cement, or similar hard surface material ~~and each space must be at least two feet wide by six feet long with a minimum vertical clearance of seven feet.~~ ***(Relocated to U-Rack and Bicycle Locker sections.)***
- 2. **Access.**
 - a. There must be at least five feet of clear access area provided at one end of the bicycle parking space to allow room for bicycle maneuvering.
 - b. There must be a clear pedestrian pathway a minimum of four feet between a bicycle parking space and other existing and potential obstructions. **(Consistent with Public Right-of-Way Accessibility Guidelines [PROWAG])**
- 3. **Vertical Clearance.** Each bicycle parking space must maintain a minimum vertical clearance of seven feet, except for bicycle lockers.
- 2. ~~The location of the rack and subsequent parking must not interfere with pedestrian passage, leaving a clear area of at least 36 inches between bicycles and other existing and potential obstructions.~~

(Relocated to 2, Access, above and revised the distance to 4 feet to be consistent with Public Right-of-Way Accessibility Guidelines [PROWAG].)

Delete Following Figure



Add following figure



3. ~~Outdoor bicycle parking must be conveniently located and visible to at least one building entrance (e.g., no farther away than the closest vehicle parking space).~~

4. **Clear Vision Area.** Outdoor bicycle parking is not permitted within the clear vision area. See BDC 3.1.500, Clear Vision Areas.

E. 5. Lighting. Lighting must be provided in bicycle parking areas and it ~~must be in compliance~~ comply with BDC 3.5.200, Outdoor Lighting Standards.

Chapter 3.4

PUBLIC IMPROVEMENT STANDARDS

3.4.150 Waiver and Modification of Public Improvement Standards.

A. **Authority to Grant Waiver or Modification.** Waivers and/or modifications of the standards of this chapter may be granted as part of a development approval only if the criteria of subsection (B) of this section are met. A waiver for sidewalks for the Woodriver Village subdivision is not permitted under this subsection. See BDC 3.4.160, Payment in Lieu of Sidewalk Construction. For a waiver to transportation standards, see BDC Chapter 4.7, Transportation Analysis. For deviations to the City of Bend Standards and Specifications, see City of Bend Standards and Specifications.

B. **Criteria.** The Review Authority, after considering the recommendation of the City Engineer, may waive or modify the standards of this chapter based on a determination that:

1. ~~(1) the~~ The waiver or modification will not harm or will be beneficial to the public in general;
2. ~~(2) the~~ The waiver ~~and or~~ modification ~~are is~~ not inconsistent with the general purpose of ensuring adequate public facilities;
3. ~~(3) the~~ The waiver or modification does not prohibit the implementation of a bicycle low stress route or crossing as shown in the Transportation System Plan Figure 5-1, Bicycle Low Stress Network, and with City of Bend Standards and Specifications including the City's Connector Routes and Crossings Map; and
4. ~~(4) e~~ One or more of the following conditions are met:
 - a. ~~1-~~ The modification or waiver is necessary to eliminate or reduce impacts on existing drainage patterns or natural features such as riparian areas, significant trees or vegetation, or steep slopes.
 - b. ~~2-~~ An existing structure such as a substantial retaining wall makes widening a street or right-of-way or required placement of lines impractical or undesirable.
 - c. ~~3-~~ Street access to an existing lot would be eliminated without the waiver or modification.
 - d. ~~4-~~ Building on an existing lot would be infeasible without the waiver or modification.
 - e. ~~5-~~ The standard is a street width or right-of-way width standard and existing structures on the same side of the block make future widening of the remainder of the street or right-of-way unlikely

and the additional width on the project site would not be beneficial for sidewalks or parking without the extension for the rest of the block.

- f. ~~6.~~ The modification or waiver is needed to allow development of, or street access to, the property because of topographical constraints.
- g. ~~7.~~ The existing infrastructure (~~a.i~~) does not meet current standards, (~~b-ii~~) is and will remain functionally equivalent to current standards, and (~~eiii~~) there is little likelihood that current standards will be met in the area.
- h. ~~8.~~ The installation of the required improvements would likely cause unacceptable significant adverse environmental impacts and the waiver/modification would avoid such impacts.
- i. ~~9.~~ There is insufficient right-of-way to allow a full width street cross-section and additional right-of-way cannot be provided.
- j. ~~10.~~ There is no street or right-of-way adjacent to the property and easement access has been obtained across private property.
- k. ~~11.~~ Required street frontage improvements for individual single-unit dwellings, manufactured dwellings, accessory dwelling units, duplexes, triplexes, quadplexes, townhomes, single room occupancies with six or fewer units, and cottage cluster developments could best be accomplished by planned area-wide improvements at a future date.
- l. ~~12.~~ The City has conflicting or inconsistent standards and the proposal would comply with one set of adopted standards. Standards are conflicting or inconsistent only when it is not possible to comply with both. In most situations, the more recently adopted standard should be followed and the older standard may be waived.

D. **Application Requirements.** The application for a waiver or modification ~~shall must be in writing~~ submitted as part of in conjunction with a development application. ~~The City Council may adopt a fee for a waiver/modification application by resolution.~~ The application ~~shall must~~ specify which requirement(s) of this chapter ~~and/or the City of Bend Standards and Specifications~~ are at issue and which of the condition(s) listed above are met. The application ~~shall must~~ contain a statement explaining why ~~the deviation from~~ waiving or modifying the required standards is necessary and why the waiver or modification sought will not harm or will be beneficial to the general public.

(Reorganized to make it clear that 1 - 4 are also criteria.)

3.4.200 Transportation Standards.

F. **Minimum Rights-of-Way and Street Sections.** Streets, alleys, sidewalks, access corridors, planter strips, travel lanes, and parking must be provided in compliance with the City of Bend Standards and Specifications cross-sections. Oregon Department of Transportation (ODOT) facilities must meet Oregon Department of Transportation design standards.

Additional multi-use paths or bike lanes may be required on local streets to provide a low stress route as identified in the Transportation System Plan Figure 5-1, Bicycle Low Stress Network, or as identified in the Connector Routes and Crossings Map in compliance with the City of Bend Standards and Specifications or as amended by the City Engineer.

1. **Right-of-Way and Pavement Widths.**

- a. At a minimum, street and alley rights-of-way must be the widths defined in ~~Street Improvement Standards Table A, Right-of-Way Widths for Dedicated Public Roadways and Alleys,~~ except as identified in subsection (F)(3)(~~b~~a) of this section. Additional right-of-way may be required at intersections to accommodate intersection widening and roundabouts.

3. **Exceptions to Minimum Rights-of-Way Standards.**

- ~~a. Where opposite sides of the street are designated on the Bend Comprehensive Plan with different land use zones, the zone with the greater requirement for right of way dedication and pavement width will govern both sides of the street. **(The BDC does not specify rights-of-way or improvements based on zones.)**~~

- ~~b.~~ a. The following streets and intersections are not identified for lane expansion and therefore additional right-of-way is not required:

Table A: Right-of-Way Widths for Dedicated Public Roadways and Alleys

Street Classification and Roundabout ROW Dedication	Arterial	Collector	Local	Alley	Cul-De-Sac	Roundabout
Minimum ROW	100'	80'	60'	20'	54-55' radius from center of the cul-de-sac	100' radius from center of intersection

(Consistent with the City of Bend Standards and Specification and the increase width of sidewalks, going from 5 foot to 6 feet on local streets.)

J. Special Setbacks.

2. Applicability. The special setback standards apply to any lot or parcel that abuts a public right-of-way.

Exception. The special setback standards do not apply to intersections or streets that are already constructed consistent with the Transportation System Plan (TSP) including streets and intersections in subsection (F)(3)(ba) of this section as “not being identified for lane expansion.”

3.4.300 Public Use Areas.

Public open space and parks contribute to the livability of a growing community. They provide space for outdoor recreation and habitat for urban wildlife. These urban spaces are maintained and managed by the Bend Metro Park and Recreation District (BMPRD). ~~Future public use areas are evaluated through the City's land use application process.~~

~~A.—**Neighborhood and Community Parks.** The following standards will be used to evaluate a proposed development to determine if the property includes an area that is suitable for a neighborhood park. Upon meeting these standards, the developer shall enter into negotiations with the Bend Metro Park and Recreation District regarding district purchase acquisition of land within the property proposed for development for construction of a neighborhood public park.~~

1. The subject property site is located within a service park search area identified shown on the Neighborhood Parks Plan Map Park Search Area Map dated July 2024 and adopted as part of the BPRD Comprehensive Plan in November 2024, and identified by the Bend ~~Metro~~ Park and Recreation District as needing a neighborhood parks.
2. The property site proposed for development is 10 acres or larger in area.
3. The Bend ~~Metro~~ Park and Recreation District has indicated that the subject property site contains a sufficient area that is suitable for neighborhood park development based on the Bend Metro Park and Recreation District's Neighborhood Park Classification and Development Standards.

~~B. Dedication Requirements.~~

- ~~1. Where a proposed park, playground or other public use shown in a plan adopted by the Bend Metro Parks and Recreation District is located in whole or in part in a proposed development, the City may require the dedication or reservation of this area.~~
- ~~2. If determined by the City Council to be in the public interest in accordance with adopted Bend Comprehensive Plan policies, and where an adopted plan of the City does not indicate proposed public use areas, the City may require the dedication or reservation of areas within the development of a character, extent and location suitable for the development of parks and other public uses.~~
- ~~3. All required dedications of public use areas shall conform to BDC 3.4.100(D), Conditions of Development Approval.~~

~~**C. Acquisition by Public Agency.** If the developer is required to reserve land area for a park, playground, or other public use, the land shall be transferred by deed to the appropriate public agency within six months following final approval, at a price agreed upon prior to approval of the development, or the reservation shall be released to the property owner.~~

(The amendments help provide public park space that is identified in the Park Search Area Map.)

3.4.500 Storm Drainage Improvements

~~**D. Easements for Existing Watercourses.** Where an existing watercourse traverses a development, such as a natural watercourse, drainage way, channel or stream, or any other existing drainage facility including but not limited to irrigation canals, laterals and associated ditches, there shall be provided and recorded an easement conforming substantially with the lines of such existing watercourses and such further width as will be adequate for conveyance and maintenance, as determined by the City Engineer. **((Relocated to 3.4.700(D), Easements for Existing Watercourses))**~~

E. D. Easements for Developed Drainage Facilities. Where new drainage facilities are provided that include elements located outside the dedicated public right-of-way, such facilities ~~shall~~ must be located within an area provided for in a recorded easement. The easement ~~shall~~ must be adequate for conveyance and maintenance as determined by the City Engineer.

3.4.600 Utilities.

A. Underground Utilities. All utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities, ~~shall~~ must be placed underground, except for surface-mounted transformers; surface-mounted connection boxes and meter cabinets; temporary utility service facilities during construction; and high capacity electric lines operating at 50,000 volts or above, which may be placed above ground.

The following additional standards apply to all development, in order to facilitate underground placement of utilities:

1. The developer ~~shall~~ must make all necessary arrangements with the serving utility to provide the underground services. All above-ground equipment ~~shall~~ must not obstruct clear vision areas and safe intersection sight distance for vehicular traffic in conformance with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.
2. The City reserves the right to approve the location of all surface-mounted facilities.
3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, ~~shall~~ must be constructed prior to the surfacing of the streets.

4. Stubs for service connections ~~shall~~ must be long enough to avoid disturbing the street improvements when service connections are made.

B. **Easements.** Easements ~~shall~~ must be provided and recorded for all underground utility facilities where required by the City. Utility lines are not permitted to cross property lines unless a minimum 5-foot wide utility easement is provided. The easement must be centered on the utility and will prevent construction within the easement and provide access to maintain the utilities.

C. **Exceptions.** Residential development subject only to Minimum Development Standards Review criteria, including partitions and Middle Housing Land Divisions creating lots for this type of development, may utilize overhead connections to existing overhead lines. If the development requires extension of the main line to provide the service, then the new portion of the main line and the connections to it are required to be placed underground unless the utility provider determines it is not feasible.

3.4.700 Easements.

D. Easements for Existing Watercourses. Where an existing watercourse traverses a development, such as a natural watercourse, drainage way, channel or stream, or any other existing drainage facility including but not limited to irrigation canals, laterals and associated ditches, there must be provided and recorded an easement conforming substantially with the lines of such existing watercourses and such further width as will be adequate for conveyance and maintenance, as determined by the City Engineer. ***(Relocated from 3.4.500(D), Easements for Existing Watercourses)***

Chapter 3.5

OTHER DESIGN STANDARDS

3.5.400 Solar Standards.

A. *Purpose.* Solar standards are utilized to create lot divisions, layouts and building configurations to help preserve access to sunlight ~~to one and two unit dwellings.~~

B. Solar Lot Standards.

2. **Solar Lot Requirements.** In RS and RM Zones, at least 70 percent of the lots in a subdivision shall must have a minimum north-south lot dimension of ~~80~~ 50 feet or more. ***(Proposed amendment is consistent with the minimum lot depth of the RS and RM zones)***

3. ~~Exceptions~~ ***Discretionary Track to the Solar Lot Requirements.*** If the applicant states in the written narrative they are electing to use a Type II discretionary track, then the applicant may request that the Review Authority make an exception to the solar lot requirements if the applicant can demonstrate that ~~A proposed subdivision shall qualify for an exception to subsection (B)(2) of this section if one or more~~ of the following development constraints are present:
 - a. Compliance with applicable street standards or public street plans requires a street configuration that prevents the lot from being oriented for solar access.
 - b. An existing public easement or right-of-way prevents the lot from being oriented for solar access.
 - c. There is a significant natural feature on the site that will continue to exist after the site is developed, and that prevents the lot from being oriented for solar access.

4. **Exemptions to the Solar Lot Requirements.** A proposed lot ~~shall~~ will not be identified as a “solar lot” but ~~shall~~ will be counted as a lot that satisfies subsection (B)(2) of this section when the lot satisfies subsection (B)(4)(a), (b), (c) or (d) of this section.

- d. **Housing Mix.** The lot is designated for a housing type other than single-unit detached dwellings in a proposed subdivision that identifies at least 10 percent of the lots for a housing type other than single-unit detached dwellings. For purposes of this section, cottages are not considered single-unit detached dwellings. ***(Clarifies cottages are not a single-unit detached dwelling for purposes of this exemption.)***

C. Solar Setback Standards.

1. **Applicability.** These standards apply to all structures on RS and RM zoned lots, 5,000 square feet or greater, with a minimum north-south lot dimension of 80 feet.
2. **Solar Setback Requirements.** Buildings ~~shall~~ must be set back from the northern property line according to the standards in this section. When a northern property line abuts an alley, street, or common area, the setback will be measured to the next lot line across the alley, street, or common area. An applicant for a development permit for a building subject to this section ~~shall~~ must submit documentation that shows either the solar setback or how the structure qualifies for an exemption. If buildings on separate lots are attached or connected at a common lot line, the solar setback standards apply as if the buildings are a single building on a single lot composed of both lots.

a. Solar Setback for RS Zone. The solar setback of the shade point ~~shall~~ must be greater than or equal to the following formula:

$$SSB = (2.5 \times SPH) + (N \text{ divided by } 2) - 85$$

Where:

SSB = Solar setback (the shortest horizontal distance between the shade point and the plane of the northern lot line).

SPH = Shade point height (reduce this dimension by three feet if the shade point is a ridgeline between 45 degrees east or west of true north).

N = North-south lot dimension. Maximum allowable "N" for purposes of calculating the solar setback ~~shall be~~ is 90 feet.

The following table, which accurately applies the formula, can be used to determine compliance with the solar setback standard.

Table 3.5.400.A. Solar Setback from Northern Lot Line for RS Zone [SSB]

(All figures are in feet.)*

Shade Point Height* [SPH]	North-South Lot Dimension		
	90 feet [N]	85 feet [N]	80 feet [N]
18 feet	5	2.5	0
20 feet	10	7.5	5
22 feet	15	12.5	10
24 feet	20	17.5	15
26 feet	25	22.5	20
28 feet	30	27.5	25
30 feet	35	32.5	30
<u>32</u>	<u>40</u>	<u>37.5</u>	<u>35</u>
<u>34</u>	<u>45</u>	<u>42.5</u>	<u>40</u>
<u>35</u>	<u>47.5</u>	<u>45</u>	<u>42.5</u>

*Solar setback and shade point height are usually measured from an eave or from a ridge line of a roof. See Figure 3.5.400, Measuring Shade Point Height.

- b. **Solar Setback for RM Zone.** The solar setback of the shade point shall must be greater than or equal to the following formula:

$$SSB = (2.5 \times SPH) + (N \text{ divided by } 2) - 100$$

Where:

SSB = Solar setback (the shortest horizontal distance between the shade point and the plane of the northern lot line).

SPH = Shade point height (reduce this dimension by 3 feet if the shade point is a ridgeline between 45 degrees east or west of true north).

N = North-south lot dimension. Maximum allowable “N” for purposes of calculating the solar setback shall be is 90 feet.

The following table, which accurately applies the formula, can be used to determine compliance with the solar setback standard.

Table 3.5.400.B. Solar Setback from Northern Lot Line for RM Zone [SSB]

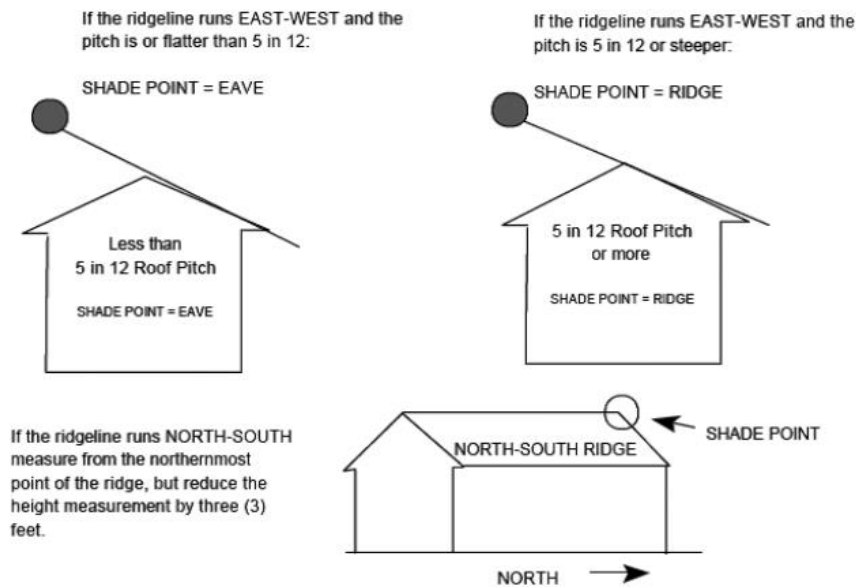
(All figures are in feet.)*

Shade Point Height* [SPH]	North-South Lot Dimension		
	90 feet [N]	85 feet [N]	80 feet [N]
24 feet	5	2.5	0
26 feet	10	7.5	5
28 feet	15	12.5	10
30 feet	20	17.5	15
32 feet	25	22.5	20
34 feet	30	27.5	25
36 feet	35	32.5	30
<u>38</u>	<u>40</u>	<u>37.5</u>	<u>35</u>
<u>40</u>	<u>45</u>	<u>42.5</u>	<u>40</u>
<u>42</u>	<u>50</u>	<u>47.5</u>	<u>45</u>

<u>38</u>	<u>40</u>	<u>37.5</u>	<u>35</u>
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*Solar setback and shade point height are usually measured from an eave or from a ridge line of a roof. See Figure 3.5.400, Measuring Shade Point Height.

Figure 3.5.400. Measuring Shade Point Height



3.5.600 On-Site Drainage.

- A. Unless otherwise permitted in BMC Title 16, Grading, Erosion Control, Stormwater, Illicit Discharge, Tree Protections, and Wells, On-site surface water drainage, including roof drainage, must be retained on the lot or parcel of origin and not flow onto the public right-of-way or other private property.
- B. Drainage facilities must be designed and constructed to accommodate increased runoff from the development. Drainage must not be directed to an existing watercourse, channel, stream or canal. Storm drainage facilities must comply with applicable State and Federal regulatory requirements.
- C. Where an existing watercourse traverses a development, such as a natural watercourse, drainage way, channel or stream, or any other existing drainage facility including but not limited to irrigation canals, laterals and associated ditches, a recorded easement conforming substantially with the lines of such existing watercourses and such further width as will be adequate for conveyance and maintenance, as determined by the City Engineer, must be provided.

D. On-site drainage facilities must not be located in any public utility or slope easements. On-site drainage facilities must not be located in any irrigation district easement or Bend Park and Recreation District easement without their written consent.

Chapter 3.6

SPECIAL STANDARDS AND REGULATIONS FOR CERTAIN USES

3.6.200 Residential Uses.

This section supplements the standards contained in BDC Title 2 and provides standards for the following land uses in order to control the size, scale and compatibility of those uses within the applicable zone.

G. ***Manufactured ~~Home~~-Dwelling Parks***. Manufactured ~~home~~ dwelling parks are reviewed as a Type II application for site plan review in conformance with ORS Chapter 446, the provisions of this title and the following criteria:

1. ***Minimum Area Required***. All ~~m~~Manufactured ~~home~~ dwelling parks ~~shall consist of~~ must be a minimum area of ~~five~~ one acres. (***Consistent with ORS 197.478(5)***)
2. ***Density***. The maximum number of manufactured ~~homes~~ dwellings allowed within a manufactured ~~home~~ dwelling park ~~shall~~ must not exceed 10 units per acre. The average area of a ~~mobile~~ home site ~~shall~~ must not be less than 4,000 square feet excluding roadway, recreation areas and other accessory facilities. No manufactured ~~home~~ dwelling site ~~shall~~ can be less than 2,000 square feet in area.
3. ***Access***. Manufactured ~~home~~ dwelling park accesses ~~shall~~ must be located on public streets improved to a minimum width of 36 feet and which are improved to a point intersecting a collector or arterial street.
4. ***Permitted Uses***. Manufactured ~~home~~ dwelling parks may contain manufactured homes, prefabricated structures and accessory structures permitted in this chapter, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a

manufactured home for the use of a caretaker or a manager responsible for maintaining or operating the property.

5. **Minimum Site Requirements.**

- a. **Park Streets.** The minimum surfaced width of the roadway within an access way ~~shall~~ must be 24 ~~20~~ feet if there is no parking allowed and 30 feet if parking is allowed on both sides. The first 50 feet of the access way measured from the public street ~~shall~~ must be surfaced to a minimum width of 30 feet and ~~shall~~ must be connected to the existing public street according to plans approved by the City. **(Consistent with ORS 446.095, Park Construction and Facilities)**
- b. **Improvement Standards.** The improvement of driveways, walkways, streets, drainage and other utilities ~~shall~~ must conform to adopted State standards for such or ~~shall~~ conform to the City's Standards and Specifications manual, whichever is more restrictive.

M. Accessory Uses and Structures. Accessory uses and structures are those of a nature customarily incidental and subordinate to the primary use or structure on the same lot. Typical accessory structures include ~~detached~~ garages, sheds, workshops, greenhouses and similar structures. This section does not apply to accessory dwelling units (ADUs). For standards applicable to ADUs, see subsection (B) of this section. Accessory structures must comply with all of the following ~~standards~~ in addition to the standards of the applicable zoning district:

1. **Primary Use Required.** An accessory structure or use may only be permitted on a lot or parcel after the primary use is established. The accessory use must be a permitted use in the zoning district.
2. **Restrictions to Attached and Detached Accessory Structures.** The following restrictions apply to accessory structures attached to a dwelling unit and detached accessory structures:
 - a. A half bathroom and/or a wet bar may not be installed ~~within an accessory structure~~ unless the property owner signs a City of Bend compliance form stating that the structure will not be used as a dwelling unit.
 - b. A kitchen is not allowed.
 - c. A full bathroom is not allowed.

3. Restrictions to Detached Accessory Structures. The following restrictions apply to detached accessory structures:

~~3. a. Floor Area.~~ The maximum floor area of accessory structure in a residential zoning district must not exceed 1,500 square feet.

~~4. b. Building Height.~~ The building height of a detached accessory structure must not exceed 25 feet.

c. Building Separation. A detached accessory structure must be a minimum of six feet apart from other on-site buildings as measured between their building footprints.

4. Attached Accessory Structures. In order to consider the accessory structure to be attached to the primary a dwelling unit, it must be attached by one of the following options ~~and there must be an opening that allows for internal access through livable space to the primary portion of the dwelling unit:~~

- a. The accessory structure must share a common wall for at least 25 percent of the length of the primary a dwelling unit; or
- b. The entire length of one elevation of the accessory structure must be attached to the primary a dwelling unit.

The shared or attached wall must be the wall of an enclosed interior space, and does not include porches, patios, decks or stoops.

3.6.250 Income Qualified Housing.

C. Affordable Housing Strategies. The City of Bend provides an incentive program to developers to assist in the development of affordable housing.

1. For the purposes of the incentive program, the City defines affordable housing as housing with a sales price or rental amount that is within the means of a household that may occupy moderate- and low-income housing, meeting one of the thresholds defined below:

- a. In the case of dwelling units for sale, “affordable” means housing in which the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a family household at 80 percent of the area median income, based upon most recent HUD income limits for the Bend Metropolitan Statistical Area (Bend MSA).
 - b. In the case of dwelling units for rent, “affordable” means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a family household at 60 percent of the area median income, based upon most recent HUD income limits for the Bend Metropolitan Statistical Area (Bend MSA).
2. In association with the land use review process, and prior to the issuance of a building permit for any units in an affordable housing development, the owner must enter into an affordable housing development agreement with the City. The development agreement must set forth the commitments and obligations of the City and the owner, including, as necessary, conditions to ensure the completion of affordable housing in the development.

3.6.300 Nonresidential Uses.

This section supplements the standards contained in BDC Title 2 and provides standards for the certain land uses in order to control the scale and compatibility of those uses within the applicable zone.

A. *Automobile-Oriented and Automobile-Dependent Uses and Facilities.* Where permitted, automobile-oriented uses and automobile-dependent facilities ~~shall~~ must meet all of the following standards. The standards are intended to provide a vibrant, storefront character, slow traffic, and encourage walking and transit use:

1. ***Drive-In and Drive-Through Facilities.*** Drive-in and drive-through facilities, such as teller machines, service windows, drop-boxes and similar features associated with the drive-up and drive-through components of restaurants, banks and similar uses, ~~shall~~ must meet all of the following standards:
 - a. The drive-in or drive-through facility receives vehicular access from an alley or approved driveway, and not directly from a street except as authorized through development approval from the City.
 - b. The drive-in or drive-through facilities and the drive-through lane shall must be set back at least 20 10 feet from street frontages ~~and, for corner lots, are not oriented towards a street corner~~. For sites with a 10-foot maximum building setback, the maximum building setback may be increased

to 20 feet. The facility and drive-through lane must be visually screened by a landscape buffer 10 feet or wider with a mature vegetation height of at least three feet within three years of planting and does not create a conflict with the clear vision areas. **(This is no longer an exception and will be required).**

c. For corner lots, the drive-in or drive-through facilities must not be oriented towards a street corner.

ed. Exceptions:

- i. Walk-up-only teller machines and kiosks may be oriented to a corner.
- ii. ~~Drive through facility setbacks may be reduced to 10 feet when the driving surface is three feet lower or six feet higher than the abutting sidewalk.~~
- iii. ~~Drive through facility setbacks may be reduced to 10 feet when the facility is visually screened by a landscape buffer 10 feet or wider with a mature vegetation height of at least three feet within three years of planting and does not create a conflict with the clear vision areas.~~**(Relocated to 3.6.300(A)(1)(b) as a requirement.)**
- iv. Automobile service and gas stations are exempt from the above standards. However, automobile service and gas stations ~~shall~~ must comply with the provisions in subsection (A)(2) of this section.

~~F. **Outdoor Storage and Display within Public Rights-of-Way.** Sidewalk vendors and outdoor display of merchandise shall be prohibited within the public rights-of-way except within the Central Business District, in which case the use shall be limited to cards, plants, gardening/floral products, food, books, newspapers, bicycles, and similar small items for sale or rental to pedestrians (i.e., non-automobile oriented). A minimum clearance of five feet shall be maintained on the sidewalk at all times to allow pedestrians to pass by the displays. All merchandise shall removed from the public way at the close of business each day.~~
Repealed by Ord. XX. (Regulated by other codes including BMC 7.20.010, Exemptions to License Requirements.)

3.6.400 Temporary Uses.

D. Temporary Building. A temporary building such as a trailer, cargo container, or prefabricated building may be used as a temporary commercial or industrial office or space associated with the primary use on a

property. Temporary buildings are subject to a temporary use ~~permit~~ authorization review and must meet all of the following standards:

7. The length of time that the temporary building will be used must not exceed 12 months. When a temporary ~~permit~~ use authorization expires, the applicant or owner must remove the temporary building from the site.

F. *Medical Hardship Housing.* A temporary use ~~permit~~ authorization is required for medical hardship housing. The following standards are applicable to the siting of medical hardship housing:

1. Temporary use ~~permits~~ authorization may be granted in residential zones for relatives of the family residing on the property if the temporary dwelling unit will be used because of a medical problem requiring the use of such a unit. The existence of a medical problem that requires the patient to reside on the same site as his or her relatives ~~shall~~ must be supported by the certificate of a medical doctor. The ~~permit shall~~ authorization must not exceed one year and may only be renewed with another certificate from a medical doctor.
2. The temporary dwelling unit may be a manufactured dwelling, manufactured home, manufactured structure, prefabricated structure or mobile home as defined in BDC Chapter 1.2. No permanent structure or foundation ~~shall~~ can be established for the medical hardship housing. Recreational vehicles and trailers are prohibited.
3. The applicant ~~shall~~ must obtain required temporary permits for electrical, water and other services as appropriate before the temporary dwelling unit is occupied.
4. All locational standards for structures in the applicable zoning district ~~shall~~ must be met (e.g., setbacks, height and lot coverage).
5. The medical hardship housing and all utility connections ~~shall~~ must be removed no later than 90 days after the expiration of the ~~permit~~ authorization.

G. *Temporary Carnivals, Fairs, Parking Lot Sales and Warehouse Sales.* Temporary carnivals, fairs, parking lot sales and retail sales from a warehouse are permitted on developed commercial, industrial and

public facility sites for a maximum of 14 days each calendar year. No ~~permit~~ temporary use authorization is necessary; however, the following standards must be met:

1. The vision clearance standards of BDC Chapter 3.1 are maintained and public rights-of-way are not obstructed; and
2. Vehicle ingress and egress locations meet the access standards of BDC Chapter 3.1.

3.6.500 Short-Term Rental

A. *Applicability.*

2. A permit is required for each dwelling unit that is allowed to be a short-term rental even if located on the same legal lot. Applications submitted after November 4, 2021, located in the RL, RS, RM, RH Zoning Districts, and MR Zoning District outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C) that include more than one dwelling unit on a property (e.g., ADUs, duplexes, triplexes, quadplexes, multi-unit, cottages, etc.) can only have one unit permitted as a short-term rental.

The standards of this section supersede the standards elsewhere in the Development Code, unless otherwise stated.

C. *Review Type.* Short-term rentals are permitted subject to the following permit processes, provided all other requirements of this section are met:

6. Modification of ~~an approval for a short-term rental shall be:~~ Approval. Changes to an approved short-term rental are subject to the standards and processes below. A Modification of Approval application is only required for changes to the number of bedrooms in the dwelling unit.

- a. ~~A modification of approval for an active short-term rental is processed as a Type I application and is exempt from the concentration limits in subsection (E) of this section if the expansion includes an increase in the number of bedrooms approved under the initial STR approval. If the expansion does not increase the number of bedrooms, no modification of approval is required.~~
- b. ~~The short-term rental Required to obtain a revised annual operating license must be revised to reflect the modification of approval.~~
- c. ~~In accordance with BDC 3.6.200.M, short-term rentals approved prior to April 15, 2015, may continue as a legal nonconforming use, and are therefore . Prior existing uses as defined in subsection (M) of this section are subject to the provisions of BDC 5.2.100, Nonconforming Uses. As a nonconforming use, they may not be enlarged and may not increase the number of bedrooms. Such expansions would require a new short-term rental application under BDC 3.6.500.~~

L. Expiration of Approval and Initiation of Use. ~~Notwithstanding BDC 4.1.1310 and 4.1.1315, Expiration of Approval and Initiation of Use, if~~ If the short-term rental does not initiate the use by renting the short term rental has not been rented for at least one night within the first 12 months of obtaining a short-term rental permit, then the short-term rental permit shall be is void with no further proceedings and is not eligible for an extension in BDC 4.1.1310, Duration of Approvals and Extensions. (Consistent with the revisions of BDC 4.1.1310, Expiration of Approval and the deletion of BDC 4.1.1315, Initiation of Use from the BDC)

~~1. For existing permits submitted prior to the effective date of this code, and permit applications submitted after April 15, 2015, and prior to September 1, 2015, the 12 month initiation of use period shall begin September 1, 2015. For all permits submitted after that date, the initiation of use period begins upon final land use permit approval. (This subsection is no longer needed since these applications should have been initiated or they became void.)~~

M. Prior Existing Use. ~~1. Existing Type I Permits.~~ Any short-term rental approved and/or legally permitted established prior to April 15, 2015, under the former 2006 BDC 3.6.200(L) may continue as a legal nonconforming use in accordance with BDC 5.2.100, Nonconforming Uses, provided:

- ~~a.1~~ That the use is not abandoned under subsection (K) of this section; and

~~2b.~~ That the owner obtains and renews the annual license as required by this section and BC Chapter 7.16. The owner of the dwelling has the burden of establishing a valid prior approval when applying for a short-term rental license or license renewal.

~~2. **Legal Nonconforming Uses.** Any short-term rental that began operating prior to August 2006, when the initial short-term rental regulations were adopted, and has been lawfully and continually conducted since that time, may continue as a legal nonconforming use provided:~~

~~a. That the use is not abandoned under subsection (K) of this section; and~~

~~b. The owner obtains and renews the annual license required under this chapter and BC Chapter 7.16. The owner of the dwelling has the burden of establishing a prior legal use when applying for a short-term rental license or license renewal.~~

~~3. **Short-Term Room Rentals.** Any short-term room rental that began operating prior to the effective date of the ordinance codified in this section (April 15, 2015), and submitted documentation to the City that only a single room in a dwelling was rented, may continue as a legal nonconforming use provided:~~

~~a. That the use is not abandoned under subsection (K) of this section; and~~

~~b. That the owner obtains and renews the annual license as required by this section and BC Chapter 7.16. The owner of the dwelling has the burden of establishing a prior legal use when applying for a short-term rental license or license renewal.~~

(These dates have passed. They would have already obtained their Operating License and that needs to be maintained. They are transferrable as well if the new owner obtains a new license.)

Chapter 3.8

DEVELOPMENT ALTERNATIVES

3.8.400 Infill Development.

Small vacant or underdeveloped properties overlooked by traditional development patterns can become economically viable development. Some lots in residential plan designations may have standard widths but

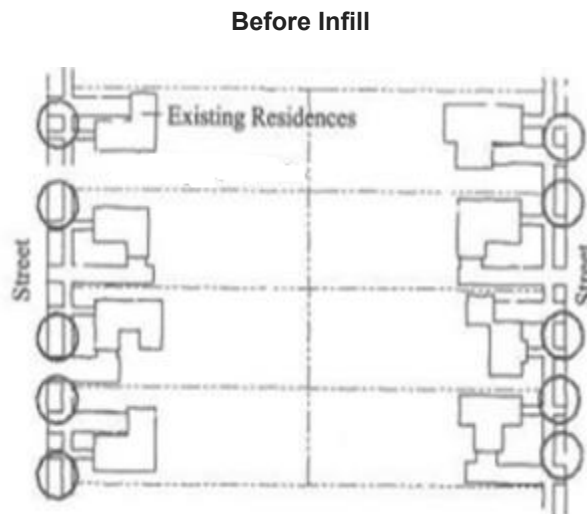
may be unusually deep compared to other properties in the area. Unused space at the back of a lot may provide room for one or more lots. Infill development (as defined in BDC Chapter 1.2, Definitions) may be developed as flag lots, mid-block developments, T-courts, or shared courts in compliance with the following:

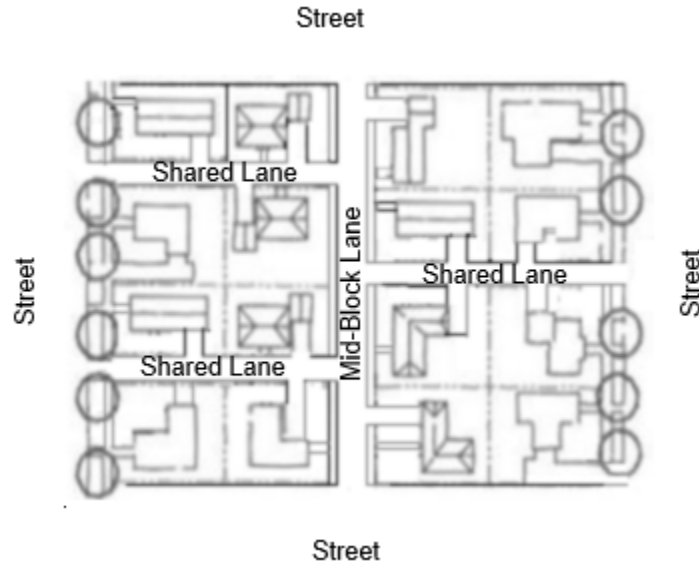
- A. **Mid-Block and Shared Lane Development.** Mid-block and shared lane developments provide an opportunity for the redevelopment of underutilized and oversized lots. ~~Lots may be developed without frontage onto a public street when lot access is provided by mid-block lanes or shared lanes, as shown in Figure 3.8.400.A. (Revised and relocated to BDC 3.8.400(A)(4), Frontage)~~

~~For the purpose of this subsection, a shared lane provides access from a local street to no more than four dwelling units, not including accessory dwelling units. (Relocated to BDC 3.8.400(A)(3)(a), Shared Lanes)~~

~~For the purpose of this subsection, a mid-block lane is a narrow private lane providing lot frontage and access for rear lot development.~~

Figure 3.8.400.A – Mid-Block Development





1. **Applicability.** Mid-block and shared lane developments are permitted in the residential plan designations.

2. **Eligibility for Mid-Block and Shared Lane Developments.** To determine if an existing area is eligible for a mid-block and shared lane development, the following criteria must be met before applying the mid-block and shared lane development standards:
 - a. Minimum lot area: twice that required by the underlying zone.
 - b. Minimum lot width: 20 feet wider than the width required by the underlying zone.
 - c. Minimum lot depth: 150 feet.
 - d. Maximum lot size: 10 acres including adjacent properties under common ownership.

Mid-block lanes are required when existing lot depths are 150 feet or greater and the surrounding pattern of development will facilitate mid-block lane development.

3. ~~Shared Lane and Mid-Block Lane~~ and Shared Lane Requirements.
 - a. ~~Shared Lane.~~ (Relocated to (3)(b) below)

- ~~i. The maximum shared lane length is subject to requirements of the Uniform Fire Code, but must not exceed 150 feet, without connecting to a mid-block lane.~~
- ~~ii. The minimum pavement width of a shared lane must be 20 feet, recorded as a tract and have a recorded public access easement and public utility easement a minimum of 20 feet in width.~~
- ~~iii. Sidewalks are not required on a shared lane.~~
- ~~iv. Parking is not permitted on a shared lane.~~

~~b. a. *Mid-Block Lane.*~~

- i. The maximum length of a mid-block lane must not exceed 600 feet between intersections of a public street. A mid-block lane must connect to public streets at both ends.
- ii. The minimum pavement width of a mid-block lane must be 28 feet, recorded as a tract and have a recorded public access easement and public utility easement a minimum of 40 feet in width encompassing the curbs, sidewalks and lane widths.
- iii. Curb-tight sidewalks are required on both sides of a mid-block lane.
- iv. Parking is permitted on one side of a mid-block lane.

b. Shared Lane Requirements.

- a. The shared lane provides access from a local street to no more than four dwelling units, not including accessory dwelling units.
- b. The maximum shared lane length is subject to requirements of the Uniform Fire Code, but must not exceed 150 feet, without connecting to a mid-block lane.
- c. The minimum pavement width of a shared lane must be 20 feet, recorded as a tract and have a recorded public access easement and public utility easement a minimum of 20 feet in width.
- d. Sidewalks are not required on a shared lane.
- e. Parking is not permitted on a shared lane.

4.. **Frontage.** Shared lanes and mid-block lanes provide frontage for the lots or parcels as shown in Figure 3.8.400.A. Property lines abutting the shared lane and mid-block lane are considered front property lines.

4- **5. Future Street Plans.** Building placement and alignment of shared lanes and mid-block lanes must be designed so that future street connections can be made as surrounding properties develop.

5- **6. Covenants, Conditions and Restrictions.** Where each dwelling unit is to be held in fee simple ownership, a set of conditions, covenants and restrictions (CC&Rs) for the development must be reviewed and, if approved by the City, recorded with Deschutes County simultaneously with the final plat. The CC&Rs run with the land and may be removed or modified only upon approval of the City of Bend. The CC&Rs must create a homeowners' association that will provide for maintenance of all common areas including the mid-block lanes and shared lanes.

C. T-Courts.

1. **Applicability.** T-courts are permitted in the residential plan designations.

3. **Development Standards.** T-courts must comply with the following standards:

- a. T-courts must be recorded as a tract and have a recorded public access easement and public utility easement a minimum of 40 feet in width over it.
- b. Minimum pavement width ~~must be~~ is 24 feet and must be constructed to the pavement standards for a local street in the City of Bend Standards and Specifications.
- c. The maximum length of the T-court is 150 feet from the property line of the tract to the end of the T-court and is terminated by a rectangular or "hammerhead" vehicle turnaround. See Figure 3.8.400.C.
- d. No parking is allowed within the T-court. "No Parking" signs are required and must be maintained.
- e. A pedestrian pathway, a minimum of five feet in width within a 10-foot wide tract or easement, must be provided at the head of the "T"-court to abutting streets or where appropriate to connect

the City of Bend. The CC&Rs must create a homeowners' association that will provide for maintenance of all common areas including the T-court.

3.8.800 Urban Dwelling Sites.

C. *Duration of Approval.* ~~The development approval is void one year after the date the decision becomes final if building permits have not been issued. A one-year extension may be approved in accordance with BDC 4.1.1310, except a two-year extension may be approved for affordable housing developments in accordance with BDC 3.6.200(C)(1) through (3) and 4.1.1310. See BDC 4.1.1310, Duration of Approvals and Extensions.~~

3.8.1000 Shared Courts.

I. *Design Standards.*

1. *Front Door.*

- a. Dwelling units that abut a street must have the front door entrance oriented toward the street frontage. A three-foot or wider path that is physically separated from the private access drive must be provided from the sidewalk to the front door. The entrance must either:
 - i. Face the street;
 - ii. Be at an angle of up to 45 degrees from the street;
 - iii. Face a common open space that abuts the street and is abutted by dwellings on at least two sides; or
 - iv. Open onto a porch. The porch must:
 - (A) ~~b~~Be at least 20 square feet in area; and

(B) Have at least one entrance facing the street or have a roof. A covered walkway or breezeway is not a porch.

b. Exceptions to the front door standards in subsection (l)(1)(a) of this section:

i. When the lot or parcel abuts an arterial.

ii. When the development site's frontage is 75 feet or less.

c. Dwelling units that are on the interior of the shared court development must have the front door entrance ~~oriented towards~~ face the private access drive or a common open space area or open onto a porch. The porch must:

i. Be at least 20 square feet in area, and

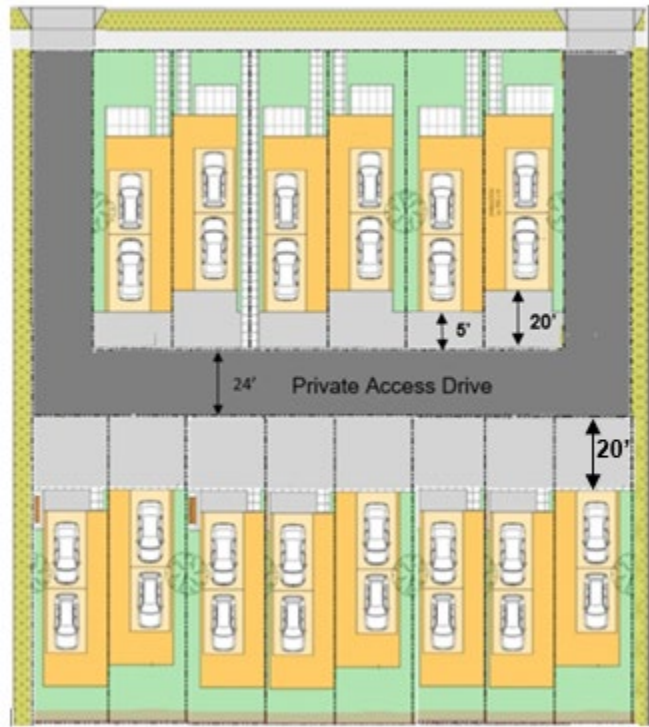
ii. Have at least one entrance facing the street or have a roof. A covered walkway or breezeway is not a porch.

Figure 3.8.10000. (Conceptual)

Delete Figure



Add Figure



(Current figure shows some single-unit detached dwellings and shared courts are only allowed to be townhomes.)

Title 4

APPLICATIONS AND REVIEW PROCEDURES

Chapters:

- 4.0 Applications and Review Procedures
- 4.1 Development Review and Procedures
- 4.2 Minimum Development Standards Review, Site Plan Review and Design Review
- 4.3 Land Divisions and Property Line Adjustments
- 4.4 Conditional Use Permits

- 4.5 Master Plans
- 4.6 Land Use District Map and Text Amendments
- 4.7 Transportation Analysis
- 4.8 Transportation and Parking Demand Management (TPDM) Plan
- 4.9 Annexations
- 4.10 Interpretation and Determinations

Chapter 4.0

APPLICATIONS AND REVIEW PROCEDURES

4.0.100 Introduction.

This title provides all of the application requirements and procedures for obtaining ~~permits~~ land use approval required by this code.

Chapter 4.1

DEVELOPMENT REVIEW AND PROCEDURES

Sections:

(Where a section name is proposed to be amended, rename throughout the Bend Development Code.)

~~4.1.210 Pre-Application Conference~~

4.1.260 Legal Lot of Record

4.1.275 Review Authority.

4.1.400 Type II, ~~and Type III~~ and III-CC Applications.

4.1.413 Final Action in Type II, ~~and III~~ and III-CC Applications.

~~4.1.415 Type II Application Procedures~~ *(Relocated to 4.1.275, Review Authority)*

4.1.423 Mailed Notice of Type III and III-CC Applications Hearings.

4.1.425 Posted notice of Type II, ~~or Type III~~ or III-CC Applications.

4.1.426 Type III and III-CC – Quasi-Judicial Procedures Factors.

4.1.427 Site-Specific Comprehensive Plan Map Amendments and/or Zone Bend Zoning Map Changes.

~~4.1.429 Review Authority for Site-Specific Zone Changes~~ *(Relocated to 4.1.275, Review Authority)*

4.1.505 Type IV Applications Initiation of a Legislative Change.

4.1.510 ~~Hearing Required~~ Notice.

4.1.515 ~~Notice~~ Public Hearing.

4.1.520 ~~Initiation of a Legislative Change~~ Final Decision.

4.1.525 ~~Review Authority~~ Notice of Decision.

4.1.530 ~~Final Decision~~ Corrections.

~~4.1.535~~ Corrections.

4.1.800 Type III and III-CC Quasi-Judicial Hearings.

4.1.805 Setting the Hearing. (Relocated from BDC 4.1.875)

4.1.810 Filing Availability of Staff Report for Hearing.

~~4.1.815 Hearings Body.~~ (Repetitive of other sections in the BDC.)

4.1.875 Setting the Hearing. (Relocated to BDC 4.1.805)

4.1.900 Type II, III and III-CC Decisions.

4.1.915 Type II and III Findings as to Application Acceptance Date.

~~4.1.930 Decision on plan Amendments and Zone Changes.~~ (Relocated to 4.1.275, Review Authority)

4.1.945 Compliance with ORS 227.350 Wetlands Development.

4.1.1000 Reconsideration of a Type II or III Decision.

4.1.1310 Expiration of Duration of Approvals and Extensions.

~~4.1.1315 Initiation of Use~~

4.1.1400 ~~Declaratory Ruling.~~ (Revised and relocated to BDC Chapter 4.10, Interpretation and Determinations.)

4.1.1410 ~~Availability of Declaratory Ruling~~ Applicability

4.1.1415 ~~Persons Who May Apply~~ Review Process.

4.1.1420 Initiation Procedures.

4.1.1425 Approval Criteria.

4.1.1425 ~~4.1.1430~~ Effect of Declaratory Ruling Formal Interpretations and Determination.

4.1.1500 Statutory Development Agreements.

~~4.1.210 Pre-application Conference.~~

~~A pre-application conference with the City of Bend is highly recommended for complex applications or for applicants who are unfamiliar with the land use process. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the Development Code and to identify issues likely to arise in processing an application.~~

4.1.215 Public Meeting.

- A.** The applicant for a Bend Comprehensive Plan Map amendment, Bend Zoning Map amendment, quasi-judicial Bend Development code text amendment, conditional use permit, master plan, subdivision or site plan review for new development or an alteration/addition to one or more buildings containing a total of 10,000 square feet or more must present the proposal at a public meeting prior to submitting the respective application to the City Planning Division. The presentation must be made at either a regular or special meeting with a neighborhood district recognized by the City of Bend whose boundaries the subject property lies within, or a public meeting arranged and conducted by the applicant. The presentation at the public meeting must include the following:

(This will require a public meeting for proposed text amendments to an adopted master plan)

4.1.220 Application Requirements.

~~A. **Property Owner.** For the purposes of this section, the term property owner shall mean the owner of record or the contract purchaser and does not include a person or organization that holds a security interest. (There is a definition for owner in BDC Chapter 1.2, Definitions.)~~

~~B. **A.** Applications must:~~

~~**CB.** The following applications are not subject to the ownership requirement set forth in subsection (BA)(1) of this section:~~

4.1.225 Acceptance of Application.

A. **Completeness.** Type I, II, and III applications ~~shall~~ will not be accepted as complete until the Community and Economic Development Director has determined that the requirements of BDC 4.1.220 have been met ~~and the application is complete~~ or the application for a permit, limited land use decision or zone change is deemed to be complete under State law. ~~A Completeness Check Meeting shall be required for all Type II, III, and IV land use applications unless exempted by the Community and Economic Development Director. The purpose of the Completeness Check Meeting is to determine whether the proposed development application is complete prior to acceptance of the application for processing by the City. (A completeness check meeting is not required.)~~

B. An application is complete when, in the judgment of the Community ~~and Economic~~ Development Director, complete information to address all applicable criteria has been provided by the applicant.

C. Acceptance of an application as complete ~~shall~~ does not preclude a determination at a later date that additional criteria need to be addressed or ~~a later determination~~ that additional information is needed to adequately address applicable criteria.

4.1.255 Time Computation.

Except when otherwise provided, the time within which an act is required to be done ~~shall be~~ is computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the City is not open for business pursuant to a City ordinance, in which case it ~~shall~~ is also be excluded.

4.1.260 Legal Lot of Record.

~~Not all units of land are "lots of record." The City of Bend will not issue any permits on a unit of land until it is determined that it is a lot of record. If a unit of land is not in an approved subdivision or partition, has not been issued a land use permit, or has never been determined to be a lot of record, a declaratory ruling for a lot of record will need to be filed. A Declaratory Ruling will determine if and when a unit of land was created and if it was created in accordance with the law in effect at the time of creation. For units of land created in Deschutes County prior to annexation into the City, the Deschutes County Lot of Record Ordinance shall apply.~~

~~A. What is a lot of record? A unit of land held in separate ownership as shown on the records of the Deschutes County Clerk, which conforms to all zoning and subdivision/partition requirements in effect on the date the unit of land was created.~~

~~B. What is not a lot of record?~~

- ~~1. A unit of land created solely by a tax lot segregation because of an assessor's role change or for the convenience of the assessor;~~
- ~~2. A unit of land created by an intervening section or township line or right-of-way;~~
- ~~3. A unit of land created by the foreclosure of a security interest.~~

A. **Purpose.** The purpose of this section is to establish criteria and a process for determining when a legal lot of record exists.

B. **Legal Lot Determination Process.** Legal lot of record determination applications are reviewed under the Type I process. It is the property owner's responsibility to demonstrate that the plot of land meets the legal lot of record criteria in section 4.1.260(C), Criteria.

C. **Criteria.** A legal lot of record is a plot of land that meets one or more of the following criteria, pursuant to ORS 92.010 to 92.190:

1. The plot of land was lawfully created through a subdivision or partition plat;

2. The plot of land was created within the City limits through a deed or land sales contract recorded with Deschutes County prior to:
 - a. May 2, 1962, before the City adopted subdivision regulations (City Ordinance 591); or
 - b. December 16, 1981, before the City adopted partition regulations (City Ordinance 1349).
3. The plot of land was created within the County jurisdiction through a deed or land sales contract recorded with Deschutes County prior to:
 - a. October 1, 1970, before the County adopted subdivision regulations (County Ordinance PL-2); or
 - b. January 1, 1977, before the County adopted partition regulations (County Ordinance PL-7).

D. Remedy for Parcels Units of Land Found Not to Be Legal Lots of Record.

1. In accordance with BDC Chapter 4.3, Land Divisions and Property Line Adjustments, consolidate the unit of land with a contiguous unit of land that is determined to be a legal lot of record. Both units of land must be held in the same ownership as shown on the records of the Deschutes County Clerk.
2. Apply for and obtain approval for a single lot partition or minor replat in conformance with ORS 92.176 and ~~BDC 4.3.200, 4.3.300 and 4.3.400~~ BDC Chapter 4.3, Land Divisions and Property Line Adjustments.
3. ~~Apply for and obtain approval of a lot of record under ORS 92.176.~~

4.1.270 Needed Housing.

A. Discretionary Track. If the proposed development includes needed housing, the developer must identify any standard for which it wishes the City to apply the review standards identified as the discretionary track. If the developer requests application of any discretionary track standard, a Type I application will be elevated to a Type II review.

B. Approvals for Subdivision, Partition or Construction for Needed Housing.

1. The Review Authority must approve an application for a permit, authorization or other approval necessary for the subdivision or partitioning of, or construction on, any land for needed housing that is consistent with the Bend Comprehensive Plan and applicable land use regulations.
2. If an application is inconsistent with the Bend Comprehensive Plan and applicable land use regulations, the Review Authority, prior to making a final decision on the application, must allow the applicant to offer an amendment or propose conditions of approval that would make the application

consistent with the Plan and applicable regulations. If an applicant seeks to amend the application or propose conditions of approval:

a. The applicant must submit the request in writing and pay all required amendment fees.

b. The Review Authority may (i) extend the review period and (ii) may set forth a new time limitation for final action on the consideration of future amendments or proposed conditions of approvals.

3. The Review Authority must deny an application that is inconsistent with the Bend Comprehensive Plan and applicable land use regulations and that cannot be made consistent through amendments to the application or the imposition of reasonable conditions of approval.

(Consistent with ORS 197.522)

4.1.275 Review Authority.

A. The following is the Review Authority for Type I, II, III, III-CC and IV Applications:

1. **Type I.** Type I decisions are made by the Community Development Director, unless elevated to a Type II application in compliance with BDC 4.1.310(B) or when an applicant elects to use a discretionary track. The Community Development Director's decision to elevate a Type I application to a Type II application is not an appealable decision. See BDC 4.1.300, Type I Ministerial Procedures.

2. **Type II.** Type II decisions are made by the Community Development Director. The Community Development Director may elevate a Type II minor master plan application to the Planning Commission for hearing and decision as a Type III application and, except for expedited and middle housing land divisions, all other Type II applications to the Hearings Officer for hearing and decision as a Type III application. The Community Development Director's choice between or among administrative or hearing procedures to apply to a particular application or determination is not an appealable decision.

3. **Type III.** Type III decisions are made by the Planning Commission or Hearings Officer after a public hearing following the quasi-judicial hearings procedures of BDC 4.1.800, Quasi-Judicial Hearings. The following is the Review Authority for Type III applications:

a. The Hearings Officer has the authority to approve or deny a quasi-judicial zone change when the zoning is proposed to be consistent with the Bend Comprehensive Plan Map.

- b. The Planning Commission has the review authority to approve or deny a quasi-judicial zone change processed concurrently with a minor master plan.
 - c. The Planning Commission has the authority to approve or deny Type III applications in the Waterway Overlay Zone.
 - d. All other Type III decisions are made by the Hearings Officer.
4. **Type III-CC.** Type III-CC decisions are made by the City Council following a recommendation by the Planning Commission or Hearings Officer using the quasi-judicial hearings procedures of BDC 4.1.800, Quasi-Judicial Hearings. The following is the Review Authority for Type III-CC applications, except the City Council is the sole review authority for annexations, statutory development agreements and extraterritorial extension and/or connection of water and sewer services:
- a. The Hearings Officer makes a recommendation to the City Council for a final decision on a quasi-judicial zone change processed concurrently with a Comprehensive Plan map amendment.
 - b. The Planning Commission makes a recommendation to the City Council for a final decision on all other Type III-CC decisions.
5. **Type IV.** Type IV decisions are made by the City Council following a recommendation by the Planning Commission using the legislative procedures of BDC 4.1.500, Type IV Legislative Procedures, except the City Council is the sole review authority for annexations.

4.1.400 Type II, ~~and Type III,~~ and III-CC Applications.

4.1.410 Effect of Determinations Made Outside of Established Processes.

Any informal interpretation or determination, or any statement describing the uses ~~to which~~ allowed on a property ~~may be put,~~ made outside the ~~declaratory ruling~~ process in ~~accordance with~~ BDC 4.1.1400 Chapter 4.10, Interpretation and Determinations, or outside the process for approval or denial of a Type II, III or III-CC application in conformance with BDC 4.1.400 through 4.1.900 ~~shall~~ will be deemed to be a supposition only. Such informal interpretations, determinations, or statements ~~shall~~ will not be deemed to constitute final City action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

4.1.413 Final Action in Type II, and III, and III-CC Applications.

A. Review Periods.

1. **120-Day Review Period.** The City must take final action on an application for a permit, limited land use decision or zone change, including resolution of all local appeals, within 120 days after the application is deemed complete, except as follows:

~~4. a. For expedited and middle housing land divisions, see BDC 4.3.700, Expedited and Middle Housing Land Divisions.~~

~~2. The 120-day period set may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days. (**Relocated to 4.1.413(B), Extension**)~~

~~3. b. A decision involving an application for the development of residential structures within the urban growth boundary, where the City has tentatively approved the application and extends the 120 days review period by no more than seven days in order to assure the sufficiency of its final action.~~

2. **100-Day Review Period. (Consistent with ORS 197A.470, Final action on affordable housing application; affordable housing developed by religious corporation.)**

a. The City must take final action, including resolution of all local appeals, within 100 days after the application is deemed complete, on an application for development of a multi-unit residential building containing five or more residential units within the urban growth boundary and at least 50 percent of the residential units included in the development will be sold or rented as affordable housing.

For the purposes of this section, the following definitions apply:

i. Affordable housing means housing that is affordable to households with incomes equal to or less than 60 percent of the median household income for the county in which the development is built or for the state, whichever is greater, that is subject to an affordable housing covenant as provided in ORS 456.270 and 456.295, that maintains the affordability for a period of 60 years from the date of the certificate of occupancy.

- ii. Multi-unit residential building means a building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

B. **Extension.** The review period ~~set~~ may be extended for a specified period at the written request of the applicant. The total of all extensions must not exceed 245 days.

~~B C.~~ Applications for the following determinations or approvals are exempt from the 120-day time limit established by this section. The 120-day time limit review period established by this section does not apply to the following applications:

1. Quasi-judicial Comprehensive Plan text or map amendments or Development Code text amendments;
2. Revocation proceedings;
3. ~~Declaratory rulings~~ Interpretation and Determinations;
4. Consideration of remanded applications;
5. ~~Legislative actions~~ Statutory Development Agreements;
6. Major master plan; ~~and or~~ or
7. Annexations.

~~4.1.415 Type II Application Procedures~~

~~A. Type II decisions are made by the Community and Economic Development Director following public notice and an opportunity for parties to comment but without a public hearing. The Community and Economic Development Director may elevate a Type II master plan application to the Planning Commission for hearing as a Type III and all other Type II applications to the Hearings Body for hearing as a Type III.~~

~~B. The Community and Economic Development Director's choice between or among administrative or hearing procedures to apply to a particular application or determination is not an appealable decision.~~

(Relocated to BDC 4.1.275, Review Authority)

4.1.420 Mailed Notice of Type II Applications.

A. Notice of Type II applications must be mailed at least 14 days prior to the issuance of a decision ~~to persons entitled to notice under BDC 4.1.423~~. Such notice must include all the information specified under BDC 4.1.424 except for the information specified in BDC 4.1.424(A)(7) and (10). For mailed notices for expedited and middle housing land divisions, see BDC 4.3.700, Expedited and Middle Housing Land Division.

B. Written notice must be sent by mail to the following persons:

1. The applicant.
2. Owners of record of property as shown on the most recent property tax assessment roll of property located, and to the addresses based on the City's current addressing records:
 - a. Within 250 feet of the property that is the subject of the notice and where any structure being proposed is less than or equal to 50 feet in height. The notice boundary will increase by 250 feet for every 25-foot increment of structure height above 50 feet.
 - b. The applicant must bear the cost (i.e., mailing, etc.) of any notice.
3. The designated land use chair(s) of a neighborhood association recognized by the City of Bend, where any property within the notice area specified in subsection ~~(A)~~(2) of this section is within the boundaries of a recognized neighborhood association.
4. The notice requirements of this section will be deemed met when the Planning Division can provide an affidavit or other certification that such notice was given.
5. The Community ~~and Economic~~ Development Director may increase the minimum notice area up to 400 feet beyond what is otherwise required under subsection ~~(A)~~(2)(a) of this section, at his or her sole discretion.

~~B.~~ C. Any person may comment in writing on a Type II application within 14 days from the date notice was mailed or a longer period as specified in the notice.

~~C.~~ D. Notice of the Community ~~and Economic~~ Development Director's Type II decision and the appeal period must be mailed to all parties to the record.

~~D.~~ E. Any party can appeal a Type II decision in accordance with BDC4.1.1100, Appeals.

4.1.423 Mailed Notice of Type III and III-CC Applications Hearings.

A. Except as otherwise provided for herein, notice of a Type III or Type III-CC application must be mailed at least 20 days prior to the evidentiary hearing for those matters set for one evidentiary hearing, or 10 days prior to the first evidentiary hearing where two or more evidentiary hearings are held. Written notice must be sent by mail to the following persons:

1. The applicant.
 2. Owners of record of property, ~~as shown on the most recent property tax assessment roll of property located, and to the addresses,~~ based on the City's current addressing records, to properties:
 - a. Within 500 feet of the property that is the subject of the notice and where any structure being proposed is less than or equal to 50 feet in height.
 - i. The notice boundary must increase by 250 feet for every 25-foot increment of structure height above 50 feet.
 - b. The applicant must bear the cost (i.e., mailing, etc.) of any notice.
 3. The tenants of a ~~mobile home~~ manufactured dwelling park when the application ~~is for the~~ involves rezoning ~~of any part or all of a mobile home~~ the park.
 4. The designated land use chair(s) of a neighborhood district recognized by the City of Bend, where any property within the notice area specified in subsection (A)(2) of this section is within the boundaries of a recognized neighborhood district.
- B. The notice requirements of this section will be deemed met when the Planning Division can provide an affidavit or other certification that such notice was given.
- C. The Community ~~and Economic~~ Development Director may increase the minimum notice area beyond what is otherwise required under subsection (A)(2)(a) of this section, at his or her sole discretion.

4.1.424 Contents of Mailed Notices.

- A. For the contents of mailed notices for expedited and middle housing land divisions, See BDC 4.3.700, Expedited and Middle Housing Land Division. All other mailed notices ~~shall~~ must:

- B. All mailed notices concerning applications necessitating an exception to one of the statewide land use planning goals ~~shall~~ must state that a goal exception is proposed and ~~shall~~ summarize the issues in an understandable manner.

4.1.425 Posted Notice of Type II, ~~or Type III~~ or III-CC Applications.

- A. Notice of a Type II, ~~or III~~, or III-CC application for which ~~prior notice procedures are~~ mailed notice is required must be posted on the subject property by the applicant/property owner throughout the duration of the required public comment period. Such notice must be located within 10 feet of any abutting public way. Failure of applicant/property owner to maintain posting of the sign throughout the duration of the required public comment period does not invalidate a land use ~~approval~~ decision.
- B. Posted notice of an application for a utility facility line approval must be by posting the proposed route at intervals of not less than 500 feet. The notice must be posted as close as practicable to, and be visible from, any public way in the vicinity of the proposed route.
- C. As part of the completeness check procedures in BDC 4.1.412, Completeness Check, the notice to the applicant must include the following information:
1. The requirement for posting a notice on the project site;
 2. The number of on-site notices required;
 3. The latest date that the notice may be posted; and
 4. A statement to be signed and returned by the Applicant certifying that the notice(s) either was or will be posted on site by the required date. Failure to submit such certification constitutes an agreement by the applicant to pause the review period until such statement is provided.

4.1.426 Type III and III-CC – Quasi-Judicial Procedures Factors.

A. Quasi-judicial decisions bear different aspects than Type IV legislative decisions. A request will generally be considered a quasi-judicial process if it involves the following factors:

1. The process is bound to result in a decision;
2. The decision is bound to apply preexisting criteria to concrete facts; and
3. The action is customarily directed at a closely circumscribed factual situation or small number of persons.

Although no factor is considered determinative and each must be weighed, the more definitively these factors are answered affirmatively, the more it will be considered a quasi-judicial decision.

~~B. Type III decisions are made by the Planning Commission or Hearings Officer after a public hearing following the quasi-judicial hearings procedures of BDC 4.1.800, except the City Council is the sole review authority for annexations. The City Council is the final decision maker in Type III development applications that require the adoption of an ordinance. (Revised and relocated to BDC 4.1.275 Review Authority)~~

4.1.427 Site-Specific Comprehensive Plan Map Amendments and/or Zone-Bend Zoning Map Changes.

Any change initiated by an individual that includes a Comprehensive pPlan map amendment and/or zone change for specific real property may be accompanied by the appropriate applications for a specific development proposal. Approval of such a plan map amendment and/or zone change accompanied by a specific development proposal may be conditioned upon initiation of the development proposal within a specified time period, at the discretion of the Hearings Body, to ensure no greater intensity of use than that contemplated in the proceeding. ~~Approvals of Decisions on~~ site-specific plan map amendments and/or zone changes that are not accompanied by applications for a specific development proposal ~~shall be~~ are based on evaluation of the highest impact uses authorized in the proposed zone.

~~Because site-specific plan amendments require an alteration of the Bend Comprehensive Plan by action of the City Council, they shall be processed through the Type III quasi-judicial proceeding where the initial Hearings Body makes a recommendation to the City Council for a final decision. (Revised and relocated to BDC 4.1.275, Review Authority)~~

~~4.1.429 Review Authority for Site-Specific Zone Change.~~

A. ~~The following is the review authority for site-specific zone change requests (Type III process) that bring the zoning into conformance with the Bend Comprehensive Plan:~~

- ~~1. The Planning Commission is the review authority for site-specific zone change requests processed concurrently with a minor master plan.~~
- ~~2. The City Council is the review authority for site-specific zone change requests processed concurrently with a major master plan.~~
- ~~3. The Hearings Officer is the review authority for all other site-specific zone change requests.~~

(Revised and relocated to BDC 4.1.275, Review Authority)

4.1.435 Temporary Approval.

F. A temporary use approval ~~shall~~ expires as follows:

1. Six months from the date of approval, if no decision has been reached on the underlying application.
2. On the date the appeal period ~~runs~~ has ended on the decision on the underlying application.
3. On the date that all appeals of the decision on the underlying application are decided and final.

4.1.445 Modification of Application.

- A. An applicant may modify an application at any time during the review process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process.
- B. The Review Authority ~~shall~~ will not consider any evidence submitted by or on behalf of an applicant that would constitute a modification of an application (as that term is defined in BDC Chapter 1.2, Definitions), unless the applicant submits a request for a modification of an application for a modification, and pays all required modification fees. For Type II and Type III applications, the applicant must and agrees in writing to restart the 120-day or 100-day review periods in BDC 4.1.413, Final Action In Type II, III, and III-CC

Applications, as of the date the modification is submitted and the fees are paid. The ~~420-day~~ review period for an application, as modified, may be restarted as many times as there are modifications up to a total of 365 days for the 120-day review period and up to a total of 345 days for a 100-day review period from the day the application was accepted as complete.

- C. The Review Authority may require that an additional notice be mailed and posted for the application ~~be re-noticed~~ and/or additional hearings be held.
- D. Up until the day a hearing is opened for receipt of oral testimony, the Community and Economic Development Director ~~shall have~~ has sole authority to determine whether an applicant's submittal constitutes a modification of application. After such time, the Hearings Body ~~shall~~ must make such determinations. The Review Authority's determination on whether a submittal constitutes a modification of application ~~shall be~~ is appealable only to LUBA and ~~shall be appealable~~ only after a final decision is ~~entered~~ issued by the City on an application.

4.1.500 Type IV Legislative Procedures. *(Reorganized and revised this section.)*

~~4.1.505 Type IV Applications.~~

~~Legislative decisions are made after public notice, public hearings and a recommendation by the Planning Commission to the City Council, except the City Council is the sole review authority for annexations. *(Relocated to BDC 4.1.275, Review Authority)*~~

~~4.1.510 Hearing Required.~~

~~No legislative change can be adopted without review by the Planning Commission and a final public hearing before the City Council, except the City Council is the sole review authority for annexations. Public hearings are set at the discretion of the Community and Economic Development Director, unless otherwise required by State law. *(Revised and relocated to BDC 4.1.275, Review Authority and BDC 4.1.515, Public Hearing)*~~

4.1.505 Initiation of a Legislative Change.

Requests for map or text amendments may be initiated by an individual, corporation, or public agency upon submittal of an application, supporting documentation and payment of required fees. The City Council, Planning

Commission or Community Development Director may also initiate legislative changes. (*Relocated from BDC 4.1.520, Initiation of a Legislative Change and revised.*)

4.1.515 4.1.510 Notice.

A. *Published Notice.*

1. ~~Notice of a Type IV legislative change shall~~ must be published in a newspaper of general circulation in the City at least 20 days prior to each public hearing.
2. The notice ~~shall~~ must state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.

B. ***Posted Notice.*** ~~Notice shall be posted~~ Posted notice may also be required at the discretion of the Community and Economic Development Director in compliance with BDC 4.1.425, Posted Notice of Type II, III or III-CC Applications.

C. ***Individual Notice.*** ~~For site specific applications, individual notice to property owners, as defined in BDC 4.1.220(A), shall be provided.~~ ***(This will fall under the proposed Type III-CC process)***

~~D~~ ***C. Neighborhood Districts.*** ~~Notice of Type IV legislative changes shall~~ must be mailed to the designated land use chair of any neighborhood district recognized by the City of Bend, where the legislative change affects any land within the boundary of such neighborhood district.

4.1.515 Public Hearing.

A. Public hearings are set at the discretion of the Community Development Director, unless otherwise required by State law.

B. The record remains open after the Hearings Body's public hearing until the City Council closes the public hearing. (*Make clear record is open after the Hearing Body's public hearing until City Council closes the public hearing.*)

4.1.520 Initiation of a Legislative Change.

~~Requests for a plan map or text amendment of the Bend Comprehensive Plan or its implementing documents may be initiated by an individual, corporation, or public agency upon submittal of an application, supporting documentation and payment of required fees. The City Council, Planning Commission or Community and~~

Economic Development Director may also initiate legislative changes. ***(Relocated to BDC 4.1.505, Initiation of a Legislation Change)***

4.1.525 Review Authority

A Type IV change must be reviewed by the Planning Commission prior to action being taken by the City Council, except the City Council is the sole review authority for annexations. ***(Relocated to 4.1.275, Review Authority)***

4.1.530 4.1.520 Final Decision.

All legislative changes shall be are adopted by ordinance.

4.1.525 Notice of Decision.

A. Notice of the City Council decision of a change to the Bend Comprehensive Plan, Bend Comprehensive Plan Map, Bend Zoning Map and/or the Bend Development Code must be submitted to the Director of the Department of Land Conservation and Development within 20 days after making the decision. The submission must contain the following materials:

1. A copy of the signed decision, the findings and the text of the change to the Bend Comprehensive Plan or Bend Development Code;
2. If a Bend Comprehensive Plan map or Bend Zoning Map is created or altered by the proposed change, a copy of the map that is created or altered;
3. A brief narrative summary of the decision, including a summary of substantive differences from the proposed change submitted under ORS 197.610 and any supplemental information that may be useful to inform the Director or members of the public of the effect of the actual change; and
4. A statement by the individual transmitting the submission, identifying the date of the decision and the date of the submission.

B. On the same day, the City must mail, or otherwise deliver, notice to the following:

1. Applicant;

2. Any person who participated in the proceedings that led to the decision to adopt the change to the Bend Comprehensive Plan or Bend Development Code; and
3. Any person who requested in writing that the local government give notice of the change to the Bend Comprehensive Plan or Bend Development Code.

(Consistent with ORS 197.615)

4.1.535 4.1.530 Corrections.

The City's Comprehensive Plan ~~and~~ or Development Code may be corrected by order of the City Council to cure editorial and clerical errors. A public hearing on a corrections order is not required.

4.1.600 Deschutes River Design Review Procedures.

For all property subject to the Deschutes River Design Review process pursuant to the Bend Development Code, the following procedures ~~shall~~ apply:

- A. **Review Process.** ~~There shall be two review tracks for depending on the level and type of activity proposed. Notwithstanding these provisions, the Community and Economic Development Director may refer any application to the Planning Commission for approval. The Planning Commission's consideration shall follow the quasi-judicial procedures set forth in BDC 4.1.800. The following are the review processes for the type of activity proposed in the Waterway Overlay Zone:~~

1. Removal of Trees Greater than Four Inches DBH.

- a. The following proposed tree removal activities are processed as a Type I application, unless elevated to a Type II application by the Community Development Director when there is a need to interpret or exercise policy or legal judgment. The Community Development Director's decision to elevate a Type I application to a Type II application is not an appealable decision.
 - i. Creation of fire fuel breaks in association with appropriate fire prevention authorities.
 - ii. Where necessary to mitigate potential fire hazard as determined by the Fire Code Official.
 - iii. Where the tree is determined by a qualified professional to be diseased or hazardous.
- b. The following proposed tree removal activity is processed by the Review Authority during a corresponding Deschutes River Design Review process related to the development:

- i. Where necessary to accommodate an approved development activity.

(Amended by the City Council on November 5, 2025)

1.2. Review Track A. A Type II administrative review shall be performed by the Community and Economic Development Director for the following activities: **Type II Application Activities.**

a. The following proposed activities are processed as a Type II application:

- i. ~~a.~~ Minor alterations of 10 percent or less to an existing building facade facing the river, including the roof.
- ii. ~~b.~~ Changes in window or door placement visible from the river.
- iii. ~~c.~~ Changes in parking locations.
- iv. ~~d.~~ Fill or removal activity within 10 feet of the ordinary high water mark of the Deschutes River.
- v. ~~e.~~ New construction or additions that are not visible from the river due to topography, vegetation or existing development.

b. The Community Development Director may elevate a Type II application to the Planning Commission for a hearing as a Type III application. The Community Development Director's decision to elevate a Type II application to a Type III application is not an appealable decision.

2. Review Track B. A Type III review shall be performed by the Planning Commission for the following activities

3. Type III Application Activities.

a. The following proposed activities are processed as a Type III application:

- i. ~~a.~~ Appeal of a Type II administrative review decision.
- ii. ~~b.~~ New construction and new development that exceed the activities listed in BDC 4.1.600(A)(2)(a).
 - ~~c.~~ Master plan approval for large scale projects.
- iii. ~~d.~~ Variances to an application in conformance with BDC Chapter 5.1, Variances.
- iv. ~~e.~~ Fill and removal activities associated with new development ~~or for creation of fire breaks in association with appropriate fire prevention authorities.~~ ***(Relocated to BDC 4.1.600(A)(1) as a Type I application)***

b. Type III applications are reviewed by the Planning Commission as follows:

- i. Notice for applications must be in compliance with BDC 4.1.423, Mailed Notice of Type III and III-CC Hearings, and BDC 4.1.424, Contents of Mailed Notices.
- ii. The hearing procedure must be in compliance with BDC 4.1.800, Quasi-Judicial Hearings.
- iii. The Planning Commission must review the entire project, even if only a portion of the project falls within the Deschutes River Corridor Design Review Combining Zone.
- iv. Appeals of the decision of the Planning Commission may be appealed to the Land Use Board of Appeals (LUBA) as provided by law.

B. **Submittal Requirements.** ~~The applicant shall submit an application in writing to the Planning Division on forms provided by the City. The request shall include a site plan containing the relevant components listed in BDC 4.2.200 and a description of work and materials that will be used. The Review Authority shall review the request and respond to the applicant in writing of the decision and any conditions placed on the decision.~~ An application for review under this section must include the following information, as deemed applicable by the Community Development Director:

1. A detailed written explanation of the proposal, including the location, amount, and type (species) of any vegetation to be removed or planted, and any material to be graded, excavated, or filled.
2. An explanation of why any proposed grading, excavation, or fill of material and/or vegetation is necessary.
3. A site plan drawn to scale, accompanied by such drawings, sketches, photos, and descriptions as are necessary to describe and illustrate the proposed activity. The site plan must, at a minimum, include:
 - i. Any proposed structures or impervious surfaces on the site;
 - ii. Location of property lines, easements, existing and proposed structures;
 - iii. Identification of existing vegetation on the site, indicating areas of native and nonnative plant species;
 - iv. Any proposed modifications to existing vegetation;
 - v. Location of existing trees, the tree size (diameter at breast height), proposed tree status (trees to be removed or preserved) and location of the root protection zone of each tree proposed to be preserved.
 - vi. A grading and drainage plan, showing existing and proposed site contours at two-foot intervals, or less;

- vii. All applicable WOZ sub-zone boundaries;
- viii. Location of the ordinary high water mark;
- ix. Location of designated wetlands on or abutting the site; boundaries of designated wetlands shall be delineated using methods accepted by the Oregon Department of State Lands;
- x. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed; and
- xi. Name, address, email address and telephone number of project designer, engineer, surveyor, and/or planner, if applicable.

(Relocated from BDC 2.7.610.E.2)

C. ~~Track B applications must be reviewed by the Planning Commission as follows:~~

- ~~1. Notice for applications must be as set forth in BDC 4.1.420, 4.1.423, and 4.1.424. The Commission must hold a public hearing for any Type III applications. The hearings procedure must be as set forth in BDC 4.1.800, Quasi-Judicial Hearings.~~
- ~~2. The Planning Commission must review the entire project, even if only a portion of the project falls within the Deschutes River Corridor Design Review Combining Zone.~~
- ~~3. Appeals of the decision of the Planning Commission may be appeal~~

(Relocated to subsection (A)(3)(b) of this section above)

C. State Agency Coordination. Within the WOZ, the State of Oregon has jurisdiction over certain development activities. In order to ensure coordination between the City of Bend and affected State agencies, notice of proposed activities within the WOZ will be provided to the Department of State Lands, the Oregon Department of Fish and Wildlife, the Oregon Parks and Recreation Department, and the Department of Environmental Quality, in accordance with provisions of BDC 4.1.245, Notice to Public Agencies. ***(Relocated from 2.7.610(E)(1), State Agency Coordination)***

D. **Conflicting Provisions.** Where the procedures in this section conflict with other provisions of this code with respect to Deschutes River Corridor Design Review, the provisions of this section shall prevail.

4.1.800 Type III and III-CC Quasi-Judicial Hearings.

4.1.805 Setting the Hearing.

- A. After an Type III application is deemed complete a hearing date must be set. For a Type III-CC application, a public hearing date is set at the discretion of the Community Development Director, unless otherwise required by State law. A hearing date may be changed by the Community Development Director, or the Hearings Body up until the time notice of the hearing is mailed. Once the notice of hearing is mailed any changes in the hearing date must be processed as a continuance in accordance with BDC 4.1.885(C)(1), if a Public Hearing Continued.
- B. If an applicant requests that a hearing date be changed and pays the additional noticing fees, such request must be granted. For a Type III application, the applicant must agree in writing to suspend the review period until the date of the new hearing.

(Relocated from BDC 4.1.875, Setting the Hearing, and revised)

4.1.810 Filing-Availability of Staff Report for Hearing.

- ~~A. At the time an application, that in the judgment of the Development Services Director requires a hearing, is deemed complete, a hearing date shall be set. **(Repetitive of BDC 4.1.875, Setting the Hearing.)**~~
- B. A. A staff report shall must be completed seven days prior to the hearing. Any staff report used at a public hearing must be available at least seven days prior to the hearing. If the report is not completed available by such time, the hearing shall may be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date that is at least seven days after the date the initial staff report is completed available. The granting of a continuance under these circumstances shall be is at the discretion of the Hearings Body.
- C. B. A copy of the staff report shall be mailed to the applicant, shall be made available at a reasonable cost to such other persons who request a copy and shall be filed with the Hearings Body. A copy of the staff report must be available for inspection at no cost at least seven days prior to the hearing and must be provided at reasonable cost. **(ORS 197.797)**
- ~~D. C. Notwithstanding subsection (BA) of this section, oral or written modifications and additions to the staff report shall be are allowed prior to or at the hearing.~~

4.1.815 Hearings Body.

A. ~~The following must serve as the Hearings Body as determined by the Community and Economic Development Services Director:~~

1. ~~Hearings Officer.~~

2. ~~Planning Commission for matters of interpretation of this code, appeals of Type II decisions where the Hearings Officer cannot hear the matter due to a conflict of interest, or as otherwise specified by provisions of City code.~~

3. ~~City Council for annexation applications, subject to BDC Chapter 4.9, Annexations.~~

(Revised and relocated to BDC 4.1.275, Review Authority and to BDC 4.1.1145, Hearing on Appeal)

4.1.845 Standing.

A. ~~Any interested person may appear and be heard in a Type III hearing, except that in appeals heard on the record, a person must have participated in a previous proceeding on the subject application. ***(There is not a local appeal for a Type III hearing, so this is not needed.)***~~

B. ~~Any person appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing shall have standing and shall be a party. A person whose participation consists only of signing a petition shall not be considered a party. ***(This is included in the definition of party in BDC 1,2, Definitions)***~~

4.1.865 Challenge for Bias, Prejudgment or Personal Interest.

Prior to or at the commencement of a hearing, any party may challenge the qualification of a member of the Hearings Body, ~~or a member thereof~~, for bias, ex parte contacts, prejudgment or personal interest. The challenge ~~shall~~ must be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, ~~the Hearings Body or the member~~ shall must disqualify itself, withdraw or make a statement on the record of its ~~their~~ capacity to hear. ~~A Planning Commission member with a conflict identified under ORS Chapter 197 must disqualify him or herself after disclosure.~~

4.1.870 Hearings Procedure.

A. A hearing ~~shall~~must be conducted as follows:

1. The Hearings Body ~~shall~~must explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.
2. A statement by the Hearings Body regarding pre-hearing contacts, bias, prejudice or personal interest ~~shall~~must be made.
3. Any facts received, noticed or recognized outside of the hearing ~~shall~~must be stated for the record.
4. Challenges to the Hearings Body's qualifications to hear the matter ~~shall~~must be stated and challenges entertained.
5. At the commencement of a hearing under a Comprehensive Plan or land use regulation, the Hearings Body or his or her designee ~~shall~~must make a statement to those in attendance that:
 - a. Lists the applicable substantive criteria;
 - b. States that testimony, arguments and evidence must be directed toward that criteria or other criteria in the Comprehensive Plan or land use regulations which the person believes to apply to the decision; and
 - c. States that failure to raise an issue accompanied by statements or evidence sufficient to afford the Hearings Body and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
6. At the commencement of the initial public hearing, the Hearings Body or his or her designee ~~shall~~must make a statement to the applicant that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court. An applicant is not required to raise constitutional or other issues relating to proposed conditions of approval unless the conditions of approval are stated with sufficient specificity to enable the applicant to respond to the conditions prior to the close of the final local hearing.

7. An issue which may be the basis for an appeal to the Land Use Board of Appeals ~~shall~~ must be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the local government. Such issues ~~shall~~ must be raised and accompanied by statements or evidence sufficient to afford the City Council, Planning Commission, Hearings Body or Hearings Officer, and the parties an adequate opportunity to respond to each issue.

8. ***Order of Presentation.***
 - a. Explanation of procedural requirements.

 - b. Open the hearing.

 - c. Statement of pre-hearing contacts, bias, prejudice or personal interest.

 - d. Challenge for bias, prejudgment or personal interest.

 - e. Staff report.

 - f. Applicant testimony.

 - g. ~~Testimony by those in favor of the application.~~ Public testimony.

 - ~~h. Testimony by those neutral.~~

 - ~~i. Testimony by those opposed to the application.~~

 - ~~j-h.~~ Applicant rebuttal.

 - ~~k.~~ i. Staff comment.

 - ~~l.~~ j. Questions from or to the chair may be entertained at any time at the Hearings Body's discretion.

 - ~~m.~~ k. Close the hearing.

 - ~~n.~~ l. Deliberation.

 - ~~o.~~ m. Decision.

9. In appeal proceedings, the **applicant** is the party who initiated the application which is under appeal. These person(s) opposed to the application shall testify under the ~~"Testimony by those opposed to the~~

application” portion of the appeal proceeding. Those persons in favor of the application shall testify under the “Testimony by those in favor of the application” portion of the appeal proceeding.

10. The record ~~shall~~must be available for public review at the hearing.

~~4.1.875 Setting the Hearing.~~

~~A. After an application is deemed accepted a hearing date shall be set. A hearing date may be changed by the City staff, or the Hearings Body up until the time notice of the hearing is mailed. Once the notice of hearing is mailed any changes in the hearing date shall be processed as a continuance in accordance with BDC 4.1.885.~~

~~B. If an applicant requests that a hearing date be changed, such request shall be granted only if the applicant agrees that the extended time period for the hearing shall not count against the 120 day time limit set forth ORS 227.178.~~

(Revised and relocated to BDC 4.1.805, Setting the Hearing)

4.1.880 Close of the Record.

A. Except as set forth herein, the record ~~shall~~will be closed to further testimony or submission of further argument or evidence at the end of the presentations before the Hearings Body.

B. If the hearing is continued or the record is held open under BDC 4.1.885, Continuances or Record Extensions, further evidence or testimony ~~shall~~ will only be taken ~~only~~ in accordance with ~~the provisions of~~ that section.

C. Otherwise, further testimony or evidence will be allowed only if the record is reopened under BDC 4.1.895, Reopening the Record.

D. An applicant ~~shall~~ must be allowed, unless waived, to submit final written arguments in support of its application after the record has closed within such time limits as the Hearings Body ~~shall~~ sets. The Hearings Body ~~shall~~ must allow an applicant at least seven days to submit its final argument, which time ~~shall~~ will not be counted against the ~~120-day clock~~ review periods in BDC 4.1.413(A), Review Periods.

E. For Type III-CC applications, the record remains open after the Hearings Body’s public hearing until the City Council closes the public hearing.

(Make clear record is open after the Planning Commission public hearing until City Council closes the public hearing.)

4.1.885 Continuances or Record Extensions.

A. Grounds.

- ~~1. Prior to or at the initial hearing, an applicant shall receive a continuance upon any request if accompanied by a corresponding extension of the 120-day review period. If a continuance request is made after the published or mailed notice has been provided by the City, but at least seven days prior to the hearing, the hearing place shall be posted with notification of cancellation and a revised notice with the new hearing date, place and time shall be mailed to all persons who received the original notification. The applicant shall be responsible for any costs for providing notice of the continuance. If a continuance request is made less than seven days prior to the hearing, the Hearings Body shall take evidence at the scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance.~~

- ~~2. Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:
 - ~~a. Where additional documents or evidence are submitted by any party; or~~

 - ~~b. Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony.~~~~

~~For the purposes of subsection (A)(2) of this section, additional documents or evidence shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.~~

- ~~B. Except for continuance requests made under subsection (A)(1) of this section, the choice between granting a continuance or leaving the record open shall be at the discretion of the Hearings Body. After a choice has been made between leaving the record open or granting a continuance, the hearing shall be governed thereafter by the provisions that relate to the path chosen.~~

C. Hearing Continuances.

- ~~1. If the Hearings Body grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial hearing.~~

~~2. An opportunity shall be provided at the continued hearing for persons to rebut new evidence and testimony received at the continued hearing.~~

~~3. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to allow submittal of additional written evidence or testimony. Such additional written evidence or testimony shall be limited to evidence or testimony that rebuts the new written evidence or testimony.~~

~~D. Leaving Record Open. If at the conclusion of the hearing the Hearings Body leaves the record open for additional written evidence or testimony, the Hearings Body shall allow for response to written evidence or testimony submitted during the period the record is held open.~~

~~E. A continuance or record extension granted under this section shall be subject to the 120-day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an applicant, the time period during which the 120-day review period is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.~~

A. Continuance Request Prior to the Initial Hearing. Prior to or at the initial hearing, an applicant must receive a continuance upon any request. If a continuance request is made after the published or mailed notice has been provided by the City, but at least seven days prior to the hearing, the hearing place must be posted with notification of cancellation and a revised notice with the new hearing date, place and time must be mailed to all persons who received the original notification. The applicant is responsible for any costs for providing notice of the continuance. If a continuance request is made less than seven days prior to the hearing, the Hearings Body will take evidence at the scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance. Any continuance requested by an applicant will result in a corresponding extension of the review period for Type III applications.

B. Additional Documents or Evidence Presented. If additional documents or evidence are provided by any party, the Hearings Body may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant will result in a corresponding extension of the review period for Type III applications.

C. Opportunity to Present Additional Evidence, Arguments or Testimony. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The Hearings Body must grant such request by

continuing the public hearing pursuant to subsection (C)(1) of this section or leaving the record open for additional written evidence, arguments or testimony pursuant to subsection (C)(2) of this section.

1. If Public Hearing Continued. If the Hearings Body grants a continuance, the hearing must be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity must be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

2. If Record Left Open. If the Hearings Body leaves the record open for additional written evidence, arguments or testimony, the record must be left open for at least seven days. Any participant may file a written request for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Hearings Body must reopen the record. When the Hearings Body reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.

3. Review Period. A continuance or extension granted pursuant to this section is subject to the review periods, unless the continuance or extension is requested or agreed to by the applicant.

D. Final Written Arguments. Unless waived by the applicant, the Hearings Body must allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal will be considered part of the record but must not include any new evidence. This seven-day period will not be subject to the review period.

(Consistent with ORS 197.797)

4.1.895 Reopening the Record.

A. The Hearings Body may at its discretion reopen the record, either upon request or on its own initiative. For a Type III application, the Hearings Body shall will not reopen the record at the request of an applicant

unless the applicant has agreed in writing to an extension or a waiver of the ~~120-day time limit~~ review period.

B. *Procedures.*

1. Except as otherwise provided for in this section, the manner of testimony (whether oral or written) and time limits for testimony to be offered upon reopening of the record ~~shall be~~ is at the discretion at the Hearings Body.
2. The Hearings Body ~~shall~~ must give written notice to the parties that the record is being reopened, stating the reason for reopening the record and how parties can respond. The parties ~~shall~~ must be allowed to raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

4.1.900 Type II, III and III-CC Decisions.

4.1.910 Decision.

- A. Approval or denial ~~of a Type II or III application shall~~ must be based upon and accompanied by a written statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria, standards and facts set forth.
- B. Any portion of an application not addressed in a Review Authority's decision ~~shall~~ will be deemed to have been denied.
- C. A decision ~~on a Type II or III application~~ is not final until the Review Authority issues a written decision, the ~~decision or~~ notice of the decision has been ~~mailed~~ provided in compliance with BDC 4.1.925 Notice of Decision and the local appeal period ~~to the next higher Review Authority within the City~~ has run ended.
- D. Unless a temporary use ~~permit~~ authorization has been issued, no building permit ~~shall~~ will be issued until a decision is final. Appeal of a final decision to LUBA does not affect the finality of a decision for purposes of issuing building permits. If an applicant elects at his or her own discretion to proceed under a land use action with a pending LUBA appeal, he or she ~~shall~~ may proceed only if:

1. The applicant accepts each and every risk of loss and damage that may result if the application is denied, and further agrees in writing to hold City, its officers, agents and employees harmless from such loss and damage;
2. The applicant agrees in writing to restore the site to its original condition if the application for the land use approval is denied; and
3. The applicant posts a bond or other form of security acceptable to the Review Authority in an amount sufficient to cover the costs of restoration of the site to its pre-approval condition.

4.1.915 Type II and III Findings as to Application Acceptance Date.

~~Each Type II and III decisions shall~~ must include findings stating as to when the proposed Type II or III action application was deemed complete and formally accepted ~~as such~~ by the Community and Economic Development Director.

4.1.920 Findings as to Legal Lot of Record Status.

~~Each Type II and III decisions shall~~ must include a finding that the property subject to the proposed land use action is a legal lot of record ~~as that term is~~ defined in the Bend Development Code.

4.1.925 Notice of Decision.

A. Notice of the Review Authority's decision ~~shall~~ must be ~~in writing and mailed~~ provided to all parties in compliance with the following; ~~however, one person may be designated by the Review Authority to be the recipient of the decision for a group, organization, group of petitioners or similar collection of individual participants~~ If an organization or identifiable group is a party to the proceedings, the City may designate or request the designation of one person to be the recipient of the notice for that organization or group.

1. **Type II Decisions.** A notice of the decision must be provided to the applicant and any person who submitted comments during the comment period. (Consistent with ORS 197.195(3)(c)(H) and (I))
 - a. **Expedited and Middle Housing Land Division Decisions.** For a notice of decision for an expedited or middle housing land division application, see BDC 4.3.700, Expedited and Middle Housing Land Division.
2. **Conditional Use Permit Decision without a Hearing (Type II).**

- a. A notice of decision must be mailed, or emailed if a mailing address was not provided, to the applicant, owners of record of property as shown on the most recent property tax assessment roll of property located within 100 feet of the property that is subject of the notice, and to the neighborhood district recognized by the City of Bend whose boundaries the subject property lies within. (ORS 227.175(10)(c)(A) and (B))
- b. The notice of decision must:
 - i. Describe the nature of the decision.
 - ii. State that any person who is adversely affected or aggrieved or who is entitled to written notice under subsection (a) of this section may appeal the decision in compliance with BDC 4.1100, Appeals.
 - iii. State that the decision will not become final until the period for filing a local appeal has expired.
 - iv. State that a person who is mailed written notice of the decision, or emailed if an address was not provided, cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830. (Consistent with (ORS 227.175(10)(a)(C)) and ORS 197.830(4)(d))

- 3. Type III and Type III-CC Decisions. A notice of decision must be given to the applicant and all parties to the proceeding. See also, BDC 4.1.525, Notice of Decision, for map and text amendments. (Consistent with ORS 227.173 (4)).

B. The notice of decision must explain the requirements for appealing the decision.

~~**4.1.930 Decision on Plan Amendments and Zone Changes.**~~

~~The Hearings Officer shall have authority to approve or deny Type III quasi-judicial zone changes when the zoning is proposed to be changed to be consistent with the Bend Comprehensive Plan Map. Plan amendments shall require adoption by ordinance. Zone changes processed concurrently with plan amendments shall also be adopted by ordinance.~~

~~**(Relocated to 4.1.275, Review Authority)**~~

4.1.935 Reapplication Limited.

- A. If a specific application is denied on its merits, reapplication ~~for substantially the same proposal~~ may be made at any time after the date of the final decision denying the initial application.

B. Notwithstanding subsection (A) of this section, ~~a final decision bars any reapplication for a nonconforming use verification or for a determination on whether an approval has been initiated,~~ reapplication for a determination of the status of a nonconforming use or development made in compliance with BDC Chapter 4.10, Interpretation and Determination, may be refused by the Community Development Director unless the applicant comes forward with new evidence that was not available at the time the decision was made, and which could not, through reasonable diligence, have been discovered by the applicant prior to the decision. A legal lot of record determination shall be is subject to reapplication under subsection (A) of this section, only if the applicant presents new factual evidence not submitted with the prior application.

4.1.940 Proposed Order.

The Review Authority may request that any prevailing party draft a set of proposed findings and conclusions.

4.1.945 ~~Compliance with ORS 227.350~~ Wetlands Development.

- A. Final approval of any activity referred to in ORS 227.350(1) regarding State identified wetlands must include the notice statements required by ORS 227.350(3).
- B. ~~Individual notice to the applicant and the owner of record~~ The city may issue local approval for parcels identified as or including wetlands on the Statewide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the department with a copy of the notification of Comprehensive Plan map or zoning map amendments for specific properties consistent with ORS 227.350(5) shall be provided, unless notice in the written decision notice satisfies that requirement.
- C. Failure of the City to provide notice as required in this section ~~shall~~ will not invalidate City approval.
- D. This section ~~shall~~ will not become operative until the ~~Division~~ Department of State Lands makes available to the City a copy of the applicable portion of the Statewide Wetland Inventory.

4.1.1000 Reconsideration of a Type II or III Decision. (Make it clear that a Type I and Type III-CC decisions are not eligible for reconsideration.)

4.1.1010 Reconsideration.

- A. An applicant may request that the Review Authority's decision on a Type II or III application be reconsidered ~~as set forth herein~~. A request for reconsideration ~~shall be accompanied by a fee established by the City and by applicant's written consent that the~~ The applicant must agree that the 120-day review period will not run during the period of the reconsideration and ~~the any~~ resulting extended appeal period if applicable. The fee for the reconsideration request will be waived when, in the opinion of the Community and Economic Development Director, the reconsideration is requested to correct a clerical or technical error that is the City's fault.
- B. Grounds for reconsideration of ~~an administrative~~ a Type II decision ~~are is~~ limited to the following instances:
1. The applicant's ~~submission of~~ submits additional documents or evidence, that merely clarifies or supports the pending application, and is directed to one or more discreet aspects of the ~~approval decision~~. The new information ~~shall does~~ not constitute a modification of application ~~as defined herein;~~ or
 2. ~~Correction of~~ The applicant requests to correct an error in a condition established by the Review Authority where the condition is not supported by the record or is not supported by law; or
 3. ~~Correction of~~ The applicant requests to correct an errors that ~~are is~~ technical or clerical in nature.
- C. Grounds for reconsideration of ~~the Hearing Body's~~ a Type III decision ~~are is~~ limited to the following instances where an alleged error substantially affects the rights of the applicant:
1. ~~Correction of~~ The applicant requests to correct an error in a condition established by the Review Authority where the condition is not supported by the record or is not supported by law;
 2. ~~Correction of~~ The applicant requests to correct an errors that are technical or clerical in nature.

4.1.1020 Procedure.

- A. **Reconsideration Request.** A request by the applicant for reconsideration ~~shall must~~ be filed with the Community and Economic Development Director within 12 days of the date the notice of decision was ~~mailed provided~~. The request ~~shall must~~ identify the condition or issue to be considered and ~~shall must~~ specify how the rights of the applicant would be ~~adversely~~ substantially affected if the issue were to remain uncorrected.

- B. **Type II Request for Reconsideration.** Upon receipt of a request for reconsideration of a Type II decision, the Community and Economic Development Director ~~shall~~ will determine whether the request for reconsideration has merit. The Community Development Director's decision to determine whether the request for reconsideration has merit will be made without public notice and is not an appealable decision. No comment period or prior notice ~~shall be~~ is required for an administrative reconsideration.
- C. **Type III Request for Reconsideration.** Upon receipt of a request for reconsideration of a Type III decision, the Community and Economic Development Director ~~shall~~ will notify all parties ~~to the proceeding~~ of the request and allow for a 10-day comment period on the request. In those instances in which the only grounds for reconsideration of a Type III decision are technical or clerical in nature, at the end of the comment period, the Community and Economic Development Director ~~shall~~ will determine whether the request for reconsideration has merit. In all other instances, at the end of the comment period, the Hearings Body ~~shall~~ will determine whether the request for reconsideration has merit.
- D. **Reconsideration Decision.** The Review Authority ~~shall~~ will modify the decision upon a determination that the request has merit and the issue substantially affects the applicant. Notice of the ~~modification~~ modified decision ~~shall~~ will be sent to all parties to the proceeding. If the Review Authority determines that ~~no modification is warranted, a denial shall~~ a request for reconsideration does not have merit, a decision denying the request for reconsideration will be ~~issued and~~ sent to all parties to the proceeding.
- E. Filing a request for a reconsideration ~~shall~~ is not be a precondition for appealing a decision.
- F. **Appeals.**
1. Filing a request for reconsideration stays the deadline for any party to file an appeal of the Review Authority's decision. A new ~~42-day~~ appeal period for all parties to the proceeding ~~shall~~ will commence upon mailing of a ~~modification~~ notice of modified decision or upon mailing a determination that a ~~modification request for reconsideration is not warranted~~ denied. The new ~~42-day~~ appeal period ~~shall~~ will not be calculated as part of the ~~120-day~~ review period.
 2. ~~If an opponent files during the appeal period,~~ an appeal was filed and ~~an~~ the applicant ~~has~~ requested reconsideration, the ~~opponent's~~ appeal ~~shall~~ will be stayed pending disposition of the request for ~~modification~~ reconsideration. If the decision is not modified, the appeal will be processed in accordance with the procedures set forth in BDC 4.1.1100. If the decision is modified, the appellant must, within ~~42 days~~ the appeal period of the ~~mailing of the~~ modified decision, file in writing a statement requesting that its appeal be activated or the appeal will be invalidated.

3. If the decision is modified, any party can appeal the modified decision in accordance with BDC 4.1.1100, Appeals.

4.1.1100 Appeals.

Appeals must be in accordance with BDC 4.1.1100 through BDC 4.1.1165. For an appeal of an expedited and or middle housing land divisions, see also BDC 4.3.700, Expedited and Middle Housing Land Divisions. Where there is a conflict between the provisions of the following appeal sections and BDC 4.3.700(B)(9) through (11), the provisions of the BDC 4.7.300(B)(9) through (11) apply. All other appeals must comply with the following sections.

4.1.1115 Filing Appeals.

- A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Planning Division and pay an appeal fee.
- B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received by the Community ~~and Economic~~ Development Department no later than the close of the public counter on the twelfth day following mailing of the notice of decision. If a decision has been modified on reconsideration, an appeal must be filed no later than the close of the public counter on the twelfth day following mailing of the notice of modified decision as modified. Notices of appeals ~~shall not be received~~ cannot be filed by facsimile machine or e-mail.
- C. In the case of an appeal of ~~an administrative (a Type II)~~ decision to a Hearings Officer or to the Planning Commission, the Hearings Body's decision on appeal ~~shall~~ becomes final ~~42 days after the date the notice of decision is mailed~~ provided in compliance with BDC 4.1.925 Notice of Decision.
- D. The appeal of a Hearings Officer or Planning Commission Type II decision or of a Type III decision may be appealed to the Land Use Board of Appeals (LUBA) as provided by law.

4.1.1145 Hearing on Appeal.

- A. The appellant and all other parties to the decision below must be mailed notice of the hearing on appeal at least 20 days prior to any de novo hearing or deadline for submission of written arguments.
- B. Except as otherwise provided in this chapter, the appeal ~~must~~ will be heard as provided in BDC 4.1.800, Quasi-Judicial Hearings Type III and III-CC. The applicant must proceed first in all appeals. ***(Added Type III since appeals do not go to City Council)***
- C. The order of Hearings Body ~~shall be as provided in BDC 4.1.815, Hearings Body~~ is as follows:-

- 1. Hearings Officer.
- 2. Planning Commission for appeals of Type II decisions where the Hearings Officer cannot hear the matter due to unavailability or to a conflict of interest.

(Added (1) and (2) above from BDC 4.1.815, Hearings Body since the amendments propose to delete BDC 4.1.815, Hearing Body)

4.1.1160 Remands.

Applications ~~must not~~ may be remanded to a lower level Review Authority after appeal.

4.1.1310 ~~Expiration of Approval~~ Duration of Approvals and Extensions.

A. Scope Applicability.

- 1. ~~Except as otherwise provided herein, t~~This section must apply applies to and describe the duration of all development approvals provided for under this code.
- 2. This section does not apply to:
 - a. ~~These determinations made by declaratory ruling ; such as verifications of nonconforming uses and lot of record determinations that involve a determination of the legal status of a property, rather than whether a particular application for a specific land use meets the applicable standards of the code. Such determinations are final unless appealed and are not subject to any time limits;~~

Formal interpretations and determinations, see BDC Chapter 4.10, Formal Interpretations and Determinations.

- b. Temporary use ~~permits of all kinds~~ authorizations, which are governed by applicable ordinance provisions specifying the duration of such ~~permits~~ approvals;
- c. Quasi-judicial and legislative ~~plan and map~~ Comprehensive Plan map and Bend Zoning Map amendments and Comprehensive Plan and Bend Development Code text amendments;
- d. Master plans approved after April 14, 2017, which are governed by BDC Chapter 4.5, Master Plans; or
- e. Annexations.

3. For expedited and middle housing land divisions, see BDC 4.3.700, Expedited and Middle Housing Land Division.

B. Duration-Expiration of Approvals.

- 1. ~~Except as otherwise provided under this code, a development approval is void two years after the date the decision becomes final if the use approved in the permit is not initiated within that time period.~~
- 2. ~~Except as otherwise provided in this code, approval of tentative land division plats shall be void after two years from the date of preliminary approval, unless the final plat has been recorded with Deschutes County. A one-year extension may be approved by the Community and Economic Development Director if the applicant can demonstrate sufficient progress to reasonably assure the plat will be recorded at the end of the third year, and if:~~
 - a. ~~An applicant makes a written request for an extension of the development approval period; and~~
 - b. ~~The request is submitted to the City prior to the expiration of the approval period.~~
- 3. ~~In the case of a development approval authorized under applicable approval criteria to be completed in phases, each phase must be consistent with the time specified in the approval. In no case shall the total time period for all phases be greater than five years.~~

1. Site Plan Review Expiration.

a. **Single-Phase Site Plan Review.** A single-phase site plan review approval expires two years after the final action date, unless:

- i. A building permit for vertical construction has been issued; or
- ii. If a building permit for vertical construction is not required, a building permit for a remodel or change of use/occupancy has been issued for the approved use; or
- iii. A request for an extension has been granted under BDC 4.1.1310(C)(1), Site Plan Review Extension.

b. **Phased Site Plan Review.**

- i. The first phase of a phased site plan review approval expires two years after the final action date, and the total approval period for all phases must not be greater than five years from the final action date. The first and final phase of a phased site plan review approval expires according to the approved schedule, unless:

(A) A building permit for vertical construction for the building(s) shown on the phase has been issued; or

(B) If a building permit for vertical construction is not required for the phase, a building permit for a remodel or change of use/occupancy has been issued for the approved use in the phase; or

(C) A request for an extension has been granted under BDC 4.1.1310(C)(1), Phased Site Plan Review Extension.

- ii. Notwithstanding subsection (B)(1)(b)(i) of this section, if the first phase of a phased site plan review approval expires, the entire site plan approval expires.
- iii. Construction of initial phases of a phased site plan review does not vest future phases if the phased site plan review approval expires.

2. Land Division Expiration.

a. **Single-Phase Land Division.** When a tentative plan is approved as a single-phase land division, the final plat must be recorded with Deschutes County within two years of the tentative plan's final action date, unless an extension is approved in compliance with BDC 4.1.1310(C)(2), Land Division Extensions.

b. **Phased Land Division.**

- i. When a tentative plan is approved as a phased land division, the final plat for the first phase must be recorded with Deschutes County within two years of the tentative plan's final action date and all subsequent phases must be recorded with Deschutes County within five years of the final action date, unless an extension is approved in compliance with BDC 4.1.1310(C)(2), Land Division Extensions.
 - ii. If the applicant fails to record a final plat with Deschutes County within the specified timelines in subsection (B)(2)(b)(i) of this section, the tentative plan approval for those phases is void.
 - iii. Notwithstanding subsection (B)(2)(b)(i) of this section, if the first phase of a phased land division approval expires, the entire land division approval expires.
3. **All Other Expirations.** Except as otherwise provided in the BDC and in subsection (B)(1) and (B)(2) of this section, a development approval expires two years after the final action date, unless:
 - a. A building permit for vertical construction has been issued; or
 - b. If a building permit for vertical construction is not required, a building permit for a remodel or change of use/occupancy has been issued for the approved use.

C. Extensions of Approval. In addition to the clear and objective processes in BDC 4.1.1310(B), Expiration of Approvals, the following extensions are an alternative process that an applicant may request.

1. Site Plan Review Extension. The Community Development Director may grant a one-year extension of approval to a single-phase site plan review or a one-year extension of approval to the first phase and/or final phase of a phased site plan review, in compliance with the following:

a. Single-Phase Site Plan Review. Prior to the expiration date, the applicant submits an application requesting an extension of the approval period; and

- i. The applicant has submitted a building permit application with sufficient information to ensure that a building permit for vertical construction can be issued and vertical construction can commence by the end of the one-year extension, or
- ii. If a building permit for vertical construction is not required, the applicant has submitted a building permit application with sufficient information to ensure that a building permit for a remodel or change of use/occupancy can be issued for the approved use and applicable construction can commence by the end of the one-year extension.

- ~~b. **Phased Site Plan Review.** Prior to the expiration date, the applicant submits an application requesting an extension of the development approval period; and~~
- ~~i. For an extension to the first phase or final phase, the applicant has submitted a building permit application with sufficient information to ensure that a building permit for vertical construction can be issued and vertical construction can commence by the end of the one-year extension, or~~
- ~~ii. If a building permit for vertical construction is not required in the first or final phase, the applicant has submitted a building permit application with sufficient information to ensure that a building permit for a remodel or change of use/occupancy can be issued for the approved use and applicable construction can commence by the end of the one-year extension.~~

~~**e. b. Phased Site Plan Review Extension Request.** Extension requests are separate applications.~~

~~An extension for the first phase does not include an extension of the final phase.~~

(Amended by the Planning Commission on September 22, 2025)

2. Land Division Extensions.

- a. **Land Division Extension.** The Community Development Director may grant a one-year extension for a single-phase land division or a one-year extension for the first phase and/or final phase of a phased land division, if:
- i. Prior to the expiration date, the applicant submits an application requesting an extension of the development approval period; and
- ii. A right-of-way permit has been approved for the infrastructure improvements that must be completed for final plat approval and the applicant has demonstrated that such construction can be completed by the end of the extension period.
- b. **Single-Phase Land Division.** If a one-year extension is approved in compliance with BDC 4.1.1310(C)(2)(a), Land Division Extensions, then the final plat must be recorded with Deschutes County within three years of the tentative plan's final action date.

c. Phased Land Division.

i. If a one-year extension is approved for the first phase in compliance with BDC 4.1.1310(C)(2)(a), Land Division Extensions, then the final plat must be recorded with Deschutes County within three years of the tentative plan's final action date.

ii. If a one-year extension is approved for the final phase in compliance with BDC 4.1.1310(C)(2)(a), Land Division Extensions, then all phases must be recorded with Deschutes County within six years of the tentative plan's final action date.

iii. Extension requests are separate applications. An extension for the first phase does not include an extension of the final phase.

~~1-3.~~ **Other Development Approval Extensions.** The Community and Economic Development Director may grant a one-year extension of up to one year for a development approval that contained an initial one-year duration of approval if, prior to the expiration date, the applicant submits an application requesting an extension of the development approval period.

~~a.~~ An applicant makes a written request for an extension of the development approval period; and

~~b.~~ The request is submitted to the City prior to the expiration of the approval period.

~~2-~~ **4. City Council Resolution Extension.**

~~a.~~ The Community and Economic Development Director may grant one or more ~~additional~~ extensions of approval if authorized by a City Council resolution which recognizes a City-wide need for ~~an additional~~ a limited-duration extension, not to exceed two years. ~~The additional extension may be granted if:~~

~~b.~~ The City Council resolution may specify the length of time of the extensions, but the total consecutive length of the extensions authorized by Council cannot exceed two years.

~~c.~~ The extension authorized under this section may be granted if, prior to the expiration date, the applicant submits an application requesting an extension of the development approval period.

~~d.~~ The extensions authorized under this section are in addition to the extensions in BDC 4.1.1310(C), Extensions of Approval.

~~a.~~ ~~The applicant has exhausted all other extension opportunities;~~

- ~~b. The applicant makes a written request for an extension of the development approval period; and~~
- ~~c. The request is submitted to the City prior to the expiration of the approval period.~~

~~3. **5.** Approval of an extension granted under this section is an administrative decision, and is not a land use decision or a limited land use decision as described in ORS 197.015 or this code. An extension is not subject to appeal and ~~shall be~~ is processed as a Type I application.~~

D. *Effect of Appeals.* The time period set forth in subsection (B) of this section ~~shall~~ will be tolled upon filing of an appeal to LUBA, until all appeals are resolved.

~~4.1.1315~~ Initiation of Use.

~~A. For the purposes of this chapter, development undertaken under a development approval described in BDC 4.1.1310, Expiration of Approval, has been “initiated” if it is determined that:~~

- ~~1. The proposed use has lawfully occurred;~~
- ~~2. Substantial construction toward completion of the development approval has taken place; or~~
- ~~3. Where construction is not required by the approval, the conditions of a permit or approval have been substantially exercised and any failure to fully comply with the conditions is not the fault of the applicant.~~

~~B. For the purposes of this section, **substantial construction** has occurred when the holder of an approval has physically altered the land or structure or changed the use thereof and such alteration or change is directed toward the completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development.~~

~~C. Initiation of use shall not be granted in lieu of a phased approval.~~

~~D. A determination of whether a land use has been initiated shall be processed as a declaratory ruling.~~

(This section is no longer needed due to the proposed amendments to BDC 4.1.1310, Duration of Approvals and Extensions.)

4.1.1325 Modification of Approval

A. **Applicability.** An approval may be modified at any time after a decision becomes final and prior to land division final plat approval or building final inspection for the project, as applicable, whichever occurs first.

B. Applicable Standards and Criteria.

1. Approval or denial of a Modification of Approval application is based on the standards and criteria that were applicable at the time the original application was submitted.

a. Exception. If the modification of approval request is to amend or remove a condition of approval due to a change in applicable standards then the approval or denial is based on the standards in effect at the time of the request.

2. A request to modify or remove a condition of approval may be approved if the Review Authority determines any one of the following criteria:

a. The applicant has demonstrated that a mistake of law or fact occurred, and that the mistake was substantial enough to warrant modification or removal of the condition to correct the mistake.

b. The condition could not be implemented for reasons beyond the control of the applicant and the modification will not require a significant revision to the original decision.

c. The circumstances or applicable standards have changed to the extent that the condition as written is no longer needed or warranted and should be removed or modified.

d. A new or modified condition would better accomplish the purpose of the original condition.

3. Modifications of a master plan, PUD or special planned district approved under land use regulations in place prior to April 14, 2017, must comply with one of the following sections in BDC Chapter 4.5, Master Plans:

a. The modification of a master plan, PUD or special planned district that is primarily for residential uses is subject to the applicable approval criteria in BDC 4.5.200(D).

b. The modification of a master plan, PUD or special planned district that is primarily for institutional uses is subject to the applicable approval criteria in BDC 4.5.300(E).3. The modification of a master plan, PUD or special planned district that is primarily for employment uses is subject to the applicable approval criteria in BDC 4.5.400(D).

- c. The modification of a master plan, PUD or special planned district that is primarily for employment uses is subject to the applicable approval criteria in BDC 4.5.400(D).

(Relocated from 4.1.1325.F)

C. Procedures. An application for a Modification of Approval will be processed as a Type I, Type II, or Type III application, as determined by the Community Development Director based on the following criteria:

1. Minor modifications that involve only clear and objective standards may be reviewed using a Type I procedure.
2. When a proposed modification involves a condition of approval, that condition of approval may be modified or removed by the Review Authority that issued the original decision and through the same procedure that was used to establish the condition proposed to be modified.
 - a. Exception. A request to modify or remove a condition of approval under (B)(1)(a) may be reviewed using a Type I procedure.
3. All other modification of approval applications must be processed as a Type II application unless elevated to a Type III review process by the Community Development Director.
4. A modification that is a new proposal must be filed as a new application.

~~B. Modification Review Procedures.~~

- ~~1. A modification that does not have significant additional impacts on surrounding properties must be reviewed only under the criteria applicable to the aspect(s) of the proposal that are to be modified.~~
- ~~2. A modification that has significant additional impacts on surrounding properties must be reviewed under all criteria applicable to the entire approval and may, at the discretion of the City, require the filing of a new application.~~
- ~~3. A modification must not be considered to have significant additional impacts on surrounding properties if the identified impacts could be addressed under the applicable provisions of this code at the time of future development (e.g., a future site plan review or conditional use permit application).~~
- ~~4. A modification that is a new proposal must be filed as a new application.~~

- ~~C. An application for a modification of a Type I approval must be processed as a Type I application. All other modifications must be processed as a Type II application unless elevated to a Type III process by the Community and Economic Development Director.~~
- D. ~~The original approval time limitation is~~ A request for a Modification of Approval does not affect the duration of the original application approval governed by BDC 4.1.1310.
- ~~E. Modifications of development approvals must meet the approval criteria required in subsection (B) of this section in the appropriate corresponding section of this code (e.g., modification of a site plan review approval is subject to BDC Chapter 4.2; modification of a conditional use permit is subject to BDC Chapter 4.4, modification of a master plan, area plan or special planned district is subject to the applicable sections in BDC Chapter 4.5). For modifications of a master plan, PUD or special planned district approved under land use regulations in place prior to April 14, 2017, see subsection (F) of this section.~~
- E. **Scope of Review.** The scope of review is limited to the modification request. For example, a request to modify a development site's onsite parking area will require review of development standards applicable only to vehicle access, circulation, vehicle and bicycle parking standards, parking lot landscaping, and other parking area related standards.
- ~~F. Modifications of a master plan, PUD or special planned district approved under land use regulations in place prior to April 14, 2017, must meet the approval criteria required in subsection (B) of this section in one of the following sections in BDC Chapter 4.5, Master Plans:~~
- ~~1. The modification of a master plan, PUD or special planned district that is primarily for residential uses is subject to the applicable approval criteria in BDC 4.5.200(D).~~
 - ~~2. The modification of a master plan, PUD or special planned district that is primarily for institutional uses is subject to the applicable approval criteria in BDC 4.5.300(E).~~
 - ~~3. The modification of a master plan, PUD or special planned district that is primarily for employment uses is subject to the applicable approval criteria in BDC 4.5.400(D).~~

4.1.1335 Revocation of Approvals.

A. Only the Community Development Director may initiate proceedings to revoke a development approval.

Proceedings to revoke a development approval ~~shall be~~ are initiated by the ~~Community and Economic Development Director~~ by giving written notice of intent to revoke to the property owner.

B. The ~~Community and Economic Development Director~~ may revoke a development approval for the following reasons:

1. The conditions or terms of development approval are violated; or
2. The project is not in substantial conformance with the approved plans or final decision; or
3. The applicant or the applicant's representative made a material misstatement of fact in the application or supporting documents and such misstatement was relied upon by the Review Authority in making its decision whether to accept or approve the application.

C. ~~Revocations shall be processed as a Type II declaratory ruling under this code.~~ Revocations are reviewed following the Type II process.

(Delete BDC 4.1.1400 Declaratory Ruling and replace with a new Chapter 4.10, Interpretations and Determination.)

~~4.1.1400 Declaratory Ruling.~~

~~4.1.1410 Availability of Declaratory Ruling.~~

A. ~~Subject to the other provisions of this section, there shall be available for the City's Comprehensive Plan and this code a process for:~~

- ~~1. Interpreting a provision of the Bend Comprehensive Plan or implementing ordinances (and other documents incorporated by reference) in which there is doubt or a dispute as to its meaning or application;~~
- ~~2. Interpreting a provision or limitation of a development approval issued by the City in which there is doubt or a dispute as to its meaning or application;~~
- ~~3. Determining whether an approval has been initiated or considering the revocation of a previously issued development approval;~~
- ~~4. Determining the validity and scope of a nonconforming use; and~~

~~5. Lot of record.~~

~~Such a determination or interpretation shall be known as a “declaratory ruling” and shall be processed in accordance with this chapter. In all cases, as part of making a determination or interpretation the Community and Economic Development Director (where appropriate) or Hearings Body (where appropriate) shall have the authority to declare the rights and obligations of persons affected by the ruling.~~

~~B. A declaratory ruling shall be available only in instances involving a fact specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy. Declaratory proceedings shall not be used to grant an advisory opinion on a specific quasi-judicial development application. Declaratory proceedings shall not be used as a substitute for seeking an amendment of general applicability to a legislative enactment.~~

~~C. Declaratory rulings shall not be used as a substitute for an appeal of a decision or for a modification of an approval. In the case of a ruling on a City development approval, a declaratory ruling shall not be available until 60 days after a decision is final.~~

~~D. The Community and Economic Development Director may refuse to accept and the Hearings Body may deny an application for a declaratory ruling if:~~

~~1. The Community and Economic Development Director or Hearings Body determines that the question presented can be decided in conjunction with approving or denying a pending application or if in the Community and Economic Development Director or Hearings Body’s judgment the requested determination should be made as part of a decision on a development application not yet filed; or~~

~~2. The Community and Economic Development Director or Hearings Body determines that there is an enforcement case pending in circuit court in which the same issue necessarily will be decided as to the applicant and the applicant failed to file the request for a declaratory ruling within two weeks after being cited or served with a complaint.~~

~~The Community and Economic Development Director’s or Hearings Body’s determination to not accept or to deny an application under this section shall be the City’s final decision.~~

~~4.1.1415 Persons Who May Apply.~~

~~A. The following persons may initiate a declaratory ruling under this chapter:~~

- ~~1. The owner of a property requesting a declaratory ruling relating to the use of the owner's property;~~
- ~~2. In cases where the request is to interpret a previously issued development approval, the holder of the approval; or~~
- ~~3. In all cases arising under BDC 4.1.1410, Availability of Declaratory Ruling, the Community and Economic Development Director.~~

~~No other person shall be entitled to initiate a declaratory ruling.~~

~~B. A request for a declaratory ruling shall be initiated by filing an application with the Planning Division and, except for applications initiated by the Community and Economic Development Director, shall be accompanied by such fees as have been set by the Planning Division. Each application for a declaratory ruling shall include the precise question on which a ruling is sought. The application shall set forth whatever facts are relevant and necessary for making the determination and such other information as may be required by the Planning Division.~~

~~4.1.1420 Procedures.~~

~~Declaratory rulings shall be processed as either a Type II or Type III application.~~

~~4.1.1425 Effect of Declaratory Ruling.~~

- ~~A. A declaratory ruling shall be conclusive on the subject of the ruling and bind the parties thereto as to the determination made.~~
- ~~B. BDC 4.1.935, Reapplication Limited, notwithstanding, and except as specifically allowed therein, parties to a declaratory ruling shall not be entitled to reapply for a declaratory ruling on the same question.~~
- ~~C. Except when a declaratory ruling is made by the City Council, the ruling shall not constitute a final policy of the City of Bend.~~

~~4.1.1500 Statutory Development Agreements.~~

~~4.1.1510 Purpose.~~

~~The purpose of this section is to clarify the authority and procedures for City Council consideration of Statutory Development Agreements authorized by ORS Chapter 94 outside the land use process. This section does not~~

modify or limit any other authority of the City to enter into development agreements not subject to ORS Chapter 94, as specified in the Bend Development Code or under other authority, and which are not considered land use decisions.

4.1.1520 Applicability.

The City Council may ~~establish~~ approve a Statutory Development Agreement between the City and any person having a legal or equitable interest in real property for the development of that property. The provisions of ORS 94.504 through 94.528 and other applicable provisions of the Bend Development Code apply. The requirement to take action on certain applications within 120-days under ORS 227.178 does not apply to a Statutory Development Agreement. Development Agreements that do not include a development application are not governed by the City's Development Code, and may be established in any manner deemed appropriate by the Council, consistent with the Council's authority under the City's Charter. Development Agreements that contain a development application are governed by this section. The following include but are not limited to situations that may require a Development Agreement as described by this section. Situations that may be appropriate for a Statutory Development Agreement include, but are not limited to, the following:

- A. Multiple party or partnership situations.
- B. Large infrastructure requirements.
- C. Timing issues.
- D. Litigation.
- E. Urban renewal.

4.1.1525 Review Procedures.

A. The following review process applies to Statutory Development Agreements:

1. **Review Process.** The approval or amendment of a Statutory Development Agreement is a land use decision and is reviewed using the Type III-CC process.
2. **Notice Requirements.** Notice of the City Council public hearing to consider a Statutory Development Agreement must follow the notification requirements for a Type III-CC application. In addition, the

notice must contain a brief statement of the major terms of the proposed Agreement and include a description of the area within the city that will be affected by the proposed Agreement.

3. **City Council Review.** The City Council is the sole review authority and may approve, by ordinance, a Statutory Development Agreement after holding a public hearing.

4.1.1530 Initiation.

Statutory Development Agreements governed by this section may be initiated by the Council on its own motion or in response to a request by City staff, following consultation with a request by any person having a legal or equitable interest in the property that is would be the subject of the proposed Statutory Development Agreement. Neither City staff nor the Council are. The City is not required to proceed with consideration of a request for an Development Agreement.

4.1.1540 Submittal Requirements.

A. The following information is required for a Statutory Development Agreement application:

1. Documentation showing that the applicant has legal or equitable interest in the property.
2. A list of the names and addresses of all other persons, corporations or other parties holding legal or equitable interest in the subject property.
3. A detailed description of the proposal and objectives of the Statutory Development Agreement.
4. A detailed description of how the proposed Statutory Development Agreement complies with the relevant approval criteria in Section 4.1.1550 below and ORS 94.504 through 94.528.
5. A legal description of the property subject to the Statutory Development Agreement.

4.1.1550 Approval Criteria.

A. The City Council may approve, or approve with modifications, the proposed Statutory Development Agreement if all the following criteria are met:

1. The Agreement complies with the requirements of ORS 94.504 to 94.528.
2. The Statutory Development Agreement specifies as relevant:
 - a. The duration of the Statutory Development Agreement ;
 - b. The permitted uses of the property;

- c. The density or intensity of use;
 - d. The maximum height and size of proposed structures;
 - e. Provisions for reservation or dedication of land for public purposes;
 - f. A schedule of fees and charges;
 - g. A schedule and procedure for compliance review;
 - h. Responsibility for providing infrastructure and services;
 - i. The effect on the Statutory Development Agreement when changes in regional policy or federal or state law or rules render compliance with the Agreement impossible, unlawful or inconsistent with such laws, rules or policy;
 - j. Remedies available to the parties upon a breach of the Statutory Development Agreement;
 - k. The extent to which the agreement is assignable; and
 - l. The effect on the applicability or implementation of the Statutory Development Agreement when a city annexes all or part of the property subject to the Agreement.
3. The Statutory Development Agreement complies with all relevant city codes and requirements unless an alternative standard is approved by the Agreement.
 4. The Statutory Development Agreement sets forth all future discretionary approvals required to the development specified in the Agreement and specifies the conditions, terms, restrictions and requirements for those discretionary approvals.
 5. The Statutory Development Agreement provides that all city obligations to expend moneys under the Agreement are contingent on future appropriations as part of the local budget process, and that nothing in the Agreement requires the city to appropriate such moneys.
 6. The Statutory Development Agreement would result in development or improvements that can be accommodated by adequate transportation, police, fire, stormwater, sewer and water facilities and services.
 7. The Statutory Development Agreement must state the assumptions that related to the ability of the city to serve development.

4.1.1540 Negotiations.

Negotiations between the parties to a Development Agreement shall commence upon a request by the City Council to identified City staff to establish a Memorandum of Understanding (MOU) regarding the anticipated scope of the Development Agreement.

4.1.1550 Adoption.

The provisions of ORS 94.504 through 94.528 shall be followed in the adoption of a Development Agreement under this section. Once a preliminary agreement is reached between the parties, the owner or owners of the property that is the subject of the Development Agreement shall submit an application to the Community and Economic Development Director for adoption of the Development Agreement and for any development application requested in connection with the Development Agreement.

~~4.1.1560 Hearings Body.~~

~~Notwithstanding any other provision of this code to the contrary, the City Council shall be the Hearings Body for a Development Agreement. The Council may appoint a Hearings Officer or the Planning Commission to serve as the Hearings Body for specific development applications associated with a proposed Development Agreement, prior to the final decision on the Development Agreement as a whole. In that event, the Council shall establish a schedule for such decisions, and shall consider, but shall not be bound by, such decisions.~~

4.1.1560 Recording.

Not later than 10 days after the execution of a Statutory Development Agreement under ORS 94.504 to 94.528, the Community Development Director must record the Agreement with Deschutes County. In addition to other provisions required by ORS 94.504 to 94.528, the Agreement must contain a legal description of the property subject to the Agreement.

4.1.1570 Effective Date and Duration of Approval.

The Statutory Development Agreement must provide that construction must commence within a specified period of time and that the entire project or any phase of the project be completed by a specified time. The maximum duration of a Statutory Development Agreement is 15 years from the date it is executed. An Agreement is executed when the ordinance becomes effective and is signed by all parties.

4.1.1580 Amendment - Cancellation.

A Statutory Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or their successors in interest. The City Council must amend or cancel the Agreement by adoption of an ordinance declaring cancellation of the Agreement or setting forth the amendments to the Agreement.

4.1.1600 Summary of Development Application Types.

There are ~~four~~ five types of procedures: Type I, II, III, III-CC and IV. Table 4.1.1600 lists the City's development applications and their required types of procedure(s).

Delete dashes (-) in Table

Development Application	Type I*	Type II*	Type III	Type III-CC	Type IV
<u>Adjustments</u>	X				
Design Review CB Zone – Minor Facade Change	X				
Design Review – Minor Alteration/Expansion	X				
Final Plat – Partition or Subdivision	X				
Home Business Class B	X	-	-		-
Lot of Record Verification	X	-	-		-
Minimum Development Standards	X	-	-		-
<u>Minor Replat</u>	X				
Property Line Adjustment	X				-
Site Plan Minor Alteration/Expansion	X				-
Temporary Use <u>Authorization</u>	X				-
Short-Term Rental♦	X	X			-
Cemetery Subdivision		X			-
Conditional Use Permit		X			-
Declaratory Ruling – Administrative Decision		X			-

Design Review CB Zone – Track 1		X			-
Design Review Deschutes River, Administrative		X			-
Design Review for New Construction /Major Alteration/Expansion		X			-
Home Business Class C		X			-
<u>Minor Master Plan</u>		<u>X</u>			
Partition (Tentative Plan)		X			-
Planned Unit Development (PUD) Modification		X			-
<u>Major Replat</u>		X			
Site Plan Major Alteration/Expansion		X			-
Site Plan New Development <u>Review</u>		X			-
Solar Access Permit		X			-
Subdivision (Tentative Plan)		X			-
Temporary Permit		X			-
Variance (Class A, B, C)		X			
Waiver of <u>Public Improvement Standards</u>		X			
Wireless and Broadcast Communication Facility Site Plan 	X	X			

Declaratory Ruling—Hearings Officer or Planning Commission			X		
Tree Removal – Water Overlay Zone <i>(Consistent with proposed amendments to BDC 2.7.610(D), Tree Removal)</i>	X	X	X		
Design Review CB Zone – Track 2			X		
Deschutes River Design Review – Planning Commission Hearing			X		
Extraterritorial Extension and/or Connection of Water and Sewer Service <i>(Relocated to Type III-CC)</i>			X		
Master Plan <i>(Relocated to Minor Master Plan and to Major Master Plan)</i>		X	X		
Special Planned District <i>(Relocated to Type III-CC)</i>			X		X
MR Zone Review – Facilities or Master <i>(Deleting BDC 2.3.600, Special Development Standards for the MR Zone.)</i>			X		
River Setback Exception <i>(This is not a separate application. It is reviewed as part of the applicant’s Water Overlay Zone review.)</i>			X		
Zone Change <i>(Relocated to Type III, III-CC and IV)</i>			X		

<u>Extraterritorial Extension and/or Connection of Water and Sewer Service</u>				<u>X</u>	
<u>Major Master Plan</u>				<u>X</u>	
<u>Area Plan</u>				<u>X</u>	X
<u>Refinement Plan</u>				<u>X</u>	<u>X</u>
<u>Special Planned District</u>				<u>X</u>	<u>X</u>
<u>Statutory Development Agreements</u>				<u>X</u>	<u>X</u>
Annexation			X	<u>X</u>	X
Bend Comprehensive Plan Map Amendment			X	<u>X</u>	X
Bend Comprehensive Plan or Code Text Amendment			X	<u>X</u>	X
Refinement Plan/Development Agreement per ORS Chapter 94 (Relocated refinement plans to Type III-CC and Development Agreements to Statutory Development Agreement, Type III-CC)			X		X
Urban Growth Boundary (UGB) Expansion			X	<u>X</u>	X
<u>Zone Change</u>			<u>X</u>	<u>X</u>	<u>X</u>
Expedited Land Division. See BDC 4.3.700	N/A	N/A	N/A	<u>N/A</u>	N/A
<u>Interpretation and Determinations. See BDC Chapter 4.10. Interpretation and Determinations.</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

Middle Housing Land Division. See BDC 4.3.700	N/A	N/A	N/A	<u>N/A</u>	N/A
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*Unless elevated by the Community and Economic Development Director as authorized in BDC Chapter 4.1.

◆See BDC 3.6.500, Short-Term Rentals.

◆◆See BDC Chapter 3.7, Wireless and Broadcast Communication Facilities – Standards and Process.

Chapter 4.2

MINIMUM DEVELOPMENT STANDARDS REVIEW, SITE PLAN REVIEW AND DESIGN REVIEW

4.2.200 Review Processes.

- A. **Minimum Development Standards Review.** Applications are reviewed under the Type I process. If Minimum Development Standards Review is combined with a Waiver or Modification of Public Improvement Standards, the application must be reviewed following the Type II process.
- B. **Site Plan Review.** Applications that do not meet the applicability of the Minimum Development Standards Review must be processed as Site Plan Review. Site Plan Review applications are reviewed following the Type II process.
- C. **Design Review.** Applications are reviewed under the Type II process.
- D. **Duration of Approvals and Extensions.** For approval expirations and extensions, see BDC 4.1.1310, Duration of Approvals and Extensions.

4.2.300 Submittal Requirements.

- A. An application for review under this chapter must include the following information, as deemed applicable by the Community and Economic Development Director based on the size, scale and complexity of the development.

15. A photometric plan showing the locations of all on-site parking lot lighting and measurement of illumination.

16. A phased site plan review must include a time schedule for developing a site in phases not to exceed five years from the final action date.

17. **Additional Information.** The Community and Economic Development Director may require, at the applicant's expense, studies, reports or exhibits prepared by qualified professionals to address specific site features or concerns.

4.2.400 Minimum Development Standards Review.

A. **Minimum Development Standards Review for Single-Unit Detached Dwellings, Townhomes, Accessory Dwelling Units, Duplexes, Triplexes, Quadplexes, Single Room Occupancies with Six or Fewer Units and Cottage Cluster Developments.**

3. **Approval Criteria.** The Review Authority must approve, approve with conditions, or deny an application for Minimum Development Standards Review based upon the criteria listed below.

b. The following standards are met:

- i. The land use, setbacks, lot area, lot dimensions, density, lot coverage, building height, design review standards and other applicable standards of the underlying corresponding zoning district, special planned district, refinement plan, area plan and/or master plan are met.

B. **Minimum Development Standards Review for All Other Uses.**

1. **Applicability.** This subsection applies to uses identified in "Permitted and Conditional Use" tables in each zoning district, as well as those uses listed in BDC Chapters 2.7 and 3.8, other than those in subsection (A) of this section, where there is one or more of the following:

d. A permanent or semi-permanent stand-alone commercial use no larger than 250 square feet in size on an existing commercial site (e.g., produce stand, food cart and similar uses).

i. Exception. A self-contained food truck located in an existing approved paved parking lot that does not include any other food trucks, new outdoor seating or other site modifications.

i. Expansion of an existing multi-unit development of up to four additional attached or detached dwelling units, not to exceed 50 percent increase of the existing building area on the site or 5,000 square feet whichever is less.

All other changes must be processed as a Type II unless exempted.

3. Approval Criteria. The Review Authority must approve, approve with conditions, or deny an application for minimum development standards review based upon the criteria listed below.

c. The following standards are met:

i. The land use, setbacks, lot area, lot dimensions, density, lot coverage, building height, design review standards and other applicable standards of the underlying corresponding zoning district, special planned district, refinement plan, area plan and/or master plan are met.

xii. The proposal complies with BDC Chapter 3.5, Other Design Standards.

xiv. If the property abuts an alley and one or more of the alley driveway approaches that access the street are not improved to City of Bend Standards and Specifications, then an alley approach must be improved to City of Bend Standards and Specifications with the proposed development unless the Community Development Director grants a waiver of this requirement under BDC 3.4.50, Waiver and Modification of Public Improvement Standards.

4.2.500 Site Plan Review

A. **Applicability.** Site Plan Review ~~shall apply~~ applies to all new uses identified in “Permitted and Conditional Use” tables in each zoning district, as well as those uses listed in BDC Chapters 2.7 and 3.8, that exceed the applicability thresholds in BDC 4.2.400, Minimum Development Standards Review.

~~B.~~ **1. Exemption.** Applications processed through Minimum Development Standards Review, or determined to be exempt from Minimum Development Standards Review, are exempt from Site Plan Review.

~~B.~~ **Phased Development.** Developments with more than one proposed building must be a phased development and submit a phased plan concurrently with the Site Plan Review application.

C. **Existing Development.** Existing lawfully developed sites that do not conform to the current standards of this code are only required to meet current standards on the portions of the site affected by the proposed alteration or expansion. Any alterations to the site must meet current code standards.

D. **Site Plan Review Approval Criteria.** The City ~~shall~~ must approve, approve with conditions, or deny the proposed Site Plan Review application based on the following criteria:

9. The proposal is in ~~substantial conformance~~ compliance with any applicable approved master plan, master facilities plan, refinement plan, area plan and/or special planned district.

11. Approval of a phased development requires satisfaction of the following criteria:

i. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase; and

ii. The phased development does not result in requiring the City or other property owners to construct public facilities that are required as part of the approved underlying development proposal. **(Relocated from 4.2.800(B)(3)(a) and (b).**

E. **Final Site-Plan Set.** If conditions of approval require revisions to submitted plans A a Final Site Plan Set shall ~~must~~ be submitted to the Community Development Department. The Final Site Plan shall ~~shall~~ prior to

~~issuance of building or engineering permits that depicts the proposal as approved and shall incorporate all conditions of approval contained in the decision. No building or engineering permits will be issued until the Final Site Plan is approved.~~

- F. ***Expiration of Approval.*** ~~In accordance with BDC Chapter 4.1, Development Review and Procedures, the land use approval shall lapse, and a new application shall be required, if a building permit has not been issued within the duration of Site Plan Review approval. (Revised and relocated to BDC 4.2.200(D), Duration of Approvals and Extensions)~~

4.2.600 Design Review.

- A. ***Applicability.*** Design Review is required for exterior alterations to existing buildings that modify 25 percent or more of the surface area of any exterior wall or roof where Minimum Development Standards Review or Site Plan Review is not otherwise required.

- B. ***Exemptions.*** The following activities or structures are not subject to this section:

5. Single-unit detached dwellings, townhomes, accessory dwelling units, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage developments.

9. Existing buildings located in the Bend Central District (BCD) if the exterior alterations result in no more than 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by BDC 2.7.3240, Design Standards. (Amended by the Planning Commission on September 22, 2025)

4.2.700 Bonding and Assurances for All Developments.

- A. ***Performance Bonds for Public Improvements.*** On all projects where public improvements are required, the City will may allow concurrent construction of public and private improvements. ~~if the owner enters into a Site Plan Development Agreement stating that all private and public improvements shall be completed~~

~~prior to certification of final occupancy.~~ The City may require a bond or other adequate assurances in an amount not greater than 120 percent of the construction cost of the public improvements, as determined by the City, ~~as a component of the Site Plan Development Agreement in order to~~ guarantee the public improvements.

- B. **Release of Performance Bonds.** The bond or assurance ~~shall~~ will be released when the Community ~~and Economic~~ Development Director finds the completed project conforms to the approved Site Plan, including all conditions of approval.
- C. **Warranty Bond.** The developer must file with the City a warranty bond executed by a surety company, or other financial security acceptable to the Community ~~and Economic~~ Development Director, to cover any public improvements constructed as part of the approved development. The warranty period must be one year beginning on the date of initial acceptance of the public improvements by the City. The bond must guarantee the workmanship of the public improvements and must be in the amount of 12 percent of the value of the improvements. The warranty bond must be effective for no less than 18 months.
- D. ~~**Completion of Landscape Installation.** Landscaping shall be installed in accordance with the land use approval prior to issuance of an occupancy permit. A security equal to 120 percent of the cost of the landscaping as determined by the Community and Economic Development Director may be accepted if winter weather prevents installation of the approved landscaping. The security shall assure installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.~~ **(Revised and relocated to BDC 3.2.300(F)(1), Deferral of Installation and 3.2.400(D)(1), Deferral of Installation.)**

4.2.800 Development in Accordance with Permit Approval

~~**B. Phased Development.** Phasing of development may be approved with a Site Plan Review application, subject to the following standards and procedures:~~

- 1. ~~A proposed phasing plan shall be submitted with the Site Plan Review application.~~ **(Moved to the approval criteria in 4.2.500(B))**

- ~~2. The proposal shall include a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than five years from the date of final approval without reapplying for Site Plan Review. **(Relocated to BDC 4.1.1310(B)(1)(b), Phased Site Plan)**~~
- ~~3. Approval of a phased site development proposal requires satisfaction of all of the following criteria:~~
- ~~a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase; **(Moved to the approval criteria in 4.2.500(D), Site Plan Review Approval Criteria)**~~
 - ~~b. The phased development shall not result in requiring the City or other property owners to construct public facilities that are required as part of the approved underlying development proposal; and **(Moved to the approval criteria in 4.2.500(D), Site Plan Review Approval Criteria)**~~
 - ~~c. An application for phasing may be approved after Site Plan Review approval as a modification to the approved plan, in accordance with BDC Chapter 4.1, Development Review and Procedures.~~

Chapter 4.3

LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS

Sections:

4.3.100 Purpose and Applicability.

4.3.200 General Requirements.

4.3.300 Tentative Plan.

4.3.400 Final Plat.

4.3.500 Minor and Major Replats.

4.3.600 Property Line Adjustments.

4.3.700 Expedited and Middle Housing Land Division.

4.3.300 Tentative Plan.

- A. **Tentative Plan Process.** Proposed partitions, subdivisions and major replats shall be are processed as Type II applications in accordance with BDC 4.1.400, Type II, III and III-CC Applications, and a minor replat is processed as a Type I application in accordance with BDC 4.1.300, Type I Ministerial Procedures.
- B. **Informational Requirements.** A tentative plan must be prepared by a professional land surveyor, a registered professional engineer or a registered landscape architect and contain the information listed below. Some information may be omitted from the tentative plan if it is provided in accompanying materials. No tentative plan will be considered complete unless all the required information is provided.

2. **Existing Conditions.** Information concerning existing on-site conditions and conditions within 150 feet of all property included in the proposed subdivision, partition or replat:
- a. Location, names, and widths of existing improved and unimproved streets and roads, ~~bikeways,~~ and access corridors. **(Access corridors include bikeways.)**

- e. Location, width, and use or purpose of any existing easement or right-of-way for utilities, ~~bikeways,~~ and access corridors within and adjacent to the proposed subdivision, partition or replat. **(Access corridors include bikeways.)**

3. Information Concerning Proposed Subdivision, Partition or Replat.

- b. Location, width, and purpose of all proposed easements or rights-of-way for utilities, ~~bikeways,~~ and access corridors, and relationship to all existing easements and rights-of-way within 150 feet. **(Access corridors include bikeways.)**

n. Topographic contour lines must be shown at one-foot intervals for slopes of 10 percent or less. For slopes greater than 10 percent, contour lines must be shown at two-foot intervals. Slopes greater than 25 percent must be identified.

o. Proposed use, location, approximate area, and dimensions of any tract.

5. *Narrative.*

a. **Subdivision, Partition or Major Replat.** Letter or narrative report documenting compliance with the applicable approval criteria contained in subsection (E) of this section, Criteria for Subdivision, Partition or Major Replat Approval.

b. **Minor Replat.** Letter or narrative report documenting compliance with the applicable approval criteria contained in BDC 4.3.600(C), Criteria for Tentative Approval.

C. ***Phased Tentative Plan.*** An overall tentative plan ~~shall~~ must be submitted ~~for land~~ for which a phased subdivision is proposed. The Review Authority ~~shall~~ must review all phases of a phased tentative plan at the same time. The final plat for each phase ~~shall~~ must be filed in accordance with the applicable provisions of BDC 4.3.400(A). The phased tentative plan ~~shall~~ must include, but not be limited to, the informational requirements of subsection (B) of this section, as well as the following elements:

1. Overall tentative plan, including phase or unit sequence, and the schedule for initiation of improvements and projected completion date.
2. Overall facility development phasing plan, including transportation and utility facilities plans that specify the traffic pattern plan for motor vehicles, bicycles, and pedestrians, water system plans, sewer system plans and utility plans.
3. Development and phasing plans for any common elements or facilities.
4. Plan of development pattern for streets, ~~bikeways,~~ and access corridors for adjoining lands as required by the Review Authority. (***Access corridors includes bikeways.***)

E. **Criteria for Subdivision, Partition or Replat Approval.** The Review Authority shall not approve a tentative plan for a proposed subdivision, partition or major replat unless the Review Authority finds that the subdivision, partition or replat will satisfy the following criteria of approval:

2. The proposal allows for the development of adjacent property in accordance with the provisions of this code.

5. The proposal contributes to the orderly development of the Bend area transportation network of roads, ~~bikeways~~ access corridors, and pedestrian facilities, and allows for continuation and expansion of existing public access easements within or adjacent to the subdivision, partition or replat.

9. The proposal is in ~~substantial conformance~~ compliance with any applicable approved master plan, master facilities plan, refinement plan, area plan and/or special planned district.

~~H. **Special Regulations for Lands Abutting the Surface Mining District.** If the subdivision, partition or replat adjoins the SM Zone, the existence and location of such zone shall be entered on plat for the lots or parcels created by the subdivision, partition or replat. (There is no longer a Surface Mining (SM) Zone in city limits.)~~

4.3.400 Final Plat

A. ~~**Filing Time Period Requirements**~~ **Approval Durations.** Except as provided for in this chapter, the ~~The~~ applicant shall must prepare and submit to the City a final plat that is substantially in conformance with the approved tentative plan. Final plats shall must be processed as Type I applications in accordance with BDC 4.1.300, Type I Ministerial Procedures. For the duration and extension of approvals, see BDC 4.1.1310, Duration of Approvals and Extensions.

~~1. If a tentative plan is approved for a single phased development, the final plat shall be filed with the City within two years of the approval date of the tentative plan. A one-year extension may be approved in accordance with BDC 4.1.1310.~~

- ~~2. If a tentative plan is approved for phased development, the final plat for the first phase shall be filed within two years of the approval date of the tentative plan.~~
- ~~3. The final plats for any subsequent phase shall be filed within three years of the approved date for the tentative plan, unless a longer period of time is allowed through the tentative plan approval process. In no case shall the final plat be recorded more than five years from the date of the tentative approval.~~
- ~~4. If the applicant fails to file a final plat within the specified timelines, the tentative plan for those phases shall become null and void.~~

(Revised and relocated to BDC 4.1.1310, Duration of Approvals and Extensions)

E. Supplemental Information with the Final Plat. The following data, if applicable, shall must accompany the final plat.

- ~~7. **Subdivisions, Partitions or Replats Adjoining SM Zones.** Any final plat which adjoins a SM Zone must clearly show where such zone is located in relation to the subdivision boundaries. *(There is no longer a Surface Mining (SM) Zone in city limits.)*~~

F. Criteria for Final Plat Approval. Upon receipt by the Planning Division, the plat and other data shall must be reviewed by the Review Authority to determine that the following criteria have been met:

1. The subdivision, partition or replat as shown is substantially the same as it appeared on the approved tentative plan, and all conditions of tentative plan approval have been or will be met.
2. That the final plat contains the following elements:
 - a. Streets and roads for public use are dedicated to the public without any reservation or restriction in compliance with BDC 3.4.200.C, Creation of Rights-of-Way for Streets and Related Purposes.
 - b. Streets and roads held for private use and indicated on the tentative plan have been approved by the City.

c. The plat contains provisions for dedication to the public of all streets, roads, ~~bikeways~~ access corridors, access corridors, parks, sewage disposal, and water supply system, if made a condition of the approval of the tentative plan.

d. Explanations of all common improvements required as conditions of approval of the tentative plan are recorded and referenced on the plat. (Implement ORS 92.050(6): The location, dimensions and purpose of all recorded and proposed public and private easements along with the county clerk's recording reference if the easement has been recorded by the county clerk.)

3. That the developer has either constructed and had accepted by the City the required improvements or the developer has filed with the City a financial security acceptable to the Community and Economic Development Director in accordance with subsection (J) of this section in lieu of constructing the improvements.

G. Final Plat Approval. After the final plat has been reviewed and approved by the City, and all final plat conditions are fulfilled and when all signatures as required by the Deschutes County Surveyor other than the Community and Economic Development Director, City Engineer and County Commissioner appear on the mylar, the declaration on the final plat is signed and notarized, the Planning Manager and City Engineer ~~shall~~ will sign the final plat mylar and return it to the applicant to obtain Deschutes County signatures and to file with Deschutes County.

H. Recording of Plat.

1. ~~Within 60 days of City approval, the~~ The applicant ~~shall~~ must submit the approved final plat with the Deschutes County Clerk for recordation.
2. The applicant ~~shall~~ must provide exact copies of the recorded plat to the City Engineer and City Planning Division.
3. The plat ~~shall~~ will not be in effect until it has been recorded with the Deschutes County Clerk.

4.3.500 Minor and Major Replats.

A. Applicability. An application for a replat will be processed as a Minor Replat or a Major Replat based on the following:

~~1. A replat is the act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in a subdivision.~~

1. **Minor Replat.** An application for a Minor Replat will be required when any of the following apply:

a. The reconfiguration of lots, parcels, or tracts within a single existing plat does not increase the number of lots, parcels, or tracts in the plat.

b. The creation of a plat for land that has never been part of a previously recorded plat where no new lots or parcels are proposed.

2. **Major Replat.** An application for a Major Replat will be required when any of the following apply:

a. The reconfiguration of lots, parcels, or tracts within a single existing plat increases the number of lots, parcels, or tracts in the plat.

b. Within an existing plat, a public easement is conveyed, removed, or modified in such a way that it affects more than one property owner (i.e., multiple properties under different ownership).

~~3. 2.~~The relocation of a common boundary line between two lots/parcels within a recorded subdivision or partition ~~shall is~~ not be considered a replat. A property line adjustment may occur in a platted subdivision or partition as provided for in BDC 4.3.600, Property Line Adjustment.

B. Replat Review Process.

~~1. A replat tentative plan and plat shall comply with the land division process specified in BDC 4.3.300 and 4.3.400 with the following exceptions:~~

1. **Minor Replat.** A minor replat tentative plan is processed as a Type I application.

2. **Major Replat.** A major replat tentative plan is processed as a Type II application.

C. Submittal Requirements. A minor and major replat must comply with BDC 4.3.300(B), Informational Requirements.

D. Approval Criteria.

1. **Minor Replat.** No application for a minor replat shall be approved unless the criteria in BDC 4.3.600(C), Criteria for Tentative Approval are met.
2. **Major Replat.** The Review Authority shall not approve a tentative plan for a proposed major replat unless the Review Authority finds that the replat will satisfy the criteria of approval in BDC 4.3.300(E), Criteria for Subdivision, Partition or Major Replat.

E. Final Plat. A minor and major final plat must comply with BDC 4.3.400, Final Plat with the following exceptions:

1. The words "Minor Replat" ~~shall~~ must be shown in the title block of a minor replat and the words "Major Replat" must be shown in the title block of a major replat;
2. The name or reference number of the previous plat, if applicable, and any additional recording information ~~shall~~ must be retained in the title of the replat;
3. Blocks, lots/parcels and portions thereof which are being replatted ~~shall~~ must be identified where applicable; ~~and~~
4. Original plat information being deleted, abandoned or changed by the replat ~~shall~~ must be shown lightly sketched or dotted on the ~~drawing~~ tentative replat with a note of explanation.

4.3.600 Property Line Adjustments.

C. Filing Procedures and Requirements.

3. An application for a property line adjustment ~~shall~~ must be accompanied by the following materials:

- a. A copy of the deed or other recorded instrument that signifies ownership of the affected properties of the title report.

C. Criteria for Tentative Approval.

1. No application for property line adjustment shall be approved unless the following criteria are met:
 - a. The adjustment does not result in ~~property sizes~~ lot areas and dimensions that are less than those ~~established~~ allowed by the underlying zoning designation.
 - b. Nonconforming properties that are less than the minimum ~~size~~ lot area ~~established~~ allowed for the zone ~~shall~~ must not be further reduced in size.
 - c. The adjustment complies with BDC 3.1.200(C), General Requirements for Lots and Parcels.
 - e. d. Existing structures shall not be made nonconforming with regard to setbacks, lot coverage or other requirements of the underlying zone, or this code.
 - d. e. Existing water and sewer service lines to the adjusted lots or parcels shall be in conformance with current City standards or shall be constructed to conform with current City standards.
 - e. f. The applicant has submitted documentation from the Deschutes County Environmental Health Division that any existing sanitary septic systems on the adjusted properties meet all requirements of the County Environmental Health Division.

4.3.700 Expedited and Middle Housing Land Division.

D. Approval Criteria for an Expedited and Middle Housing Land Division.

2. **Middle Housing Land Division Approval Criteria.** The applicant for a middle housing land division must demonstrate that the application meets all of the following criteria:

- g. If the original lot or parcel did not previously provide the dedication needed to meet current standards, additional right-of-way in compliance with BDC 3.4.200, Table A, Right-of-Way Widths for Dedicated Public Roadways and Alleys, must be dedicated to the City free and clear of all existing liens and encumbrances.

Chapter 4.4

CONDITIONAL USE PERMITS

4.4.400 Criteria, Standards and Conditions of Approval.

The City ~~shall~~ must approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings with respect to each of the following standards and criteria:

- B. *Site Design Standards.*** Where appropriate, the criteria ~~for Site Development Review approval~~ listed in BDC 4.2.400, Minimum Development Standards Review, or BDC 4.2.500(D), Site Plan Review Approval Criteria, ~~shall~~ must be met.

Chapter 4.5

Master Plans

4.5.100 Master Plan General Provisions.

E. Submittal Requirements. The following information must be submitted as deemed applicable by the Community and Economic Development Director based on the size, scale, and complexity of the master plan:

2. Proposed Master Plan Submittal Requirements.

- d. A letter or other written documentation from the Bend Metro-Park and Recreation District which indicates that the applicant has met with the District to discuss the proposed master plan, and provided the District an opportunity to review the design for options to enhance existing parks and trails, and develop new parks and trails. For sites over 10 acres, provide additional documentation of compliance with BDC 3.4.300, Public Use Areas.

4.5.200 Community Master Plan

B. Applicability.

- 2. Community master plans are required for any property or combination of adjacent properties under common ownership totaling 20 acres or larger unless exempted below.
 - a. Exemptions.

- v. The property is part of a master plan or planned unit development approved prior to April 14, 2017, ~~and remains in effect or has initiated the use according to BDC 4.1.1315.~~ **(Consistent with the deletion of BDC 4.1.1315, Initiation of Use from the BDC)**

C. Review Process.

3. Major Community Master Plans. Major community master plans are processed as follows:

- a. **Step 1.** The Planning Commission makes a recommendation to the City Council on an application for a major community master plan. The text of a major community master plan must be included

in BDC Chapter 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans, in compliance with BDC Chapter 4.6, Land Use District Map and Text Amendments. The City Council is the final review authority on such applications (Type III-CC process).

E. Standards and Regulations. Minor and major community master plans must comply with the following standards:

4. The community master plan must contain a minimum of 10 percent of the gross area as public or private open space such as parks, pavilions, squares and plazas, multi-use paths within a minimum 20-foot-wide corridor, areas of special interest, tree preservation areas, or public and private recreational facilities and must comply with the following:

- d. ~~The Any public or private open space must be open to the public and~~ must not be fenced-off unless it is related to a park or approved public or private recreational facility including, but not limited to, tennis courts, swimming pools, driving ranges and ball fields. **(Amended by the City Council on November 5, 2025)**

4.5.300 Institutional Master Plan

C. Review Process.

2. Major Institutional Master Plans. Major institutional master plans are processed as follows:

- a. **Step 1.** The Planning Commission makes a recommendation to the City Council on an application for a major institutional master plan. The text of a major institutional master plan must be included in BDC Chapter 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans, in

compliance with BDC Chapter 4.6, Land Use District Map and Text Amendments. The City Council is the final review authority on such applications (Type III-CC process).

4.5.400 Employment Master Plan

C. Review Process.

2. Major Employment Master Plans. Major employment master plans are processed as follows:

- a. *Step 1.* The Planning Commission makes a recommendation to the City Council on an application for major employment master plan. The text of a major employment master plan must be included in BDC Chapter 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans, in compliance with BDC Chapter 4.6, Land Use District Map and Text Amendments. The City Council is the final review authority on such applications (Type III-CC process).

Chapter 4.6

~~LAND USE DISTRICT MAP AND TEXT AMENDMENTS~~

4.6.100 Purpose.

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this code, the Bend Comprehensive Plan, the Bend Comprehensive Plan Map and the ~~Land Use District~~ Bend Zoning Map. These will be referred to as “map and text amendments.” Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

4.6.200 Legislative Amendments.

A. *Applicability, Procedure and Authority.* Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, ~~amendments to the text of the Comprehensive Plan and map, Development Code and changes in the Zoning Map~~ map and text amendments not directed at a small number of properties. They are reviewed using the Type IV procedure in accordance with BDC Chapter 4.1, Development Review and Procedures, and ~~shall~~ must conform to BDC 4.6.600, Transportation Planning Rule Compliance. A legislative amendment may be approved or denied.

4.6.300 Quasi-Judicial Amendments.

A. *Applicability, Procedure and Authority.* Quasi-judicial amendments generally refer to ~~a plan amendment or zone change~~ map and text amendments affecting a single or limited group of properties and that involves the application of existing policy to a specific factual setting. Quasi-judicial amendments ~~shall~~ follow the Type III or Type III-CC procedures, as governed by BDC Chapter 4.1, Development Review and Procedures, using the standards of approval in subsection (B) and/or (C) of this section, as applicable. Based on the applicant's ability to satisfy the approval criteria, the ~~applicant application~~ application may be approved, approved with conditions, or denied.

B. *Criteria for Quasi-Judicial Comprehensive Plan Map Amendments.* The applicant ~~shall~~ must submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment ~~shall~~ must be based on all of the following criteria:

1. ~~Approval of the~~ The request is consistent with the relevant Statewide Planning Goals that are designated by the Planning ~~Director~~ Manager or designee;
2. ~~Approval of the~~ The request is consistent with the relevant policies of the Comprehensive Plan that are designated by the Planning ~~Director~~ Manager or designee;
3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property;

4. ~~There is E~~evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or ~~Land Use District~~ Bend Zoning Map regarding the property that is the subject of the application; and
5. ~~Approval of the~~ The request is consistent with the provisions of BDC 4.6.600, Transportation Planning Rule Compliance.

C. Criteria for Quasi-Judicial Zone Bend Zoning Map Changes. The applicant must submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial zone change must be based on meeting both of the following criteria:

1. The amendment will bring the ~~zone map~~ Bend Zoning Map into conformance with the Comprehensive Plan map.
2. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

D. Criteria for Quasi-Judicial Comprehensive Plan or Development Code Text Amendments. The applicant must submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial Comprehensive Plan or Bend Development Code text amendment must be based on all of the following criteria:

1. The request is consistent with the Statewide planning goals that are designated by the Planning Director or designee;
2. The request is consistent with the relevant policies of Bend Comprehensive Plan Chapter 11, Growth Management, that are designated by the Planning Director or designee; and
3. For amendments to BDC Chapter 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans, the request is consistent with the applicable approval criteria in BDC Chapter 4.5, Master Plans.

TRANSPORTATION ANALYSIS

4.7.600 Significant Impacts and Mitigation Measures.

D. *Unique Situations.*

2. Widening to accommodate additional travel lanes will not be permitted in the following situations:

- a. ***Clear and Objective Track and Discretionary Track.*** Intersections and streets that are already constructed consistent with the City of Bend Transportation System Plan (TSP) including streets and intersections in BDC 3.4.200(F)(3)(~~ba~~) as “not being identified for lane expansion”;

Chapter 4.8

TRANSPORTATION AND PARKING DEMAND MANAGEMENT (TPDM) PLAN

4.8.800 Modifications.

- A. ~~A modification~~ Modifications to an approved TPDM plan may be processed concurrently with a Type II, III or Type III-CC development application.
- B. A modification to an approved TPDM plan that is not processed concurrently with a Type II, III or Type III-CC development application will be processed as an individual Type II application.
- C. The Community and Economic Development Director may elevate a Type II application for a modification to the Planning Commission for hearing as a Type III application.
- D. Modifications must meet the approval criteria in BDC 4.8.600.

Chapter 4.9

ANNEXATIONS

4.9.300 Review Procedures.

A. Annexation. The following general processes apply to all annexation proposals:

1. Annexations are reviewed using the Type III-CC or Type IV process as determined by the City, based on a consideration of the factors for treating an application as quasi-judicial or legislative. Since annexations are a jurisdictional transfer, the City Council is the sole review authority.
2. City Council approval of annexations will be by ordinance.
3. Notice of the City Council hearing to consider the annexation proposal must follow the notification process required for the Type III-CC or Type IV application, except a notice of the hearing must be published in a newspaper of general circulation in the City once each week for two successive weeks prior to the day of hearing, and notices of the hearing must be posted in four public places in the City for a like period.

B. Development Review Requirements.

1. Unless exempted in subsection (B)(1)(a) of this section, expansion areas as shown in Figure 4.9.300 will require land use approval in accordance with Table 4.9.300 prior to or concurrently with annexation. For properties located within an approved area plan, also see subsection (B)(2) of this section. The exemptions to master planning in BDC Chapter 4.5, Master Plans, are not applicable to properties in the Urbanizable Area (UA) District. Development in expansion areas must comply with the applicable Bend Comprehensive Plan Specific Expansion Area Policies in Table 4.9.300.
 - a. Exemptions from Area and Master Planning.

- iv. Annexation and development of individual properties or groups of properties of any size located within the Northeast-Butler Market Village Expansion Area but outside of the Petrosa Master Planned Development.

- v. Annexation and development of individual properties or groups of properties of any size located within the North Triangle Expansion Area but outside of the Caraway Master Planned Development.
 - vi. For areas subject to these exemptions, an applicant must submit a development proposal for the entirety of the annexation area under the anticipated zoning district prior to annexation for evaluation of compliance with the applicable approval criteria (e.g., a site plan review proposal is subject to BDC 4.2.500(D) and a land division is subject to BDC 4.3.300(E)) and specific expansion area policies in the Bend Comprehensive Plan Chapter 11, Growth Management).
2. Properties located within an approved area plan must comply with the following prior to or concurrently with annexation:
- a. An applicant must provide a development proposal ~~(e.g., for a site plan review or land division)~~ for the entire property for evaluation of compliance with ~~the applicable site plan review or subdivision approval criteria (e.g., a site plan review proposal is subject to BDC 4.2.500(D) and a land division is subject to BDC 4.3.300(E), and specific expansion area policies in the Bend Comprehensive Plan Chapter 11, Growth Management).~~
 - i. Exception. At the discretion of the Community Development Director, a site one acre or smaller with existing development is not required to submit a development proposal.
 - b. In lieu of a master plan application for any property or combination of adjacent properties under common ownership totaling 20 acres or larger, the applicable minor master plan approval criteria in BDC Chapter 4.5, Master Plans, will be assessed along with the approval criteria of the respective development proposal cited above in subsection (B)(2)(a) of this section.
3. Final procedural steps and decision issuance for concurrent development applications will occur after the annexation ordinance becomes effective.

Table 4.9.300 - Specific Expansion Area Policies and Land Use Approval Requirements

(Other expansion areas in Table remain unchanged)

Expansion Area	Bend Comprehensive Plan Specific Expansion Area Policies	Land Use Approval Required Prior to or Concurrently with Annexation
North Triangle	11-142 through 11-151	Area plan in compliance with BDC 2.7.100. Prior to completion of the area plan, annexations in this area must be a minimum of 40 contiguous acres and be the subject of a master plan application which includes a framework level area plan for the rest of the subarea. Following adoption of the area plan, annexation and development of individual properties or groups of properties of any size, consistent with the area plan, may be approved in compliance with the Bend Development Code. See BDC 4.9.300(B)(1)(a)(v)

4.9.900 Extraterritorial Extension and/or Connection of Water and Sewer Service.

The City Council may approve an extraterritorial extension and/or connection of water and sewer services consistent with the requirements of Goal 11, Public Facilities, and OAR 660-011-0060 and 660-011-0065 and may require an annexation contract. The review is a Type III-CC process in accordance with BDC Chapter 4.1, Development Review and Procedures, with the City Council as the sole review authority.

Chapter 4.10

INTERPRETATIONS AND DETERMINATIONS.

Sections.

4.10.100 Applicability.

4.10.200 Review Process.

4.10.300 Initiation Procedures.

4.10.400 Submittal Requirements.

4.10.500 Mailed Notice of Quasi-Judicial Applications.

4.10.600 Review Criteria.

4.10.700 Action by Director.

4.10.800 Notice of Decision.

4.10.900 Appeals.

4.10.1000 Effective Date.

4.10.1100 Effect of Interpretations and Determinations

4.10.1200 Other Provisions.

4.10.100 Applicability.

A. Interpretations and determinations may be requested for the following:

1. Interpretation.

a. Interpretation of a Bend Comprehensive Plan or Bend Development Code Provision.

Interpretation where the provisions of the Bend Comprehensive Plan or Bend Development Code is ambiguous in its terms, meaning, or intent. (Relocated from BDC 4.1.1410(A)(1))

b. Interpretation of Development Approval.

Interpretation of a provision or limitation of a development approval issued by the City in which there is ambiguity, doubt, or a dispute as to its meaning or application. (Relocated from BDC 4.1.1410(A)(2))

2. Determination.

a. Determination of the Status of a Nonconforming Use or Development.

Determination of the status of a nonconforming use or development. (Relocated from BDC 4.1.1410(A)(4))

b. Determination of Similar Land Use.

Determination whether a use is similar to other permitted or conditionally permitted uses within a zoning district. A determination of similar land use is not a zoning classification for a particular use as described in ORS 227.160(2)(b).

B. Interpretations or determinations cannot be used:

1. To grant an advisory opinion on a specific incomplete or complete quasi-judicial development application that has been filed with the City.
2. As a substitute for seeking an amendment of general applicability to a legislative enactment.
3. As a substitute for an appeal of a decision or for a modification of an approval. In the case of a ruling on a City development approval, an interpretation may not be requested until 60 days after a decision is final.
4. As a substitute for or in anticipate of any judicial proceeding yet to be filed in any tribunal, including but not limited to a code enforcement case, involving the same or a substantially similar issue as to the applicant and the applicant.

C. Whether to accept a request for an interpretation or determination is at the sole discretion of the Community Development Director. The Community Development Director's decision to refuse to accept a request not appealable.

4.10.200 Review Procedures.

A. The following review process applies to a request for an interpretation or determination:

1. Interpretations and determinations may be legislative in that they apply to a large geographic area, such as all properties within a given zone, or they may be quasi-judicial, such as the interpretation or determination applies to a specific site or area.
2. In lieu of the procedures set forth in BDC 4.1, Development and Review Procedures, a request for an interpretation or determination must follow the procedures in this chapter.
3. The review authority for an interpretation or determination is the Community Development Director. The Community Development Director may elevate the request to the City Council for a hearing. The Community Development Director's decision to elevate the request is not an appealable decision.

4.10.300 Initiation Procedures.

A. An interpretation or determination listed in BDC 4.10.100, Applicability, may be requested in writing by any person or may be initiated by the Community Development Director.

1. **Exception.** In cases where the request is to interpret a previously issued development approval, only the holder of the approval may request an interpretation.

4.10.400 Submittal Requirements.

A. A request for an interpretation or determination must include the following:

1. Letter or narrative indicating which interpretation or determination is being sought and a report addressing the applicable review criteria contained in BDC 4.10.600, Review Criteria; and
2. Facts relevant and necessary for making the interpretation or determination and such other information as may be required by the Community Development Director.

B. The Community Development Director will review a request for an interpretation or determination to verify it meets the submittal requirements specified above. If the request does not meet those requirements, the applicant will be notified in writing and given 30 days to submit the missing information.

4.10.500 Notice of Application.

A. **Mailed Notice of a Quasi-Judicial or Legislative Application.**

1. Notice of an application for an interpretation or determination must be sent by mail to the following persons at least 14 days prior to the issuance of a decision:
 - a. The applicant.
 - b. The designated land use chair of any neighborhood district recognized by the City of Bend, where the interpretation or determination affects any land within the boundary of such neighborhood district.
 - c. When the interpretation or determination is specific to a particular property, owners of record of property, as shown on the most recent property tax assessment roll, and addresses, based on the City's current addressing records, to properties within 250 feet. The applicant must bear the cost (i.e., mailing, etc.) of any notice.
2. The mailed notice requirements of this section will be deemed met when the Planning Division can provide an affidavit or other certification that such notice was given.
3. The notice must state that all comments concerning the interpretation or determination must be submitted in writing and received by the Director within 14 days from the date of mailing the notice.
4. The notice must:

- a. Describe the nature of the applicant's request.
- b. List the criteria applicable to the request.
- c. State the street address or easily understood geographical reference to the subject property.
- d. State the date, time and location of any hearing or date by which written comments must be received.
- e. State the following for submitting comments and evidence:
 - i. For a quasi-judicial application, state that any person who received notice may comment in writing.
 - ii. For a legislative application, state that any person may comment in writing.
 - iii. If a hearing is to be held, state that any interested person may appear and provide evidence.
 - iv. Provide a general explanation of the requirements for submission of testimony and the procedures for conduct of testimony if the Community Development Director elevates the request to the City Council for a hearing in compliance with 4.1.885(C), Opportunity to Present Additional Evidence, arguments or Testimony.
- f. State that failure to raise an issue in person at a hearing or in writing precludes appeal by that person to the Land Use Board of Appeals (LUBA), and that failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue.
- g. State the name of a City representative to contact and the telephone number where additional information may be obtained.
- h. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
- i. State that a notice of decision will be provided to the applicant and any person who submits comments.

- j. Provide an explanation of appeal rights.

B. Legislative Published Notice. Notice of a legislative interpretation or determination must be published in a newspaper of general circulation in the City at least 20 days prior to issuance of a decision. The notice must include the applicable information in subsection (A)(4) of this section.

4.10.600 Review Criteria.

A. Interpretations. The Review Authority will consider the following factors when reviewing the request for interpretation:

1. The proposed interpretation is consistent with the common meaning of the words or phrases at issue.
2. The proposed interpretation is consistent with the Bend Comprehensive Plan.
3. The proposed interpretation is consistent with the legislative intent for the words or phrases at issue. The intent is based on the legislative record for the ordinance that adopted or amended the provisions at issue.
4. The proposed interpretation is consistent with regional, State, and federal laws or court rulings that affect the words or phrases at issue.
5. The proposed interpretation is consistent with the evidence in the record and/or findings in the decision that established the condition of approval.
6. Any other relevant factors or considerations the Community Development Director deems to be relevant.

B. Determination of the Status of a Nonconforming Use or Development. A determination of the status of a nonconforming use or development is based on the following criteria:

1. The nonconforming use or development was permitted under applicable regulations at the time it was established. Evidence to address this criterion may include the following:
 - a. Copies of building and/or land use permits issued at the time the use or development was established.

b. Copies of zoning code standards and/or maps in place at the time the use or development was established.

2. Demonstration that the use or development was legally established before the applicable development code standard was adopted.

3. The nonconforming use has been maintained since it was legally established and has not been discontinued or abandoned, as described in BDC 5.2.100(C), Discontinuation or Abandonment. Evidence to address this criterion may include the following items:

a. Utility bills.

b. Income tax records.

c. Business licenses.

d. Listings in telephone, business or Polk directories.

e. Advertisements in dated publications, e.g., trade magazines.

f. Building, land use, sign or development permits.

C. **Determination of Similar Land Use.** A determination of whether a use is similar to other permitted or conditionally permitted uses within a zoning district will be based on the following criteria:

1. The proposed use is consistent with the stated purpose of the zoning district.

2. The characteristics of and activities associated with the proposed use are similar to one or more of the permitted or conditionally permitted uses in the zoning district.

3. The proposed use is not listed as a permitted use or conditional use in any other zoning district.

4.10.700 Decision.

A. The Community Development Director will provide a written interpretation or determination after the application is accepted as complete. The Community Development Director must clearly state the interpretation or determination being issued and address the criteria in BDC 4.10.600, Review Criteria as the basis for such decision.

- B. The Community Development Director may interpret provisions of this Code or the Comprehensive Plan but must not issue any legal opinion or interpretation of case law.
- C. The Community Development Director's interpretations and determinations are advisory only and is not binding on the Landmarks Commission, Planning Commission, Hearings Officer or City Council.
- D. The Community Development Director may modify previously issued interpretations if specific circumstances warrant such modification.

4.10.800 Notice of Decision.

- A. Notice of the interpretation or determination decision must be in writing and include the appeal period deadline. The City must mail, or otherwise deliver, notice of the interpretation or determination to the following:
 - 1. The Applicant.
 - 2. Persons who provided written comment.

4.10.900 Effective Date.

The interpretation or determination is effective on the date the notice of decision is mailed, or otherwise delivered, in compliance with in BDC 4.10.800, Notice of Decision.

4.10.1000 Appeals.

Appeals of an interpretation or determination decision may be appealed to the Land Use Board of Appeals (LUBA) as provided by law.

4.10.1100 Effect of Interpretation and Determinations.

- A. Interpretations or determinations are conclusive on the subject of the ruling and bind the parties thereto as to the determination made.
- B. Parties to interpretations or determinations are not entitled to reapply for an interpretation or determination on the same question.
 - 1. Exception: An applicant for determination of the status of a nonconforming use or development in BDC 4.10.100(A)(2)(a), Determination of the Status of a Nonconforming Use or Development, may request

a subsequent determination if the applicant presents new evidence that was not available at the time the decision was made, and which could not, through reasonable diligence, have been discovered by the applicant prior to the decision. See BDC 4.1.935, Reapplication Limited.

C. An interpretation or determination does not constitute a final policy of the City of Bend.

4.10.1200 Other Provisions.

A. Interpretation of a Bend Comprehensive Plan or Bend Development Code Provision

1. Interpretation of a Bend Comprehensive Plan or Bend Development Code provision controls the future application of the sections of the Bend Comprehensive Plan or Bend Development Code which they pertain unless superseded by a subsequent interpretation or legislative change to the plan or code.
2. The Community Development Director must maintain current interpretations on file for public review.

B. Determination of Similar Land Use.

1. Determinations of similar land uses are based on the specific facts presented for each determination. Determinations issued may be relied upon for future determinations where circumstances are similar, but do not necessarily set precedent for subsequent code determinations.
2. Issuance of a determinations of similar land uses does not obligate the City to issue any permit or preclude code enforcement action if the situation evaluated by the City differs from what was presented in the determination request.
3. If a similar use is determined, the proposed use must comply with any special provisions in BDC 3.6, Special Standards and Regulations for Certain Uses, that apply to the similar use.

Chapter 5.1 VARIANCES

5.1.200 Class A Variances.

A. **Purpose.** A Class A variance is a variance from the standards of this code relating to on-site development requirements. The Review Authority may grant variances to the following on-site requirements using the approval criteria in subsection (B) of this section, ~~Class A Variance Criteria~~, provided the request does

not exceed 25 percent of the requirement. ~~The applicant shall provide a written narrative or letter describing the reason for the variance, why it is required, alternatives considered, and compliance with the approval criteria.~~

1. Building setbacks as required in the base land use district.
2. Landscape area requirements.

B. Submittal Requirements. The applicant must provide a written narrative or letter describing:

1. Why the variance is required;
2. Alternatives considered; and
3. Compliance with the approval criteria in 5.1.200(C), Class A Variance Criteria.

~~B. C.~~ Class A Variance Criteria. A Class A variance ~~shall~~ will be granted if the applicant can demonstrate compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other physical conditions of the site;
2. The variance does not result in the removal of ~~significant~~ Regulated ~~†~~Trees as defined by this code;
3. The variance is consistent with the design standards provided in BDC Chapters 3.1, Lot, Parcel and Block Design, Access and Circulation, 3.2, Landscaping, ~~Street Trees~~ Tree Preservation, Fences and Walls, 3.3, Vehicle Parking, Loading and Bicycle Parking, and 3.4, Public Improvement Standards.

5.1.300 Class B Variances.

A. Purpose. The purpose of this section is to provide ~~standards~~ criteria for variances to on-site development standards ~~that exceed the criteria in BDC 5.1.200, Class A Variances not addressed in the Class A or C Variance, and/or that exceed the minor allowances of a Class A Variance.~~

B. Submittal Requirements. The applicant ~~shall~~ must provide a written narrative or letter describing ~~the reason for the variance;~~

1. ~~w~~Why ~~†~~ the variance is required;
2. ~~a~~Alternatives considered;
3. ~~e~~Compliance with the approval criteria in BDC 5.1.300(C), Class B Variance Criteria.

~~B-C.~~ **Class B Variance Criteria.** The City shall approve, approve with conditions, or deny an application for a Class B variance based upon the following criteria:

- ~~1. The proposed variance will not be materially detrimental to the stated purposes of the applicable code requirements listed herein and to other properties in the same land use district or vicinity;~~
- ~~1.~~ ~~2.~~ A hardship exists that is peculiar to the nature of the requested use, lot size or shape, topography, sensitive lands, or other similar circumstances related to the property or use over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
- ~~2.~~ ~~3.~~ The use proposed is permitted within the underlying zoning district, and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- ~~3.~~ ~~4.~~ Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred in compliance with the subject code standard;
- ~~4.~~ ~~5.~~ The hardship is not self-imposed and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience; and
- ~~5.~~ ~~6.~~—The variance requested is the minimum variance that would alleviate the hardship.

5.1.400 Class C Variances.

A. **Purpose.** A variance request can be specific to certain aspects of development. The purpose of this section is to provide specific criteria for reviewing certain variance requests. The specific situations identified as Class C Variances include:

1. Variance to parking standards.
2. Variance to maximum or minimum on-site development requirements to reduce tree removal and/or impacts to wetlands (Waterway Overlay Zone).
3. Variance to maximum height.
4. Variance to vehicular access and circulation standards.
5. Floodplain variances. See BDC 2.7.640(E), Floodplain Variance.

B. Submittal Requirements. The applicant must provide a written narrative or letter describing the reason for the variance;

1. ~~w~~Why # the variance is required;
2. ~~a~~Alternatives considered; and
3. ~~e~~Compliance with the approval criteria in BDC 5.1.400(C), Class C Variance Criteria.

BC. Class C Variance Criteria. Class C variance requests are reviewed using the specific criteria listed below.

3. **Variance to Maximum Height.** The City may grant a variance to the maximum height limitations ~~not otherwise exempted by this code~~ of the corresponding zoning district when the following criteria are met: A height variance cannot be combined with other height adjustments, height bonuses and/or height incentives.
 - a. The structure is not located within the ~~Deschutes River Corridor or the Tumalo Creek Corridor~~ Water Overlay Zone.
 - b. ~~The proposed height does not create a burden on the City's Fire Department for fire-fighting requirements~~ All applicable fire code standards are or will be met and the additional height will not create a burden on the City's Fire Department for fire-fighting purposes.
 - c. The location, size, and design characteristics of the additional height of the proposed structure ~~shall~~ will have minimal ~~adverse~~ additional impact on the ~~property values and livability of the permitted~~ development in the surrounding area.
 - d. ~~The structure will provide an aesthetically pleasing and functional environment and relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features to the greatest extent practical.~~

e- d. The requested height is the minimum deviation necessary to alleviate the identified development constraints.

e. The requested height is not more than an increase of the greater of:

i. One story; or

ii. A 20 percent increase to the maximum height allowed in the corresponding zoning district. Where a fractional number results, the number is rounded down to the next whole number. (Consistent with the adjustment request allowed for residential uses, not including single-unit detached dwellings, ADUs and cottage developments.)

f. If the structure is located in the CB Zone, the Class B approval criteria ~~shall~~ will also apply.

Chapter 5.2

NONCONFORMING USES AND DEVELOPMENTS

5.2.100 Nonconforming Uses.

Where, at the time of adoption of this code, a use of land exists that would not be permitted by the regulations imposed by this code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

C. *Discontinuation or Abandonment.* The nonconforming use of land must not be discontinued for any reason for a period of more than 12 months. For purposes of calculating the 12-month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:

1. On the date when the use of land is physically vacated;
2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

(No changes are proposed. Included for reference only for the proposed BDC 4.1.1425(B), Formal Determination of the Status of a Nonconforming Use or Development.)

Chapter 5.3
ADJUSTMENTS

5.3.200 Definitions.

Net residential acre means an acre of residential designated buildable land, excluding rights-of-way for streets, roads or utilities or sensitive land. **(Consistent with SB 1537)**

5.3.300 Applicability.

A. Applicability. An application to develop housing qualifies for an adjustment only if the following are met:

1. The development is located on lots or parcels in Residential, Commercial or Mixed-Use Zoning Districts.
2. For residential designated lands, the development is for a minimum of 10 dwelling units per net residential acre. **(Consistent with revised definition.)**

5.3.500 Submittal Requirements.

A. The applicant must submit the following:

1. For residential designated lands, a narrative and site plan demonstrating that the development proposal, in total on site, meets the minimum of 10 dwelling units per net residential acre. **(Consistent with revised definition.)**
2. A narrative confirming that the total requested adjustments in BDC 5.3.700, Development and Design Standard Adjustment Options, do not exceed 10 distinct adjustments.
3. A narrative that states how one of the criteria in BDC 5.3.600, Approval Criteria, is met.

5.3.700 Development and Design Standard Adjustment Options.

A. **Development Standards Adjustment Options.** The following development standards may be adjusted:

7. Except for single-unit detached dwellings, ADUs and cottage developments, building height maximums that:
 - a. Are in addition to existing applicable height bonuses; and
 - b. Are not more than an increase of the greater of:
 - i. ~~e~~One story; or
 - ii. ~~a~~ A 20 percent increase to the ~~corresponding zone height~~ maximum height allowed in the corresponding zoning district. Where a fractional number results, the number is rounded down to the next whole number.

~~In no case can the height exceed both an increase of one story and 20 percent of the corresponding zone height.~~

EXHIBIT B
FINDINGS OF FACT
BEND DEVELOPMENT CODE (BDC) UPDATE
AMENDMENT PLTEXT20250392

I. PROCEDURAL FINDINGS:

- (1) PUBLIC NOTICE AND COMMENTS.** Notice of the proposed BDC amendments was provided to the Department of Land Conservation and Development (DLCD) on August 1, 2025, more than the required 35 days prior to the first public hearing. A notice of the September 22, 2025, Planning Commission public hearing was printed in the Bend Bulletin on August 31, 2025, and mailed and emailed to the Neighborhood Districts on August 29, 2025. A notice of the November 5, 2025, City Council public hearing was printed in the Bend Bulletin on October 12, 2025, and mailed and emailed to the Neighborhood Districts on October 10, 2025. Staff emailed the proposed amendments to the Bend Development Code Update Group and to the Neighborhood District Land Use Chairs on August 20, 2025, and on August 28, 2025, to let them know about the Planning Commission work session. Staff also emailed the City Council hearing date to the Bend Development Code Update Group and to the Neighborhood District Land Use Chairs on October 10, 2025. The Bend Development Code Update Group includes community members comprised of architects, lawyers, developers, land use planners, and engineers and staff from COBA, Central Oregon LandWatch and Bend Park and Recreation District as well as people who are generally interested in amendments to the BDC. Public comments can be viewed in the Online Permit Center Portal at www.permitcenter.bendoregon.gov on the City of Bend website by opening the Portal and selecting the Application Search link under the Land Use Applications, Historic Resources Reviews, Pre-Application Meeting header and entering the project number PLTEXT20250128 in the search bar to find the project.
- (2) RECORD.** The documents in CityView for PLTEXT20250392 are made part of the record and are placed before the City Council for consideration during the proceedings on the amendments. The documents are available for review and can be viewed in the Online Permit Center Portal at <https://cityview.ci.bend.or.us/Portal/Planning/Locator> by entering the project number in the search bar to find the project.
- (3) PROPOSAL.** The City of Bend is proposing a package of amendments to the Bend Development Code (BDC) to keep standards relevant, processes efficient, and to implement identified opportunities for improvement. The amendments are to BDC Chapters 1.0, How to Use the Development Code, 1.1, General Administration, 1.2, Definitions, 2.1, Residential Districts, 2.2, Commercial Zoning Districts, 2.3, Mixed-Use Zoning Districts, 2.4, Industrial Zoning Districts, 2.6, Public Facilities Zoning District, 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans, 2.8, Urbanizable District, 3.1, Lot, Parcel and Block Design, Access and Circulation, 3.2, Landscaping, Street Trees, Fences and Walls, 3.3, Vehicle Parking, Loading and Bicycle Parking, 3.4, Public Improvement Standards, 3.5, Other Design Standards, 3.6, Special

Standards and Regulations for Certain Uses, 3.8, Development Alternatives, Title 4, Applications and Review Procedures, 4.0, Applications and Review Procedures, 4.1, Development Review and Procedures, 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, 4.3, Land Divisions and Property Line Adjustments, 4.4, Conditional Use Permits, 4.5, Master Plans, 4.6, Land Use District Map and Text Amendments, 4.7, Transportation Analysis, 4.8, Transportation and Parking Demand Managements (TPDM) Plan, 4.9, Annexations, (new) 4.10, Interpretations and Determinations, 5.1, Variances, 5.2, Nonconforming Uses and Developments, and 5.3, Adjustments. The recommended amendments are attached as Exhibit A.

II. CRITERIA OF APPROVAL:

- (1) The Bend Comprehensive Plan
- (2) Bend Development Code
 - (a) Chapter 4.6, Land Use District Map and Text Amendments; Section 4.6.200, Legislative Amendments

III. APPLICABLE PROCEDURES:

- (1) Bend Development Code
 - (a) Chapter 4.1, Development Review and Procedures

IV. FINDINGS REGARDING COMPLIANCE WITH APPLICABLE CRITERIA:

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE, CHAPTER 4.6, LAND USE DISTRICT MAP AND TEXT APMENTS

4.6.200 Legislative Amendments.

A. Applicability, Procedure and Authority. Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plan and map, Development Code and changes in the zoning map not directed at a small number of properties. They are reviewed using the Type IV procedure in accordance with Chapter 4.1, Land Use Review and Procedures and shall conform to Section 4.6.600, Transportation Planning Rule Compliance. A Legislative Amendment may be approved or denied.

FINDING: The recommended amendments to the text of the BDC involve broad public policy rather than application to an individual property owner. Therefore, the Legislative Amendment Procedures of this section are the appropriate procedures for this review.

B. Criteria for Legislative Amendments. The applicant shall submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve or to deny an application for a Legislative Amendment shall be based on all of the following

criteria:

1. The request is consistent with the applicable State land use law;

FINDING: The amendments are consistent with the applicable State land use law. In particular, they satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, Goal 6: Air, Water and Land Resources Quality, Goal 8: Recreation Needs, Goal 9: Economic Development, Goal 10: Housing, and Goal 11: Public Facilities and Services, as discussed below.

Goal 1, Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

FINDING: Notice of the proposed BDC amendments was provided to the Department of Land Conservation and Development (DLCD) on August 1, 2025. A notice of the September 22, 2025, Planning Commission public hearing was printed in the Bend Bulletin on August 31, 2025, and mailed and emailed to the Neighborhood Districts on August 29, 2025. A notice of the November 5, 2025, City Council public hearing was printed in the Bend Bulletin on October 12, 2025, and mailed and emailed to the Neighborhood Districts on October 10, 2025.

Staff emailed the proposed amendments to the Bend Development Code Update Group and to the Neighborhood District Land Use Chairs on August 20, 2025, and on August 28, 2025, to let them know about the Planning Commission work session. Staff also emailed the City Council hearing date to the Bend Development Code Update Group and to the Neighborhood District Land Use Chairs on October 10, 2025. The Bend Development Code Update Group includes community members comprised of architects, lawyers, developers, land use planners, and engineers and staff from COBA, Oregon LandWatch and Bend Park and Recreation District as well as people who are generally interested in amendments to the BDC.

On September 8, 2025, the Planning Commission held a work session to review the proposed amendments and on September 22, 2025, the Planning Commission held a public hearing and recommended approval (7-0) to the City Council. The City Council held a public hearing on November 5, 2025, and conducted the first reading approving the amendments in Exhibit A.

Therefore, Goal 1 has been met.

Goal 2, Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

FINDING: The Goal is met because the City followed the land use planning process and policy

framework established in the City’s acknowledged Comprehensive Plan and BDC as a basis for the decisions and actions related to the new regulations regarding the use of land and to assure an adequate factual base for these decisions and actions. The amendments will be considered by the City Council after a public hearing. Multiple opportunities were provided for review and comment by community members and affected governmental units during the preparation of this ordinance.

Goal 2 specifically states that minor plan changes should be based on special studies or other information, which will serve as the factual basis to support the change. The public need and justification for the particular change should be established.

For the past two years staff have been flagging and noting different sections of the BDC that need to be amended and that would result in greater opportunities for housing, reduce regulations, streamline processes, provide clarity around existing standards, address existing concerns in the development standards and provide consistency with Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR). The package of amendments are a result of this effort.

In addition, the amendments support the 2025-2027 City Council housing goal to “develop and implement strategies to meet community housing needs, reduce homelessness, and create complete, walkable neighborhoods through data-driven policies, reliable funding, and innovative development codes.” The goal includes a strategy to “accelerate complete neighborhoods” with an action to “adopt development code and entitlement process improvements that remove barriers and speed up missing middle-income, affordable housing and infill development.”

The amendments reduce the rear setback in the Urban Area Reserve (UAR) and Low Density Residential (RL) Districts from 20 to 10 feet. This will allow more space on an RL District lot or parcel to be developed with additional dwelling units including duplexes, triplexes and quadplexes since they are a permitted use in the District.

The amendments also add extensions to the duration of approvals for Site Plan Review, phased Site Plan Review and phased land division applications. This will allow larger developments including multi-unit developments and residential land divisions to have longer entitlements to their land use approval which may help with securing the necessary permits and funding and can keep these projects on track and prevent the need for costly and time-consuming re-applications.

In addition, the amendments streamline the review process by allowing the following expansion of an existing multi-unit development to be reviewed through a Minimum Development Standards Review application instead of a Site Plan Review application:

BDC 4.2.400(B)(1)(i), Expansion of an existing multi-unit development of up to four additional attached or detached dwelling units, not to exceed 50 percent increase of the existing building area on the site or 5,000 square feet whichever is less.

These amendments are the latest effort to implement the Council’s housing goal and the Comprehensive Plan Goals.

Therefore, the amendments are justified and needed, and compliance with Goal 2 is met.

Goal 3, Agricultural Lands

To preserve and maintain agricultural lands.

Goal 4, Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

FINDING: There are no designated agricultural or forest lands within the project area. Therefore, Goals 3 and 4 do not apply.

Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces.

FINDING: Goal 5 is not applicable because these amendments do not affect any regulation that implements this goal and the City's acknowledged regulations implementing Goal 5 remain in effect with no change in applicability.

Goal 6, Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

FINDING: The City's acknowledged regulations implementing Goal 6 remain in effect with no change in applicability. The amendments do not affect the City's ability to maintain and improve air, water or land resources. The amendments continue to require on-site surface water drainage, including roof drainage, to be retained on the lot or parcel of origin and not flow onto the public right-of-way or other private property, unless otherwise permitted in Bend Code Title 16, Grading, Erosion Control, Stormwater, Illicit Discharge, Tree Protections, and Wells. Therefore, compliance with Goal 6 is maintained.

Goal 7, Areas Subject to Natural Hazards

To protect people and property from natural hazards.

FINDING: Goal 7 is not applicable because the City's acknowledged regulations implementing Goal 7 remain in effect with no change in applicability.

Goal 8, Recreational Needs

To satisfy the recreational needs of citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

FINDING: Public open space and parks contribute to the livability of Bend’s growing community. They provide space for outdoor recreation and habitat for urban wildlife. These urban spaces are maintained and managed by the Bend Park and Recreation District (BPRD). The amendments clarify an existing requirement for a developer to enter into negotiations with BPRD for the acquisition of land for construction of a public park when the development site is 10 acres or larger and the site is located within a park search area shown on the Park Search Area Map dated July 2024 and adopted as part of the BPRD Comprehensive Plan in November 2024, and is identified by the BPRD as needing a park.

The amendments also delete the words “open to the public” in Section 4.5.200.E.4.d to clarify that, per the existing definition of “open space,” open space can be “designed or reserved for the public or private use.” The amendments further clarify that such public or private open space provided to meet the 10 percent open space requirement for minor and major master plans in compliance with BDC Chapter 4.5, Master Plans, must not be fenced-off unless it is related to a park or approved public or private recreational facility including, but not limited to, tennis courts, swimming pools, driving ranges and ball fields.

Therefore, compliance with Goal 8 is maintained.

Goal 9, Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

FINDING: On October 2, 2024, the Core Area Business Assistance Subcommittee of the Core Area Advisory Board (CAAB) heard from three local businesses (Somewhere That’s Green, The Giving Plate and The Catalyst now known as the Dogwood at the Pine Shed) in the Bend Central District (BCD) about their experience obtaining land use and building permit approvals. After hearing from the businesses, the Subcommittee discussed providing some relief to the applicability of BDC 4.2.600, Design Review, to encourage adaptive re-use of older buildings in the BCD. On February 20, 2025, the Subcommittee discussed this concept with CAAB’s Development Code Subcommittee. After discussion, the Development Code Subcommittee supported removing design review requirements for alteration of existing buildings in the BCD to facilitate re-use of existing buildings within minimal required upgrades and potentially spur redevelopment of other sites in the area.

On September 8, 2025, the Planning Commission held a work session and reviewed an amendment to exempt exterior alterations to existing buildings in the BCD from the District’s design standards and from BDC 4.2.600, Design Review. The Commission was supportive of the amendment; however, they

were interested in requiring a portion of the glazing and transparency to be retained to encourage a walkable and vibrant mixed-use district and asked staff to bring back a recommendation. Following the Commission’s work session, staff had the opportunity to share the Commission’s discussion with CAAB on September 18, 2025, and they were also supportive of requiring a percentage of transparency and glazing to be retained. During the Planning Commission public hearing on September 22, 2025, the Commission discussed and recommended approval of the following amendments to the City Council:

2.7.3240(B) Exemption. Exterior alterations to existing buildings are exempt from the design standards in this section and from BDC 4.2.600, Design Review, if the alterations result in no more than a 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by subsection (A)(3) of this section.

4.2.600(B)(9) Existing buildings located in the Bend Central District (BCD) if the exterior alterations result in no more than 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by BDC 2.7.3240, Design Standards.

Therefore Goal 9 is maintained.

Goal 10, Housing

To provide for the housing needs of the citizens of the state.

FINDING: According to the 2016 Bend Housing Needs Analysis (HNA), Bend is planning for growth of about 38,500 people between 2008 and 2028, requiring nearly 16,700 new dwelling units. Bend’s housing needs are changing and key demographic changes are occurring in Bend and across the nation. According to the HNA, Baby Boomers may need affordable housing or may choose to downsize their housing, resulting in greater demand for small single-unit dwellings, cottages, accessory dwelling units, townhomes, apartments, and condominiums and growth in Millennial households will increase the need for affordable housing for renters and homeowners such as: small single-unit dwellings, cottages, accessory dwelling units, duplexes, townhomes, garden apartments, and apartments.

In addition, Council has a current housing goal to “develop and implement strategies to meet community housing needs, reduce homelessness, and create complete, walkable neighborhoods through data-driven policies, reliable funding, and innovative development codes.” The goal includes a strategy to “accelerate complete neighborhoods” with an action to “adopt development code and entitlement process improvements that remove barriers and speed up missing middle-income, affordable housing and infill development.”

To support the need for more multi-unit dwellings and Council’s goal, the amendments streamline the review process by allowing the following expansion of an existing multi-unit development to be reviewed through a Minimum Development Standards Review application instead of a Site Plan Review application:

BDC 4.2.400(B)(1)(i), Expansion of an existing multi-unit development of up to four additional attached or detached dwelling units, not to exceed 50 percent increase of the existing building area on the site or 5,000 square feet whichever is less.

The amendments also reduce the rear setback in the Urban Area Reserve (UAR) and Low Density Residential (RL) Districts from 20 to 10 feet. This will allow more space on an RL District lot or parcel to be developed with additional dwelling units including duplexes, triplexes and quadplexes since they are a permitted use in the District.

The amendments also provide clarity on extensions to the duration of approvals for Site Plan Review, phased Site Plan Review and phased land division applications and what milestones must be met to keep the approval valid. It also allows larger developments including multi-unit developments and residential land divisions to have longer entitlements to their land use approval which may help with securing the necessary permits and funding and can keep these projects on track and prevent the need for costly and time-consuming re-applications.

The amendments provide several additional clear and objective options for the development of housing including:

- Reducing the rear setback in the UAR and RL Districts;
- Clarifying building form for single-room occupancy project with more than six units and multi-unit residential projects;
- Clarifying the front door entrance standard for single-unit dwellings, duplexes, triplexes, quadplexes, townhomes, and single-room occupancies with six or fewer units (consistent with the HB 2001 Model Code);
- Clarifying that a second kitchen can be part of any dwelling unit on-site; and
- Reducing the minimum north-south lot dimension for solar lots from 80 feet to 50 feet in the Standard Density Residential (RS) and Medium Density Residential (RM) Zones to be consistent with the minimum lot depths of the RS and RM zones.

The amendments implement Council’s housing goals and provide opportunities to build needed housing that were identified in the Bend Housing Needs Analysis acknowledged in the December 2016 Urban Growth Boundary Expansion.

Therefore, compliance with Goal 10 has been met.

Goal 11, Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

FINDING: The City’s acknowledged regulations implementing Goal 11 remain in effect with no change in applicability. The amendments do not affect the City’s ability to plan and develop a timely, orderly and efficient arrangement of public facilities and services. The amendments continue to require on-site surface water drainage, including roof drainage, to be retained on the lot or parcel of origin and not flow onto the public right-of-way or other private property, unless otherwise permitted in Bend Municipal Code Title 16, Grading, Erosion Control, Stormwater, Illicit Discharge, Tree Protections, and Wells.

Therefore, the amendments will not result in the need to adjust or amend existing policies or projects in the City’s adopted facility plans and compliance with Goal 11 is maintained.

Goal 12, Transportation

To provide and encourage a safe, convenient and economic transportation system.

FINDING: The amendments are not site specific and therefore do not affect the functional classification of any street. The amendments will have no immediately measurable impacts on the amount of traffic on the existing transportation system; therefore, the amendments do not cause a “significant effect” under ORS 660-012-0060. Therefore, compliance with Goal 12 has been met.

Goal 13, Energy Conservation

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.

FINDING: The BDC includes solar lot standards that apply to the creation of lots within subdivisions in the Standard Density Residential (RS) and Medium Density Residential (RM) Districts to help preserve access to sunlight. The solar lot standards will still apply; however, for consistency, the amendments reduce the north-south lot dimension from 80 feet to 50 feet to match the minimum lot depth requirement of the Standard Density Residential (RS) District and Medium Density Residential (RM) District. Therefore, Goal 13 is maintained.

Goal 14, Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

FINDING: The amendments do not encourage sprawl or lower than targeted densities, or uncoordinated development. The City encourages compact development and efficient use of land. The management of the City’s land use inventories is unaffected by these amendments and therefore, the City’s long-standing acknowledgment of compliance with Goal 14 is maintained.

Goal 15, Willamette River Greenway

Goal 16, Estuarine Resources

Goal 17, Coastal Shorelands

Goal 18, Beaches and Dunes

Goal 19, Ocean Resources

FINDING: Goals 15 through 19 are not applicable to the proposed amendments because the subject properties do not include any of the noted features and are not located within the coastal or Willamette Valley regions.

Based on the above discussion, the amendments are consistent with the applicable statewide planning goals and therefore comply with the requirement that the amendments be consistent with state land use planning law.

Because the amendments are limited in scope, there are no other Administrative Rules applicable to this amendment. Likewise, there are no other applicable Oregon Revised Statutes that are criteria applicable to these amendments (Note, consistency with the Transportation Planning Rule (TPR) is discussed further in this document).

2. The request is consistent with the applicable Bend Comprehensive Plan goals and policies;

FINDING: The “goals” established in the Comprehensive Plan express the desires of the residents of Bend as the City progresses into the future. The “goals” are generally carried out through “policies,” which are statements of public policy. The following Goals and Policies are applicable:

Chapter 1: Plan Management and Citizen Involvement

Goals:

- **Protect and Enhance Bend’s Natural Beauty, Heritage and Natural Environment** As Bend grows, it preserves and enhances natural areas and wildlife habitat. Protect and enhance Bend’s natural beauty noting especially the trees, rocks, rivers, view, sounds and historic structures. Wildfire risk management is a key consideration. Bend takes a balanced approach to environmental protection and building a great city.

FINDING: The amendments support wildfire risk management while also considering the City’s tree preservation goals by creating a Type I review process for the following tree removal requests for properties subject to Deschutes River Design Review (within the Waterway Overlay Zone) and for properties located in the Upland Areas of Special Interest Overlay Zone:

- Creation of fuel breaks in association with appropriate fire prevention authorities.

- Where necessary to mitigate potential fire hazard as determined by the Fire Code Official.
- Where the tree is determined by a qualified professional to be diseased or hazardous.
- **Create Housing Options and Affordability** Bend residents have access to a variety of high-quality housing options, including housing affordable to people with a range of incomes and housing suitable to seniors, families, people with special needs, and others. Housing design is innovative and energy efficient.

FINDING: The amendments reduce the rear setback in the Urban Area Reserve (UAR) and Low Density Residential (RL) Districts from 20 to 10 feet. This allows more of the lot or parcel in the RL District to be developed with a variety of housing types permitted in the District including accessory dwelling units, duplexes, triplexes and quadplexes.

- **Foster a Balanced Transportation System.** Bend's balanced transportation system incorporates an improved, well-connected system of facilities for walking, bicycling, and public transit, while also providing a reliable system for drivers. Bend's transportation system emphasizes safety and convenience for users of all types and ages. Transportation and land use are integrated to foster livability.

FINDING: The City Council 2025-2027 transportation and infrastructure goal states "Make travel safer and more reliable for everyone, ensure water and wastewater systems meet growth, housing, and economic prosperity needs, and improve transportation projects with sustainable funding and planning." The goal has a strategy to "enhance safety, accessibility and increased options for all modes of travel" and an action to "create and begin implementation of Pedestrian and Bike Master Plans that address system gaps, costs, and priorities and are aligned to the Transportation System and Climate Friendly and Equitable Communities plans and policies" and to "update transportation design standards and specifications for all users, aiming for zero fatalities". To reach this goal, the City will need to build a connected and safe network of bicycle infrastructure. However, the journey does not end when someone riding a bicycle leaves the road. End-of-trip facilities, including an available place to safely and securely park a bicycle, is a key component of creating an attractive and functional bike network. The proposed amendments ensure new development provides adequate, secure and convenient short- and long-term bicycle parking.

- **Create Connections to Recreation and Nature.** Bend continues to enhance its network of parks, trails, greenbelts, recreational facilities, and scenic views inside and outside the city.

FINDING: The amendment to BDC 3.4.300, Public Use Areas, support providing new public park space by requiring a developer to enter into negotiations with the Bend Park and Recreation District (BPRD) regarding acquisition of land for construction of a public park when the development site is over 10 acres and is located within a park search area shown on the Park Search Area Map dated July 2024 and adopted as part of the BPRD Comprehensive Plan in November 2024, and is identified by the BPRD as needing a park.

The amendments also clarify that any public or private open space provided to meet the 10 percent open space requirement for minor and major master plans in compliance with BDC Chapter 4.5, Master Plans, must not be fenced-off unless it is related to a park or approved public or private recreational facility including, but not limited to, tennis courts, swimming pools, driving ranges and ball fields. This ensures pedestrian access to these types of public and private open space areas which contribute to the network of parks, trails, and recreational facilities.

- **Promote Public and Civic Involvement.** Encourage involvement by all citizens, corporate and individual, to keep the city vital and the Plan an “evolving vision”.

FINDING: A notice of the September 22, 2025, Planning Commission public hearing was printed in the Bend Bulletin on August 31, 2025, and mailed and emailed to the Neighborhood Districts on August 29, 2025. A notice of the November 5, 2025, City Council public hearing was printed in the Bend Bulletin on October 12, 2025, and mailed and emailed to the Neighborhood District Land Use Chairs on October 10, 2025.

Staff emailed the proposed amendments to the Bend Development Code Update Group and to the Neighborhood District Land Use Chairs on August 20, 2025, and on August 28, 2025, to let them know about the Planning Commission work session. Staff also emailed the City Council hearing date to the Bend Development Code Update Group and to the Neighborhood District Land Use Chairs on October 10, 2025. The Bend Development Code Update Group includes community members comprised of architects, lawyers, developers, land use planners, and engineers and staff from COBA, Central Oregon LandWatch and Bend Park and Recreation District as well as people who are generally interested in amendments to the BDC.

On September 8, 2025, the Planning Commission held a work session to review the proposed amendments. On September 22, 2025, the Planning Commission held a public hearing on the proposed amendments and recommended approval (7-0) to the City Council. The City Council held a public hearing on November 5, 2025, and conducted the first reading approving the amendments in Exhibit A. Throughout this review process, there will be multiple opportunities for the public to be involved and provide input on the proposed amendments.

- **Create Clear and Consistent Implementing Ordinances.** Implement the plan through effective, clear and consistent ordinances and language that reflect the intent of the vision.

FINDING: The amendments to the BDC propose the following:

Clarification and Consistency. The amendments correct general ambiguities, inconsistencies, and conflicts within the code.

Modernization. The amendments include improvements to requirements that staff have identified through implementing the BDC over the past three years (e.g., reduced rear setback in the Low Density Residential (RL) District, new bicycle parking options, and various design standard updates).

Process Improvements. The amendments:

- Update procedures for legal lot of record determinations, Deschutes River Design Review, noticing requirements, duration of approvals and extensions, modifications of approval and statutory development agreements.
- Create a new minor replat process and clearly identify the existing quasi-judicial process (Type III-CC) where the final decision is made by the City Council after a public hearing.
- Replace BDC 4.1.1400, Declaratory Ruling, with a new Chapter 4.10, Interpretations and Determination.

Compliance with State Rules and Statutes. The amendments provide consistency with Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR).

In addition, ORS 197A.400 requires a local government to adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing, on land within an urban growth boundary, and those standards, conditions, and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay. The proposed amendments provide several additional clear and objective options for the development of housing including:

- Reducing the rear setback in the UAR and RL Districts;
- Clarifying building form for multi-unit residential and single-room occupancy with more than six units;
- Clarifying the front door entrance for single-unit dwellings, duplexes, triplexes, quadplexes, townhomes and single-room occupancies with six or fewer units (consistent with the HB 2001 Model Code);
- Clarifying that a second kitchen can be part of any dwelling unit on-site; and
- Clarifying the difference between a storage room that is not intended for vehicle parking and a garage to help with setback and vehicle access requirements.

In addition, the amendments remove several requirements in BDC 3.1.200(C), General Requirements for Lots and Parcels, because they are not clear and objective for residential development.

Policies

Development within the Urban Growth Boundary

1-8 The City and County will encourage infill and redevelopment of appropriate areas within Bend Central Core, opportunity Areas and transit corridors (see Figure 11-1).

Citizen Involvement

1-15. The city shall continue to use advisory committees in their planning process, members of which are selected by an open process, and who are widely representative of the community.

FINDING for 1-8 and 1-15: On October 2, 2024, the Core Area Business Assistance Subcommittee of

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the Core Area Advisory Board (CAAB) heard from three local businesses (Somewhere That's Green, The Giving Plate and The Catalyst now known as the Dogwood at the Pine Shed) in the Bend Central District (BCD) about their experience obtaining land use and building permit approvals. After hearing from the businesses, the Subcommittee discussed providing some relief to the applicability of BDC 4.2.600, Design Review, to encourage adaptive re-use of older buildings in the BCD. On February 20, 2025, the Subcommittee discussed this concept with CAAB's Development Code Subcommittee. After discussion, the Development Code Subcommittee supported removing design review requirements for alteration of existing buildings in the BCD to facilitate re-use of existing buildings within minimal required upgrades and potentially spur redevelopment of other sites in the area.

On September 8, 2025, the Planning Commission held a work session and reviewed an amendment to exempt exterior alterations to existing buildings in the BCD from the District's design standards and from BDC 4.2.600, Design Review. The Commission was supportive of the amendment; however, they were interested in requiring a portion of the glazing and transparency to be retained to encourage a walkable and vibrant mixed-use district and asked staff to bring back a recommendation. Following the Commission's work session, staff had the opportunity to share the Commission's discussion with CAAB on September 18, 2025, and they were also supportive of requiring a percentage of transparency and glazing to be retained. During the Planning Commission public hearing on September 22, 2025, the Commission discussed and recommended approval of the following amendments to the City Council:

2.7.3240(B) Exemption. Exterior alterations to existing buildings are exempt from the design standards in this section and from BDC 4.2.600, Design Review, if the alterations result in no more than a 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by subsection (A)(3) of this section.

4.2.600(B)(9) Existing buildings located in the Bend Central District (BCD) if the exterior alterations result in no more than 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by BDC 2.7.3240, Design Standards.

1-16. The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process.

FINDING 1-16: Notice of the proposed BDC amendments was provided to the Department of Land Conservation and Development (DLCD) on August 1, 2025, more than the required 35 days prior to the first public hearing. A notice of the September 22, 2025, Planning Commission public hearing was printed in the Bend Bulletin on August 31, 2025, and mailed and emailed to the Neighborhood Districts on August 29, 2025. A notice of the November 5, 2025, City Council public hearing was printed in the Bend Bulletin on October 12, 2025, and mailed and emailed to the Neighborhood District Land Use

Chairs on October 10, 2025.

Staff emailed the proposed amendments to the Bend Development Code Update Group and to the Neighborhood District Land Use Chairs on August 20, 2025, and on August 28, 2025, to let them know about the Planning Commission work session. Staff also emailed the City Council hearing date to the Bend Development Code Update Group and to the Neighborhood District Land Use Chairs on October 10, 2025. The Bend Development Code Update Group includes community members comprised of architects, lawyers, developers, land use planners, and engineers and staff from COBA, Central Oregon LandWatch and Bend Park and Recreation District as well as people who are generally interested in amendments to the BDC.

On September 8, 2025, the Planning Commission held a work session to review the proposed amendments and on September 22, 2025, the Planning Commission held a public hearing on the proposed amendments and recommended approval (7-0) to the City Council. The City Council held a public hearing on November 5, 2025, and conducted the first reading approving the amendments in Exhibit A. Throughout this review process, there will be multiple opportunities for the public to be involved and provide input on the proposed amendments.

Therefore, compliance with Chapter 1 has been met.

Chapter 2: Natural Features and Open Space

Goals:

- To provide land for recreational uses such as hiking, photography, bicycling, jogging, or fishing;

Policies

Natural Features and Open Space

2-2 The city and Bend Park and Recreation District shall share the responsibility to inventory, purchase, and manage public open space, and shall be supported in its efforts by the city and county. The City recognizes the Park and Recreation District as the urban service provider of parks within the UGB.

FINDING for Chapter 2 Goal and Policy 2-2: Public open space and parks contribute to the livability of Bend's growing community. They provide space for outdoor recreation and habitat for urban wildlife. These urban spaces are maintained and managed by the Bend Park and Recreation District (BPRD).

The amendments require a developer to enter into negotiations with BPRD for the acquisition of land for construction of a public park when the development site is 10 acres or larger and the site is located within a park search areas shown on the Park Search Area Map dated July 2024 and adopted as part of the BPRD Comprehensive Plan in November 2024, and is identified by the BPRD as needing a park. Other proposed BDC amendments do not affect the provision of public open space or parks.

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2-12 The City shall evaluate and adopt standards for the types of landscape materials and amount of open area buffers around structures that reduce the risk of loss from wildfires at the edge of the urban area.

FINDING: The amendments support wildfire risk management while also considering the City’s tree preservation goals by creating a Type I review process for the following tree removal requests for properties subject to Deschutes River Design Review (within the Waterway Overlay Zone) and for properties in the Upland Areas of Special Interest Overlay Zone:

- Creation of fuel breaks in association with appropriate fire prevention authorities.
- Where necessary to mitigate potential fire hazard as determined by the Fire Code Official.
- Where the tree is determined by a qualified professional to be diseased or hazardous.

Therefore, compliance with Chapter 2 has been met.

Chapter 3: Community Connections

Goals

- To provide quality green spaces, natural areas, and recreation sites through public and private park land throughout the community.

FINDING: The amendments clarify that any public or private open space provided to meet the 10 percent open space requirement for minor and major master plans in compliance with BDC Chapter 4.5, Master Plans, must not be fenced-off unless it is related to a park or approved public or private recreational facility including, but not limited to, tennis courts, swimming pools, driving ranges and ball fields. This ensures pedestrian access to these types of public and private open space areas in master plan developments which contribute to the network of green spaces and recreational sites throughout the community.

- To coordinate the development of future park and school sites to serve the expanding urban area population.

Parks and Recreation Facilities

3-8 The City shall refer to the Bend Park and Recreation District, for its review and recommendations, all development proposals that include or are adjacent to existing or proposed parks or trails. Development proposals include, but are not limited to, master plans, land divisions, and replats.

FINDING for Chapter 3 Goal and Policy 3-8: Public open space and parks contribute to the livability of Bend’s growing community. They provide space for outdoor recreation and habitat for urban wildlife. These urban spaces are maintained and managed by BPRD.

The amendments require a developer to enter into negotiations with BPRD for the acquisition of land for construction of a public park when the development site is 10 acres or larger and the site is located within a park search areas shown on the Park Search Area Map dated July 2024 and adopted as part of the BPRD Comprehensive Plan in November 2024, and is identified by the BPRD as needing a park. Other proposed BDC amendments do not affect existing requirements to coordinate with BPRD or the Bend-La Pine School District for certain development proposals.

Therefore, compliance with Chapter 3 has been met.

Chapter 5: Housing and Residential Lands

Goals:

- Keep our neighborhoods livable by offering a variety of living styles and choices, creating attractive neighborhoods located close to schools, parks, shopping and employment.
- Promote more flexibility in development standards to balance the need for more efficient use of residential land and preservation of natural features.

FINDING: The amendments reduce the UAR and RL District’s rear setback from 20 feet to 10 feet. This will allow more of the RL District lots and parcels to be developed with a variety of housing types permitted in the District and provides greater flexibility in building placement which may help preserve natural features when developing a lot or parcel in these Districts.

Housing Mix, Density, and Affordability

5-4 The City will apply plan designations, zoning districts and development code regulations to implement the mix of housing indicated in the adopted Housing Needs Analysis.

FINDING: According to Bend’s Housing Needs Analysis (2016), Appendix K of the Bend Comprehensive Plan, Bend is planning for growth of about 38,500 people between 2008 and 2028. As shown in Table 18 of the Comprehensive Plan, Bend has a need for 13,700 additional dwellings for the remainder of the 2008-2028 forecast period, between 2014 and 2028.

Table 18. Needed housing by needed mix, Bend, 2014-2028

	Needed Units (2008 - 2014)	Units permitted 2009 to end of July 2014	Remaining Need (Mix applied to remaining total)	
			Units	Percent of New Units
Single-family detached	9,175	2,411	7,574	55%
Single-family attached	1,668	112	1,377	10%
Multi-family	5,838	389	4,819	35%
Total	16,681	2,912	13,770	100%

Source: ECONorthwest

The summary of key findings about housing affordability in the Housing Needs Analysis states that the decreases in housing affordability for homeowners shows an increased need for less costly single-unit detached housing, including smaller lots and smaller units, such as cottages or cluster housing, and townhomes. Demand for owner-occupied multi-unit housing, such as garden apartments or urban condominiums, may increase, especially in walkable areas with access to services. These types of more affordable owner-occupied units are the types likely to be preferred by some downsizing baby Boomers and Millennials, especially as first houses for Millennials.

In addition, according to the Housing Needs Analysis, some Baby Boomers may choose to downsize their housing, resulting in greater demand for small single-unit detached dwellings, cottages, accessory dwelling units, townhomes, apartments, and condominiums. Additionally, growth in millennial households will increase the need for affordable housing for renters and homeowners such as: small single-unit detached dwellings, cottages, accessory dwelling units, duplexes, townhomes, garden apartments, and apartments.

The rear setback in the RL District is proposed to be reduced from 20 feet to 10 feet. This amendment will allow more developable space on a site which could equate to more rental units being developed in the form of duplexes, triplexes and quadplexes which are a permitted use in the District. In addition, the BDC middle housing land division process in BDC 4.3.700, Expedited and Middle Housing Land Division, allows the creation of multiple lots or parcels from a single parent site on which duplexes, triplexes or quadplexes are developed. This results in each of the units being located on its own individual lot or parcel and provides home ownership opportunities in the RL District.

The amendments also streamline the review process by allowing the following expansion of an existing multi-unit development to be reviewed through a Minimum Development Standards Review application instead of a Site Plan Review application:

BDC 4.2.400(B)(1)(i), Expansion of an existing multi-unit development of up to four additional attached or detached dwelling units, not to exceed 50 percent increase of the existing building area on the site or 5,000 square feet whichever is less.

Therefore, the amendments support the development of housing identified in the Housing Needs

Analysis.

5-7 The City will continue to create incentives for and remove barriers to development of a variety of housing types in all residential zones. This policy is intended to implement the City’s obligation under the State Housing Goal to “encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type, and density”.

FINDING: The summary of key findings about housing affordability in the Housing Needs Analysis states that the decreases in housing affordability for homeowners shows an increased need for less costly single-unit detached housing, including smaller lots and smaller units, such as cottages or cluster housing, and for townhomes. Demand for owner-occupied multi-unit housing, such as garden apartments or urban condominiums, may increase, especially in walkable areas with access to services. These types of more affordable owner-occupied units are the types likely to be preferred by some downsizing Baby Boomers and Millennials, especially as first houses for Millennials.

According to the Housing Needs Analysis, some Baby Boomers may choose to downsize their housing, resulting in greater demand for small single-unit detached dwellings, cottages, accessory dwelling units, townhomes, apartments, and condominiums and growth in millennial households will increase the need for affordable housing for renters and homeowners such as: small single-unit detached dwellings, cottages, accessory dwelling units, duplexes, townhomes, garden apartments, and apartments.

The amendments streamline the review process by allowing the following expansion of an existing multi-unit development to be reviewed through a Minimum Development Standards Review application instead of a Site Plan Review application:

BDC 4.2.400(B)(1)(i), Expansion of an existing multi-unit development of up to four additional attached or detached dwelling units, not to exceed 50 percent increase of the existing building area on the site or 5,000 square feet whichever is less.

This streamlined review may facilitate the development of more multi-units identified in the Bend Housing Needs Analysis.

The amendments also provide clarity on extensions to the duration of approvals for Site Plan Review, phased Site Plan Review and phased land division applications and what milestones must be met to keep the approval valid. This will allow larger developments including multi-unit developments and residential land divisions to have longer entitlements to their land use approval which may help with securing the necessary permits and funding and can keep these projects on track and prevent the need for costly and time-consuming re-applications.

Therefore, the amendments remove barriers to development of a variety of housing types in all residential zones.

5-8 The City will apply innovative and flexible zoning tools to support a mix of housing types and densities.

FINDING: The amendments reduce the rear setback in the UAR and RL District from 20 feet to 10 feet. This reduced setback provides additional buildable area on a lot or parcel that could support additional units on-site.

Residential Compatibility.

5-30 Certain private recreational uses, such as golf courses or tennis courts, may be successfully integrated into residential areas provided the location, design, and operation are compatible with surrounding residential developments and do not prevent development of lands inventoried for needed housing to minimum density standards.

FINDING: The amendments include the following change to the definition of “Recreational Facility” in BDC Chapter 1.2, Definitions:

Recreational facilities, public means a ~~publicly owned~~ facility, land, or improvements designated for leisure and recreational activities, open to the general public, with or without payment of fees. This includes facilities owned and operated by a homeowner association for use by residents of a residential development.

The amendment implements this policy by allowing recreational uses, including but not limited to tennis courts and swimming pools, that support residential areas when they are owned and operated by a homeowner association. All residential developments will still be required to meet minimum density requirements.

Public Utilities and Services

5-50 Electric power, telephone, and cable TV distribution and service lines shall be located underground in new developments.

FINDING: Currently, all new utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities, are required to be placed underground, except for surface-mounted transformers; surface-mounted connection boxes and meter cabinets; temporary utility service facilities during construction; and high capacity electric lines operating at 50,000 volts or above, which may be placed above ground. The amendments will allow residential developments subject only to Minimum Development Standards Review criteria, including partitions and Middle Housing Land Divisions creating lots for this type of development, to utilize overhead connections to existing overhead lines. If the development requires extension of the main line to provide the service, then the new portion of the main line and the connections to it will be required to be placed underground unless the utility provider determines it is not feasible. This provides some flexibility and potentially lower construction costs for certain smaller housing developments, while still meeting the intent of this policy.

Residential Development

5-55 The City will support residential infill development to help achieve the mix of housing identified in the adopted Housing Needs Analysis.

FINDING: According to the Bend Housing Needs Analysis, Bend is planning for growth of about 38,500 people between 2008 and 2028, requiring nearly 16,700 new dwelling units. Bend’s housing needs are changing and key demographic changes are occurring in Bend and across the nation. Baby Boomers may need affordable housing or may choose to downsize their housing, resulting in greater demand for small single-family dwellings, cottages, accessory dwelling units, townhomes, apartments, and condominiums and growth in Millennial households will increase the need for affordable housing for renters and homeowners such as: small single-unit dwellings, cottages, accessory dwelling units, duplexes, townhomes, garden apartments, and apartments.

The amendment to reduce the rear setback in the UAR and RL District has the potential to increase infill development opportunities by allowing for higher housing density and more efficient use of existing urban land, which helps to achieve the mix of housing identified in the adopted Housing Needs Analysis.

The amendments satisfy Chapter 5 by removing barriers and promoting flexibility in development standards to balance the need for more efficient use of residential land and they support residential infill development. Therefore, the amendments satisfy Chapter 5, Housing.

Chapter 6: Economy

General Policies

6-2 Bend is a regional center for health care, art and culture, higher education, retail, tourism, and employment. The economic land policies recognize Bend’s role in the region, and the need to support uses that bolster the local and regional economy:

- The Medical District Overlay Zone provides economic lands for a variety of health care and related services to a population much larger than the City of Bend.
- Commercial and Mixed Use-designated lands support retail, tourism, and arts and culture uses to serve a local and regional role.
- Public Facility and Special Plan Districts support higher education to serve Bend residents and the needs of the region.
- Industrial and Mixed Employment-designated land located at Juniper Ridge has a local and regional role.

FINDING: According to BDC 2.7.510(A) Purpose, the Medical District Overlay Zone is to allow for the continuation and flexible expansion of the hospitals, medical clinics and associated uses in a planned and coordinated manner. Flexibility is essential to allow existing, and future uses to respond and

adapt to changes in technology, the medical profession, and society as a whole. The primary uses in the Medical District Overlay Zone are hospitals and other medical clinics and uses. Related uses may be located within the hospital or clinic buildings or as independent uses within the overlay zone area. The overlay zone is intended to enhance the underlying zones of the Urban Medium Density Residential (RM) Zone, Urban High Density Residential (RH) Zone, and the Convenience Commercial (CC) Zone. The overlay zone standards:

1. Strengthen the role currently played by the Medical District area around 27th Street and Neff Road as a regional center for healthcare and related services.
2. Provide flexibility within the underlying zones to allow medical uses.
3. Allow limited commercial/retail uses to supplement the Medical District.
4. Balance the need for residential development within the overlay zone to provide options for medical services development.

The Medical District Overlay Zone currently permits hospitals in the RH and CC Zones, but not in the RM Zone. The amendments will permit hospitals in the RM Zone which is consistent with the purpose statement above.

Industrial Development

6-18 The City will work to preserve prime industrial lands for industrial purposes and protect them from incompatible commercial and residential uses.

FINDING: The Industrial Districts accommodate a range of light and heavy industrial uses, as well as small-scale personal and professional services. The amendments clarify that the size limitation of the personal and professional services in Industrial Districts is the area where the use is occurring, such as outdoor seating areas, and not just the building. This helps preserve land in these districts primarily for industrial purposes.

6-22 Wherever industrial uses abut residential uses or residential zoning, special development standards relating to setbacks, screening, signs, and building height will be established for the industrial uses.

FINDING: Chapter 2.4, Industrial Zoning Districts (IG,IL) includes special development standards for setbacks, height, equipment locations and buffering when an industrial use abuts a residential use. In addition to these standards, the amendments will require heating, ventilation and air conditioning units to have a noise attenuating barrier to protect abutting Residential Districts from mechanical noise.

Commercial Development

6-33 All commercial developments shall be subject to development standards relating to setbacks, landscaping, physical buffers, screening, access, signs, building heights, parking areas, and design review.

FINDING: The Convenience Commercial (CC) District is intended to provide locations for a wide range of small and medium sized businesses and services as a convenience to the neighboring residential areas. The amendments eliminate the requirement of a conditional use permit for retail sales and services (non-automobile dependent/oriented) when the building size is greater than 50,000 square feet in the CC District. Restricting the building size may be too limiting to offer the types of retail sales and services that this District is intended to provide and could discourage mixed-use developments if the addition of residential uses would result in a building larger than 50,000 square feet.

New developments in the CC District providing retail sales and services will still be subject to setbacks, landscaping, physical buffers, screening, access, signs, building heights, parking areas, and design review. Several of these standards will control the scale of the development rather than requiring a conditional use permit when the building size is 50,000 square feet or larger.

The amendments also support the establishment of new landscaping improvements for commercial development by clarifying that a deferral is allowed for up to eight months for landscape installation and street trees and planter strip landscaping if weather or availability of plants prevents successful planting.

The amendments satisfy Chapter 6 by continuing to support Bend as a regional center for health care, preserving prime industrial lands for industrial purposes and having special development standards for industrial uses that abut residential uses and by continuing to have commercial development standards.

Chapter 7: Transportation Systems

Goals

- Increase the number of people who walk, ride a bike, and/or take transit.

FINDING: The amendments to BCD 3.3.600, Bicycle Parking Standards, add short and long-term bicycle parking requirements, enhance security, provide more bicycle rack options for various bicycle types, and improve convenience and accessibility. These amendments may increase the number of people who ride a bike by requiring more secure, accessible, and convenient bicycle parking options in new developments that accommodate a wider range of bikes and situations.

Policies

Mobility

7-9 The City will limit the location and number of driveways and vehicular access points on higher order streets (arterials and collectors) to maintain public safety and future traffic carrying capacity, while preserving appropriate access to existing and future development.

FINDING: The BDC has standards and procedures for evaluating and managing vehicular access and circulation on higher order streets during development review to maintain adequate safety and operational performance standards and to preserve the functional classification of roadways as required by the City's Transportation System Plan (TSP). The amendments will allow a single-unit detached dwelling or a duplex on a through lot without alley access to have one access point only per frontage on local streets. Triplexes and quadplexes are already permitted to have additional access points on local streets. The amendment does not apply to higher order streets and therefore compliance with this policy is maintained.

Technology

7-27 The City recognizes that micromobility devices (e.g., small-wheeled vehicles such as bikes, e-bikes, e-scooters, etc.) that provide increased mobility options may be an important part of our transportation system, and that demand for such services will likely increase in the future.

FINDING: The amendments support increased demand from bicycles, including oversized and heavier bicycles, by requiring secure and convenient bike parking, which is a critical component of cycling infrastructure that encourages more people to choose cycling for transportation and recreation.

The amendments satisfy Chapter 7 by requiring secure, accessible, and convenient bicycle parking that accommodates a wider range of bikes and situations.

Chapter 8: Public Facilities and Services

Goals:

- To ensure that public services will not negatively impact the environment or the community; and

Policies

Storm Drainage Facilities and Systems

8-24 Due to the lack of a defined drainage pattern for most of the urban area, development shall, to the extent practicable, contain and treat storm drainage on-site. In instances where containing storm drainage on-site would not be safe or practicable, the developer shall enter into a formal and recorded arrangement with the City or a private party to adequately address the storm drainage off site such as a regional control.

8-31 All developments shall evaluate the potential of a land parcel to detain excess stormwater runoff and require incorporation of appropriate controls, for example through the use of detention facilities to address quantity, flow, and quality concerns.

FINDING FOR CHAPTER 8 GOAL AND POLICIES 8-24 AND 8-31: The amendments continue to require

on-site surface water drainage, including roof drainage, to be retained on the lot or parcel of origin and not flow onto the public right-of-way or other private property, unless otherwise permitted in BMC Title 16, Grading, Erosion Control, Stormwater, Illicit Discharge, Tree Protections, and Wells.

According to BC 16.15.040(4), if the City determines that retaining the design storm amount of stormwater on the site of origin would pose a threat to public safety or adjacent properties, the developer may choose to direct all or part of the runoff off-site if there is enough capacity in the conveyance system. Where approved by the City, storm runoff may be directed to an off-site drainage facility. The developer must enter into a formal and recorded agreement with the City or a private party to adequately address the storm drainage off site if directed to a shared facility such as a regional control. When runoff from non-City-owned property in excess of the predevelopment rates or volumes is directed to or allowed to flow to City-owned property or right-of-way, the owner(s) of the lot(s) of origin must compensate the City for the costs it incurs for constructing, operating and maintaining the additional stormwater drainage and treatment capacity. Where stormwater flows into an adjacent private property, access to and maintenance and operation of all stormwater facilities must be addressed through a Stormwater Maintenance Agreement.

Therefore, the amendments satisfy Chapter 8, Public Facilities and Services.

Chapter 9: Community Appearance

Goal

The purpose of including a community appearance section and policies in the Comprehensive Plan is to provide direction to significantly improve the appearance of the entire community, and especially in those high visibility areas along the commercial corridors. The community appearance section of this Plan has therefore been prepared in conformance with the following general goals:

- To make a concerted effort to improve the appearance of the community, particularly in the commercial, industrial and multi-unit areas;
- To identify those characteristics that give the community its individual identity and to preserve and expand those characteristics as growth occurs;

FINDING: The Bend Central District (BCD), an older industrial area, is undergoing revitalization with adaptive reuse of existing buildings, new developments and transportation projects aimed at creating a vibrant, mixed-use neighborhood.

On October 2, 2024, the Core Area Business Assistance Subcommittee of the Core Area Advisory Board (CAAB) heard from three local businesses (Somewhere That’s Green, The Giving Plate and The Catalyst now known as the Dogwood at the Pine Shed) in the Bend Central District (BCD) about their experience obtaining land use and building permit approvals. After hearing from the businesses, the Subcommittee discussed providing some relief to the applicability of BDC 4.2.600, Design Review, to encourage adaptive re-use of older buildings in the BCD. On February 20, 2025, the Subcommittee discussed this concept with CAAB’s Development Code Subcommittee. After discussion, the

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Development Code Subcommittee supported removing design review requirements for alteration of existing buildings in the BCD to facilitate re-use of existing buildings within minimal required upgrades and potentially spur redevelopment of other sites in the area.

On September 8, 2025, the Planning Commission held a work session and reviewed an amendment to exempt exterior alterations to existing buildings in the BCD from the District’s design standards and from BDC 4.2.600, Design Review. The Commission was supportive of the amendment; however, they were interested in requiring a portion of the glazing and transparency to be retained to encourage a walkable and vibrant mixed-use district and asked staff to bring back a recommendation. Following the Commission’s work session, staff had the opportunity to share the Commission’s discussion with CAAB on September 18, 2025, and they were also supportive of requiring a percentage of transparency and glazing to be retained. During the Planning Commission public hearing on September 22, 2025, the Commission discussed and recommended approval of the following amendments to the City Council:

2.7.3240(B) Exemption. Exterior alterations to existing buildings are exempt from the design standards in this section and from BDC 4.2.600, Design Review, if the alterations result in no more than a 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by subsection (A)(3) of this section.

4.2.600(B)(9) Existing buildings located in the Bend Central District (BCD) if the exterior alterations result in no more than 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by BDC 2.7.3240, Design Standards.

Policy

9-3 The city will use advisory committees, public workshops, and other measures, to identify those characteristics that give the community its individual identity and preserve and expand those characteristics as growth occurs.

9-8 The city values design review for all development in the community with the exception of single-unit houses and duplexes.

FINDING FOR POLICIES 9-3 AND 9-8: On October 2, 2024, the Core Area Business Assistance Subcommittee of the CAAB heard from three local businesses (Somewhere That’s Green, The Giving Plate and The Catalyst now known as Dogwood at the Pine Shed) in the Bend Central District (BCD) about their experience obtaining land use and building permit approvals. After hearing from the businesses, the Subcommittee discussed providing some relief to the applicability of BDC 4.2.600, Design Review, to encourage adaptive re-use of older buildings in the BCD. On February 20, 2025, the Subcommittee discussed this concept with CAAB’s Development Code Subcommittee. After

discussion, the Development Code Subcommittee supported removing design review requirements for alteration of existing buildings in the BCD to facilitate re-use of existing buildings within minimal required upgrades and potentially spur redevelopment of other sites in the area.

On September 8, 2025, the Planning Commission held a work session and reviewed an amendment to exempt exterior alterations to existing buildings in the BCD from the District’s design standards and from BDC 4.2.600, Design Review. The Commission was supportive of the amendment; however, they were interested in requiring a portion of the glazing and transparency to be retained to encourage a walkable and vibrant mixed-use district and asked staff to bring back a recommendation. Following the Commission’s work session, staff had the opportunity to share the Commission’s discussion with CAAB on September 18, 2025, and they were also supportive of requiring a percentage of transparency and glazing to be retained. During the Planning Commission public hearing on September 22, 2025, the Commission discussed and recommended approval of the following amendments to the City Council:

2.7.3240(B) Exemption. Exterior alterations to existing buildings are exempt from the design standards in this section and from BDC 4.2.600, Design Review, if the alterations result in no more than a 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by subsection (A)(3) of this section.

4.2.600(B)(9) Existing buildings located in the Bend Central District (BCD) if the exterior alterations result in no more than 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by BDC 2.7.3240, Design Standards.

The BDC currently exempts single-unit detached dwellings from BDC 4.2.600, Design Review, and the proposed amendments will also exempt townhomes, accessory dwelling units, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage developments from this process. These uses go through Minimum Development Standards Review or Site Plan Review which require the design standards of the underlying zoning district to be met.

9-9 The city shall seek opportunities to relocate existing overhead utility lines underground in all parts of the community, and especially along the commercial corridors.

FINDING: Currently, all new utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities, are required to be placed underground, except for surface-mounted transformers; surface-mounted connection boxes and meter cabinets; temporary utility service facilities during construction; and high capacity electric lines operating at 50,000 volts or above, which may be placed above ground. The amendments will allow residential developments subject only to Minimum Development Standards Review criteria, including partitions and Middle Housing Land Divisions creating lots for this type of development, to utilize

overhead connections to existing overhead lines. If the development requires extension of the main line to provide the service, then the new portion of the main line and the connections to it will be required to be placed underground unless the utility provider determines it is not feasible. This provides some flexibility and potentially lower construction costs for certain smaller housing developments, while still meeting the intent of this policy.

Therefore, the amendments satisfy Chapter 9, Community Appearance.

Chapter 10, Natural Forces

Goals

- To encourage energy conservation and the development of energy producing facilities that use renewable resources; and

Energy Conservation

10-10 The use of alternative energy sources should be encouraged.

FINDING FOR CHAPTER 10 GOAL AND POLICY 10-10: The BDC requires developments with more than one-half acre of new surface parking lot area to provide either tree canopy that will cover at least 40% of the new surface parking lot at maturity or the installation of solar panels in conjunction with trees planted along parking lot driveways and drive aisles. The solar panels must have a generation capacity of at least one-half kilowatt per new parking space. The amendments, in compliance with OAR 660-012-0405(4)(a)(D), will allow a combination of the tree canopy requirements and the installation of solar panels for developments with more than one-half acre of new surface parking lot area. This may encourage more solar panels than allowed under the current code requirements.

The BDC has solar lot requirements in the RS and RM zones which require at least 70 percent of the lots in a subdivision to have a minimum north-south lot dimension of 80 feet or more. The amendments reduce this to 50 feet to be consistent with the minimum lot depth of the RS and RM zones. This will continue to create a majority of new lots with adequate room to allow residential units to have access to natural light while allowing a developer to meet minimum lot dimension requirements and efficiently arrange lots in new subdivisions.

Wildfire

10-18 The City will adopt strategies to reduce wildfire hazard to lands inside the City and included in the Urban Growth Boundary. These strategies may, among others, include the application of the International Wildland-Urban Interface Code with modifications to allow buffers of aggregated defensible space or similar tools, as appropriate, to the land included in the UGB and annexed to the City of Bend.

FINDING The amendments support wildfire risk management while also considering the City’s tree preservation goals by creating a Type I review process for the following tree removal requests for properties subject to Deschutes River Design Review (within the Waterway Overlay Zone) and for properties located in the Upland Areas of Special Interest Overlay Zone:

- Creation of fuel breaks in association with appropriate fire prevention authorities.
- Where necessary to mitigate potential fire hazard as determined by the Fire Code Official.
- Where the tree is determined by a qualified professional to be diseased or hazardous.

Therefore, the amendments satisfy Chapter 10, Natural Forces.

Chapter 11, Growth Management

Goals

- Use Bend’s existing urban land wisely, making efficient use of land inside the boundary, with infill and redevelopment focused in appropriate areas within the Central Core, along transit corridors, and in key opportunity areas (see Figure 11-1);

Policies

General Growth Management Policies

11-2 Use Bend’s existing urban land wisely, making efficient use of land inside the boundary, with infill and redevelopment focused in appropriate areas within the Central Core, along transit corridors, and in key opportunity areas (see Figure 11-1);

FINDING FOR CHAPTER 11 GOAL AND POLICY 11-2: On October 2, 2024, the Core Area Business Assistance Subcommittee of the Core Area Advisory Board (CAAB) heard from three local businesses (Somewhere That’s Green, The Giving Plate and The Catalyst now known as the Dogwood at the Pine Shed) in the Bend Central District (BCD) about their experience obtaining land use and building permit approvals. After hearing from the businesses, the Subcommittee discussed providing some relief to the applicability of BDC 4.2.600, Design Review, to encourage adaptive re-use of older buildings in the BCD. On February 20, 2025, the Subcommittee discussed this concept with CAAB’s Development Code Subcommittee. After discussion, the Development Code Subcommittee supported removing design review requirements for alteration of existing buildings in the BCD to facilitate re-use of existing buildings within minimal required upgrades and potentially spur redevelopment of other sites in the area.

On September 8, 2025, the Planning Commission held a work session and reviewed an amendment to exempt exterior alterations to existing buildings in the BCD from the District’s design standards and from BDC 4.2.600, Design Review. The Commission was supportive of the amendment; however, they were interested in requiring a portion of the glazing and transparency to be retained to encourage a walkable and vibrant mixed-use district and asked staff to bring back a recommendation. Following

the Commission’s work session, staff had the opportunity to share the Commission’s discussion with CAAB on September 18, 2025, and they were also supportive of requiring a percentage of transparency and glazing to be retained. During the Planning Commission public hearing on September 22, 2025, the Commission discussed and recommended approval of the following amendments to the City Council:

2.7.3240(B) Exemption. Exterior alterations to existing buildings are exempt from the design standards in this section and from BDC 4.2.600, Design Review, if the alterations result in no more than a 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by subsection (A)(3) of this section.

4.2.600(B)(9) Existing buildings located in the Bend Central District (BCD) if the exterior alterations result in no more than 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by BDC 2.7.3240, Design Standards.

Therefore, the amendments support infill and redevelopment in the Bend Central District with the proposed amendment above.

11-3 The City will ensure that development of large blocks of vacant land makes efficient use of land, meets the city’s housing and employment needs, and enhances the community.

FINDING: Small vacant or underdeveloped properties overlooked by traditional development patterns can become economically viable development. Some lots in residential districts have standard widths but may be unusually deep compared to other properties in the area. Unused space at the back of a lot may provide room for one or more lots. Infill development may be developed as flag lots, mid-block developments, T-courts, or shared courts. The amendments include minor changes to mid-block developments, T-courts, or shared courts for clarity and consistency which continue to support development of these vacant and underdeveloped properties for housing.

11-5 The City will adopt strategies to reduce wildfire hazard to lands inside the City and included in the Urban Growth Boundary. These strategies may, among others, include the application of the International Wildland-Urban Interface Code with modifications to allow buffers of aggregated defensible space or similar tools, as appropriate, to the land included in the UGB and annexed to the City of Bend.

FINDING: The amendments support wildfire risk management while also considering the City’s tree preservation goals by creating a Type I review process for the following tree removal requests for properties subject to Deschutes River Design Review (within the Waterway Overlay Zone) and for properties located in the Upland Areas of Special Interest Overlay Zone:

- Creation of fuel breaks in association with appropriate fire prevention authorities.
- Where necessary to mitigate potential fire hazard as determined by the Fire Code Official.
- Where the tree is determined by a qualified professional to be diseased or hazardous.

Policies for Centers and Corridors

11-23 and 11-27 The City will encourage development and redevelopment in commercial corridors that is transit-supportive and offers safe and convenient access and connections for all modes.

FINDING: The City continues to improve the Bend Central District to make travel safer and less stressful for all users with a better-connected bike network and better walking opportunities. The amendments encourage adaptive re-use of existing buildings in this District by exempting exterior alterations to existing buildings from the design standards in the Bend Central District and from BDC 4.2.600, Design Review if the exterior alternations result in no more than 50 percent net reduction in ground floor transparency/glazing on the street facing façade or the proposed ground floor transparency/glazing is equal to or greater than the minimum required by BDC 2.7.3240, Design Standards. The amendments also ensure new development provides adequate, secure and convenient short- and long-term bicycle parking in the BCD and other commercial corridors. Therefore, the amendments encourage revitalization of and investment in the BDC and safe and convenient bicycle parking facilities in the Bend Central District and other commercial corridors.

Policies for Residential Areas and Neighborhoods.

11-35 Schools and parks may be distributed throughout the residential sections of the community, and all types of dwelling units should have safe and convenient access to schools and parks. The School District and Park District facilities plans will determine the location and size of needed schools and parks.

FINDING: The amendments clarify the requirements for a developer to enter into negotiations with BPRD for the acquisition of land for construction of a public park when the development site is 10 acres or larger and is located within a park search areas shown on the Park Seach Area Map dated July 2024 and adopted as part of the BPRD Comprehensive Plan in November 2024, and is identified by the BPRD as needing a park.

Annexation Policies

11-65 Compliance with specific expansion area policies and/or Area Plans will be implemented through master plan approval or binding annexation agreement that will control subsequent development approvals.

FINDING: The Caraway Master Planned Development was approved on October 18, 2023, and it implements the policies of BCP Chapter 11, Growth Management, of the Bend Comprehensive Plan (BCP) regarding the North Triangle Expansion Area. The amendments allow properties of any size located within the North Triangle Expansion Area but outside of the Caraway Master Planned

Development to annex and develop. For these properties, an applicant must submit a development proposal for the entirety of the annexation area under the anticipated zoning district prior to annexation for evaluation of compliance with the applicable approval criteria (e.g., a site plan review proposal is subject to BDC 4.2.500(D) and a land division is subject to BDC 4.3.300(E)) and specific expansion area policies in the Bend Comprehensive Plan Chapter 11, Growth Management).

Therefore, the amendments satisfy Chapter 11, Growth Management.

Based on the findings stated above, staff concludes that the amendments are consistent with the applicable Bend Comprehensive Plan Goals and Policies.

3. The applicant can demonstrate a public need or benefit for the proposed amendment.

FINDING: The Planning Division periodically processes updates to the BDC to keep the standards relevant, processes efficient, and to identify opportunities for improvements. This package of amendments is the latest effort to update the Code and to also provide continued consistency with Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR). The proposed changes are intended to be helpful to the community and developers, and to aid the Community Development Department and Planning Division staff in implementing the Code.

The amendments help meet the needs identified in the Housing Needs Analysis and provide a public need and benefit since they remove barriers and add flexibility to code requirements and processes which may facilitate development of more housing and additional housing types.

The amendments include several process improvements including allowing extension requests to the approvals for Site Plan Review, Phased Site Plan Review and phased land division applications. This will allow larger developments including multi-unit developments and residential land divisions to have longer entitlements to their land use approval which may help with securing the necessary permits and funding and can keep these projects on track and prevent the need for costly and time-consuming re-applications.

The amendments ensure new developments provide adequate, secure and convenient short- and long-term bicycle parking which is a public benefit for those traveling by bicycle.

The amendments provide consistency with Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) including allowing childcare centers in more locations in the Industrial Zones consistent with HB 3019.

Therefore, the amendments to the BDC meet this criterion.

4.6.500 Record of Amendments.

The City Recorder shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.

FINDING: In the event the BDC text amendments are adopted by ordinance, the City Recorder will maintain a record of the amendments and the revised provisions will be included as part of the BDC available to the public on the City’s website.

4.6.600 Transportation Planning Rule Compliance.

When a development application includes a proposed comprehensive plan amendment or land use district change, or both, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

FINDING: The Transportation Planning Rule (TPR), at OAR 660-012-0060, requires the City to adopt mitigation measures whenever “an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility.” The new text amends the BDC, which is a functional component of the Bend Comprehensive Plan and is an amendment to a land use regulation as noted in OAR 660-012-0060.

An amendment causes a significant effect under the TPR when it changes the functional classification of an existing or planned transportation facility, changes the standards for implementing the functional classification system, or meets any of the standards in OAR 660-012-0060(1)(A) - (C) regarding degradation of the performance of an existing or planned transportation facility.

A land use regulation amendment “significantly affects” transportation under Subsection 1(a) if it “Change[s] the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan).” The amendments are not tied to any one development application and do not change any functional classification under OAR 66-012-0060(1)(a).

A land use regulation amendment “significantly affects” transportation under Subsection 1(b) if it “Change[s] standards implementing a functional classification system.” The amendments do not change the City’s standards for implementing its functional classification system under OAR 66-012-0060(1)(b).

Under Subsection (1)(c), a land use regulation amendment “significantly affects” transportation if it results in (A) types or levels of travel or access inconsistent with the functional classification of a transportation facility; (B) degrades the performance of a transportation facility such that it would not meet performance standards identified in the TSP or comprehensive plan; or (C) degrades the performance of a transportation facility that is otherwise projected to not meet the performance standards in the TSP or comprehensive plan.

The amendments do not result in any of the significant effects listed in OAR 660-012-0060(1)(c)(A) through (C) because the code changes do not change allowable uses or change regulations that result in the generation of additional vehicle trips.

The amendments will have no immediately measurable impacts on the amount of traffic on the existing transportation system and therefore will not significantly affect the transportation facility.

V. CONCLUSIONS: Based on the findings throughout this report, the proposed amendments to the Bend Development Code meet all applicable criteria for City Council adoption.