

**ORDINANCE NO. NS -2361**

**AN ORDINANCE AMENDING BEND DEVELOPMENT CODE (BDC) CHAPTERS 2.1, RESIDENTIAL DISTRICTS, 4.2, MINIMUM DEVELOPMENT STANDARDS REVIEW, SITE PLAN REVIEW AND DESIGN REVIEW, AND 4.3, SUBDIVISIONS, PARTITIONS, REPLATS AND PROPERTY LINE ADJUSTMENTS.**

Findings:

- A. The application was processed in accordance with Bend Development Code (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 September 4, 2019.
- C. Notice of the November 25, 2019, Planning Commission public hearing and of the December 18, 2019, City Council public hearing was printed in the Bend Bulletin on November 2, 2019, and was mailed to the neighborhood associations on October 29, 2019.
- D. The Planning Commission held a public hearing for the proposed BDC amendments on November 25, 2019. At the conclusion of the hearing, the Planning Commission voted to recommend the proposed amendments be approved by the City Council.
- E. The City Council held a public hearing on December 18, 2019, to accept evidence, receive public testimony, and consider the Planning Commission's recommendation. The City Council found that the amendments satisfy the criteria for approval contained in Section 4.6.200 of the Bend Development Code and voted to approve the 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 and incorporates the findings in Exhibit B.

First Reading: December 18, 2019

Second reading and adoption by roll call vote: January 8, 2020

YES: Sally Russell, Mayor      NO: none  
Bruce Abernethy  
Barb Campbell  
Bill Moseley  
Justin Livingston  
Gena Goodman-Campbell  
Chris Piper

Sally Russell  
Sally Russell, Mayor

Attest:

Robyn Christie  
Robyn Christie, City Recorder

Approved as to form:

Mary A. Winters  
Mary A. Winters, City Attorney

**Exhibit A**  
**Development Code Update**  
January 8, 2020  
Prepared by: 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***

**DRAFT**

**Chapter 2.1**

**RESIDENTIAL DISTRICTS (UAR, SR 2 1/2, RL, RS, RM-10, RM, RH)**

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**2.1.100 Purpose, Applicability and Location**

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**Table 2.1.100**

**Zone District Characteristics**

<b>Zone District</b>	<b>Location and Characteristics</b>
Urban Area Reserve (UAR)	The Urban Area Reserve District is a holding zone for urban development. The maximum residential density for the district is 1 dwelling unit per 10 gross acres.
Low Density Residential (RL)	The Low Density Residential District consists of large urban residential lots that are served with a community water system and DEQ permitted community <u>sewer, private onsite septic systems</u> , or municipal sewer systems. The residential density range in this district is 1.1 to 4.0 dwelling units per gross acre.

**Table 2.1.100**

**Zone District Characteristics**

Zone District	Location and Characteristics
Standard Density Residential (RS)	The Standard Density Residential District is intended to provide opportunities for a wide variety of residential housing types at the most common residential densities in places where community sewer and water services are available. The residential density range in this district is 4.0 to 7.3 dwelling units per gross acre.
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 multifamily residential 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 multifamily residential 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.

**2.1.500 Lot Area and Dimensions.**

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

Table 2.1.500

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

Residential Use	Zone	Lot Area	Lot Width/Depth	Exceptions
Single-Family Detached Housing; Manufactured Homes on Lots (See BDC 3.6.200(E)); Residential Care Homes and Facilities (See BDC 3.6.200(J))	UAR	Minimum area: 10 acres	Minimum width: 300 ft. min. average lot width with a min. street frontage of 150 ft.	No exceptions permitted
	RL	Minimum area: 10,000 sq. ft. with approved septic or sewer system	Minimum width: 100 ft. min. average lot width with a min. street frontage of 50 ft.  Minimum lot depth: 100 ft.	Bulb of a cul-de-sac minimum width: 30 ft. min. at the front property line  Flag lot or parcel minimum width: 20 ft. min. at front property line.
	RS	Minimum area: 4,000 sq. ft.	Minimum width: 40 ft. at front property line	See BDC 4.3.700, Infill Development Options
	RM-10	Minimum area: 4,000 sq. ft.	Minimum lot depth: 50 ft.	Zero lot line minimum width: 20 ft., see BDC
	RM	Minimum area: 2,500 sq. ft.	Minimum width: 30 ft. at the front property line  Minimum lot depth: 50 ft.	3.6.200(A), Courtyard Housing  Mid-block infill, see BDC 4.3.700, Infill
	RH	Not applicable	Not applicable	Development Options  Corner lots or parcels must be at least five feet more in width than the

Table 2.1.500

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

Residential Use	Zone	Lot Area	Lot Width/Depth	Exceptions
				minimum lot width required in the zone
Two- and Three-Family Housing (duplex/triplex)  See BDC 3.6.200(H)	UAR	Not applicable	Not applicable	Bulb of a cul-de-sac minimum width: 30 ft. min. at the front property line  Flag lot or parcel minimum width: 20 ft. min. at front property line.  See BDC 4.3.700, Infill Development Options  Mid-block infill, see BDC 4.3.700, Infill Development Options  Corner lots or parcels must be at least five feet more in width than the minimum lot width required in the zone
	RL	Minimum area: 20,000 sq. ft. with approved septic or sewer system	Minimum lot width: 100 ft. average  Minimum lot depth: 100 ft.	
	RS	Minimum area – duplex: 6,000 sq. ft.  Minimum area – triplex: 9,000 sq. ft.	Minimum width: 40 ft. at front property line  Minimum lot depth: 50 ft.	
	RM-10	Minimum area – duplex: 6,000 sq. ft.  Minimum area – triplex: 9,000 sq. ft.		
	RM	None		

Table 2.1.500

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

Residential Use	Zone	Lot Area	Lot Width/Depth	Exceptions
	RH	None	Minimum width: 30 ft. at the front property line  Minimum lot depth: 50 ft.	
Single-Family Attached Housing (townhomes)  See BDC 3.6.200(D)	UAR	Not applicable	Not applicable	
	RL*, RS, RM-10	Minimum area: 2,000 sq. ft. for each unit	Minimum width: 20 ft. at front property line for interior townhome lots and 25 ft. at front property line for exterior townhome lots  Minimum lot depth: 50 ft.	
	RM	Minimum area: 1,600 sq. ft. for each unit		
	RH	Minimum area: 1,200 sq. ft. for each unit		
Multifamily Housing (more than 3 units)	UAR	Not applicable	Not applicable	
	RL*, RS*, RM-10	Minimum area: 4,000 sq. ft. for each unit	Minimum width: 30 ft. at front property line  Minimum lot depth: 50 ft.	
	RM, RH	None		

\* When permitted as part of a master plan subject to BDC Chapter 4.5, Master Planning and Development Alternatives.

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## Chapter 4.2

### MINIMUM DEVELOPMENT STANDARDS REVIEW, SITE PLAN REVIEW AND DESIGN REVIEW

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#### 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.

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12. If the properties are not served by the City sewer system in accordance with Title 15, provide documentation from the County Environmental Health Division which indicates that the proposed development will be in compliance with all applicable requirements for sanitary septic systems when such systems exist on the properties affected by the development.

~~12.~~ 13. 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.

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#### 4.2.400 Minimum Development Standards Review.

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 are also considered new if new construction is equal to or greater than 50 percent of the square footage of the existing dwelling (including partial to full demolition replaced with new square footage).~~ Except as provided in subsection 4.2.400(A)(2)(c), a dwelling unit is also considered new if the livable space of an existing



dwelling unit is increased by 50 percent or more (Partial to full demolition of the existing dwelling unit's livable space replaced with new square footage of livable space is considered new square footage).  
*(Make it clear that accessory structures do not require MDS.)*

2. Exemptions. The following are not subject to this section:

- a. Single-family detached dwellings that have existing full utility and full street frontage infrastructure.
- b. Single-family attached dwellings townhomes that have existing full utility and full street frontage infrastructure, and have vehicular access from an alley.
- c. New construction of 200 square feet or less in area to an existing dwelling unit's livable space.  
*(Allows smaller places to add on without needing to go through MDS).*

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

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

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3. Approval Criteria. The Review Authority must approve, approve with conditions, or deny an application for Minimum Development Standards Review based upon the criteria listed below.

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c. The following standards are met:

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iii. Water and Sewer.

(A) Where available, public water and sewer mains must be extended to and through the length of the property frontage with services provided to the dwelling unit(s) in accordance with the City of Bend Standards and as further set forth in BC Title 14, Water.

(B) The proposal complies with BC Title 15, Sewer.

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B. Minimum Development Standards Review for All Other Uses.

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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.

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c. The following standards are met:

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xi. The proposal complies with BC Title 15, Sewer.

#### **4.2.500 Site Plan Review.**

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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:

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10. The proposal complies with BC Title 15, Sewer.

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### **Chapter 4.3**

## **SUBDIVISIONS, PARTITIONS, REPLATS AND PROPERTY LINE ADJUSTMENTS**

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#### **4.3.300 Tentative Plan.**

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E. Criteria for Subdivision, Partition or Replat Approval. The Review Authority shall not approve a tentative plan for a proposed subdivision, partition or replat unless the Review Authority finds that the subdivision, partition or replat will satisfy the following criteria of approval:

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12. The proposal complies with BC Title 15, Sewer

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**EXHIBIT B  
FINDINGS OF FACT  
BEND DEVELOPMENT CODE (BDC) UPDATE  
AMENDMENT PZ 19-0653**

**I. PROCEDURAL FINDINGS:**

- (1) **PUBLIC NOTICE AND COMMENTS.** Notice of the proposed amendment was provided to the Department of Land Conservation and Development (DLCD) on September 4, 2019. Staff emailed the proposed amendments to the Bend Development Code Update Group on October 28, 2019. A notice of the November 25, 2019, Planning Commission public hearing and of the December 18, 2019, City Council public hearing was printed in the Bend Bulletin on November 2, 2019, and was mailed to the neighborhood associations on October 29, 2019.
- (2) **PROPOSAL:** Bend Development Code (BDC) amendments to Chapter 2.1, Residential Districts, Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, and Chapter 4.3, Subdivisions, Partitions, Replats and Property Line Adjustments

**II. CRITERIA OF APPROVAL:**

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

**III. APPLICABLE PROCEDURES:**

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

**IV. FINDINGS REGARDING COMPLIANCE WITH APPLICABLE CRITERIA:**

**CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE, CHAPTER 4.6,  
LAND USE DISTRICT MAP AND TEXT 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 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 and Goal 10: Housing.

**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.

On October 28, 2019, staff emailed the amendments to the Development Code Update Group for their review. The group includes community members comprised of architects, lawyers, developers, engineers, a representative from COBA, representatives from Central Oregon LandWatch, and a land use planner. A notice of the November 25, 2019, Planning Commission public hearing and of the December 18, 2019, City Council public hearing was printed in the Bend Bulletin on November 2, 2019, and was mailed to the neighborhood associations on October 29, 2019.

On October 28, 2019, the Planning Commission held a work session and discussion the proposed amendments and on November 25, 2019, the Planning Commission held a public hearing and recommended that the City Council approve the amendments.

Therefore, Goal 1 has been met.

**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 and to assure an adequate factual base for these

decisions and actions. The proposed amendments will be adopted by the City Council after a public hearing. Multiple opportunities were provided for review and comment by citizens and affected governmental units during the preparation of this ordinance.

Goal 2 specifically states that minor plan changes 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. The City of Bend is currently updating BC Title 15, Sewer which requires all newly developed property used for human occupancy or employment to connect to sewer. The current City interpretation of "new development" includes partitions, subdivisions, any development triggering Minimum Development Standards (MDS) review or higher, including adding an Accessory Dwelling Unit (ADU).

The definition for new development, as proposed in the update to BC Title 15, Sewer, includes 1) a land division; 2) construction of a new dwelling unit; and/or 3) any improvements requiring an alteration permit as defined by Deschutes County Environmental Soils Division and/or OAR 340-071-0100. The proposed update will require the construction of an accessory dwelling unit (ADU) to connect to sewer if a septic system alteration permit would be required to serve the ADU. However, an ADU will be able to be served by an existing septic system if the applicant can show to the satisfaction of Deschutes County that the existing septic system is functioning properly, has the capacity to serve the proposed ADU, and does not need an alteration permit to serve the ADU.

The update to BC Title 15, Sewer will also exempt new single family dwelling (SFD) construction on a vacant lot over 300 feet from existing sewer from connecting to sewer. The City Engineer will be able to provide a waiver allowing development of a SFD on vacant lots within 300 feet of existing sewer without connecting to sewer if the sewer main would be required to be installed at an average depth of five feet or more. This waiver is only intended for vacant lots that do not have legally available sewer. The City defines public sewer legally available when it is located adjacent to a property frontage. There are approximately 18 vacant residentially-zoned properties within City limits eligible for SFD development that do not have legally available sewer. If a waiver is granted, the property will be required to connect within two years of sewer becoming legally available.

The amendments to the BDC are needed to clarify that development subject to Minimum Development Standards Review, Site Plan Review and/or a land division application must comply with BC Title 15, Sewer.

Therefore, Goal 2 is satisfied.

**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 there are no Agricultural or Forest Lands in the City. 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.

**Goal 8, Recreational Needs** is not applicable to the proposed amendments because the amendments do not limit any recreational uses in any zone.

**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. Goal 9 is not applicable because these amendments do not affect any regulation that implements Goal 9 and the City's acknowledged regulations implementing Goal 9 remain in effect with no change in applicability.

**Goal 10, Housing**, requires provisions to provide for the housing needs of citizens of the state. The BDC amendments clarify that development subject to Minimum Development Standards Review, Site Plan Review and/or a land division application must comply with BC Title 15, Sewer. Although the BDC amendments don't directly affect housing, the proposed code revisions to BC Title 15, Sewer do. First, the proposed amendments to BC Title 15, Sewer will require the construction of an ADU to connect to sewer if a septic system alteration permit is required to facilitate the development. However, an ADU will be able to be served by an existing septic system if the applicant can show to the satisfaction of Deschutes County that the existing septic system is functioning properly, has the capacity to serve the proposed ADU, and does not need an alteration permit to serve the ADU.

The proposed amendments to BC Title 15, Sewer will also exempt new single family dwelling (SFD) construction on a vacant lot over 300 feet from existing sewer from connecting to sewer. The City Engineer will be able to provide a waiver allowing development of a SFD on vacant lots within 300 feet of existing sewer without connecting to sewer if the sewer main would be required to be installed at an average depth of five feet or more. This waiver is only intended for vacant lots that do not have legally available sewer. The City defines public sewer legally available when it is located adjacent to a property frontage. There are approximately 18 vacant residentially-zoned properties within City limits eligible for SFD development that do not have legally available sewer. If a waiver is granted, the property will be required to connect within two years of sewer becoming legally available. These amendments could make it more

feasible to develop SFDs and ADUs on properties that are not currently served with sewer.

There are also two minor amendments to BDC 4.2.400, Minimum Development Standards (MDS) Review that are not sewer related. The amendments make it clear that a new accessory structure will not require MDS and they also exempt new construction of 200 square feet or less in area to an existing dwelling unit's livable space from MDS. The latter exemption will allow small additions to dwelling units without going through a land use process. Therefore, Goal 10 is satisfied.

**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 proposed amendments will not result in the need to adjust or amend existing policies or projects in the City's adopted facility plans. Therefore, compliance with Goal 11 is satisfied.

**Goal 12, Transportation**, requires the City to provide and encourage a safe and convenient and economic transportation system. The amendments are not site specific and therefore do not affect the functional classification of any street. The amendments will have no measurable impacts on the amount of traffic on the existing transportation system; therefore the amendments do not cause a "significant effect" under ORS 660-012-0060. Therefore, compliance with Goal 12 is satisfied.

Therefore, compliance with Goal 12 is satisfied.

**Goal 13, Energy Conservation** is not applicable because the City's acknowledged regulations implementing Goal 13 remain in effect with no change in applicability

**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 proposed amendments do not encourage sprawl or lower than targeted densities. The management of the City's land use inventories is unaffected by these proposed amendments and therefore, the City's long standing acknowledgment of compliance with Goal 14 is met.

**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 amendments.

Based on the above discussion, the proposed amendments to the BDC are consistent with the statewide planning goals and therefore comply with the requirement that the amendments are consistent with state land use planning law.



Because the proposed code amendment is limited in scope, there are no other Administrative Rules applicable to this amendment. Likewise, there are no other applicable Oregon Revised Statutes that are criteria applicable to this amendment (Note, consistency with the Transportation Planning Rule (TPR) is discussed further in this document).

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

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

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

**Goals:**

- **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 BDC amendments clarify that development subject to Minimum Development Standards Review, Site Plan Review and/or a land division application must comply with BC Title 15, Sewer.

There are also two minor amendments to BDC 4.2.400, Minimum Development Standards (MDS) Review. The amendments make it clear that a new accessory structure will not require MDS and they also exempt new construction of 200 square feet or less in area to an existing dwelling unit’s livable space from MDS. The latter exemption will allow small additions to dwelling units without going through a land use process.

*Development within the Urban Growth Boundary*

**1-6** New developments shall pay to extend planned sewer, water, and transportation facilities to and through the property if the development occurs prior to the scheduled construction of those facilities shown in the capital improvement plan.

**FINDING:** The City of Bend is currently updating BC Title 15, Sewer. The proposed update will require the construction of an ADU to connect to sewer if a septic system alteration permit is required to facilitate the development. However, an ADU will be able to be served by an existing septic system if the applicant can show to the satisfaction of Deschutes County that the existing septic system is functioning properly, has the capacity to serve the proposed ADU, and does not need an alteration permit to serve the ADU.

The update will also exempt new SFD construction on a vacant lot over 300 feet from existing sewer from connecting to sewer. The City Engineer will be able to provide a waiver allowing development of a SFD on vacant lots within 300 feet of existing sewer without connecting to sewer if the sewer main would be required to be installed at an average depth of five feet or more. This waiver is only intended for vacant lots that do not have legally available sewer. There are approximately 18 vacant residentially-zoned properties within City limits eligible for SFD development that do not have legally available sewer. If a waiver is granted, the property will be required to connect within two years of sewer becoming legally available. The City defines public sewer legally available when it is located adjacent to a property frontage.

The BDC amendments clarify that development subject to Minimum Development Standards Review, Site Plan Review and/or a land division application must comply with BC Title 15, Sewer.

#### *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:** Notice of the proposed amendment was provided to the Department of Land Conservation and Development (DLCD) on September 4, 2019. On October 28, 2019, staff emailed the amendments to the Development Code Update Group for their review. The group includes community members comprised of architects, lawyers, developers, engineers, a representative from COBA, representatives from Central Oregon LandWatch, and a land use planner. A notice of the November 25, 2019, Planning Commission public hearing and of the December 18, 2019, City Council public hearing was printed in the Bend Bulletin on November 2, 2019, and was mailed to the neighborhood associations on October 29, 2019.

On October 28, 2019, the Planning Commission held a work session and discussion the proposed amendments and on November 25, 2019, the Planning Commission held a public hearing and recommended that the City Council approve the amendments.

Therefore, compliance with Chapter 1 has been met.

## **Chapter 5: Housing**

### **Goals:**

- Promote more flexibility in development standards to balance the need for more efficient use of residential land and preservation of natural features.

**FINDING:** There are two minor amendments to BDC 4.2.400, Minimum Development Standards (MDS) Review that are not sewer related. The amendments make it clear that a new accessory structure will not require MDS and they also exempt the new construction of 200 square feet or less in area to an existing dwelling unit's livable space from MDS. The latter exemption will allow small additions to dwelling units without going through a land use process.

### ***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 BDC amendments clarify that development subject to Minimum Development Standards Review, Site Plan Review and/or a land division application must comply with BC Title 15, Sewer.

Therefore, the proposed amendments satisfy Chapter 5.

## **Chapter 8: Public Facilities and Services**

### **Goals:**

- For the city, county, and special districts to coordinate the provision of adequate urban services in an efficient and timely manner to support urban development;
- For new development to pay its fair share of the cost of major facilities needed to support development;
- To ensure that public services will not negatively impact the environment or the community; and

The Oregon Administrative Rule, OAR 340-071-0160, contains the criteria that the Oregon Department of Environmental Quality (DEQ) and Deschutes County Environmental Soils Division use for evaluating and issuing permits for septic system construction, installation, repair, or alteration. When a property owner applies for development on a property served by a private onsite septic system, the City provides written authorization if the property owner must connect to sewer. The County utilizes the written authorization to determine whether a septic permit should be issued.

The BDC amendments clarify that development subject to Minimum Development Standards Review, Site Plan Review and/or a land division application must comply with

BC Title 15, Sewer. Also, the proposed revisions to BC Title 15, Sewer improve the communication between the City and Deschutes County and provide a more consistent process for determining when to issue a septic repair or alteration permit.

### ***Sewer Collection Facilities***

**8-1** All new development within the City Limits should be connected to City sewer.

**8-3** To reduce the reliance on individual sewage disposal systems within the Urban Growth Boundary the city will work with unsewered neighborhoods to find solutions for sewer service.

**FINDING:** The City of Bend is also currently updating BC Title 15, Sewer. The proposed update to BC Title 15, Sewer will require the construction of an ADU to connect to sewer if a septic system alteration permit is required to facilitate the development. However, an ADU will be able to be served by an existing septic system if the applicant can show to the satisfaction of Deschutes County that the existing septic system is functioning properly, has the capacity to serve the proposed ADU, and does not need an alteration permit to serve the ADU.

The update will also exempt new single family dwelling (SFD) construction on a vacant lot over 300 feet from existing sewer from connecting to sewer. The City Engineer will be able to provide a waiver allowing development of a SFD on vacant lots within 300 feet of existing sewer without connecting to sewer if the sewer main would be required to be installed at an average depth of five feet or more. This waiver is only intended for vacant lots that do not have legally available sewer. The City defines public sewer legally available when it is located adjacent to a property frontage. There are approximately 18 vacant residentially-zoned properties within City limits eligible for SFD development that do not have legally available sewer. If a waiver is granted, the property will be required to connect within two years of sewer becoming legally available.

The BDC amendments clarify that development subject to Minimum Development Standards Review, Site Plan Review and/or a land division application must comply with BC Title 15, Sewer.

Therefore, compliance with Chapter 8 has been met.

Based on the findings stated above, staff concludes that the proposed text amendment is 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 amendments continue to better serve the public health, proactively protect water quality, and allow for development opportunities for properties or areas limited by septic system capacity. City sewer provides property owners with reliable waste management that has minimal potential for negative environmental impacts.

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 BDC text amendment is adopted by ordinance, the City Recorder will maintain a record of the amendment and the revised provision 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 new text amends the Bend Development Code, a functional component of the Bend Comprehensive Plan, and is an amendment to a land use regulation as noted in OAR 660-012-0060. The proposed amendments are not tied to any one development application and do not affect the functional classification of any street. The proposed amendments will have no measurable impacts on the amount of traffic on the existing transportation system; therefore, the proposed text amendments do not cause a "significant effect" under ORS 660-012-0060.

**V. CONCLUSIONS:**

Based on the above Findings, the proposed BDC amendment meets all applicable criteria for adoption.

**VI. RECOMMENDATION:**

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