

## ORDINANCE NO. NS - 2456

### AN ORDINANCE AMENDING BEND DEVELOPMENT CODE 3.6.500, SHORT-TERM RENTALS

#### Findings:

- A. In 2014, the Bend City Council responded to concerns by community members, neighborhood associations, homeowner associations, property managers and the tourism industry to consider issues surrounding the increasing number of vacation home rentals in Bend, and to balance neighborhood livability with private property rights and our tourism economy. The City developed a comprehensive Short-Term Rentals (STR) program in 2015, after an extensive and public task force process (comprised of opponents and proponents of STRs), as well as continued community interest and input at the Planning Commission and City Council. The City also looked at the policy approaches of many cities, both in Oregon and other states (including percentages, caps, lotteries, a complete ban/phasing out or amortization of STRs, etc.). The City considered impacts on neighborhoods and the tourism industry, housing, the existing code at the time, and a myriad of competing concerns.
- B. On April 15, 2015, the Council voted to adopt Bend Development Code (BDC) 3.6.500, Short-Term Rentals and Bend Municipal Code (BMC) Chapter 7.16, Short-Term Rental Operating License, as a new regulatory approach for permitting and licensing all STRs.
- C. On March 2, 2022 and May 18, 2022, the Council held work sessions to review an update on the City's STR program and the results from a STR property owners survey as well as different concentration limit scenarios (400 feet, 500 feet and 660 feet) and the resulting number of eligible and ineligible properties based on the approved STRs in the city that are subject to the current 250 foot concentration limit. Council directed staff to prepare amendments to increase the separation distance between properties zoned RL, RS, RM, RH and MR outside of the Old Mill District Boundary for any new short-term rentals from 250 feet to 500 feet in BDC 3.6.500.E, Concentration Limits. The Council was also supportive of proposing an exemption to BDC 3.6.500.K, Abandonment of Use, for a long-term lease of 12 months or longer in compliance with BMC 7.16.070, Criteria for Approval of an Operating License and Operating License Renewal.
- D. 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.
- E. The City submitted a Notice of Proposed Amendment to the Oregon Department of Land Conservation and Development on August 1, 2022.

- F. The City of Bend sent a Ballot Measure 56 notice to all affected properties (over 37,000) of the short-term rental amendments on August 8, 2022.
- G. Notice of the September 12, 2022, Planning Commission public hearing was printed in the Bend Bulletin on August 21, 2022, and mailed and emailed to the Neighborhood Associations on August 12, 2022. A notice of the October 5, 2022, City Council public hearing was printed in the Bend Bulletin on September 11, 2022, and mailed and emailed to the neighborhood associations on September 7, 2022.
- H. On August 22, 2022, the Planning Commission, along with a member from the Neighborhood Leadership Alliance (NLA), held a work session and discussed the amendments.
- I. On September 12, 2022, the Planning Commission held a public hearing on Project Number PLTEXT20220449 and began deliberation. The Planning Commission voted to recommend that the City Council approve the proposed text amendments as amended in Exhibit A.
- J. The City Council held a public hearing on October 5, 2022, 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 with the addition of BDC 3.6.200.A.5.

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

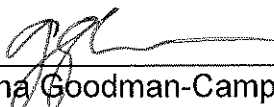
Section 1. The Bend Development Code is amended as depicted in attachment Exhibit A.

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

YES: Mayor Gena Goodman-Campbell  
 Mayor Pro Tem Anthony Broadman  
 Councilor Melanie Kebler  
 Councilor Mo Mitchell

NO: none

ABSTAIN: Councilor Stephen Sehgal

  
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 Gena Goodman-Campbell, Mayor

Attest:

  
 \_\_\_\_\_  
 Robyn Christie, City Recorder

Approved as to form:

  
 \_\_\_\_\_  
 Mary A. Winters, City Attorney

**Exhibit A**  
**Bend Development Code Update**  
Draft: September 12, 2022  
Prepared by:

Planning Division

Note:

Text in underlined typeface is proposed to be added

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

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

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

**Bend Development Code**

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

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**3.6.500 Short-Term Rentals.**

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- E. Concentration Limits. There must be at least ~~250~~ 500 feet of separation between properties zoned RL, RS, RM, RH, and MR outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C) measured radially from the property boundary of the subject property as determined by the City of Bend Community and Economic Development Director or designee, which have a valid Type II short-term rental application or permit or an active Vacation Home Rental approved prior to April 15, 2015. ***(Amended by the Planning Commission on September 12, 2022.)***

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K. Abandonment of Use.

1. Notwithstanding BDC Chapter 5.2, Nonconforming Uses and Developments, if the short-term rental ceases for a period of more than 12 months, the short-term rental permit shall be void with no further proceedings.
  - a. For existing permits submitted prior to the effective date of this code, the period of use shall be measured from the 12 months prior to the due date for the operating license (September 1, 2015).

For permits obtained after September 1, 2014, and before September 1, 2015, and uses that now require a permit under this chapter, the 12-month duration shall be measured from one year beginning September 1, 2015. The period of use shall then be measured annually thereafter.

2. Failure to maintain the STR operating annual license as provided in that chapter shall be considered abandonment of use.
3. Temporary Hardship Exemption.
  - a. A temporary hardship exemption from this section may be granted by the Community and Economic Development Director or designee. The following hardships, including a submission of proof, may be acceptable to the City:
    - i. Medical condition of the owner, spouse, domestic partner or immediate family member that jeopardizes the ability of the owner to operate the short-term rental;
    - ii. Death of a spouse, domestic partner or immediate family member that jeopardizes the ability of the owner to operate the short-term rental; or
    - iii. Structural integrity of the short-term rental that deems it uninhabitable for tenants and is not self-imposed.
  - b. A time limit may be set by the Community and Economic Development Director or designee, but shall not exceed six months. A one-time extension may be approved upon request if one of the conditions of subsection (K)(3)(a) of this section still applies.

#### 4. Long-term Rental Exemption.

- a. A long-term rental exemption from this section may be granted by the Community and Economic Development Director or designee if the property owner provides proof of a long-term lease of 12 months or longer in compliance with BC 7.16.070, Criteria for Approval of an Operating License and Operating License Renewal.

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**EXHIBIT B  
FINDINGS OF FACT  
BEND COMPREHENSIVE PLAN AND BEND DEVELOPMENT CODE (BDC)  
UPDATE  
AMENDMENT PLTEXT20220449**

**I. PROCEDURAL FINDINGS:**

**(1) PUBLIC NOTICE AND COMMENTS.**

Notice of the amendments was provided to the Department of Land Conservation and Development (DLCD) on August 1, 2022. Staff emailed the draft amendments to the Bend Development Code Update Group on August 2, 2022. The Bend Development Code Update group includes community members comprised of architects, lawyers, developers, land use planners and engineers, staff from COBA, Oregon LandWatch and Bend Park and Recreation District, members of the Neighborhood Leadership Association, and the Land Use Chairs of Bend Neighborhood Associations. The City of Bend sent a Ballot Measure 56 notice to all affected properties (over 37,000) of the short-term rental amendments on August 8, 2022. A news release was published on August 15, 2022. On August 18, 2022, staff emailed over 800 people including the Central Oregon Association of Realtors, the Homeowners Association offices at Mt Bachelor Village and the STR licensees and the authorized agents of the STR licensees notifying them of the proposed amendments and of the Planning Commission's work sessions and hearings. A notice of the September 12, 2022, Planning Commission public hearing was printed in the Bend Bulletin on August 21, 2022, and was mailed and emailed to the Neighborhood Associations on August 12, 2022. On August 22, 2022, the Planning Commission, along with a member of the Neighborhood Leadership Alliance, held work session and reviewed the proposed amendments. On September 12, 2022, the Planning Commission held a public hearing and recommended approval of the amendments to the City Council.

A notice of the October 5, 2022, City Council public hearing was printed in the Bend Bulletin on September 11, 2022, and was mailed and emailed to the neighborhood associations on September 7, 2022.

Public comments can be viewed in the [Online Permit Center Portal](#) on the City of Bend website. Open the Portal and select the *Application Search* link under the Planning & Historic header, then enter the project number PLTEXT20220449 in the search bar to find the project.

- (2) PROPOSAL:** Amendments to Bend Development Code (BDC) Chapter 3.6 Special Standards and Regulations for Certain Uses. The amendments are attached as Exhibit A.

**II. CRITERIA OF APPROVAL:**

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

**4.6.200 Legislative Amendments.**

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

**FINDING:** The amendments are consistent with the applicable State land use law. In particular, they satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, Goal 9: Economic Development and Goal 10: Housing.

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

**FINDING:** Notice of the amendments was provided to the Department of Land Conservation and Development (DLCD) on August 1, 2022. Staff emailed the draft amendments to the Bend Development Code Update Group on August 2, 2022. The Bend Development Code Update group includes community members comprised of architects, lawyers, developers, land use planners and engineers, staff from COBA, Oregon LandWatch and Bend Park and Recreation District, members of the

Neighborhood Leadership Association, and the Land Use Chairs of Bend Neighborhood Associations. The City of Bend sent a Ballot Measure 56 notice to all affected properties (over 37,000) of the short-term rental amendments on August 8, 2022. A news release was published on August 15, 2022. On August 18, 2022, staff emailed over 800 people including the Central Oregon Association of Realtors, the Homeowners Association offices at Mt Bachelor Village and the STR licensees and the authorized agents of the STR licensees notifying them of the proposed amendments and of the Planning Commission's work sessions and hearings.

A notice of the September 12, 2022, Planning Commission public hearing was printed in the Bend Bulletin on August 21, 2022, and was mailed and emailed to the Neighborhood Associations on August 12, 2022. On August 22, 2022, the Planning Commission, along with a member of the Neighborhood Leadership Alliance, held work session and reviewed the proposed amendments.

On September 12, 2022, the Planning Commission held a public hearing and recommended approval of the amendments to the City Council. As part of the recommendation, the Commission added the following (italicized and bold) to BDC 3.6.500.E. to clarify the separation distance between short-term rentals includes active Vacation Home Rentals approved prior to April 15, 2015. This is consistent with the definition of Short-term rentals which means the use of a dwelling unit by any person or group of persons entitled to occupy for rent for a period of less than 30 consecutive days. Short-term rentals also include vacation home rentals approved under the regulations in effect through April 15, 2015, and owner-occupied short-term rentals, but does not include bed and breakfast inns, hotels and motels.

### **3.6.500 Short-Term Rentals.**

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- E. Concentration Limits. There must be at least ~~250~~ 500 feet of separation between properties zoned RL, RS, RM, RH, and MR outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C) measured radially from the property boundary of the subject property as determined by the City of Bend Community and Economic Development Director or designee, which have a valid Type II short-term rental application or permit **or an active Vacation Home Rental approved prior to April 15, 2015.**

A notice of the October 5, 2022, City Council public hearing was printed in the Bend Bulletin on September 11, 2022, and was mailed and emailed to the neighborhood associations on September 7, 2022.

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.

**FINDING:** The Goal is met because the City followed the land use planning process and policy framework established in the City’s acknowledged Comprehensive Plan and BDC as a basis for the decisions and actions related to the new regulations regarding the use of land and to assure an adequate factual base for these decisions and actions. The amendments will be 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 FY 2021-23 Council Goal Framework plan includes a housing goal to “Take meaningful action to make this statement a reality: People who live and work in Bend can afford housing in Bend.” The goal includes a strategy to “Pursue policy actions to increase the supply of housing as a platform for equity.” The adopted housing goal includes the following guiding principle and action to implement this goal:

**Guiding Principle:**

- *Reduce regulatory barriers for housing development, with an emphasis on incentivizing rent and price restricted affordable housing, middle income housing, and housing that serves vulnerable community members.*

**Action Item:**

- *Create 1,000 units of rent and price restricted housing that is accessible and affordable to all.*

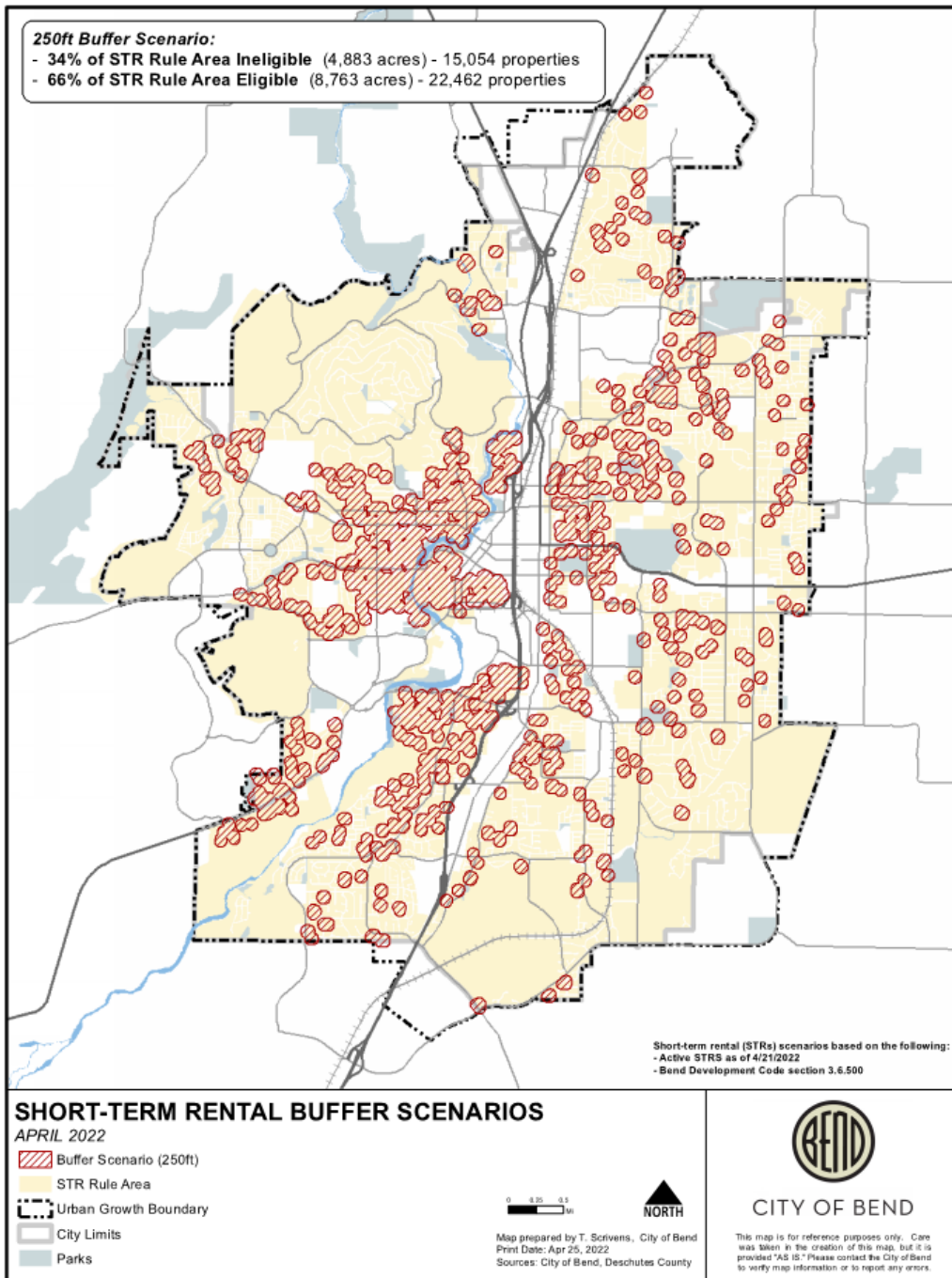
On March 2, 2022, Council received an update on the City’s STR program and also reviewed results from a [STR property owners survey](#), which had a 44% response rate (338 out of 752 STR owners participated). Based on the survey results, property owners identified barriers to using their properties as long-term rentals, including limiting their personal use of the property, cost/revenue impacts and tenant issues/property damage. They were supportive of incentives to renting their properties long term, including waiving the proof of use requirement to keep the STR operating license from becoming void, in Bend Code Chapter 7.16, Criteria for Approval of an Operating License and Operating License Renewal. Currently, the BDC considers a STR permit void if the STR ceases for a period of more than 12 months. This essentially restricts a property from being used as a long-term rental of 12 months or longer. After discussion, the Council was interested in looking at increasing the current 250 foot concentration limit to



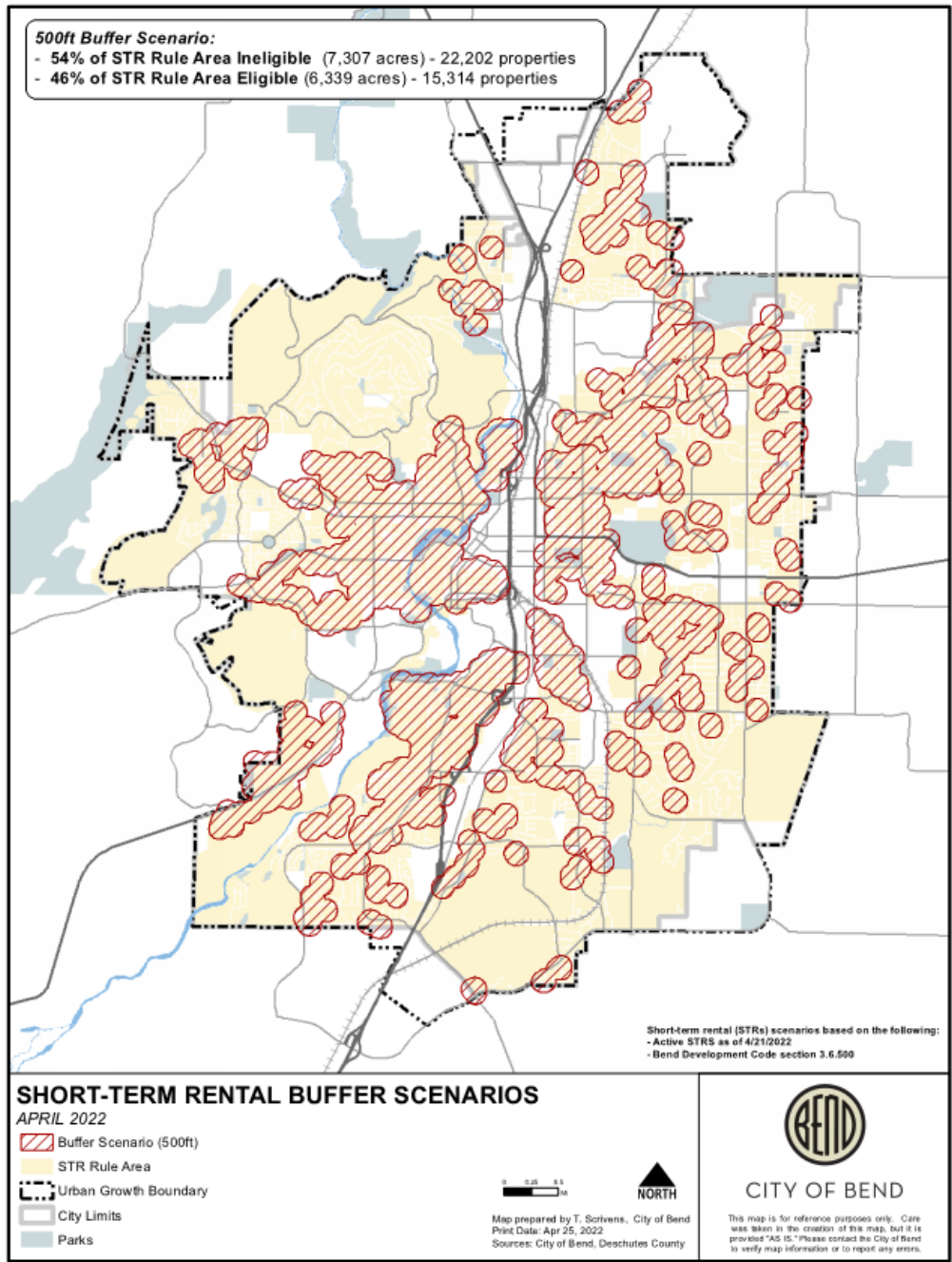
proportionately reduce the number of STRs in Bend as we densify and grow, and options for incentivizing property owners to convert their STRs into long-term rentals.

On May 18, 2022, the Council held a work session and reviewed different concentration limit scenarios (400 feet, 500 feet and 660 feet) and the resulting number of eligible and ineligible properties based on the approved STRs in the city that are subject to the current 250 foot concentration limit. It is important to note that as new STR permits are approved, the percentage of eligible properties goes down exponentially.

As shown on the following map, as of April 2022, there were 22,462 (66%) residential zoned properties still eligible to become a STR under the current concentration limits of 250 feet, and 15,054 (34%) properties that were ineligible.



The following map increases the concentration limit to 500 feet and consequently the number of eligible residential zoned properties is reduced to 15,314 (46%), and the number of ineligible properties increases to 22,202 (54%).



The Council also reviewed maps of residential areas from the Riverwest, Mountain View and Old Bend neighborhoods to understand how many properties could become ineligible based on the different concentration limits.

Based on Council's review, they directed staff to prepare amendments to the BDC to increase the separation distance between properties zoned RL, RS, RM, RH and MR outside of the Old Mill District Boundary for any new short-term rentals from 250 feet to

500 feet in BDC 3.6.500.E, Concentration Limits, and to add an exemption to BDC 3.6.500.K, Abandonment of Use, for a long-term lease of 12 months or longer in compliance with BC 7.16.070, Criteria for Approval of an Operating License and Operating License Renewal. The amendments may provide more opportunities for housing development and long-term rentals, which would help implement the 2021-23 Council goal. Therefore, the amendments are justified and needed, and compliance with Goal 2 is met.

**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** requires the City to satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts. This goal is not applicable as the amendments have no effect on the availability of or access to recreational opportunities.

**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.

**FINDING:** The BDC currently permits STRs in all residential districts and in the MR District outside of the Old Mill District Boundary. The amendments will reduce the concentration of STRs in these districts. The amendments satisfy Goal 9 because they continue to allow the limited short-term leasing of dwelling units in these districts subject to concentration limits because they are recognized as an important element of economic development to meet the City's tourism needs. In addition, since the STR regulations were adopted in 2015, several new hotel/motels have been permitted at various locations in the City, satisfying some of the demand for tourist accommodations for differing income levels.

Therefore, compliance with Goal 9 is satisfied.

**Goal 10, Housing**, requires provisions to provide for the housing needs of citizens of the state. The Goal also requires cities to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

**FINDING:** The FY 2021-23 Bend City Council Goal Framework plan includes a housing goal to “*Take meaningful action to make this statement a reality: People who live and work in Bend can afford housing in Bend.*” The adopted housing goal includes the following guiding principle and action to implement this goal:

***Guiding Principle:***

- *Reduce regulatory barriers for housing development, with an emphasis on incentivizing rent and price restricted affordable housing, middle income housing, and housing that serves vulnerable community members.*

***Action Item:***

- *Create 1,000 units of rent and price restricted housing that is accessible and affordable to all.*

The amendments reduce the concentration of STRs for the short-term leasing of dwelling units less than 30 days. The amendments increase the distance between STRs from 250 feet to 500 feet which helps ensure that this type of use does not become the dominant housing type within portions of the city. In addition, the amendments may help implement the Council's goal of increasing the supply of housing by incentivizing property owners to convert their STR into a long-term lease of 12 months or longer without losing their STR permit.

In addition, Council was presented with data at the March 2, 2022, work session that as of 2022, there were a total of 1,067 active STRs in Bend, or less than 2% of the overall housing stock. Although the number and variety of types of housing units has increased in Bend over the last few years, the proportionate number of STRs has remained constant, increasing at a rate similar to the increase of additional housing units. However, as the City gets denser, Council finds that a further restriction on the buffer between STRs will support the goal of housing for community members and also encourage an increased supply of long-term rentals.

Therefore, compliance with 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 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 new text amends the Bend Development Code, a functional component of the Comprehensive Plan, and is an amendment to a land use regulation as noted in OAR 660-012-0060. The text amendments reduce the density for the short-term rental of dwelling units which are otherwise allowed within the respective zoning districts. The ITE Manual does not provide trip generation data for short term rentals. The City has never found that short term rental uses create different traffic demands than residential uses. The use of a dwelling unit as a STR is anticipated to create fewer PM peak hour trips because vacation and recreation uses tend to concentrate during the weekends and on holidays. Because long-term residential use remains unchanged as a permitted use, the proposed text amendments do not cause a “significant effect” under ORS 660-012-0060.

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 amendments do not encourage sprawl or lower than targeted densities, or uncoordinated development. The management of the City’s land use inventories is unaffected by these amendments and therefore, the City’s long-standing acknowledgment of compliance with Goal 14 is maintained.

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

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

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

- 1. 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 Housing Options and Affordability.** Bend residents have access to a variety of high quality housing options, including housing affordable to people with a range of incomes and housing suitable to seniors, families, people with special needs, and others. Housing design is innovative and energy efficient.

**FINDING:** The amendments may help provide additional housing options by reducing the allowable number of STRs and incentivizing property owners to convert their STRs into long-term rentals. In addition, according to the Short-Term Rental Owner Survey, STRs provide housing options for traveling workers, people relocating to the area, people seeking medical treatment, short-term workers and students. The amendments balance still allowing some STRs in Bend, while reducing the overall concentration as Bend grows and densifies. Therefore, the amendments provide a variety of long-term and short-term housing options for people who live and/or work in Bend.

- **Promote Public and Civic Involvement.** Encourage involvement by all citizens, corporate and individual, to keep the city vital and the Plan an “evolving vision”.

**FINDING:** The City of Bend sent a Ballot Measure 56 notice to all affected properties (over 37,000) of the short-term rental amendments on August 8, 2022. Staff emailed the proposed amendments to the Bend Development Code Update Group on August 2, 2022. The Bend Development Code Update group includes community members comprised of architects, lawyers, developers, land use planners and engineers, staff from COBA, Oregon LandWatch and Bend Park and Recreation District, members of the Neighborhood Leadership Association, and the Land Use Chairs of Bend Neighborhood Associations.

- **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 code update implements the Comprehensive Plan through effective, clear and consistent language that reflects the intent of the vision.

### **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 for 1-15 and 1-16:**

Notice of the amendments was provided to the Department of Land Conservation and Development (DLCD) on August 1, 2022. Staff emailed the draft amendments to the Bend Development Code Update Group on August 2, 2022. The Bend Development Code Update group includes community members comprised of architects, lawyers, developers, land use planners and engineers, staff from COBA, Oregon LandWatch and Bend Park and Recreation District, members of the Neighborhood Leadership Association, and the Land Use Chairs of Bend Neighborhood Associations. The City of Bend sent a Ballot Measure 56 notice to all affected properties (over 37,000) of the short-term rental amendments on August 8, 2022. A news release was published on August 15, 2022. On August 18, 2022, staff emailed over 800 people including the Central Oregon Association of Realtors, the Homeowners Association offices at Mt Bachelor Village and the STR licensees and the authorized agents of the STR licensees notifying them of the proposed amendments and of the Planning Commission's work sessions and hearings. A notice of the September 12, 2022, Planning Commission public hearing was printed in the Bend Bulletin on August 21, 2022, and mailed and emailed to the Neighborhood Associations on August 12, 2022. On August 22, 2022, the Planning Commission, along with a member of the Neighborhood Leadership Alliance, held work session and reviewed the proposed amendments.

On September 12, 2022, the Planning Commission held a public hearing and recommended approval of the amendments to the City Council. As part of the recommendation, the Commission added the following (*italicized and bold*) to BDC 3.6.500.E. to clarify the separation distance between short-term rentals includes active Vacation Home Rentals approved prior to April 15, 2015. This is consistent with the definition of short-term rentals which means the use of a dwelling unit by any person or group of persons entitled to occupy for rent for a period of less than 30 consecutive days. Short-term rentals also include vacation home rentals approved under the regulations in effect through April 15, 2015, and owner-occupied short-term rentals, but does not include bed and breakfast inns, hotels and motels.

**3.6.500 Short-Term Rentals.**

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- E. Concentration Limits. There must be at least ~~250~~ 500 feet of separation between properties zoned RL, RS, RM, RH, and MR outside of the Old Mill District boundary (noted as Type II in Figure 3.6.500.C) measured radially from the property boundary of the subject property as determined by the City of Bend Community and Economic Development Director or designee, which have a valid Type II short-term rental application or permit **or an active Vacation Home Rental approved prior to April 15, 2015.**

A notice of the October 5, 2022, City Council public hearing was printed in the Bend Bulletin on September 11, 2022, and was mailed and emailed to the neighborhood associations on September 7, 2022.

The City Council will hold a public hearing on October 5, 2022.

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.

**FINDING:** An identified concern of some citizens is that the existing concentration limits for short-term rentals are detrimental to preserving existing neighborhood livability. The amendments address those concerns by increasing the distances between properties with new STRs from 250 feet to 500 feet in the RL, RS, RM, RH and MR zones outside of the Old Mill District Boundary. The amendments also encourage more long-term rental options by adding an exemption to BDC 3.6.500.K, Abandonment of Use, for a long-term lease of 12 months or longer in compliance with BC 7.16.070, Criteria for Approval of an Operating License and Operating License Renewal.

### **Policies**

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

**5-7** The City will continue to create incentives for and remove barriers to development of a variety of housing types in all residential zones. This policy is intended to implement the City's obligation under the State Housing Goal to "encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are

commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type, and density”.

**FINDING:** To help provide housing in the city of Bend, the amendments increase the separation distance between properties with new STRs zoned RL, RS, RM, RH and MR outside of the Old Mill District Boundary from 250 feet to 500 feet in BDC 3.6.500.E, Concentration Limits, and add an exemption to BDC 3.6.500.K, Abandonment of Use, for a long-term lease of 12 months or longer in compliance with BC 7.16.070, Criteria for Approval of an Operating License and Operating License Renewal. See also Goal 10, Housing Finding, page 11.

### *Residential Compatibility*

**5-31** Residential areas will offer a wide variety of housing types in locations best suited to a range of housing types, needs and preferences.

**FINDING:** The amendments may help provide additional housing options by reducing the allowable number of STRs and incentivizing property owners to convert their STRs into long-term rentals. Also, it is important to note that according to the Short-Term Rental Owner Survey, STRs provide housing options for traveling workers, people relocating to the area, people seeking medical treatment, short-term workers and students. The amendments balance still allowing some STRs in Bend, while reducing the overall concentration as Bend grows and densifies. Therefore, the amendments provide a variety of long-term and short-term housing options for people who live and/or work in Bend.

The amendments support the long term availability of housing and long-term rental stock, in extremely short supply in Bend. Therefore, compliance with Chapter 5 has been met.

## **Chapter 6: Economy**

Goals:

- Promote a vital, diverse and sustainable economy, while enhancing the community’s overall livability.

**FINDING:** Reducing the number of STRs and incentivizing long-term rentals may help provide additional housing for an important segment of the community which is a vital component in economic development. Additional housing at all income levels and at different stages in life means workers are more stable and invested in their community, children have the opportunity to thrive in school, residents can make healthy choices, and we create less overall environmental burden. The code amendments allow the ongoing use of dwelling units as short-term rentals to support tourism, while regulating

the density to maintain livability in the neighborhoods and provide additional housing for those who live and work in Bend.

**6-2** Bend is a regional center for health care, art and culture, higher education, retail, tourism, and employment. The economic land policies recognize Bend's role in the region, and the need to support uses that bolster the local and regional economy:

- o The Medical District Overlay Zone provides economic lands for a variety of health care and related services to a population much larger than the City of Bend.
- o Commercial and Mixed Use-designated lands support retail, tourism, and arts and culture uses to serve a local and regional role.
- o Public Facility and Special Plan Districts support higher education to serve Bend residents and the needs of the region.
- o Industrial and Mixed Employment-designated land located at Juniper Ridge has a local and regional role.

**FINDING:** Bend's role as a regional social and cultural center is an important consideration as a driver of economic growth. Bend's high quality cultural and natural amenities are repeatedly cited by business owners and employees as reasons to relocate to, or remain in, Bend. They are also the driver of much of the tourism industry, which is a significant portion of the economy. Such amenities play an important role in continuing to attract tourist dollars, new households and future firms. The code amendments allow the ongoing use of dwelling units as short-term rentals to support tourism, while regulating the density and incentivizing long-term rentals to help ensure housing will be available for the long-term needs of the City and region.

The amendments help ensure the long term availability of housing and long-term rental stock while continuing to support tourism. Therefore, compliance with Chapter 6 has been met.

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

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

**FINDING:** The amendments increase the current 250 foot concentration limit to proportionately reduce the number of STRs in Bend as we densify and grow, and provide an option for incentivizing property owners to convert their STRs into long-term rentals. The amendments are consistent with the Comprehensive Plan and provide a public benefit by supporting the long term availability of housing and long-term rental stock, in extremely short supply in Bend. The amendments continue to provide a public benefit by protecting the character of the City's residential neighborhoods by further

limiting the concentration of short term rentals. Because these code amendments address this demonstrated public need, this criterion is met.

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

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

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

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

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

**FINDING:** The new text amends the Bend Development Code, a functional component of the Comprehensive Plan, and is an amendment to a land use regulation as noted in OAR 660-012-0060. The proposed text amendments reduce the density for the short-term rental of dwelling units which are otherwise allowed within the respective zoning districts. The ITE Manual does not provide trip generation data for short term rentals. The City has never found that short term rental uses creating different traffic demands than residential uses. The use of a dwelling unit as a short-term rental is anticipated to create fewer PM peak hour trips because vacation and recreation uses tend to concentrate during the weekends and on holidays. Because long-term residential use remains unchanged as a permitted use, the proposed text amendments do not cause a "significant effect" under ORS 660-012-0060.

#### **V. CONCLUSIONS:**

Based on the above Findings, the BDC amendments meet all applicable criteria for adoption.