

## ORDINANCE NO. NS - 2293

### AN ORDINANCE AMENDING BEND DEVELOPMENT CODE CHAPTER 1.2, DEFINITIONS AND CHAPTER 2.0, LAND USE DISTRICT ADMINISTRATION, AND CREATING CHAPTER 2.8, URBANIZABLE AREA (UA) DISTRICT.

#### Findings:

- A. The application was processed in accordance with BDC 4.1.500. The City provided timely and sufficient notice of the legislative changes pursuant to Section 4.1.515 of the Bend Development Code.
- B. The City submitted a Notice of Proposed Amendment to the Oregon Department of Land Conservation and Development on March 24, 2017.
- C. The City Council held a joint work session with the Deschutes County Board of Commissioners on April 11, 2017, to review the proposed amendments.
- D. On April 26, 2017, the City mailed notice required under ORS 227.186 (aka "Measure 56" notice) to potentially affected landowners that are located inside the Urban Growth Boundary (UGB) but outside the city limits, except for the land withdrawn from the City of Bend by the County by City Resolution 2459.
- E. Notice of the Planning Commission and City Council public hearing was published in the Bend Bulletin on April 20, 2017.
- F. The Planning Commission reviewed the proposed amendments during a work session on April 24, 2017, and held a public hearing on May 22, 2017 to accept testimony on the request. At the conclusion of the hearing, the Planning Commission voted to recommend the proposed text amendments be approved by the City Council.
- G. The City Council held a public hearing on June 7, 2017 to accept evidence, receive public testimony and consider the Planning Commission's recommendation. The City Council found that the text amendments satisfy the criteria for approval contained in Section 4.6.200 of the Bend Development Code and voted on the amendments to 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 below in Exhibit A.

Section 2. In addition to the findings set forth above, the City Council adopts the findings in Exhibit B.

First Reading:

Second reading and adoption by roll call vote: June 21, 2017

YES: Casey Roats, Mayor      NO: NONE      ABSTAIN: NONE  
Sally Russell  
Bill Moseley  
Bruce Abernethy  
Nathan Boddie  
Justin Livingston  
Barb Campbell



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Casey Roats, Mayor

Attest:



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Robyn Christie, City Recorder

Approved as to form:



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Mary A. Winters

## EXHIBIT A

### Development Code Update

Prepared by:  
City of Bend Planning Division

Note:

Text in underlined typeface is proposed to be added

Text in ~~strikethrough~~ 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

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**Agricultural building or equine facility** means buildings and structures that are exempt from the State of Oregon Structural Specialty Code as agricultural buildings and equine facilities as described in ORS 455.315. A structural building permit is not required for agricultural buildings or equine facilities located on the same lot or parcel receiving special assessment for farm use.

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**Farming or farm use** means the utilization of land, including buildings customarily provided in conjunction with a farm use, for the purpose of generating income by raising, harvesting or selling crops, or for the feeding, breeding, management and sale of, or the production 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, growing Christmas trees, timber agricultural or any combination thereof, including the preparation or processing and storage of products raised on such land for human and animal use, and disposal by marketing or otherwise. It does not include the construction and use of dwellings, or marijuana businesses but not including the construction or use of dwellings and other building customarily provided in conjunction therewith.

**Farm stands** means a structure designed and used for the sale of farm crops or livestock grown on the farm, or grown on the farm and other farm operations in Oregon, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand. Farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

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**Forest management plan** means an operation plan to reach landowner objectives and assures public benefits as they relate to producing timber and other values as determined by the Deschutes County Assessor. It shall include a cover map, basic forest stand description data, treatment opportunities, landowner objectives and a schedule for implementing the forest management plan pursuant to ORS 526.455.

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**Urban Growth Boundary (UGB)** means the urban growth boundary as adopted by the City and County and acknowledged by the State, as set forth in the Bend Comprehensive Plan and as shown on the Bend Comprehensive Plan map.

**Urbanizable Area (UA) District** means the unincorporated area inside the Urban Growth Boundary (UGB) but outside the city limits, except for the land withdrawn from the City of Bend by the County by City Resolution 2459.

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**Chapter 2.0**  
**LAND USE DISTRICT ADMINISTRATION**

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2.0.100 Classification of Land Use Districts.

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**Table 2.0.100 – Classification of Land Use Districts**

<b>Land Use Districts</b>
<b>URBANIZABLE AREA DISTRICT, CHAPTER 2.8</b>
Urbanizable Area District (UA)

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**Chapter 2.8**  
**URBANIZABLE AREA DISTRICT (UA)**

Sections:

**2.8.100 Purpose and Applicability.**

**2.8.200 Permitted Land Use.**

**2.8.300 Lot Area and Dimensions.**

**2.8.400 Additional Provisions**

**2.8.100 Purpose and Applicability.**

A. **Purpose.** The Urbanizable Area (UA) District is intended to preserve large areas of undeveloped or rural land for future urban development prior to annexation. The UA District promotes the livability, stability, safety and improvement of the City of Bend by allowing orderly development consistent with the Bend Comprehensive Plan.

B. **Applicability** The provisions of the UA District apply to all land inside the Urban Growth Boundary but outside the city limits, except for the land withdrawn from the City of Bend by the County by City Resolution 2459.

The UA District will automatically be removed upon annexation to the City and the zoning that implements the Bend Comprehensive Plan designation for the property will apply.

C. **Area and Master Planning.** The City has the authority to process Area Plans under BDC Chapter 4.1, Development Review and Procedures and BDC Chapter 4.6, Land Use District Map and Text Amendments (Type IV process) and Master Plans under BDC Chapter 4.5, Master Planning and Alternative Developments and BDC Chapter 4.6, Land Use District Map and Text Amendments (Type III process) in the UA District prior to annexation. However, development of the property with the uses authorized by the Area or Master Plan may only occur after annexation.

**2.8.200 Permitted Land Use.**

A. **Permitted Uses.** The land uses listed in Table 2.8.200 are permitted in the UA District when allowed in the zoning district that implements the underlying Bend Comprehensive Plan designation, except as otherwise specified in this section, subject to the provisions of this chapter. Only land uses that are specifically listed in Table 2.8.200, land uses that are incidental and subordinate to a permitted use, and land uses that are approved as “similar” to those in Table 2.8.200 may be permitted.

B. **Determination of Similar Land Use.** Similar use determinations shall be made in conformance with the procedures in BDC 4.1.1400, Declaratory Ruling or as part of a development application.

**Table 2.8.200 – Permitted Land Uses**

<u>Land Use</u>	<u>UA District</u>
<b><u>Residential</u></b>	
Single-family detached dwelling	P
*Accessory dwelling units (ADUs)	P
*Manufactured homes on individual lots	P
Residential care home (5 or fewer residents)	P
Adult day care	P
Family childcare home (16 or fewer children)	P
*Home occupation (Type I/Type II)	P/C

<u>Land Use</u>	<u>UA District</u>
<b><u>*Public and Institutional</u></b>	
<u>*Utilities (above ground)</u>	<u>C</u>
<b><u>*Miscellaneous Uses</u></b>	
<u>*Bed and breakfast inn</u>	<u>C</u>
<u>** Farm use</u>	<u>P</u>
<u>Farm stand</u>	<u>P</u>
<u>** Agricultural building or equine facility</u>	<u>P</u>
<u>** Forest use in compliance with an approved Forest Management Plan</u>	<u>P</u> <u>See BDC 2.8.400(D)</u>
<u>*Plant nursery</u>	<u>C</u>
<u>*Small hydroelectric facility</u>	<u>P</u>
<u>Wireless and broadcast communication facilities</u>	<u>See BDC Chapter 3.7</u>
<u>**Expansion, alteration or replacement of a lawfully permitted building and use as of Month, Date, 2017 (INSERT DATE)</u>	<u>P/C</u> <u>See BDC 2.8.400(C)</u>
<u>*Temporary Uses</u>	<u>See BDC Chapter 3.6.400</u>
<u>(*)(**)Accessory uses and structures for uses in BDC Table 2.8.200 and (*)(**) accessory uses and structures for existing lawfully permitted buildings and uses as of Month, Date, 2017 (INSERT DATE)</u>	<u>P</u>

**Key to Permitted Uses**

P = Permitted, subject to BDC Chapter 4.1, Development Review and Procedures

N = Not Permitted

C = Conditional Use, subject to permit standards in BDC Chapter 4.4, Conditional Use Permit



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

\*\* Use is permitted regardless of the underlying zoning district that implements the Bend Comprehensive Plan designation until annexed into the City of Bend.

**2.8.300 Lot Area and Dimensions.**

Lot area and lot dimension standards are listed in Table 2.8.300.

**Table 2.8.300 – Lot Area and Dimensions**

<u>Standard</u>	<u>UA District</u>
<u>Minimum Lot Size</u>	<u>20 acres</u>
<u>Maximum Lot Coverage</u>	<u>15% on lots 1 acre or larger</u> <u>35% for lots less than 1 acre</u>
<u>Minimum Front Setback</u>	<u>20 feet</u>
<u>Minimum Side Setback</u>	<u>10 feet</u>
<u>Minimum Rear Setback</u>	<u>20 feet</u>
<u>Maximum Building Height</u>	<u>Maximum height permitted in the zoning district that implements the underlying Bend Comprehensive Plan designation</u>

**2.8.400 Additional Provisions.**

- A. Detached single-family dwellings, accessory buildings and accessory dwelling units must be sited to allow the future division and/or more intensive use of the property. Additional development restrictions that limit the location of buildings and on-site sewage disposal facilities may be applied where necessary to reserve land for future urban development.
- B. Frontage improvements must be built to City Standards and Specifications when required under BDC Chapter 4.2, Minimum Development Standards (MDS) Review, Site Plan Review and Design Review.
- C. An expansion or enlargement of 50 percent or less of a lawfully permitted building and/or use as of Month, Date, 2017 (INSERT DATE) must comply with BDC Chapter 4.2, Minimum Development Standards (MDS) Review, Site Plan Review and Design Review. For an expansion or enlargement greater than 50 percent,

the conditional use criteria, standards and conditions within BDC Chapter 4.4, Conditional Use Permits also apply.

D. Significant Tree Standards.

1. The following significant tree standards are applicable to properties without an approved City of Bend development application, including single-family residential lots or parcels greater than one acre in size:
  - a. All deciduous trees measuring six inches or greater and coniferous trees measuring 10 inches or greater as measured four feet above the ground (known as DBH, "diameter at breast height") must be retained on site unless exempted in 2.8.400(D)(3).
  - b. Grading, operation of vehicles and heavy equipment, and storage of supplies and construction materials are prohibited within the significant trees area, except as approved in writing by the City for installation of utilities or streets. Such approval shall only be granted after the City concludes in writing that there is no other reasonable alternative to avoid the protected area, and any required mitigation is provided in conformance with BDC 1.3.300(C), Mitigation for the Removal of Vegetation. The written approval shall include the specific facts that support the conclusion.
2. Properties with an approved City of Bend development application are not subject to the standards of subsection (D)(1) of this section; however, trees shall be preserved as specified in the development approval and in compliance with BDC 3.2.200, Landscape Conservation.
3. Exemptions. The mitigation standards in BDC 1.3.300(C) do not apply in the following situations:
  - a. Dead, Diseased, and/or Hazardous Trees. Significant trees that are dead or diseased, or pose a hazard to personal safety, property or the health of other trees, may be removed if the Planning Director approves a report and recommendation from a certified arborist or other qualified professional. Prior to tree removal, the applicant must provide a report from a certified arborist or other qualified professional to determine whether the subject tree is diseased or poses a hazard, and any possible treatment to avoid removal, except as provided by subsection (3)(b) of this section.
  - b. Emergencies. Significant trees may be removed in the event of an emergency without development approval pursuant to BDC Title 4, when the trees pose an immediate threat to life or safety, as determined by the Planning Director or designee based on a certified arborist's report submitted to the City.

- E. Prior to tentative approval of any land division, the general location of streets and water and sewer lines must be illustrated on abutting vacant land and developable land. This illustration is not binding on the abutting properties.
- F. Deschutes County is responsible for permits and inspections for on-site sewage treatment and dispersal systems for properties in the UA District.
- G. Sign District 5 in BC Chapter 9.50, Signs applies to all properties in the UA District until they are annexed into the City of Bend.
- H. Deschutes County is considered an affected party and will be notified of all quasi-judicial and legislative development applications.



**EXHIBIT B  
FINDINGS OF FACT  
DEVELOPMENT CODE UPDATE  
AMENDMENT PZ 17-0171**

**Procedural Findings**

The application was initiated by the city in accordance with Bend Development Code (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 March 24, 2017. On April 11, 2017, the City Council and the Deschutes County Board of Commissioners (BOCC) held a joint work session and discussed the proposed amendments. The City mailed notice required under ORS 27.186 (aka "Measure 56" notice) to potentially affected landowners on April 26, 2017 that are located in the urbanizable area inside the Urban Growth Boundary (UGB) but outside the city limits, except for the land withdrawn from the City of Bend by the County by City Resolution 2459. A notice of the May 22, 2017, Planning Commission public hearing and of the June 7, 2017, City Council public hearing was printed in the Bend Bulletin on April 30, 2017. Staff also emailed the changes to the Development Code Update Committee on April 19, 2017, for their review.

The Planning Commission also held a work session on April 24, 2017, and discussed the proposed amendments. On May 22, 2017, the Planning Commission held a public hearing and voted (4-0) to recommend that the City Council approve the attached amendments.

The City Council held a public hearing on June 7, 2017, and conducted the first reading. On June 21, 2017, the Council held a second reading and voted to approve the amendments.

**Criteria of Approval**

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

**Applicable Procedures**

- (1) 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 AMENDMENTS

#### 4.6.200 Legislative Amendments.

**A. Applicability, Procedure and Authority.** Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plan and map, Development Code and changes in the zoning map not directed at a small number of properties. They are reviewed using the Type IV procedure in accordance with Chapter 4.1, Land Use Review and Procedures and shall conform to Section 4.6.600, Transportation Planning Rule Compliance. A Legislative Amendment may be approved or denied.

**FINDING:** The recommended amendments to the text of the BDC involve broad public policy rather than application to an individual property owner. Therefore, the Legislative Amendment Procedures of this section are the appropriate procedures for this review.

**B. Criteria for Legislative Amendments.** The applicant shall submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve or to deny an application for a Legislative Amendment shall be based on all of the following criteria:

**1. The request is consistent with the applicable State land use law;**

**FINDING:** The proposed amendments are consistent with the applicable State land use law. In particular, they satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, Goal 9: Economic Development, Goal 10: Housing, Goal 11: Public Facilities and Services, Goal 12: Transportation, Goal 13: Energy Conservation, and Goal 14: Urbanization. Statewide planning Goals 3 through 8, and 15 through 19 are not applicable to this proposed legislative amendment.

**Goal 1, Citizen Involvement,** is satisfied by following the City's acknowledged text amendment process that includes a Planning Commission public hearing, followed by a City Council public hearing.

City and County staff have been working together since November 2016 on the proposed text amendments. The City Council held a joint work session with the Deschutes County Board of Commissioners (BOCC) on April 11, 2017, and discussed the proposed text amendments. On April 24, 2017, the Planning Commission held a work session and discussed the proposed amendments.

On April 26, 2017, the City mailed a Measure 56 notice to all property owners in the urbanizable area, except for the properties withdrawn from the City of Bend by Deschutes County through City Resolution 2459, to notify them of the proposed text amendments and hearing dates for the Planning Commission and the BOCC. On April 19, 2017, staff emailed the proposed amendments to the Development Code Update Committee for their review. The committee includes community members comprised of architects, lawyers, developers, engineers, a representative from Central Oregon Builders Association (COBA), two representatives from Central Oregon LandWatch, and a land use planner. Staff has received 11 phone calls/emails regarding the proposed code updates.

**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 and BDC as a basis for the decisions and actions related to the new regulations regarding the use of land and to assure an adequate factual base for these decisions and actions. The proposed amendments were adopted by the City Council after a public hearing. Multiple opportunities were provided for review and comment by citizens and affected governmental units during the preparation of this ordinance.

Goal 2 specifically states that minor plan changes should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established, and must be supported by an adequate factual base. The Goal 2 requirement for an adequate factual base requires that a legislative land use decision be supported by substantial evidence.

The 2010 Remand Order on the City's proposed UGB expansion from the Land Conservation and Development Commission (LCDC) provided that the City and County should provide that the interim zoning for lands added to the UGB maintains the likelihood that the land will develop for the uses and at the intensity that the city's underlying analysis of the capacity of the lands is based on. The Remand Order also required the City and County to coordinate and clarify the applicability of the City's Comprehensive Plan Map and Policies within the UGB expansion area. On November 14, 2016, DLCD approved the UGB expansion of 2,380 acres for the City of Bend, and on December 6, 2016, the amended Bend Comprehensive Plan and map designations went into effect.

The UGB expansion provides the following acreages consistent with the overall land needs for housing, employment, and parks and schools:

- 1,142 gross acres of residential land (including land for future schools and future parks not yet in the Bend Parks and Recreation District [BPRD] or school district ownership);



- 815 gross acres of employment land;
- 285 acres of land for public facilities currently in BPRD or school district ownership; and,
- 138 acres of existing right-of-way within and fronting UGB expansion areas, needed to provide urban street improvements to support growth in the expansion areas.

Through the adoption of the 2016 UGB expansion, the City adopted several new chapters to the Bend Comprehensive Plan related to Housing, Economy, and Growth Management. The adopted policies were supported through the adoption of several technical reports that were also incorporated as appendices to the Comprehensive Plan. These appendices include the Buildable Lands Inventory, Housing Needs Analysis, Economic Opportunities Analysis, and Urbanization Report. Together, these adopted documents represent the adequate factual base that supports these proposed amendments.

As part of the UGB expansion, the City applied specific Bend Comprehensive Plan designations to the expansion areas consistent with the overall land need determinations. In order to achieve the Bend Comprehensive Plan goals and policies adopted as part of the UGB expansion, and reflect state laws requiring consistency between Comprehensive Plans and zoning, development needs to occur consistent with the underlying Bend Comprehensive Plan designations in the urbanizable area. This is done through implementing development regulations which are applicable during the interim until the land is annexed into the City. The UA District is needed for the expansion areas to protect the land designations and policy intent of the Bend Comprehensive Plan and preserve large areas of undeveloped or rural land for future housing, employment, and parks and schools until properties annex into City limits. Once they are annexed, the UA District zoning will cease and the zoning map will be updated with the zoning district that implements the underlying Bend Comprehensive Plan map designation(s). Therefore, the proposed amendments are justified and needed, and compliance with Goal 2 is maintained.

**Goal 3, Agricultural Lands, Goal 4, Forest Lands, and Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces.** Goals 3 and 4 are not applicable because no lands are designated as either agricultural or forest lands in the urbanizable area. Goal 5 is not applicable because these amendments do not affect any regulation that implements Goal 5 and the City's acknowledged regulations implementing Goal 5 remain in effect with no change in applicability.

**Goal 6, Air, Water and Land Resources Quality** is not applicable because the City's acknowledged regulations implementing Goal 6 remain in effect with no change in applicability.

**Goal 7, Areas Subject to Natural Hazards** is not applicable because the City's acknowledged regulations implementing Goal 7 remain in effect with no change in



applicability. In addition, the City did not include any areas in the urbanizable area where Goal 7 natural hazards have either been identified or mapped.

**Goal 8, Recreational Needs** is not applicable to the proposed Bend Development Code amendments because the amendments do not limit any recreational uses in any zone. There are no existing Goal 8 destination resorts affected by either the UGB expansion or the proposed amendments. The proposed amendments do not include any modifications to existing land use regulations for development of a destination resort.

**Goal 9, Economic Development**, is implemented through Oregon Administrative Rule (OAR) Division 9, which is intended to ensure that each jurisdiction maintain an adequate land supply for economic development and employment growth. The acknowledged UGB expansion and related set of efficiency measures ensure an adequate supply of land for economic opportunities in Bend by providing needed types and amounts of employment lands in suitable locations as required by Goal 9, and documented in the Economic Opportunity Analysis and Urbanization Report (Appendices E and L to the Bend Comprehensive Plan). In order to protect the economic lands (commercial, industrial and mixed-use) in the urbanizable areas, the UA District will limit opportunities for housing and other limited rural uses prior to annexation that will not interfere with future urban economic development as contemplated by the Bend Comprehensive Plan. Therefore, compliance with Goal 9 is maintained.

**Goal 10, Housing**, requires provisions to provide for the housing needs of citizens of the state. The acknowledged UGB expansion provides the land needed for future population growth and has been plan designated so that housing is developed to help achieve the City's needed mix of 55% single family detached, 10% single family attached, and 35% multi-family housing. Plan designations have also been applied to the UGB urbanizable areas to accommodate the residual housing units, consistent with the targeted housing mix established for the overall UGB. Goal 10 is satisfied since the UA District will limit opportunities for rural uses in the urbanizable areas prior to annexation that will not interfere with future urban residential development as contemplated by the Bend Comprehensive Plan.

**Goal 11, Public Facilities and Services**, requires the City to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. The City's Public Facility Plans (PFP) for water, sewer collection, transportation, and stormwater are all adopted and acknowledged. The city anticipates updating these PFPs in the coming years to reflect the newly expanded UGB. The UA District creates a holding zone to maintain the urbanizable areas potential for future urban development until appropriate urban facilities and services are planned or available and annexation to the City of Bend can occur. Based on the forgoing, the City finds that the proposal satisfies Goal 11.



**Goal 12, Transportation**, requires the City to provide and encourage a safe and convenient and economic transportation system. The Goal 14 Administrative Rule (OAR 660-24-0020(1)(d)) recognizes that:

*The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary.*

OAR 660-024-0020(1) allows cities to defer addressing the requirements of OAR 660-12-0060 of the TPR (which requires a demonstration that there are adequate planned transportation facilities to serve the planned development) until property added to a UGB is re-designated or rezoned to allow urban development. As part of the UGB acknowledgement, the City Council chose to defer addressing the requirements of OAR 660-12-0060 of the TPR for the urbanizable areas by retaining the existing Deschutes County rural zoning and that the transportation planning and TPR compliance will be accomplished with annexation along with master or area planning.

The UA District will further limit rural uses and not generate more vehicle trips than development currently allowed under Deschutes County rural zoning and the transportation planning and TPR compliance will still be accomplished with annexation along with master or area planning. Therefore, compliance with Goal 12 is maintained.

**Goal 13, Energy Conservation**, requires land and uses developed on the land to be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles. The recent acknowledgement of the UGB considered energy in the evaluation and arrangement of the Bend Comprehensive Plan land use designations in the urbanizable areas. The UA District is intended to preserve the urbanizable areas for future urban development as contemplated by the Bend Comprehensive Plan designations prior to annexation. Therefore, compliance with Goal 13 is maintained.

**Goal 14, Urbanization**, requires the City to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. The UA District will regulate the use and division of the urbanizable land to maintain its potential for planned urban development until the properties have an adopted area or master plan and are annexed into the City limits. The UA District does not encourage sprawl or uncoordinated development. The management of the City's land use inventories in the urbanizable area is protected by the UA District and therefore the City's acknowledgment of compliance with Goal 14 is maintained.



**Goal 15, Willamette River Greenway, Goal 16, Estuarine Resources, Goal 17, Coastal Shorelands, Goal 18, Beaches and Dunes, and Goal 19, Ocean Resources** are not applicable to the proposed Development Code amendment.

Because the proposed code amendments are limited in scope, there are no other Administrative Rules applicable to this amendment. 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 Development Code are consistent with the statewide planning goals and therefore comply with the requirement that the amendment be consistent with state land use planning law.

**2. The request is consistent with the applicable Bend Comprehensive Plan goals and policies;**

**FINDING:** The “goals” established in the Comprehensive Plan express the desires of the residents of Bend as the City progresses into the future. The “goals” are generally carried out through “policies,” which are statements of public policy. The following Goals and Policies are applicable:

**Chapter 1: Plan Management and Citizen Involvement**

**Goals:**

- **Create and preserve Great Neighborhoods.** Bend has a variety of great neighborhoods that promote a sense of community and are well-designed, safe, walkable, and include local schools and parks. Small neighborhood centers provide local shops, a mix of housing types, and community gathering places. The character of historic neighborhoods is protected and infill development is compatible.
- **Plan and Sustain a Strong Diverse Economy.** Bend has a good supply of serviced land planned for employment growth that supports the City's economic development goals, provides a range of diverse jobs and industries, and supports innovation. Employment areas, large and small, have excellent transportation access. Opportunities are created for a stable, vital and diverse economy while sustaining Bend's environment/ecological support systems.
- **Create Housing Options and Affordability.** Bend residents have access to a variety of high quality housing options, including housing affordable to people with a range of incomes and housing suitable to seniors, families, people with special needs, and others. Housing design is innovative and energy efficient.
- **Fosters a Balanced Transportation System.** Bend's balanced transportation system incorporates an improved, well-connected system of facilities for walking, bicycling, and public transit, while also providing a reliable system for drivers. Bend's transportation system emphasizes safety and convenience for users of all types and ages. Transportation and land use are integrated to foster livability.

- **Build Cost Effective Infrastructure.** Bend plans and builds water, wastewater, storm water, transportation, and green infrastructure in a cost-effective way that supports other project goals. Efficient use of existing infrastructure is a top priority.
- **Promote Public and Civic Involvement.** Encourage involvement by all citizens, corporate and individual, to keep the city vital and the Plan and “evolving vision”.
- **Create Clear and Consistent Implementing Ordinances.** Implement the plan through effective, clear and consistent ordinances and language that reflect the intent of the vision.

**FINDING:** The acknowledged UGB expansion and Bend Comprehensive Plan policies ensure great neighborhoods, housing options and affordability, economic opportunities, and needed infrastructure including a balanced transportation system for the urbanizable area. The UA District will provide limited opportunities for housing and other limited rural uses in the urbanizable area that will not interfere with future urban development as contemplated by the Bend Comprehensive Plan.

### *Policies*

#### *General Policy Guidance*

**1-1** The Goals stated within this Comprehensive Plan are intended to be guiding and aspirational; they are not regulatory policies. The Policies in the Comprehensive Plan are intended to provide standards for the City in adopting land use regulations, and compliance with the implementing regulations shall be deemed in compliance with the Comprehensive Plan.

**FINDING:** The UA District will serve as a holding zone for the urbanizable areas so that when they prepare an area plan or master plan, they will be able to comply with the policies in the Bend Comprehensive Plan including the Specific Expansion Area Policies.

#### *Citizen Involvement*

**1-15.** The city shall continue to use advisory committees in their planning process, members of which are selected by an open process, and who are widely representative of the community.

**1-16.** The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process.

**FINDING:** City and County staff have been working together since November 2016 on the proposed text amendments. On April 11, 2017, the City Council and the BOCC held a joint work session and discussed the proposed amendments to the Bend Development Code and Deschutes County Code.

On April 19, 2017, staff emailed the proposed amendments to the Development Code Update Committee for their review. The committee includes community members



comprised of architects, lawyers, developers, engineers, a representative from COBA, two representatives from Central Oregon LandWatch, and a land use planner. Also, as required by Oregon Revised Statutes (ORS) 227.186, on April 26, 2017, staff mailed a notice to the property owners in the urbanizable area notifying them of the proposed code amendments and zone change to UA District.

The Planning Commission held a work session on April 24, 2017, and a hearing on May 22, 2017. A notice of the May 22, 2017, Planning Commission public hearing and of the June 7, 2017, City Council public hearing was printed in the Bend Bulletin on April 30, 2017.

Therefore, compliance with Chapter 1 has been met.

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

### **Goals:**

- Keep our neighborhoods livable by offering a variety of living styles and choices, creating attractive neighborhoods located close to schools, parks, shopping and employment.
- Accommodate the varied housing needs of citizens with particular concern for safety, affordability, open space, and a sense of community.
- Recognize the importance of transportation linkages (streets, bikeways, side-walks and paths) in connecting neighborhoods and building and maintaining a sense of community.
- Promote more flexibility in development standards to balance the need for more efficient use of residential land and preservation of natural features.
- Zone adequate land in specific designations to allow for production of needed housing units.

### *Housing Mix, Density, and Affordability*

**5-4.** The City will apply plan designations, zoning districts and development code regulations to implement the mix of housing indicated in the adopted Housing Needs Analysis.

**FINDING:** The net buildable residential land in the urbanizable area is 646 acres. The UA District will limit development on these residential lands until area or master planning and annexation occurs. Area or master planning will require these residential lands to meet higher minimum density standards than established for the residential plan designations generally and to provide for a variety of housing types. Due to the holding zone, the density and housing mix will be possible to attain.

### *Public Utilities and Services*

**5-52.** All residential areas will be provided with community water and sewer services and other facilities necessary for safe, healthful, convenient urban living consistent with the density of development.

**FINDING:** The Bend Comprehensive Plan Policy 1.5 states “No new water or sewer service districts shall be created within the UGB without the concurrence of the city.” The UA District also includes the following “Additional Provision”:

*F. Deschutes County is responsible for permits and inspections for on-site sewage treatment and dispersal systems for properties in the UA District.*

When properties in the UA District prepare a master plan or area plan and propose to annex into City limits, they must demonstrate how the annexed land is capable of being served by urban services for sanitary sewer collection, domestic water, transportation, schools and parks, consistent with applicable district facility plans and the City’s adopted public facility plans.

The proposed amendments satisfy Chapter 5 since the UA District will protect the urbanizable areas so that they will be able to provide the needed density and housing mix, transportation connectivity, and public utilities and services as contemplated by the Bend Comprehensive Plan when they annex into the City limits.

## **Chapter 6: The Economy and Lands for Economic Growth**

### **Goals**

- Promote a vital, diverse and sustainable economy, while enhancing the community’s overall livability.
- Ensure an adequate supply of appropriately zoned land for industrial, commercial, and mixed-use development opportunities.

### *Policies*

#### *General Policies*

**6-1** Bend’s economic lands (commercial, industrial and mixed use) serve Bend residents and the needs of a larger region.

**FINDING:** As previously stated in Goal 9, Economic Development, the acknowledged UGB expansion and related set of efficiency measures ensure an adequate supply of land for economic opportunities in Bend by providing needed types and amounts of employment lands in suitable locations as required by Goal 9, and documented in the Economic Opportunity Analysis and Urbanization Report (Appendices E and L to the Bend Comprehensive Plan). In order to protect the economic lands (commercial, industrial and mixed-use) in the urbanizable areas, the UA District will limit opportunities for housing and other limited rural uses prior to annexation that will not interfere with future urban economic development as contemplated by the Bend Comprehensive Plan.



### *Industrial Development*

**6-14** Large-lot industrial sites (over 50 acres) are important to the overall inventory of available economic land. Any sites included in the UGB to meet this special site need will be protected with specific plan and/or code provisions.

**FINDING:** The Bend Comprehensive Plan identifies a large-lot industrial site (at least 50-acres) in the urbanizable area on the DSL property for targeted industries specified in the Economic Opportunities Analysis (Appendix E of the Bend Comprehensive Plan). Master planning is required for this area prior to annexation and it must be consistent with the Comprehensive Plan policies 11-66 through 11-74 which includes the following policies:

**11-66** *The overall planning concept for the DSL property as identified in Figure 11-4 is for a new complete community that accommodates a diverse mix of housing and employment uses, including the potential for a large-lot industrial site.*

**11-67** *This area shall provide for a mix of residential and commercial uses, including 163 gross acres of residential plan designations, 60 gross acres of residential and/or public facility plan designations, 46 gross acres of commercial plan designations, and 93 gross acres of industrial plan designations, including one large-lot industrial site. (Gross acreages exclude existing right of way.)*

Prior to annexation, the UA District will limit the uses and development that can occur on the DSL Property which will protect the large-lot industrial site for future development.

Therefore, compliance with Chapter 6 has been met.

## **Chapter 7: Transportation Systems**

### **Plan Goals**

#### **Mobility and Balance:**

- Develop a transportation system that serves all modes of travel and reduces the reliance on the automobile.

#### **Efficiency:**

- Encourage the development of land use patterns that provide efficient, compact use of land, and facilitate a reduced number and length of trips.

### *Transportation System Plan Objectives and Policies*

#### *Transportation and Land Use*



*Objectives:*

- To promote land use patterns that support fewer vehicle trips and shorter trip lengths
- To ensure that future development, including re-development, will not interfere with the completion of Bend's transportation system

**FINDING:** The UA District will limit development in the urbanizable areas. Overtime, as the urbanizable areas master or area plan and develop into complete neighborhoods, it is assumed that Vehicle Miles Traveled (VMT) growth could be minimized because of the complete neighborhoods and street patterns.

*Policies*

**7-8** As areas that are currently beyond Bend's existing Urban Growth Boundary (UGB) are urbanized, the city, property owners, developers and all applicable service districts shall work cooperatively to develop appropriate plans for extensions and connections of the transportation system, including but not limited to: roads, sidewalks, trails and/or public transportation. The objective of this planning effort will be to ensure that the new areas promote and facilitate the development of urban land use densities and systems that will fulfill the goals and objectives of the Transportation System Plan.

**FINDING:** The UA District will limit development in the urbanizable areas; however, if development were to occur prior to annexation, any required roads, sidewalks, and/or trails would need to be built according to the BDC and Bend Urban Area Transportation Systems Plan.

**7-11** The City of Bend shall coordinate the City Transportation System Plan with the Deschutes County Transportation System Plan. The City shall emphasize continuity in the classification of roads and appropriate design standards for roads that link urban areas with rural areas outside the urban growth boundary. The City and County shall agree on the functional classification and design standards of County roads within the URAs.

**FINDING:** The City and County coordinated the future transportation needs for the urbanizable areas as part of the UGB expansion process. Any necessary changes to the City and County TSPs will require additional coordination and plan amendments.

*Pedestrian and Bicycle Systems*

*Objectives:*

- To support and encourage increased levels of bicycling and walking as an alternative to the automobile
- To provide safe, accessible and convenient bicycling and walking facilities

*Policies:*

**7-43** As land areas that are currently beyond Bend's existing Urban Growth Boundary

(UGB) are urbanized and as it relates specifically to the Bend Primary Trail System, external destinations (beyond the UGB) and specific connection points (within the existing UGB) have been delineated on the Bend Urban Area Bicycle and Pedestrian System Plan, Figure 7-2.

### *Street System*

#### *Objectives:*

- To provide a practical and convenient means of moving people and goods within the urban area that accommodates various transportation modes
- To provide a safe and efficient means to access all parts of the community
- To provide an attractive, tree-lined, pedestrian friendly streetscape sensitive to protecting the livability of the community

#### *General Policies:*

**7-50** Streets shall be classified and generally located according to the Bend Urban Area - Roadway System Plan (Figure 7-1), and the Street Functional Classification (Table 7-1). Transportation project development review and approval shall be subject to the provisions of the Bend Development Code.

**FINDING:** The UA District includes the following “Additional Provisions” that would require proposed developments to comply the Bend Development Code and Bend Urban Area Transportation Systems Plan as required by Policy 7-50:

*B. Frontage improvements must be built to City Standards and Specifications when required under Chapter 4.2, Minimum Development Standards (MDS) Review, Site Plan Review and Design Review.*

*E. Prior to tentative approval of any land division, the general location of streets and water and sewer lines must be illustrated on abutting vacant land and developable land. This illustration is not binding on the abutting properties.*

County roads (as defined in ORS 368.001) existing within the UA District, will remain County roads, with the County responsible for maintenance and repair until such time annexation and/or jurisdictional transfer occur. Any new roads, upgrades not related to maintenance or repair, or improvements to roads in the UA District associated with a development application will need to be built in compliance with the Bend Development Code, Bend Urban Area Transportation Systems Plan, and to City standards, or require an in-lieu payment in conformance with BDC Chapter 4.7, Transportation Analysis.

Therefore, compliance with Chapter 7 has been met.

## **Chapter 11: Growth Management**

### **Goals**



The following goal statements describe the future urban form and growth aspirations of the community and serve as the foundation for policy statements in this chapter. The citizens and elected officials of Bend wish to:

- Encourage the city's evolution from small town to livable city, with urban scale development, amenities, and services in appropriate locations, while preserving and enhancing the natural environment and history of the community;
- Use Bend's existing urban land wisely, making efficient use of land inside the boundary, with infill and redevelopment focused in appropriate areas within the Central Core, along transit corridors, and in key opportunity areas (see Figure 11-1);
- Create new walkable, mixed use and complete communities by leveraging and complementing land use patterns inside the existing boundary and using expansion to create more complete communities;
- Locate jobs in suitable locations, where there is access to transportation corridors, larger parcels, and good visibility for commercial uses;
- Plan Bend's infrastructure investments for the long term;
- Meet state requirements for growth management and the UGB while achieving local goals;
- Lay the groundwork for the future growth of Bend by taking into consideration the context of lands beyond the UGB;
- Utilize best practices (e.g. cluster development, transect planning) in appropriate locations to reinforce the City's urban form, reduce risk of wildfire, and recognize natural features that present "hard edges" for urbanization; and
- Implement an overall strategy to "*Wisely grow up and out*".

**FINDING:** The UA District is an urban holding zone for lands recently brought into the UGB, but not yet annexed. The UA District is intended to promote the livability, stability, safety and improvement of the urbanizable area by allowing orderly development consistent with the Bend Comprehensive Plan.

#### *Policies for Special Site Needs*

**11-19** The City has identified a need for two large lot (at least 50-acre) industrial sites for targeted industries specified in the EOA. This need will be met through the opportunity for one large lot industrial site in the eastern portion of Juniper Ridge and one large lot industrial site on the DSL property (see Figure 11-3).

**11-20** Subsequent area planning for properties that are identified as meeting a special site need shall include regulations to protect the site for the identified use. The regulations will be consistent with the Regional Large Lot Industrial Land provisions for Crook, Deschutes and Jefferson Counties in Oregon Administrative Rules, Chapter 660, Division 24. The regulations will be consistent with the model code prepared as part of the 2011 Regional Economic Opportunities Analysis.

**FINDING:** As previously discussed under Chapter 6: The Economy and Lands for Economic Growth, the UA District will protect the large industrial site in the DSL expansion area until subsequent master planning and annexation occurs.

*General Area Planning Policies*

**11-19** The city will establish development codes to provide a variety of approaches to area planning in order to further the development of complete communities, unique developments which implement comprehensive plan policies, and provide for adequate public infrastructure.

**11-20** The City may require Area Plans prior to development in UGB expansion areas.

**FINDING:** The code amendment creating the UA District will serve as a holding zoning for the expansion areas. The UA District will protect the expansion areas until master planning and/or area planning occur.

*Master Planning Policies*

**11-31** The purposes of master plans are to:

- promote and facilitate coordinated development and efficient use of land;
- provide a process to consider future development on larger sites and to analyze future demand on public facilities; and
- provide an opportunity for innovative and creative development while providing long-term predictability for the applicants, surrounding neighborhoods, and the entire community.

**FINDING:** The UA District includes the following requirement:

**C. Area and Master Planning.** The City has the authority to process Area Plans under BDC Chapter 4.1, Development Review and Procedures and BDC Chapter 4.6, Land Use District Map and Text Amendments (Type IV process) and Master Plans under BDC Chapter 4.5, Master Planning and Alternative Developments and BDC Chapter 4.6, Land Use District Map and Text Amendments (Type III process) in the UA District prior to annexation. However, development of the property with the uses authorized by the Area or Master Plan may only occur after annexation.

This section recognizes that the Bend Comprehensive Plan requires area or master planning prior to annexation for several of the expansion areas in the UA District. In order to preserve the land for area or master planning and future urban development as contemplated by the Bend Comprehensive Plan, the UA District will provide only limited opportunities for housing and other limited rural uses to be developed.



**11-35** Master plans are required for developments over 20 acres unless otherwise specified in the Development Code. Properties in UGB expansion areas where a master plan is required are shown on Figure 11-4.

**11-37** Approval of a City-initiated Area Plan that encompasses one or more properties over 20 acres (including abutting land in common ownership) does not exempt such properties from master plan requirements.

**FINDING:** The minimum lot size in the UA District is 20 acres which supports Policies 11-35 and 11-37. The minimum lot size would prevent any new lots/parcels less than 20 acres to be created.

*City-Initiated Area Plan Policies*

**11-38** The City may initiate Area Plans for neighborhoods, UGB expansion areas, opportunity areas within the city, or other discrete geographic areas.

**FINDING:** The proposed UA District will provide limited opportunities for housing and other limited rural uses in the urbanizable area that will not interfere with area planning and future urban development as contemplated by the Bend Comprehensive Plan.

*Annexation Policies*

**11-50** Properties over 20 acres (including adjacent property in common ownership) as of the adoption of the UGB expansion (shown on Figure 11-4) are subject to master plan requirements, regardless of property acreage upon annexation.

**FINDING:** The minimum lot size in the UA District is 20 acres which would prevent any new lots/parcels less than 20 acres.

Therefore, compliance with Chapter 11 has been met.

Based on the findings stated above, staff concludes that the proposed text amendments are consistent with the applicable Bend Comprehensive Plan Goals and Policies.

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

**FINDING:** The acknowledged UGB expansion and Bend Comprehensive Plan will achieve the following in the urbanizable area after annexation:

- Provide needed additional land for housing. This land is intended to accommodate approximately 5,282 housing units that cannot be reasonably accommodated in city limits, even with the adoption of efficiency measures. In addition, this land is intended to provide land for more single family attached and multifamily housing for present and future households.



- Provide additional land for jobs. This land is intended to accommodate approximately 7,181 jobs that cannot reasonably be accommodated in the current UGB, even with the adoption of efficiency measures; and
- Provide land for public parks and schools.

The UA District provides a public need and benefit since it protects the urbanizable area from urban development. The UA District is a holding zone and will only provide limited opportunities for housing and other limited rural uses that will not interfere with future urban development for needed housing, employment and public parks and schools as contemplated by the Bend Comprehensive Plan.

Therefore, the proposed amendments to the BDC meet this criterion.

#### **4.6.500 Record of Amendments.**

**The City Recorder shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.**

**FINDING:** In the event the Development Code text amendment is adopted by ordinance, the City Recorder will maintain a record of the amendments and the revised provisions will be included as part of the Bend Development Code available to the public on the City's website.

#### **4.6.600 Transportation Planning Rule Compliance.**

**When a development application includes a proposed comprehensive plan amendment or land use district change, or both, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.**

**FINDING:** OAR 660-012-0060 requires local governments to maintain consistency between land use regulations and the transportation system plan and demonstrate that planned transportation facilities will be adequate to serve planned land uses. It addresses amendments to land use regulations as well as functional classification systems.

OAR 660-024-0020(1) allows cities to defer addressing the requirements of OAR 660-12-0060 of the TPR (which requires a demonstration that there are adequate planned transportation facilities to serve the planned development) until property added to a UGB is re-designated or rezoned to allow urban development.

*OAR 660-024-0020: Adoption or Amendment of a UGB*

*(1) All statewide goals and related administrative rules are applicable when establishing or amending a UGB, except as follows:*

*\* \* \**

*(d) The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary \* \* \*.*

As part of the UGB acknowledgement, the City Council chose to defer addressing the requirements of OAR 660-12-0060 of the TPR for the urbanizable areas and that the transportation planning and TPR compliance will be accomplished with annexation along with master or area planning. The City has language in the adopted Development Code (4.6.600 Transportation Planning Rule Compliance) that requires the following:

*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. [Ord. NS-2016, 2006].*

The Council also found as part of the UGB acknowledgement that the amendments to the urbanizable areas included new City of Bend Comprehensive Plan designations to meet anticipated land needs until 2028. The zoning of the urbanizable areas retained their existing rural Deschutes County zoning designations. When the urbanizable area is rezoned to the UA District, the uses will be further limited and will not generate more vehicle trips than development currently allowed under Deschutes County rural zoning. Therefore, the transportation planning and TPR compliance will still be accomplished with annexation along with master or area planning.

**Conclusion:** The proposal is in compliance with this section of the TPR.

#### **VI. RECOMMENDATION:**

The Planning Commission recommends approval of the proposed text amendments to the City Council.

#### **VI. CONCLUSIONS:**

Based on the above Findings, the City Council concludes that the proposed Development Code text amendments meet all applicable criteria for adoption.