

## ORDINANCE NO. NS-2251

### AN ORDINANCE AMENDING PORTIONS OF TITLES 1, 2, 3 & 4 OF THE BEND DEVELOPMENT CODE

#### Findings:

- A. The application was submitted in accordance with BDC 4.1.500. Timely and sufficient notice pursuant to Section 4.1.515 of the Development Code was provided.
- B. On July 13, 2015, the Bend Planning Commission held a public hearing to accept testimony on the request. At the conclusion of the hearing, the Planning Commission voted to recommend the proposed text amendments, except for Section 2.1.300 G Residential Compatibility Standards, be approved by the City Council. The Planning Commission continued the public hearing for Section 2.1.300 G Residential Compatibility Standards to August 10, 2015.
- C. On August 10, 2015, the Planning Commission continued the public hearing for Section 2.1.300.G Residential Compatibility Standards to August 24, 2015. On August 24, 2015, the Bend Planning Commission held a public hearing to accept testimony on the request. At the conclusion of the hearing, the Planning Commission voted to recommend the proposed text amendments to Section 2.1.300 G Residential Compatibility Standards and Section 2.1.400 Building Mass and Scale be approved by the City Council.
- D. Notice of the Council's public hearing on September 2, 2015 was mailed to all recognized neighborhood associations on August 12, 2015. A notice of the hearing was also published in the Bend Bulletin on August 13, 2015.
- E. The Bend City Council held a public hearing on September 2, 2015 to accept evidence and consider the Planning Commission's affirmative recommendation. The City Council found that the text amendments satisfy the criteria for approval contained at Section 4.6.200 of the Bend Development Code.

Based on these findings, the City of Bend ordains as follows:

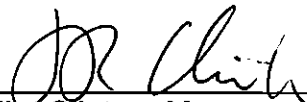
- Section 1 The Bend Development Code is amended as depicted in Exhibits A - D.
- Section 2 In addition to the findings set forth above, the City Council adopts the findings in Exhibit E.

First Reading: September 2, 2015.

Second reading and adoption by roll call vote: September 16, 2015.

Yes: Jim Clinton, Mayor  
Victor Chudowsky  
Doug Knight  
Sally Russell  
Nathan Boddie  
Casey Roats

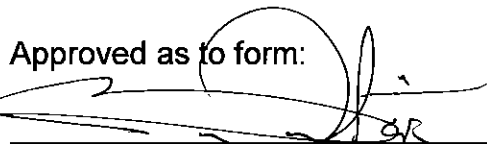
No: None

  
\_\_\_\_\_  
Jim Clinton, Mayor

ATTEST:

  
\_\_\_\_\_  
Robyn Christie, City of Bend Recorder

Approved as to form:

  
\_\_\_\_\_  
Mary Winters, City Attorney

## EXHIBIT A

### Development Code Update City Council

Hearing Date: September 2, 2015

Prepared by:  
City of Bend Planning Division

Note:

Text in underlined typeface is proposed to be added

Text in ~~striketrough~~ 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***

## Chapter 1.2 DEFINITIONS

### A

**Abutting** means adjoining with a common boundary line, except that where two or more lots adjoin only at a corner or corners, they shall not be considered as abutting unless the common property line between the two parcels measures eight feet or more in a single direction.

**Access** means a way or means of approach to provide pedestrian, bicycle or motor vehicular entrances or exits to a property or street.

**Access corridor** means a separate travel way for pedestrians and bicyclists to minimize travel distances within and between subdivisions, planned unit developments, residential areas and commercial centers, major employment areas, transit stops, or within and between nearby neighborhood activity centers such as schools, parks, and convenience shopping. The following are typical types of access corridors:

1. **Multi-use path** means a paved way (typically 10 to 12 feet wide) that is physically separated from motorized vehicular traffic; typically shared with pedestrians, skaters, and other nonmotorized users. See also: "Connector multi-use path," "Primary multi-use path."
2. **Bike lane** means a portion of the roadway (typically four to six feet wide) that has been designated by permanent striping and pavement markings or signage for the exclusive use of bicycles.
3. **Shoulder bikeway** means the paved shoulder of a roadway that is four feet or wider; typically shared with pedestrians in areas without curbs and sidewalks.
4. **Shared roadway** means a travel lane that is shared by bicyclists and motor vehicles.
5. **Multi-use trail** means an unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians.

**Accessible** means approachable and usable by people with disabilities; compliance with the Federal Americans with Disabilities Act.

**Accessible parking** means a parking site that meets all Federal, State and local requirements, whichever is the more strict

**Accessible parking space** means a space designed to provide parking area for a motor vehicle, owned by a person who has a condition of physical or mental disability that limits one or more major life activities as specified in Section 504 of the Federal Rehabilitation Act of 1973, Americans with Disabilities Act, and State law, and whose vehicle displays a current State-issued disabled person license plate or disabled person parking permit. Also referred to as a “handicapped parking space.”

**Accessory dwelling** means a small, secondary ~~housing~~ dwelling unit on a lot with a single-family dwelling as a primary use.

**Accessory Use/Accessory Structure.** Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot.

**ADAAG** means Americans with Disabilities Act Accessibility Guidelines.

**Adjacent** means abutting or located directly across a street right-of-way.

~~**Adjusted floor area** means the sum of the gross horizontal areas of all floors of all principal and accessory buildings measured from the exterior faces of the exterior walls of the building(s), and all other enclosed volumes that would be utilized as floor area and have minimum dimensions of eight feet by 10 feet and seven and one-half feet head room, without additional excavation. **Not used in BDC.**~~

~~**Adult foster care** means any family home or facility in which residential care is for five or fewer adults who are not related to the provider by blood or marriage. Provider means any person operating an adult foster home.~~

**Added definition for Residential Care Homes which includes Adult Foster Care.**

**Affected person** means any person adversely affected or aggrieved by a decision relating to the development actions covered by the City of Bend Development Code.

**Affordable housing** means housing that is affordable for households earning up to 100 percent of the area median income (gross), as defined by the Federal Department of Housing and Urban Development, so that the household spends no more than 30 percent of their gross household income on housing-related expenses (e.g., rent, mortgage, and essential utilities).

**Agent** means any person who represents or acts for any other person in disposing of interests in a land development.

**Agriculture.** See “Farming or farm use.”

**Airport or aircraft landing facility** means any landing area, runway, landing pad, or other facility designed, used or intended to be used by aircraft, including helicopters, and including all necessary taxi-ways, hangars and other necessary buildings and open spaces.

**Alley** means a public or private narrow way serving more than one lot or parcel primarily for vehicular access to the back or side of properties ~~abutting a street~~.

~~**Alteration – Construction.** Where the term **alteration** is applied to a change in construction it is intended to apply to any change, addition, or modification. *Not used in BDC.*~~

~~**Alteration – Occupancy.** Where the term is used in connection with a change in occupancy, it applies to changes in occupancy from one use to another. *Not used in BDC.*~~

~~**Alteration – structural** means a change or repair that would tend to prolong the life of the supporting members of a building or structure. A change in the external dimensions of a building shall also be considered a structural alteration. *Alteration – structural is only used in 3.6.200.N Home Occupations. The word structural has been removed as part of this update.*~~

**Apartment.** See “multifamily housing residential.”

**Appeal** means to make a formal challenge to an official decision.

**Applicant** means a person submitting an application; the owner of affected property, or the owner’s duly authorized representative. The ~~Community~~ Development Services Director may require proof of the sufficiency of the representative’s authorization by the owner to act as applicant on the owner’s behalf.

**Application** means all materials and information submitted for action authorized under this code and on related administrative forms and checklists.

**Arcade** means (1) a range of arches carried on piers or columns, either freestanding or blind, i.e., attached to a wall; (2) a covered passage with shops on one or both sides; (3) an exterior covered passageway along a building facade open to the street frontage.

**Architrave** means the lintel extending from one column or pier to another or the lowest of the three main parts of an entablature.

**Area of special flood hazard** means the land within a community that is in a floodplain subject to a one percent or greater chance of flooding in any given year as designated by the Federal Emergency Management Agency (FEMA). Flood hazard designations on FEMA maps always include the letters A or V. Same as “base flood.”

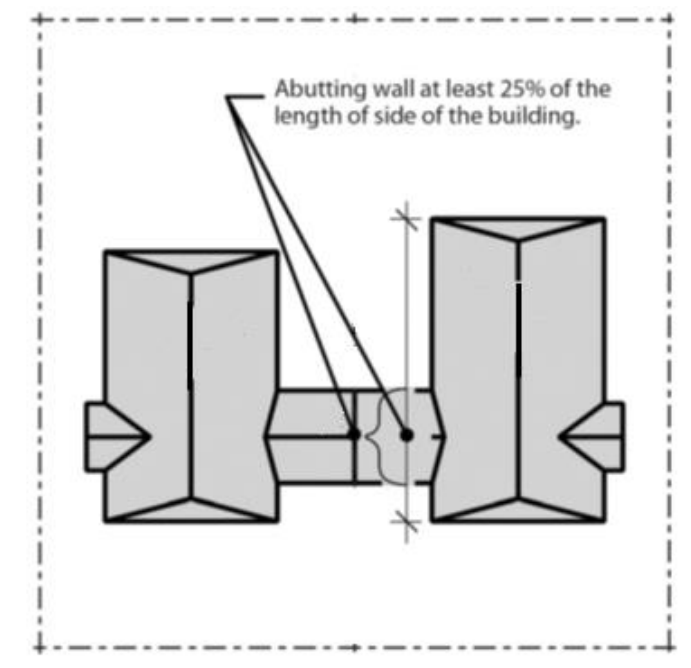
**Argument** means assertions and analysis by a party regarding the satisfaction or violation of legal standards or policy believed to be relevant to the decision. “Argument” does not include facts.

**Arterial.** See “Street or road.”

**Articulate/articulation** means the jointing and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.

~~**Attached** means connected to the primary structure with a continuous foundation and attached by common wall with openings that allow for internal access through habitable space to the primary structure. **Attached is used in the BDC with different meanings.**~~

**Attached Building** means any building that is connected to another building by a common wall that is fully enclosed for at least 25 percent of the length of the side of both buildings.



**Automobile-dependent use** means automobiles and/or other motor vehicles are served by the use and the use would not exist without them, such as vehicle repair, gas station, car wash or auto and truck sales.

**Automobile-oriented use** means automobiles and/or other motor vehicles are an integral part of the use, such as drive-up, drive-in, and drive-through facilities.

**Automobile wrecking** means the dismantling or disassembling of motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles, or their parts. Two or more dismantled, obsolete or inoperable motor vehicles or parts thereof on one lot shall constitute a wrecking yard.

**Awning** means a roof-like cover extending over or in front of a place (as over the deck or in front of a door or window) as a shelter.

## **B**

**Bank-full stage** means the elevation at which water overflows the natural banks of a stream, river, or lake and begins to inundate the upland. In the absence of physical evidence, the two-year reoccurrence interval flow elevation may be used to approximate bank-full stage.

**Base flood** means the flood designated by FEMA as having a one percent chance of being equaled or exceeded in any given year, also referred to as the “100-year flood.” Designation on FEMA maps always includes the letter A or V. Same as “area of special flood hazard.”

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**Bed and breakfast inn** means accommodations plus breakfast on a daily or weekly basis in an operator or owner occupied home that is primarily used for this purpose. This use operates as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a major source of income to the proprietors.

**Bee** means any stage of development of the common domestic honey bee, *Apis mellifera* species.

**Beekeeper** means a person owning, possessing or controlling one or more colonies of bees.

**Berm** means a small rise or hill in a landscape that is intended to buffer or visually screen certain developments, such as parking areas.



**Bicycle facility** means a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

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

**Bikeway** means any road, path or way that is in some manner open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes.

**Block** means a parcel of land or group of lots bounded by intersecting streets.

**Block length** means the distance along a street between the centerline of two intersecting through streets from lot line to lot line.

**Block perimeter** means the distance to travel once completely around the block, ending at the starting point as measured from the centerline of the street.

**Bollard** means a post of metal, wood or masonry that is used to separate or direct traffic (vehicles, pedestrians and/or bicycles). Bollards can be decorative, and may contain sidewalk or pathway lighting.

**Boulevard** means a street with broad open space areas, typically with planted medians.

~~**Building** means a structure which is designated and suitable for the habitation or shelter of human beings or animals or the shelter or storage of property, or for the use and occupation for some purpose of trade or manufacture.~~

**Building – Any structure used or intended for supporting or sheltering any use or occupancy. *Definition from***

**Oregon Structural Specialty Code (OSSC)**

**Building footprint** means the outline of a building, ~~as measured around its foundation.~~ including cantilevered areas.

**Building height** means the average maximum vertical height of a building or structure measured at a minimum of three points from finished grade along each building elevation. Architectural elements that do not add floor area to a building or structure, such as chimneys and vents, are not considered part of the height of a building or structure.

**Building line** means a line parallel to the front lot line and passing through the most forward point or plane of a building.

**Building mass** means the aggregate size of a building, or the total height, width, and depth of all its parts.

**Building Official** means the Building Official of the City of Bend, Oregon.

**Building pad** means a vacant building site on a lot with other building sites. A pad may also be a separate lot within a development.

## **C**

**Capacity** means the maximum holding or service ability, as applied to transportation, utilities, parks and other public facilities.

**Carport** means a permanent structure consisting of a roof with its supports and not more than one wall, or storage cabinets substituting for a wall, and used for sheltering motor vehicles, recreational vehicles or boats.

**Cementitious siding** means the combination of Portland cement, ground sand, and cellulose (wood) fiber that when mixed with water allows for the creation of planks, panels, and shingles (exterior cladding) that is resistant to burning and rotting.

**Centerline radius** means the radius of a centerline of a street or road right-of-way.

**Change of Use** means a change in the essential character or nature of the activity conducted on a lot, as evidenced by:

1. A change from one use to another permitted or conditional use; or
2. A change in proportion of space devoted to uses within a property; or
3. An increase in the parking demand, traffic generation, water demand or wastewater demand as calculated pursuant to existing City regulations.

**Child care facility** means any facilities that provide care to 17 or more children, including a day nursery, nursery school, and child care center or similar unit operating under any name.

**Church.** See "Place of worship." *Worship is defined.*

**City** means the City of Bend, Oregon.

**City Council** means the City Council of the City of Bend, Oregon.

**City Engineer** means the City Engineer of the City of Bend, Oregon.

**City Manager** means the ~~duly appointed administrative officer of the City of Bend, Oregon, or his/her designee.~~  
City Manager of the City. **Revised to match BC.**

**City Recorder** means the City Recorder of the City of Bend, Oregon.

**Clear and objective** means decision-making criteria and standards that do not involve substantial discretion or individual judgment in their application.

**Clear Vision Area** means a triangular area located at the intersection of two streets, an alley and a street, a driveway and a street or a street and a railroad right-of-way to ensure that obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists and others approaching potential conflict points at intersections. **See BDC 3.1.500, Clear Vision Areas.**

**Clerestory** or **clearstory window** ~~means the upper stage of the main walls of a church above the aisle roofs, pierced by windows; the same term is applicable in residential, commercial and industrial buildings.~~ a high section of wall that contains windows above eye level.

**Clinic** means a place for group medical services not involving overnight housing of patients.

**Club** means an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

**Collector.** See "Street or road."

**Colony** means a bee hive and its equipment and appurtenances, including one queen, bees, comb, honey, pollen and brood.

**Color guide** means the paint examples maintained by the City which show acceptable colors for use on buildings, structures and signs including examples of prohibited and restricted colors.

**Commercial node** means one or more lots of parcels not exceeding a total area of one-half acre, excluding road rights-of-way, located at the intersection of a local street and another local or collector street.

**Commission** means the City Planning Commission as duly designated and appointed by the City Council.

**Common area** means land commonly owned, to include open space, landscaping or recreation facilities, and available for public use or use by all property owners association members and guests.

~~**Community Development Director** means the Director of the City of Bend Community Development Department or his or her designee. For the purposes of this code, the terms “Community Development Director” and “Planning Director” shall be interchangeable.~~ **Relocated definition to “D” for Development Services Director.**

**Comprehensive Plan** means the duly adopted Bend Area General Plan.

**Comprehensive Sign Plan** means a sign plan for one or more properties in a commercial center or business complex showing all locations of proposed signage for business tenants, retail stores, services, offices and other establishments that perform services on the premises.

**Conditional use** means a use that requires a Conditional Use Permit. See BDC Chapter 4.4, Conditional Use Permits.

**Condominium** means a type of ownership of units, and common ownership of open space and other facilities, and which is regulated, in part, by State law (~~ORS 91.010 through 91.652~~).

**Conduit** means any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade structure used to convey water or electrical service.

**Connector multi-use path** means a multi-use path for pedestrians and bicyclists that minimizes travel distances within and between residential areas and commercial centers, major employment areas, transit stops, or within and between nearby neighborhood activity centers such as schools and parks.

**Conservation easement** means an easement that protects identified conservation values of the land, such as wetlands, woodlands, significant trees, floodplains, wildlife habitat, and similar resources.

**Constructed** means the date of issuance of a building permit for structural construction or alteration of a building.

**Construction plans** means the plans, profiles, cross-sections and drawings or reproductions thereof, prepared by a registered professional engineer, which show the details of the work to be done on improvements.

**Contiguous** means that which touches or connects, including that which only connects or touches a common point; the touching together of two or more tracts of land which lie alongside one another or which touch or connect with one another for any length or distance whatsoever, no matter how finite.

~~**Corner clearance** means the distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.~~ **Relocated and redefined as Clear Vision Areas consistent with BDC 3.1.500.**

**Corner radius** means the radius of a street corner, as measured around the curb or edge of pavement.

**Cornice** means, in classical architecture, the top, projecting section of an architrave; also any projecting ornamental molding along the top of a building, wall, arch, etc., finishing or crowning it; the projecting horizontal element that tops a wall or flat roof.

**Corporate headquarters** means a building or portion of a building in which persons are employed in the management or direction of a business consisting of one or more companies, or divisions or groups of companies. A corporate headquarters shall be directly associated with a permitted or conditional use on the same site, or may stand alone provided the site area is 10 acres or more, and the facility is sized for at least 100 employees.

**Cottage** – means a detached single-family dwelling in a cottage housing development. See BDC 4.5.600 Cottage Housing Development.

**Cottage cluster** relates to the configuration of cottages. A cluster is a grouping of four to 12 cottage dwellings arranged on a development site around or adjacent to usable open space. A cottage housing development may contain more than one cluster. See BDC 4.5.600 Cottage Housing Development.

**Cottage housing development** means a type of site development or subdivision where individual lots are created, both built in conjunction with shared open space and other common tracts of land that are intended to serve small-scale single-family dwellings that interact together as a small community. See BDC 4.5.600 Cottage Housing Development.

**Courtyard** means an open, unoccupied space other than a required exterior yard, court or enclosure adjacent to a building, which usually provides amenities such as gardens, planters, seating, or art.

**Courtyard housing** means ~~detached single-family housing where one side yard is three feet and the opposite side yard is a minimum of 10 feet creating a courtyard within the side yard.~~ See BDC 3.6.200(A). detached “zero lot line” dwellings on individual lots subject to the same standards as single-family detached dwellings, except that a three-foot minimum side yard setback is required on one side of a typical lot. This type of housing allows development on smaller (i.e., narrower) lots and provides usable outdoor living area in side-oriented courtyards. See BDC 3.6.200(A), Courtyard Housing.

**Critical facility** means, for the purpose of flood standards, a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

**Cross access** means a service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.

**Cross-section** means a profile of the ground surface perpendicular to the centerline of a street, stream or valley bottom.

**Cul-de-Sac.** See “Street or road.”

**Cupola** means a dome, especially a small one on a circular or polygonal base crowning a roof or turret.

**Curb cut** means a driveway opening where a curb is provided along a street.

**Curb line** means the line dividing the roadway from the planting strip or sidewalk that is the inside (street side) of the curb.

**Curtain wall** means a non-load-bearing wall which can be applied in front of a framed structure to keep out the weather; a continuous curtain wall of steel and glass separating “structure” from “cladding.”

## **D**

**Dam** means any manmade structure which is or may be used to impound water.

**Day Care Facility.** See “Child care facility.”

**Day care facility, (adult)** means ~~a community-based group programs~~ designed to meet the needs of adults with functionally and cognitively impaired impairments ~~adults~~ through individual plans of care that are structured,

comprehensive and provide a variety of health, social and related support services in protective settings during part of the day but provide less than 24-hour care. (~~ORS 410.485 through 410.495, Senior and Disability Services, and OAR 411-066, Senior and Disability Services.~~)

**De novo review** means a hearing by the review body as if the action had not previously been heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration will be considered a part of the record on review.

**Deciduous** means a tree or shrub that sheds its leaves seasonally.

**Dedication** means the transfer of land by its owner ~~for a~~ to the public use. Dedication does not include reservations or easements.

**Density** means a measurement of the number of dwelling units in relationship to a specified amount of land. As used in this code, density calculation measures gross density and is a measurement used generally for residential uses.

**Deschutes River Corridor** means all property within 100 feet of the ordinary high water mark of the Deschutes River.

**Design standards** means standards consisting of objective design-oriented elements that help to ensure that the proposed development conserves and enhances the recognized value of the site or building. The design standards provide additional guidance to items such as pedestrian connections, building materials, ground-floor and upper-level treatments, and the like.

**Designated wetlands** means areas designated as significant wetlands on the wetland inventory maps adopted by the City of Bend.

**Developable** means buildable land, as identified by the ~~City's Comprehensive~~ Bend Area General Plan. Includes both vacant land and land likely to be redeveloped, ~~per ORS 197.295(1).~~

**Developer** means any person, corporation, partnership, or other legal entity who creates or proposes to create a land development; includes any agent of a developer.

**Development** means all improvements on a site, including buildings, placement or replacement of manufactured or other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and

walkways, but does not include natural geologic forms or landscapes. Development includes a partition and subdivision. For the purpose of flood standards, “development” shall also mean any manmade change to improved or unimproved real estate, including but not limited to mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

**Development application, Type I** means a development application that is reviewed administratively without public notice or an opportunity for parties to comment, unless elevated to a Type II application by the ~~Community~~ Service Development Director when there is a need to interpret or exercise policy or legal judgment, or to apply discretionary land use standards. Type I applications are identified in Table 1.2.100. A Type I decision includes any authorization or determination that the City of Bend Community Development Department is requested to issue, give or make that:

1. Is made under land use standards that do not require interpretation or the exercise of policy or legal judgment; or
2. Approves or denies a building permit issued under clear and objective land use standards; or
3. Determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the Comprehensive Plan and land use regulations.

**Development application, Type II** means a development application that is reviewed following public notice and an opportunity for parties to comment but without a public hearing, unless elevated to a Type III application by the ~~Community~~ Services Director. Type II applications are identified in Table 1.2.100.

**Development application, Type III** means a development application where the final decision is made by the Planning Commission or Hearings Officer after a public hearing following the quasi-judicial procedures required and described in BDC 4.1.800. Type III applications are identified in Table 1.2.100. The City Council is the final decision maker in Type III development applications that require the adoption of an ordinance.

**Development application, Type IV** means a legislative decision that is made after public notice, public hearings, and a recommendation by the Planning Commission to the City Council. Such applications generally involve broad public policy decisions that apply to other than an individual property. Type IV applications are identified in Table 1.2.100.



**Development Services Director** means the Director of the City of Bend Community Development Department or his or her designee. For the purposes of this code, the terms “Development Services Director” and “Planning Director” shall be interchangeable. ***Relocated from “C” for Community Development Director.***

**Development standards** means land use regulations that guide how sites and buildings can be developed. These standards deal with allowed uses, building heights, densities, parking, building setbacks, etc.

**Discretionary** means a permit action or decision that involves substantial judgment.

**Diversion** means any manmade structure that is or may be used to deflect or divert water from a river or stream into a conduit or impoundment.

**Drip-line** means an imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.

**Drive-through facility** means a facility or structure that is designed to allow drivers to remain in their vehicles before and during an activity on the site. Drive-through facilities also include facilities designed for the rapid servicing of vehicles, where the drivers may or may not remain in their vehicles, but where the drivers usually either perform the service for themselves, or wait on the site for the service to be rendered. Drive-through facilities may serve the primary use of the site or may serve accessory uses. Examples are drive-up windows for food service and banks; gas pump islands; and car wash facilities. Also see “Auto-oriented uses” in this section and BDC Chapters 2.2 and 2.3.

**Driveway** means an area that provides vehicular access to a site, except for public and private streets and alleys. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking lots, or parking spaces.

**Driveway apron/approach** means the edge of a driveway where it abuts a public way, usually constructed of concrete.

**Duplex** means one building with two dwelling units on one lot or parcel. For permitting purposes, units may be attached or detached.

**Dwelling, Multifamily.** See “Multifamily ~~housing~~ residential.”

**Dwelling, Single-Family Attached Townhome** means single-family dwellings on their own lots or parcels, sharing a common side wall at the property line.

**Dwelling, single-family detached** means a single-family dwelling on its own lot or parcel that does not share a wall with any other building.

**Dwelling, Single-Family Detached Zero Lot Line House.** See “Courtyard housing.”

~~**Dwelling unit** means a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code (UBC).~~

**Dwelling unit means** a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. *Definition from 2014 Oregon Residential Specialty Code.*

## **E**

**Easement** means a right of usage of real property granted by an owner to the public or to specific persons, firms, or corporations.

**Effective lot area** means the gross ground surface area of a lot minus any portion of the lot encumbered by a recorded driveway or roadway easement.

**Elevated building** means, for flood insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

**Elevation** means a building face, or scaled drawing of the same, from natural grade to the highest point on the structure.

**Environmentally Sensitive Areas.** See “Sensitive lands.”

**Evidence** means facts, documents, data or other information offered by a party to demonstrate compliance or noncompliance with the standards believed to be relevant to the decision.

**Exempt vegetation** means a tree or other plant that is shown by the sun chart accompanying a solar access permit application to cast existing shade on a protected area.

**Existing** means ~~existing~~ present at the time of application for land use or development approval.

~~**Existing development** means development as defined herein that was in place at the time of the adoption of the current Zoning and Development Code. *Existing and Development are defined separately in this Chapter.*~~

**Exterior modification** ~~alteration~~ means a change in the exterior structure of a building that alters the appearance of a building.

## **F**

**Family Day Care.** See “Registered or certified family child care home” and “Child care facility.”

**Farming or farm use**, as defined by ~~ORS 215.203(2)(a)~~, means the utilization of land for the purpose of raising, harvesting or selling crops, or for the feeding, breeding, management and sale of, or the produce of livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or for any other agricultural or horticultural use, animal husbandry, timber agricultural or any combination thereof, including the preparation or processing and storage of products raised on such land, but not including the construction or use of dwellings and other building customarily provided in conjunction therewith.

**Fire Apparatus Lane.** ~~See the Uniform Fire Code. Used in Chapter 3.4.~~ ***Not consistent with Oregon Fire Code.***

Fire Apparatus Access Road means a road that provides fire apparatus access from a fire station to a facility, building or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane and access roadway. ***Added definition to be consistent with Oregon Fire Code.***

Fire Lane means a road or other passageway developed to allow the passage of fire apparatus. A fire lane is not necessarily intended for vehicular traffic other than fire apparatus. ***Added definition to be consistent with Oregon Fire Code.***

**Fire break** means a break in the ground cover fuels as specified by the fire protection agency involved.

**Fish passage device** means any manmade structure that is or may be used to enable fish to pass over a dam to move upstream.

**Fish protection device** means any manmade structure, such as a fish screen, which is or may be used to prevent fish from entering into or passing through conduits, penstocks, and other water-conducting structures or devices connected to a hydroelectric facility.

**Flag lot** means a lot or parcel that has access to a road, street or easement, by means of a narrow strip of lot that does not meet the typical minimum lot frontage standard.

**Flood/flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

**Flood hazard area** means the relatively flat area of lowlands adjoining the channel of a river, stream, watercourse, lake or reservoir.

**Flood Insurance Rate Map (FIRM)** means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

**Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated on FIRM.

**Floor area** means the area included in surrounding walls of a building or portion thereof, exclusive of vent shafts and courts. ~~See also "Building footprint."~~

**Floor area ratio (FAR)** means a measurement of building density calculated by dividing the gross enclosed floor area of a building by the land area of the development.

**Floor, lowest habitable** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest habitable floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this code.

**Food and Beverage services** means restaurants, cafes, and similar types of land uses that prepare and serve edible goods for consumption by the customer including beverage service.

**Frontage** means that portion of a parcel or lot of property that abuts a dedicated public street or highway or an approved private street.

**Frontage Street or Road.** See "Street or road."

**Functional classification** means the classification given to streets (e.g., “local, collector, or arterial”) by the City’s Transportation System Plan (TSP), City of Bend Standards Manual, by adopted County plans, and the Oregon Department of Transportation.

## **G**

**Garage, private** means an accessory building or portion of a main building used for the parking or storage of vehicles owned or used by occupants of the main building.

~~**Garage, public** means a building, other than a private garage, used for the care and repair of motor vehicles, or where such vehicles are parked or stored for compensation, hire, rental or sale.~~

**Grade, existing** means the existing condition of the elevation of the ground surface at the time of permit application and which represents (1) the natural grade prior to placement of fill on the site or the excavation or removal of earth from the site, or (2) the manufactured grade following the completion of an approved grading operation including grading approved in conjunction with the subdivision of the site.

**Grade, finished** means the grade measured within two feet from the foundation wall of the building or structure where the elevation of the surface of the ground does not exceed two feet above or below the existing grade. For sloping sites exceeding 12 percent slope, the finished grade shall not exceed four feet above or below the existing grade unless the finished grade has been set through a grading and/or drainage plan approved by the City. The term “finished grade” may also mean existing grade when no terrain alteration is proposed. Fill which is not necessary to achieve positive drainage or slope stabilization, or which is otherwise proposed clearly to raise the finished floor elevation(s) for any other purpose, shall not be considered finished grade.

**Ground cover** means a plant material or nonplant organic material (e.g., mulch, bark chips/dust) that is used to cover bare ground.

## **H**

**Hardscape** means nonplant landscape materials, including pathways, decorative pavers, benches, drinking fountains, arbors, pergolas, playgrounds, plazas, and similar amenities.

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

**Hearings body** means the Hearings Officer, Planning Commission, or City Council of the City of Bend.

**Hearings Officer** means a planning and zoning hearings officer appointed or designated by the City Council pursuant to ~~ORS 227.165~~ or, in the absence of such appointed hearings officer, the Planning Commission.

**Highest shade producing point** means the highest shade producing point of a structure two hours before the solar zenith on December 21.

**Hive** means any Langstroth type structure with movable frames intended for the housing of a bee colony. A hive typically consists of a cover, honey supers, brood chambers and a bottom board.

**Home occupation** means a small commercial use conducted entirely within a dwelling or an approved accessory structure, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and which complies with the conditions of BDC Chapter 2.1 and 3.6.

**Hospital** means any institution, place, building, or agency which maintains and operates organized facilities for two or more persons for the diagnosis, care and treatment of human illness, including convalescence and care during and after pregnancy, or which maintains and operates organized facilities for any such purpose, and to which persons may be admitted for overnight stay or for a longer period.

**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.

**Human-scale design/development** means site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (e.g., as is typical of commercial and main street developments); larger buildings that have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, outdoor seating, lighting, weather protection (e.g., awnings or canopies), and similar features. These features are all generally smaller in scale than those that are primarily intended to accommodate automobile traffic.

**Hydroelectric facility** means all aspects of any project or development necessary for or related to the generation of hydroelectric energy, including, but not limited to, conduits, dams, diversions, fish ladders and screens, generators, impoundments, penstocks, turbines, transmission facilities, and related buildings, structures, storage areas, access roads, parking areas, and surrounding and adjacent lands which are necessary for or related to the facility.

## I

**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.

**Impervious surface** means an improvement that does not allow for water infiltration into the ground (e.g., structures, pavement, roofs, etc.).

**Impoundment** means any human-made structure that is or may be used to confine or accumulate water.

**Incidental and subordinate to** means a use or portion of a development that is secondary to, and less apparent than, the primary use or other portion of the development.

**Infill** means the development of vacant, bypassed lands located in an area that is mainly developed.

**Infill, residential** means the development of a dwelling on land that is zoned for residential use where at least 75 percent of the abutting parcels have a structure but not counting any parcel that is too small for a residence or any parcel that is large enough that it can be divided into four or more lots or developed with multifamily ~~dwelling units~~ residential as an outright use. "Residential infill" also refers to a situation in which a home is removed to make way for a new dwelling (e.g., a house, manufactured home, duplex, or attached house). "Residential infill" shall not refer to the development of one dwelling on land that is large enough that it can be divided into four or more lots.

## J

**Junk** means waste materials such as old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped or ruined motor vehicles or appliances, or motor vehicle parts, iron, steel or other old or scrap ferrous or nonferrous material, metal or nonmetal materials. ~~(See ORS 377.605(6)).~~

**Junkyard** means any property or establishment where a person(s) is engaged in recycling, breaking up, dismantling, sorting, storing, distributing, buying or selling scrap or waste materials, or any establishment or place of business where there is accumulated on the premises eight or more motor vehicles or an equivalent volume of junk that is maintained, operated or used for storing, keeping, buying or selling of junk, and the term includes automobile graveyards, wrecking yards, garbage dumps and scrap metal processing facilities. ~~(See ORS 377.605(6)).~~

## **K**

**Kennel** means any premises where four or more dogs, cats, or other small domestic animals are kept commercially or primarily for profit, except licensed animal breeding facilities, veterinary clinics and animal hospitals.

## **L**

**Land division** means the process of dividing land to create parcels or lots.

**Land use district** is the same as a zoning district.

**Landing** means a level part of a staircase, as at the end of a flight of stairs.

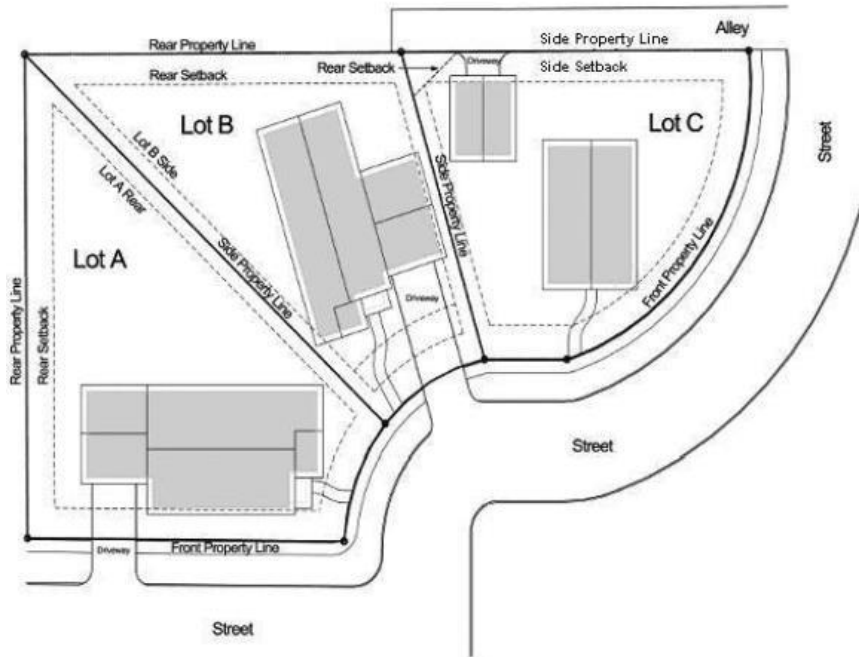
**Landscaping** means any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains or the like. Landscaping also includes irrigation systems, mulches, topsoil, and re-vegetation or the preservation, protection and replacement of existing trees.

**Landscaping (R.O.W.)** ~~means a combination of drought tolerant living plant material cultivated to grow in Central Oregon.~~ ***Not used in BDC.***

**Lodging, hotel/motel** means a building or portion thereof designed for and/or used for occupancy of transient individuals who are lodged with or without meals.

**Lot** means a unit of land that is created by a subdivision of land.





**Lot area** means the total surface area (measured in square feet of horizontal area) within the boundary lines of a lot.

**Lot, corner** means a lot abutting upon two or more streets, other than alleys, at their intersection, or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees within the lot line.

**Lot coverage** means all areas of a lot or parcel covered by buildings (as defined by foundation perimeters) and other structures with surfaces greater than 18 inches above the finished grade, excluding covered but unenclosed porches and uncovered decks up to five percent of the total lot area. Lot coverage is not a yard requirement.

**Lot depth** means the horizontal distance between the front and the rear lot or parcel lines. In the case of a corner lot the depth shall be the length of the longest front lot or parcel line.

**Lot, interior** means a lot or parcel of land other than a corner lot.

**Lot line** means any property line bounding a lot or parcel as herein defined.

**Lot line, front** means the property line abutting a street. Corner lots or parcels and through lots or parcels may have two or more front lot lines.

**Lot line, rear** means a lot line not abutting a street which is opposite and most distant from the front lot line. In the case of an irregular or triangular-shaped lot, an assumed lot line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line. There may be two or more rear yards for one lot.

**Lot line, side** means any lot or parcel line that is not a front or rear lot line.

**Lot of record** means 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.

**Lot, through/double frontage** means an interior lot having a frontage on two streets and/or highways, not including an alley.

~~**Lot width** means the horizontal distance between the side lot lines measured within the lot boundaries or the average distance between the side lot lines within the buildable area. In the case of a corner lot, "lot width" shall mean the mean horizontal distance between the longest front lot line and the opposite lot line not abutting the street.~~

**Lot width** means the average distance between the side property lines (the two property lines most perpendicular to the front property line). In the case of corner lots that include two or more front property lines, "lot width" shall mean the average distance between the longest front property line and the farthest opposite property line. In the case of irregularly shaped lots or parcels having four or more sides, "average lot width" is the sum of the shortest and longest property lines divided by two.

## **M**

**Maintain** means to cause or allow or continue in existence. When the context indicates, the word shall mean to preserve and care for a structure, improvement, condition or area to such an extent that it remains attractive, safe and presentable and carries out the purpose for which it was installed, constructed or required.

**Maneuvering area/aisle** means a driving area where motor vehicles are able to turn around and/or access parking spaces.

### ***Updated following definitions to reflect ORS***

~~**Manufactured dwelling** means the following residence types as defined in this chapter: a residential trailer, a mobile home or a manufactured home.~~

**Manufactured dwelling means:**

- **Residential trailer** means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.
- **Mobile home** means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- **Manufactured home**, except as provided in paragraph (a) below, means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

(a) For purposes of implementing any contract pertaining to manufactured homes between the department and the federal government, manufactured home has the meaning given the term in the contract.

- Manufactured dwelling does not include any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code or any unit identified as a recreational vehicle by the manufacturer.

**Manufactured Dwelling Park** means any place where four or more manufactured dwellings units are located within 500 feet of one another on one a lot, tract or parcel of land under the same ownership allowing manufactured homes. See BDC Chapter 3.6, Special Standards for Certain Uses, for standards related to manufactured dwelling parks.

~~**Manufactured home** means (for land use purposes) a portable single-family residence constructed after 1976 that conforms to the Manufactured Housing Construction and Safety Standards Code of the U.S. Department of Housing and Urban Development but is not regulated by the Oregon State Structural Specialty Code and Fire Life Safety Regulations, and is intended for permanent occupancy. See BDC Chapter 2.1. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.~~ **Relocated to Manufactured Dwellings and redefined to match ORS.**

**Mitigation** means measures undertaken to rectify, repair, or compensate for negative impacts that result from other actions (e.g., street infrastructure may be required to mitigate for transportation impacts resulting from development).

**Mixed-use buildings or developments** means a mix of residential and commercial uses that are mixed “vertically,” meaning that a residential use is developed above the commercial use, or mixed “horizontally,” meaning commercial and residential uses both occupy ground-floor space. ~~For all mixed-use buildings or developments in the Commercial Districts, commercial/office uses shall occupy at least 20 percent of the total floor area of the development, or the floor area equivalent to the entire ground-floor area of the development, whichever is greater.~~ **Relocated to Chapter 3.6.** ~~For all mixed-use buildings or developments in the Residential Districts, commercial/office uses shall occupy no more than 20 percent of the total floor area of the development, or up to 100 percent of the ground-floor area of the development; provided, that at least 40 percent of the total floor area of the development is residential.~~

**Modification of application** means the applicant’s submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following ~~previously~~ described components: proposed uses, operating characteristics, intensity, scale, site layout (including but not limited to changes in setbacks, access points, building design, size or orientation, parking, traffic or pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant’s submission of new evidence that merely clarifies or supports the pending application.

**Multifamily housing residential** means housing that provides four or more ~~than three~~ dwellings on an individual lot or parcel (e.g., multi-plexes, apartments, condominiums, etc.). See BDC 2.1.1000, Multifamily Residential Districts (RM, RH).

**Multi-modal** means a transportation system or right-of-way that plans for and provides for different transportation modes such as driving, walking, biking, and bus service.

**Multi-Use Pathway.** See “Access corridor.”

**Municipal water supply system** means a water supply source and distribution system owned and operated by a city or county or special district or other public corporation which has independent tax levying powers to support the system and which supplies water to a total of 1,000 or more households.

**MUTCD** means the Manual of Uniform Traffic Control Devices, published by the Federal Highway Administration.

## **N**

**Native plants** means vegetation commonly found growing in Central Oregon.

**Neighborhood** means a geographic Residential District or area usually having distinguishing character or boundaries, not necessarily coinciding with the acknowledged neighborhood association boundaries.

**Neighborhood association** means an organization that has been formally recognized by Council resolution which offers an opportunity for citizens to participate in decision-making for their neighborhood.

**Neighborhood commercial** means certain types of small-scale commercial uses that serve the neighborhood as allowed in the Residential Districts. See BDC Chapter 2.1.

~~**New construction** means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this code.~~

**Nonconforming use/nonconforming development** means a land use/structure that would not be permitted by the current code regulations, but was lawful at the time it was established. See BDC Chapter 5.2.

**Nonnative plants** means plants not typically growing in Central Oregon and those plants listed on the current Oregon State University Extension Service Bulletin list for Deschutes County.

**North-south lot dimension** means the length of a line beginning at the midpoint of the northern property line and extending a southerly direction perpendicular to the northern property line until it reaches a property boundary.

**Northern property line** means the northerly edge of the lot or parcel on which an applicant’s structure is located, unless directly north of the lot or parcel is an unbuildable area, in which case **northern lot line** means the northerly edge of the unbuildable area.

**Nursing/convalescent homes** (also see “Residential care facility”) means a residence, institution, or place other than a hospital or assisted living facility that operates and maintains facilities providing 24-hour convalescent or chronic care, or both, for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick. Note: For adult day care, see “Day care facilities, (adult).”

## O

**Open space (common, active or passive)** means any ~~parcel~~ property or area of land or water set aside, designed or reserved for the public or private use specifically for the purpose of providing places for recreation, conservation or other open space uses.

**Ordinary high water mark (OHWM)** means the elevation of bank-full stage.

**Oregon Scenic Waterway** means the designated areas along the south and north portions of the Deschutes River within Bend that are designated and managed by the Oregon Parks and Recreation Department to protect State Planning Goal 5 scenic resources.

**Orientation** means to ~~cause to~~ face toward a particular point of reference (e.g., “a building oriented to the street”).

**Owner** means the owner(s) of the title to real property on the most recently recorded deed recorded with the County Clerk or the authorized agent thereof having written notarized authorization, or the contract purchaser of real property of record as shown on the last available complete tax assessment roll or County Clerk’s records. Does not include an interest created for security purposes.

**Owner-occupied short-term rental** means an owner resides in a dwelling unit and rents up to two 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.

## P

**Parcel** means a unit of land created by a partitioning of land.

**Park facilities** means an active or passive recreation facility owned and operated by the State of Oregon or Bend ~~Metro~~ Parks and Recreation Districts which provides for the recreational needs of the citizens of Bend. The types of BMRPD facilities include neighborhood, community and regional parks. See also “Recreation facilities, public.”

**Parking area, public** means an open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

**Parking lane** means one or more lanes of a street or roadway, usually on the outside edge, designated for the standing or parking of motor vehicles, whether or not delineated with striping on the pavement.

**Parking, off-street** means areas designed, used, required or intended to be used for the parking of motor vehicles, which is not in a street right-of-way.

**Parking, on-street** means parking in the street right-of-way, typically in parking lanes or bays.

**Parking space** means an area designed for the purpose of storing one motor vehicle.

**Partition** means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partition land does not include divisions of land resulting from the creation of cemetery lots; lien-foreclosures; division of land resulting from foreclosures of recorded contracts for the sale of real property; and divisions of land made pursuant to a court order, including but not limited to court order proceedings involving testate or intestate succession. Partition land does not include a “property line adjustment” or the sale of a lot in a recorded subdivision even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

**Party** means one who takes part or participates in a Type II, III, or IV application or a legislative action. A party includes any person who has standing. 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. The City may designate a representative for persons whose participation consists only of signing a petition.

**Pedestrian facilities** means a general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, pathways, walkways, access ways, crosswalks, ramps, paths, and trails.

**Person** means ~~an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, whether he, she or it is acting for himself, herself, or itself or as the servant, employee, agent or representative of another.~~ an individual, corporation, partnership, company, trustee, or any other legal entity. **Revised to match BC.**

**Personal and professional service uses** means businesses such as coffee shops/delis, dry cleaners, and cafes that primarily provide services to customers from the immediate surrounding area, barber shops and salons, copy center, banks, and financial institutions and similar uses and child care and similar uses. Personal and professional service uses does not include retail.

**Phased tentative plan** means a subdivision plan designed to be platted and constructed in more than one phase.

**Place of worship** means a place for people to gather for religious practice ~~gathering place for individuals to practice common religious beliefs~~. Examples include churches, synagogues and mosques and accessory uses including bible study schools and day care.

**Planning Commission** means the Planning Commission of the City of Bend, Oregon. See Bend Code 1.20.030 Planning Commission.

**Planning Director**, as used in this code, shall refer to the ~~Community Development~~ Services Director of the City of Bend or his or her designee.

**Planning Manager** means the City of Bend Community Development Department Planning Manager.

**Plant nursery** means retail and/or wholesale sales of shrubs, trees, ornamental bedding plants, and products associated with gardening.

**Planter strip** means an area for street trees and other plantings within the public right-of-way, usually between the street and sidewalk.

**Plat** includes a final subdivision plat, replat, or partition plat. ~~(ORS 92.010(9))~~

**Plaza** means a public square or extra-wide sidewalk (e.g., as on a street corner) that provides space for special events, outdoor seating, sidewalk sales, and similar pedestrian activity.

**Primary** means the largest or most substantial element on the property, as in “primary” use, residence, entrance, etc. All other similar elements are secondary in size or importance.

**Primary frontage** means that portion of a parcel of property that abuts a dedicated public street, highway or an approved private street, and is the frontage with the primary public or customer entrance.

**Primary, main building entrance** means the main entrance closest to the public street by which pedestrians can access a building, structure or activity. Generally, smaller buildings have one main entrance. Main entrances may also be the widest of entrances provided for use by pedestrians. In multi-tenant buildings, main entrances open directly into the building’s lobby or principal interior ground level circulation space. When a multi-tenant building does not have a lobby or common interior circulation space, each tenant’s outside entrance is a main entrance. Buildings may also have main entrances opening directly into a reception or sales areas, a courtyard, or plaza.



**Primary multi-use path** means a multi-use path that is part of the more significant City-wide trail system that is illustrated on the Bend Urban Area Bicycle and Pedestrian System Plan.

**Principal building** means the largest building or buildings within a commercial center or business complex. Typically, this is the anchor tenant or tenants.

**Proceeding** means the review of a land use action either administratively by the ~~Community~~ Community Development Services Director or through the public hearing process by the Hearings Body.

**Production office** means an office use that employs large numbers of persons that are performing similar functions in shifts such as a call center or an insurance claims center.

**Property line** means the division line between two units of land. ~~(ORS 92.010(10))~~

**Property line adjustment** means ~~the a relocation or elimination of all or a portion of the of a common property line between abutting properties that does not create an additional lot or parcel.~~ ~~(ORS 92.010(11))~~

**Property Owner.** See "Owner."

**PROWAG** means Public Right-Of-Way Accessibility Guidelines.

**Public facilities** means infrastructure improvements including but not limited to water lines, sewer lines, streets, curbs, sidewalks, trails and related facilities that are owned and maintained by the City of Bend.

**Public services** mean those services that are inherent necessities to support development within the urban growth boundary. These include but are not limited to schools, parks, libraries, and emergency services.

## **Q**

**Qualified professional/individual** means, for the purpose of preparing vegetation restoration or tree protection plans, assessing the health of trees or other similar activities, an individual approved by the City who through related training, or on-the-job experience, or both, possesses knowledge in one or more of the following subject areas: (1) Arboriculture, (2) Natural Resources; including water resources and riparian restoration, and (3) Urban Interface Fire Protection.

~~**Quasi-judicial** also known as **Type III** action means a plan amendment or zone change affecting a single or limited group of properties and that involves the application of existing policy to a specific factual setting. (The~~

~~distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to case law on the subject.)~~ **Conflicts with other parts of the BDC.**

## **R**

**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.

**Recreational facility, private** means a recreation facility under private ownership and operated by a for profit or nonprofit organization, open to members, and providing one or more of the following types of recreation activity, fitness center, indoor gymnasium, spa or health center including: tennis, handball, golf, squash, volleyball, racquetball, badminton, skate park and swimming.

~~**Recreational vehicle** means a vacation trailer or other units with or without motorized power, which is designed for human occupancy, is to be used temporarily for recreational or emergency purposes, and has the gross floor space of less than 400 square feet. The unit shall be identified as a recreational vehicle by the manufacturer and so licensed.~~

**Recreational vehicle** means a vehicle with or without motive power that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes and as further defined, by rule, by the Director of the Department of Consumer and Business Services. **Updated with ORS definition.**

**Recreational vehicle** means, for floodplain management purposes, a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Redemption center** means an indoor retail facility approved by the Oregon Liquor Control Commission facilitating the return of empty beverage containers and serving dealers of beverages, where any person may return empty beverage containers and receive payment of the refund value of such beverage containers.

**Regional corporate office** means a building or portion of a building in which persons are employed in the management or direction of a business consisting of one or more divisions or groups of companies. Commerce with the general public is not a normal function of a regional corporate office.

**Registered or certified family child care home** means a location where child care is offered in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status. Registered or certified family child care homes shall be considered a permitted residential use of the property for zoning purposes. ~~See ORS Chapter 657A for State certification requirements.~~

**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. ~~(ORS 92.010(12))~~

**Residence.** See “Dwelling unit.”

~~**Residential care facility** means a residential treatment or training home or facilities licensed by the State of Oregon that may provide residential care alone, or in conjunction with treatment and/or training, for individuals who need not be related. Residential care facilities provide accommodations for six or more individuals. Staff persons required to meet State licensing requirements shall not be counted in the number of facility residents and need not be related to each other or the residents.~~

**Residential care facility** means a facility that provides, for six or more socially dependent individuals or individuals with physical disabilities, residential care in one or more buildings on contiguous properties. **Updated with ORS definition.**

**Residential caretaker unit** means a dwelling unit for caretakers living on site.

**Residential care home, also defined in ORS as “residential facility”,** means a residential treatment or training home, a residential facility or an adult foster home that provides residential care alone or in conjunction with treatment, training or both for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. **Similar to ORS definition**

**Review Authority** means the ~~Community Development~~ Services Director, Planning Commission, Hearings Officer, or City Council of the City of Bend.

**Right-of-way** means land that is owned by the public for transportation and utility facilities.

**Riparian area** means an area of land where annual and intermittent water, a high water table and wet soils influence vegetation and microclimate.

**Riparian corridor** means the area within and adjacent to the Deschutes River and Tumalo Creek that includes water areas, fish and wildlife habitat, wetlands, and riparian vegetation and other State Planning Goal 5 resources to be conserved and protected.

**Roadway** means that portion of a street or road developed for vehicular traffic.

**Roof pitch** means the slope of a roof, usually described as a ratio (e.g., one foot of rise per two feet of horizontal distance).

## **S**

**Sale/lease** means the disposition or transfer of land in a land division or an interest or estate therein, by a developer or their agents. Includes the offering of land as a prize or gift when a monetary charge or consideration for whatever purpose is required by the developer, or their agents.

**School** means a building where individuals gather to receive educational instruction, either public or private.

**Sensitive lands** means wetlands, significant trees, steep slopes, floodplains and other natural resource areas designated for protection or conservation by the Bend Area General Plan or the State of Oregon.

**Setback** means the minimum allowable horizontal distance from a given point or line of reference, such as a property line, to the nearest vertical wall or other element of a building or structure as defined herein. Note: Where a public access easement abuts the street in lieu of right-of-way, the interior easement line shall become an assumed property boundary for the purposes of setbacks.

**Shade** means a shadow, except a shadow caused by a narrow object, including but not limited to a utility pole, an antenna, a wire, or flag pole.

**Shaded, substantially** means less than 80 percent of the available solar insolation is available during winter solar heating hours to either the south roof and/or wall of an existing or potential structure.

**Shared driveway** means when land uses on two or more lots or parcels share one driveway for ingress and egress.

**Shared parking** means required parking facilities for two or more uses, structures, or parcels of land, which is satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that their needs for parking facilities do not materially overlap (e.g., daytime versus nighttime primary uses). See BDC Chapter 3.3.

**Shopping street** means a public or private street or drive designed with the elements of a pedestrian-oriented public street: such as buildings with close orientation to the street, on-street parking, wide sidewalks, street trees, and pedestrian-scale lighting. See BDC Chapter 2.2, Commercial Districts (CBD, CC, CL, CG).

**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 30 consecutive days. Short-term rentals also include 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.

**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.

**Sidewalk** means a paved space usually within the street right-of-way designed and approved by the City, and designated for the movement of pedestrians, and meeting the requirements of the Federal Americans with Disabilities Act.

**Significant trees/significant vegetation** means individual trees with a specific trunk diameter (as indicated below) as measured four feet above the ground (known as DBH, for “diameter at breast height”).

1. Deciduous trees: six inches or greater.
2. Coniferous trees: 10 inches or greater.

**Site** means a property (or group of adjacent parcels or lots under the same ownership) that is subject to a permit application under this code.

**Solar access** means protection from shade for a specific area during specific hours and dates, but not including protection from shade cast by exempt vegetation.

**Solar access permit** means the instrument issued by the City which limits the size of nonexempt vegetation on certain lots in the vicinity of a recorded solar collector.

**Solar heating hours** means the hours and dates during which solar access is provided.

**Solar height restriction** means the allowable height of buildings, structures, and nonexempt vegetation on a property burdened by the solar access of another property.

~~**Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The **actual start** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the **actual start of construction** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

***Not used in the BDC.***

~~**Steep slopes** means slopes greater than 20 percent.~~

**Slope.** The amount of deviation of a surface from the horizontal, usually expressed as a percentage or by degrees.

**Stormwater facility** means a detention and/or retention pond, swale, drywell, or other surface water feature that provides storage during high-rainfall events and/or water quality treatment.

**Street or road** means a public or private thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords access to two or more parcels of abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare.

The eight types of streets are:

1. **Arterial** means a restricted access street of substantial continuity which is primarily a traffic artery for intercommunication among large areas, and so designated by the City of Bend. These include principal, major and minor arterials.
2. **Collector** means a restricted access street supplementary to the arterial street system used or intended to be used principally for the movement of traffic, bicyclists, and pedestrians between arterials and local streets. These include major collectors.
3. **Cul-de-sac** means a short street having one end open to traffic and terminated by a circular vehicle turnaround. Cul-de-sacs shall include partial cul-de-sac bulbs or “eyebrows” designed and developed according to City standards.
4. **Expressway** means a major ~~divided~~ highway with limited access that is designed for fast travel.
5. **Frontage road** means a minor street parallel and adjacent to a major arterial providing access to abutting properties, but protected from through traffic.
6. **Local** means a street intended primarily for access to abutting properties.
7. ~~**T-courts** means a private street less than or equal to 150 feet in length that has one end open to traffic and is terminated by a rectangular or “hammerhead” vehicle turnaround.~~ **Mid-block lane** means a narrow, limited use roadway facility usually used to access a limited number of dwelling units, similar to an alley in design. See [BDC 4.5.200](#). *Relocated Mid-block lane and T-courts to put them in alphabetical order.*
8. ~~**Mid-block lane** means a narrow, limited use roadway facility usually used to access a limited number of dwelling units, similar to an alley in design. See [BDC 4.5.200](#).~~ **T-courts** means a private street less than or equal to 150 feet in length that has one end open to traffic and is terminated by a rectangular or “hammerhead” vehicle turnaround. *Relocated Mid-block lane and T-courts to put them in alphabetical order.*

**Street access** means safe and efficient passage for pedestrians and vehicles to circulate from private and public property through a connected street system. See [BDC 3.1.400](#).

**Street connectivity** means street or road connections or intersection within a specific geographic area generally achieved through the use of a grid street pattern.

**Street furniture/furnishings** means benches, lighting, bicycle racks, drinking fountains, mail boxes, kiosks, and similar pedestrian amenities located within a street right-of-way.

**Street grade** means (1) a reference to the slope of a street, or (2) the reference point for measuring the height of a building in the CBD Zone.

**Street stub** means a temporary street ending; i.e., where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end, dead-end street or cul-de-sac.

**Street tree** means a tree planted in the right-of-way adjacent to the street.

**Structure** means anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools, decks, and covered patios, but excepting ground-level outdoor areas such as paved areas, driveways or walks. “Building” and “structure” are not interchangeable terms. A building is one type of structure that shelters humans, animals and the like.

**Subdivision** means to divide land into four or more lots within a single calendar year. ~~(ORS 92.010(13).)~~

**Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:



1. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Sun chart** means a photograph or photographs, taken in accordance with the guidelines of the ~~Community~~ Development Services Director, which plots the position of the sun during each hour of the day and each month of the year relative to a protected area. The sun chart shall contain at a minimum:

1. Solar altitude in 10-degree increments;
2. Solar azimuth measured from true south in 15-degree increments;
3. If the solar collector is more than 20 feet wide, the southern skyline as seen from the two end points and from the center point of the lower edge of the protected area; or
4. A clear delineation of the existing objects which cast shadows on the protected area, including hills, structures, and deciduous and evergreen vegetation.

**Supplementation of application** means an applicant's submittal of additional evidence or argument that merely clarifies or supports a pending application, but which does not constitute a "modification of application" as defined herein.

**Swale** means a type of stormwater facility. A broad, shallow depression used to provide a required volume of on-site storage for stormwater, typically planted with plants that filter and process contaminants.

## **I**

**Tasting room** means a retail use or an ancillary use to a food and beverage processing and packaging use, that is associated with a brewery, winery, cidery or distillery, where guests sample & purchase products. No food for sale or full-size beverages are served on-site.

**Temporary housing** means a permanent facility providing temporary shelter for individuals and/or families who are homeless or in transition. Services may be provided including, but not limited to, accommodations, meals, toilet/bathing facilities, clothing/laundry, case management services and information on or referral to other community resources.

**Tentative plan** means a map setting forth the proposed plan of a partition or subdivision in conformance with the provisions of this code and subject to review and modification; not a plat as defined herein.

**Timeshare unit** means (1) a dwelling unit, mobile home, lot or parcel whose ownership is divided into periods of time under any arrangement, plan, scheme, or device, whether by membership, agreement, share, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or otherwise, where a purchaser, in exchange for consideration, receives a right to use the dwelling unit, lot, or parcel for a period of time less than a full year during any given year, but not necessarily for consecutive years, which extends for a period of more than three years; or (2) a dwelling unit, mobile home, lot or parcel created into interests sold under an agreement to be subsequently divided or created into interests for the purpose of sale or lease or other similar arrangement as set out in subsection (1) of this definition, whether immediate or future, into 11 or more undivided interests or 11 or more other interests, or any other similar arrangement of interests in the dwelling unit, lot or parcel.

**Topographical constraint** means where existing slopes, wetlands, water bodies, rock outcroppings, or other physical features of a site, which are not caused or created by the applicant or his or her agents, prevent conformance with a code standard.

**Tract, private/public** means a piece of land in an approved partition or subdivision that is set aside ~~in a separate area~~ from the created lots or parcels for dedication to the public, a homeowners association, or other entity (e.g., for open space, future development, recreation facilities, sensitive lands, private streets, ~~etc.~~ or other similar purposes).

**Traffic calming** means a design or set of street design features, such as traffic circles, chicanes, curb bulb-outs, chokers, or neck-downs, used to slow traffic, reduce pedestrian crossing distances, define areas of pedestrian travel, and discourage nonlocal traffic.

**Traffic control** means any sign, signal, roundabout, median or other device placed, operated or erected under authority of a road authority, as defined by State law, for the purpose of guiding, directing, warning or regulating vehicular or pedestrian traffic.

**Trails.** See "Access corridor."

**Transit facility** means public or private improvements at selected points along existing or future transit routes for passenger pick-up, drop off and waiting. Improvements may include pullouts, shelters, waiting areas, benches, information and directional signs or structures, and lighting.

**Transit-oriented development** means development at or within one-fourth mile walking distance of a transit center, transit stop, or station. Development or design of the site places a priority on facilitating safe and convenient pedestrian circulation and access, reducing automobile reliance and parking needs, and minimizing conflicts between vehicles and pedestrians.

**Transit route** means an existing or future route for public intra-city or intra-urban transit service in the local or regional transportation plan, not including temporary routes or routes which are planned to be replaced.

**Transmission facility** means the conductors, lines, poles, towers, structures, corridors, and construction staging and assembly areas necessary for or associated with the transmission of electricity from a generating facility for distribution.

**Transportation facilities and infrastructure** means the physical improvements used to move people and goods from one place to another (i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc.).

**Transportation mode** means the method of moving people or goods (e.g., automobile, bus, walking, bicycling, etc.)

**Transportation System Plan (TSP)** means an overall plan for all transportation modes in the urban area as required by the Transportation Planning Rule. Major policy issues in the TSP are discussed in the Transportation Systems chapter in the General Plan. ***Definition from General Plan and TSP.***

**Travel lane** means one or more lanes or a street or roadway designed and designated for the movement of motor vehicles, whether or not delineated with striping on the pavement.

**Travel trailer** means either a vacation or a self-propelled vehicle or structure equipped with wheels for street or highway use, intended for human occupancy, and being used for vacation and recreational purposes, but not for residential purposes, and equipped with plumbing, sink or toilets. ~~(ORS 446.003(5) and (24).)~~

**Travel trailer/recreational vehicle park or campground** means a lot or parcel upon which two or more travel trailers, recreational vehicles, motor homes, tent trailers, tent sites, campers or similar vehicles or devices are located or permitted on an outright basis (except as used for storage purposes, or otherwise approved as a temporary use), regardless of whether a fee is charged for such accommodations. ~~(ORS 446.310(a).)~~

**Triplex** means a one building with three ~~attached housing~~ dwelling units on one lot or parcel. For permitting purposes, units may be attached or detached.

## U

**Unbuildable area** means an area in which a structure could not be built as a permitted or conditional use under the provisions of this code.

**Use** means the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

**Utilities** mean water and sewer facilities, electric, telephone, natural gas, and other services providing for energy or communication needs.

## V

**Variance** means an administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this code. See BDC Chapter 5.1, Variances.

**Vertical clearance** means the distance between the lowest point of an overhanging structure and the pavement of a driveway or street.

~~**Veterinary animal hospital** means a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.~~ **Defined as Veterinary Clinic.**

**Veterinary Clinic:** A facility rendering surgical and medical treatment to animals, which may include overnight accommodations for purposes of recovery or boarding. For the purpose of these regulations, small animals shall be deemed to be ordinary household pets, excluding horses, donkeys, or other such animals not normally housed or cared for entirely within the confines of a residence.

## W

**Water-dependent** means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

**Water-related** means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in public loss of quality in the goods or services offered. Except as

necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoils and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.

## **Y**

**Yard** means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this code. In determining the required yard for properties abutting the Deschutes River, the edge of the river shall be considered the property line. The edge of the river shall be determined by the ordinary high water mark in conformance with BDC 2.7.600, Waterway Overlay Zone (WOZ).

**Yard, front** means an open space extending the full width of the lot between the front facade of a building or the front of an unenclosed porch and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

**Yard, rear** means an open space extending the full width of the lot between the rear facade of a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

**Yard, side** means an open space extending from the front yard to the rear yard between the side facade of a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

## **Z**

**Zero lot line subdivision or partition** means a type of residential subdivision or partition ~~utilizing zero lot lines with no setback~~ between dwelling units and providing for individual ownership of each lot.

**Zoning district** means an area defined by the City's Zoning Map.

~~**120-day**, as used in this code, shall have the meaning found in ORS 227.178(2).~~

**Moved Table 1.2.100 to Chapter 4.1.100 Purpose**

**Table 1.2.100 Summary of Development Application Types**

<b>Development Application</b>	<b>Type I*</b>	<b>Type II*</b>	<b>Type III</b>	<b>Type IV</b>
Condo Plat/Condo Change of Use	X	-	-	-
Design Review CB Zone – Minor Facade Change	X	-	-	-
Design Review – Minor Alteration/ <u>Expansion</u>	X	-	-	-
Final Plat – Partition or Subdivision	X	-	-	-
Home Occupation Type I (Minor)	X	-	-	-
Lot of Record Verification	X	-	-	-
Minimum Development Standards	X	-	-	-
Property Line Adjustment	X	-	-	-
Site Plan – Mini (ADU, Duplex, Second Dwelling)	X	-	-	-
Site Plan Minor Alteration/ <u>Expansion</u>	X	-	-	-
Temporary Use	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/ <u>Major Alteration/Expansion</u>	-	X	-	-
Home Occupation Type II (Major)	-	X	-	-

**Table 1.2.100 Summary of Development Application Types**

<b>Development Application</b>	<b>Type I*</b>	<b>Type II*</b>	<b>Type III</b>	<b>Type IV</b>
Partition (Tentative Plan)	-	X	-	-
Planned Unit Development (PUD) Modification	-	X	-	-
Residential Compatibility Exception, Administrative	-	X	-	-
Site Plan Major Alteration/ <u>Expansion</u>	-	X	-	-
Site Plan New Development	-	X	-	-
Solar Access Permit	-	X	-	-
Subdivision (Tentative Plan)	-	X	-	-
Temporary Permit	-	X	-	-
Triplex Review	-	X	-	-
Variance (Class A, B, C)	-	X	-	-
Waiver of Standards	-	X	-	-
Wireless and Broadcast Communication Facility Site Plan♦	X	X	-	-
Declaratory Ruling — Hearings Officer or Planning Commission	-	-	X	-
Design Review CB Zone — Track 2	-	-	X	-
Deschutes River Design Review — Planning Commission Hearing	-	-	X	-
Master Development Plan or Special Planned District	-	-	X	-
MR Zone Review — Facilities or Master	-	-	X	-
Residential Compatibility Exception, Hearings Officer	-	-	X	-
River Setback Exception	-	-	X	-
Zone Change	-	-	X	-

**Table 1.2.100 Summary of Development Application Types**

<b>Development Application</b>	<b>Type I*</b>	<b>Type II*</b>	<b>Type III</b>	<b>Type IV</b>
General Plan Map Amendment	-	-	-	X
General Plan Text Amendment	-	-	-	X
Refinement Plan/Development Agreement per ORS Chapter 94	-	-	-	X
Urban Growth Boundary (UGB) Expansion	-	-	-	X

\*Unless elevated by the Community Development Services Director as authorized in BDC Chapter 4.1.

◇ See BDC Chapter 3.6.500, Short Term Rentals

◆ See BDC Chapter 3.7, Wireless and Broadcast Communication Facilities—Standards and Process.



## EXHIBIT B

### Development Code Update City Council

Hearing Date: September 2, 2015

Prepared by:  
City of Bend Planning Division

Note:

Text in underlined typeface is proposed to be added

Text in ~~striketrough~~ 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***

## Chapter 1.3 ENFORCEMENT

Sections:

**1.3.100 Provisions of This Code Declared to Be Minimum Requirements.**

**1.3.200 Violation of Code Prohibited.**

**1.3.300 ~~Penalty.~~ Violation of this Code as Civil Infraction.**

### **1.3.100 Provisions of This Code Declared to Be Minimum Requirements.**

A. Minimum Requirements Intended. ~~In their interpretation and application, the provisions of this code are shall be held to be~~ minimum requirements, adopted for the protection of the public health, safety, and general welfare.

B. Most Restrictive Requirements Apply. When the requirements of this code vary from or conflict with ~~other provisions of this code or with~~ other applicable standards, the most restrictive or the highest standard shall govern. ~~[Ord. NS-2122, 2009; Ord. NS-2016, 2006].~~ When requirements of this code vary from or conflict with other provisions of this code, the more specific provision shall prevail over a more general provision.

### **1.3.200 Violation of Code Prohibited.**

~~No person shall erect, construction, alteration, maintenance or use of any building or structure or land division or shall use, divide or transfer any land in violation of this code is prohibited or any amendment thereto.~~

~~Except to the extent that this code provides decision-making authority to others, City planning staff shall be the duty of the Community Development Director to enforce shall administer this code and shall apply the standards and criteria in this code to all applications for approval required or authorized by this code. No building permits may be issued for any structure that lacks an approval required by this code. All departments, officials and public employees of the City of Bend, vested with the duty or authority to issue permits, shall conform to the provisions of this code and shall issue no permit, certificate or license for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this code. Any permit, certificate or license issued in conflict with the provisions of this code, intentionally or otherwise, shall be void. Any use of land in violation of this code is declared to be a nuisance. [Ord. NS-2016, 2006]~~

**1.3.300 Violation of this Code As Civil Infraction Penalty.**

A. ~~Penalties for Violation. A Violating any of the provisions of this code is a Class A Civil Infraction, punishable upon conviction by:~~ The City may seek injunctive relief to compel compliance and restoration of pre-violation status quo as part of the civil infraction proceedings.

- ~~1. A fine of not more than \$500.00 for each day of violation where the offense is a continuing offense; or If a violation is ongoing, each day that a violation remains is a separate violation.~~
- ~~2. A fine of not more than \$500.00 where the offense is not a continuing offense, except in the instance where significant trees as defined by this code have been removed the following penalties shall apply based on the size of the tree(s) removed:~~ The civil penalty for removal of a significant tree is shown in Table 1.3.1

Table 1.3.1

<b>Tree Size</b>	<b><u>Bond Amount</u>Civil <u>Penalty</u></b>
4 – 6 inches DBH	\$1,000
6 – 10 inches DBH	\$1,500
10 – 16 inches DBH	\$3,000
Greater than 16 inches DBH	\$5,000

B. Injunctive Relief and Abatement.

1. ~~The civil infraction process and civil penalties. The foregoing sanctions are in addition to any legal or equitable remedy available to the City.~~ shall not be exclusive, and where the public health, safety, morals, or general welfare will be better served thereby, the Community Development Director may institute such proceedings for injunctive relief against a continuing violation as may be authorized by the statutes of the State of Oregon, and/or institute any other legal remedy.
2. ~~In the discretion of the Community Development Director, a violation may be abated as a nuisance as provided in the Bend Code or other applicable provisions of law.~~

C. Mitigation for the Removal of Vegetation. ~~In addition to the enforcement and penalty provisions above,~~ ~~the~~ Review Authority may require the replacement of vegetation removed in violation of the provisions of this code or in violation of a land use approval. The City may require a greater than one to one replacement number of trees or shrubs than was removed in order to take into account total vegetation volume, but may also accept a lesser amount of vegetation replacement based on a fire mitigation plan submitted by a qualified professional and approved by the City. The amount of replacement trees, shrubs, and ground cover shall be determined by the volume of removed vegetation. ~~The City may require the~~ ~~property owner to~~ shall prepare and comply with ~~enter into a mitigation agreement plan approved by the~~ City. The mitigation plan shall include:

1. ~~A mitigation plan providing for the planting and maintenance of the replacement vegetation, with .~~ ~~The plan shall make provisions for the replacement of plants that die within three years of planting.~~ The mitigation plan is subject to City approval.
2. ~~Failure to enter into a mitigation agreement plan as required by this section or failure to comply with any condition of that plan shall be a violation subject to the penalties described in this section. Such failure shall be a separate infraction each day the failure to comply continues. In addition,~~ ~~the~~ City may refuse to accept any development permit application ~~for~~ for a property for which a mitigation plan is required and the subject property or stop work on any development approved for the subject property until an acceptable mitigation plan has not been executed or complied with.
3. ~~In addition to monetary penalties, the City may seek injunctive relief to require the property owner or other responsible parties to restore the property to the conditions prior to the violation. Injunctive relief may include imposition of a mitigation plan.~~

D. Evidence. ~~In any prosecution for causing or maintaining any condition or use of, or activity on, or constructing, moving or maintaining any structure on, any premises, In a legal proceeding for non-compliance with this code, t~~the owner or lessee at the time of the violation, ~~or continuance thereof,~~ shall be presumed to be responsible for the violation. ~~the person who constructed, moved, caused or maintained the unlawful activity, use, condition or structure.~~ This presumption may be overcome by a preponderance of the evidence shall be showing that ~~refutable and either the City or the defendant in such prosecution shall have the right to show that the offense~~ the violation was committed by some person other than, ~~or in addition to, the~~ an owner or lessee and/or possessor and that the owner and/or possessor was not able to control or prevent the violation. Persons who are not owners and/or possessors are responsible for the violation if their action or failure to act causes the violation. ~~or other persons in possession or control of the premises; but this shall not be construed as relieving a person in possession and control of property from any duty imposed upon him by this code. For the purposes hereof, T~~the person responsible for property tax payment to whom the premises are taxed according to the records of the Deschutes County Assessor shall be prima facie the person in ~~is~~ considered the owner. ~~possession or control of the premises.~~ Where commercial premises have a sign identifying the business on the property, that business is rebuttably presumed to be responsible for violation on the premises. Agents, managers or employees are also responsible for their acts or omissions that constitute violations. ~~Where premises on which the violation is committed are commercial or industrial premises on which a sign is situated identifying the commercial or industrial activity conducted thereon, the same shall constitute prima facie evidence that the person whose name is thus displayed is in possession or control of the premises as owner or lessee, but this shall not be construed to relieve from responsibility any agent, manager, employee or other person who actually committed the violation.~~ [Ord. NS-2016, 2006]



**Exhibit C**

**Development Code Update  
City Council**

**Hearing Date September 2, 2015**

Prepared by:  
City of Bend Planning Division

Repealing Chapter 4.2 Site Plan Review and Design Review

## Chapter 4.2 SITE PLAN REVIEW AND DESIGN REVIEW

Sections:

~~4.2.100 Purpose.~~

~~4.2.200 Site Plan Review.~~

~~4.2.300 Design Review.~~

~~4.2.400 Minimum Development Standards.~~

~~4.2.500 Bonding and Assurances for All Developments.~~

~~4.2.600 Development in Accordance with Permit Approval.~~

### ~~4.2.100 Purpose.~~

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The purpose of this chapter is to:

- ~~• Provide rules, regulations and standards for efficient and effective administration of Site Plan Review;~~
- ~~• Carry out the development pattern and plan of the City according to the General Plan policies;~~
- ~~• Promote the public health, safety and general welfare;~~
- ~~• Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision of public facilities and services;~~
- ~~• Encourage the conservation of energy resources; and~~
- ~~• Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.~~

### ~~4.2.200 Site Plan Review.~~

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~~A. Applicability. Except as exempted in subsection (B) of this section, Site Plan Review shall apply to all new uses, new buildings, new outdoor storage or sales areas and new parking lots. Site Plan Review shall also be required for expansions of existing buildings or expansions of outdoor uses that exceed 50 percent of the gross area of the existing buildings or existing outdoor use or are 5,000 square feet or more in size. (For minor additions or expansions and/or changes of use, or for single family and duplex dwellings, see BDC 4.2.400, Minimum Development Standards.)~~

~~B.—Exemptions. Single-family detached dwellings and duplexes on their own lots or parcels in the Urban Area Reserve (UAR), Suburban Low Density Residential (SR 2 1/2), Residential Urban Low Density (RL), and Residential Urban Standard Density (RS) Zoning Districts are exempt from Site Plan Review. Single-family and duplex dwellings on their own lot or parcel in Residential Urban Medium Density (RM) or Residential Urban High Density (RH) Zoning Districts are exempt from Site Plan Review if the minimum density requirements of the district are met.~~

~~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.—General Submission Requirements. The applicant shall submit a Site Plan application in conformance with the provisions of BDC Chapter 4.1, Development Review and Procedures.~~

~~E.—Information Requirements. An application for Site Plan Review shall include the following information, as deemed applicable by the Community Development Director based on the size, scale and complexity of the development.~~

~~1.—Existing Site Conditions Map. At a minimum the existing site conditions map shall contain the following:~~

~~a.—The applicant's entire property and the surrounding property to a distance of 150 feet from the subject property. Existing aerial photos may be used. The property boundaries, dimensions and gross area shall be identified;~~

~~b.—Topographic contour lines shown at one-foot intervals for slopes of 10 percent or less. For slopes greater than 10 percent, contour lines shall be shown at two-foot intervals. Slopes greater than 25 percent shall be identified;~~

~~c.—The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site for a distance of 150 feet. Existing aerial photos may be used;~~

~~d.—Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards;~~



e.—Resource areas, including marsh and wetland areas, streams, surface mines, and wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;

f.—Features, including existing structures, pavement, large rock outcroppings, drainage ways, canals and ditches both on the site and adjoining the site for a distance of 150 feet. Existing aerial photos may be used;

g.—The location, size and species of trees and other vegetation having a caliper (diameter) of six inches or greater at four feet above grade;

h.—Locally or federally designated historic and cultural resources on the site and the adjacent parcels;

i.—North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed;

j.—Name, address, email address and telephone number of project designer, engineer, surveyor, and/or planner, if applicable.

2.—Proposed Site Plan. The site plan shall contain the following information (as applicable):

a.—The proposed development site, including boundaries, dimensions, and gross area;

b.—Existing site features, including trees, identified on the site analysis map, if any, which are proposed to be retained or modified by the proposed development;

c.—The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site and adjacent to the site for a distance of 150 feet. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;

d.—The location and dimensions of all site circulation for vehicles, pedestrians and bicycles including entrances and exits to the site, loading and service areas;

e.—The location and dimensions of all vehicle parking areas (show striping for parking stalls and wheel stops (if applicable) and bicycle facilities;

f. ~~The location, type and height of exterior lighting fixtures;~~

g. ~~Locations of bus stops and other public or private transportation facilities.~~

3. ~~Deed Restrictions. The applicant shall submit copies of all existing and proposed restrictions or covenants.~~

4. ~~Architectural Drawings. The Community Development Director may request architectural drawings showing one or all of the following:~~

a. ~~Building elevations (as determined by the Community Development Director) with building height and width dimensions;~~

b. ~~Floor plans;~~

c. ~~Building materials, colors and type;~~

d. ~~The name, address and phone number of the architect or designer.~~

5. ~~Preliminary Grading and Drainage Plan. A preliminary grading and drainage plan prepared by a registered professional engineer or registered landscape architect shall be required in conformance with BC Title 16, Grading, Excavation, and Stormwater Management. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.~~

6. ~~Surface Water Detention and Treatment Plan. A plan prepared by a registered professional engineer or registered landscape architect showing all drainage retention areas, catch basins, and storm piping prepared in accordance with BDC 3.4.500, Storm Drainage Improvements, shall be required.~~

7. ~~Landscape Plan. A landscape plan shall be required, and at the direction of the Community Development Director shall show the following:~~

a. ~~A planting schedule containing the location, size, and species of the existing and proposed plant materials (at time of planting);~~

b. ~~Existing and proposed building and pavement outlines;~~

~~c.—Irrigation plans, written soil specifications at time of planting, and anticipated plant installation timeline;~~

~~d.—The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;~~

~~e.—Existing and proposed abutting street right-of-way landscaping;~~

~~f.—Other information as deemed appropriate by the Community Development Director. An arborist's report may be required for sites with mature trees that are protected under BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls.~~

~~8.—Sign Drawings. Depictions of proposed signs shall be in conformance with BC Chapter 9.50, Signs. A separate sign permit will be required for all signs.~~

~~9.—Narrative. Letter or narrative report documenting compliance with the applicable approval criteria contained in subsection (F) of this section, Site Plan Approval Criteria.~~

~~10.—Traffic Impact Study. A Traffic Impact Analysis shall be submitted if required by BDC Chapter 4.7.~~

~~11.—Water and Sewer Capacity Analyses. These analyses are provided by the City upon request and payment of fee, if required.~~

~~12.—Additional Information. The Community Development Director may require, at the applicant's expense, studies, reports or exhibits prepared by qualified professionals to address specific site features or concerns.~~

~~F.—Site Plan Approval Criteria. Prior to issuance of building permits, the City shall approve, approve with conditions or deny the proposed Site Plan application based on the following criteria:~~

~~1.—The proposed land use is a permitted or conditional use in the zoning district;~~

~~2.—The land use, building/yard setback, lot area, lot dimensions, density, lot coverage, building height and other applicable standards of the underlying zoning district are met;~~

~~3.—The applicable standards in BDC Title 3 are met;~~

4. ~~All applicable building and fire code standards are or will be met;~~
5. ~~All required public facilities have adequate capacity, as determined by the City, to serve the proposed use;~~
6. ~~The proposal complies with the standards of the zoning district in which the project is located and the standards of the zoning district that implements the General Plan designation of the subject property.~~

G. ~~Final Site Plan. A Final Site Plan shall be submitted to the Community Development Department. The Final Site Plan shall depict 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.~~

H. ~~Expiration of Approval. In accordance with BDC Chapter 4.1, 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 approval.~~

#### **~~4.2.300 Design Review.~~**

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A. ~~Applicability. This section shall apply within the (CC) Convenience Commercial, (CL) Limited Commercial, (CG) General Commercial, (ME) Mixed Employment, (PF) Public Facilities, and (PO) Professional Office Zones and to all nonindustrial uses within the (IL) Light Industrial and (IG) General Industrial Zones and shall apply to the following building types:~~

1. ~~Multifamily housing;~~
2. ~~Public and institutional buildings, except buildings which are not subject to Site Plan Review; and~~
3. ~~Commercial and mixed-use buildings subject to Site Plan Review as follows:~~
  - a. ~~All new building construction.~~
  - b. ~~Any exterior modifications to existing buildings.~~
  - c. ~~All new parking lots.~~
  - d. ~~All storage and display areas.~~
  - e. ~~All new signage.~~

~~f. All building expansions except as exempted below.~~

~~B. Exemptions. The following activities or structures are not subject to this section:~~

~~1. Maintenance of the exterior of an existing structure such as re-painting, re-roofing or re-siding where similar materials and colors are used or materials and colors are used that comply with the provisions of this code.~~

~~2. Interior remodeling or new tenant improvements.~~

~~3. Reconstruction of buildings subject to Design Review and considered to be nonconforming structures as determined in BDC Chapter 5.2, Nonconforming Uses and Developments.~~

~~4. Building expansions not exceeding 25 percent of the gross square footage of the original building and where the expansion does not exceed 5,000 square feet in area.~~

~~5. Parking lots.~~

~~6. Buildings that are subject to review by the Deschutes County Historical Landmarks Commission because they are listed in the Inventory of Historic Sites in the Bend Area General Plan, Exhibit "A," or are listed in the National Register of Historic Places.~~

~~C. General Submission Requirements. The applicant shall submit an application in conformance with the provisions of BDC Chapter 4.1, Development Review and Procedures.~~

~~D. Design Review Information. Information necessary to assess compliance with this section is contained within the Site Plan Review submittal requirements. When Site Plan Review is not required under BDC 4.2.200, an application for Design Review shall include the following information, as deemed applicable by the Community Development Director based on the size, scale and complexity of the development:~~

~~1. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;~~

~~2. Loading and service areas for waste disposal, loading and delivery;~~

~~3. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;~~

4.— Location, type, and height of outdoor lighting;

5.— Architectural Drawings. The Community Development Director may request architectural drawings showing one or all of the following:

a.— Building elevations (as determined by the Community Development Director) with building height and width dimensions;

b.— Floor plans;

c.— Building materials, colors and type;

d.— The name, address and phone number of the architect or designer.

E.— Design Review Approval Criteria. The Review Authority shall approve, approve with conditions, or deny an application for Design Review based upon all relevant design standards contained in BDC Title 2.

F.— Final Design Plan. A final design plan shall be submitted to the Community Development Department. The final design plan shall depict the proposal as approved and shall incorporate all conditions of approval contained in the decision. No building permits will be issued until the final design plan is approved.

#### **4.2.400 Minimum Development Standards.**

A.— Purpose. Minimum Development Standards (MDS) are intended to streamline development review for minor additions or expansions and/or changes of use, and for single family and duplex dwellings. MDS review ensures compliance with specific appearance, transportation safety and utility standards specified in this code.

B.— Applicability. This section applies to developed properties that do not require Site Plan Review as specified in BDC 4.2.200(A) where there is:

1.— A building expansion of up to 50 percent of the existing building area or up to 5,000 square feet, whichever is less; or

2.— An outdoor use expansion of up to 50 percent of the existing outdoor use area or up to 5,000 square feet of new outdoor use area, whichever is less; or

3.— A change in use of a building or property that increases demand on public facilities and/or requires additional parking spaces; or

~~4.— A proposed permanent or semi-permanent stand-alone small-scale retail use on an existing commercial site (e.g., produce stand); or~~

~~5.— The construction of a single-family or duplex dwelling in the RL, RS or RM district that does not have existing full-utility and street frontage infrastructure.~~

~~C.— Exception. Where the property is currently in compliance, and will remain in compliance, with all standards specified in subsection (E) or (F) of this section, the MDS section shall not apply.~~

~~D.— Review. MDS applications are reviewed under the Type I process, unless the Community Development Director finds that the proposed use should be reviewed under the Type II review process.~~

~~E.— Applicable Commercial, Industrial, Multifamily and Institutional Standards. In addition to the site development standards contained in the applicable zoning district regarding setbacks, building height, lot coverage, etc., MDS applications under this subsection shall only be subject to the following Development Code standards:~~

~~1.— Equipment, outdoor storage, manufacturing and service/delivery areas shall be screened as specified in BDC Chapter 3.2.~~

~~2.— The minimum required number of parking spaces and vehicle circulation areas shall be paved and striped as specified in BDC Chapter 3.3.~~

~~3.— Bicycle parking shall be installed or upgraded to meet the standards specified in BDC Chapter 3.3.~~

~~4.— Access to the public right-of-way shall comply with BDC Chapter 3.1 unless exempted by BDC 5.2.100(E).~~

~~5.— New paved parking areas shall meet the landscaping requirements of BDC Chapter 3.2.~~

~~6.— Existing required landscaped areas impacted by new construction shall be replaced elsewhere on site.~~

~~7.— Sidewalks shall be constructed along the frontage(s) of the site when an existing public sidewalk exists within 300 feet of the site along the same frontage abutting the subject property.~~

~~8.— Public utilities shall be adequate to serve the proposal. Where existing utilities are to be replaced, or new utilities are to be installed, construction shall comply with this code and with the City's Standards and Specifications.~~

~~F.— Applicable Single Family and Duplex Dwelling Standards. In addition to the site development standards contained in the applicable zoning district regarding setbacks, building height, lot coverage, etc., MDS applications under this subsection shall only be subject to the following Development Code standards:~~

~~1.— Where available, public water and sewer mains shall be extended through the length of the property frontage.~~

~~2.— A full street and/or alley improvement shall be constructed along the frontages of the property when an improved street and/or alley has been built to the property line. The Community Development Director may grant a waiver of this requirement under BDC 3.4.150. In such cases, an agreement to not remonstrate against the formation of a local improvement district shall be recorded against the property.~~

~~a.— For properties over one acre in size where future division of the property is allowable, street and/or alley improvements are not required if any portion of the dwelling is located more than 300 feet from an improved street or alley. In such cases, an agreement to not remonstrate against the formation of a local improvement district shall be recorded against the property.~~

~~3.— Sidewalks shall be extended through the site when an existing public sidewalk is within 600 feet along the same street frontage abutting the subject property. The Community Development Director may grant a waiver of this requirement under BDC 3.4.150 if it is determined that there is little likelihood that a functioning network of sidewalks will be installed in the area. In such cases, an agreement to not remonstrate against the formation of a local improvement district shall be recorded against the property.~~

~~4.— Duplexes shall meet the standards of BDC 3.6.200(H).~~

#### **~~4.2.500 Bonding and Assurances for All Developments.~~**

~~A.— Performance Bonds for Public Improvements. On all projects where public improvements are required, the City will 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, 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 be released when the Community Development Director finds the completed project conforms to the approved Site Plan, including all conditions of approval.

C.—Warranty Bond. The developer shall file with the City a warranty bond executed by a surety company, or other financial security acceptable to the Community Development Director, to cover any public improvements constructed as part of the approved development. The warranty period shall be one year beginning on the date of initial acceptance of the public improvements by the City. The bond shall guarantee the workmanship of the public improvements and shall be in the amount of 12 percent of the value of the improvements. The warranty bond shall 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 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.

#### **4.2.600 Development in Accordance with Permit Approval.**

A.—Final Approvals. Development shall not commence until the applicant has received all of the appropriate land use and development approvals including but not limited to: Site Plan Approval, grading permits and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into an agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with BDC 4.2.500, Bonding and Assurances for All Developments.

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.

~~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.~~

~~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;~~

~~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~~

~~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.~~

**Exhibit C**

**Development Code Update  
City Council**

**Hearing Date September 2, 2015**

Prepared by:  
City of Bend Planning Division

Proposed Chapter 4.2  
Minimum Development Standards Review, Site Plan Review and Design Review

**Chapter 4.2**  
**MINIMUM DEVELOPMENT STANDARDS REVIEW,**  
**SITE PLAN REVIEW AND DESIGN REVIEW**

Sections:

**4.2.100 Purpose.**

**4.2.200 Review Processes.**

**4.2.300 Submittal Requirements.**

**4.2.400 Minimum Development Standards Review.**

**4.2.500 Site Plan Review.**

**4.2.600 Design Review.**

**4.2.700 Bonding and Assurances for All Developments.**

**4.2.800 Development in Accordance with Permit Approval.**

**4.2.100 Purpose.**.....

The purpose of Minimum Development Standards Review (MDS) is to:

- Streamline development review for minor additions or expansions and/or changes of use, and applicable single-family detached dwellings, single-family attached townhomes, accessory dwelling units and duplex dwellings.
- Ensure compliance with specific appearance, transportation safety and utility standards specified in this Code.

The purpose of Site Plan Review is to:

- Provide rules, regulations and standards for efficient and effective administration of Site Plan Review;
- Carry out the development pattern and plan of the City according to the Bend Area General Plan policies;
- Promote the public health, safety and general welfare;
- Ensure adequate public facilities and services are available to serve new development;
- Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed human-scaled design.

The purpose of Design Review is to:

- Ensure detailed, human-scale design, while affording flexibility to use a variety of architectural building styles.

#### **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 shall be reviewed following the Type II process.
- B. **Site Plan Review.** Applications that do not meet the applicability of the Minimum Development Standards Review shall 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.

#### **4.2.300 Submittal Requirements**

- A. An application for review under this Chapter shall include the following information, as deemed applicable by the Development Services Director based on the size, scale and complexity of the development.
  - 1. **Existing Site Conditions Map.** At a minimum the existing site conditions map shall contain the following:
    - a. The applicant's entire property and the surrounding property to a distance of 150 feet from the subject property. Existing aerial photos may be used. The property boundaries, dimensions and gross area shall be identified;
    - b. Topographic contour lines shown at one foot intervals for slopes of 10 percent or less. For slopes greater than 10 percent, contour lines shall be shown at two-foot intervals. Slopes greater than 25 percent shall be identified;
    - c. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site for a distance of 150 feet. Existing aerial photos may be used;
    - d. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards;
    - e. Resource areas, including wetlands on the City's Local Wetlands Inventory, streams, surface mines, and wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
    - f. Features, including existing structures, pavement, large rock outcroppings, drainage ways, canals and ditches both on the site and adjoining the site for a distance of 150 feet. Existing aerial photos may be used;

- g. The location, size and species of trees and other vegetation having a caliper (diameter) of six inches or greater at four feet above grade;
  - h. Locally or federally designated historic and cultural resources on the site and the adjacent parcels;
  - i. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed;
  - j. Name, address, email address and telephone number of project designer, engineer, surveyor, and/or planner, if applicable.
2. **Proposed Site Plan.** The site plan shall contain the following information (as applicable):
- a. The proposed development site, including boundaries, dimensions, and gross area;
  - b. Existing site features, including trees, identified on the site analysis map, if any, which are proposed to be retained or modified by the proposed development;
  - c. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site and adjacent to the site for a distance of 150 feet. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
  - d. The location and dimensions of all site circulation for vehicles, pedestrians and bicycles including entrances and exits to the site, loading and service areas;
  - e. The location and dimensions of all vehicle parking areas (show striping for parking stalls and wheel stops (if applicable) and bicycle facilities;
  - f. The location, type and height of exterior lighting fixtures;
  - g. Locations of bus stops and other public or private transportation facilities.
  - h. Loading and service areas for waste disposal, loading and delivery;
  - i. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
3. **Deed Restrictions.** The applicant shall submit copies of all existing and proposed restrictions or covenants.
4. **Architectural Drawings.** The Development Services Director may request architectural drawings showing one or all of the following:
- a. Building elevations with building height and width dimensions;
  - b. Floor plans;
  - c. Building materials, colors and type;
  - d. The name, address and phone number of the architect or designer.
5. **Preliminary Grading and Drainage Plan.** A preliminary grading and drainage plan prepared by a registered professional engineer or registered landscape architect shall be required in conformance with

BC Title 16, Grading, Excavation, and Stormwater Management. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.

6. **Surface Water Detention and Treatment Plan.** A plan prepared by a registered professional engineer or registered landscape architect showing all drainage retention areas, catch basins, and storm piping prepared in accordance with BDC 3.4.500, Storm Drainage Improvements and BC Title 16, Grading, Excavation and Stormwater Management, shall be required.
7. **Landscape Plan.** A landscape plan shall be required, and at the direction of the Development Services Director, shall show the following:
  - a. A planting schedule containing the location, size, and species of the existing and proposed plant materials (at time of planting);
  - b. Existing and proposed building and pavement outlines;
  - c. Irrigation plans, written soil specifications at time of planting, and anticipated plant installation timeline;
  - d. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
  - e. Existing and proposed abutting street right-of-way landscaping;
  - f. Other information as deemed appropriate by the Development Services Director. An arborist's report may be required for sites with mature trees that are protected under BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls.
8. **Sign Drawings.** Depictions of proposed signs shall be in conformance with BC Chapter 9.50, Signs. A separate sign permit will be required for all signs.
9. **Narrative.** Letter or narrative report documenting compliance with the applicable approval criteria contained in subsection (F) of this section, Site Plan Review Approval Criteria.
10. **Traffic Impact Study.** A Traffic Impact Analysis shall be submitted if required by BDC Chapter 4.7, Transportation Analysis.
11. **Water and Sewer Capacity Analyses.** These analyses are provided by the City upon request and payment of fee, if required.
12. **Additional Information.** The Development Services 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.**

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**A. Minimum Development Standards Review for Single-Family Detached Dwellings, Single-Family Attached Townhomes, Accessory Dwelling Units and Duplex Dwellings.**

1. **Applicability.** This section applies to the construction of a new single-family detached dwelling, single-family attached townhome, accessory dwelling unit or duplex dwelling. Dwellings shall also be considered new if new construction is equal to or greater than 50% of the square footage of the existing dwelling (including partial to full demolition replaced with new square footage).
2. **Exemptions.** Single-family detached dwellings that have existing full utility and full street frontage infrastructure are exempt.
3. **Approval Criteria.** The Review Authority shall approve, approve with conditions, or deny an application for Minimum Development Standards Review based upon the criteria listed below.
  - a. The proposed land use is a permitted or conditionally permitted use in the zoning district.
  - b. In addition to the standards below, conditionally permitted uses require approval of a Conditional Use Permit and shall meet the criteria in BDC 4.4.400.
  - c. The following standards are met:
    - i. The land use, building/yard setback, lot area, lot dimensions, density, lot coverage, building height, design review standards and other applicable standards of the underlying zoning district are met.
    - ii. Single-family Attached Townhomes, Accessory Dwelling Units and Duplexes shall comply with the corresponding standards of BDC Chapter 3.6 Special Standards and Regulations for Certain Uses.
    - iii. Where available, public water and sewer mains shall be extended through the length of the property frontage with services provided to the dwelling unit(s).
    - iv. Street and Alley Improvements.
      - (A) Full street and/or alley improvements shall be constructed along the frontages of the property when an improved street and/or alley has been built to the property line. When a street and/or alley has been built to the property line and is not constructed to City standards, an alternative design may be approved by the City Engineer to match existing improvements. The Development Services Director may grant a waiver of this requirement under BDC 3.4.150. In such cases, an agreement to not remonstrate against the formation of a local improvement district shall be recorded against the property; however, a waiver shall be processed as a Type II process.
      - (B) For properties over one acre in size where future division of the property is allowable, street and/or alley improvements are not required if any portion of the dwelling is located more



than 300 feet from an improved street or alley. In such cases, an agreement to not remonstrate against the formation of a local improvement district shall be recorded against the property.

(C) Street improvements are not required for accessory dwelling units.

- v. When an existing public sidewalk exists within 600 feet of the front property line on the same side of the street of any of the frontages, sidewalks shall be constructed along all frontage(s) of the site. A corner lot or parcel has two or more front property lines and frontages.
- vi. Driveways and required parking areas shall be paved with asphalt, concrete or comparable surfacing; 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. Driveway apron design and location shall conform to City of Bend Standards and Specifications and the City's adopted accessibility standards for sidewalks and walkways.

**B. Minimum Development Standards Review for All Other Uses.**

1. **Applicability.** This section applies to development other than those in Subsection A above where there is:
  - a. A building expansion of up to 50 percent of the existing building area or up to 5,000 square feet, whichever is less; and/or
  - b. An outdoor use or parking expansion of up to 50 percent of the existing outdoor use area or parking area or up to 5,000 square feet of new outdoor use area or parking area, whichever is less; and/or
  - c. A change of use of a building or property that increases demand on public facilities and/or requires new additional parking spaces; and/or
  - 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); and/or
  - e. Relocating or reconfiguring an existing driveway that does not increase a nonconformity or create a non-conformity. All other changes shall be processed as a TYPE II unless exempted.
2. **Exemption.**
  - a. Where the property is currently in compliance, and will remain in compliance, with all standards specified in the approval criteria in subsection 3.c below, then Minimum Development Standards Review is not required.
  - b. Closing an existing driveway is exempt from Minimum Development Standards Review.
3. **Approval Criteria.** The Review Authority shall approve, approve with conditions, or deny an application for Minimum Development Standards Review based upon the criteria listed below.
  - a. The proposed land use is a permitted or conditional use in the zoning district.

- b. Conditionally permitted uses require approval of a Conditional Use Permit and shall meet the criteria in BDC 4.4.400.
- c. The following standards are met:
- i. The land use, building/yard setback, lot area, lot dimensions, density, lot coverage, building height, design review standards and other applicable standards of the underlying zoning district are met.
  - ii. Equipment, outdoor storage, manufacturing and service/delivery areas shall be screened as specified in BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls.
  - iii. The minimum required number of parking spaces and vehicle circulation areas shall be paved and striped as specified in BDC Chapter 3.3, Vehicle Parking, Loading and Bicycle Parking.
  - iv. Bicycle parking shall be installed or upgraded to meet the standards specified in BDC Chapter 3.3, Vehicle Parking, Loading and Bicycle Parking.
  - v. Access to the public right-of-way shall comply with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation, unless exempted by BDC 5.2.100(E). If exempted, the access location may remain but the approach and access area within the right-of-way shall be brought up to City standards.
  - vi. New paved parking areas shall meet the landscaping requirements of BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls.
  - vii. Uses shall comply with the corresponding standards of BDC Chapter 3.6 Special Standards & Regulations for Certain Uses
  - viii. Existing required landscaped areas impacted by new construction shall be replaced elsewhere on site.
  - ix. When an existing public sidewalk exists within 600 feet of the front property line on the same side of the street of any of the frontages, sidewalks shall be constructed along all frontage(s) of the site. A corner lot or parcel has two or more front property lines and frontages.
  - x. Public utilities shall be adequate to serve the proposal. Where existing utilities are to be replaced, or new utilities are to be installed, construction shall comply with this code and with the City's Standards and Specifications.

#### 4.2.500 Site Plan Review.

##### A. Applicability.

Site Plan Review shall apply all new uses, new buildings, new outdoor storage or sales areas, new parking lots and other development that exceeds the applicability thresholds in BDC 4.2.400 Minimum Development Standards Review.

**B. Exemption.** Applications processed through Minimum Development Standards Review, or determined to be exempt from Minimum Development Standards Review, are exempt from Site Plan Review.

**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 approve, approve with conditions, or deny the proposed Site Plan Review application based on the following criteria:

1. The proposed land use is a permitted or conditional use in the zoning district;
2. Conditionally permitted uses require approval of a Conditional Use Permit and shall meet the criteria in BDC 4.4.400.
3. The land use, building/yard setback, lot area, lot dimensions, density, lot coverage, building height, design review standards and other applicable standards of the applicable zoning district(s) are met;
4. The proposal complies with the standards of the zoning district that implements the Bend Area General Plan designation of the subject property.
5. The applicable standards in BDC Title 3 are met;
6. All applicable building and fire code standards are or will be met;
7. All required public facilities have adequate capacity, as determined by the City, to serve the proposed use.

**E. Final Site Plan.**

A Final Site Plan shall be submitted to the Community Development Department. The Final Site Plan shall depict 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.

#### **4.2.600 Design Review.**

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**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:

1. Maintenance of the exterior of an existing structure such as re-painting, re-roofing or re-siding where similar materials and colors are used or materials and colors are used that comply with the provisions of this code.
2. Exterior alterations to existing buildings that modify less than 25 percent of the surface area of any exterior wall or roof where there is no net loss of glazing.
3. Interior remodeling or tenant improvements.
4. Buildings that are subject to review by the Bend Landmarks Commission.
5. Single-family detached dwellings.
6. Applications that require Minimum Development Standards Review or Site Plan Review.
7. Properties located in the Central Business District (CB). See BDC 2.2.800 Development and Design Standards for the Central Business Zoning District.
8. Properties located in the Water Overlay Zone (WOZ). See BDC 2.7.650 Deschutes River Corridor Design Review Combing Zone

**C. Design Review Approval Criteria.**

The Review Authority shall approve, approve with conditions, or deny an application for Design Review based upon all relevant design standards contained in BDC Title 2 and applicable sections of BDC Chapter 3.6, Special Standards and Regulations for Certain Uses.

**D. Final Design Plan.**

A final design plan shall be submitted to the Community Development Department. The final design plan shall depict the proposal as approved and shall incorporate all conditions of approval contained in the decision. No building permits will be issued until the final design plan is approved.

**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 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, 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 be released when the Development Services Director finds the completed project conforms to the approved Site Plan, including all conditions of approval.

**C. Warranty Bond.**

The developer shall file with the City a warranty bond executed by a surety company, or other financial security acceptable to the Development Services Director, to cover any public improvements constructed as part of the approved development. The warranty period shall be one year beginning on the date of initial acceptance of the public improvements by the City. The bond shall guarantee the workmanship of the public improvements and shall be in the amount of 12 percent of the value of the improvements. The warranty bond shall 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 Development Services 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.

**4.2.800 Development in Accordance with Permit Approval.**

**A. Final Approvals.**

Development shall not commence until the applicant has received all of the appropriate land use and development approvals including but not limited to: Site Plan Review Approval, Design Review Approval, Minimum Development Standards Review Approval, grading permits and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into an agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with BDC 4.2.500, Bonding and Assurances for All Developments.

**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.
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.
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;
  - 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
  - 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.

## EXHIBIT D

### Development Code Update City Council

Hearing Date: September 2, 2015

Prepared by:  
City of Bend Planning Division

Note:

Text in underlined typeface is proposed to be added

Text in ~~striketrough~~ 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***

## Bend Development Code

\*\*\*

Replace all “Community Development Director” text throughout the BDC with “Development Services Director”.

\*\*\*

## Chapter 2.1 RESIDENTIAL DISTRICTS

\*\*\*

Table 2.1.100

Zone District Characteristics

Zone District	Location and Characteristics
Medium-10 Density Residential (RM-10)	The Medium-10 Density Residential District is intended to provide opportunities for manufactured home park development and a variety of single and multifamily residential housing types. The density range in this district is 6.0 to 10.0 dwelling units per gross acre.
Medium Density Residential (RM)	The Medium Density Residential District is intended to provide primarily for the development of <del>multiple-family</del> <u>multifamily</u> residential housing in areas where sewer and water service are available. The residential density range in the district is 7.3 to 21.7 units per gross acre and shall provide a transitional use area between other Residential Districts and other less restrictive areas.
High Density Residential (RH)	The High Density Residential District is intended to provide land for primarily high density residential <del>multiple-family</del> <u>multifamily residential</u> housing in locations close to shopping and services, transportation and public open space. The density range of the district is 21.7 to 43.0 units per gross acre and shall provide a transitional use area between other Residential Districts and other less restrictive areas.

\*\*\*



**Table 2.1.200 – Permitted Land Uses**

<del>Adult foster homes</del> <u>Residential Care Home</u> (5 or fewer residents)	P	P	P	P	P	P	P
<del>*Churches and p</del> Places of worship	C	C	C	C	C	C	C
<del>*Multifamily residential housing</del> (more than 3 units)	N	N	N	P	P	P	N
Food <u>and Beverage</u> services less than 2,000 square feet (with or without alcohol) excluding automobile-dependent and automobile-oriented, drive-in, and drive-through uses	N	C	C	C	C	P	N
<u>Veterinary services</u> <del>clinic</del>							
• Small animal (only)	N	C	N	N	N	N	N
• Large animal	C	C	N	N	N	N	C

\*\*\*

***Planning Commission recommended deleting entire section 2.1.300.G.***

~~2.1.300.G. Residential Compatibility Standards. The following standards shall apply to new lots or parcels created through either a subdivision and/or partition platted after February 20, 2004:~~

- ~~1. Purpose. The residential compatibility standards in this section are intended to provide added protection to residentially zoned properties and existing neighborhoods from potential impacts sometimes associated with increased residential density development.~~
- ~~2. Applicability. The residential compatibility standards shall apply to all RS zoned development properties that are abutting existing residential property, excluding land in the RM and RH Zoning Districts, which have a lot size of 8,000 square feet or greater.~~
- ~~3. Lot Development Standards.~~
  - ~~a. No more than two new lots, parcels or portions thereof shall adjoin an existing abutting property boundary.~~
  - ~~b. New lots or parcels or portions thereof along an adjoining property boundary where existing properties are 20,000 square feet or greater shall be at least 15,000 square feet in area.~~

- ~~4.3. Building Setbacks. The building setback regulations of the residential compatibility standards shall apply to the side and/or rear setbacks of lots or parcels or portions thereof that abut the existing development in accordance with the following standards:~~
- ~~a. Minimum Rear Yard Setback. The rear yard setback of the subject property shall be the same as the required rear yard setback of the abutting existing property.~~
  - ~~b. Minimum Side Yard Setback. The side yard setback of the subject property shall be the same as the required side yard setback for the abutting existing property.~~
- ~~5. Interior Lot Development. Where the application of the residential compatibility standards reduces the overall density of a development by requiring large lot development along the perimeter, the developer may use lot averaging to achieve the density of the RS Zone. This may result in interior lot sizes that are smaller than 4,000 square feet. In no instance shall the proposed development exceed the maximum density of the underlying zone.~~
- ~~6. Exceptions to the Lot Development Standards.~~
- ~~a. When the adjoining existing property width is greater than 300 feet, the developer may establish a lot pattern along the adjoining property boundary consisting of 15,000-square-foot lots or parcels with a minimum lot depth of 100 feet. In no instance, as described above, shall the new development lots or parcels be required by this section to exceed 15,000 square feet in size. This exception may result in more than two new lots or parcels abutting an existing large property.~~
  - ~~b. Public or private alleys and streets with less than 60-foot right-of-way, and open space tracts less than 30 feet in width shall not be allowed to abut an existing property boundary as a means of circumventing the compatibility standards provided herein.~~
  - ~~c. As an exception to subsection (G)(6)(b) of this section, where public or private street alignments are set or are projected to meet the City's transportation grid system, right-of-way dedication no less than 40 feet in width shall be allowed.~~
  - ~~d. When the adjoining existing residential development is bordered by a common open space tract less than 30 feet in width, the new development shall be subject to the residential compatibility standards in this subsection (G).~~

~~7. Waiver of the Residential Compatibility Standards. The residential compatibility standards established in this subsection (G) shall be waived where one or more of the conditions described in subsections (G)(7)(a) through (f) of this section is shown to exist:~~

~~a. If an RS-zoned development property meets all of the following criteria it may be exempt from the residential compatibility standards.~~

~~i. Existing dwellings on adjacent properties are at least 100 feet from the proposed residential lots or parcels.~~

~~ii. Adjacent properties have potential for redevelopment at median RS density.~~

~~b. When the adjoining existing property is developed with a nonresidential use or the adjoining residential use is a higher density than that of the proposed development. For example: a manufactured home park.~~

~~c. When the adjacent property is vacant. For the purpose of this code section, vacant shall mean a property without a residential dwelling.~~

~~d. When developing property is separated from the adjoining properties by an existing irrigation canal with a minimum right-of-way width of 50 feet.~~

~~e. Where the adjoining property has submitted for tentative plat approval.~~

~~f. When the developer submits a signed and notarized statement from abutting landowners stating that there are no objections to the applicant's request for an exception to the residential compatibility standards.~~

1. **Purpose.** The residential compatibility standards in this section are intended to provide transitional buffers between existing neighborhoods and new lots and new parcels.
2. **Applicability.** The residential compatibility standards apply to new lots and new parcels, unless exempted, that were created by a land division application submitted after INSERT DATE OF ADOPTION that are zoned RS and abut existing residential properties zoned RS, RL or SR 2½ which are 20,000 square feet or greater ("protected property"). For purposes of these standards only, the term "abut" also includes new lots and new parcels that are separated from a protected property by a lot or parcel, right-of-way, easement or open space that is less than the required minimum setback width. In such cases, the required minimum setback is

measured from the protected property line across the intervening lot or parcel, right-of-way, easement or open space area.

3. **Development Standards.** The following development standards shall apply to the new lots and new parcels that abut the protected property described in Subsection 2 above;

**a. Lot Area and Setbacks.**

- i. Minimum lot area of 5,000 square feet to 5,999 square feet with a minimum 35 foot setback abutting the protected property; or,
- ii. Minimum lot area of 6,000 square feet or greater with a minimum 30-foot setback abutting the protected property.

**b. The following are exceptions to the setback requirements:**

- i. Eaves, chimneys, bay windows, canopies, porches, and similar architectural features may encroach into the required setback by no more than two feet.
- ii. Uncovered decks and similar structures not exceeding 18 inches in height may encroach into the required setback by no more than twenty feet.
- iii. Accessory structures that do not require a building permit shall have a minimum setback of five feet.
- iv. Walls and fences may be placed on property lines subject to the standards in BDC 3.2.500, Fences and Walls.
- v. Existing structures located on the new lots or parcels. Additions to existing structures that occur after the new lot or parcel is platted are not exempt.
- vi. Development on the new lots or parcels that occurs at any time after the abutting protected property is divided into one or more lots or parcels of less than 20,000 square feet may use the zoning district setbacks.

4. **Exemptions.** New lots or new parcels are exempt from the Residential Compatibility Standards when one or more of the following conditions exist at the time the land division application is submitted;

- a. The existing primary dwelling unit on the abutting protected property is located more than 100 feet from the protected property line
- b. When the abutting protected property is developed with a nonresidential use or the abutting residential use is a higher density than that of the proposed development. For example: a manufactured home park.
- c. When the abutting protected property is vacant. For the purpose of this code section, vacant shall mean a property without a dwelling unit.
- d. Where the abutting protected property has submitted for land division approval.

- e. When the abutting protected property was created by a land division application submitted after (INSERT DATE OF ADOPTION).

#### **2.1.400 Building Mass and Scale.**

##### A. Floor Area Ratio. Floor area ratio shall apply to the following:

1. All new single-family residential construction including building additions on lots 6,000 square feet or less in size located in a subdivision platted prior to December 1998;
2. Existing homes on lots subject to a partition or lot line adjustment that will result in a lot size of 6,000 square feet or less;
3. The perimeter lots of all new single-family residential subdivisions that are 6,000 square feet or less in size and are adjacent to a subdivision platted prior to December 1998 where the adjoining lot development has a 0.5 FAR or less.

##### B. Building construction may not exceed 0.50 FAR (50 percent) of the total lot area. The areas of a building subject to this development standard shall include the following:

1. Areas within the building footprint considered to be habitable space as defined by the Oregon Structural Specialty Code (OSSC).
2. Garages exceeding 480 square feet in size on lots 4,000 square feet or greater and garages exceeding 325 feet in size for lots less than 4,000 square feet.

##### C. Exceptions to FAR.

1. Attached single-family townhomes.
2. Accessory structures less than 10 feet in height and 200 square feet in area.
3. Unenclosed covered porches and decks are excluded from the calculation.
4. Basement or any area below at-grade living space.
5. Lots and Parcels subject to 2.1.300 G Residential Compatibility Standards.

\*\*\*

**Chapter 2.2**  
**COMMERCIAL ZONING DISTRICTS (CB, CC, CL, CG)**

\*\*\*

**Table 2.2.300 – Permitted and Conditional Uses**

Land Use	CB	*CC	CL	CG
<b>Restaurants/Food <u>and Beverage</u> Services</b>				
– with *drive-through	C	C	P	P
<b>Restaurants/Food <u>and Beverage</u> Services</b>				
– without drive-through	P	P	P	P

\*\*\*

**Chapter 2.3**  
**MIXED-USE ZONING DISTRICTS (ME, MR AND PO)**

\*\*\*

**Table 2.3.200**

**Permitted and Conditional Uses**

Land Use	ME	MR	PO
<b>Restaurants/Food <u>and Beverage</u> Services</b>			
– with drive-through*	P	N	N
– without drive-through	P	P	P

\*\*\*

**Table 2.3.300**

**Mixed-Use District Development Standards**

<b>Standard</b>	<b>ME</b>	<b>MR</b>	<b>PO</b>
Minimum Front Yard Setback	10 feet	None**	10 feet
Maximum Front Yard Setback	10 feet / 80 feet*	None**	10 feet
Rear Yard Setback	None / 10 feet (see standards below)	None**	None / 10 feet (see standards below)
Side Yard Setback	10 feet (see standards below)	None**	None / 10 feet (see standards below)
Lot Coverage	50%	None**	50%
Building Height	45 feet	<u>45 feet, except within 100 feet from the ordinary high water mark of the Deschutes River where the height is 35 feet</u> **	45 feet

\* Subject to special standards in BDC 2.3.400

\*\* Subject to special standards in BDC 2.3.600

\*\*\*

**Article II. NorthWest Crossing Overlay Zone**

**2.7.300 NorthWest Crossing Overlay Zone.**

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**2.7.310 Definitions.**

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B. **Community commercial** means a building not exceeding a total of 2,000 square feet of gross floor area containing a retail, service, office, or food and beverage service establishment, excluding drive-through. A community commercial building is a stand-alone commercial use to serve neighborhood needs. It is not intended to draw large numbers of patrons from outside of the neighborhood. The design of the building shall be residential in scale and character. Off-street parking is limited to a maximum of one space per 500 square feet of building. Off-street parking must be located at the side or rear of the building. The public entrance to the building shall be on the primary street frontage.

\*\*\*

**2.7.320 Districts.**

**Table 2.7.320A**

The Special Land Use Limitations shown in the following table apply in the Commercial/Mixed Employment Overlay District on the following specific lots fronting on Mt. Washington Drive, south of NW Clearwater Drive: District 1, Lot 17; and District 2, Lots 2 and 3.

Land Use	ME
Restaurants/ <u>Food and Beverage</u> Services	
• with drive-through*	C
• without drive-through	P

\*\*\*



\*\*\*

**Table 2.7.1004.A – Permitted and Conditional Uses**

Land Use	Core Campus Area	Campus Village Area
Food and beverage services, personal and professional services, and student shopping opportunities	P*	P

**Chapter 3.2  
LANDSCAPING, STREET TREES, FENCES AND WALLS**

\*\*\*

**3.2.500 Fences and Walls.**

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

A. ~~General Requirements. All fences and walls shall comply with the standards of this section. The City may require installation of walls and/or fences as a condition of development approval.~~ **Relocated to Section 3.2.500.A** Walls built as required landscape buffers shall comply with ~~BDC 3.2.300, New Landscaping.~~

**Relocated to 3.2.500 B.2**

B. ~~Dimensions.~~

1. ~~The maximum allowable height of fences and walls is six feet, as measured from the lowest grade at the base of the wall or fence, with the following exceptions:~~

a. ~~Retaining walls and terraced walls may exceed six feet when permitted as part of a site development approval, or as necessary to construct streets and sidewalks or as approved in Commercial or Industrial Zones.~~ **Revised and relocated to retaining wall section 3.2.500.F.1.a**

b. ~~A building permit and/or approved engineered plans are required for walls exceeding four feet in height, in conformance with the International Building Code (IBC).~~ **Revised and relocated to retaining wall section 3.2.500.B.4**

c. ~~In Residential Districts the height of fences and walls within a front yard setback shall not exceed three and one-half feet (except decorative arbors, gates, and similar features), as measured from the grade closest to the street right-of-way.~~

2. ~~Walls and fences to be built as required buffers shall comply with BDC 3.2.300, New Landscaping.~~

***Relocated to 3.2.500 B.2***

3. ~~Fences and walls shall comply with the clear vision standards of BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.~~ ***Relocated to 3.2.500 B.3***

4. ~~Fences greater than six feet in height constructed in the Residential Districts must be constructed in conformance with the International Building Code (IBC). [Ord. NS-2016, 2006]~~

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 comply with the following requirements:

1. The allowable height shall be measured from the lowest grade at the base of the fence or retaining wall unless stated otherwise.

2. Fences to be built as required buffers shall comply with BDC 3.2.300. ***Relocated from 3.2.500.B.2 and deleted walls***

3. Fences and retaining walls shall comply with the clear vision area standards of BDC 3.1.500. ***Relocated from 3.2.500.B.3***

4. Retaining walls that are over four feet in height measured from the bottom of the footing to the top of the wall or if under four feet in height and support a surcharge may require a building permit and/or approved engineered plans.

5. Fences over seven feet in height require a building permit and/or approved engineered plans.

C. In Residential Districts fences shall not exceed six feet in height. Fences located in the setback area between the front of the house and the adjacent street shall not exceed three and one-half feet in height, except decorative arbors, gates, and similar features which shall not exceed six feet in length.

On corner lots, only one front setback area restriction shall apply relative to the three and one-half feet fence height restriction. The fence along the nonfront area designated side shall not exceed six feet in height from the area subject to the front setback to the rear property line.

Fences shall be comprised of wood, vinyl, metal, masonry or other material that is able to be painted and/or maintained in structurally sound condition.

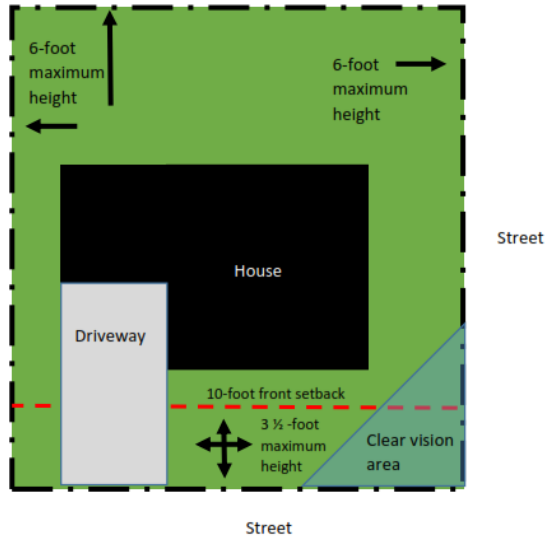


Figure 1 Fence Example

- D. In all other Districts fences shall not exceed eight feet in height.
- E. The following fences shall be exempt from these standards, except for the requirement to comply with the clear vision area standards in BDC Chapter 3.1,500 and any applicable Building Code requirements:
1. Any security fencing around a public or quasi-public utility facility.
  2. Fences related to a park or approved recreational facility or a school athletic use including (but not necessarily limited to) tennis courts, driving ranges and ball fields.
  3. Any fence exempted under (E)(1 and 2) that is in excess of 20 feet in height requires a Conditional Use Permit.
- F. Retaining Walls
1. The maximum allowable height of retaining walls is six feet, as measured from the lowest grade at the base of the retaining wall, with the following exceptions:
    - a. Retaining walls and terraced walls may exceed six feet when permitted as part of a Site Plan Review or land division approval.

**Chapter 3.3**  
**VEHICLE PARKING, LOADING AND BICYCLE PARKING**

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**Table 3.3.300**

**Required Off-Street Vehicle Parking Spaces**

<del>Adult foster care</del> <u>Residential Care Home</u>	2 parking spaces per dwelling unit
<del>Multifamily housing</del> <u>Residential</u>	Studio units or 1-bedroom units – 1 space/unit
	2-bedroom units – 1.5 spaces per unit
	3- or more bedroom units – 2 spaces per unit
	Retirement complexes for seniors 55 years or older – 1 space per unit

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## Chapter 3.4 PUBLIC IMPROVEMENT STANDARDS

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### 3.4.200 Transportation Improvement Standards.

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O. Cul-de-Sacs. A cul-de-sac street shall only be used when the applicant demonstrates that environmental or topographical constraints, existing development patterns, or compliance with other standards in this code precludes street extension and through circulation.

1. All cul-de-sacs shall terminate with a circular turnaround. Circular turnarounds shall have a curb radius of no less than 45 feet. Turnarounds may be larger when they contain a landscaped island or parking bay in their center. When an island or parking bay is provided, there shall be a fire apparatus ~~lane~~ access road of 20 feet in width.

\*\*\*

Y. Street Light Standards. Street lights shall be installed in accordance with City of Bend Standards and Specifications. ~~Where a private street intersects a public street, a street light shall be installed.~~

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## Chapter 3.6

### SPECIAL STANDARDS AND REGULATIONS FOR CERTAIN USES

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#### 3.6.200 Residential Uses.

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***Deleted “cottage” in the following section to be consistent with the recently adopted “cottage” definition***

B. Accessory Dwelling (Attached, ~~Separate Cottage~~, Detached or Above Detached Garage). An accessory dwelling is a small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached unit cottage, a unit attached to a garage, or within a portion of an existing house. The housing density standard does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size, scale and number of accessory dwellings on individual lots, so as to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards in addition to the standards of underlying zone:

1. Accessory dwellings located in the SR 2 1/2, RL and RS Zones on lots created prior to December 1998 shall require approval through a Conditional Use Permit.
2. International Residential Code (IRC). The structure complies with the International Residential Code.
3. Number of Units. A maximum of one accessory dwelling unit is allowed per lot.
4. Floor Area. The maximum floor area of the accessory dwelling shall not exceed 600 square feet or 40 percent of the living space of the primary unit, whichever is smaller. All structures on the lot including the main house, garage, etc., must comply with BDC 2.1.400 regarding floor area ratio.
5. Building Height. The building height of detached accessory dwellings (~~i.e., separate cottages and dwellings over detached garages~~) shall not exceed 25 feet, and in no instance shall the accessory unit be taller than the primary structure. ~~For the purpose of this code, an attached accessory dwelling shares a common wall of a living space.~~
6. Buffering. Where an accessory dwelling unit faces the living space of a dwelling on an adjoining lot, a visual buffer shall be provided using window design, a sight-obscuring fence and/or vegetation.

7. Parking. One parking space shall be provided on site for the accessory dwelling in addition to the parking required for the main dwelling.
8. Design Review. An accessory dwelling is subject to the standards in BDC 2.1.900, Architectural Design Standards, to provide compatibility and protect the architectural character of older neighborhoods.

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H. Duplex and Triplex Development. Duplex and triplex development shall comply with the following standards. The standards are intended to control development scale, and minimize impacts associated with design compatibility.

1. The side ~~yard~~ setbacks shall be as required in BDC 2.1.300, Building Setbacks, for the appropriate zoning district.
2. Front and rear ~~yard~~ setbacks shall be as required in BDC 2.1.300, Building Setbacks, for the appropriate zoning district.
3. There shall be a minimum of 15 percent of the site landscaped in conformance with BDC Chapter 3.2. Existing natural landscaping can count as part of the landscape requirement if protected and preserved during construction.
4. Street trees shall be planted in conformance with BDC 3.2.400.
5. The applicant shall provide ~~lawn~~ usable open space or an exterior patio or deck consistent with the following:

<u>Dwelling Units</u>	<u>Usable Open Space</u>	<u>Exterior Patio or Deck</u>
<u>1 and 2 bedroom units</u>	<u>200 square feet per unit</u>	<u>100 square feet per unit</u>
<u>3 bedroom units or larger</u>	<u>300 square feet per unit</u>	<u>150 square feet per unit</u>

***Text below has been reformatted into the chart above***

- ~~One and two bedroom units shall provide 200 square feet per unit.~~

~~• Three-bedroom units or larger shall provide 300 square feet of lawn per unit.~~

~~• a. All usable open space areas that are comprised of lawn areas shall be irrigated with an underground irrigation system.~~

~~b. Exception: An exterior patio or deck may substitute for the lawn requirement at a rate of one square foot of deck for every two square feet of lawn, but will not be counted as part of the landscape requirement.~~

~~Lawn area requirement may be omitted if the duplex or triplex unit is within one-quarter mile (measured walking distance) of a public park; and there is a direct, accessible, lighted, and maintained pedestrian trail or sidewalk connecting the site to the park. An exception shall be granted only when the nearby park provides active recreation areas such as play fields, children's play area, sports courts, walking/fitness course, or similar facilities.~~

6. Each unit shall provide a minimum of 60 square feet of enclosed storage area for outdoor equipment, lawn chairs, barbecues, bicycles, etc. Storage shall not be located within the setbacks.

7. Each unit shall provide an enclosure area for trash and recycling.

8. Detached dwelling units shall be a minimum of six feet apart as measured between their building footprints.

I. Residential Uses within Commercial Districts. Residential uses, such as multifamily housing, are encouraged adjacent to employment, shopping and services. All residential developments shall comply with subsections (I)(1) through (4-5) of this section, which are intended to guide mixed-use development; conserve the community's supply of commercial land for commercial uses; provide for designs which are compatible with a storefront character; avoid or minimize impacts associated with traffic and parking; and ensure proper management and maintenance of common areas. Residential uses that existed prior to the effective date of the ordinance codified in this code are considered permitted uses and not a nonconforming use.

\*\*\*

1. Mixed-Use Development. Residential uses shall be permitted in Commercial Districts only when part of a mixed-use development (residential with commercial or public/institutional use). Both "vertical" mixed-use (housing above the ground floor), and "horizontal" mixed-use (housing on the ground floor) developments are allowed, subject to the following standards in subsections (I)(2) through (45) of this section.



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5. The commercial uses shall occupy at least 20 percent of the total floor area of the development, or the floor area equivalent to the entire ground-floor area of the development, whichever is greater. **Relocated from Chapter 1.2 Definitions** The commercial uses shall be constructed prior to or concurrently with the residential uses.

J. Residential Care Homes and Facilities. ~~Residential care homes and facilities are residential treatment or training homes or facilities or adult foster homes licensed by the State of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, for individuals who need not be related. To clarify:~~

~~1. Residential care home accommodates five or fewer individuals; and~~

~~2. Residential care facility accommodates between six and 15 individuals. Staff persons required to meet State licensing requirements shall not be counted in the number of facility residents and need not be related to each other or the residents.~~

~~Residential care homes and facilities shall comply with the following standards, consistent with ORS 197.660 through 197.670:~~

~~1. Licensing. All residential care homes and facilities shall be duly licensed by the State of Oregon.~~

~~2. Parking for Residential Care Facilities. A minimum of one parking space shall be provided for each employee and typical number of visitors, in accordance with BDC Chapter 3.3, Vehicle Parking, Loading and Bicycle Parking. Residential care homes are exempt from this requirement.~~

~~2.3. Development Review Site Plan Review. Development review Site Plan Review shall be required for new structures to be used as residential care facilities, to ensure compliance with the licensing, parking, and other requirements of this code. Residential care homes are exempt from this requirement.~~

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N. Home Occupations. The purpose of this section is to support those who are engaged in small business ventures that could not necessarily be sustained if it were necessary to lease commercial quarters, or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. There are two types of home occupation uses.

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1.d. The home occupation shall not result in any ~~structural~~ alterations or additions to a structure that will change its primary use or building code occupancy classification. **Removed alterations – structural from definitions. Structural alterations are not the only alteration a home occupation may do.**

\*\*\*

~~2.h.~~ 3. Prohibited Home Occupation Uses.

- i. a. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, State or Federal standards, or that can be detected beyond the property line, is prohibited.
- ii. b. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music by music teachers, art or craft supplies by arts or crafts instructors, computer software by computer consultants, and similar incidental items for sale by home business are allowed.
- iii. c. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, such as:
  - (A) i. Ambulance service;
  - (B) ii. Animal hospital, veterinary services, kennels or animal boarding;
  - (C) iii. Auto and other vehicle repair, including auto painting;
  - (D) iv. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on site.
- i. 4. Enforcement. The Planning Official or designee may visit and inspect the site of a home occupation in accordance with this chapter periodically to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice. Code violations shall be processed

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**Chapter 4.1**  
**DEVELOPMENT REVIEW AND PROCEDURES**

Sections:

- 4.1.100 Purpose.
- 4.1.200 General Provisions.
- 4.1.300 Type I Ministerial Procedures.
- 4.1.400 Type II and Type III Applications.
- 4.1.500 Type IV Legislative Procedures.
- 4.1.600 Deschutes River Design Review Procedures.
- 4.1.700 Refinement Plan Review Procedures.
- 4.1.800 Quasi-Judicial Hearings.
- 4.1.900 Type II and III Decisions.
- 4.1.1000 Reconsideration.
- 4.1.1100 Appeals.
- 4.1.1200 Proceedings on Remand.
- 4.1.1300 Limitations on Approvals.
- 4.1.1400 Declaratory Ruling.
- 4.1.1500 Development Agreements.
- 4.1.1600 Summary of Development Application Types.

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- 4.1.1200 Proceedings on Remand.

Sections:

- 4.1.1210 Purpose.
- 4.1.1215 Hearings Body.
- 4.1.1220 Notice and Hearings Requirements.
- 4.1.1225 Scope of Proceeding.
- 4.1.1230 Effect of Reversal.

**4.1.1210 Purpose.**

This chapter shall govern the procedures to be followed where a decision of the City has been remanded by the Land Use Board of Appeals (LUBA), the Department of Land Conservation and Development (DLCD), the Land Conservation and Development Commission (LCDC) or the Appellate Courts

**4.1.1215 Hearings Body.**

The Review Authority for a remanded decision shall be the last Review Authority from which the appeal to LUBA or DLCD was taken, except that in voluntary or stipulated remands, the Council may decide that it will hear the case on remand.

**4.1.1220 Notice and Hearings Requirements.**

A. The City shall conduct a review on any remanded decision if requested by the applicant in writing or initiated by the City for a City project. The remand procedure shall be in accordance with the applicable provisions of this section, the LUBA, DLCD or LCDC or Appellate Court, decision, and applicable State law. Unless State law requires otherwise, only those persons who were parties to the proceedings before the City shall be entitled to notice and be entitled to participate in any hearing on remand.

~~B. The review procedures shall comply with the minimum requirements of State law and due process for remand and need comply with the requirements of this code for either legislative or quasi-judicial procedures, whichever was employed for the initial decision or as required by the remand., only to the extent that such procedures are applicable to remand proceedings under State law.~~

**4.1.1225 Scope of Proceeding.**

A. On remand, the Review Authority shall review only those issues that LUBA, DLCD, LCDC or the Appellate Court required to be addressed. The Review Authority shall have the discretion to reopen the record in instances in which it deems it to be appropriate.

~~B. At the Review Authority's discretion, a remanded application may be modified to address issues involved in the remand to the extent that such modifications would not substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors. Any greater modification would require a new application. **A modification may be done regardless of this section if it is responsive to the remand. The**~~

***determination of neighborhood impact is problematic in this context and should be left to be determined as stated in 4.1.1325 “Modification of Approval.”***

CB. If additional testimony is required to comply with the remand, parties may raise new, unresolved issues that relate to new evidence directed toward the issue on remand. Other issues that were resolved by LUBA, DLCD, LCDC or the Appellate Court or that were not appealed shall be deemed to be waived and may not be reopened.

C. Notwithstanding subsections A and B, for remands of city-initiated legislative amendments, the City Council may allow the introduction and processing of new work tasks, issues, evidence and testimony if the Council determines that the information or task is necessary and/or valuable in order to resolve the remand.

**4.1.1230 Effect of Reversal.**

A ~~land use~~ decision reversed by LUBA, DLCD, LCDC or the Court of Appeals that results in a final appellate judgment or order of reversal cannot be further heard by the City in the absence of an amended or a new application. Submission of a revised application shall be governed by the time limit set forth in BDC 4.1.935, Reapplication Limited.

\*\*\*

**4.1.1600 Summary of Development Application Types.**

There are four types of procedures: Type I, II, III, and IV. Table 4.1.1600 lists the City’s development applications and their required types of procedure(s).

**Table 4.1.1600 Summary of Development Application Types *Table has been relocated from Chapter 1.2 and includes minor revisions.***

<b>Development Application</b>	<b>Type I*</b>	<b>Type II*</b>	<b>Type III</b>	<b>Type IV</b>
Condo Plat/Condo Change of Use	X			
Design Review CB Zone – Minor Facade Change	X			
Design Review – Minor Alteration/ <u>Expansion</u>	X			
Final Plat – Partition or Subdivision	X			
Home Occupation Type I (Minor)	X	-	-	-
Lot of Record Verification	X	-	-	-

**Table 4.1.1600 Summary of Development Application Types** *Table has been relocated from Chapter 1.2 and includes minor revisions.*

Development Application	Type I*	Type II*	Type III	Type IV
Minimum Development Standards	X	-	-	-
Property Line Adjustment	X			-
Site Plan – Mini (ADU, Duplex, Second Dwelling)	X			-
Site Plan Minor Alteration/ <u>Expansion</u>	X			-
Temporary Use	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/ <u>Expansion</u>		X		-
Home Occupation Type II (Major)		X		-
Partition (Tentative Plan)		X		-
Planned Unit Development (PUD) Modification		X		-
Residential Compatibility Exception, Administrative		X		-
Site Plan Major Alteration/ <u>Expansion</u>		X		-
Site Plan New Development		X		-
Solar Access Permit		X		-
Subdivision (Tentative Plan)		X		-
Temporary Permit		X		-
Triplex Review		X		-

**Table 4.1.1600 Summary of Development Application Types** *Table has been relocated from Chapter 1.2 and includes minor revisions.*

Development Application	Type I*	Type II*	Type III	Type IV
Variance (Class A, B, C)		X		
Waiver of Standards		X		
Wireless and Broadcast Communication Facility Site Plan♦♦	X	X		
Declaratory Ruling – Hearings Officer or Planning Commission			X	
Design Review CB Zone – Track 2			X	
Deschutes River Design Review – Planning Commission Hearing			X	
Master Development Plan or Special Planned District			X	
MR Zone Review – Facilities or Master			X	
Residential Compatibility Exception, Hearings Officer			X	
River Setback Exception			X	
Zone Change			X	
General Plan Map Amendment			<u>X</u>	X
General Plan or Code Text Amendment			<u>X</u>	X
Refinement Plan/Development Agreement per ORS Chapter 94			<u>X</u>	X
Urban Growth Boundary (UGB) Expansion			<u>X</u>	X

\*Unless elevated by the Community 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.

**EXHIBIT E  
FINDINGS OF FACT  
DEVELOPMENT CODE UPDATE  
AMENDMENT PZ 15-0560**

**Procedural Findings**

The application was submitted in accordance with BDC 4.1.500. Timely and sufficient notice of the public hearings was provided pursuant to BDC 4.1.515. Notice of the proposed amendments was provided to the Department of Land Conservation and Development (DLCD) on June 3, 2015. The Bend Planning Division published a notice of the Planning Commission public hearing for the proposed Development Code text amendments in the Bend Bulletin on June 21, 2015 and for the City Council public hearing on August 13, 2015. A public hearing notice was also sent to all of the City's Neighborhood Associations on June 15, 2015 and August 12, 2015. The Planning Commission held a public hearing on July 13, 2015 and recommended approval of Project Number 15-0560 with the exception of Section 2.1.300.G Residential Compatibility Standards. The public hearing for Section 2.1.300.G Residential Compatibility Standards was continued to August 10, 2015 to allow time for staff to work with a committee to draft text for this section. During the August 10, 2015, staff requested that the Planning Commission continue the public hearing to August 24, 2015 to allow the committee more time to work on the revisions.

On August 24, 2015, the Planning Commission held the continued public hearing and recommended approval of the amendments to Section 2.1.300.G Residential Compatibility Standards and 2.1.400 Building Mass and Scale. The City Council held a first reading on September 2, 2015 and a second reading on September 16, 2015.

**Criteria of Approval**

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

**Applicable Procedures**

- (1) Bend Code Chapter 10, Bend Development Code
  - (a) Chapter 4.1, Land Use Review and Procedures

**Findings Regarding Compliance with Applicable Criteria:**

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



#### **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 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 amendments are consistent with the applicable State land use law. In particular, they satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, 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.

The Bend Planning Division published notice of the Planning Commission public hearing for the proposed Development Code text amendments in the Bend Bulletin on June 21, 2015 and for the City Council public hearing on August 13, 2015. A public hearing notice was also sent to all of the City's Neighborhood Associations on June 15, 2015 and August 12, 2015. Staff also sent the proposed updates for review to the Development Code Update Committee which is comprised of architects, lawyers, developers, engineers, a representative from COBA, and a land use planner. Staff received input from several of the members and made minor changes based on their feedback.

The Planning Commission held the public hearing on July 13, 2015 and recommended approval of the text amendments to the City Council and continued the public hearing for Section 2.1.300.G Residential Compatibility Standards to August 10, 2015 to allow time for staff to work with a committee to help review this section. During the August 10, 2015, staff requested that the Planning Commission continue the public hearing to August 24, 2015 to allow the committee more time to work on the revisions.

The committee included representatives from four City-recognized Neighborhood Associations (Nancy Loveland, Bob Brell, Justin Livingston, Pam Nettleton, Delmar Haley and Susan Sullivan), Vincent Mercurio/Bill Wagner (Planning Commissioners), Wendy Robinson (Growth Management), Tim Weishaupt (Sun Country Engineering), and Liz Fancher (Attorney).

The committee met on July 24, 2015, July 29, 2015, August 4, 2015, August 13, 2015 and August 17, 2015 to discuss and draft revisions to Section 2.1.300.G Residential Compatibility Standards. They also proposed an exemption to Section 2.1.400 Building Mass and Scale.

On August 5, 2015 and August 18, 2014 staff emailed the draft changes to Section 2.1.300.G. Residential Compatibility Standards and Section 2.1.400 Building Mass and Scale to the Development Code Update Committee for their review and also emailed a notice to the City recognized Neighborhood Associations so they were aware of the continued public hearings regarding residential compatibility standards.

On August 24, 2015, the Planning Commission held the continued public hearing and recommended approval of the amendments to Section 2.1.300.G Residential Compatibility Standards and Section 2.1.400 Building Mass and Scale to the City Council. The City Council held a public hearing on September 2, 2015.

**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 proposed code updates and to assure an adequate factual base for these decisions and actions. This application provides the required information and responses to the applicable approval standards for a Development Code text amendment and therefore is consistent with Statewide Planning Goal 2. The proposed amendments will be adopted by the City Council after a public hearing. Several opportunities were provided for review and comment by citizens during the preparation of this ordinance.

**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.

Section 2.1.300.G Residential Compatibility Standards was originally intended to protect properties outside the Urban Growth Boundary from incompatible development at urban levels on the inside of the boundary. It was debated by the City Council in 2006 during the new code's adoption and expanded to apply to any property inside the boundary as well. The current residential compatibility development standards, exemptions and waivers have created unusable and unmaintained open space areas and reduced densities.

The proposed "Development Standards" section includes the following options for lot area and setbacks:

Lot Area and Setbacks.

- i. Minimum lot area of 5,000 square feet to 5,999 square feet with a minimum 35 foot setback; or,
- ii. Minimum lot area of 6,000 square feet or greater with a minimum 30-foot setback.

The proposed lot area options would allow RS properties to develop with more density than the current residential compatibility standards and the larger setback requirements would provide a transitional buffer between the new lot's structures and the "protected" properties.

On August 24, 2015, the Planning Commission held the continued public hearing for Section 2.1.300.G Residential Compatibility Standards and recommended approval of this section and an amendment to Section 2.1.400 Building Mass and Scale to the City Council. The City Council held a public hearing on September 2, 2015.

**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 amendments to the BDC are 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 Bend Area 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.*
- *Appearance of Structures — Ensure that the "built environment" is as attractive as feasible.*
- *Implementing Consistent Ordinances — Implement the plan through effective, clear and consistent ordinances and language that reflect the intent of the vision.*

#### **FINDING:**

As previously discussed, part of the update includes amending Section 2.1.300.G Residential Compatibility Standards. The proposed development standards provide options for lot areas and setbacks. These development standards will allow lots and parcels to be created while preserving the character of the existing neighborhoods and they will also ensure that the built environment is as attractive as feasible.

Chapter 4.2 has been revised and reorganized to make the three different processes known as Minimum Development Standards Review, Site Plan Review and Design Review more concise and user-friendly. Each process includes clear applicability and exemption sections and approval criteria. The revision of Chapter 4.2 will allow a review process that ensures that the "built environment" is as attractive as feasible.

Updating Section 3.2.500 Fence and Wall Requirements requires fences to be comprised of wood, vinyl, metal, masonry or other material that is able to be painted and/or maintained in

structurally sound condition. This will help ensure the “built environment” is as attractive as feasible.

Lastly, several of the code updates correct errors, eliminate text ambiguity, update Oregon statutory changes, and clarify code text so that it reflects existing code interpretations.

- *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:** Staff routed the proposed text amendments and subsequent updates to Section 2.1.300.G Residential Compatibility Standards and 2.1.400 Building Mass and Scale to the Development Code Update Committee to gather feedback prior to the public hearings. The committee represents architects, lawyers, developers, engineers, a representative from COBA, and a land use planner. Staff received comments from several of the members.

Staff held a work session with the Planning Commission on June 22, 2015 to go over the proposed amendments and a public hearing was held before the Planning Commission on July 13, 2015. The Planning Commission approved the amendments except for Section 2.1.300.G Residential Compatibility Standards. They continued the public hearing for this section to August 10, 2015 and again to August 24, 2015 to allow staff time to work with a committee to make revisions.

The committee included representatives from four City-recognized Neighborhood Associations (Nancy Loveland, Bob Brell, Justin Livingston, Pam Nettleton, Delmar Haley and Susan Sullivan), Vincent Mercurio/Bill Wagner (Planning Commissioners), Wendy Robinson (Growth Management), Tim Weishaupt (Sun Country Engineering), and Liz Fancher (Attorney). The committee met on July 24, 2015, July 29, 2015, August 4, 2015, August 13, 2015 and August 17, 2015 to discuss and draft revisions to Section 2.1.300.G Residential Compatibility Standards and to Section 2.1.400 Building Mass and Scale.

The Planning Commission held the public hearing on August 24, 2015 to review the revisions to Section 2.1.300.G Residential Compatibility Standards and to Section 2.1.400 Building Mass and Scale and recommended approval to the City Council. The City Council held a public hearing on September 2, 2015.

### ***Chapter 5 Housing and Residential Lands***

- *The need for more housing in the urban area and the ever-increasing price of land can both work against preserving natural features in new developments. It is a goal that the General Plan policies and development standards that promote more flexible and creative subdivision designs will help preserve natural features, while containing development within the Urban Growth Boundary.*

The proposed development standards will allow more density as permitted in the RS District to be developed. The proposed development standards are also less restrictive and provide more

options and therefore could allow developments to be more creative to help preserve natural features.

### **Residential Compatibility**

- *Policy 1. Future development and local development standards shall recognize and respect the character of existing areas.*
- *Policy 2: In areas where existing urban level development has an established lot size pattern, new infill subdivision or PUD developments shall have a compatible lot transition that respects the number of adjoining lots, lot size and building setbacks of the existing development while developing residential densities within the range for the underlying zone. New developments may have smaller lots or varying housing types internal to the development.*

### **FINDING:**

As previously discussed, Section 2.1.300.G Residential Compatibility Standards was originally intended to protect properties outside the Urban Growth Boundary from incompatible development at urban levels on the inside of the boundary. It was debated by the City Council at the time (2006) and expanded to apply to any property inside the boundary as well. Unfortunately, the current residential compatibility standards, exemptions and waivers have created undesirable outcomes including 30-foot wide unusable and unmaintained open space areas and reduced densities.



Amending the requirements in the BDC will eliminate unusable and unmaintained open space areas.

The Residential Compatibility Standards Committee discussed the pros and cons of having residential compatibility standards. The two main items that captured the discussion included protecting the character of the existing neighborhoods while still allowing urban density. The proposed standards will require either 5,000-5,999 square foot lots with a 35-foot setback or 6,000 square foot minimum lots or greater with a 30-foot setback from the protected property line. These standards will help respect the character of existing neighborhoods while developing residential densities within the range of the RS District.

Section 2.1.400 Building Mass and Scale requires a floor area ratio for certain lots and parcels. The proposed amendment adds an exemption for lots and parcels that are subject to Section 2.1.300.G Residential Compatibility Standards because they are required to have larger setbacks. Without the exemption certain lots would also have a floor area ratio of 0.5.

### ***Housing density and affordability Housing density and affordability***

- *Policy 21. Densities recommended on the Plan shall be recognized in order to maintain proper relationships between proposed public facilities and services and population distribution.*

The proposed amendments to Section 2.1.300.G Residential Compatibility Standards will allow properties to develop at urban densities as allowed in the RS District which permits 2.0 to 7.3 dwelling units per gross acre.

### **Chapter 9: Community Appearance**

#### **Goals**

- *To make a concerted effort to improve the appearance of the community, particularly in the commercial, industrial and multifamily areas.*

Commercial, industrial and multi-family developments will be reviewed under the new Chapter 4.2 Minimum Development Standards Review, Site Plan Review and Design Review. The design standards of their zoning district as well as applicable standards in Chapter 3.6 Special Standards for Certain Uses are still required and will continue to improve the appearance of the community.

- *Policy 9: The city shall consider establishing design review for all new development in the community with the exception of single-family houses, duplexes and tri-plexes.*

As part of Chapter 4.2 Minimum Development Standards Review, Site Plan Review and Design Review, a Design Review application would only be required when Minimum Development Standards or Site Plan Review is not required and it will only review exterior alterations to existing buildings that modify 25 percent or more of the surface area of any exterior wall or roof. There are several exemptions including but not limited to repainting, reroofing and residing. Single-family detached dwellings and duplexes will continue to be reviewed under Minimum Development Standards Review and triplexes will continue to be reviewed under Site Plan Review.

Based on the findings stated above, the proposed text amendments are found to be 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 proposed code updates provide public benefits by improving livability and making the BDC more user friendly.

The proposed amendments to Section 2.1.300.G Residential Compatibility Standards will benefit the public since it will protect the character of the existing neighborhoods while still allowing

urban density. In addition, amending Section 2.1.300.G Residential Compatibility Standards implements an Urban Growth Boundary efficiency measure since it will increase development potential of residential infill sites. This will benefit the public by providing more housing opportunities.

Deleting the following portion of Duplex and Triplex Development, 3.6.200.H.5 will ensure that duplexes and triplexes have usable space located with their unit and not located within one quarter of a mile;

*Lawn area requirement may be omitted if the duplex or triplex unit is within one-quarter mile (measured walking distance) of a public park; and there is a direct, accessible, lighted, and maintained pedestrian trail or sidewalk connecting the site to the park. An exception shall be granted only when the nearby park provides active recreation areas such as play fields, children's play area, sports courts, walking/fitness course, or similar facilities.*

Questions about installing fences are very common and the existing code requirements have been somewhat difficult to explain to customers. The amendments will make the requirements easier to understand and will include a helpful graphic for residential fences.

Chapter 4.2 has been revised and reorganized to make the three different review processes known as Minimum Development Standards Review, Site Plan Review and Design Review more concise and user-friendly. Each process includes clear applicability and exemption sections and approval criteria and standards to aid applicants and the decision maker.

This criterion is met since the above amendments provide a public benefit.

#### **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 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 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 proposed text amends the BDC, a functional component of the General Plan, and is an amendment to a land use regulation as noted in OAR 660-012-0060. Several of the amendments are clerical in nature, improve review processes and provide consistency and do not significantly affect a transportation facility. The amendments to Section 2.1.300.G Residential Compatibility Standards will allow development potential of infill sites within the adopted density ranges. 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 concludes that the proposed Development Code text amendments meet all applicable criteria for adoption.