

ORDINANCE NS-2240

AN ORDINANCE AMENDING THE BEND DEVELOPMENT CODE CHAPTERS 1.2, 2.2, 2.3, 2.7, 3.3 AND 3.6 TO ESTABLISH NEW REGULATIONS FOR SHORT TERM RENTALS, REPEALING THE REGULATIONS FOR VACATION HOME RENTALS AND DECLARING AN EMERGENCY

A. On September 17, 2014, City staff gave council a presentation on vacation home rentals in the City of Bend, and related enforcement, complaints and other issues regarding such use. On October 1, 2014, the City Council adopted a vacation home rental work plan as proposed by the City Manager to address the impacts to neighborhood livability from an increase in vacation home rentals and locational concentration in specific neighborhoods. The City Council thereby initiated legislative Development Code amendments to amend the Bend Development Code.

B. The number of short term housing rentals in some areas of Bend has increased dramatically as shown by the following chart of short term rentals that have received land use approvals (more are pending):

YEAR	NUMBER APPROVED
2007	8
2008	5
2009	10
2010	25
2011	19
2012	43
2013	102
2014	262
2015	89 as of March 31

C. By Resolution No. 2964, the Council established a 23 member Vacation Rental Task Force, intended to be a group that balances the interests of Bend's tourist economy and neighborhood livability, which met from November 2014 through February 2015. The Task Force forwarded a recommendation to the Planning Commission on proposed Development Code amendments, as well as a separate programmatic licensing code for short term rentals to be made part of the Bend Municipal Code. The task force held eight meetings of 3-6 hours each. In addition, a Steering Committee of four Task Force members was formed to help guide the agendas and discussion, which met before each meeting. A Good Neighbor Guidelines subcommittee also met twice. It is estimated well over 700 hours of community time was dedicated by these individuals to this process. There was also an opportunity for public comment at the Task Force meetings.

D. The City provided Measure 56 notice of proposed amendments to 30,700 properties in residential, commercial and mixed use zoning districts in the City, and timely notice was sent to the Department of Land Conservation and Development. In addition, notice of public hearings was published in the Bend Bulletin and sent to the Neighborhood Associations. On February 23, 2015, the Bend Planning Commission held a public hearing, for which public notice was provided in accordance with 4.1.515 of the Bend Development Code, to receive public testimony on the proposed amendments. The Commission deliberated on the amendments on March 9, 2015 and voted four in favor, two opposed and one absent to forward an affirmative recommendation to the City Council.

E. The City also created a Vacation Rental website, on which it posted public comments, background information, minutes and other information related to the process so that the community to stay involved and informed on the discussion. The City also created an on-line forum called BendVoice on vacation home rental regulation for community dialogue.

F. On March 18, 2015, the City Council held a work session on the decision-making process and the policy basis for the proposed Development Code text, which included representatives from the Planning Commission and Task Force.

G. On March 30, 2015, the Bend City Council received a presentation from representatives from the Planning Commission and Task Force, and held a public hearing at a special public meeting beginning at 4p.m., for which public notice was provided, to receive public testimony on the proposed amendments. The City Council closed the public record for testimony, but held the written record open for written comments until 12 p.m. on April 1, 2015. The Council did not formally deliberate, but based on public testimony and comments, after discussion, gave staff direction to bring back to them for consideration and deliberation, alternative language in four areas: (1) Density at one per 250 feet, and a request for graphic demonstrations of a 5% density within the 250 foot radius, and one per 400 feet; (2) making existing, non-conforming uses non-transferable, and clarifying language on LLCs; (3) eliminating the 30-day Type I permit; and (4) making the MR zone a Type II permit, subject to density restrictions. These drafts were to aid counsel discussion in these areas and were not proposed as decisions, but for further deliberation. Council encouraged further written public comments on these proposals during the open comment period to aid its deliberations. Many emails and letters were received, reviewed by council and entered into the record.

H. On April 1, 2015, the City Council deliberated and voted on the amendments to the Bend Development Code.

I. In adopting these amendments, the City Council recognizes the importance of Bend's unique qualities and diverse economy that supports a mix of uses, including residential, tourist and recreational. The City has historically allowed a relatively easy permit process for the siting of vacation home rentals, and has increasingly experienced a marked increase in the market, particularly within long-established neighborhoods.

J. An identified concern of some citizens is that the existing regulations for short-term rentals are detrimental to preserving existing neighborhood livability and attractiveness. The proposed amendments have been written specifically to address those concerns. The proposed amendments also recognize the need for a more limited and compatible type of rental options within the neighborhoods, which still seek to provide adequate recreation and employment opportunities for Central Oregon.

K. Many property owners and management companies have made good faith efforts to operate reasonable and responsible short-term rentals in the establishment of vacation home rental businesses. Despite such good faith efforts, residents in areas with large numbers of vacation home rentals have testified and corresponded with the city regarding significant disruption to the community and neighborhoods.

L. A purpose of the proposed amendments is to protect the character of the city's residential neighborhoods by limiting and regulating the short term rental occupancy and short term rental of dwelling units. In the recommendation of these regulations, the City Council finds

that the proliferation of the rental of short term dwelling units has the potential to be incompatible with the surrounding residential uses. Therefore, special regulation of dwellings used for short term rental occupancy is necessary to ensure that these uses will be compatible with surrounding residential uses and will not materially alter and be detrimental to the quality of life in the neighborhoods in which they are located.

M. The proposed amendments are consistent with the General Plan and the needs of the community to ensure the long term availability of housing and long-term rental stock, in extremely short supply in Bend, so as to satisfy regional and affordable housing needs, and to limit the density in Residential Standard (RS) neighborhoods.

N. The proposed amendments seek to balance the legitimate livability concerns with the rights of property owners to use their property as they choose. The City Council has not sought to amortize or terminate the right to operate existing Type I permitted or grandfathered short term rentals under the new code at this time. Instead, existing rentals will be governed by an operating license program. This operating license program was recommended to the City Council by the Task Force at their final meeting on March 5, 2015, and is being considered for adoption concurrently with the land use code, although the effective date will be delayed for a few months to give city staff the ability to effectively implement the programmatic code. The programmatic code is intended to ensure address concerns related to good neighbor guidelines, tenant behavior, and responsible management of short term rentals, among other operational issues. An operational license is required for all short term rentals in the City of Bend. Council will review how the programs are working together to address the concerns identified in these findings after they are implemented and revisit as necessary.

O. These amendments are necessary to minimize the potential adverse impacts of short term rental uses in residential neighborhoods and zoning districts on traffic, noise, density and parking, and to ensure the health, safety and welfare of renters and guests patronizing short term rentals and to address the needs of the local business community. This meets the comprehensive plan goals of ensuring that short-term rentals are compatible with surrounding residential developments and respect the character of existing areas.

P. Bend's development code implements the general plan policies on residential zoning and residential neighborhoods. "Single-family" is not a defined zoning district in Bend. Bend's Development Code and zoning map references residential districts, which are then broken into zone district characteristics based on density—UAR, UH-10, UH-2.1/2, SR 21/2, RL, RS, RM-10, RM and RH). Single-family detached, single-family courtyard are permitted uses within the zoning districts (except for RH where they are Conditional Uses). Other uses, such as attached single-family townhomes, duplexes, triplexes, home occupations, ADUs, child care facilities, neighborhood parks, churches, clubs/lodges, residential care facilities, schools, hospitals etc. are also permitted, conditional or not permitted within the various zones. The stated purpose, applicability and location is as follows (BDC Chapter 2.1.100):

Purpose. Residential Districts are intended to promote the livability, stability, safety and improvement of the City of Bend's neighborhoods based on the following principles:

- Make efficient use of land and public services, and implement the Comprehensive Plan, by providing minimum and maximum density standards for housing.
- Accommodate a range of housing needs, including owner-occupied and rental housing.
- Provide for compatible building and site design at an appropriate neighborhood scale which reflects the neighborhood character.

- Reduce reliance on the automobile for neighborhood travel and provide options for walking and bicycling.
- Provide direct and convenient access to schools, parks and neighborhood services.

Q. The City Council has considered a wide range of options from the Task Force, Planning Commission, property management companies, interested members of the business community, citizens and affected residents, and has considered diverse and often competing views in the policy direction reflected in this revised code.

R. The City Council also adopts and incorporates by reference the policy and background explanation in the staff issue summary for March 30, April 1 and April 15, as the rationale to support these amendments, to the extent consistent with this action.

S. The proposed amendments have been found to be consistent with the approval criteria found at 4.6.200 of the Bend Development Code.


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

- Section 1. The Bend Development Code is amended as depicted in Exhibit A.
- Section 2. Bend Development Code Section 4.1.330 Transfer of Approval is amended as follows: "**Except as otherwise provided in this code**, a development approval shall be deemed to run with the land and be transferable to applicant's successors in interest."
- Section 3. In addition to the above findings, the City Council adopts the findings contained in Exhibit B.
- Section 4. Declaration of Emergency. The City Council finds that this ordinance is necessary for the health, safety and welfare of the public, and finds that an emergency exists. The ordinance therefore becomes effective upon its passage.

First Reading: April 1, 2015.

Second reading and adoption by roll call vote: April 15, 2015.

<p>Yes: Jim Clinton, Mayor Victor Chudowsky Doug Knight Sally Russell Nathan Boddie Casey Roats Barb Campbell</p>	<p>No: None</p>
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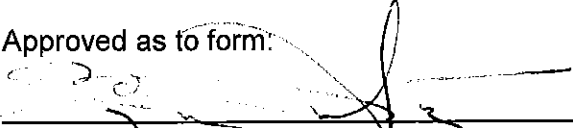
 Jim Clinton, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to form:



Mary A. Winters, City Attorney



EXHIBIT A
Code Amendments regarding Short Term Rentals adopted by the City
Council on April 1, 2015

The code amendments below are shown in strikeout/replace format. New language is underlined and deleted language is shown as a ~~strike-through~~. The New Section, BDC 3.6.500, Short Term Rentals, is new code language that will replace the existing code regulating vacation home rentals in BDC 3.6.200.L.

Chapter 1.2
DEFINITIONS

~~Vacation Home~~ Short Term Rental means the use of a dwelling unit by any person or group of persons entitled to occupy for rent for a period of less than 2430 consecutive days. Short Term Rentals also includes Vacation Home Rentals approved under the regulations in effect through April 15, 2015 and Owner Occupied Short Term Rentals, but does not include bed and breakfast inns, hotels and motels.

Owner Occupied Short Term Rental means an owner resides in a dwelling unit and rents up to 2 rooms to overnight guests for a period fewer than 30 consecutive days. The owner occupies the dwelling unit during the overnight rental period. Only part of the dwelling unit is used for rental purposes. The room(s) for rent cannot include rooms within a detached or attached accessory dwelling unit.

Short Term Rental Permit means a Type I or Type II development application authorizing a Short Term Rental or Short Term Room Rental. Type I Short Term Rental Permits are decisions that are made under land use standards that do not require interpretation or the exercise of policy or legal judgment under ORS 197.015(10)(b)(A). Type II Short Term Rental Permits are limited land use decisions.

Hostel means a shared-room ("dormitory") accommodation that accepts individual travelers or groups for short-term stays, and that provides common areas and communal facilities. Travelers independently book individual beds in a shared room as opposed to booking entire rooms; however, some hostels may provide private rooms as well.

Immediate family means a spouse, registered domestic partner, parents, children, children of the spouse/registered domestic partner, siblings, grandparents, grandchildren, parents of the spouse/registered domestic partner, and other close relatives who reside in the owner's household.

**Table 1.2.100
Summary of Development Application Types**

Development Application	Type I*	Type II*	Type III	Type IV
Vacation Home <u>Short Term</u> Rentals †	X	<u>X</u>		

† See BDC Chapter 3.6.500, Short Term Rentals

Section 2.1.200 Permitted Land Use.

Table 2.1.200 – Permitted Land Uses

Land Use	SR 2 1/2	RL	RS	RM-10	RM	RH	UAR
Miscellaneous Uses							
Bed and Breakfast inn and vacation rentals	C	C	C	C	C	C	C
*Vacation home <u>Short Term</u> rental	P	P	P	P	P	P	P

Section 2.2.300 Permitted and Conditional Uses

Table 2.2.300 – Permitted Land Uses

Land Use	CB	*CC	CL	CG
Commercial				
Lodging (e.g., hotels, motels, *bed and breakfast inns, *vacation <u>short term</u> rentals, boarding houses <u>hostels</u>)	P	P	P	P

Section 2.3.200 Permitted and Conditional Uses

Table 2.3.200 – Permitted and Conditional Land Uses

Land Use	ME	MR	PO
Commercial			
Lodging (e.g., *bed and breakfast inns, vacation rentals, boarding houses <u>hostels</u> , timeshare)	P	P	N
*Short Term Rentals	P	P	N

* Special standards for certain uses subject to BDC Chapter 3.6

Table 2.7.520 – Permitted Uses within the Medical Services District Overlay Zone

Land Use	RM	RH	CC
Miscellaneous Uses			
Vacation Rental Short Term Rental	N	N	N

Section 3.3.300 Vehicle Parking Standards for On-Site Requirements.

**Table 3.3.300
Required Off-Street Vehicle Parking Spaces**

Use	Minimum Requirement
Residential	
Bed and breakfast inns and vacation rentals	1 space per bedroom, plus 1 space for the manager or proprietor
Short Term Rentals	1 space per bedroom

**Chapter 3.6
SPECIAL STANDARDS AND REGULATIONS FOR CERTAIN USES**

~~L. Vacation Home Rental. The use of a residential dwelling for vacation rental occupancy is permitted within all Residential Districts subject to a Type I land use application and applicable fee when the following operational standards are met:~~

- ~~1. Occupancy. The maximum occupancy for the dwelling shall be two persons per bedroom plus two additional persons. For example, a two-bedroom dwelling would have a maximum occupancy of six persons.~~
- ~~2. Parking Minimum. One parking space per bedroom in accordance with BDC Chapter 3.3.~~
- ~~3. Prohibited Use. No recreational vehicle, travel trailer, or tent or other temporary shelter shall be used in conjunction with vacation home rental.~~
- ~~4. Monitoring. All vacation rental homes shall register with the City of Bend for Transient Room Tax and must maintain a guest logbook. It must include the names and home addresses of guests, guests' license plate numbers if traveling by car, dates of stay and the room number of each guest. The log must be available for inspection by City staff upon request.~~

3.6.500. Short Term Rentals.

The purpose of this section is to protect the character of the city's residential neighborhoods by limiting and regulating short term rental of dwelling units.

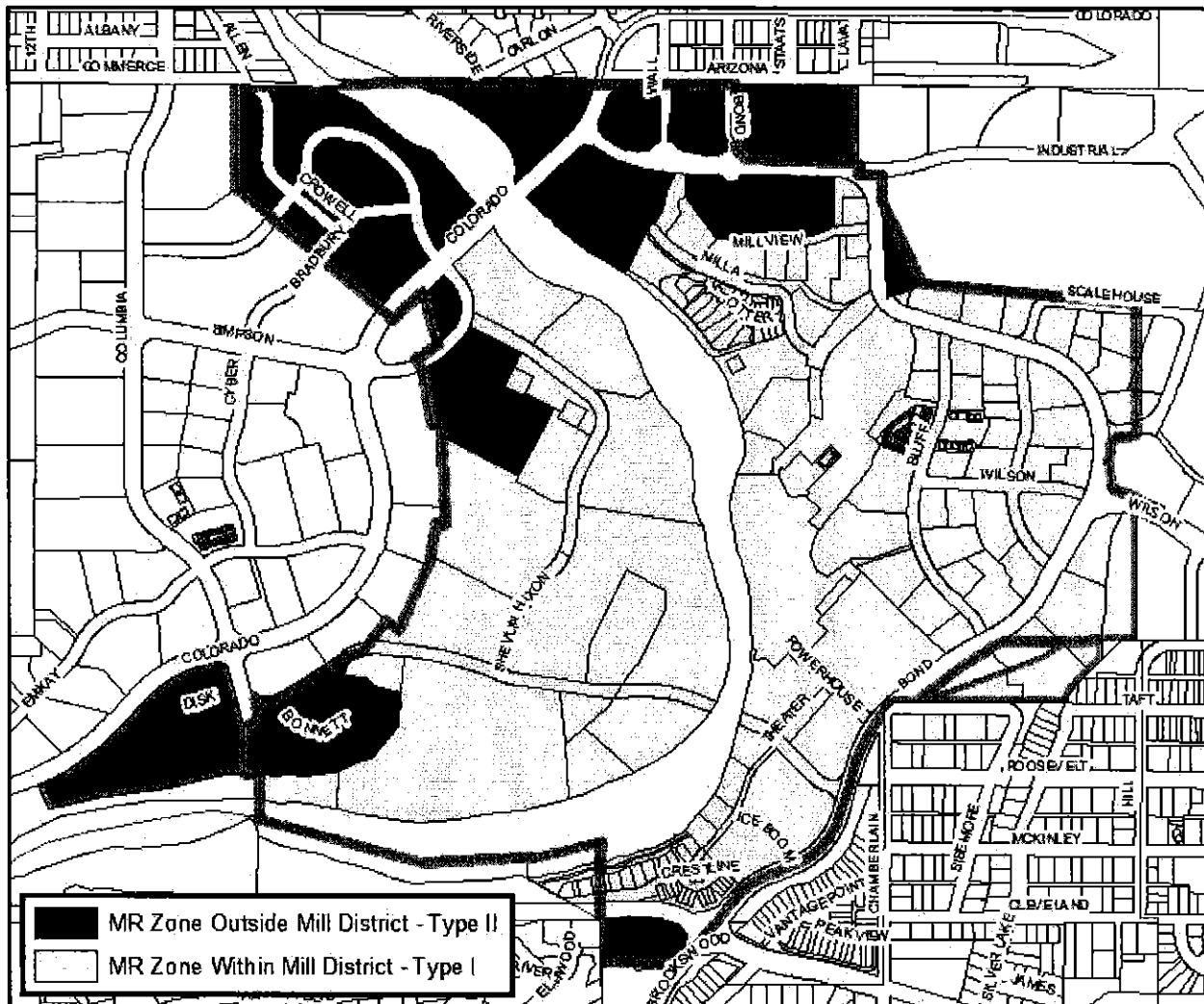
The following provisions apply to all Short Term Rentals (STRs) after April 15, 2015.

- A. Applicability. No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit for short term rental occupancy unless issued a Short Term Rental (STR) permit or exempted under this chapter. A permit is required for each dwelling unit even if located on the same legal lot. The standards of this section shall supersede the standards elsewhere in the Development Code, unless otherwise stated.
- B. Application Submittal Requirements. The following information shall be submitted to the City along with a form approved by the City in order to apply for a STR permit.
1. The name, address, email address and telephone number of the owner of the Short Term Rental for which the permit is to be issued, and the same for the authorized representative if different than the owner. An application may be submitted by an owner with the buyer as the applicant and upon written request, the approval will be granted to both the owner and the buyer.
 2. A floor plan identifying the number of bedrooms proposed for use.
 3. A diagram and/or photograph of the premises showing and indicating the number, location and dimensions of designated on-site and abutting on-street parking spaces that meet the minimum required number of parking spaces and maneuvering per BDC 3.3.300.
 4. Acknowledgement by signature that the owner and authorized representative have read all the regulations relating to the operation of a Short Term Rental under Bend Code Chapter 7.16.
 5. Certification of the accuracy of the information submitted and agreement to comply with the conditions of the permit.
 6. Consent to inspection to ensure compliance with this section.
- C. Review Type
1. Short Term Rentals are permitted subject to the following permit processes provided all other requirements of this section are met:
 2. Short Term Rentals within Commercial zoning districts (CL, CG, CC, CB, CN), the Mixed Use Employment zone (ME) and the Mixed Use Riverfront zone (MR)

within the Old Mill District boundary (noted as Type I in Figure 3.6.500.C) shall be:

- a. Processed as a Type I application.
 - b. These STRs shall be exempt from the concentration limits in Section 3.6.500.E.
3. Short Term Rentals within Mount Bachelor Village, and Courtyards at Broken Top Lots 1 through 8 and Lots 21 through 32, shall be:
- a. Exempt from obtaining a STR permit (an annual STR operating license shall still be required).
 - b. Exempt from the concentration limits for Short Term Rentals in Section 3.6.500.E.
4. Short Term Rentals that are available for rent fewer than 30 days total per calendar year shall be:
- a. Processed as a Type I application.
 - b. Exempt from the concentration limits for Short Term Rentals in Section 3.6.500.E.
 - c. Limited to no more than 4 rental periods per calendar year.
5. Other than as provided in subsections (3) and (4) above, in residential zones (SR2-1/2, RL, RS, RM, RM-10, RH) and in the MR zone outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C), STRs are permitted subject to a Type II permit process provided all requirements of this section are met.
6. Owner-Occupied Short Term Rentals shall be:
- a. Processed as a Type I application.
 - b. Exempt from the concentration limits for Short Term Rentals in Section 3.6.500.E.
 - c. Unless otherwise specified, all other standards within Section 3.6.500 for Short Term Rentals shall apply to Owner-Occupied Short Term Rentals.
7. Modification of an approval for a Short Term Rentals shall be:
- a. Processed as a Type I application and exempt from the concentration limits in Section 3.6.500.E. 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. Required to obtain a revised annual operating license to reflect the modification of approval.
 - c. Prior existing uses as defined in BDC 3.6.500.M. are subject to the provisions of BDC 5.2.100.

Figure 3.6.500.C – Mixed Riverfront Zone and Old Mill District



- D. Short Term Rental Development Designation Process. The purpose of this section is to provide a process to allow properties to be designated as Short Term Rental Developments that, once approved, would allow dwelling units within the designated STR Development to be used as short term rentals without being subject to the concentration limits in BDC 3.6.500.E.
1. Designation Process. The City may approve by a Type III process designation of a property or group of adjacent properties as a short term rental development. The Planning Commission shall be the decision-making body for a STR Development designation application.
 - a. Submittal Requirements. An application for a short term rental development designation must include:

1. An application, on a City form. All owners of all property within the area proposed for short term rental development designation must sign either the application or a consent to submit the application.
 2. A map showing the area to be included in the short term rental development, and properties within ¼ mile. All existing and approved short term rentals within the ¼ mile area shall be shown on the map.
 3. An application fee in an amount established by Council resolution.
 4. A narrative explaining how all applicable criteria are met.
- b. Designation Criteria.
1. The property must be in an RS, RM or MR zone AND be an entire subdivision or subdivision phase, including a minimum of one acre.
 2. The short term rental development must be compatible with the surrounding neighborhood.
 3. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval.
- c. Review Process. Short Term Rentals within STR Development shall be:
1. Processed as a Type I Application to ensure adequate parking is provided and occupancy limits are established.
 2. Exempt from the concentration limits for Short Term Rentals in Section 3.6.500.E.
- E. Concentration Limits. There shall be at least 250 feet of separation between properties zoned SR2-1/2, RL, RS, RM, RH and MR outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C) with a permitted Short Term Rental measured radially from the property boundary of the subject property as determined by the City of Bend Community Development Director or designee.
- F. Limits on Permit Transfer. Notwithstanding Section 4.1.1330 of the Development Code, any Short Term Rental application submitted after April 15, 2015, is specific to the owner of the dwelling unit or owner-authorized buyer for which the permit is issued. This means that the Short Term Rental permit shall not run with the land, but shall terminate and be void with no further proceedings on sale or transfer of the real property which was rented pursuant to the Short Term Rental permit.
- Sale or transfer means any change of ownership during the lifetime of the permit holder, whether or not there is consideration, or after the death of the permit holder, except a change in ownership where title is held in survivorship with a spouse or domestic partner, or a transfer on the owner's death to a trust which benefits only a spouse, child(ren) or domestic partner for the lifetime of the spouse, child(ren) or domestic partner. The survivor may not sell or transfer title, except that title may transfer among the survivors. A sale or transfer also does not mean (1) the transfer of ownership from the owner(s) of the real property to or between the members of a limited liability company or partnership when the transfer involves the same owners.

or (2) the transfer to a trustee, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity, if at least one owner is living at the time of transfer so long as that owner retains at least a 25% interest in the entity. The permit or non-conforming right shall terminate if the original owner ceases to own at least 25% interest in the entity. If the owner is a corporation, the shareholders of the corporation shall be considered the owners for purposes of this section.

- G. Occupancy. The maximum occupancy for the dwelling shall be two persons per bedroom plus two additional persons. For example, a two-bedroom dwelling would have a maximum occupancy of six persons.
- H. Parking. One parking space per bedroom is required, in accordance with BDC Chapter 3.3.
1. If the garage is to be utilized to meet the parking requirement, a photo of the interior of the garage shall be submitted to show the garage is available for parking. The garage shall continually be available for guest parking as long as the STR permit is valid.
- I. Prohibited Use. No recreational vehicle, travel trailer, or tent or other temporary shelter shall be used in conjunction with the short term rental.
- J. Short-Term Rental Operating License. In addition to obtaining a STR permit under this section, persons operating Short Term Rentals must obtain a Short-Term Rental operating license under Bend Code Chapter 7.16.
1. For existing permits submitted prior to the effective date of this code, and permits obtained prior to September 1, 2015, and uses that now require a permit under this chapter, an operating license must be obtained by September 1, 2015.
- K. Abandonment of Use.
1. Notwithstanding BDC 5.2, Nonconforming Uses, if the Short Term Rental ceases for a period of more than 12 months, the Short Term Rental permit shall be void with no further proceedings.
 - a. For existing permits submitted prior to the effective date of this code, the period of use shall be measured from the twelve months prior to the due date for the operating license (September 1, 2015). For permits obtained after September 1, 2014 and before September 1, 2015, and uses that now require a permit under this chapter, the 12 month duration shall be measured from one year beginning September 1, 2015. The period of use shall then be measured annually thereafter.
 2. Failure to maintain the STR operating annual license as provided in that chapter shall be considered abandonment of use.

3. Temporary Hardship Exemption.
 - a. A Temporary Hardship Exemption from this section may be granted by the Community Development Director or designee. The following hardships, including a submission of proof, may be acceptable to the City:
 1. Medical condition of the owner, spouse, domestic partner or immediate family member that jeopardizes the ability of the owner to operate the short term rental;
 2. Death of a spouse, domestic partner or immediate family member that jeopardizes the ability of the owner to operate the short term rental; or
 3. Structural integrity of the short term rental that deems it uninhabitable for tenants and is not self-imposed.
 - b. A time limit may be set by the Community Development Director or designee, but shall not exceed 6 months. A one-time extension may be approved upon request if one of the conditions of BDC 3.6.500.K.3 still applies.
- L. Expiration of Approval and Initiation of Use. Notwithstanding BDC 4.1.1310 and 4.1.1315, Limitations on Approvals and Initiation of Use, if the Short Term Rental does not initiate the use by renting the Short Term Rental least one night within the first 12 months of obtaining a Short Term Rental permit, the Short Term Rental permit shall be void with no further proceedings.
 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.
- M. Prior Existing Use.
 1. Existing Type I Permits. Any Short Term Rental approved and legally permitted under the former 2006 Chapter 3.6.200(L), may continue as a legal nonconforming use provided:
 - a. That the use is not abandoned under subsection L above; and,
 - b. That the owner obtains and renews the annual license as required by this section and Bend Code 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 Non-Conforming 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 non-conforming use provided:
 - a. That the use is not abandoned under subsection L above; and,
 - b. The owner obtains and renews the annual license required under this chapter and Bend Code 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 this ordinance (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 L above; and,
 - b. That the owner obtains and renews the annual license as required by this section and Bend Code 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.
- N. Inspection. Any Short Term Rental applications submitted after April 15, 2015 shall be subject to inspection prior to commencement of the use by the City for compliance with this section.
1. The Community Development Director or designee may conduct a site visit upon an application for a Short Term Rental to confirm the number of bedrooms stated on the application and the number, location and availability of on-site parking spaces. The site visit will be coordinated with the applicant and be conducted during normal business hours, and with reasonable notice.
 2. The Community Development Director or designee may visit and inspect the site of a Short Term Rental on a prescribed schedule to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice and other procedural safeguards as necessary. Code violations shall be processed in accordance with BDC Chapter 1.3, Enforcement.

EXHIBIT B

ADDITIONAL COUNCIL FINDINGS FOR DEVELOPMENT CODE TEXT AMENDMENT



**PROJECT
NUMBER:** 14-1127

APPLICANT: City of Bend
710 NW Wall Street
Bend, OR 97701

REQUEST: Amendments to the text of Chapters 1.2, 2.1, 2.2, 2.3, 2.7, 3.3, and 3.6 of the Bend Development Code.

I. APPLICABLE CRITERIA:

- (1) The Bend Area General Plan
- (2) Bend Code Chapter 10, City of Bend Development Code
 - (a) Chapter 4.6, Land Use District Map and Text Amendments;
Section 4.6.200(B), Criteria for Legislative Amendments

II. APPLICABLE PROCEDURES:

- (1) Bend Code Chapter 10, City of Bend Development Code
 - (a) Chapter 4.1, Land Use Review and Procedures
- (2) Oregon Administrative Rules
 - (a) Chapter 660, Department of Land Conservation and Development

III. PROCEDURAL FINDINGS:

1. The matter before the City Council is the review of a package of amendments to the text of Chapters 1.2, 2.1, 2.2, 2.3, 2.7, 3.3, and 3.6 of the City of Bend Development Code which are intended to:
 - 1) change the term "Vacation Home Rentals" to "Short Term Rentals (STRs)";
 - 2) establish "Short Term Rental" as a Type I use in the commercial and mixed use zoning districts and a Type II use in all residential zoning districts;
 - 3) establish concentration limits for "Short Term Rentals"; and

4) require a "Short Term Rental Operating License".

The recommended text amendments are part of this Ordinance as Exhibit A.

- 2. PUBLIC NOTICE AND COMMENTS:** Notice was provided to DLCD on December 30, 2015. Further information was provided to DLCD on February 18, 2015.

The Bend Planning Division published notice of the public hearings for the proposed Development Code text amendment in the Bend Bulletin on February 8, 2015 and sent notice to all landowners in all residential, commercial and mixed use zones on January 29, 2015 in compliance with Oregon Measure 56. A public hearing notice was also sent to all of the City's neighborhood associations on February 4, 2015. On February 23, 2015, the Planning Commission opened a legislative public hearing, accepted public testimony, closed the public testimony portion of the hearing and began deliberation. The Commission continued the hearing for additional deliberation to March 9, 2015. At the March 9, 2015 continuation the Commission concluded its deliberation and voted four in favor, two opposed and one absent to forward an affirmative recommendation to the City Council. The City Council opened a public hearing on March 30, 2015 to accept public testimony. They closed the public testimony portion of the hearing and continued the deliberations to April 1, 2015. The City Council held a first Reading of the Ordinance on April 1, 2015 and a second reading and emergency adoption on April 15, 2015.

- 3. BACKGROUND:** The City adopted regulations for Vacation Home Rentals in 2006 (NS-2016). Due to a changing tourism/vacation market impacting the neighborhood livability of specific areas, the City Council appointed a 24-member Task Force to revise the existing regulations for Vacation Home Rentals in order to preserve existing neighborhood livability. Council sought to have a balanced committee to represent various views of the community including representatives from affected neighborhoods, property owners or managers, and more neutral participants. The Task Force met twice monthly from November through February to create recommended Development Code amendments to forward to the Planning Commission for the Commission's February 23, 2015 public hearing. The Planning Commission voted on a recommendation at their March 9, 2015 hearing continuation and voted four in favor, two opposed and one absent to forward an affirmative recommendation to the Council.

IV. FINDINGS REGARDING COMPLIANCE WITH APPLICABLE CRITERIA:

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE, CHAPTER 4.6, LAND USE DISTRICT MAP AND TEXT APMENDMENTS

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 Development Code involve broad public policy rather than 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 proposed amendments are consistent with the applicable State land use law. In particular, they satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, Goal 9: Economic Development and Goal 10: Housing.

Goal 1, Citizen Involvement, is satisfied through following the City's acknowledged text amendment process that includes a Planning Commission public hearing, followed by a City Council public hearing. In addition, the Planning Commission, in their capacity as Bend's Citizen Involvement Committee, worked with staff based on direction from the City Council to institute a specific citizen involvement program for this project. The Citizen Involvement Committee held public work sessions on October 27, 2014 on the citizen involvement program and again on November 10, 2014 where they voted six in favor one abstaining on a motion to forward a list of 23 Vacation Home Rental Task Force members be appointed by the City Council. The City Council met on November 19, 2014 and voted six in favor one absent to appoint a 24 member Task Force.

The Task Force held eight meetings from mid-November 2014 through early March 2015: November 20, 2014; December 4, 2014, December 18, 2014, January 8, 2015, January 22, 2015, and February 5, 2015, February 19, 2015 and March 5, 2015. Each of these meetings were open to the public and accepted public testimony.

Goal 2, Land Use Planning, requires a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. The Goal is met because the City followed the land use planning process and policy framework established in the City's acknowledged comprehensive plan (General Plan) and Development Code 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 proposed amendments will be adopted by the City Council after a public hearing. Multiple opportunities were provided for review and comment by citizens and affected governmental units during the preparation of this ordinance. Goal 2 specifically states

that minor plan changes such as the Short Term Rental regulations, 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. In this case, the sheer volume of permits submitted to the city, and the resulting neighborhood impacts, as expressed through written and oral testimony contained in the record, establishes the fact that Short Term Rentals are a concern for the community. The City received eight Short Term Rental applications in 2007, five in 2008, 10 in 2009, 25 in 2010, 19 in 2011, 43 in 2012, 102 in 2013 and 262 in 2014 and 89 as of March 31, 2015. This exponential growth in Short Term Rentals, plus the fact that they are predominately concentrated in the River West and Old Town neighborhoods, are sufficient information to provide an adequate factual base for the amendments.

Goal 9, Economic Development, is implemented through Oregon Administrative Rule (OAR) Division 9 which is intended to ensure that each jurisdiction maintain an adequate land supply for economic development and employment growth. The Bend Development Code currently permits "vacation home rentals" in all residential districts. The proposed amendments restrict this use by limiting the concentrations of STRs. The amendments satisfy Goal 9 because the proposed amendments continue to allow the limited short-term leasing of dwelling units in the residential districts subject to concentration limits because they are recognized as an important element of economic development to meet the City's tourism needs. Further, while limiting the concentration of STRs, the amendments ensure that this type of lodging will be available for the long-term needs of the City and region.

Goal 10 Housing, is implemented by OAR Division 8 which ensures opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries and to provide greater certainty in the development process so as to reduce housing costs. This Goal is satisfied because the proposed amendments limit the concentration of STRs for the short-term leasing of dwelling units. While STRs in the residential districts are residential dwellings leased for fewer than 30 days, the amendments do allow them subject to concentration limits which ensures that this type of use does not become the dominant housing type within portions of the City. Further, the amendments create clear processes with specific regulations for short-term rentals to reduce conflicts with other dwelling units such as long-term rental dwellings (leased for 30 days or more) and owner-occupied dwellings. This provides more certainty in the permitting process than the existing regulations.

Other Goals: Because the proposed code amendments are limited in scope, there are no other Statewide Planning Goals or Administrative Rules applicable to this ordinance. Likewise, there are no 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).

Based on the above discussion, the proposed text amendment to the Development is consistent with the statewide planning goals and therefore complies with the requirement that the amendment be consistent with state land use planning law.

2. The request is consistent with the applicable Bend Area General Plan goals and policies;

FINDING: The “goals” established in the general 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:

- *Neighborhoods — Create and preserve attractive neighborhoods for living.*
- *Diversity of Quality Living Options — Assure the opportunity for a wide variety of housing and neighborhoods within a community diverse in education, income, employment and recreation opportunities.*

FINDING: An identified concern of some citizens is that the existing regulations for short-term rentals are detrimental to preserving existing neighborhood livability and attractiveness. The proposed amendments have been written specifically to address those concerns by providing concentration limits. By allowing some STRs subject to the concentration limits the proposed amendments recognize the value of these types of rental options within the neighborhoods to provide adequate recreation and employment opportunities for Central Oregon.

- *Policy 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.*
- *Policy 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: The citizen involvement program reviewed by the Citizen Involvement Committee and approved by the City Council for this project set forth a community process where participants who are representative of the interested community were selected by an open process with work sessions before the Planning Commission and approval at a City Council regular session. The Vacation Rental Task Force included members with varied points of view and who live in different areas of the City. All Vacation Rental Task Force meetings were open to the public and subject to the Oregon open meetings regulations. The Planning Commission held a public hearing to accept public testimony on the Code amendments on February 23, 2015. The City Council held a public hearing to accept testimony on March 30, 2015.

Chapter 5: Housing and Residential Lands – Residential Compatibility:

- *Policy 1. Future development and local development standards shall recognize and respect the character of existing areas.*

- **Policy 4:** *Private and public nonresidential uses are necessary and should be permitted within residential areas for the convenience and safety of the people. Such facilities shall be compatible with surrounding developments, and their appearance should enhance the area.*

FINDING: The proposed code amendments were crafted after a vigorous and open public process by the Vacation Rental Task Force. This process began by identifying incompatibilities between short-term rentals and surrounding uses and went through several months and many hours of discussion to create new regulations that, as determined by the Task Force and as modified by the Planning Commission and Council, adequately ensure that short-term rentals are compatible with surrounding residential developments by limiting their concentration

Chapter 6: The Economy and Lands for Economic Growth

Goal: Have a vital, diverse and sustainable economy, while enhancing the community's overall livability.

FINDING: While Chapter 6 of the General Plan does not have a Goal or Policy that speaks directly to tourism as an element of economic development for Bend, Chapter 6 does recognize Bend as a tourist destination, and such an activity is identified as being a component of the city's economic base. On pages 6-2 and 6-3 it states: *This high employment percentage is not surprising for two reasons. First, Bend is a regional trade, service, and education center for a five county area and a tourist destination, so many jobs at all levels exist to serve these needs.* The code amendments allow the ongoing use of some dwelling units as short-term rentals to meet the tourism needs, while regulating the density to maintain livability in the neighborhoods.

Based on the findings stated above, the City Council concludes that the proposed text amendments are consistent with the applicable General Plan Goals and Policies.

3. The applicant can demonstrate a public need or benefit for the proposed amendment.

FINDING:

The City of Bend recognizes the importance of its unique qualities and diverse economy that supports a mix of uses, including residential, tourist and recreational. The City has historically allowed a relatively easy permit process for the siting of STRs, and has increasingly experienced a marked increase in the market, particularly within long-established neighborhoods.

Many property owners and management companies have made good faith efforts to operate reasonable and responsible short-term rentals in the establishment of vacation home rental businesses. Despite such good faith efforts, many residents in areas with large numbers of vacation home rentals have testified and corresponded with the city regarding significant disruption to the community and neighborhoods.

The purpose of the proposed amendments is to protect the character of the city's residential neighborhoods by limiting and regulating the short term rental occupancy

and vacation home rental of dwelling units. In the adoption of these regulations, the Council finds that the proliferation of the rental of short term dwelling units has the potential to be incompatible with the surrounding residential uses. Therefore, special regulation of dwellings used for short term rental occupancy or vacation home rental occupancy is necessary to ensure that these uses will be compatible with surrounding residential uses and will not materially alter and be detrimental to the quality of life in the neighborhoods in which they are located.

The proposed amendments are consistent with the General Plan and the needs of the community to ensure the long term availability of housing and long-term rental stock, in extremely short supply in Bend, so as to satisfy regional and affordable housing needs, and to limit the density in residential neighborhoods.

The proposed amendments seek to balance the legitimate livability concerns with the rights of property owners to use their property as they choose. The Task Force, Planning Commission nor Council have not sought to amortize or terminate the right to operate existing Type I permitted or grandfathered vacation rentals under the new code. Instead, existing rentals will be governed by an operating license program. This license program was recommended to the City Council by the Task Force at their final meeting on March 5, 2015.

These amendments are necessary to minimize the potential adverse impacts of short term rental uses in residential neighborhoods and zoning districts on traffic, noise, density and parking, and to ensure the health, safety and welfare of renters and guests patronizing vacation rentals and to address the needs of the local business community. Because these code amendments address this demonstrated public need, this criterion is met.

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 Development Code text amendment is adopted by ordinance, the City Recorder will maintain a record of the amendments and the revised provisions will be included as part of the Bend Development Code 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 new text amends the Bend Development Code, a functional component of the General Plan, and is an amendment to a land use regulation as noted in OAR

660-012-0060. The proposed text amendments limit the density and location for the short-term rental of dwelling units which are otherwise allowed within the respective zoning districts. The ITE Manual does not provide trip generation data for short term rentals. The City has never found that short term rental uses creating different traffic demands than residential uses. The use of a dwelling unit as a short-term rental is anticipated to create fewer PM peak hour trips because vacation and recreation uses tend to concentrate during the weekends and on holidays. Further, the proposed text amendments also limit the locations of short-term rentals compared to the text that is replaced which, in any regards, eliminates the concentration of such uses within the city. Because long-term residential use remains unchanged as a permitted use, the proposed text amendments do not cause a "significant effect" under ORS 660-012-0060.

V. CONCLUSIONS:

Based on the above Findings, the City Council finds that the proposed Development Code text amendment meets all applicable criteria for adoption.