ORDINANCE NO. 2016

AN ORDINANCE REPEALING ORDINANCE NO. NS-1178, CITY OF BEND ZONING ORDINANCE, NS-1775, CITYOF BEND LAND USE PERMIT & REVIEW PROCEDURES AND NS-1786, CITY OF BEND SUBDIVISION ORDINANCE, AS AMENDED, AND ADOPTING THE NEW DEVELOPMENT CODE AND AMENDING THE BEND ZONING MAP, BY CHANGING THE DESIGNATION OF AN AREA OF LAND ZONED COMMERCIAL HIGHWAY, (CH) TO GENERAL COMMERCIAL, (CG), AN AREA OF LAND ZONED INDUSTRIAL PARK, (IP) LOCATED NORTH OF BEAR CREEK ROAD AND EAST OF PURCELL BOULEVARD TO MIXED-EMPLOYMENT, (ME).

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Ordinance NO. NS-1178, NS-1775, NS-1786 and all subsequent amendments thereto, are hereby repealed.

Section 2. The City Council hereby adopts a new Chapter 10-10 of the City Code, the City of Bend Development Code, attached hereto as Exhibit 'A'.

Section 3. The City of Bend Zoning Map is amended by changing the designation of the property shown in "Exhibit B" from Commercial Highway (CH) to General Commercial, (CG), Industrial Park (IP) to Mixed Employment (ME). In addition, the map shall be further revised to reflect those zoning map amendments that have been approved prior to the effective date of this ordinance but have not yet been included on the zoning map.

Section 4. If any portion of this ordinance is found to be unenforceable for any reason, only that portion shall be affected. The remainder of the ordinance shall remain in full force and effect.

Read for the first time the 21st day of June, 2006.

Read for the second time the 5th day of July, 2006.

Placed upon its passage the 5th day of July, 2006.

YES: 6 NO: 0

Authenticated by the Mayor the 5th day of July, 2006.

Bill Friedman, Mayor

ATTEST:

~~Patricia Stell~~, City of Bend Recorder
Kim Meyers Deputy

EXHIBIT "A"
CITY OF BEND DEVELOPMENT CODE

EXHIBIT "B"
BEND ZONING MAP

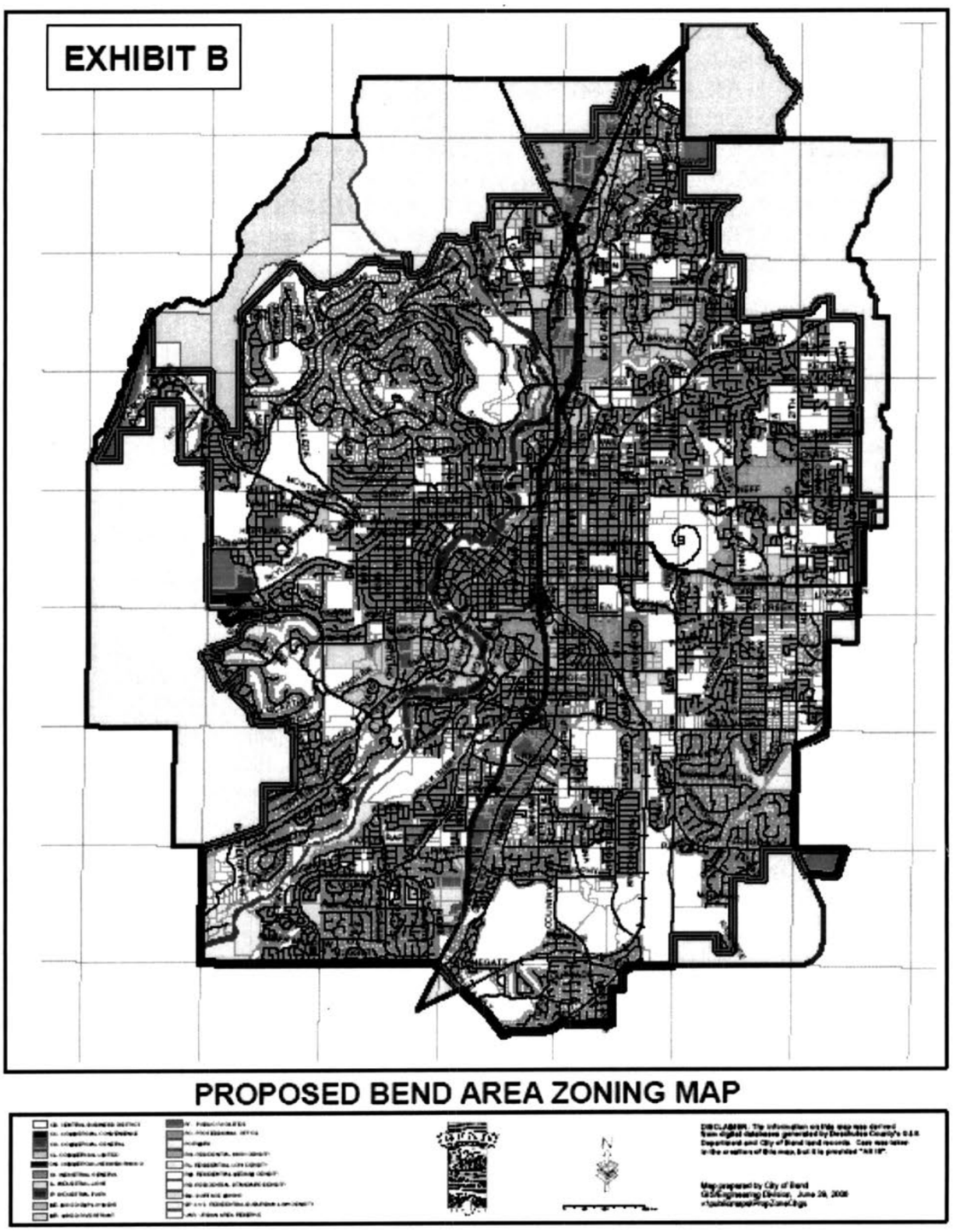


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Chapter 1.0 How to Use the Development Code

Sections:

1.0.100 How to Use the Development Code

This Development Code replaces Chapter 10-10 of the Bend Code. To simplify the chapter and sections of the Development Code, Chapter 10 -10 of the Bend Code shall hereby be incorporated by reference herein.

1.0.100 How to Use the Development Code

Welcome to the Bend Development Code. This is a comprehensive land use and development code that governs all of the land within the incorporated city limits of Bend. The Chapters of the code are used together to review land use applications and are organized as follows:

Chapter 1.0 – In addition to this brief introduction, Chapter 1.0 provides definitions for selected terms and information on the legal construct of the code. It also explains the City's authority to enforce the Development Code.

Chapter 2.0 – Every parcel, lot, and tract of land within the City's incorporated boundaries is also within a "land use district". (Land use districts are shown on the City's official zoning map.) Chapter 2.0 identifies the land uses that are permitted within each district and the standards that apply to each type of land use (e.g., lot standards, setbacks, and use-specific design standards). As required by state law, the zones or "land use districts" conform to the Bend Area General Plan. The districts reserve land for planned land uses, provide compatibility between different uses, and implement planned housing densities.

Chapter 3.0 – The design standards contained in Chapter 3.0 apply throughout the City. Design Standards are used in preparing development plans and reviewing applications to ensure compliance with City standards for access and circulation, landscaping, parking, public facilities, surface water management, housing densities, and sensitive lands.

Chapter 4.0 – Chapter 4.0 provides all of the application requirements and procedures for obtaining permits required by this code. Four types of permit procedures are covered: Type I (non-discretionary, "ministerial" decision); Type II (discretionary, "administrative" decision); Type III (discretionary, "quasi-judicial" decision with public hearing); and Type IV ("legislative" decision by City Council).

Chapter 5.0 – Chapter 5.0 provides standards and procedures for variances and non-conforming situations (i.e., existing uses or developments that do not comply with the code). This code cannot provide standards to fit every potential development situation. The City has varied geography and complexities of land development require flexibility. Chapter 5.0 provides such flexibility, while maintaining the purposes and intent of the code.

Chapter 1.1 General Administration

Sections:

1.1.100	**Severability**
1.1.200	**Compliance and Scope**
1.1.300	**Consistency with Plan and Laws**
1.1.400	**Use of a Development**
1.1.500	**Pre-Existing Approvals**
1.1.600	**Building Permit and Certificate of Occupancy**
1.1.700	**Official Action**

1.1.100 Severability.

The provisions of this title are severable. If any Section, sentence, clause or phrase of this title is adjudged invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of this title.

1.1.200 Compliance and Scope.

A. Compliance with the Provisions in the Development Code. Land and structures may be used, developed by construction, reconstruction, alteration, occupancy, and use, or otherwise, only as this Development Code ("Code") or any amendment thereto permits. No plat shall be recorded or no building permit shall be issued without compliance with the provisions of this Code.

B. Obligation by Successor. The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons' successors in interest.

C. Most Restrictive Regulations Apply. Where this Code imposes greater restrictions than those imposed or required by other rules or regulations, the most restrictive or that imposing the higher standard shall govern.

D. Variances. Variances shall be governed by the provisions of Chapter5.1.

E. Transfer of Development Standards Prohibited. No lot area, yard or other open space or off-street parking or loading area which is required by this Code for one use shall be a required lot area, yard or other open space or off-street parking or loading area for another use, except as otherwise specifically allowed by this Code.

1.1.300 Consistency with Plan and Laws.

Each development and use application and other procedure initiated under this Code shall be consistent with the adopted comprehensive plan of the City of Bend as implemented by this Code, and with applicable state and federal laws and regulations. All provisions of this Code shall be construed in conformity with the adopted Bend Area General Plan.

This ordinance is intended to promote health, safety, welfare and economy by coordinating the complex relationships between people, land, resources and facilities to meet the future needs of the citizens and to protect the livability of the community.

1.1.400 Use of a Development.

A development shall be used only for a lawful use. A lawful use of a development is one that is permitted by this Code, including non-conforming uses subject to Chapter 5.2, and is not prohibited by law.

1.1.500 Pre-Existing Approvals.

A. Legality of Pre-existing Approvals. Developments, including subdivisions, projects requiring development review or site design review approval, or other development applications for which applications were filed prior to the effective date of this Code, and which have not legally expired, may occur pursuant to such approvals; except that modifications to development approvals shall comply with Chapter 4.1.1325; Modifications of Approval. All conditions of pre-existing approvals shall apply.

B. Subsequent Development Applications. All development proposals and applications received by the Planning Director after the adoption of this Code shall be subject to review for conformance with the standards under this Code or as otherwise provided by state law.

C. Duration of Exemption From Subsequently Adopted Land Use Ordinance. For the purposes of ORS 92.040(2) and (3), after September 9, 1995, construction within an approved subdivision shall be subject to the land use laws that were in effect on the date of the subdivision application and shall not be subject to subsequently adopted land use laws. This exemption from subsequently adopted local land use laws shall terminate three (3) years from the date the local land use decision becomes final unless the subdivision was approved as a Master Planned Development with adopted lot development standards.

1.1.600 Building Permit and Certificate of Occupancy.

A. Building Permit. A building permit shall not be issued until the Community Development Director has issued a development permit in accordance with the provisions of Chapter 4.1.900; Land Use Action Decisions, or otherwise found that a development permit is not required.

B. Certificate of Occupancy Required. To ensure completion of a development or use in the manner approved, a development shall not be occupied and a use shall not begin until the Building Official has issued a certificate of occupancy following completion of the work in substantial conformance to the applicable land use and building permits.

C. Prior to Final Completion. Prior to the final completion of all work, a temporary certificate of occupancy may be issued for a portion of the structure conditioned upon further work being completed by a date certain.

1.1.700 Official Action.

A. Official Action. All officials, departments, and employees including contractor-officials of the City vested with authority to issue permits or grant approvals shall adhere to and require conformance with this Code, and shall issue no permit or grant approval for any development or use, which violates or fails to comply with conditions or standards imposed to carry out this Code.

B. Severability. Any permit or approval issued or granted in conflict with the provisions of this Code shall be void.

C. Notice. The failure of any person to receive mailed notice or failure to post a notice shall not invalidate any actions pursuant to this Code.

1.1.800 Miscellaneous Provisions.

A. Intergovernmental Agreements. Outside the City limits where authorized by an intergovernmental agreement, the functions of the Community Development Director and City Review Authority identified herein may be exercised by their counterparts in accordance with the respective intergovernmental agreements.

Chapter 1.2 Definitions

Abutting means adjoining with a common boundary line, except that where two or more lots adjoin only at a corner or corners, they shall not be considered as abutting unless the common property line between the two parcels measures 8 feet or more in a single direction.

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

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

a. Multi-use Path. A paved way (typically 10 to 12-feet wide) that is physically separated from motorized vehicular traffic; typically shared with pedestrians, skaters, and other non-motorized users.

b. Bike Lane. A portion of the roadway (typically 4 to 6-feet wide) that has been designated by permanent striping and pavement markings or signage for the exclusive use of bicycles.

c. Shoulder Bikeway. The paved shoulder of a roadway that is 4 feet or wider; typically shared with pedestrians in areas without curbs and sidewalks.

d. Shared Roadway. A travel lane that is shared by bicyclists and motor vehicles.

e. Multi-use Trail. An unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians.

Accessible means approachable and useable by people with disabilities; compliance with the federal Americans with Disabilities Act.

Accessible parking means a parking site that meets all federal, state and local requirements, whichever is the more strict.

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

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

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

ADAAG means Americans with Disabilities Act Accessibility Guidelines

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

Adjusted floor area means the sum of the gross horizontal areas of all floors of all principal and accessory buildings measured from the exterior faces of the exterior walls of the building(s), and all

other enclosed volumes that would be utilized as floor area and have minimum dimensions of 8 feet by 10 feet and 7 ½ feet head room, without additional excavation.

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

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

Affordable Housing means housing affordable to a certain percentage of the population earning a specified level of income and spending no more than 30 percent of their income on housing expenses.

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

Agriculture see "Farm Use."

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

Alley means a narrow way primarily for vehicular access to the back or side of properties abutting a street.

Alley-access lot means a building lot or parcel with a lot line that abuts an alley.

Alteration "Construction" means where the term "alteration" is applied to a change in construction it is intended to apply to any change, addition, or modification.

Alteration "Occupancy" means where the term is used in connection with a change in occupancy, it applies to changes in occupancy from one use to another.

Alteration, "Structural" means a change or repair that would tend to prolong the life of the supporting members of a building or structure. A change in the external dimensions of a building shall also be considered a structural alteration.

Apartment see "multi-family housing"

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

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

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

Argument means assertions and analysis by a party regarding the satisfaction or violation of legal standards. "Argument" does not include assertion of facts not already in the record.

Arterial see "Street or Road"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Building footprint means the outline of a building, as measured around its foundation.

Building height means the vertical distance from the average natural grade level of the building's wall to the highest point of the building.

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

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

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

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

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

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

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

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

Certified Family Child Care Home means where child care is offered in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status. Certified Family Child Care shall be considered a permitted residential use of the property for zoning purposes. See ORS Chapter 657A for state certification requirements.

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

Church see "Place of worship."

City means the City of Bend, Oregon.

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

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

City Manager means the duly appointed administrative officer of the City of Bend, Oregon, or his/her designee.

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

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

Clerestory or Clearstory Window means the upper stage of the main walls of a church above the aisle roofs, pierced by windows; the same term is applicable in residential, commercial and industrial buildings.

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

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

Collector see Street or Road.

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

Commercial node means one or more lots of parcels not exceeding a total area of one half (½) acre, excluding road right-of-ways, located at the intersection of a local street and another local or collector street.

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

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

Comprehensive Plan means the duly adopted Bend Area General Plan.

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

Conditional Use means a use that requires a Conditional Use Permit. See Chapter 4.4; Conditional Use Permits.

Condominium means a type of ownerships of units, and common ownership of open space and other facilities, and which are regulated, in part by State Law (ORS 91.010-91.652).

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

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

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

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

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

Corporate Headquarters means a building or portion of a building in which persons are employed in the management or direction of a business consisting of one or more divisions or groups of companies. To be considered a corporate headquarters in an industrial zone, the office shall be directly associated with an industrial use on the same site or meet the applicable employee threshold and site size specified elsewhere in this Code. Corporate headquarters or regional headquarters may be permitted as part of a light-manufacturing use. Corporate and regional headquarters may also stand alone provided the headquarter site is ten acres or more and the use shall have at least 100 or more employees at the time of occupancy.

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

Corner clearance means the distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.

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

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

Courtyard Housing means detached single family housing where one side yard is 3 feet and the opposite side yard is a minimum of 10 feet creating a court yard within the side yard. See Chapter 3.6.200(A).

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

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

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

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

Cul-de-sac see Street or Roadway

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

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

Dam means any man-made structure which is or may be used to impound water.

Day care facility (see Child Care Facility)

Day care facility, (adult) means a community-based group program designed to meet the needs of functionally and cognitively impaired adults through individual plans of care that are structured, comprehensive and provide a variety of health, social and related support services in protective settings during part of the day but provide less than 24-hour care. (ORS 410 (Senior and Disability Services) Sections 485-495, and OAR 411 (Senior and Disability Services), Section 066.

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

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

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

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

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

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

Designated wetlands - Areas designated as significant wetlands on the wetland inventory maps adopted by the City of Bend.

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

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

Development means all improvements on a site, including buildings, placement or replacement of manufactured or other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes. For the purpose of flood standards, development shall also mean any man-made change to improved or unimproved real estate, including but not limited to mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

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

Discretionary means a permit action or decision that involves substantial judgment

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

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

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

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

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

Duplex means one building with two dwelling units on one lot or parcel.

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

Dwelling, single-family attached housing means two or more single-family dwellings on their own lots or parcels, with common end-walls also known as townhomes or rowhouses.

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

Dwelling, single-family detached zero lot line house (see Courtyard Housing)
Easement means a right of usage of real property granted by an owner to the public or to specific persons, firms, or corporations,.

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

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

Existing development means development as defined herein that was in place at the time of the adoption of the current zoning and development code.

Environmentally sensitive areas see "sensitive lands".

Evidence means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards relevant to the decision.

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

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

Family day care see "child care center / family child care."

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

Fire apparatus lane (see the Uniform Fire Code)

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

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

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

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

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

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

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

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

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

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

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

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

Floor, lowest habitable means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest habitable floor.

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

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

Frontage street or road. See "Street or Road"

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

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

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

Grade (ground level) means the average elevation of the existing ground elevation at the centers of all walls of a building, walk; the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.

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

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

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

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

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

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

Hospital means any institution, place, building, or agency which maintains and operates organized facilities for 2 or more persons for the diagnosis, care and treatment of human illness, including convalescence and care during and after pregnancy, or which maintains and operates organized facilities for any such purpose, and to which persons may be admitted for overnight stay or for a longer period.

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

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

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

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

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

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

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

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

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

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

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

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

Land use district means a land use district is the same as a zoning district.

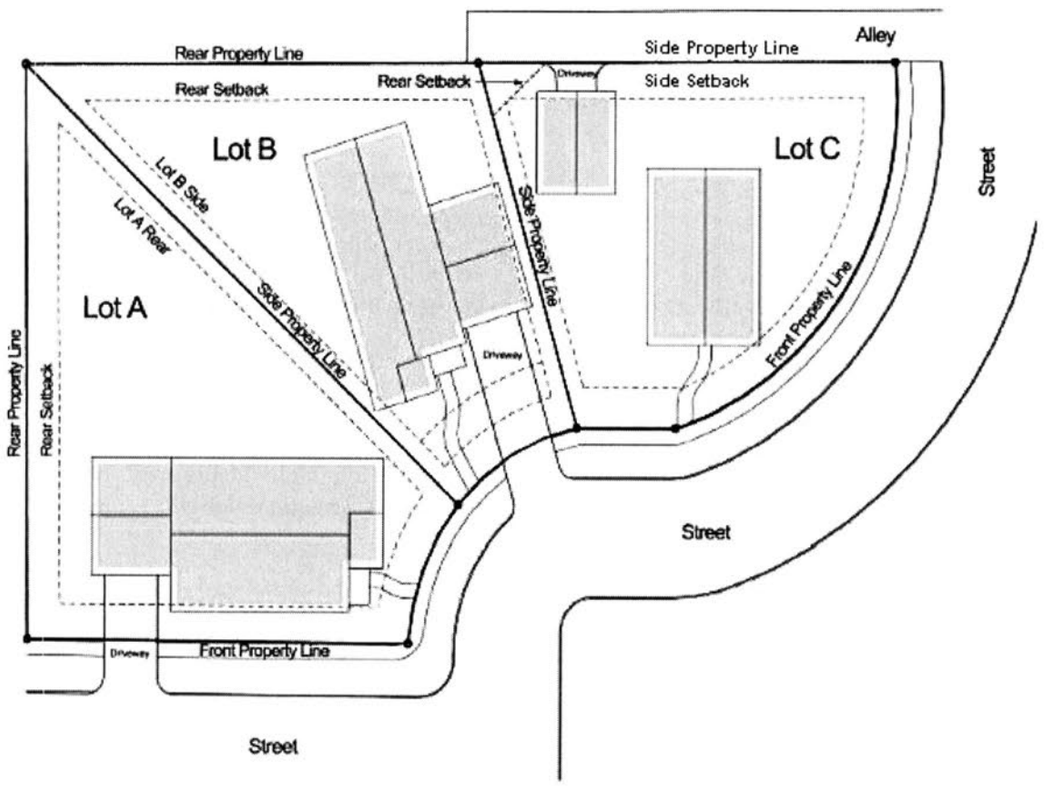
Landing means a level part of a staircase, as at the end of a flight of stairs.

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

Landscaping (R.O.W.) means a combination of drought tolerant living plant material cultivated to grow in Central Oregon.

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

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



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

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

Lot coverage means all areas of a lot or parcel covered by buildings (as defined by foundation perimeters) and other structures with surfaces greater than 18 inches above the finished grade,

excluding covered, but unenclosed porches and uncovered decks up to 5% of the total lot area. Lot coverage is not a yard requirement.

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

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

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

Lot line adjustment means the boundary adjustment of no more than two lots or parcels by relocation of a common boundary where an additional lot or parcel is not created or eliminated. Such adjustment shall only be granted in accordance with the provisions of this ordinance.

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

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

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

Lot of record means a lot or parcel held in separate ownership as shown on the records of the Deschutes County Clerk at the time of the passage of an ordinance or regulation establishing the zone in which the lot is located, legally created pursuant to law at that time.

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

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

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

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

Manufactured dwelling means the following residence types as defined in this Chapter; a residential trailer, a mobile home or a manufactured home.

Manufactured dwelling park means four or more units located on one lot allowing manufactured homes. See Chapter 3.6; Special Standards for Certain Uses for standards related to manufactured dwelling parks.

Manufactured home means (for land use purposes) a portable single family residence constructed after 1976 that conforms to the Manufactured Housing Construction and Safety Standards Code of the US Dept. of Housing and Urban Development but is not regulated by the Oregon State Structural

Specialty Code and Fire Life Safety Regulations, and is intended for permanent occupancy. See Chapter 2.1. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

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

Mixed use buildings or developments means residential and neighborhood commercial uses mixed "vertically," meaning that a residential use is developed above the commercial use, or mixed "horizontally," meaning commercial and residential uses both occupy ground floor space.

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

Multi-family housing means housing that provides more than three (3) dwellings on an individual lot or parcel (e.g., multi-plexes, apartments, condominiums, etc.). See Chapter 2.1.900; Multi-family Residential Districts.

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

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

Multi-use pathway See Access corridor

Native plants means vegetation commonly found growing in Central Oregon

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

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

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

Non-conforming use / non-conforming development –means a land use/structure that would not be permitted by the current code regulations, but was lawful at the time it was established. See Chapter 5.2.

Nursing/convalescent homes (also see Residential Care Home/Facility) means a residence, institution, or place other than a hospital or assisted living facility that operates and maintains facilities providing 24-hour convalescent or chronic care, or both, for 2 or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick. **NOTE:** For Adult Day Care, see Day Care Facilities, (adult).

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

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

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

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

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

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

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

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

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

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

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

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

Park facilities means an active or passive recreation facility owned and operated by the Bend Metro Parks and Recreation Districts which provides for the recreational needs of the citizens of Bend. The

types of BMPRD facilities include neighborhood, community and regional parks. See also *Recreation Facility, Public.*

Party means one who takes part or participates in a land use action. A party includes any person who has standing. A person can become a party by appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing, or by being a property owner who's property would be burdened by a solar access permit. The City may designate a representative for persons whose participation consists only of signing a petition.

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

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

Personal services means a land use where individual customers rather than businesses receive a form of service, i.e., Bank finances, dry cleaning, hair salon, or similar, in return for a form of payment.

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

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

Planning Commission means the Planning Commission of the City of Bend, Oregon.

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

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

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

Plat means a final map, diagram, drawing replat, or other writing containing all descriptions, specifications, locations, dedications, provisions, and information concerning a subdivision.

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

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

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

interior circulation space, each tenant's outside entrance is a main entrance. Buildings may also have main entrances opening directly into a reception or sales areas, a courtyard, or plaza.

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

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

Proceeding means the review of a land use action either administratively by the Planning Director or through the public hearing process by the Hearings Body.

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

Property owner *see definition of "owner".*

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

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

Qualified professional/Individual means an individual approved by the City who through related training, or on-the-job experience, or both, possesses knowledge in one or more of the following subject areas: 1) Arboriculture, 2) Natural Resources; including water resources and riparian restoration, and 3) Urban Interface Fire Protection.

Quasi-judicial also known as "Type III" Action means a plan amendment or zone change affecting a single or limited group of properties and that involves the application of existing policy to a specific factual setting. (The distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to case law on the subject.)

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

Recreational facilities, public means a publicly-owned facility, land, or improvements designated for leisure and recreational activities, open to the general public, with or without payment of fees.

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

Residence *see "dwelling unit."*

Residential care facility means a residential treatment or training home or facilities licensed by the State of Oregon that may provide residential care alone, or in conjunction with treatment and/or

training, for individuals who need not be related. Residential care facilities provide accommodations for (6) six or more individuals. Staff persons required to meet State licensing requirements shall not be counted in the number of facility residents and need not be related to each other or the residents.

Residential caretaker unit means a dwelling unit for caretakers living on-site

Review authority means the Community Development Director, Planning Commission, Hearings Officer, or City Council of the City of Bend.

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

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

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

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

Roof pitch means the slope of a roof, usually described as a ratio (e.g., 1 foot of rise per 2 feet of horizontal distance).

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

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

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

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

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

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

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

Shared parking means required parking facilities for two or more uses, structures, or parcels of land, which is satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that their needs for parking facilities does not materially overlap (e.g., daytime versus nighttime primary uses). See Chapter3.3.

Shopping street means a public or private street or drive designed with the elements of a pedestrian-oriented public street: such as buildings with close orientation to the street, on-street parking, wide sidewalks, street trees, pedestrian scale lighting. See Chapter 2.2; Commercial Districts.

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

Significant trees/significant vegetation means individual trees with a specific truck diameter (as indicated below) as measured four (4) feet above the ground (known as DBH, for – "diameter at breast height").

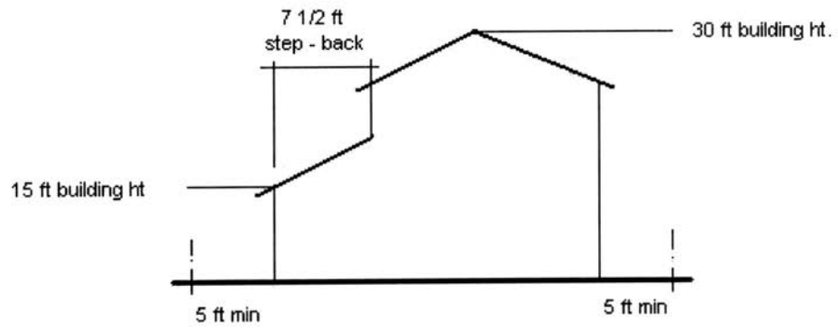
Deciduous trees – 6"inches or greater
Coniferous trees – 10" or greater

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

Solar Heating Hours means the hours and dates during which solar access is provided.

Steep slopes means slopes greater than 20 percent.

Step-back means an additional setback over the first floor of a structure in addition to the minimum yard setback as illustrated below.



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

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

The eight (8) types of streets are:

A. **Arterial** means a restricted access street of substantial continuity which is primarily a traffic artery for intercommunication among large areas, and so designated by the City of Bend. These include principal, major and minor arterials.

B. **Collector** means a restricted access street supplementary to the arterial street system used or intended to be used principally for the movement of traffic, bicyclists, and pedestrians between arterials and local streets. These include major collectors.

C. **Cul-de-sac** means a short street having one end open to traffic and terminated by a circular vehicle turnaround. Cul-de-sacs shall include partial cul-de-sac bulbs or "eyebrows" designed and developed according to City standards.

E. **Expressway** means a major divided highway with limited access that is designed for fast travel.

F. **Frontage Road** means a minor street parallel and adjacent to a major arterial providing access to abutting properties, but protected from through traffic.

H. **Local** means a street intended primarily for access to abutting properties.

J. **T-Courts** means a private street less than or equal to 150 feet in length that has one end open to traffic and is terminated by a rectangular or "hammerhead" vehicle turnaround.

K. **Mid-block lane** means a narrow, limited use roadway facility usually used to access a limited number of dwelling units, similar to an alley in design. See Subsection 4.5.200.

Street access means safe and efficient passage for pedestrians and vehicles to circulate from private and public property through a connected street system. See Section 3.1.400.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Trails See "Access Corridor"

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

Transit-oriented development means development at or within ¼ mile walking distance of a transit center, transit stop, or station. Development or design of the site places a priority on facilitating safe and convenient pedestrian circulation and access, reducing automobile reliance and parking needs, and minimizing conflicts between vehicles and pedestrians.

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

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

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

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

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

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

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

Triplex means a building with three attached housing units on one lot or parcel.

Type I also known as "Development action" means the review of any permit, authorization or determination that the City of Bend Development Services Department is requested to issue, give or make that either:

1. Involves the application of the City zoning ordinance or the City Land Division ordinance and is not a land use action as defined below; or
2. Involves the application of standards other than those referred to in subsection 1, above.

For illustrative purposes, the term "development action" includes review of any condominium plat, permit extension, duplex or triplex units under 3,600 square feet where permitted as an outright use, road name change, sidewalk permit, setback determination, and lot coverage determination.

Type II also known as "Land use permit" means any approval of a proposed development of land under the standards in the City zoning ordinances or Land Division ordinances involving the exercise of significant discretion in applying those standards.

By way of illustration, "land use permit" includes review of conditional use permits, partition, master plan, commercial design review, riverfront design review, site plan, site plan change of use, modification of approval, administrative determination, declaratory ruling, subdivision variance, subdivision, and variance, but does not include Type I actions.

Type III also known as "Land use action" means any consideration for approval of a quasi-judicial plan amendment or zone change, any consideration for approval of a land use permit, which requires a public hearing and any consideration of a request for a declaratory ruling (including resolution of any procedural questions raised in any of these actions).

Type IV also known as a "Legislative change" 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 plans, zoning ordinances, or the subdivision or partition ordinance and changes in zoning maps not directed at a small number of properties.

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

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

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

Vacation home rental means the use of a dwelling unit by any person or group of persons entitled to occupy for rent for a period of less than twenty-one (21) consecutive days.

Variance means an administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this Code. See Chapter 5.1; Variances.

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

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

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

Water-related means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or water-way use, and which, if not located adjacent to water, would result in public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoils and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.

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

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

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

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

Zero lot line subdivision or partition means a type of residential subdivision or partition utilizing zero lot lines between dwelling units and providing for individual ownership of each lot.

Zoning district means an area defined by the City's zoning map.

"120-day," as used in this ordinance shall have the meaning found in ORS 227.178(2).

Chapter 1.3 Enforcement

Sections:

1.3.100 Provisions of this Code Declared to be Minimum Requirements
1.3.200 Violation of Code Prohibited
1.3.300 Penalty

1.3.100 Provisions of this Code Declared to be Minimum Requirements.

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

B. Most Restrictive Requirements Apply. When the requirements of this Code vary from other provisions of this Code or with other applicable standards, the most restrictive or that imposing the highest standard shall govern.

1.3.200 Violation of Code Prohibited.

No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this Code or any amendment thereto.

It shall be the duty of the Community Development Director to enforce this ordinance. All departments, officials and public employees of the City of Bend, vested with the duty or authority to issue permits shall conform to the provisions of this ordinance and shall issue no permit, certificate or license for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this ordinance. Any permit, certificate or license issued in conflict with the provisions of this ordinance, intentionally or otherwise, shall be void. Any use of land in violation of this ordinance is declared to be a nuisance.

1.3.300 Penalty.

A. Penalties for Violation. A violation of the provisions of this ordinance is punishable upon conviction by:

1. A fine of not more than $500 for each day of violation where the offense is a continuing offense; or

2. A fine of not more than $500 where the offense is not a continuing offense, except in the instance where significant trees as defined by this ordinance have been removed the following penalties shall apply based on the size of the tree(s) removed:

Tree Size	Bond Amount
4-6 inches DBH	$1000.00
6-10 inches DBH	$1500.00
10-16 inches DBH	$3000.00
Greater than 16 inches DBH	$5000.00

B. Injunctive Relief and Abatement.

1. The foregoing sanctions shall not be exclusive, and where the public health, safety, morals, or general welfare will be better served thereby, the Community Development Director may institute such proceedings for injunctive relief against a continuing violation as may be authorized by the statutes of the State of Oregon, and/ or institute any other legal remedy.

2. In the discretion of the Community Development Director, a violation may be abated as a nuisance as provided in Sections 5.400 through 5.425 of the Bend Code or other applicable provisions of law.

C. Mitigation for the Removal of Vegetation. In addition to the enforcement and penalty provisions above, the Review Authority may require the replacement of vegetation removed in violation of the provision of this ordinance or in violation of a land use approval. The City may require greater than one-to-one replacement. The amount of replacement trees, shrubs, and groundcover shall be determined by the volume of removed vegetation. The property owner shall enter into a mitigation agreement plan approved by the City. The mitigation plan shall include:

1. A mitigation plan providing for the planting and maintenance of the replacement vegetation. The plan shall make provisions for the replacement of plants that die within three years of planting.

2. Failure to enter into a mitigation agreement plan as required by this section or failure to comply with any condition of that plan shall be a violation subject to the penalties described in 1.3.300; Penalties for Violation. Such failure shall be a separate infraction each day the failure to comply continues. In addition, the City may refuse to accept any development permit application for the subject property or stop work on any development approved for the subject property until an acceptable mitigation plan has been executed or complied with.

3. In addition to monetary penalties, the City may seek injunctive relief to require the property owner or other responsible parties to restore the property to the conditions prior to the violation. Injunctive relief may include imposition of a mitigation plan.

D. Evidence. In any prosecution for causing or maintaining any condition or use of, or activity on, or constructing, moving or maintaining any structure on, any premises, the owner or lessee at the time of the violation, or continuance thereof, shall be presumed to be the person who constructed, moved, caused or maintained the unlawful activity, use, condition or structure. This presumption shall be refutable and either the City or the defendant in such prosecution shall have the right to show that the offense was committed by some person other than, or in addition to, an owner or lessee or other persons in possession or control of the premises; but this shall not be construed as relieving a person in possession and control of property from any duty imposed upon him by this ordinance. For the purposes hereof, the person to whom the premises are taxed according to the records of the Deschutes County Assessor shall be prima facie the person in possession or control of the premises. Where premises on which the violation is committed are commercial or

industrial premises on which a sign is situated identifying the commercial or industrial activity conducted thereof, the same shall constitute prima facie evidence that the person whose name is thus displayed is in possession or control of the premises as owner or lessee, but this shall not be construed to relieve from responsibility any agent, manager, employee or other person who actually committed the violation.

Chapter 2.0 Land Use District Administration

Sections:

2.0.100 Classification of Land Use Districts
2.0.200 Land Use District Map
2.0.300 Determination of Land Use District Boundaries

2.0.100 Classification of Land Use Districts

All areas within the urban growth boundary of the City of Bend are divided into land use districts. The use of each lot, parcel and tract of land is limited to the uses permitted by the applicable land use district. The applicable land use district shall be determined based on the Zoning Map, and the provisions of this Chapter. The following table lists the Land Use Districts within this Code:

Table 2.0.100 - Classification of Land Use Districts

Land Use Districts
RESIDENTIAL DISTRICTS, CHAPTER 2.1
Area Reserve District (UAR)
Suburban Low Density Residential (SR 2 ½)
Low Density Residential (RL)
Standard Density Residential (RS)
Medium-10 Density Residential (RM-10)
Medium Density Residential (RM)
High Density Residential (RH)
COMMERCIAL DISTRICTS, CHAPTER 2.2
Convenience Commercial District (CC)
Limited Commercial (CL)
General Commercial District (CG)
Central Business District (CBD)
EMPLOYMENT, CHAPTER 2.3
Mixed Use Districts • Mixed Employment (ME) • Mixed-use Riverfront (MR) • Professional Office (PO)
GENERAL INDUSTRIAL, CHAPTER 2.4
General Industrial District (IG)
Light Industrial District (IL)
SURFACE MINING, CHAPTER 2.5
Surface Mining District (SM)
PUBLIC FACILITIES DISTRICT, CHAPTER 2.6
Public Facilities District (PF)
SPECIAL PLANNED DISTRICTS, CHAPTER 2.7
Lava Ridge Refinement Plan
Northwest Crossing Refinement Plan
Dean Swift Refinement Plan
Waterway Overlay Zone
Upland Areas of Special Interest
Medical District Overlay

2.0.200 Land Use District Map

A. Consistency with Zoning Map. The boundaries of each of the land use districts contained within this chapter shall coincide with the land use district boundaries identified on the City's official zoning map, retained by the Community Development Director or designee. Said map by this reference is made a part of this Development Code. A certified print of the adopted zoning map, and any map amendments, shall be maintained by the City. Refinement Plan maps are included in Chapter 2.7, Special Planned Districts.

B. Applicability of Zoning Requirements. Each lot, tract and parcel of land or portion thereof within the land use district boundaries as designated and marked on the zoning map, is classified, zoned and limited to the uses as hereinafter specified and defined for the applicable district classification.

2.0.300 Determination of Land Use District Boundaries

A. Land Use District Map Amendments. All amendments to the City land use district (zoning) map shall be made in accordance with the provisions of Chapter 4.1; Land Use Review and Procedures.

1. Copies of all map amendments shall be dated with the effective date of the ordinance adopting the map amendment, and shall be maintained without change, together with the adopting documents, on file at the City; and

2. The City shall make available for public inspection a current copy of the revised zoning map, so that it accurately portrays changes of zone boundaries or classification.

3. Refinement Plans must go through the process described in Chapter 4.1; Land Use Review and Procedures.

B. Conflicts. Where due to the scale, lack of scale, lack of detail or illegibility of the City zoning district map, or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of district boundary lines, the boundary lines shall be determined by the Planning Director or designee in accordance with the following:

1. Boundaries indicated as approximately following the centerlines of streets, highways, railroad tracks or alleys shall be construed to follow such centerlines;

2. Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries;

3. If a zone boundary divides a lot into two or more zones, the boundary shall be determined by using the scale of the map and measuring the distance from the property line or distances specified on the map.

4. Boundaries indicated, as approximately following a City boundary or the Urban Growth Boundary, shall be construed as following said boundary;

5. Boundaries indicated as approximately following river, stream and/or drainage channels or basins shall be construed as following river, stream and/or drainage channels or basins, as applicable; and

6. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same land use district designation that is applicable to lands abutting the vacated area. In cases where the right-of-way formerly served as a land use district boundary, the lands formerly within the vacated right-of-way shall be allocated proportionately between the subject land use districts.

C. Zoning of Annexed Areas. If a reclassification for lands annexed to the City of Bend is necessary, said lands shall be reclassified to a zone consistent with the Bend Area General Plan after hearing and recommendation by the Planning Commission to the City Council. Any conditions, limitations or restrictions applied by the County to regulate a development of land annexed to the City shall continue to apply until replaced by the City. Where appropriate, the City may continue any restrictions, limitations and conditions and enforce the same as if applied by the City pursuant to the ordinance and its procedures.

Chapter 2.1 Residential Districts (UAR, RL, RS, RM-10, RM, RH)

Sections:

2.1.100 Purpose, Applicability and Location
2.1.200 Permitted Land Uses
2.1.300 Building Setbacks
2.1.400 Building Mass and Scale
2.1.500 Lot Area and Dimensions
2.1.600 Residential Density
2.1.700 Maximum Lot Coverage
2.1.800 Building Height
2.1.900 Architectural Design Standards
2.1.1000 Multi-family Residential Districts

2.1.100 Purpose, Applicability and Location

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

- Make efficient use of land and public services, and implement the Comprehensive Plan, by providing minimum and maximum density standards for housing.
- Accommodate a range of housing needs, including owner-occupied and rental housing.
- Provide for compatible building and site design at an appropriate neighborhood scale which reflects the neighborhood character.
- Reduce reliance on the automobile for neighborhood travel and provide options for walking and bicycling.
- Provide direct and convenient access to schools, parks and neighborhood services.

B. Applicability. This chapter applies to all development in the Urban Area Reserve District (UAR), Residential Suburban Low Density (SR2 ½), Low Density Residential District (RL), Standard Density Residential District (RS), Medium-10 Density Residential District (RM-10), Medium Density Residential District (RM), and High Density Residential District (RH). These Districts are identified on the City's official zoning map. Properties designated within each district that contain additional standards shall comply with the provisions of the applicable District, except as may be modified by this Section. Properties within a designated Historic District shall comply with the provisions of Chapter 10-16 of the Bend Code.

Table 2.1.100
Zone District Characteristics

Zone District	Location and Characteristics
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.**
Suburban Low Density Residential (SR 2 ½)	**Areas with the Suburban Low Density Residential zoning reflects the existing development patterns and the presence of community water systems located on the perimeter of the city intended for urban re-development. The maximum density in the district is 1 unity per 2 ½ 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 or municipal sewer systems. The residential density range in this district is 1.1 to 2.2 dwelling units per gross acre.**
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 2.0 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 multi-family 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 multiple family residential housing in areas where sewer and water service are available. The residential density range in the District is 7.3 to 21.7 units per gross acre and shall provide a transitional use area between other residential districts and other less restrictive areas.**
High Density Residential (RH)	**The High Density Residential District is intended to provide land for primarily high density residential multiple family housing in locations close to shopping and services, transportation and public open space. The density range of the district is 21.7 to 43.0 units per gross acre and shall provide a transitional use area between other residential districts and other less restrictive areas.**

2.1.200 Permitted Land Use

A. Permitted Uses. The land uses listed in Table 2.1.200 are permitted in the Residential Districts, subject to the provisions of this Chapter. Only land uses that are specifically listed in Table 2.1.200, land uses that are incidental and subordinate to a permitted use and land uses that are approved as "similar" to those in Table 2.1.200, may be permitted.

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter 4.1.1400; Declaratory Ruling.

C. Existing Uses. Uses and structures lawfully established within a residential zone prior to the adoption of this ordinance shall be treated as a permitted use. Expansion or enlargement 25% or less of the above referenced uses or structures that are non-residential, shall be subject to the provisions of Chapter 4.2, Site Development and Design. For expansion or enlargement greater than 25%, the Conditional Use criteria, standards and conditions within Chapter 4.4; Conditional Use Permits shall also apply. Conditions of prior approvals shall continue to apply unless modified in conformance with Section 4.1.1000; Reconsideration.

Table 2.1.200 - Permitted Land Uses

Land Use	SR 21/2	RL	RS	RM-10	RM	RH	UAR
Residential							
Single-family detached housing	P	P	P	P	P	C	P
Single-family courtyard housing	N	C	C	P	P	C	C
*Accessory dwellings	P/C	P/C	P/C	P	P	P	P
*Manufactured homes on individual lots	P	P	P	P	P	N	P
*Manufactured Home Park	N	C	C	P	P	P	N
*Attached Single-family Townhomes	N	N	C	P	P	P	N
*Two-and three-family housing (duplex and triplex)	N	C	C	P	P	P	N
Adult Foster Homes (5 or fewer residents)	P	P	P	P	P	P	P
Adult Day Care	P	P	P	P	P	P	P
Residential Care Facility (6 or more residents)	N	N	N	C	P	P	N
Family Childcare Home, (16 or fewer children)	P	P	P	P	P	P	P
*Multi-family housing (more than 3 units)	N	N	N	P	P	P	N
*Home occupation (Type I / Type II)	P/C	P/C	P/C	P/C	P/C	P/C	P/C
*Temporary Housing	N	C	C	C	C	C	N
*Accessory Uses and Structures	P	P	P	P	P	P	P
*Public and Institutional							
*Churches and places of worship	C	C	C	C	C	C	C
Clubs, lodges, similar uses	C	C	C	C	C	C	C
***Government offices and facilities (administration, public safety, utilities, and similar uses)**	C	C	C	C	C	C	C
Libraries, museums, community centers, and similar uses	C	C	C	C	C	C	C
***Utilities (above ground) and Radio/Television Transmission**	C	C	C	C	C	C	C
Neighborhood Parks	P	P	P	P	P	P	P
Community Parks	C	C	C	C	C	C	C
Regional Parks	C	C	C	C	C	C	C
Recreational facilities	C	C	C	C	C	C	C
Schools (public and private)	C	C	C	C	C	C	C
Cemetery/Mausoleum	C	C	C	C	C	C	C
Child Care Facility (17 or more children)	C	C	C	C	C	C	C
Hospital	C	C	C	C	C	C	C
*Neighborhood Commercial							

Land Use	SR 21/2	RL	RS	RM-10	RM	RH	UAR
Child Care Facility (13 or more children)	N	C	P	P	P	P	N
*Food services less than 2,000 square feet, (with or without alcohol) excluding automobile dependent and automobile-oriented, drive-in, and drive-through uses	N	C	C	C	C	P	N
Laundromats and dry cleaners	N	C	C	P	P	P	N
Retail goods and services	N	C	C	P	P	P	N
Personal services (e.g., barber shops, salons, similar uses)	N	C	P	P	P	P	N
Repair services, conducted entirely within building; excluding vehicle repair, small engine repair and similar services	N	C	C	C	C	C	N
Mixed use building	N	C	C	P	P	P	N
*Miscellaneous Uses							
Diagnostic testing, counseling, administrative offices, meeting facilities for non-profit and public community service programs for children and families.	N	C	C	C	C	C	N
*Bed & breakfast inns and vacation rentals	C	C	C	C	C	C	C
Office uses lawfully existing prior to the adoption date of this ordinance	N	N	N	N	P	P	N
*Plant Nursery							
• Existing	P	P	P	P	P	P	P
• New (limited to 1 acre)	C	C	C	C	C	N	C
• New larger than 1 acre)	C	N	N	N	N	N	C
*Timeshare Unit	N	N	C	C	C	C	N
*Vacation Home Rental	P	P	P	P	P	P	P
Farm Use, Agriculture	P	N	N	N	N	N	P
Destination Resorts	C	N	N	N	N	N	C
Boarding Kennel	C	N	N	N	N	N	C
Veterinary Services							
• Small animal (only)	N	C	N	N	N	N	N
• Large animal	C	C	N	N	N	N	C

Key to Districts:

UAR = Urban Area Reserve
RS = Standard Density Residential
RM-10= Medium-10 Density Residential
RL = Low Density Residential
RM = Medium Density Residential
RH = High Density Residential

Key to Permitted Uses

P = Permitted; subject to Chapter4.1; Procedures
N = Not Permitted

C = Conditional Use subject to permit standards in Chapter 4.4.

* Subject to special standards as described in Section 2.1.900; Architectural Design Standards and/or Chapter 3.6; Special Standards for Certain Uses

NOTE: Existing Neighborhood Commercial (CN) zoned properties will remain as mapped recognizing neighborhood commercial properties established prior to the adoption of this ordinance. The development of these sites shall conform to the standards outlined in Chapter 3.6; Special Standards for Certain Uses, for the uses described above.

2.1.300 Building Setbacks

A. Purpose. Building setbacks provide private outdoor living space, building separation for fire protection/security, building maintenance, and sun light and air circulation. The building setback standards encourage placement of residences close to the street for public safety and neighborhood security.

B. Setback Standards. The setback is measured from the building façade or structure, to the respective property line. Setbacks for decks and porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed on the following pages, apply to primary structures as well as accessory structures. A variance is required in accordance with Chapter 5.1; Variances to modify any setback standard.

C. Front Yard Setbacks.

1. RL, SR 2 ½ and UAR Districts:
   a. A minimum front yard setback of 20 feet is required for buildings or structures, except on corner lots within a platted subdivision, one front yard setback can be 10 feet, provided that the garage is setback 20 feet from the property line.

   b. Exception
      i. An uncovered deck or unenclosed, covered porch not exceeding 18 inches in height may be within 10 feet of the front property line.

2. RS, RM-10, RM, and RH, Districts:

   a. A minimum front yard setback of 10 feet and a maximum setback of 20 feet is required.

   b. Garages and carports shall be accessed from alleys where practical, otherwise garages with street access shall be set back 20 feet from the front property line.

   c. Exceptions.
      i. An uncovered deck or unenclosed, covered porch not exceeding 18 inches in height may be within 6 feet, as long as it does not encroach into a public utility easement.
      ii. When garages on corner lots are accessed from an alley the front setback for the garage side wall may be 10 feet from the front property line. In this case, the garage must have at least two windows in the side wall facing the street that are a minimum of 2 feet by 3 feet each. The garage structure must comply with the clear vision standards in Section 3.1.400N.
      iii. Front yards abutting an arterial or collector street shall be 20 feet for all structures with no maximum setback applied.

D. Rear Yard Setbacks.

1. RL, SR 2 ½ and UAR Districts: The minimum rear yard setback shall be 20 feet for buildings or structures, except in the RL zone on corner lots within a platted subdivision, one rear yard setback can be 10 feet.

2. RS and RM-10: The minimum rear yard shall be 5 feet. The rear setback shall step-back ½ ft for each foot by which the building height exceeds 15 feet.

RM and RH Districts :

a. For single family dwellings – the rear yard setbacks for the RS zone shall apply.
b. For multi-family dwellings (including duplexes and triplexes) – The minimum rear yard setback shall be 5 feet except when abutting the RS zone or an existing single family home, the rear yard setback shall increase ½ ft for each foot by which the building height exceeds 20 ft.

Table 2.1.300 - Typical Residential District Setbacks

	*Front	*Rear	*Side
UAR	20 ft	20 ft	10 ft
SR 2 ½	20 ft	20 ft	10 ft
RL	20 ft	10 ft/20 ft	10 ft
RS and RM-10	10 foot minimum 20 foot maximum, garages shall be set back 20 feet	5 ft minimum; The rear yard setback shall step-back ½ ft for each foot by which the building height exceeds 15 ft.	*3ft /5ft min ; sum of two sides equal 10 feet. The sum of the setbacks shall increases for buildings over 15 ft, resulting in a step-back of ½ ft for each foot by which the building height exceeds 15 ft.
RM and RH	10 ft , except for garages shall be setback 20 ft.	5 ft minimum. Rear yard shall increase ½ ft for each foot by which the building height exceeds 20 ft. when abutting the RS zone or existing single family housing	5 ft minimum. The sum of the side yard shall increase ½ ft for each foot by which the building height exceeds 20 ft. when abutting the RS zone or existing single family housing

* Special setbacks for certain features as permitted in Section 2.1.300 and Section 3.6.200 – Special Standards for Residential Uses

E. Side Yard Setbacks.

1. RL, SR 2 ½ and UAR District: The minimum side yard setback shall be 10 feet.
2. RS, RM-10 Districts: The minimum side yard on one side shall be 3 feet and the sum of both side yards shall be at least 10 feet for buildings 15 ft or less in height. For buildings over 15 ft in height, the sum of the side yards shall increase ½ ft for each foot by which the building height exceeds 15 ft. If a 3 foot minimum side yard is proposed, the development on the lot shall comply with the provisions of Chapter 3.6.200(A) for Courtyard Housing.
3. RM and RH Districts: The minimum side yard setbacks shall be 5 feet, except when abutting the RS zone or an existing single family home, the sum of the side yard setback shall increase ½ ft for each foot by which the building height exceeds 20 ft, unless otherwise exempted in subsection 2.1.300F below.

F. General Setback Exceptions

1. Where an existing public alley right of way is 20 feet or less in width, the setback abutting the alley shall increase to provide a minimum of 24 feet for maneuvering and backing movements from garages, carports and/or parking areas.

2. The following architectural features are allowed to encroach into the required setback yards by no more than 2 feet provided a minimum setback of 3 feet is provided from the property boundary: eaves, chimneys, bay windows, overhangs, canopies, porches, and similar architectural features. This is not to be construed as prohibiting open-uncovered porches or stoops not exceeding 18 inches in height and not approaching closer than 18 inches to any side or rear lot line.

3. Open decks and similar structures not exceeding 18 inches in height may encroach into the front yard setbacks by no more than 6 feet, subject to the front yard setback provisions in Table 2.1.300. Walls and fences may be placed on property lines, subject to the standards in Chapter 3.2.500; Fences and Walls.

4. Fences and walls within front yards shall comply with the clear vision standards in Section 3.1.400.N.

5. Attached Single-Family Townhome Development Standard. Interior side yard setbacks are zero (0) feet. Street corner front yard setbacks shall comply with Subsection C above, except as necessary to comply with the clear vision standards in Table3.1.400.N

6. Single-family homes in multi-family zoning districts shall apply the setback standards of the RS zone.

7. The following uses are prohibited within all yard setbacks: satellite dishes greater than 18 inches in diameter, heat pumps and other similar objects, unless screened for visual and noise abatement by a solid enclosure 2 feet higher than the object/use being screened. In no instance shall these uses be allowed within the front yard setbacks.

8. On site surface water drainage shall be retained on the lot of origin and not trespass onto the public right of way or private property including roof drainage.

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

1. Purpose. The residential compatibility standards in this section are intended to provide added protection to residentially zoned properties and existing neighborhoods from potential impacts sometimes associated with increased residential density development.

2. Applicability. The residential compatibility standards shall apply to all RS zoned development properties that are abutting existing residential property, excluding land in the RM and RH zoning districts, which have a lot size of 8,000 square feet or greater.

3. Lot Development Standards.
   a. No more than two new lots, parcels or portions thereof shall adjoin an existing abutting property boundary.
   b. New lots along an adjoining property boundary where existing properties are 20,000 square feet or greater shall be at least 15,000 square feet in area.

4. Building Setbacks. The building setback regulations of the Residential Compatibility Standards shall apply to the side and/or rear setbacks of lots that abut the existing development in accordance with the following standards:
   a. Minimum Rear Yard Setback. The rear yard setback of the subject property shall be the same as the required rear yard setback of the abutting existing property.

b. Minimum Side Yard Setback. The side yard setback of the subject property shall be the same as the required side yard setback for the abutting existing property.

5. Exceptions.

a. When the adjoining existing property width is greater than 300 feet, the developer may establish a lot pattern along the adjoining property boundary consisting of 15,000 square foot lots with a minimum lot depth of 100 feet. In no instance as described above, shall the new development lots be required by this section to exceed 15,000 square feet in size. This exception may result in more than two (2) new lots or parcels abutting an existing large property.

b. All lot configurations subject to this section shall conform to the Residential Compatibility Standards, the exception in 5(a) above, or be approved through a Type III hearing process. The following criteria shall be considered:

i. Whether there are existing dwellings on the adjacent properties located in close proximity to the proposed lots.
ii. Whether the adjacent properties have potential for redevelopment at urban densities.
iii. Whether the owner(s) of the adjacent properties object to the density of the proposed development.
iv. Whether the degree of deviation from the standards set forth in the ordinance, and the comparative size of the proposed adjoining lot(s) or parcel(s) is substantial.
v. The proposed development is for affordable housing as defined by the City.

c. Public or private alleys, streets with less than 60-foot right of way, and open space tracts less than 30 feet in width shall not be allowed to abut an existing property boundary as a means of circumventing the compatibility standards provided herein.

d. When the adjoining existing residential development is bordered by a common open space tract less than 30 feet in width, the new development shall be subject to the Residential Compatibility Standards in Section 2.1.300 (G).

e. When the adjoining existing property is developed with a non-residential use, the Residential Compatibility Standard described above in 2.1.300 (G) shall not apply

2.1.400 Building Mass and Scale

1. **Floor Area Ratio.** Floor Area Ratio will be applied to all new single family residential construction including building additions on lots 6000 square feet or less in size located in a subdivision platted prior to December 1998, and the perimeter lots of all new single family residential subdivisions that are adjacent to a subdivision platted prior to December 1998 where the adjoining lot development has a .5 FAR or less. The following standards shall apply:

a. Building construction may not exceed .50 (50%) of the total lot area. The areas of a building subject to this standard include:

i. Areas within the footprint of the building that have a ceiling height of 5 feet or greater, including attic space and garages.
ii. Where ceiling height exceeds one story, the additional volume over one story (9 ft ceiling) will be counted as floor area.
iii. Unenclosed covered porches and decks are excluded from the calculation

b. Exceptions to FAR:
   i. Attached single-family townhomes
   ii. Accessory structures less than 10 ft in height and 200 sq ft in area.

2.1.500 Lot Area and Dimensions

Lot areas and lot dimension standards for residential uses are listed in Table 2.1.500, below. Exceptions to these standards may be approved subject to Master Planned Development approval (see Chapter 4.5) 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 shall be in conformance with Section 2.1.600; Residential Density.

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
Single Family Detached Housing	UAR	Minimum area: 10 acres	Minimum width: 300 ft min. average lot width with a min. street frontage of 150 ft.
	SR 2 ½	Minimum area: 2 ½ acres	Minimum width: 200 ft min. average lot width with a min. street frontage of 200 ft.
Residential Use	**Zone**	**Lot Area**	**Lot Width / Depth**
Single Family Detached Housing; Manufactured Homes on Lots; Residential Care Homes and Facilities	RL	Minimum area: 15,000 sq. ft. with approved septic or sewer system	Minimum width: 100 ft. min. average lot width with a min. street frontage of 50 ft except on approved cul-de-sac lot frontage may be reduced to 30 ft. Minimum lot depth: 100 ft
	RS	Minimum area: 4000 sq ft,	Minimum width: 40 feet at front property line, except for flag lots and lots served by private lanes (see Section 4.5.200) Minimum lot depth: 80 ft
	RM-10	Minimum area: 4,000 sq ft	
	RM	Minimum area: 3000 sq ft.	Minimum width: 30 ft. Minimum lot depth: 80 ft
	RH	Minimum area: 2500 sq ft	Minimum lot width: 30ft. Minimum lot depth: 80 ft.
Two and Three Family Housing (duplex / triplex)	UAR	Not Applicable	Not Applicable
	RL	Minimum area: 30,000 sq ft with approved septic or sewer system	Minimum lot width: 100 ft average Minimum lot depth: 100 ft
	RS	Minimum area – duplex: 8000sq ft. Minimum area – triplex: 10,000sq ft.	Minimum width: 40 ft at front property line, except for flag lots and lots served by private lanes. (see 10.10.4.5.200) Minimum lot depth: 80 ft
	RM-10	Minimum area – duplex: 7000 sq ft Minimum area – triplex: 9000 sq ft	
	RM	Minimum area – duplex: 4500 sq ft Minimum area – triplex: 6500 sq ft.	Minimum width: 30 ft
	RH	Minimum area – duplex: 3000 sq ft Minimum area – triplex: 4000 sq ft.	Minimum width: 30ft
Single Family Attached Housing (townhomes)	UAR and RL	Not Applicable	Not Applicable
	RS, RM-	Minimum area: 2000 sq ft for each unit	Minimum width: 20 ft at front property line, except for flag lots and lots served by private

	10, RM, RH		lanes (see 10.10.4.5.200) Minimum lot depth: 80 ft.
Multi-family Housing (more than 3 units)	UAR, RL, RS,	Not Applicable	Not Applicable
	RM-10	Minimum area: 4000 sq ft for each unit	Minimum width: 30 ft at front property line. Minimum lot depth: 80 ft.
	RM	Minimum area: 2500 sq ft for the first unit, 2000 sq ft for each additional unit,	
	RH	Minimum area: 2000 sq ft for the first unit, 1000 sq ft for each additional unit,	

2.1.600 Residential Density

A. Residential Density Standard. The following density standards apply to all new developments and subdivisions in all of the Residential Districts. Redevelopment or expansion of existing uses within areas of existing land use patterns shall comply with these standards to the extent practical. The density standards shown in Table 2.1.600 below are intended to ensure efficient use of buildable lands and provide for a range of needed housing, in conformance with the General Plan.

1. The density standards may be averaged over more than one development phase (i.e., as in a master planned development). Duplex and triplex lots used to comply with the density standard shall be so designated on the final partition or subdivision plat.

2. Partitions shall be planned, and the construction of dwellings on parcels or lots shall be sited to allow future re-development on these lots or parcels at minimum densities.

Table 2.1.600
Residential Densities

Residential Zone	Density Range	Primary Uses
Urban Area Reserve (UAR10)	1 unit / 10 gross acres	Single family detached housing
Suburban Low Density Residential (SR 2 ½)	1 unit / 2 ½ gross acres	Single Family detached housing
Low Density Residential (RL)	1.1 - 2.2 units / gross acre	Single family detached housing
Standard Density Residential (RS)	2.0 - 7.3 units / gross acre	Single family detached housing
Medium Density Residential (RM-10)	6.0 – 10.0 units / gross acre	Manufactures homes and attached housing
Medium Density Residential (RM)	7.3 – 21.7 units / gross acre	Attached multi-family housing
High Density Residential (RH)	21.7 – 43 units / gross acre	Attached multi-family housing

B. Exemptions. The following types of housing are exempt from the density standards in Section A above:

1. Residential care homes/facilities,
2. Accessory dwellings;
3. Bed and breakfast inns;
4. Neighborhood Commercial Uses
5. Buildings that are listed in the Inventory of Historic Sites within the Bend Area General Plan Exhibit "A" or buildings designated on the Historic National Landmarks Register.

6. Manufactured Housing development within the RM or RH zone.
7. Redevelopment within a residential neighborhood with an existing pattern of development.
8. Infill development on a vacant platted lot consistent with the adjacent existing pattern of development.

C. Density Calculation. Maximum housing densities are calculated by multiplying the parcel or lot area, including the area for streets being dedicated, by the applicable density standard. For example, if the total site area is five (5) acres, and the maximum allowable density is 7.3 dwelling units per acre, then a maximum number of 36 units are allowed, regardless of the amount of land area dedicated for public right of way or open space in conjunction with the project.

For the purpose of calculating the density for partition lots only, the area of ½ of right of way abutting the proposed partition lots shall be added to the gross area.

2.1.700 Maximum Lot Coverage

A. Maximum Lot Coverage. The following maximum lot coverage standards shall apply to all development within the Residential Districts as follow:

Table 2.1.700
Residential Lot Coverage

Residential Zone	Lot Coverage
Low Density Residential (RL)	35%
Standards Density Residential (RS)	50% for single story homes 35% for all other uses
Medium -10 Density Residential (RM-10)	50% for single story homes 35% for all other uses
Medium Density Residential (RM)	40%
High Density Residential (RH)	50%

B. Lot Coverage Defined. "Lot Coverage" is defined as all areas of a lot or parcel covered by buildings (as defined by foundation perimeters) and other structures with surfaces greater than 18 inches above the finished grade, excluding unenclosed covered porches and uncovered decks up to 5% of the total lot area.

C. Lot Coverage Compliance. Compliance with other sections of this code may preclude development of the maximum allowed lot coverage for some land uses.

2.1.800 Building Height

The following building height standards are intended to promote land use compatibility and support the principle of neighborhood-scaled design.

A. Standard. The following building heights shall be observed unless a greater height is approved through a variance in conformance with Chapter 10.10.5.1; Variances or approved as part of a Master Planned Development in conformance with Chapter 4.5.

1. Buildings within the UAR, RL, RS, RM-10 and RM Districts shall be no more than 30 feet in height,
2. Buildings within the RM zone on lots created after December 1998 shall be no more than 35 ft in height.
3. Buildings within the RH Districts may be no more than 45 feet in height.

B. Exceptions to Maximum Building Height Standard. Chimneys, bell towers, steeples, roof equipment (including minimum screening necessary to conceal mechanical roof equipment), flagpoles, and similar features that are not intended for human occupancy may be considered exceptions to the maximum building height subject to an application for height variance in accordance with Chapter 5.1.

C. Method of Measurement. "Building height" is measured as the vertical distance from the average natural grade level of the building's foundation to the highest point of the building.

2.1.900 Architectural Design Standards

A. Purpose. The architectural standards are intended to provide detailed, human-scaled design, while affording flexibility to use a variety of building styles for certain types of residential development.

B. Applicability. This section applies to all of the following types of buildings, and shall be applied during Site Design Review:

1. Duplexes and Triplexes;
2. Attached Single-family Townhomes
3. Accessory dwellings;
4. Multi-family housing
5. Public and institutional buildings;
6. Neighborhood Commercial and Mixed-use buildings.
7. All other types of permitted / conditional non-residential use buildings listed in Table 2.1.200

C. Standards. All buildings that are subject to this Section shall comply with all of the following standards. The graphics provided with each standard are intended to show examples of how to comply. Other building styles and designs can be used to comply, so long as they are consistent with the text of this section. An architectural feature (i.e., as shown in the graphics) may be used to comply with more than one standard.

1. Building Form. All buildings shall incorporate design features such as offsets, balconies, projections, window reveals, or similar elements to preclude large expanses of uninterrupted building surfaces, as shown in the figure below. Along the vertical face of a structure, such features shall occur at a minimum of every 40 feet, on each floor, and shall contain at least two of the following features:

   a. Recess (e.g., deck, patio, courtyard, entrance or similar feature) that has a minimum depth of 6 feet;

   b. Extension (e.g., floor area, deck, patio, entrance, or similar feature) that projects a minimum of 2 feet and runs horizontally for a minimum length of 4 feet; and/or

c. Offsets or breaks in roof elevation of 2 feet or greater in height.

Figure 2.1.900A
Building Form (Multi-family Housing Example)



2. Building Orientation: All building elevations adjacent to a street right-of-way shall provide doors, porches, balconies, and/or windows. A minimum of 40 percent of front (i.e., street-facing) elevations, and a minimum of 30 percent of side and rear building elevations, shall meet this standard. "Percent of elevation" is measured as the horizontal plane (lineal feet) containing doors, porches, balconies, terraces and/or windows. The standard applies to each full and partial building story.

   Exceptions:

   a. A multi-family building may have its entrance oriented to a side yard when a direct pedestrian walkway is provided between the building entrance and the street in accordance with the standards in Chapter 3.1; Access, Circulation and Lot Design. In this case, at least one entrance shall be provided not more than 30 feet from the closest sidewalk or street.

   b. A multi-family building may be oriented to a common use courtyard.

3. Detailed Design. All buildings shall provide detailed design along all elevations which are visible from the street(s) adjacent to the property (i.e., front, rear and sides). There are two options for complying with this requirement.

   a. Menu Option (Type I): Detailed design shall be provided by using at least 6 of the following 12 architectural features on all applicable elevations, as appropriate for the proposed building type and style (may vary features on rear/side/front elevations). These features shall be reviewed by a Type I application as per Chapter 4.1.400

Dormers	*Gables*
Recessed entries	*Covered porch entries*
Cupolas	*Pillars or posts*
Eaves (minimum twelve (12) inch projection)	*Window trim (minimum four (4) inches wide)*
Bay windows	*Balconies*
Offsets in the building face or roof by a minimum of 18 inches	*Decorative patterns on the exterior finish using shingles, wainscoting, board and*

batt.

Figure 2.1.900B
Examples of Architectural Details



b. Design Review Option (Type II): Detailed design shall be provided by showing compliance with the following design criteria through a Type II application and review per Chapter 4.1.500; Review of Type II and Type III Applications.

i. The general size, shape, and scale of the structure(s) are architecturally compatible with the site and with the surrounding neighborhood, unless such compatibility with existing structures does not reflect the long-term purpose or intent of the underlying zoning of the subject site.

ii. If the project includes a large structure or structures (greater than 20,000 square feet), the design shall incorporate changes in direction and divide large masses into varying heights and sizes by breaking up building sections, or by the use of such elements as variable planes, projections, bays, dormers, setbacks, canopies, awnings, parapets, changes in the roof line, materials, color, or textures.

iii. Exterior finish on vertical surfaces shall be primarily of materials such as masonry/wood siding, shingles, or stucco. The use of sheet metal or Plywood shall not exceed 50% of the wall area. No smooth faced cinder block construction shall be permitted on front facades. Cinder block construction for side and rear facades shall be permitted by approval as part of this review process.

2.1.1000 Multi-family Residential Districts (RM, RH)

A. Purpose/Intent Statement. The Medium and High Density Residential Districts are intended to provide land for townhouses, multiple family housing developments, and to provide opportunities for small-lot and courtyard-type single-family homes in locations that are convenient to service commercial uses and future transit opportunities.

B. Development Standards for large-scale Multi-Family Developments in the RM and RH Districts.

In addition to the Site Development Standards in Chapter 4.2, the following standards shall apply to multi-family developments of 20 units or more:

1. Common open space. In addition to the required setback yards, a minimum of 10 percent of the site area shall be designated and permanently reserved as usable common open space in all large-scale (20 units or more) multiple family developments. The site area is defined as the lot or parcel on which the development is planned, after subtracting any required dedication of street right-of-way and other land for public purposes (e.g., public park or school grounds, etc.). Sensitive lands and historic buildings or landmarks open to the public and designated by the Bend Area General Plan may be counted toward meeting the common open space requirements.

2. Private open space. Private open space areas shall be required for ground-floor and upper-floor housing units through compliance with all of the following standards:

   a. Ground-floor housing units shall have front or rear patios or decks at least 4 feet deep and measuring at least 48 square feet. Ground-floor housing means the housing unit entrance (front or rear) is within 5 feet of the finished ground elevation, after grading and landscaping;

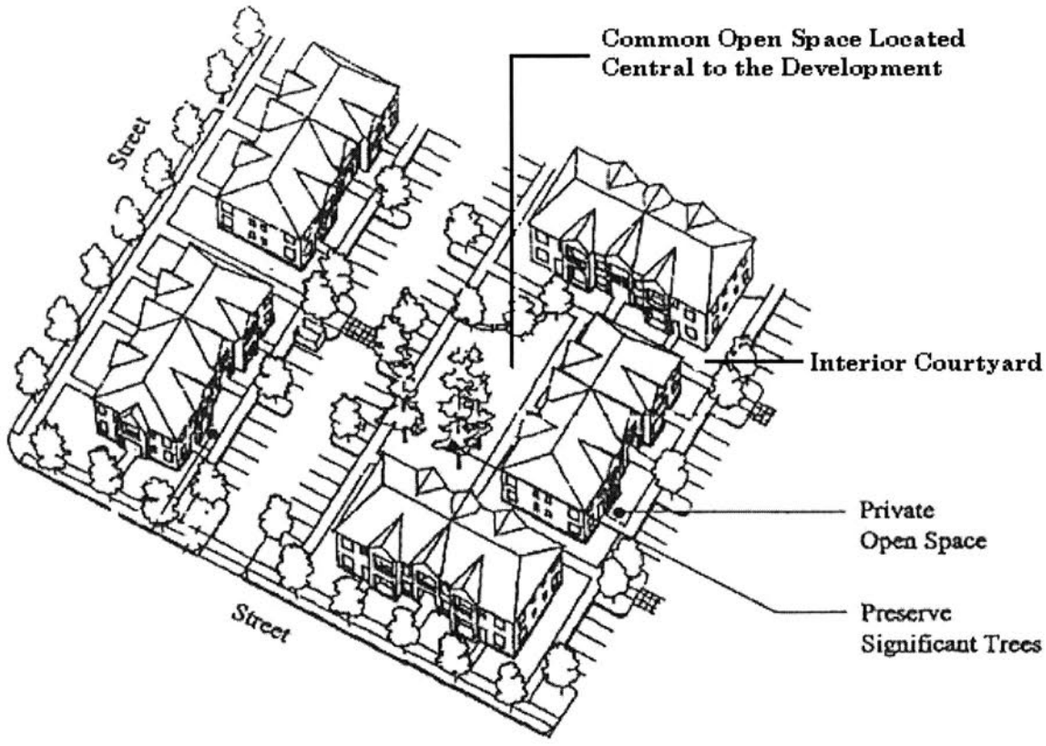
   b. A minimum of 50 percent of all upper-floor housing units shall have balconies or porches at least 4 feet deep and measuring at least 48 square feet. Upper-floor housing means housing units that are more than 5 feet above the finished grade, after grading and landscaping;

   c. Ground floor private open space areas shall be not be located next to yard setbacks for property lines shared with single family residences, or within 12 feet of trash receptacles, parking and maneuvering areas, and driveways.

3. Trash receptacles. Trash receptacles shall not be located next to yard setbacks for property lines shared with single family residences and shall be screened on at least three sides with an evergreen hedge or solid fence or wall of not less than 6 feet in height. Receptacles shall be located for easy access by trash pick-up vehicles.

4. Inner Courtyard. When an inner courtyard is proposed, the courtyard providing access to double-row dwelling groups shall be a minimum of 20 feet in width.

Figure 2.1.1000A
Multifamily Housing (typical site layout)



Chapter 2.2 Commercial Districts (CBD, CC, CL, CG)

Sections:

2.2.100	**Purpose**
2.2.200	**Applicability and Location**
2.2.300	**Permitted Land Uses**
2.2.400	**Building Standards**
2.2.500	**Building Setbacks**
2.2.600	**Block Layout and Building Orientation**
2.2.700	**Building Height**
2.2.800	**Commercial Design Review Standards**
2.2.900	**Pedestrian Amenities**
2.2.1000	**Development and Design Standards for the CB Zone**

2.2.100 Purpose

This chapter applies to all development in the Central Business District (CBD), Convenience Commercial District (CC), Limited Commercial District (CL) and the General Commercial District (CG). The purpose of these districts is to:

- Allow a mixture of complimentary land uses that may include housing, retail, offices, commercial services, and civic uses, to create economic and social vitality and to encourage the linking of vehicle trips;
- Develop commercial and mixed-use areas that are safe, comfortable and attractive to pedestrians;
- Provide flexibility in the location and design of new developments and redevelopment to anticipate changes in the marketplace;
- Reinforce streets as public places that encourage pedestrian and bicycle travel;
- Provide roadway and pedestrian connections to residential areas;
- Provide transitions between high traffic streets and neighborhoods;
- Encourage efficient land use by facilitating compact, high-density development and minimizing the amount of land that is needed for surface parking;
- Facilitate development (land use mix, density and design) that supports public transit, where applicable;
- Provide appropriate locations and design standards for automobile- and truck- dependent uses;
- Provide both formal and informal community gathering places;
- Maintain a distinct storefront character that identifies the Central Business District;
- Connect the Convenience Commercial District to neighborhoods and other employment areas; and
- Provide visitor accommodations and tourism amenities.

2.2.200 Applicability and Location

Zone District Locations and Characteristics	
Zone District	**Location and Characteristics**
Central Business District (CBD)	The Central Business District encompasses the historic downtown and central business district that has commercial and/or mixed-use development with a storefront character.
Convenience Commercial District (CC)	The Convenience Commercial District is adjacent and connected to the residential district(s) it is intended to serve. Convenience Commercial uses are larger in scale and area than neighborhood commercial uses and provide for frequent shopping and service needs of nearby residents. New Convenience Commercial nodes shall develop as commercial centers rather than a commercial strip and be limited in size up to 5 acres.
Limited Commercial District (CL)	The Limited Commercial District provides for a wide range of retail, service, and tourist commercial uses in the community along highways or in new commercial centers.
General Commercial District (CG)	The General Commercial District provides a broad mixing of commercial uses that have large site requirements, are oriented to the highway and provide services to the traveling public.

2.2.300 Permitted Land Uses

A. Permitted Uses. The land uses listed in Table 2.2.300 are allowed in the Commercial Districts as designated, subject to the provisions of this Chapter. Only land uses that are specifically listed in Table 2.2.300, and land uses that are approved as "similar" to those in Table 2.2.300, may be permitted or conditionally allowed.

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter 4.1.1400 – Declaratory Ruling.

Table 2.2.300 - Permitted Land Uses

Land Use	CBD	*CC	CL	CG
Residential				
Existing Residential uses	P	P	P	P
*New Residential uses	P	P	P	P
Commercial				
Retail Sales and Service				
- building footprint less than 50,000 square feet	P	P	P	P
- building footprint greater than 50,000 square feet	P	N	P	P
Retail Sales and Service (*auto dependent)	N	C	P	P
Retail Sales and Service (*auto oriented)	C	C	P	P
Restaurants/Food Services				
- with *drive-through 300 sq ft or less	C	C	P	P
- without drive-through	P	P	P	P
Offices and Clinics	P	P	P	P
Production Businesses (*e.g. IT support, Radio/Television Broadcast)*	N	N	C	P
Convention Centers/Meeting Rooms	C	N	P	P

Commercial	CBD	*CC	CL	CG
Lodging (hotels, motels, *bed and breakfast inns, *vacation rentals, boarding houses)	P	P	P	P
Hospitals	N	N	P	P
Commercial and Public Parking	P	P	P	P
Commercial Storage - enclosed in building and on an upper story - not enclosed in building - enclosed in building on ground floor (i.e., mini-storage)	 C N N	 P N N	 P P C	 P P P
Entertainment and Recreation - enclosed in building (*e.g.*, theater, fitness facility) - not enclosed (*e.g.*, amusement)	 P N	 P N	 P C	 P P
Time Share Units	C	C	C	C
Trailer Park / Campground	N	N	C	C
Mortuary	N	N	P	P
Wholesale Sales (more than 75% of sales are wholesale)	N	N	P	P
Veterinary Clinic (small animal)	C	P	P	P
*Mixed Use (residential with commercial/civic/industrial) Mixed-use developments shall be subject to the use limitations prescribed for the respective individual uses	P	P	P	P
Public and Institutional				
Government - point of service (e.g., city hall, library)	P	P	P	P
Government – limited point of service; (e.g., public works yards, vehicle storage etc.)	C	C	C	C
Parks and Open Space	P	P	P	P
Schools -- *pre-school, daycare, and primary, secondary -- colleges, and vocational schools	 P P	 P N	 P P	 P P
*Clubs and Places of Worship	C	C	C	C
Industrial				
*Manufacturing and Production - greater than 5,000 sq. ft. - less than 5,000 sq. ft. with retail outlet	 N P	 N P	 C P	 N P
Warehouse	N	N	P	P
Transportation, Freight and Distribution	N	N	C	P
Industrial Service (*e.g.*, cleaning, repair)	N	N	P	P
Manufactured Home Sales	N	N	C	P
Lumber / Building Supplies	N	N	C	P
*Hydroelectric facilities	C	N	C	C

Key to Permitted Uses
P = Permitted, subject to Chapter 4.1 **N** = Not Permitted; **C** = Conditional Use.

Conditional Uses are subject to Conditional Use permit standards in Chapter 4.4.
* Special Standards for Certain Uses subject to Chapter 3.6

Note: The CC zone limits the size of uses within the zone. See Section 3.6.300(J)

2.2.400 Development Standards

The following table provides the numerical development standards within the Commercial Districts. Additional standards for each requirement follow within a separate sub-section of this Chapter.

Table 2.2.400
Commercial District Development Standards

STANDARD	CBD	CC	CL	CG
Minimum Front Yard Setback see notes (1)(3) below	0'*	0'*	10'*	10'*
Maximum Front Yard Setback see notes (1)(3) below	10'*	10'*	10/80'*	10/80'*
Minimum Rear Yard Setbacks	0'	0'	0'	0'
Minimum Side Yard Setbacks	0'	0'	0'	0'
Maximum Lot Coverage	None	None	None	None
Maximum Building Height see note (2) below	35' to 70' Subject to the provisions of Sec. 2.2.1000	35', except within 100 feet of the Deschutes River	55', except within 100 feet of the Deschutes River	55', except within 100 feet of the Deschutes River
Minimum Building Footprint	Floor Area Ratio of 2:1	None	None	None
Maximum Building Footprint	None	35,000 /single tenant 50,000 / multi-tenant	None	None

* See Notes
(1) Subject to Site Design Review, 4.1 and Special Setback Standards; 2.2.500
(2) Building heights may be increased subject to a Variance, Chapter 5.1
(3) Subject to the Block Layout standards, see Section 2.2.600

2.2.500 Building Setbacks

In some of the Commercial Districts, buildings are placed close to the street to help create a vibrant pedestrian environment, to slow traffic, provide a storefront character to the street, support future transit service, and encourage walking. The setback standards are flexible to encourage public spaces between sidewalks and building entrances (*e.g.,* extra-wide sidewalks, plazas, squares, outdoor dining areas, and pocket parks). The standards also encourage the formation of solid blocks of commercial and mixed-use buildings for walk-able Commercial Districts.

The setback standards apply to both primary structures and accessory structures. The standards may be modified only by approval of a variance, in accordance with Chapter 5.1; Variances.

A. Applicability. Except as modified by Sections 2.2.500; Building Setbacks and 2.2.600; Block Layout and Building Orientation, the setback standards in Table 2.2.400 above shall apply to all new and expanded commercial and mixed-use buildings. Where more than one building is proposed on a site, conformance with the maximum setback standard is achieved when no less than 50% of the site's frontage on a public or private street is occupied by a building or buildings that conform with the building setback and orientation standards herein. The maximum setback

standard may be increased as necessary when an approved usable public space with pedestrian amenities (e.g., extra-wide sidewalk, plaza, pocket park, outdoor dining area or a public square with seating) is provided between the building and front property line. *(See also, Section 2.2.800, Commercial Design Review Standards, and Section 2.2.900, Pedestrian Amenities for related building entrance standards.)*

B. Front Yard Setbacks.

1. General Standards. See Table 2.2.400; Commercial District Development Standards.

2. Double Frontage Lots. For buildings on lots with more than one street frontage or through lots, the minimum front yard setback standards in Table 2.2.400 shall be applied to all street frontages. The maximum setback standard shall be applied to only one of the frontages. Where the abutting streets are of different classifications, the maximum setback standard shall be applied to the higher classification of street.

3. Exception to front yard setbacks: This exception applies to all commercial zones except the CB zone.
    a. For buildings on corner lots at the intersection of two arterial streets, the maximum front yard setback standard specified in Table 2.2.400 shall be met for one frontage and for the other frontage, a maximum setback of 160 feet shall be allowed. Off-street parking, driveways and other vehicular use and circulation areas may be placed between a building and the 10 foot wide required landscape setback adjacent to the street where the 160 foot maximum setback option is applied.

    b. In the CL and CG zones, when the street fronting the development does not allow on-street parking, the maximum front yard setback of 80 feet shall apply.

    c. Other special setbacks may apply in conformance with Chapter 3.5.300; Special Setbacks.

C. Rear Yard Setbacks.

1. There is no minimum rear yard setback required (*i.e.,* 0 feet), except that buildings shall conform to the clear vision standards in Chapter 3.1.400(N).

2. Building Transition Standards in conformance with subsection 2.2.500(E); Transition Standards below shall apply when abutting a residential zone.

3. The applicable fire and building codes for attached structures, firewalls, and related requirements shall apply.

D. Side Yard Setbacks.

1. There is no minimum side yard setback required (*i.e.,* 0 feet), except that buildings shall conform to the clear vision standards in Chapter 3.1.400(N).

2. Building Transition Standards in conformance with subsection (E) below shall apply when abutting a residential zone.

3. The applicable fire and building codes for attached structures, firewalls, and related requirements shall apply.

E. Transition Standards.

1. The development of commercial buildings and other non-residential buildings abutting a residential zone shall be setback a minimum of 10 feet. The minimum setback distance for any portion of a commercial, mixed-use, or non-residential use building exceeding 25 feet in height shall increase one (1) foot for each additional foot of building height over 25 feet.
2. A landscape buffer no less than five (5) feet is required along the adjacent residential zoned properties. The landscape buffer, to the extent practical, shall provide both a visual and auditory buffer that includes trees, shrubs and ground cover.
3. When uses other than a building (*i.e.;* parking, driveway, storage, loading) abut the required minimum setback, buffering in addition to the minimum landscaping (i.e. fencing or wall) may be required subject to site development approval to mitigate the impacts on the adjacent residential zoned properties.

2.2.600 Block Layout and Building Orientation

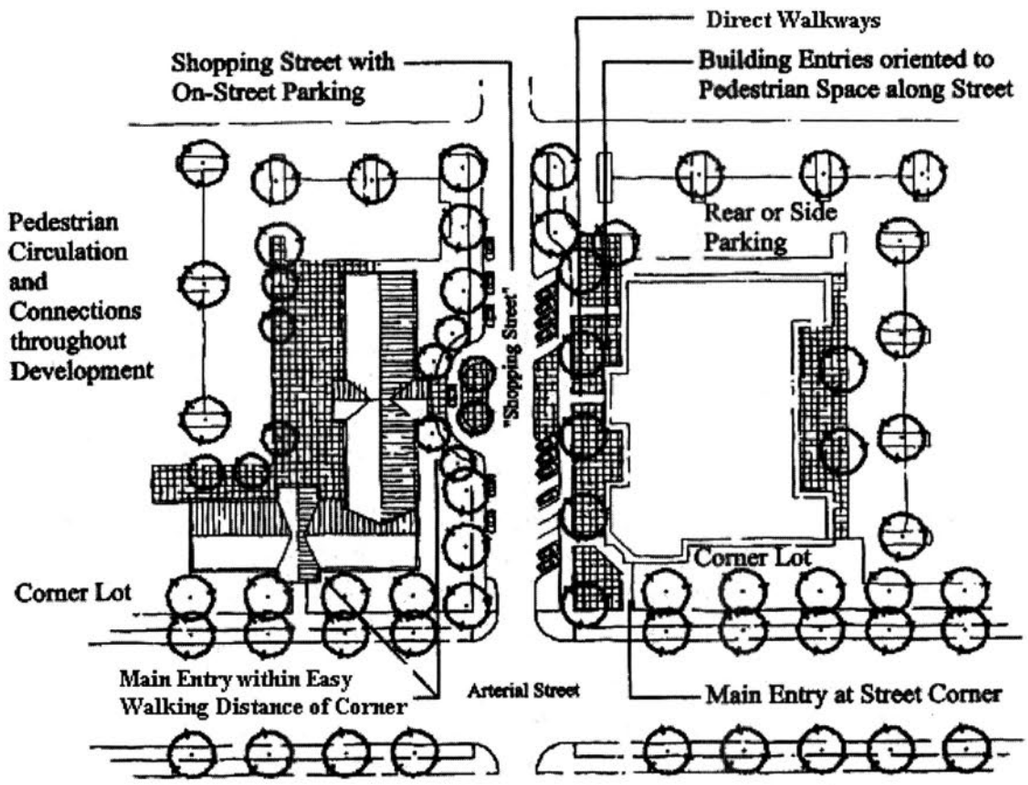
Block layout and building orientation is intended to promote a walk-able, storefront character in certain areas of the City, and to facilitate walking, bicycling, and transit use in other commercial districts, by forming short blocks. The standards, as listed in Table 2.2.400 above, compliment the front yard setback standards in Section 2.2.500; Building Setbacks.

A. Applicability. This Section applies to new land divisions and developments that are subject to site development review in any of the Commercial Districts, Mixed Employment District and Professional Office District.

B. Block Layout Standard.

1. New land divisions and developments shall have a block length consistent with the block length standards established in Chapter 3.1.200; Lot and Block Design.
2. Pedestrian walkways shall be provided from the street right-of-way to buildings, as necessary, to ensure reasonably safe, direct, and convenient access to building entrances and off-street parking in conformance with Chapter 3.1; Access, Circulation and Lot Design.
3. Provide usable pedestrian space. Usable pedestrian space means a plaza or extra-wide pathway/sidewalk near one or more building entrances. Each development shall provide street trees or planters, space for outdoor seating, canopies or awnings, and on-street parking (in selected areas) to improve the pedestrian environment along internal streets or drives.
4. Where multiple building development is contemplated on parcels or lots 10 acres or greater in size, at least one private or public street shall be designed to meet the specifications of a local street. A "shopping street" shall include the following elements:
    - buildings placed at the sidewalk along the shopping street,
    - wide sidewalks (e.g., 8-15 feet wide),
    - on-street parking,
    - street trees in tree wells,
    - pedestrian-scale lighting,
    - weather protection and similar pedestrian amenities.

Figure 2.2.600B - "Shopping Street" (Typical)



C. **Building Orientation Standard**. Developments within all Commercial Districts shall be oriented to a street where practical. The building orientation standard is met when all of the following criteria are met:

1. When parking is permitted on the street fronting the development, the front yard maximum setback of 10 feet shall apply.

2. Except in the CB and CC zones, when the street fronting the development does not allow on-street parking, the maximum front yard setback of 80 feet shall apply.

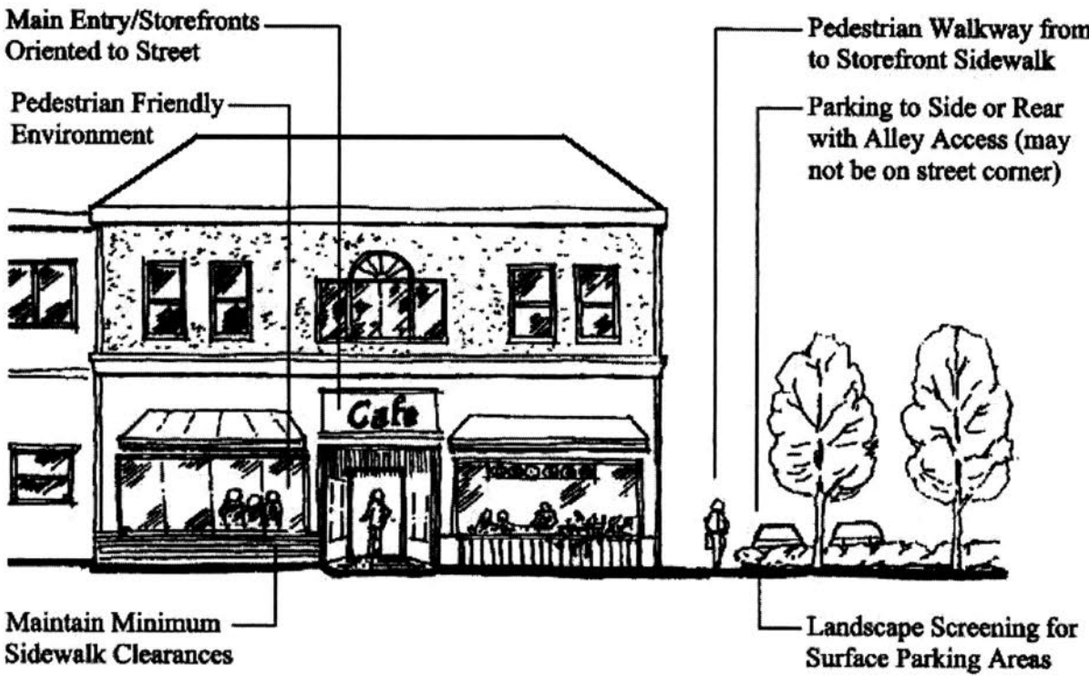
3. On corner lots, the front yard setback specified in C(1) above shall be met for both street frontages unless otherwise exempted in Chapter 2.2.500(B); Building Setbacks.

4. Buildings shall have an entrance(s) visible or oriented to (facing) a street. Building entrances may include entrances to individual units, lobby entrances, entrances oriented to pedestrian plazas, or breezeway/courtyard entrances (i.e., to a cluster of units or commercial spaces). Alternatively, a building may have an entrance facing a side yard when a convenient and direct pedestrian walkway is provided between the building entrance and the street right-of-way.

5. Exceptions:

a. Developments in conformance with Section 2.2.600.B(4) as illustrated in Figure 2.2.600(B), "Shopping Street" layout.

Figure 2.2.600C – Building Orientation (Typical)

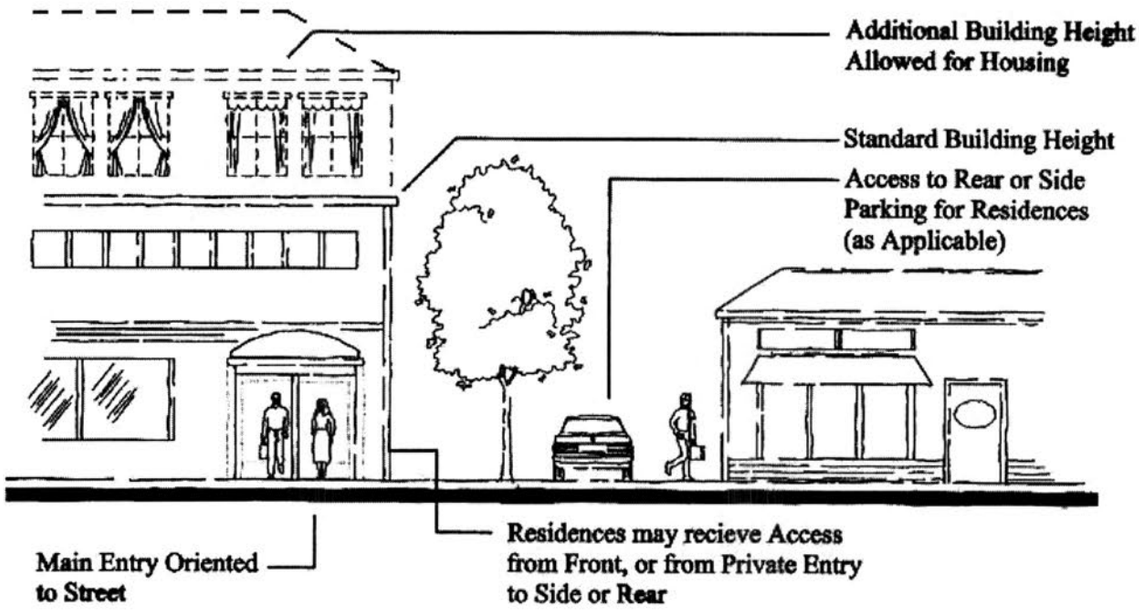


2.2.700 Building Height

All buildings in the Commercial Districts, shall comply with the following building height standards. The standards are intended to allow for development of appropriately-scaled buildings with a storefront character:

A. Maximum Height. The building heights shall comply with the building heights designated in Table 2.2.400; Commercial District Development Standards. The maximum height may be increased by 10 feet above the maximum allowed height when housing is provided above the ground floor ("vertical mixed use"), except for buildings along the west side of Brooks Street where the maximum building height is 35 feet regardless of use. The building height increase for housing shall apply only to that portion of the building that contains housing and will not apply to buildings that have already received a Variance to exceed the permitted height.

Figure 2.2.700 – Building Height Diagram (Credit for Housing)



2.2.800 Commercial Design Review Standards

A. Purpose and Applicability. The Commercial design review standards are intended to provide detailed, human-scale design, while affording flexibility to use a variety of architectural building styles. Also see standards related to commercial development in Chapters 3.2; Landscaping, Street Trees, Fences and Walls and Chapter 3.3; Vehicle Parking, Loading and Bicycle Parking.

B. Standards. The following standards shall be met. A design feature used to comply with one standard may be used to comply with another standard.

1. Residential Building Design Review. All residential buildings subject to design review shall comply with the Residential District design guidelines, as listed in Section 2.1.800; Architectural Design Standards.

2. Commercial Design Review. For all commercial buildings subject to Commercial Design Review, all of the following standards (a-j) shall apply.

   a. Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls that can be viewed from public streets shall be designed with windows totaling a minimum of 10% of the wall area and using architectural features and landscaping (abutting the building) for at least 50% of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall length.

b. Architectural features include, but are not limited to the following: recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures or other features that complement the design intent of the structure and are acceptable to the review authority.

c. In addition, a portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street. Additional landscaping requirements are in Chapter 3.2; Landscaping, Street Trees, Fences and Walls of this Code.

d. The predominant building materials should be materials that are characteristic of Central Oregon such as brick, wood, native stone and tinted/textured concrete masonry units and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building.

e. Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Variations within one architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged. Architectural methods shall be used to conceal flat roof tops however; a maximum of 30% of the building elevations visible from the adjacent right-of-way may include flat roof components. Overhanging eaves, sloped roofs, articulated parapet walls and multiple roof elements are highly encouraged. Mansard style roofs are discouraged.

f. Clearly defined, highly visible customer entrances using features such as canopies, porticos, arcades, arches, wing walls, and/or integral planters are required.

g. Community amenities such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located in areas accessible to the public are encouraged and may be calculated as part of the landscaping requirement. See Chapter 3.2; Landscaping, Street Trees, Fences and Walls.

h. Exterior colors shall be of low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors such as black, neon, metallic or fluorescent for the facade and/or roof of the building are prohibited except as approved for building trim. The City of Bend color guide provides samples of approved and prohibited colors. The use of trademark colors will require approval.

i. Exterior lighting shall comply with the provisions of Chapter 3.5.200, Outdoor Lighting Standards. Light poles and/or fixtures and flag poles shall not exceed 25 feet in height.

j. A comprehensive signage plan shall be required pursuant to the City of Bend Sign Code except that pole signs are prohibited.

3. Large-Scale Buildings and Developments. For the purpose of this ordinance, "Large-Scale Buildings and Developments" shall be defined as:

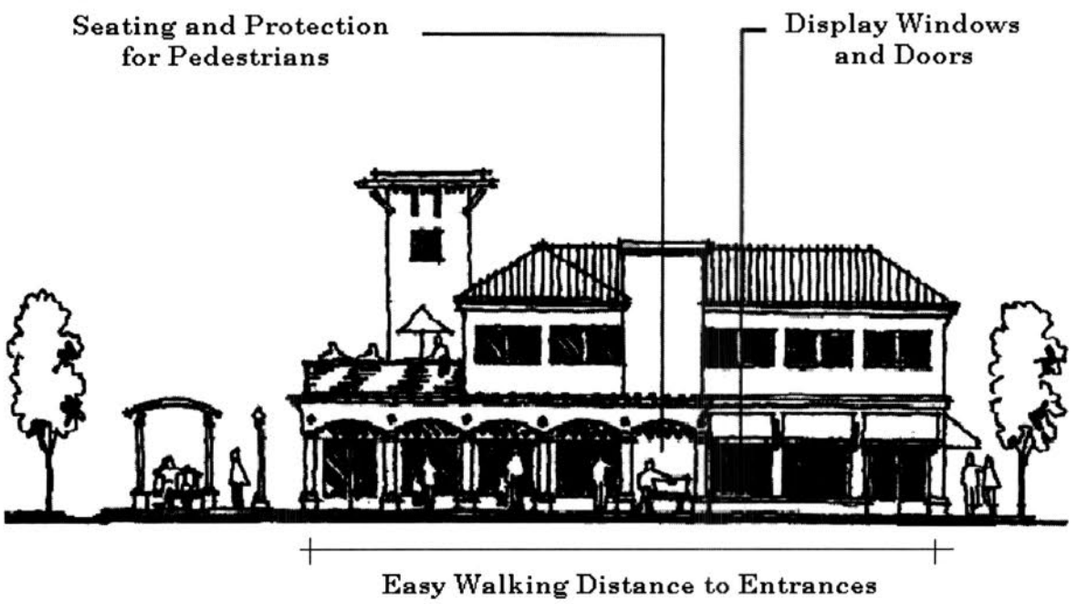
   a. Individual buildings with more than 20,000 square feet of enclosed ground-floor space. Multi-tenant buildings shall be counted as the sum of all tenant spaces within the same building shell; and

b. Multiple-building developments with a combined enclosed ground-floor space more than 40,000 square feet (e.g., shopping centers, public/institutional campuses, and similar developments).

4. Design Standards for Large-scale Buildings and Developments. All large-scale buildings and developments, as defined in above, shall provide human-scale design by conforming to all of the following standards:

   a. Incorporate changes in building direction (*i.e.,* articulation), and divide large masses into varying heights and sizes, as shown in Figure 2.2.800, below. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; windows, screening trees; small-scale lighting (e.g., wall-mounted lighting, or up-lighting as described in Chapter 3.6.200; Other Design Standards); and similar features.

Figure 2.2.800
Design of Large-Scale Buildings and Developments (Typical)



Note: the example shown above is meant to illustrate examples of these building design elements, and should not be interpreted as a required design style.

5. Exceptions to Commercial Design Review Standards. An exception to the design standards in Section 2.2.800 may be approved through a Type III Hearing Process before the City of Bend Planning Commission, subject to findings of compliance with the purpose of Commercial Design Review and the zoning district in which the use is located. The applicant shall pay a fee specified by the City.

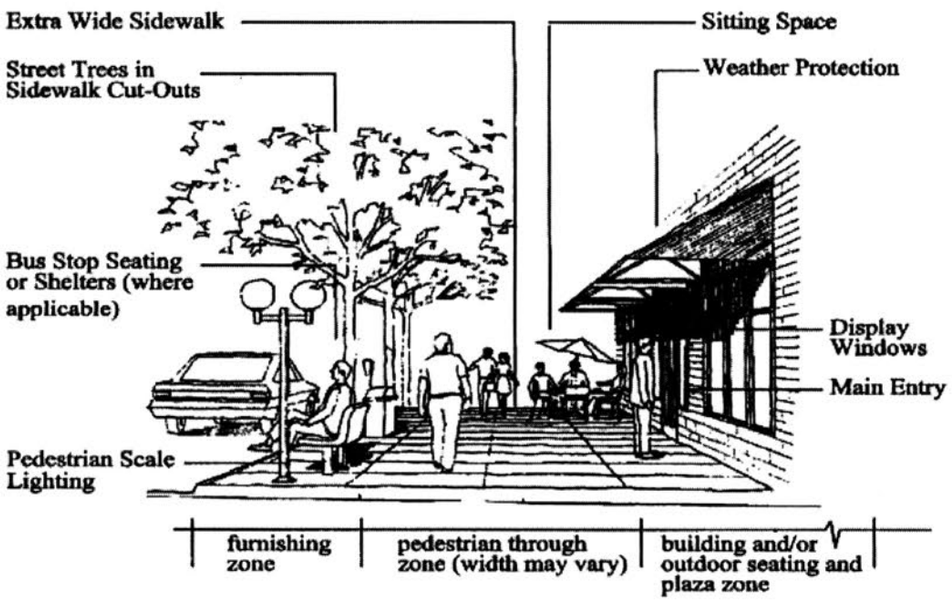
2.2.900 Pedestrian Amenities

A. Pedestrian Amenity Standards.

1. Commercial development greater than 10,000 square feet and subject to Commercial Design Review shall provide at least one of the "pedestrian amenities" listed below.
   Pedestrian amenities may be provided within a public right-of-way (i.e., on the sidewalk, curb, or street pavement) when approved by the City (for City streets), Deschutes County (for County roads), or the Oregon Department of Transportation ("ODOT") (for state highways).

   a. A plaza, courtyard, square or extra-wide sidewalk next to the building entrance (minimum width of 8 feet);
   b. Sitting space (*i.e.*, dining area, benches or ledges) between the building entrance and sidewalk) with a minimum of 16 inches in height and 30 inches in width;
   c. Building canopy, awning, pergola, or similar weather protection (minimum projection of 4 feet over a sidewalk or other pedestrian space).
   d. Public art that incorporates seating (*e.g.,* fountain, sculpture, etc.) or wall decoration such as an illustrative mural that is not defined as a sign in the City's sign ordinance.

Figure 2.2.900 - Pedestrian Amenities (Typical)



Note: the example shown above is meant to illustrate examples of pedestrian amenities. Other types of amenities and designs may be used.

2.2.1000 Development and Design Standards for the CB Zone

A. Purpose. In an effort to protect and enhance the downtown core area of Bend, the City Council has adopted of a special set of development and design standards. Development and design standards shall apply to all areas within the Central Business Zone (CB Zone) of downtown. The development and design standards in Chapter 4.2 build upon the development standards in this Section for the CB Zone.

Major advantages of the development and design standards include:

- Ensuring that future development is consistent with the CB Zone's existing pedestrian-oriented scale of buildings.
- Strengthening the downtown area as the heart of the community, and as the place for people and business.
- Improving downtown's economic base, while expanding it to meet future opportunities.
- Enhancing the physical appearance of downtown through high-quality design.
- Garnering consensus for a shared vision among various interests in deciding how downtown shall be preserved and enhanced through refined design standards.

B. Exempt Development. No land use permit pursuant to this code is required for exempt development. Exempt Developments include:

1. Landscaping or landscape alterations.
2. Repair or maintenance of public or private buildings, structures, landscaping, roads and/or utilities that present a risk to public safety. Maintenance of the exterior of an existing structure such as re-painting, re-roofing, or re-siding where similar materials and colors are used is also exempt.
3. Construction of a structure that does not require a building permit.
4. Interior remodeling.
5. Temporary structures and uses which are for relief of victims of disaster or an emergency.

C. Non-exempt Development. Any development in the CB Zone that does not qualify as exempt development shall meet the development standards in this Chapter in addition to the site development and design standards in this Section.

D. Application Process. Planning Staff or the Planning Commission (as described below) shall approve, approve with conditions, or deny an application based upon compliance with the development and design standards. Approval shall be obtained from the review authority prior to the issuance of a building permit for all non-exempt development. Non-exempt development in the CB Zone has two tracks for obtaining development permits. In both permitting tracks, the development standards must be met before proceeding to the design standards. Applicants shall use the City of Bend's Design and Development Handbook for the CB Zone to determine which of the two tracks they will pursue.

1. Track 1 – Administrative Review of Compliance with Design Standards. Track 1 requires applicants to meet objective development and design standards. Design standards are quantifiable and measurable, and can be administered as part of the plan-review process. These applications are reviewed administratively by City of Bend Planning Staff, which reduces the amount of time that it takes to get the project reviewed. Track 1 provides an efficient time saving alternative to Track 2.

2. Track 2 – CB Zone Design Review of Compliance with Design Guidelines. Track 2 similarly requires applicants to meet objective development standards, but deviates from requiring some or all of the design standards. In this case, applicants are subject to the design review process, which will be conducted by the City of Bend Planning Commission. During design review, the Planning Commission will determine whether an application meets the design guidelines. Unlike design standards, design guidelines are discretionary. In Track 2, the Intent Statements serve as the criteria for determining if the "intent" of the design standard is being met. In Track 2, applicants are required to identify how their proposed site/building plan meets the intent statements of the design standards, and why specific objective standards can not be met.

E. Application Requirements. The applicant shall attend the City of Bend pre-application meeting to determine if the proposed development is "exempt" or "non-exempt" from the development and design standards. If the development is "non-exempt," the applicant shall file an application for CB Zone Design Review with the City. This application may be filed in conjunction with other permits when the property is subject to other land use action. The application shall be accompanied by pertinent materials containing information as specified by the City. The application form lists the required submittal information.

F. Approval Process. As to Track 1 applications, the City of Bend Planning Staff shall use the standards in this section to ensure compliance with the development and design standards. As to Track 2 applications, the City of Bend Planning Commission shall use the intent statements in this section to ensure compliance with the development and design guidelines.

G. Development Standards. The development standards for the CB Zone help ensure that new projects in the CB Zone will be compatible with the desired scale and character of Downtown Bend. The development standards shall be met before proceeding to the design standards.

1. Minimum Floor Area Ratio (FAR). The minimum FAR shall be 2-to-1.

2. Maximum Building Height. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed the height regulations listed below without a variance in conformance with Chapter 5.1; Variances.

   The maximum allowable building height limit in the CB Zone shall be as follows:

   a. On CB Zone properties west of Brooks Street, the maximum allowable building height limit shall be 35 feet. No Variance to exceed the height limit shall be allowed in this area.

   b. On CB Zone properties east of Brooks Street and west of the alley between Wall and Bond Streets, the maximum allowable building height limit shall be 45 feet.

   c. On CB Zone properties east of the alley between Wall and Bond Streets and west of Bond Street, the maximum allowable building height limit shall be 55 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required

setback can be reduced by 10 feet.

d. On CB Zone properties east of Bond Street and west of the alley between Bond Street and Lava Road, the maximum allowable building height limit shall be 60 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.

e. On CB Zone properties east of the alley between Bond Street and Lava Road, the maximum allowable building height limit shall be 70 feet.

3. Minimum Building Setback. There is no minimum building setback from the property line facing the street.

4. Maximum Building Setback. The maximum building setback of the ground floor from the property line facing the street is 10 feet. At least 50 percent of the length of the ground level, street-facing Façade of buildings must be on the property line. If the site has two or more street frontages, this standard applies to both frontages. Buildings that set back from the property line and face a Residential Zone can choose to develop the setback with low shrubs and/or ground cover. Buildings that set back from the property line and face a Commercial Zone must incorporate a hardscape and be ADA Accessible. Plantings in the commercial-fronting setback must be in planters. All plantings must be drought tolerant and not be classified as a nuisance plant.

5. Ground Floor Windows. Ground floor windows must be at least 50 percent of the building length and 60 percent of the street-facing ground floor wall area. Ground floor wall area includes all wall areas up to 10 feet above finished grade. If the site has two or more frontages, the Ground Floor Window Standard is only required on the primary Façade – the Façade that fronts the street with the higher City of Bend Street Classification. The other façade has a minimum requirement of 50 percent of the length and 25 percent of the ground floor wall area. Windows are required to be transparent to foster both a physical and visual connection between activities in the building and pedestrian activities on the street.

6. Main Entrance. The main entrance to a building shall face the street or be on the corner.

7. ADA Accessibility Guidelines (ADAAG). All public areas must comply with all ADAAG Standards and be ADA accessible (ADAAG Standards 4.4.1, 4.4.2, 4.5, 4.7, and 4.8). Creation of an attractive street life and sense of place for all Bend's residents and visitors includes:

   a. Making accessible sidewalks and pathways.
   b. Ensuring sidewalks and pathways are clear of objects.
   c. Eliminating projecting elements.
   d. Ensuring that spaces in the public realm are covered and protected from inclement weather.

8. Design Standards. The design standards for the CB Zone help guide the development and redevelopment of properties within the CB Zone. They are intended to implement the

community goals and objectives in the Bend Area General Plan by providing a framework for how Downtown Bend should ultimately look function, and feel.

a. Existing Edge Conditions.

Intent: Encourage the development of a cohesive, exciting and vibrant street life.

Approach: All street-facing elevations must have front doors that face the street and meet at least one of the following options:

- Courtyard/Plaza Option. Embellish the pedestrian zone by creating ADA accessible courtyards/plazas as extension of the sidewalk (the public realm). Incorporate pedestrian amenities such as street trees, outdoor seating, display areas, public art, human-scaled lighting and decorative pavers.

- Street Edge Option. Orient the primary entrance to the building along the street-facing property line, fostering a continuous and cohesive edge and defining inside from outside.

- Recessed Entry Option. Create/enhance semi-public transition areas between the sidewalk (public realm) and the recessed entry door (private realm). Define this area with lighting that draws attention to ground floor window displays, signage and the building's architectural details. Supplement the lighting with special paving treatments that emphasize the entry (tile, etched concrete and/or brick). Asphalt is prohibited.

- Arcade Option. Design an arcade that meets the following requirements:
  - The columns and piers (that support the building above) are 6 to 10 feet deep between the front property line and the parallel building wall.
  - The columns and piers consist of openings that are a minimum of 6 feet wide.
  - The columns and piers are a minimum of 18 inches from the property line (measured to the center of the column or pier).
  - The columns and piers are equally spaced and extend the entire length of the opening.
  - The building façade directly behind the arcade meets the ground floor window development standard.
  - The arcade elevation facing the street is a minimum of 10 feet in height and covered by the building.

Note: Spacing between columns and/or posts along building elevations less than 30 feet in length shall not exceed 10 feet. Spacing between columns and/or posts along building elevations greater than 50 feet in length shall not exceed spacing of 20 feet.

Note: The arcade option meets the ground floor window standard provided that the ground floor building façade behind the arcade meets the 50 percent length and 60 percent wall glazing requirement.

Note: Buildings with two or more frontages are only required to meet the arcade option along one street façade. However, if the arcade is proposed on both street frontages, the minimum spacing for openings is required along the entire opening.

b. Human Scale.

Intent: Building façades must be designed in a manner that is aesthetically appealing, comfortable to pedestrians, and compatible with the character of the surrounding built environment as a way of emphasizing human scale.

Approach: Provide visual interest for pedestrians by incorporating building details at the ground floor that relate to the surrounding built environment, and are at a human scale. This is to be accomplished by meeting two or more of the following options:

- Incorporating building lighting between 10 and 15 feet from the sidewalk to the bottom of the light fixture.
- Incorporating suspended signs (blade signs) between 8 and 12 feet from the sidewalk to the bottom of the suspended sign.
- Incorporating horizontal and vertical elements at the ground floor/the base of the building that are familiar to pedestrians and are at human scale: sign frieze, storefront cornice, window mullions, piers that frame storefronts, engaged columns, arcades, brick coursings, awnings, and well-lit transoms.
- Incorporating a rhythm of awnings and/or canopies between 10 and 15 feet from the sidewalk to the bottom of the awning/canopy.

Note: Pedestrian-oriented lighting is required between structural bays; lighting must follow a consistent spacing pattern.

c. Physical, Visual and Experiential Connections.
Intent: Create delight and wonder by incorporating interesting features into a building/site. Emphasize the role that physical, visual and experiential connections give to creating meaningful places.

Approach: Embellish the buildings with two or more of the following elements:

- A variety of building materials (stone, brick, concrete, wood, metal, and glass).

Note: Use of colors that are contextual to Bend and the larger Pacific Northwest landscape serve to embellish the building and the public realm.

Note: Traditional, Central Business zones, like Bend's CB Zone, often consist of tri-part buildings where the base, middle and top of the building are defined by color, texture and materials.

- Architectural elements such as cornices, arcades, porticos, and transom windows.
- Tri-part buildings facades that emphasize a clear base, middle and top.

Note: Traditional style storefront buildings typically include an uninterrupted band commonly referred to as a bulkhead, kickplate (doors), window base or a base panel, around the base of the building. This band is approximately 16 inches above the sidewalk and serves to "anchor" the building to the site. This band is most often constructed of wood, concrete, brick, stone or metal. Using tape or paint for the bulkhead is prohibited.

Note: Display windows in traditional storefront buildings are typically terminated in the base band or bulkhead. The bulkhead, window frame and windowsill hold the window

and help to further accentuate relief in the building façade. The top of the storefront is architecturally capped by horizontal elements, including sign bands, storefront cornices and transoms. These features serve as a transition device from the base of the building to the middle of the building.

d. Cohesive Elements.
Intent: Incorporate cohesive and repetitive elements into the building as a means of enhancing the pedestrian realm and giving meaning to the building.

Approach: Incorporate three or more of the following repetitive building elements:

- Building lighting
- Columns, engaged columns/pilasters and arcades
- Suspended signs (blade signs)
- Canopies and/or awnings
- Transoms
- Balconies

Note: Architects and designers are encouraged to think creatively above and beyond the ground floor window requirements specified in the design standards. Besides implementing cohesive elements, architects and designers should consider the interplay of shadows and light, and vertical and horizontal "architectural features" on neighboring buildings.

e. Integrate Building Parapets and Rooftops.
Intent: Treat the top of the building, the point where the edifice meets the sky, as part of the larger façade composition and, where possible, accentuate the ornamentation found on existing traditional CB Zone buildings. Fully screen all roof top mechanical equipment from the adjacent sidewalk.

Approach: Create visual interest at the top of the building by incorporating one of the following options:

- Integrating elements at the roofline such as detailed eaves, projected cornices and articulated parapets.
- Incorporating rooftop forms, other than flat roofs, that add visual interest to the façade.

Note: Sloped roof heights from eave to peak should not exceed the height from grade to the eave (the roof should not be taller than the building wall supporting the roof).

- Designing roof top gardens for the purpose of managing stormwater run-off into Bend's rivers and streams and/or as a place for people to gather.

Note: Screening for roof top mechanical equipment is to be opaque and a minimum of 1 foot higher than the highest point on the equipment. Roof top equipment is required to be set back from the parapet or building edge a minimum of 10 feet. Screened mechanical equipment is exempt from the height requirement.

f. Weather Protection Projections.
Intent: Weather protection shall be provided along buildings adjacent to pedestrian walkways.

Approach: Provide weather protection for pedestrians along 50 percent of the ground floor façade that is required to be on the property line and at all street-facing entrances.

Note: Awnings, marquees, balconies, overhangs, umbrellas, fabric tensile structures, building appendages, or other weather protection projections are required to extend 5 feet over the sidewalk.

g. Reinforce the Corner.
Intent: Create dynamic public gathering spaces where streets intersect by embellishing the corner of the building.

Approach: Incorporate one or more of the following elements:

- Place the highest and/or the most visible part of the building within 25 feet of the corner. Use architectural features such as cupolas, turrets, and hipped or pitched roofs to add prominence to the corner location.
- Locate the main/primary entry to the building within 25 feet of the corner or at the corner itself.
- Emphasize the corners of the building as a gathering place by extending paving materials that front the building to the property line.

Note: The following elements typically define the corner entry: round or chamfered corners with double doors, doors with large amounts of glass, awnings/canopies and more defined vertical elements (columns).

h. Pedestrian-oriented Ground Floor.
Intent: Ensure that the ground floor of the primary street façade is distinguished from the upper floors and that there is the sense of interaction between activities in the building and activities on the sidewalk. Create storefronts and entries that are visible (transparent) and easily accessible from the street.

Approach: Emphasize the importance of the ground floor, especially the primary street-facing entry, by incorporating three or more of the following elements:

- Extra-height entry lobby space
- Continuous well-lit transom windows
- Enhanced distinctive doorway treatments
- Decorative lighting
- Projecting or recessing the entry bays
- Incorporating artwork into the façade that is visible to pedestrians on the sidewalk
- Incorporating unified paving materials, textures, and color

Note: Paving material in recessed entries/vestibules should help emphasize the transition from the sidewalk to the building.

i. Alley Façade Treatment.
Intent: Design alley facades that share a corner with street-facing façades to be inviting and safe for pedestrians.

Approach: Incorporate the following façade elements:

- Wrap the required street facing fenestration into the alley a minimum of 10 feet.
- Add exterior lighting along the entire length of the alley-facing façade to enhance visibility and safety.

Note: Windows facing the alley must be transparent to ensure that the alley is monitored by people inside the building ("eyes on the street").

j. Urban Materials.
Intent: Ensure that building materials are compatible with well-designed surrounding buildings and where possible, embrace the natural features (geology) of the region.

Approach: Incorporate one or more of the following elements:

- At the ground floor, use materials that give the base of the building a sense of permanence with the use of: brick, metal, terra cotta, stone, concrete, block, or stucco.
- Clearly distinguish the ground floor from the upper floors by implementing strong horizontal elements such as a frieze or a cornice, and/or changing materials and/or arranging the upper windows, which are different in size than the storefront windows, in a consistent and rhythmic pattern.
- Ensure that the design of the upper floors is cohesive with that of the ground floor through the extension of actual guidelines (brick, expansion joints, and downspouts) and implied guidelines (cornices, transoms, balconies, and window mullions).
- Do not use materials that appear synthetic and are not compatible with materials (materials that are indigenous to the region) found on many of Bend's existing buildings. Undesirable materials and treatments include: mirrored glass, vinyl siding, cementitious siding, false-brick veneer and synthetic stucco.

9. Purpose Statements.

a. Floor Area Ratios. Floor Area Ratios (FARs) regulate the amount of use (the intensity) allowed on a site. FARs also work with the height, setback, and building coverage standards to control the overall bulk of development. FARs are calculated by dividing the building floor area by the lot size.

b. Ground Floor Windows. In the CB Zone, ground floor street-facing windows are intended to:
   - Provide a pleasant, rich, and diverse pedestrian experience by connecting activities occurring within a structure to adjacent sidewalk areas.
   - Encourage continuity of retail and service uses.
   - Create an exciting pedestrian environment.
   - Create a visual dialogue between activities in the building and activities on the sidewalk.

Note: Windows must be at least 50 percent of the length and 60 percent of the ground level wall area. Ground level wall areas include all exterior wall areas up to 10 feet above the finished grade.

c. Height. Height limits are intended to control the overall scale of buildings. The maximum building height within the CB Zone emphasizes pedestrians and a mix of uses. Exceptions to maximum height:

- Projection allowed. Projections and architectural elements that do not add habitable interior floor area to a building, such as chimneys, spires, steeples, clock towers, skylights, atriums, elevator shaft housings, stair enclosures, trellises, railings, flag poles, signs, mechanical equipment and screens, antennae and other similar items not used for human occupancy, shall be allowed to exceed the maximum allowable building height limit by 10 feet.

d. Landscaped Areas. Landscaping is not required in the CB Zone, except for the 5 foot buffer next to Residential Zones. Landscaping is intended to soften the effects of built and paved areas. It also helps reduce storm water runoff by providing a surface into which storm water can percolate.

e. Main Entrance. Fronting the main entrance of a building to the street enhances pedestrian access between the use inside the building and activities on the sidewalk. This orientation also enables building occupants to see what is happening in the street, such as arriving transit service.

10. Pedestrian Standards. The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between the street and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible. A sidewalk circulation system must be hard-surfaced, and be at least 6 feet wide. Where the system crosses driveways, parking areas, and loading areas, the system must be clearly identifiable, through the use of elevation changes, speed bumps, a different paving material, or other similar methods. The on-site pedestrian circulation system must be illuminated to a level where employees, residents, and customers can use the system at night. Land between a building and the street lot line must be landscaped and/or hard-surfaced for use by pedestrians.

11. Setbacks. Setbacks promote streetscapes that are consistent with the desired character of the zones. The CB Zone promotes buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial development that will maintain light, air, and privacy in residential zones. Exceptions:

- Canopies, marquees, and awnings.
- Uncovered stairways and wheelchair ramps that lead to the street-facing façade.
- Uncovered decks and stairways that are no more than 2 ½ feet above ground.
- Projections not allowed. Attached mechanical structures such as heat pumps, air conditioners, and emergency generators.

Chapter 2.3 Mixed - Use Districts (ME, MR and PO)

Sections:

2.3.100	**Purpose**
2.3.200	**Permitted Land Uses**
2.3.300	**Development Standards**
2.3.400	**Building Orientation**
2.3.500	**Architectural Standards**
2.3.600	**Special Development Standards for the Mixed-use Riverfront District**

2.3.100 Purpose

The Mixed Use Districts are intended to provide a balanced mix of residential and employment opportunities. These mixed-use areas provide a transition between existing urban environments and both existing and future residential developments. The mixed-use districts support service commercial, employment, and housing needs of a growing community. The Mixed-Use district standards are based on the following principles:

- Ensure efficient use of land and public services
- Create a mix of housing and employment opportunities
- Provide transportation options for employees and customers
- Provide business services close to major employment centers
- Ensure compatibility of mixed-use developments with the surrounding area and minimize off-site impacts associated with development.

The Mixed-use Districts ME, MR and PO are identified on the City's official zoning map. The districts serve distinctly different purposes as described below.

Zone District	Location and Characteristics
Mixed Employment District (ME)	The Mixed Employment zone is intended to provide a broad mix of uses that offer a variety of employment opportunities. Where Mixed Employment Districts occur on the edge of the city, their function is more transitional in nature providing service commercial businesses and supporting residential uses in an aesthetic mixed environment. In this instance, when residential units are provided, the units shall be within easy walking distance to the commercial and employment uses.
Mixed Use Riverfront District (MR)	The Mixed Use Riverfront District is intended to implement the General Plan policies for the creative redevelopment of mill site properties adjacent to the Deschutes River. It is intended to allow for a mix of uses that: ▪ Provide a variety of employment opportunities and housing types;

	▪ Foster pedestrian and other non-motor vehicle activity; ▪ Ensure functionally coordinated, aesthetically pleasing and cohesive site planning and design; ▪ Ensure compatibility of mixed-use development with the surrounding area and minimize off-site impacts associated with the development; and ▪ Encourage access to, and enjoyment of, the Deschutes River.
Professional Office District (PO)	The Professional Office zone is intended to provide for professional offices in locations near arterial or collector streets and to provide a transition of uses between residential areas and other more intensive zones. Through design standards, the Professional Office zone is intended to create a mix of high density residential housing, office and service commercial developments that are pedestrian oriented and provide a positive contribution to the streetscape.

2.3.200 Permitted Land Uses

A. Permitted Uses. The land uses listed in Table 2.3.200 are allowed in the Mixed Use Districts, subject to the provisions of this Chapter. Only land uses that are specifically listed in Table 2.3.200 and land uses that are approved as "similar" to those in Table 2.3.200 may be permitted or conditionally allowed. The land uses identified with a "C" in Table 2.3.200 require Conditional Use Permit approval prior to development, in accordance with Chapter 4.4.

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter 4.1.1400, Declaratory Ruling.

C. Exceptions. Existing uses and buildings lawfully established prior to the adoption of this ordinance shall be permitted. Expansion or enlargement of an existing uses and buildings not identified as permitted or conditional uses below shall be subject to the Conditional Use criteria, standards and conditions within Chapter 4.4.

Table 2.3.200
Permitted Land Uses

Land Use	ME	MR	PO
Residential			
Single Family / as primary use as secondary use	C P	P P	C P
Multi-family housing */ as primary use as secondary use	C P	P P	C P
Temporary Housing* as a secondary use	P	N	P/C
Commercial			
Retail Sales and Service • Not to exceed 20,000 sq ft gross floor area • not to exceed 20,000 sq ft ground floor per lease space • ground floor only / not to exceed 2500 sq ft for single use / 5000 sq ft for multiple users	 P N N	 N P N	 NN P

Commercial (continued)	ME	MR	PO
Retail Sales and Service (auto dependent*)	P	N	N
Retail Sales and Service (auto oriented*)	P	N	N
Restaurants/Food Services - with drive-through* - without drive-through	 P P	 N P	N
Offices and Clinics	P	P	P
Conference Centers/Meeting facility associated with a hotel / motel	C	P	N
Lodging (bed and breakfast inns, vacation rentals, boarding houses timeshare)	P	P	N
Hotel / Motels - with conference center	P P	P P	N
Commercial and Public Parking as primary use	P	P	C
Commercial Storage - enclosed in building and on an upper story - not enclosed in building - enclosed in building on ground floor (i.e., mini-storage)	 P N P	 P N P	 N N N
Entertainment and Recreation - enclosed in building (*e.g.,* theater) - not enclosed (*e.g.,* amusement)	 P P	 P C	 C C
Wholesale Sales (more than 75% of sales are wholesale)	P	P	N
Broadcasting/production studios and facilities	P	P	N
Hospital	P	C	C
Public & Institutional			
Government - point of service (e.g., library)	P	P	C
Government – limited point of service ;(e.g., public works yards, vehicle storage etc.)	N	N	N
Parks and Open Space	P	P	P
Schools -- pre-school, daycare, and primary, secondary -- colleges, and vocational schools	 P P	 P P	 C P
Clubs and Religious Institutions	P	P	P
Industrial			
Manufacturing and Production - greater than 5,000 sq. ft. - less than 5,000 sq. ft. with retail outlet	 P P	 P P	 N N
Warehouse	P	P	N
Transportation, Freight and Distribution	C	C	N
Production businesses (*e.g.,* IT Support Centers, biotechnology, software/hardware development Broadcast and Production studios/facilities.)	P	P	C
Industrial Service (*e.g.,* cleaning, repair)	P	N	N

Key to Districts

ME = Mixed Employment
MR = Mixed Use Riverfront
PO = Professional Office

Key to Permitted Uses

P = Permitted; subject to Chapter 4.1
N = Not Permitted;
C = Conditional Use, subject to Chapter 4.4

* Special Standards for Certain Uses subject to Chapter 3.6 and 2.1.900

2.3.300 Development Standards

The following table provides the numerical development standards within the Mixed Use Districts. Additional standards specific to each district follow within a separate sub-section of this Chapter.

Building setback standards provide building separation for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation. Building setbacks are measured from the building foundation to the respective property line.

No new building or modification of an existing building shall exceed the development standards provided herein without receiving approval of a Variance application in accordance with the criteria listed in Chapter 5.1

Table 2.3.300
Mixed Use District Development Standards

Standard	ME	MR	PO
Minimum Front Yard Setback	10'	0' **	10'
Maximum Front Yard Setback	10'/80'*	None**	10'
Rear Yard Setback	0' / 10' (see standards below)	0' **	0' / 10' (see standards below)
Side Yard Setback	0' / 10' (see standards below)	0' **	0' / 10' (see standards below)
Lot Coverage	50%	None **	50%
Building Height	45'	35'**	45'

* Subject to special standards in 2.3.400
**Subject to special standards in 2.3.600

A. Applicability. The setback standards outlined in Table 2.3.300 above shall apply to all new and expanded buildings. The setback standards apply to both primary structures and accessory structures. The standards may be modified only by approval of a variance, in accordance with Chapter 5.1; Variances.

B. Front Yard Setbacks.

1. General Standards. See Table 2.3.300; Mixed Use District Development Standards.

2. Double Frontage Lots. For buildings on lots with double frontage, the minimum front yard setback standards in Table 2.3.300 shall be applied to both frontages. In the ME and PO zoning districts, the maximum setback standard of 10 feet shall be applied to only one of the frontages, provided that where the abutting streets are of different street classification, the maximum setback standard shall be applied to the street with the higher classification.

3. Exceptions. The following exceptions apply to ME and PO zoned properties.

   a. For buildings on corner lots at the intersection of two arterial streets, the maximum front yard setback standard specified in Table 2.3.300 shall be met for one frontage and for the other frontage, a maximum setback of 160 feet shall be allowed. Off-street parking, driveways and other vehicular use and circulation areas may be placed between a

building and the 10 foot wide required landscape setback adjacent to the street when the 160 foot maximum setback option is applied.

b. When the street fronting the development does not allow on-street parking, the maximum front yard setback of 80 feet shall apply.

c. Other special setbacks in conformance with Chapter 3.5.300; Special Setbacks.

C. Side and Rear Yard Setbacks.

1. ME Zone. There is no rear yard setback required (*i.e.* 0 feet), except when abutting a lot in a residential zone, the rear yard setback shall be 10 feet for all portions of the structure less than 35 feet in height. For portions of the building 35 feet in height or greater, the setback shall set back an additional 1 foot for each foot the building exceeds 35 feet.

2. PO Zone. There is no rear yard setback required (*i.e.* 0 feet), except when abutting a residential zone, the rear year setback distance shall be a minimum of 10 feet and the rear yard setback shall be increased by 1 foot for each 1 foot by which the building height exceeds 25 feet.

3. When a public alley abuts a side or rear yard of property within the PO or ME zones, the width of the alley can be included in the additional setback calculation as described above in subsections (1) and (2) above for the purpose of offsetting the impacts of the building height over 35 feet. The alley does not eliminate the required 10 foot building setback.

D. Other Requirements.

1. Buffering. A 10-foot minimum landscape buffer shall be required along the side and rear property lines between industrial use development listed in Table 2.3.200 and any adjacent Residential District. The buffer zone is in addition to the required side and rear setbacks required in section 2.3.300(C) above. The buffer shall provide landscaping to screen parking, service and delivery areas; and walls without windows or entries, as applicable. The buffer may contain pedestrian seating but shall not contain any trash receptacles or storage of equipment, materials, vehicles, etc. The landscaping standards in Chapter 3.2, Landscaping, Streets Trees, Fences and Walls, provide other buffering requirements where applicable.

2 Building and Fire Codes. All developments shall meet applicable fire and building code standards. Larger setbacks than those listed above may be required due to the proposed use and/or storage of combustible materials.

2.3.400 Building Orientation

All of the following standards shall apply to new and expanded development within the Mixed Use Districts, unless otherwise specified in this code, in order to reinforce streets as public spaces and encourage alternative modes of transportation, such as walking, bicycling and future transit.

A. Building Entrances. All buildings shall have an entrance(s) visible or oriented to a street. "Oriented to a street" means that the building entrance faces the street, or is visible to the street and connected by a direct and convenient walkway. Building entrances may include entrances to individual units, lobby entrances, entrances oriented to pedestrian plazas, or

breezeway/courtyards. Streets used to comply with this standard may be public streets or private streets and shall contain sidewalks and street trees, in accordance with the standards in Chapter 3.0; Development Standards.

The building entrance orientation standard is met when the following criteria are met:

1 When on-street parking is permitted on the street fronting the development, the front yard maximum setback shall be 10 feet.

2. When the street fronting the development does not allow on-street parking, the maximum front yard setback shall be 80 feet, except in the MR Zone.

3. Corner Lot Standard. Buildings on corner lots are encouraged to have an entrance oriented to the street corner. The minimum front yard setback specified in A(1) above shall be met for both street frontages.

B. Walkway Connections. Walkways shall be placed through yard setbacks as necessary to provide direct and convenient pedestrian circulation between developments and neighborhoods. Walkways shall conform to the standards in Chapter 3.1; Access, Circulation and Lot Design.

C. Parking. Parking and maneuvering areas shall be prohibited between the street and the building when on-street parking is allowed on the street fronting the development property. Parking shall be provided in conformance with Chapter 3.3; Vehicle Parking, Loading and Bicycle Parking.

2.3.500 Architectural Standards

All developments in the Mixed Use Districts shall be subject to Commercial Design Review, Chapter 2.2.800 and be reviewed for conformance with the criteria in A and B below unless otherwise specified in this code.

A. Building Mass. Where building elevations are oriented to the street in conformance with Chapter 2.2.600; Block Layout and Building Orientation, architectural features such as windows, pedestrian entrances, building off-sets, projections, detailing, a change in materials or similar features, shall be used to break up and articulate large building surfaces and volumes greater than 50 linear feet in length. A minimum of 15% of the horizontal building façade shall contain a variety of architectural features

B. Pedestrian-Scale Building Entrances. Recessed entries, canopies, and/or similar features shall be used at the entries to buildings in order to create a pedestrian-scale.

2.3.600 Special Development Standards for the MR Zone.

A. Development Plans Required. The Mixed-use Riverfront zone shall only be applied to the area designated on the Bend Area General Plan Map. Before development of properties can occur in the MR zone, a Facilities Plan shall be reviewed and approved. Before development of properties, other than property described in subsection C(4) below can occur in the MR zone, a Master Development Plan shall be reviewed and approved. The Facility Plan shall be processed as a Type II Activity. The Bend Urban Area Planning Commission acting as the

Design Review Board shall review and approve the Master Development Plan.

B. Facilities Plan. Prior to or concurrent with submitting a Master Development Plan the owners shall submit for review and approval a Facilities Plan that shows how the area will be served by roads and utilities.

1. Due to the size and physical variations of the MR zone area the Facilities Plans shall be prepared for three sub-areas:

   a. West of the river and north of Colorado Avenue.
   b. West of the river and south of Colorado Avenue.
   c. East of the river.

2. The Facilities Plan shall, at a minimum, include:

   a. A map of existing and planned water and sewer facilities to serve the sub-area including line sizes, general location or routes, and how the lines will tie in with areas adjacent to the MR zone.

   b. A map of existing and planned collector and arterial streets adjacent to the sub-area and of the general route of planned collector, arterial, and major local streets through the sub-area and where the streets will connect with the existing collector or arterial street system.

   c. Such other utility or transportation information as the City may determine.

   d. A written narrative that explains or describes:
      i. How the proposed water, sewer, and street system will be adequate to serve the type and size of development planned for the area;
      ii. How the location and sizing of facilities on- site will be consistent with the existing and planned utilities;
      iii. How adequate water flow volumes will be provided to meet fire flow and domestic demands; and
      iv. The function and location of any private utility systems.

3. The Facilities Plan shall be approved if it is determined to be consistent with the Utilities Master Plan and the Transportation Element of the Bend Area General Plan and other information required by the City.

C. MR Zone Master Development Plan. The minimum acreage for an MR Zone Master Development Plan shall be ten acres unless specifically exempted as described in subsection 2.3.600(C)(4) below. The MR Zone Master Development Plan shall include maps and descriptive text as described in (1) and (2) below which shall serve as approval standards for the MR Zone Master Development Plan.

1. The MR Zone Master Development Plan shall include a plan view drawing with dimensions that show the following elements and how they fit together as a functional design:
   a. Building envelope;
   b. Parking area location, size and access;
   c. Access points to local streets and major street network;
   d. Pedestrian/bicycle corridors;

e. Landscape areas; and
f. Other open space and common areas.

2. The MR Zone Master Development Plan shall demonstrate that the proposal satisfies the planning and design objectives of a mixed-use development. Such text shall address:

   a. The expected uses to be developed and approximate square footage of building area in each category;

   b. Creation of a stimulating and attractive mixed-use environment through the use and inter-relationship of open spaces, building locations, building scale and design, and pedestrian amenities;

   c. Providing pedestrian access and movement to and through the site in a manner that maximizes foot traffic exposure to goods and services and minimizes conflicts with vehicle circulation areas;

   d. Encouraging access to and enjoyment of the Deschutes River;

   e. Providing for traffic and service vehicle circulation between on-site uses as appropriate;

   f. Maintaining and improving the aesthetic and location advantages provided by the terrain and natural features of the site and minimize alteration thereof as much as practicable;

   g. Reducing to a minimum any negative impacts of proposed uses on adjacent properties and ensure the livability of residential areas when applicable;

   h. Any private development covenants, conditions or restrictions that will be recorded with the property;

   i. Any other information the City may require;

   j. How the types and levels of uses are consistent with the planned function, capacity and level of service of transportation facilities.

3. Upon approval of an MR Zone Master Development Plan all subsequent building and site development must comply with the approved MR Zone Master Development Plan and the standards and conditions in this section. Minor alterations to an approved MR Zone Master Development Plan may be revised or modified as a Type II Activity using the procedures and standards in this section. A minor alteration to a Master Plan may include adjustments to local street and pedestrian corridor alignments, alterations to site design guidelines, changes to lot configurations, and the re-location of plazas and open space within the master plan area provided the approved MR Zone Master Development Plan concept is not compromised.

4. Exemptions:

   a. Properties less than ten (10) acres in size that are not a part of a previously approved and valid MR Zone Master Development Plan and cannot practicably be combined with surrounding properties in the MR zone may apply independently for an MR Zone Master Development Plan in accordance with subsection 2.3.600(C) above; and

   b. As an alternative to subsection 2.3.600(4)(a) above, properties that were less than ten (10) acres in size on or before August 4, 1995 and that are not part of a previously approved and valid Master Development Plan may develop after obtaining site plan and design review approval from the Bend Urban Area Planning Commission after demonstrating compliance with Chapters 4.2; Site Development and Design Review, 2.2.800; Commercial Design Review Standards and 3.3; Vehicle Parking, Loading and Bicycle

Parking of the City Zoning Ordinance. The Commission shall use the master planning and design objectives set forth in Sections 2.3.600.C.2(a-j), to the extent applicable to the subject property, when determining compliance with Chapter 4.2 and 2.2.800 applies to this subsection for site plan review even if Chapter 2.2.800, by its express terms, would not otherwise apply to such an application.

Any proposed development that is on property within 100 feet of the ordinary high water mark of the Deschutes River is also subject to the design review standards in Chapter 2.6.600, Waterway Overlay (WOZ).

D. Building and Site Development Standards. In addition to the Master Development Plan approval above, the development of individual buildings and related areas shall comply with the following standards. Building and Site Development shall be processed as a Type II Activity.

1. Deschutes River Corridor Design Review. Property within 100 feet of the ordinary water mark of the Deschutes River shall comply with Chapter 2.6.600 (WOZ)

2. Building Design. Buildings and structures shall have architectural elements and features which are in scale with each other. The colors and exterior material of buildings within the Master Development Plan shall be compatible. Buildings housing retail uses shall provide ample window area oriented toward pedestrian walkways or plazas.

3. Landscaping and Open Space. The design and development of landscaping and open space shall:

   a) Retain and conserve riparian vegetation within the bed and banks of the Deschutes River and adjacent to the river to the maximum extent practicable. There shall be no net loss of natural wetlands adjacent to the river.

   b) Emphasize the use of native trees, shrubs, or other plants adapted for survival and growth in the high desert life zone.

   c) Include street trees and parking area trees which are in scale with the development.

   d) Provide a cohesive open space and pedestrian network within the development, with appropriate connections to surrounding properties and uses.

   e) Provide pleasing transitions between uses, soften and buffer utility and loading areas, and provide pleasing textures and variety particularly next to buildings, along walkways, and within pedestrian plazas.

   f) Include open spaces and plazas which are in scale with the development and invite activity appropriate to adjoining uses.

4. Operations within Buildings: For industrial and commercial uses all manufacturing, processing, assembling, packaging, repairing, and storing of equipment, materials and supplies shall occur within enclosed buildings. Exceptions to this requirement may be allowed as necessary to comply with state and local safety regulations.

5. Refuse collection and recycling: Refuse collection and recycling areas for businesses shall be enclosed with a fence, wall or structure high enough to screen all collection bins.

6. Outside mechanical equipment: Industrial or commercial heating, ventilation, air conditioning, or other mechanical equipment on rooftops or ground shall be screened with a material and design that is visually compatible with the building.

7. Drainage: All drainage from buildings, parking/loading areas, and other impervious surfaces shall be retained on the development site or directed to a drainage facility as part of an overall drainage master plan using dry wells or other City approved method such as landscaping, retention basin, swale, or similar bio-filtration systems that are not directly connected to a surface stream or canal.
8. Parking: Motor vehicle and bicycle parking shall comply with the standards in Chapter 3.3 of this ordinance. The following exceptions to the parking standards may be allowed as part of the approved Master Development Plan:
    - the use of parking areas away or separated from the building or uses; and
    - parallel parking on collector streets if bicycle lanes and adequate vehicle lanes are provided.
9. Utilities: Electric power, natural gas, telephone and cable lines shall be installed underground.
10. Signs: Directional and identification signs shall be in proportion with and visually related to the architectural character of the building and restrained in size. Pole signs are not allowed in the Mixed-use Riverfront Combining zone.
11. Industrial Air Emissions: There shall be no emission of odorous, toxic, noxious matter, or dust in such quantities from industrial operations as to produce a public nuisance or hazard.
12. Local Streets: Local streets approved as part of the Master Development Plan may be public or private streets. If private streets are proposed as part of a Master Development Plan, the Director shall:
    a) Ensure that public access is not restricted except as agreed to by the City.
    b) Provide adequate access for emergency vehicles and for school buses as necessary
    c) Provide that construction standards and specifications are satisfactory to the City.

Chapter 2.4 Industrial Districts (IG, IL)

Sections:

2.4.100 Purpose
2.4.200 Applicability and Location
2.4.300 Permitted Land Uses
2.4.400 Development Standards
2.4.500 Lot Coverage
2.4.600 Building Height
2.4.700 Orientation and Architectural Standards
2.4.800 Special Development Standards

2.4.100 Purpose

This chapter applies to all development in the General Industrial District and Light Industrial District. These Industrial Districts are intended to accommodate a range of light and heavy industrial land uses. They are intended to segregate incompatible industrial developments from other districts, while providing a high-quality environment for businesses and employees. This chapter guides the orderly development of industrial areas based on the following principles:

- Provide for efficient use of land and public services.
- Provide transportation options for employees and customers.
- Locate business services close to major employment centers.
- Ensure compatibility between industrial uses and nearby commercial and residential areas.
- Provide appropriate design standards to accommodate a range of industrial users, in conformance with the Comprehensive Plan.
- Conserve industrial zoned lands for industrial uses

2.4.200 Applicability and Location

The industrial Districts IL and IG are identified on the City's official zoning map. The districts serve distinctly different uses as described below.

Zone District	Location and Characteristics
General Industrial	This zone is intended to provide for the establishment of light and heavier industrial uses essential to the development of a balanced economic base in an industrial environment with a minimum conflict between industrial uses and non-industrial uses.
Light Industrial	This zone is intended to provide for heavier commercial and light industrial uses with easy access to collector and arterial streets.

2.4.300 Permitted Land Uses

A. Permitted Uses. The land uses listed in Table 2.4.300 are permitted in each of the applicable Districts, subject to the provisions of this Chapter. Only land uses that are specifically listed in Table 2.4.300, and land uses that are approved as "similar" to those in Table 2.4.300, may be permitted.

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter 4.1.1400, Declaratory Ruling.

C. Existing Uses. Existing office uses within an office building lawfully established within an industrial zone prior to the adoption of this ordinance shall be treated as a permitted use. Expansion or enlargement 25% or less of the above referenced uses or structures that are non-industrial, shall be subject to the provisions of Chapter 4.2, Site Development and Design. For expansion or enlargement greater than 25%, the Conditional Use criteria, standards and conditions within Chapter 4.4; Conditional Use Permits shall also apply. Conditions of prior approval shall continue to apply unless modified in conformance with Section 4.1.1000; Reconsideration..

Table 2.4.300 Permitted Land Uses

Land Use	IG	IL
Industrial		
Light manufacturing, fabrication and repair (*e.g.,* appliances, electronic equipment, printing, furniture, signs and similar goods) with incidental sales associated with a permitted use.	P	P
Heavy manufacturing, assembly, and processing of raw materials and recycling	P	C
Junk yards, automobile wrecking yards, and similar uses	P	N
Research and development facilities	C	P
Wholesale warehousing, storage and distribution	P	P
Fuel distribution	P	C
Production businesses (*e.g.,* IT Support Centers, biotechnology, software/hardware development Broadcast and Production studios/facilities.)	C	P
Wholesale processing uses (*e.g.,* dry cleaning, laundry)	P	P
Food and beverage processing and packaging	P	P
Residential		
One caretaker unit shall be permitted for each development, *NOTE: Other residential uses are not permitted, however, residences existing prior to the effective date of this Code may continue subject to the standards in Chapter 5.2 Non-Conforming Uses and Developments.*	P	P
Commercial		
Vehicle, equipment and boat repair, rental, storage, service	C	P
Medical and dental laboratories and large animal veterinary clinics	C	P
Outdoor commercial uses (*e.g.,* outdoor storage, Building and garden supply)	C	C
Small-scale personal and professional services • up to 2500 square feet of gross floor area (*e.g.,* coffee shop / deli, dry cleaners, barber shops and salons, copy center, banks, and financial institutions and similar uses)* • No limit to size (*e.g.,* child care, fitness center and similar uses)*	C C	C C

Land Use	IG	IL
Commercial (continued)		
Equipment Rental and Repair services	P	P
Corporate Headquarter/Office when co-located with a permitted or conditional use	C	P
Mini-storage Warehouse	N	C
Contractor storage	P	P
Heavy equipment sales	P	P
Ambulance Service/Transportation yards	P	C
Commercial parking lot	C	P
Recreation Facility (privately owned)	C	C
Public and Institutional		
Government facilities where the public is generally not received. (*e.g.*, public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities)	P	P
*Utility Facilities (*e.g.*, natural gas, electricity, telephone, cable, Telecommunication facilities and similar facilities).	P	P
Special district facilities (*e.g.*, irrigation district, and similar facilities)	P	P
Vocational schools	C	C
Public Park and Recreation Facility	C	C

Key to Districts:
IG = General Industrial District
IL = Light Industrial District

Key to Permitted Uses
P = Permitted; subject to Chapter 4.1
N = Not Permitted;
C =Conditional Use, subject to Chapter 4.4

* Special Standards in conformance with Chapter 3.6, Special Standards for Certain Uses and Section 2.4.800, Special Development Standards in this Chapter.

2.4.400 Development Standards.

Development setbacks provide separation between industrial and non-industrial uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation. All developments shall meet applicable fire and building code standards, which may require greater setbacks than those listed in the following section. (e.g., for combustible materials, etc.)

A. Front Yard Setbacks

1. General Industrial District: The minimum front yard setback shall be 10 feet.
2. Light Industrial District: The minimum front yard setback shall be 10 feet.
3. Exceptions:
   a. Other special setbacks in conformance with Chapter 3.5.300; Special Setbacks.

B. Rear Yard Setbacks

1. Rear Yard Setback.: There is no required rear yard setback in the IG or IL industrial districts, except when development is abutting a residential zone. In this situation, no building or

structure or any portion there of shall be constructed closer than 20 feet. Portions of buildings or structures that exceed 35 feet in height shall step back an additional ½ foot for each foot by which the building height exceeds 35 feet.

C. Side Yard Setbacks

1. Side Yard Setbacks. There are no required side-yard setbacks in the IG or IL industrial districts, except when development is abutting a residential zone. In this situation, no building or structure or any portion there of shall be constructed closer than 20 feet. Portions of buildings or structures that exceed 35 feet in height shall step back an additional ½ foot for each foot by which the building height exceeds 35 feet.

Table 2.4.400

Yard Setback	Light Industrial	General Industrial
Minimum Front Yard	10'	10'
Minimum Rear Yard *	0'/20'(see 2.4.400 above)	0'/20'(see 2.4.400 above)
Minimum Side Yard *	0'/20'(see 2.4.400 above)	0'/20'(see 2.4.400 above)
Maximum lot Coverage	80%	80%
Maximum Building Height**	50'	50'

*Subject to the provisions of Section 2.4.400; Development Setbacks
**Subject to the provisions of Section 2.4.600; Building Height

2.4.500 Lot Coverage

The maximum allowed lot coverage in the General Industrial and Light Industrial Districts is 80 percent (80%). The maximum allowed lot coverage is computed by calculating the total area covered by buildings including accessory structures, and comparing this figure with the total area of the development site. Compliance with other sections of this code may preclude development of the maximum lot coverage for some land uses.

2.4.600 Building Height

The following building height standards are intended to promote land use compatibility and flexibility for industrial development at an appropriate community scale:

A. Base Requirement

1. Buildings and structures in the General Industrial and Light Industrial Districts shall be no more than fifty feet (50') in height and shall comply with the building setback standards in Section 2.4.400; Development Setbacks above.

B. Exceptions

1. The allowable height may be increased over the base height subject to the provision of

Chapter 4.4; Conditional Use Permits and when one or more of the following mitigation methods are applied:

- additional setbacks
- stepping-down of building elevations
- visual buffering, screening
- and/or other appropriate measures to provide a height transition between industrial development and adjacent non-industrial development

2. Non-conforming uses that are lawfully in existence at the time this ordinance is adopted may continue to operate in conformance with Chapter 5.2; Non Conforming Uses

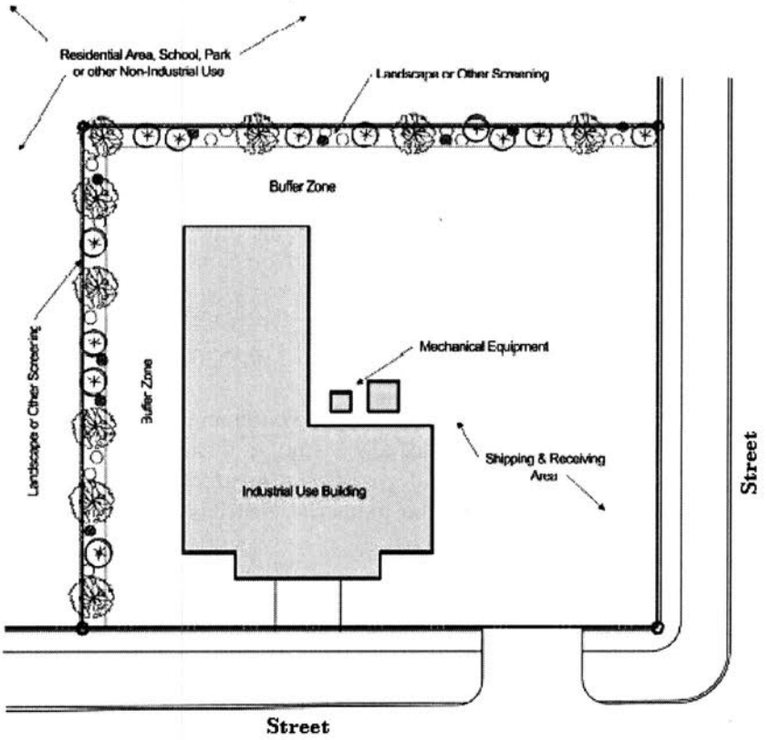
2.4.700 Orientation and Architectural Design Standards

A. Industrial Development Orientation. All industrial developments shall be oriented on the site to minimize off-site adverse impacts of noise, glare, smoke, dust, exhaust, vibration, etc., and protect the privacy of adjacent non-industrial zones to the extent practicable. The following standards shall apply to all development in the Industrial Districts when abutting non-industrial uses only.

1. Equipment Standard. Mechanical equipment, lights, emissions, shipping/receiving areas, and other components of an industrial use that are outside of an enclosed building, shall be located away from abutting residential zones, schools, parks and other non-industrial zoned areas to the extent practicable;

2. Buffering Standard. The City shall require a specific landscape buffer, or other visual or sound barrier (fence, wall, landscaping, or combination thereof) to mitigate adverse impacts that cannot be avoided through building orientation standards alone. For additional buffering standards see Section 2.4.800(B)

Figure 2.4.700 - Industrial Development Orientation

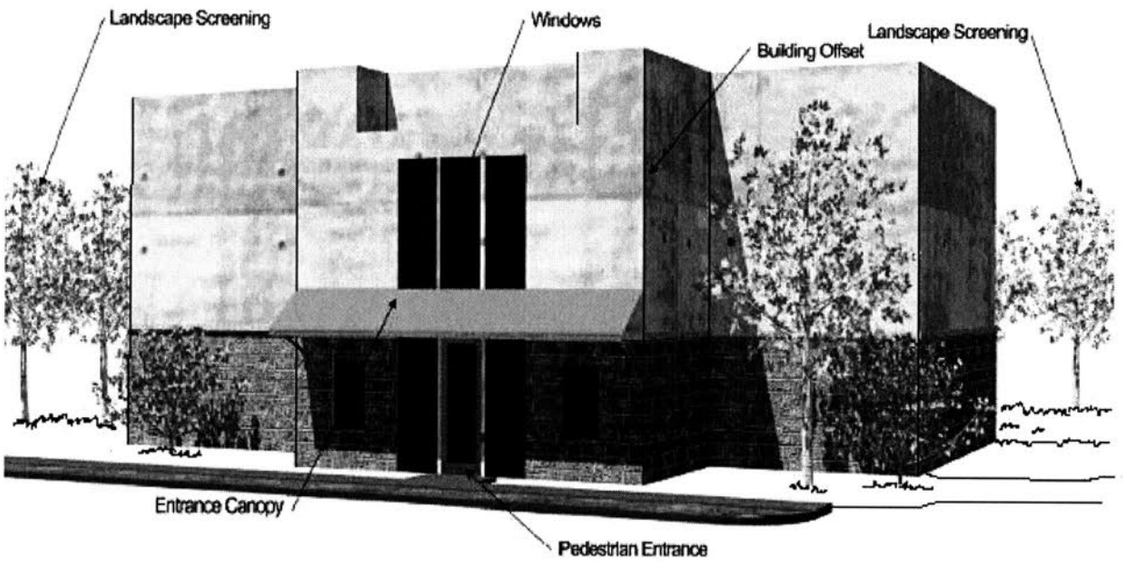


B. Architectural Standards. All developments in the Industrial Districts shall be evaluated during Site Development Review for conformance with the criteria below:

1. Building Mass. Where building elevations are oriented to the street, architectural features such as windows, pedestrian entrances, building offsets, projections, detailing, change in materials or similar features, shall be used to break up and articulate large building surfaces and volumes greater than 75 linear feet in length. A minimum of 15% of the horizontal building façade shall contain a variety of architectural features.

   The horizontal building elevation facing the arterial or collector street in all development within the Industrial District with lots fronting on an arterial or collector street shall provide a minimum of 30% of the architectural features as described above.

Figure 2.4.700B
Architectural Features (Typical)



Note: Figure above is intended to illustrate typical building design elements, and should not be interpreted as a required architectural style.

2.4.800 Special Development Standards

The Industrial Districts accommodate a range of manufacturing, industrial office uses, and small personal service commercial uses.

A. Service Commercial Uses. Commercial uses as specified in Table 2.4.300 shall comply with the following development standards.

1. Small-scale personal service commercial uses may be allowed when accessory to the primary user of the building or development (in the case of a large industrial area). No more than 10% or 2000 square feet (whichever is greater) of a permitted or conditionally allowed industrial development may be occupied by an accessory commercial use, unless otherwise approved through a Conditional Use Permit.

2. Primary use, small scale personal service commercial uses may occur as stand alone businesses when the total gross floor area of any individual building does not exceed 2500 square feet. For multiple uses, where the uses share one building, the total building area shall not exceed 5,000 square feet. These non-industrial use buildings shall comply with the provisions of Chapters 2.2.800, Commercial Design Review Standards and 4.2.300, Permitted Land Uses.

3. Fitness facilities, child care centers and other similar uses shall be limited to lots located at the perimeter of the industrial districts with lot frontage on arterial or collector streets, unless they are accessory to a primary permitted use. When these non-industrial use buildings occur as a stand alone building, the provisions of Chapters 2.2.800, Commercial Design Review

Standards and 4.2.300, Permitted Land Uses shall apply.

B. Buffering. A 20-foot minimum buffer zone shall be required between Industrial development and any adjacent Residential District. The buffer zone shall provide landscaping to screen industrial activities such as parking, service and delivery areas, from residential uses. The buffer shall not contain any trash receptacles or storage of equipment, materials, vehicles, etc.

Chapter 2.5 Surface Mining District (SM)

Sections:

2.5.100	**Purpose**
2.5.200	**Permitted Uses**
2.5.300	**Development Standards**
2.5.400	**Site Plan Review**
2.5.500	**Site Plan Requirements**
2.5.600	**Special Requirements**
2.5.700	**Procedure for Site Plan Review**
2.5.800	**Approval of Site Plan**
2.5.900	**Bond**
2.5.1000	**Failure to Comply**
2.5.1100	**Exceptions**

2.5.100 Purpose.

The purpose of the Surface Mining Zone is to allow the extraction of surface mining materials needed by the community while protecting the health and safety of adjoining residents and uses.

2.5.200 Permitted Uses.

In the SM District, the following uses and their accessory uses are permitted outright or conditionally allowed subject to the provisions of this chapter:

Table 2.5.200 - Permitted Land Uses

Land Use	SM
Industrial	
Rock crushing, processing washing and sizing	P
Extraction of materials including: sand gravel, rock, cinders, pumice, topsoil, fill material (including select fill) and any other mineral or aggregate material	P
Landfill**	C
Utility Facility	C
Ore Smelter***	C
Other related activities using materials found primarily on site, such as concrete batching plants and mineral refining plants	C
Accessory Uses and Structures	P
Residential	
One caretaker unit shall be permitted for each development * *Other residential uses are not permitted, however, residences existing prior to the effective date of this Code may continue subject to the standards in Chapter 5.2. Non-Conforming Uses and Developments*	P
Commercial	
Sale of products produced on site	P

Key to Table

P = Permitted Use, in conformance with Chapter 4.1; Procedures
C = Conditional Use in conformance with Chapter 4.4; Conditional Use Permit

(*) = Special Standards for Certain Uses
(**)=When a written tentative approval by DEQ is submitted with the conditional use application
(***)=Using materials from the site subject to stringent pollution controls

2.5.300 Development Standards

In a SM District, the following standards shall apply:

A. Lot size. The minimum lot size shall be as determined by the Planning Director to be necessary for the protection of the public health, safety and welfare.

B. Setbacks.

1. Uses within a SM District shall maintain a 100-foot setback from the property line when adjacent to a residential dwelling.

2. The applicant shall provide the minimum setback required by the applicable code for an adopted Upland Area of Special Interest, River Corridor Area of Special Interest or other identified Goal 5 resources or greater as determined necessary to protect and preserve the identified feature. The applicant shall demonstrate that the proposed setback shall be large enough to prevent any adverse impact to the resource.

2.5.400 Site Plan Review

In a SM Zone, a use permitted outright or a conditional use shall be subject to the provisions of this Section (2.5.600). Before development of any new site or expansion of any existing site beyond the area covered by an existing state or county permit may begin after the effective date of this ordinance, a site plan shall be submitted in conformance with Chapter 4.1 and approved by the Planning Director. Construction and development of the site shall be in full conformance with the approved site plan.

2.5.500 Site Plan Requirements.

A site plan shall provide the following:

A. A reclamation plan, which meets the guidelines and in a format established by Department of Geology and Mineral Industries (dogami).

B. A maintenance program. All buildings, structures and equipment used for the production and processing of minerals and other materials affected by this title shall be maintained in such a manner as to assure that such buildings, structures and equipment will not become dilapidated or hazardous. The reclamation plan shall also address disposition of buildings, structures and equipment used in production and processing of minerals and other materials, offices, storage garage and watchman's house or any remains thereof.

C. Air, water and noise requirements. Air and water quality and noise level shall be in accordance with the requirements of state and federal laws and regulations and City ordinances.

D. A complete description of all planned uses.

E. The Community Development Director may require the following at the time of site plan approval:

1. An increase or decrease in required setbacks.
2. Screening of the proposed use, or parts thereof, by fencing or landscaping.
3. Limitations on lighting.
4. An adequate plan for phased mining and reclamation of the site.
5. Restrictions on the hours, days and noise levels of operation.
6. Dust-free site access roads near residential areas.
7. When SM operations meet the criteria for conflict levels III or IV as specified below, the Planning Director may, in addition, place more stringent criteria upon the operations in accordance with this ordinance .
8. Adequate water supplies to enable landscaping reclamation and dust control conditions are to be met.

2.5.600 Special Requirements Near Residential Areas

A. Unless the applicant can show that the natural topography of the site offers sufficient screening of the site from public view, the exposed side of the operation shall be screened with landscaped berms, hedges, walls, fences or similar devices to effectively screen the site from the public.

B. If necessary, during the site plan review, the Planning Director may determine that meeting screening requirements is not economically feasible or physically possible.

C. When an unusually high level of conflict exists, off-site stock piling and/or processing may be required.

2.5.700 Procedure for Site Plan Review

A. Each application and site plan shall be reviewed by the Planning Director for conformance with this ordinance and the General Plan. The director shall transmit the application to affected agencies for their review.

B. Following receipt of the application, the Planning Director shall notify, in writing, the applicant and persons and agencies entitled to written notice as defined in Chapter 4.1, Land Use Review and Procedures.

C. Hearings Officer review, which shall occur when the site is submitted with a proposed zone change, shall follow in accordance with Chapter 4.1, Land Use Review and Procedures.

D. The Planning Director's and/or Hearings Officer's decision shall be based on the impact of the proposed use on nearby uses of land, the impact of traffic on affected streets and roads and the economic, social and environmental impact on the community.

E. The Community Development Director and/or Hearings Officer shall approve a site plan only if in conformance with all applicable regulations and this ordinance.

2.5.800 Approval of Site Plan

A. A site plan final approval shall expire 12 months from the date of approval unless the project has commenced in accordance with the approved site and reclamation plans. Upon petition by the original applicant showing good cause, an extension for an additional 12 months may be granted by the Planning Director. The operating approval shall be valid for a period of time specified by the reclamation plan, except as otherwise limited therein.

B. The Planning Director or his designate shall review each site plan approval annually. A reasonable fee for this inspection shall be paid to the City by the permittee. Unless a violation of the site plan or obvious health or safety hazard is found, the permit shall be renewed. The Planning Director's decision may be appealed based on procedures in Chapter 4.1, Land Use Review and Procedures.

2.5.900 Bond

A bond or security deposit in a form satisfactory to the City, shall be required to cover costs plus10% of necessary road improvements, screening and berm building, reclamation, landscaping and other pertinent conditions.

2.5.1000 Failure to Comply

A. If the Community Development Director determines that the permittee is not in compliance with the site plan, he may institute enforcement proceedings to require such compliance. Enforcement may include citing the permittee to Municipal Court, injunctive proceedings, enforcement of the bond provisions or other appropriate legal recourse.

B. If a permittee fails to faithfully perform the reclamation required by his reclamation plan, or if the bond or security deposit required by Section 2.5.900 is not sufficient to compensate the city for all reasonable necessary expenses incurred by it in performing the reclamation plan, the amount due shall be a lien upon all property, whether real or personal, owned by the permittee.

2.5.1100 Exceptions.

This Chapter shall not apply to the following:

A. Mineral and aggregate activities when assumed by the Oregon Division of State Lands pursuant to ORS 541.605 through 541.660.

B. Dredging mineral and aggregate materials administered by Oregon Division of State Lands pursuant to ORS 517.611 through 517.700.

C. Nothing herein shall be construed to supersede the provision of the Forest Practices Act (ORS 527.610 through 527.730), as amended by Chapter 400, Section I of Oregon Laws of 1979 and regulations which preempt city law.

Chapter 2.6 Public Facilities District

Sections:

2.6.100 Purpose and Applicability
2.6.200 Permitted Uses
2.6.300 Development Standards

2.6.100 Purpose and Applicability

A. Purpose. The PF Zone is intended to provide area for buildings and facilities that are owned and operated by federal, state, or local governments, public utilities, special districts, or non-profit organizations, and which are occupied to provide governmental or public services. This zone is also intended to provide for school sites, public park and recreational facilities, natural areas, trails, wetlands, and similar types of open space owned and managed by a local government or special district.

B. Applicability. The Public Facilities District (PF) is identified on the City's official zoning map. The properties identified within the PF zone shall comply with the provisions of this Chapter.

2.6.200 Permitted Uses.

A. Permitted Uses. The land uses listed in Table 2.6.200 below are permitted or conditionally allowed in the PF, Public Facilities Zone, subject to the provision of this ordinance.

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter4.1: Declaratory Ruling.

C. Existing Uses. Uses and structures lawfully established within the Public Facilities zone prior to the adoption of this ordinance shall be permitted. Expansion or enlargement of the above referenced uses or structures that are not listed as permitted or conditionally allowed in the PF zone below, shall be subject to Chapter 4.4, Conditional Use.

Table 2.6.200 -Permitted Land Uses

Land Use	PF
Publicly owned buildings such as city hall, county courthouse, administrative buildings, library, museum, fire station, public safety training facilities, and similar structures, but excluding correctional facilities	P
Public parks, playgrounds, swimming pool, skateboard park, pedestrian/bicycle trails and similar public recreation facilities.	P
Public play fields, sports complexes and similar recreational facilities without night lighting for play fields, and without amplified sound systems.	P
Publicly owned and operated community meeting halls, lodges, and conference halls open to and used by the general public.	P
Public reservoirs, well sites, pump stations, and similar utility buildings or structures.	P
Elementary and Middle schools operated by the Bend-La Pine School District	P
Magnet schools or other special schools operated by the Bend-La Pine School District	C
Public college or university	P
Trails, natural areas, open space, future park sites, and similar public or special district owned lands with no or minimal improvements	P
Accessory uses and buildings customarily used to support a permitted use or an approved conditional use	P
Minor repairs and maintenance to any permitted or conditional use	P
Parking lots and parking areas to serve a permitted or conditional use	P
Public utility maintenance facilities and operation yards with outdoor storage of materials and supplies	C
High schools operated by the Bend-La Pine School District	C
Ball fields, sport complexes, and similar outdoor recreational areas that have night lighting or amplified sound systems	C
Public transmission tower sites	C
County solid waste disposal sites or solid waste transfer sites	C
Correctional facilities for adults and juveniles including work farms and training centers	C
Park sites with outdoor amphitheater or facilities for community events such as music or theater performances, and similar events.	C

Key to Permitted Uses

P = Permitted, subject to provisions of Chapter 4.1
N = Not Permitted
C = Conditional Use - Conditional Uses are subject to Conditional Use permit standards in Chapter4.4

2.6.300 Development Standards

Development standards provide building separation for fire protection / security, building maintenance, sunlight and air circulation, noise buffering, and visual separation. Building setbacks are measured from the building foundation to the respective property line.

Standard	PF
Lot Area	No requirement
Lot Width	No requirement
Lot Depth	No requirement
Front Yard Setback	None, except when abutting a lot in an residential zone, then the front yard setback to a building or parking area shall be the required setback of the abutting residential zone
Side and Rear Yard Setback	None, except when abutting a lot in a residential zone, then the side or rear setback to a building or parking area shall be a minimum of 10 feet. The required side and rear yard setback shall be increased by one-half foot for each foot by which the structure exceeds 20 feet in height
Building Height	35 feet except where a setback of 100 feet can be provided the building height may be a maximum of 55 feet; If the abutting zoning district allows buildings taller than 35 feet, the height of the abutting zone may be applied to the PF zone.
Lot Coverage	No maximum requirement

A. Other Requirements

1. In addition to the requirements in Chapter 3.3, Vehicle Parking, Loading and Bicycle Parking, Parking and loading areas abutting or directly across the street from a residential zone shall be setback the minimum front yard setback as indicated in Table 2.6.300 above. The parking and loading setback area shall be appropriately landscaped along the residential street frontage to protect the character of the adjoining residential property and to shield vehicle headlights.

2. All service, repair, processing, or storage on property abutting or across the street from a lot in a residential zone shall be conducted wholly within an enclosed building unless screened from the residential zone by a site-obscuring fence or wall.

B. Special Design Standards All buildings constructed within the Public Facilities District shall be reviewed for conformance with the criteria in 1 and 2 below unless otherwise specified in this code.

1. **Building Mass.** Where building elevations are oriented to the street in conformance with Chapter 2.2.600; Block Layout and Building Orientation, architectural features such as windows, pedestrian entrances, building off-sets, projections, detailing, a change in materials or similar features, shall be used to break up and articulate large building surfaces and volumes greater than 50 linear feet in length. A minimum of 15% of the horizontal building façade and a minimum of 10% of all other horizontal building elevations shall contain a variety of architectural features.

2. **Pedestrian-Scale Building Entrances.** Recessed entries, canopies, and/or similar features shall be used at the entries to buildings in order to create a pedestrian-scale.

Chapter 2.7 Special Planned Districts

Sections:

2.7.100. Purpose
2.7.200 Lava Ridge Plan
2.7.300 NorthWest Crossing Overlay Zone
2.7.400 Dean Swift Refinement Plan
2.7.500 Medical District Overlay
2.7.600 Waterway Overlay
2.7.700 Upland Areas of Special Interest

2.7.100 Purpose

Special Planned Areas describe in more detail the type of development planned for a specific area than is typically found in a comprehensive plan, zone map, or public facilities plan. The area covered by a plan can include multiple parcels and land owners, or a single large parcel. Some of the characteristics of Special Planned Areas are:

- Designation of site-specific land uses (*e.g.*, for individual parcels);
- Design standards specific to a geographic area;
- Detailed description of public facilities needed to serve development;
- A plan adopted through a consensus-based process involving the property owners;
- Streamlined development review for projects that are part of the plan; and
- May include intergovernmental agreements and complimentary zoning for sites that cross jurisdictional boundaries (*e.g.,* between city and county).

Special Planned Areas usually focus on some unique feature of the site, such as natural resources, economic activity, or desired neighborhood character. Special Planned Areas may be used for large undeveloped areas, or partially developed areas with potential for infill and redevelopment.

Special Planned Areas differ from Master Planned Developments (Chapter 4.5) in that there is no required phasing or timeframe for development, and an application for future development (*i.e.,* subdivision and/or site plan) need not accompany the application for Special Planned Areas approval. However, all land use applications for property within the Plan are required to comply with the planned area policies and regulations as well as the development standards for the underlying zone.

2.7.200 Lava Ridge Refinement Plan

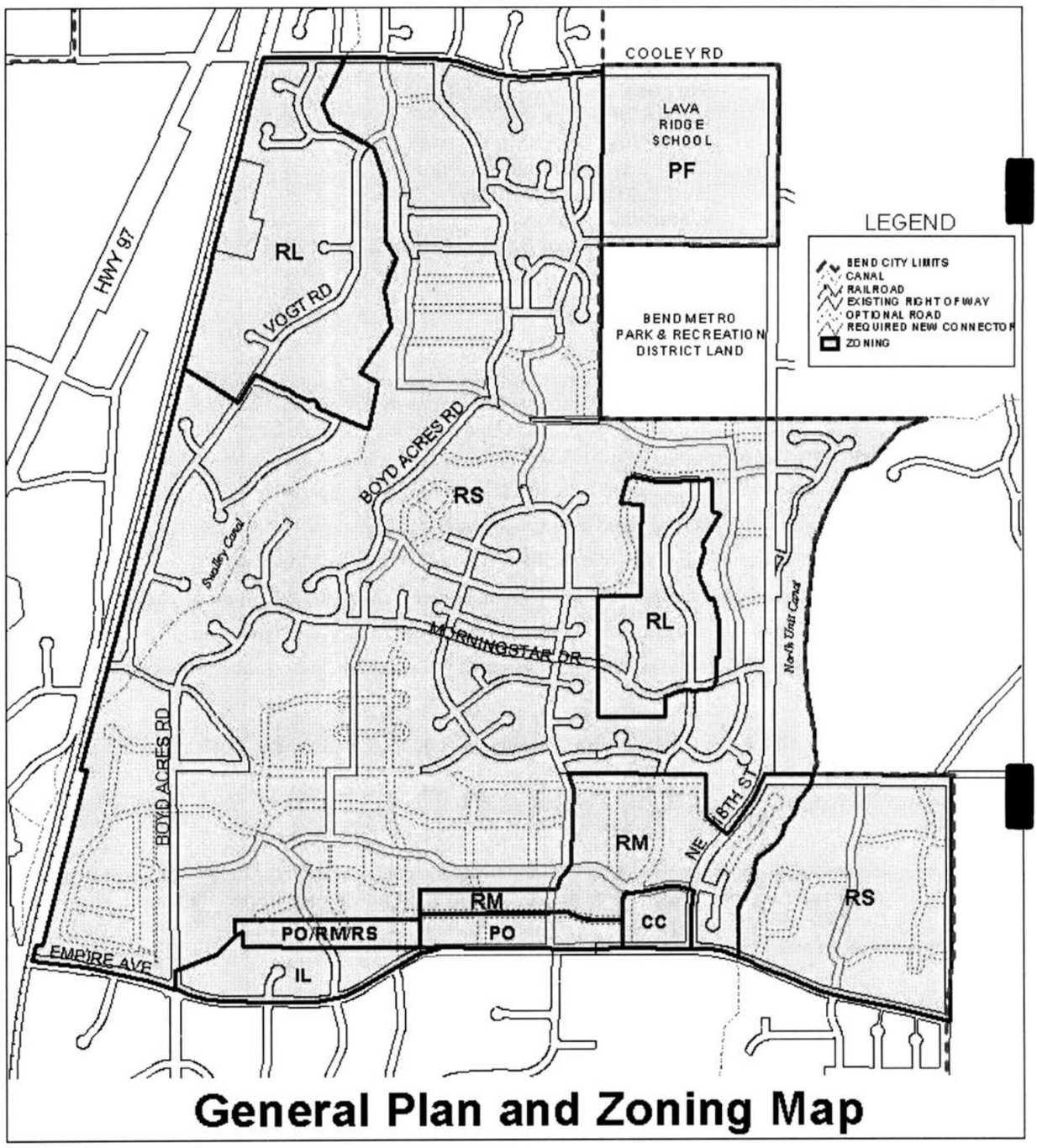


Figure 2.7.200A

The area covered by the Lava Ridge Refinement Plan is approximately 700 acres of partially developed land on the Northeast edge of Bend. It is bounded on the north by Cooley Road, to the East by the Urban Growth Boundary, to the South by Empire Boulevard and to the west by the railroad.

The purpose of the Lava Ridge Refinement Plan is to create overlay zoning standards for the residential and commercial districts within the refinement plan area. The refinement plan objectives are:

- Identify and coordinate street and utility locations
- Develop a street plan that will allow individual property owner to develop independently and still create an interconnected street system and compatible uses
- Designated neighborhood open space and provide a mechanism for construction and maintenance of designated parks
- Determine density locations and ranges that will allow flexibility for individual property owners
- Establish design standards for street, sidewalks and building locations to create street scapes that are safe and accessible for pedestrians.

The plan promotes the development of neighborhoods based on traditional planning principles. A network of connected streets, some narrower than the current standard, will help to reduce cut-through traffic while distributing local traffic more evenly. Neighborhood parks are provided, particularly in higher density areas. Neighborhood commercial at the edge of the neighborhood can reduce daily car trips while keeping the associated commercial traffic away from the residential areas.

A. Residential Density and Development Provisions. The permitted residential densities shall be the same as in the underlying zones except as specified below:

1. In the RL zone, a parcel or a lot in existence on September 6, 2000 (the date of adoption of the Lava Ridge Refinement plan) may be partitioned into no more than two lots. This standard shall apply even if sewer service is provided to the RL zone.

2. In the RS zone in the area north of Morningstar Drive in sections 17-12-15CB and 17-12-15CC, all new lots next to the Morningstar subdivision lots shall have a minimum width of 100 feet along any rear or side property line that abuts the existing Morningstar subdivision lots.

B. Neighborhood Public Parks. Public parks shall be provided at the locations depicted in Figure 2.7.200B; Parks and Pedestrian Access Ways of the refinement plan. The developer shall work with the Bend Metro Park and Recreation District on park design to comply with District standards. The developer may be reimbursed by the Park District for park land and/or construction costs up to the amount of park system development charges for the development. Procedures for developing such proposals are outlined in *the Bend Metro Park and Recreation District SDC Ordinance Number 1, Section 7.* The proposal to develop a park and receive park SDC credits must first be approved by the Bend Metro Park and Recreation District Board of Directors. Upon construction of the park to District standards and reimbursement to the developer, the designated park land shall be transferred to Park District ownership. The Park District shall be responsible for ongoing park maintenance.

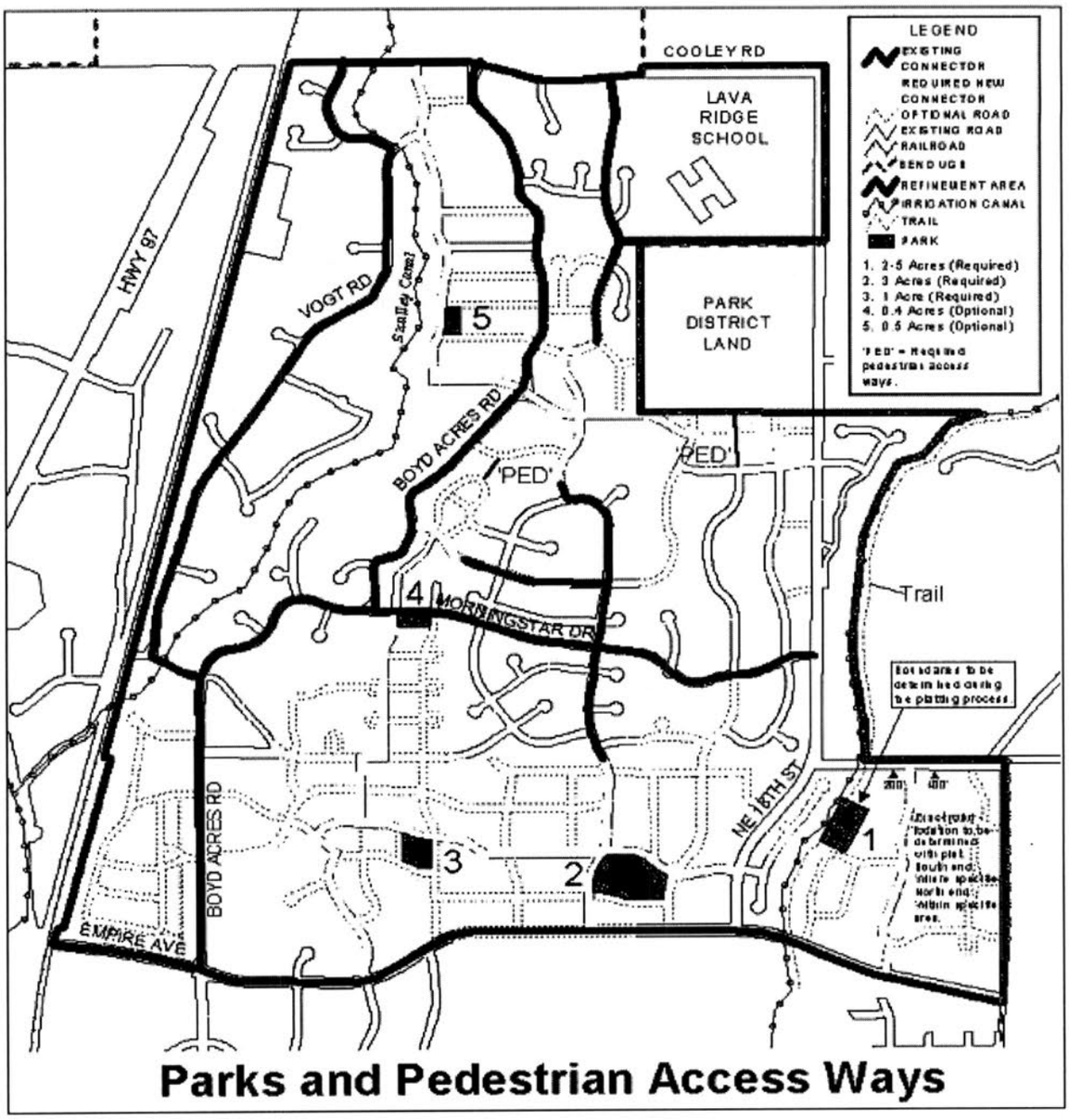


Figure 2.7.200B

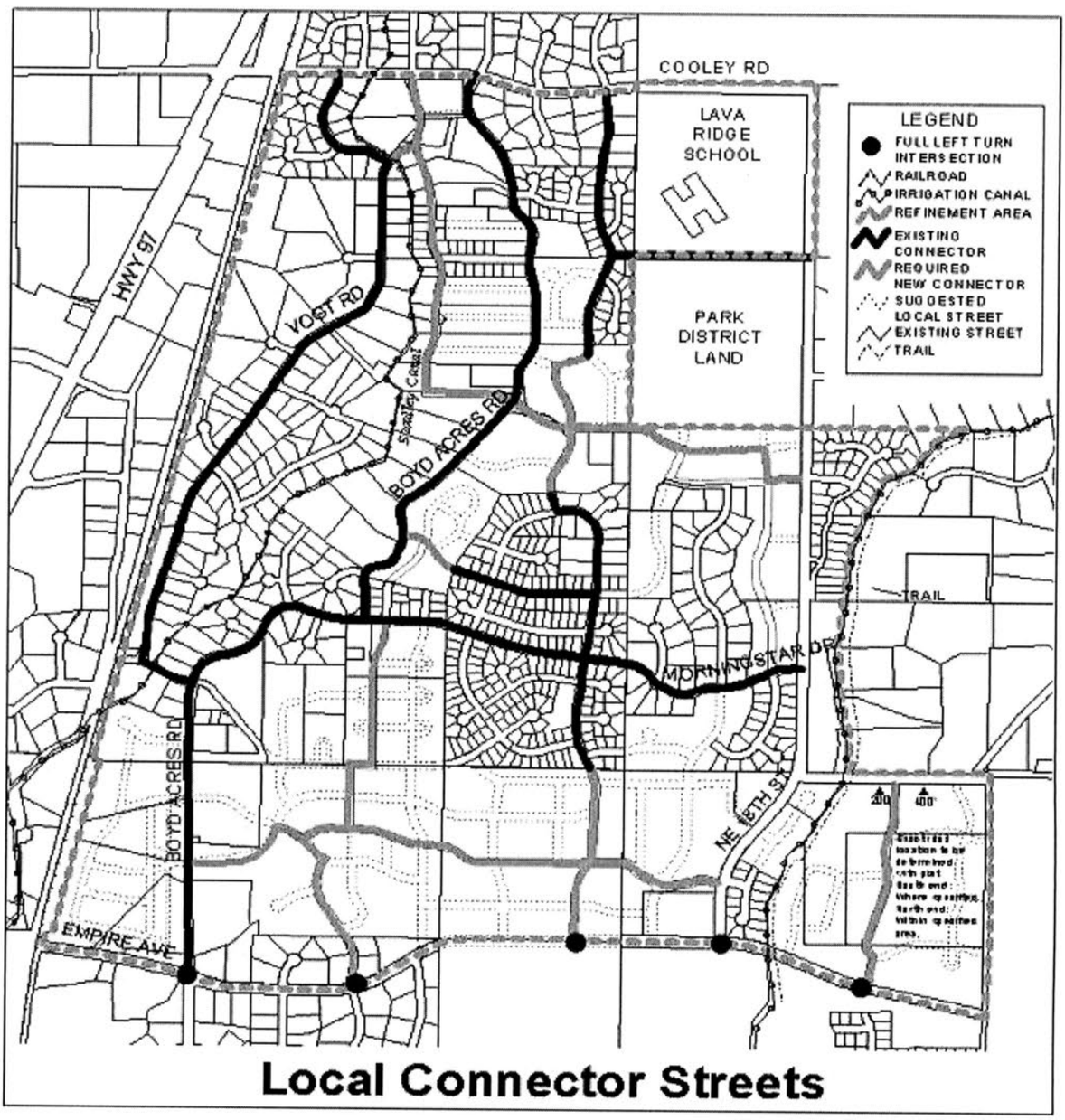
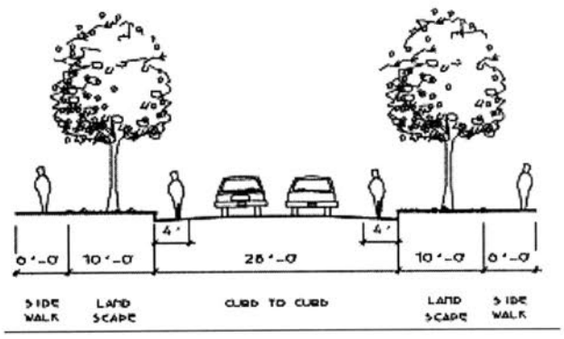


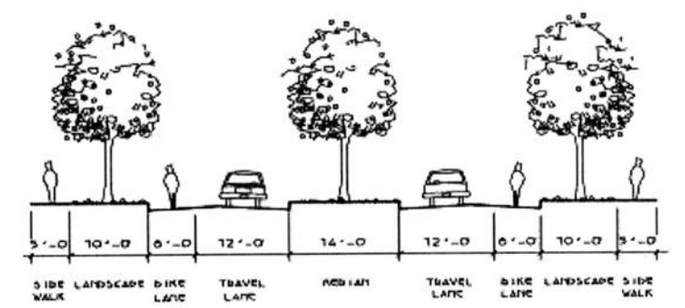
Figure 2.7.200C

C. Street and Pedestrian Standards. Street and pedestrian standards shall be consistent with the requirements of the *Bend General Plan and the Zoning Ordinance*, except as set forth below:

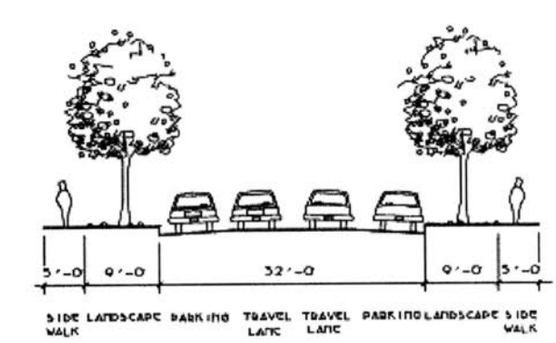
1. Boyd Acres Road.



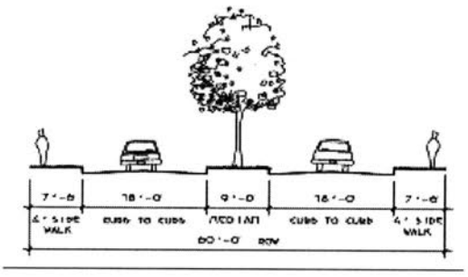
2. Empire Boulevard.



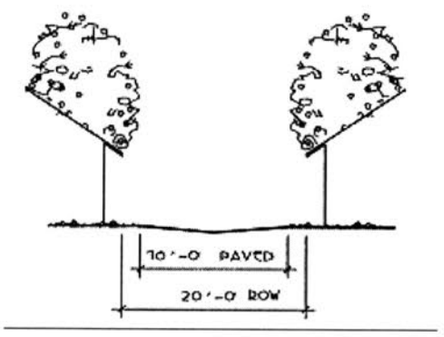
3. Local Street.



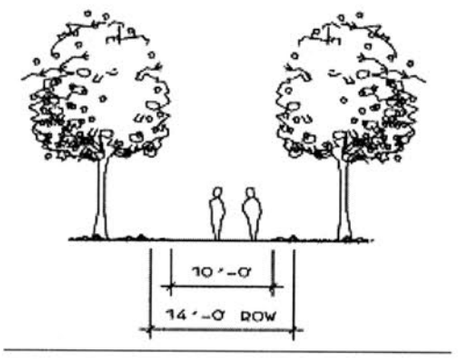
4. Local street with median



5. Alley. Alleys shall include a minimum of 20 feet of right-of-way and 16 feet of paved travel surface.



6. Pedestrian access way. Pedestrian access ways shall be located within a right-of-way no less than 14 feet wide. The trail or path shall be a minimum of 10 feet wide and paved with asphalt or concrete.



7. Hammerhead streets. Hammerhead streets meeting the following design standards may be permitted in the Lava Ridge Refinement Plan RM and RS zones.

a. Hammerhead streets shall be private streets.

b. The hammerhead street length shall be no more than150 feet.

c. The minimum right of way width shall be 40 feet plus a 5-foot utility easement on each side.

d. Utility easements shall be required for public and/or private development.

e. The minimum street pavement width shall be 20 feet.

f. The maximum public street block length shall be 600 feet.

g. The maximum width of a housing cluster on a hammerhead street shall be 300 feet.

h. Sidewalks are not required within the cluster.

i. Sidewalks shall be required on the external public streets.

j. Parking is not permitted on the hammerhead street.

k. Off street parking requirements shall be met for underlying zone.

l. Landscaping on interior of hammerhead cluster shall be required in area from house to edge of pavement.

m. Street frontage - houses on lots fronting a public street, except an arterial, shall face the public street.

n. Building setback shall be the same as the underlying zone unless modified in the plat.

o. Fences or walls adjacent to an arterial shall be approved at the time of plat. Walls shall be built with varied texture and materials and shall comply with any adopted design standards. The maximum height shall be 6 feet except where the elevation between the arterial street and the lot line exceeds 8 feet in which case, reductions to the wall or fence height may be required. The area between the fence or wall and the arterial curb shall be landscaped and maintained by abutting property owner(s) or homeowners association.

p. Fencing: On hammerhead and public streets, except arterials, fences within the yard setback area may not exceed three and a half feet in height. A fence up to six foot in height may be constructed outside of the setback area provided that it is no closer to the street than the building face. A fence up to six feet in height may be constructed on rear lot line.

D. Street Trees. Street trees shall be provided along all arterial streets and streets designated as connector streets on Figure 2.7.200C; Lava Ridge Plan Circulation Plan diagram. Only street trees from a list maintained by the City Planning Department shall be planted. Street trees shall be planted 25 to 30 feet on center. Trees shall be a minimum of 2-inch caliper measured 4 feet from ground level.

E. Block Perimeter. In addition to block length standards of the Subdivision Ordinance, the perimeter of blocks shall not exceed 1,600 feet.

F. Design Review and Building Orientation.

1. Design review standards in Section 2.2.1000 shall apply to development in the Commercial and Professional Office zones and any other *Design Review Overlay District specified in Section 2.2.1000 of this code.*

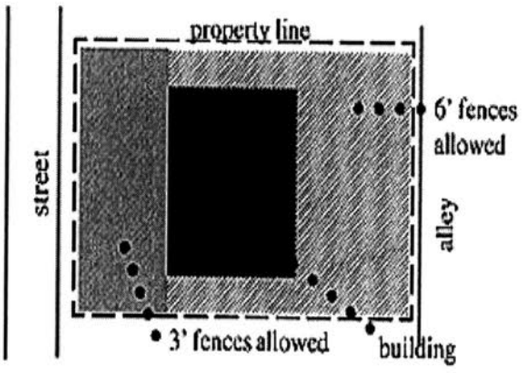
2. Residential development shall be oriented to a street, with a primary entrance that fronts on the street. Garages shall be no more than five feet in front of the front of the house. Front sides of garages shall represent no more than 50 percent of the building frontage of any residential structure. The width of the garage door opening shall be used to determine the percentage of frontage. The Planning Director or designee may waive the standards if they are impractical due to factors including, but not limited to the following:

    - When the slope at the front of the lot exceeds 12 percent.
    - Preservation of natural features, such as rock outcrops
    - Preservation of trees or other vegetation
    - Lot width at the front property line of lots existing prior to December 3, 2004 is less than 50 feet.

G. Area of Special Interest. Areas of Special Interest shown on the Bend Area General Plan Map shall be subject to policies of the Bend Area General Plan.

H. Fences. Walls and fences in the setback area between the front of the house and the adjacent local or collector street shall not exceed three and a half feet in height. Six-foot high fences are permitted outside the front yard setback area between the property line and the building and on side lot lines. Fences up to 6 feet high may be provided along alleys.

Figure 2.7.200(D)
Fence Setbacks



Lava Ridge Refinement Plan adopted by ordinance NS-1754, September 6, 2000
Amended by NS – 1944, November 3, 2004

2.7.300 NorthWest Crossing Overlay Zone

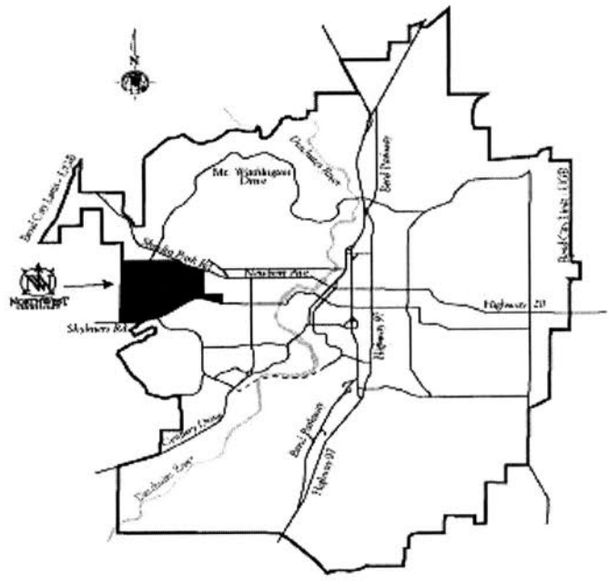
Sections:

2.7.310 Definitions
2.7.320 Districts
2.7.330 NorthWest Crossing Special Street Standards

The purpose of the NorthWest Crossing Overlay Zone is to implement the NorthWest Crossing Master Development Plan and the Bend Urban Area General Plan policies regarding the NorthWest Crossing property, and to create overlay zoning standards for the residential, commercial and industrial districts within the NorthWest Crossing Master Development Plan boundaries. The overlay zone standards will:

- Provide a variety of employment opportunities and housing types
- Locate higher density housing adjacent to collector and arterial streets of public parks
- Create opportunities for community commercial and small scale businesses in selected locations to foster a mixed-use residential neighborhood.
- Promote pedestrian and other multi-modal transportation options.
- Ensure compatibility of uses within the development and with the surrounding area.
- Create an interconnected system of streets with standards appropriate to the intensity and type of adjacent use.
- Create safe and attractive streetscapes that will meet emergency access requirements and enhance pedestrian and bicycle access.

Figure 2.7.300
NorthWest Crossing Overlay Zone



2.7.310 Definitions

The following definitions apply to uses, building types and standards that are specific to the NorthWest
Crossing Overlay Zone.

A. Accessory Dwelling. A separate, complete dwelling unit, either attached to or separate from the primary dwelling unit. An accessory dwelling may be no larger than 40% of the living area, excluding the garage, of the primary dwelling, or 600 square feet, whichever is less. Maximum height for a detached accessory dwelling is 24 feet. Accessory dwelling units must meet the setbacks for the City of Bend Urban Standard Residential Zone. Accessory dwellings may be permitted on any lot in accordance the provisions of the RS Zone.

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

C. Cottage. A cottage is a small, detached dwelling unit, not greater than 1200 square feet in total floor area defined in section 2.7.320(E) of this chapter that is developed at a density greater than the underlying zone.

D. Cluster Housing Development. A cluster housing development is detached single family cottages in a cluster around a central shared open space and has the following characteristics:
   1. Each cottage is of a size and function suitable for a single person or very small family;
   2. Each cottage has the construction characteristics of a single family house;
   3. Cottages may be located on platted lots or as units in a condominium development and may share use of common facilities such as a party room, tool shed, garden, workshop and parking areas;
   4. The site is designed with a coherent concept in mind, including shared functional open space, off-street parking areas, access within the site and from the site, and consistent landscaping;
   5. Each tentative plat or condominium plat for a cluster housing development within the Northwest Crossing Cluster Housing Overlay District shall be reviewed against the regulations of this zoning district.
   6. A cluster housing development shall have a homeowner's association for the ownership and management of shared open space and common parking areas.

E. Live/work Dwelling. A dwelling in which a business may be operated on the ground floor. The ground floor commercial or office space has visibility, signage and access from the primary street. To preserve the pedestrian orientation of the commercial or office space, alley access is required to provide trash service and residential parking. A live/work dwelling is allowed instead of, or in addition to, home occupation as defined by this Code. The location of lots where live/work dwellings may be sited shall be specified on the subdivision plat. The permitted live/work housing types are defined below:

   a. Live/work House: A single-family detached house with no more than 50 percent of the ground floor of the building available as commercial or office space.

b. Live/work Townhome: A residential, fee simple townhome unit in which a business may be operated. The commercial or office portion of the building shall be limited to the ground floor and may not exceed 50 percent of the square footage of the entire building, excluding the garage.

c. Live/work Apartment: A primarily residential multi-story, multi-unit building with a maximum of 50 percent of the building ground floor square footage used as commercial or office space. Residential units may be for rent or for sale in condominium or cooperative ownership.

F. Parking District. The area designated for common parking lots or facilities in the two NorthWest Crossing Commercial/Mixed Employment Districts. Each Commercial/Mixed Employment District has areas designated for common off-street parking lots or facilities designed to serve the minimum parking needs for permitted uses in the Convenience Commercial and Mixed Employment zoned Districts. The designated parking areas will be located behind or at the side of buildings permitted in the District, or on private streets within the District. The designated common parking areas will allow all buildings to be close to the street to create a lively pedestrian oriented commercial streetscape. A public entrance to all buildings shall be on the primary street frontage.

G. Primary Street Frontage. The location along a street in the Residential Mixed-use District where live/work housing or community commercial uses may be located. Table 2.7.320 of this Chapter identifies areas and limits the maximum lot frontage along the Primary Street Frontage that may be used for live/work housing or community commercial uses in each area. The primary entrance to the office or commercial portion of live/work housing or a community commercial building must be located on the Primary Street Frontage.

H. Townhome. A single-family dwelling type with common walls on one or both side lot lines and continuous front facades. Townhomes are the highest density housing type in NorthWest Crossing that provides yards and fee simple ownership. Townhomes may be located on lots with detached garages and accessory dwellings. Alleys, to the rear of the building, provide parking and service access.

2.7.320 Districts

A. Applicability. The special standards of the NorthWest Crossing overlay districts shall supercede the standards of the underlying zone. Where no special standards are provided, the applicable standards of the underlying zone shall apply.

B. Urban Standard Residential District.

1. Purpose. The purpose of the Urban Standard Residential District is to implement the Urban Standard Residential Zone with flexibility to allow greater lot coverage to accommodate single-family houses on small lots. The Urban Standard Residential District in Northwest Crossing also is the base zone for the



Figure 2.7.320.A
Urban Standard Residential District

Residential Overlay Districts described
in Sections B, C, D, E and F.

2. Application of Residential Overlay Districts. The standards of the Urban Standard Residential Zone, as provided for in this section, shall apply to the land zoned as Urban Standard Residential.
   Where a Residential Overlay District is shown, the special standards of the Overlay District shall apply to uses permitted by the Overlay District.

3. Uses Permitted.
   a. All uses permitted in the Urban Standard Residential Zone, except neighborhood commercial uses.
   b. Duplex on a lot identified as a duplex lot on an approved subdivision plat, subject to RS minimum lot size for a duplex.

4. Conditional Uses.
   a. Except for duplexes, which are allowed on identified duplex lots on approved subdivision plats, conditional uses permitted in the underlying Urban Standard Residential Zone are subject to a Conditional Use Permit and the provisions of Chapter 4.4.

5. Height Standards
   a. No building shall be erected, enlarged or structurally altered to exceed 30 feet in height without a Variance.

6. Lot Requirements.
   a. The lot requirements of the RS Zone shall apply to all permitted and conditional uses.
   b. Setbacks. The setback requirements of the RS Zone shall apply to all permitted and conditional uses.
   c. Lot Coverage.
      i. On lots 6,000 square feet or greater, the maximum lot coverage for buildings shall be 35 percent.
      ii. On lots that are less than 6,000 square feet, the maximum lot coverage for buildings shall be 50 percent.

7. Site Plan Review. A duplex located on a lot approved as a duplex lot on an approved subdivision plat is not subject to a site plan review under the provisions of Chapter 4.1, Land Use and Review Procedures.

C. Residential Townhome Overlay District.

1. Purpose. The purpose of the Townhome Overlay District is to permit townhomes along collector streets, adjacent to public parks or a Multiple-Family District. The Townhome District will allow a diversity of housing types and a mix of residential density within NorthWest Crossing.

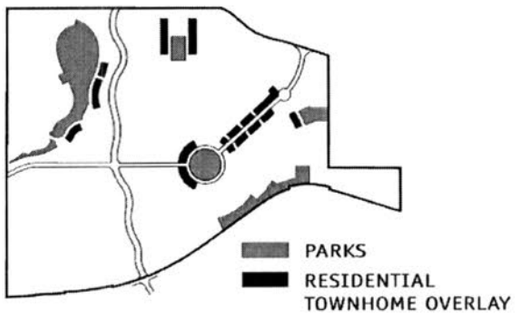


Figure 2.7.320.B
Residential Townhome Overlay District

2. Uses Permitted.

   a. All uses permitted in the Urban Standard Residential Zone

   b. Townhomes.

   c. Duplex on a lot identified as a duplex lot on an approved subdivision plat, subject to RS minimum lot size for a duplex

3. Conditional Uses.
   a. Except for duplexes, which are allowed only on identified duplex lots on approved subdivision plats, all conditional uses permitted in the underlying Urban Standard Residential Zone, subject to a Conditional Use Permit and the provisions of Chapter 4.4.

4. Height Standards
   a. No building shall be erected, enlarged or structurally altered to exceed 35 feet in height without a Variance.

5. Lot Requirements.
   a. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except townhomes.
   b. Except as specified in this section, the lot requirements of the RM Zone shall apply to townhomes.
   c. Setbacks. For townhomes the front yard setback is a minimum of 5 feet and the side yard setback may be 0 feet.
   d. Lot Coverage. There is no maximum lot coverage standard for townhomes and accessory structures on a townhome lot.

6. Maximum Density. The maximum density in the Townhome District is 12 units per net acre.

7. Site Plan Review. Townhomes and duplexes on a lot approved as a duplex lot on a subdivision plat are not subject to site plan review under Chapter 4.2, Site Development and Design Review of this code.

D. Residential Multiple-family Overlay District

1. Purpose. The Residential Multiple-family Overlay District is applied in specific locations adjacent to arterial or collector streets, public parks or commercial areas. The purpose is to provide a diversity of housing types in the Urban Standard Residential Zone at the edges of single-family neighborhoods and to locate higher density housing adjacent to commercial services and open space.

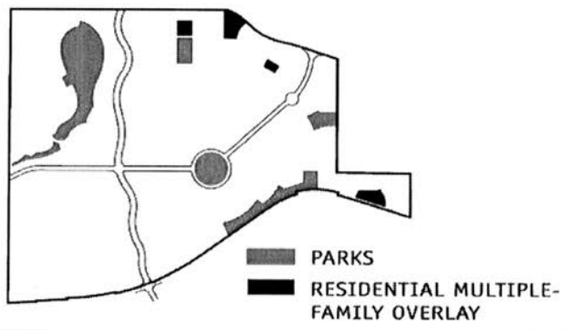


Figure 2.7.320.C
Residential Multi-family District

2. Uses Permitted.
   a. All uses permitted in the Urban Standard Residential Zone.
   b. Multi-family housing.

3. Conditional Uses.
   a. Conditional uses permitted in the underlying Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Chapter 4.4.

4. Height Standards.
   a. No building, except multi-family housing, shall be erected, enlarged or structurally altered to exceed 30 feet in height without a Variance.
   b. The maximum height for multi-family housing is 45 feet unless a greater height is approved through a Variance in conformance with the provisions of Chapter 5.1; Variances.

5. Lot Requirements.
   a. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except multi-family housing.
   b. Except as specified in this section, the lot requirements of the RH Zone shall apply to multi-family housing.
   c. Lot Coverage. There is no maximum lot coverage standard for multi-family housing.

6. Maximum Density. The maximum density in the Multi-family District is 19 units per net acre.

8. Site Plan Review. Multi-family housing shall be subject to the provisions of Chapter 4.2; Site Development and Design Review of this ordinance.

E. Northwest Crossing Residential Cluster Overlay District.

1. The purpose of this section is to provide a housing type that responds to changing household sizes and ages (e.g. retirees, small families, single person households) and provides opportunities for

ownership of small, detached dwelling units within the Northwest Crossing neighborhood. The Residential Cluster Overlay Zone supports the following principles:

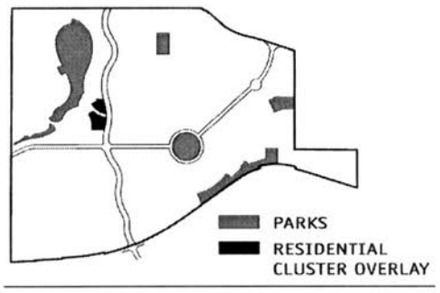


Figure 2.7.320D
Northwest Crossing Residential Cluster Housing Overlay

- Encourages the creation of more usable open space for residents of the development through flexibility in density and lot standards;
- Supports the growth management goal of more efficient use of urban residential land;
- Provides development standards to ensure compatibility with surrounding land uses; and
- Creates a small area of higher density residential development within the RS zone with detached dwellings and private and shared opens space.

2. Uses Permitted.
   a. All uses permitted in the Urban Standard Residential Zone.
   b. Cluster housing developments subject to the development standards in subsection 2.7.320(E)(4) below.
   c. Buildings accessory to a cluster housing development subject to the development standards in subsection 2.7.320(E)(4) below.
   d. Community buildings in a cluster housing development. Community buildings shall be incidental in use and size to the cottage housing and shall be commonly owned by the residents.

3. Conditional Uses. Conditional uses permitted in the underlying Urban Standard Residential Zone are subject to a Conditional Use Permit and the provisions of Chapter 4.4; Conditional Use Permits.

4. Development Standards and Site Requirements for Cluster Housing Developments.
   a. Site Requirements:
      i. The permitted density within the Northwest Crossing Cluster Housing Overlay District is 12 units per acre.
      ii. Minimum lot size within the Northwest Crossing Cluster Housing Overlay District is 2000 square feet.
      iii. Cottages adjacent to property lines fronting a public street shall be setback a minimum of 10 feet and a maximum of 20 feet.
      iv. Accessory structures, garages or carports shall be setback a minimum of 20 feet from property lines fronting a public street.
      v. Rear yard setbacks shall be a minimum of ten (10) feet.

vi. Interior separation. There shall be a minimum separation of ten (10) feet between all buildings.
vii. All structures in the cluster development shall have pitched roofs.
viii. Maximum height for structures within the Northwest Crossing Cluster Housing Overlay District is 25 feet.

b. Cottage Development Standards. The design standards and floor area requirements ensure that the overall size and scale, including bulk and mass of cottage structures remains smaller and incur less visual impact than standard sized single family dwellings, particularly given the allowed density of the cluster housing development.

i. The total floor area of each cottage shall not exceed 1200 square feet or 1.5 times the area of the main floor, whichever is less. Attached garages shall not be included in the calculation of total floor area.

ii. Cottage areas that do not count toward the total floor area calculation are:
I. Unheated storage space located under the main floor of the cottage;
II. Architectural projections, such as bay windows or fireplaces;
III. Attached roofed porches;
IV. Detached garages or carports;
V. Spaces with a ceiling height of six feet or less measured to the exterior walls, such as in a second floor area under the slope of the roof.

iii. The maximum main floor area for cottages is 1000 square feet including attached garages. For the purposes of this calculation, the area of interior stairway may be allocated between floors served.

iv. Cottages shall have a roofed porch at least 80 square feet in size with a minimum dimension of eight feet on any side.

v. The total square foot area of a cottage may not be increased. A deed restriction shall be placed on the title to the property for the purpose of notifying future property owners that any increase in the total square footage of a cottage is prohibited for the life of the cottage or duration of Northwest Crossing Cluster housing Overlay District regulations.

vi. All proposed cottages and accessory buildings are subject to review and approval by the Northwest Crossing Architectural Review Committee.

c. Required Open Space.

i. Shared open space:
I. Shall provide a centrally located, focal area for the cluster housing development.
II. Shall total a minimum of 500 square feet per cottage when all shared open space areas are combined.
III. Shall abut at least 50% of the cottages.
IV. Shall have 75%of the open space area abut structures on at lease two sides.
V. Shall be within 75 feet walking distance of each cottage.
VI. Common parking areas are not counted in the shared open space area requirements.

ii. Private open space:

I. Shall be a minimum of 300 square feet of private, contiguous, usable open space with no dimension less than 10 feet adjacent to each dwelling unit, for the exclusive use of the cottage resident.
II. Shall be located on slopes of less than 10 percent.

d. Parking location and screening. The parking location and screening standards are designed to ensure minimal visual impact from vehicular use and parking areas for residents of the Northwest Crossing Cluster Housing Overlay District and adjacent properties, and to maintain a single family character along public streets.

i. A minimum of one parking space and a maximum of two parking spaces is required for each cottage.

ii. A parking area is a location for two or more contiguous vehicle spaces, which are required to meet the minimum parking requirements, and are not within a garage or carport. Parking areas:
I. May be on lots created for shared parking for the Cluster Housing Development.
II. Shall be located in the Cluster Housing Development.
III. Shall be screened from public streets and cottages by landscaping, fencing or buildings.
IV. Shall be prohibited within 20 feet of a public street.
V. Shall have access via an alley.

F. Residential High Density Multiple-family Overlay District

1. Purpose. The Residential High Density Multiple-family Overlay District is applied in specific locations adjacent to arterial or collector streets, public parks or commercial areas. The purpose is to provide a diversity of housing types in the Urban Standard Residential Zone at the edges of single-family neighborhoods and to locate higher density housing adjacent to commercial services and open space.

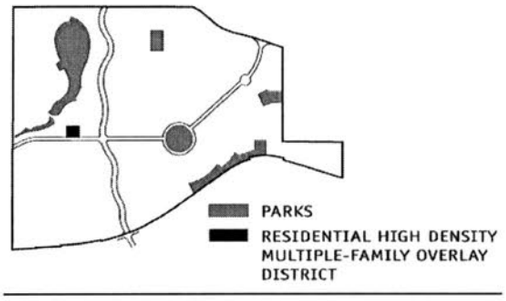


Figure 2.7.320E
Residential High Density Multi-family Overlay

2. Uses Permitted.

i. All uses permitted in the Urban Standard Residential Zone.
ii. Multiple-family housing.

3. Conditional Uses.

i. Conditional uses permitted in the underlying Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Section 29.

4. Height Standards.

i. No building, except multiple-family housing, shall be erected, enlarged or structurally altered to exceed 45 feet in height without a Conditional Use Permit.

5. Lot Requirements.

   i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except multiple-family housing.

   ii. Except as specified in this section, the lot requirements of the RH Zone shall apply to multiple-family housing.

   iii. Lot Coverage. There is no maximum lot coverage standard for multiple-family housing.

6. Maximum Density. The maximum density shall be that established by the RH Zone.

7. Minimum motor vehicle parking for housing that is limited to residents of age 55 and older is 1 parking spaces per dwelling unit.

8. Site Plan Review. Multiple-family housing is not subject to the provisions of Section 23 of this code. It shall be subject to design review through the NorthWest Crossing Architectural Review Committee.

G. Residential Mixed-use Overlay District

1. Purpose. The Residential Mixed-use Overlay District is applied in locations adjacent to collector streets or public parks to allow higher density residential uses, live/work housing and community commercial uses in the Urban Standard Residential Zone. The purpose is to create small areas of mixed-use at specific locations within the neighborhood.

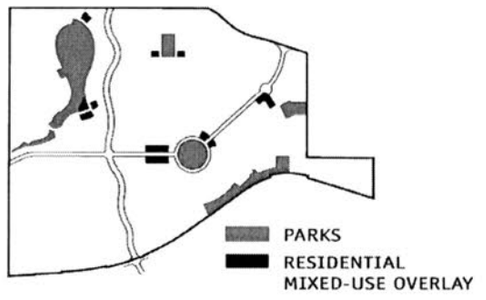


Figure 2.7.320.F
Residential Mixed-Use Overlay

2. Uses Permitted.

   a. All uses permitted in the Urban Standard Residential Zone.
   b. Multi-family housing.
   c. Townhome.
   d. Live/work single-family house subject to the provisions of this District.
   e. Live/work townhome subject to the provisions of this District.
   f. Live/work apartment subject to the provisions of this District.
   g. Community Commercial subject to the provisions of this District.

3. Conditional Uses. Conditional uses permitted in the underlying Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Chapter 4.4.

4. Site Plan Review.

   a. Townhomes, live/work house and live/work townhomes are not subject to site plan approval provisions of this code.
   b. Live/work apartments and community commercial uses are subject to site plan approval according to Chapter 4.2, Site Development and Design Review of this ordinance, except that

where special standards of the Residential Mixed-use District conflict with standards within the code, the standards of the Residential Mixed-use District shall apply.

5. Height Standards.
   a. No building except multi-family or live/work apartment housing shall be erected enlarged or structurally altered to exceed 30 feet in height without a Variance.
   b. The maximum height for multi-family housing or live/work apartment is 45 feet unless a greater height is approved through a Variance.
   c. The maximum height for a townhome or live/work townhome is 35 feet unless a greater height is approved through a Variance.

6. Lot Requirements.
   a. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except multi-family housing, townhomes, live/work townhomes, live/work apartments and community commercial.
   b. The lot requirements of the RH Zone shall apply to multi-family housing and live/work apartments except that the minimum front yard setback is 5 feet and the minimum side yard setback is 0 feet.
   c. The lot requirements of the RM Zone shall apply to townhomes and live/work townhomes, except that the minimum front yard setback is 5 feet, the minimum side yard setback is 0 feet, and the minimum lot width is 24 feet.
   d. The lot requirements for Neighborhood Commercial uses in section 3.6.300(J) shall apply to community commercial except that the minimum front yard setback is 5 feet.
   e. There is no maximum lot coverage standard for townhomes, live/work townhomes, live/work apartments or multiple-family housing.

7. Density. The density in the Residential Mixed-use District is a maximum of 19 units per net acre.

8. Primary Street Frontage. Live/work housing and community commercial uses may only be located along primary street frontage identified in the four area maps identified as Figures 2.7.320E-H. The amount of live/work housing and community commercial is further limited to the maximum lot frontage identified in Table 2.7.320 below.

Table 2.7.320 - Residential Mixed-use District
Maximum Allowable Live/work Housing and Community Commercial by Area

Area	Linear feet of primary frontage in District	Maximum Primary Street Frontage for Live/work Housing Lots	Maximum Primary Street Frontage for Community Commercial Lots
Discovery Park	650	325 linear feet	200 linear feet
Lewis & Clark Park	200	200 linear feet	50 linear feet
Compass Park	1000	800 linear feet	100 linear feet
Lemhi Pass/NW Crossing	500	500 linear feet	Not permitted

Figure 2.7.320G

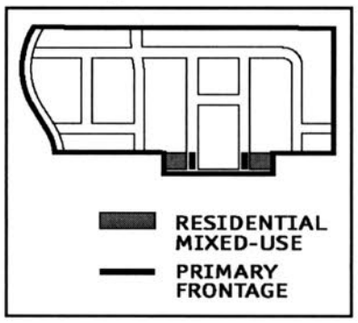


Figure 2.7.320H

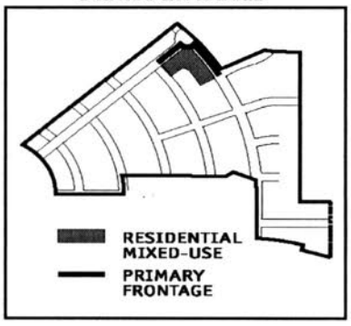


Figure 2.7.320I
Discovery Park Area

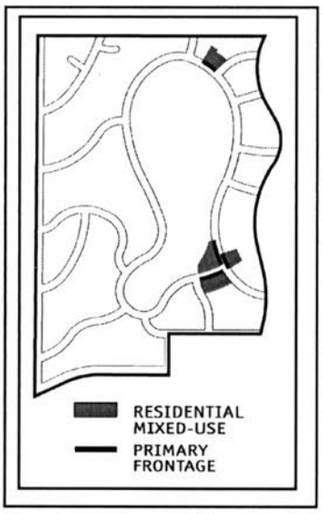
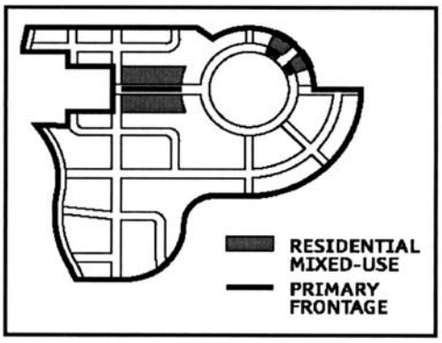


Figure 2.7.320J
Compass Park Area



9. Platting Lots for Live/work Housing and Community Commercial Uses.
   a. The final plat for a subdivision in the Residential Mixed-use Overlay District shall specify the lots where live/work housing or community commercial uses will be permitted.
   b. A deed restriction shall be recorded with each lot identified on the final plat as a live/work housing or community commercial.

c. The number of lots in the Residential Mixed-use Overlay District shall be limited to a maximum amount of linear primary street frontage.

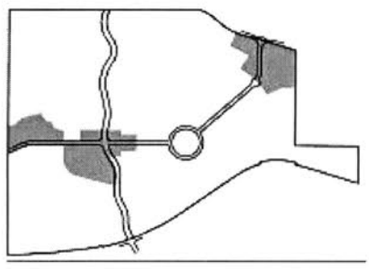
10. Sign Standards.
    a. Each live/work house or live/work townhome may have non-illuminated sign(s) not exceeding a combined maximum area of 16 square feet. Signs shall be attached to the building.
    b. Each live/work apartment or community commercial building may have one non-illuminated monument sign and/or one building mounted sign not exceeding a combined maximum area of 32 square feet.
    c. Individual businesses in live/work apartment buildings may have additional non-illuminated sign(s) mounted on the building not exceeding a combined maximum of 8 square feet in size.

11. Off-street Parking Standards.
    a. Each live/work house or live/work townhome may have no more than two off-street spaces in addition to the two spaces required by Chapter 3.3, Vehicle Parking, Loading and Bicycle Parking of this code.
    b. The off-street parking standards in Chapter 3.3, Vehicle Parking, Loading and Bicycle Parking shall apply to a work use in a live/work apartment building.
    c. Community commercial uses shall have a minimum of one off-street vehicle parking space for each 500 square feet of floor area and a minimum of 4 covered bicycle parking spaces. The maximum number of off-street parking spaces for a community commercial building is 5, including one disabled accessible space, if required.

12. Special Standards For Live/work Townhomes and Live/work Houses.
    a. The area dedicated to the work use in the live/work unit shall not exceed the size requirement in the applicable definition of live/work house or live/work townhome in Section 2.7.310.
    b. The work use shall not generate noise exceeding 55-decibel level as measured at the lot line of the lot containing the live/work house or live/work townhome.
    c. No outside storage of materials or goods related to the work occupation or business shall be permitted.
    d. No dust or noxious odor shall be evident off the premises.
    e. Employees of the work occupation or business may not occupy more than 2 on-street parking spaces at any time.
    f. If the business is open to the public, public access must be through the front door and the business may not be open to clients or the public before 7:00 a.m. or after 7:00 p.m.

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H. Commercial/Mixed Employment Overlay District



1. Purpose. The purpose of this District is to allow a special front yard setback that is not permitted in the underlying Commercial Limited and Mixed Employment Zones and to create parking districts. The purpose of the parking districts is to allow minimum parking needs to be met in common,

shared, off-site parking lots. The special setback and parking districts will create a pedestrian friendly, main-street environment.

Figure 2.7.320.K
Commercial / Mixed Employment District

2. Uses permitted.
   a. The permitted uses allowed in the underlying Commercial Limited and Mixed Employment Zones shall be allowed.
3. Conditional Uses.
   a. Conditional uses permitted in the underlying Commercial Limited and Mixed Employment Zones subject to a Conditional Use Permit and the provisions of Chapter 4.4.
4. Height Standards.
   a. The height standards of the underlying Commercial Limited or Mixed Employment Zone shall apply.
5. Lot Requirements. None.
6. Lot Coverage. There is no maximum lot coverage standard.
7. Front Yard Setback.
   a. No front yard setback is required when an entrance to the building is located at the front lot line and the building is adjacent to a sidewalk 10 feet or wider in a public or private street right of way.
8. Site Plan Review. The provisions of Chapter 4.2, Site Development and Design Review in this code shall apply in the Commercial/Mixed Employment District. The provisions of Chapter 4.2 of this code pertaining to Commercial Design Review and Chapter 2.2.800; Commercial Design Review Standards shall not apply in the Commercial/Mixed Employment District provided that West Bend Property Company maintains design review standards and process consistent with the May 2003 NorthWest Crossing Commercial Rules and Design Guidelines.
9. Parking District Standards
   a. Each Commercial/Mixed Employment District will have areas designated for common off-street parking lots and streets designed to serve the minimum parking needs for permitted and conditional uses in the Convenience Commercial and Mixed Employment Zones.
   b. Buildings shall be located on and oriented to the streets and the parking lots will be located in the interior of the site or at the sides of buildings. The designated common parking areas will allow all buildings to be close to the street to create a pedestrian-scale street environment.

c. When uses are approved under the City Zoning Code in the Convenience Commercial and Mixed Employment Zones, the minimum off-street parking requirements may be met in off-site, common parking lots or facilities, or in on-street parking on designated streets conveniently located to serve the commercial, office and industrial uses.
d. City approval of a use in the Commercial/Mixed Employment District shall be conditioned on evidence that the city minimum parking requirements for a proposed use are met by:
    i. A deed, lease, contract or other legal agreement assuring reservation of the required minimum number of spaces in a common District parking lot or facility, or in on-street parking on private streets; or,
    ii. City approval of a shared or joint use agreement evidenced by a deed, lease, contract or other legal agreement.
e. Any parking desired over the minimum city standard shall be met with on-street or shared parking within the Commercial/ Mixed Employment Districts.
f. Designated pedestrian access from the common District parking areas to the street and entrances to the commercial uses shall be provided.

g. All buildings must have at least one primary entrance directly fronting a public or private street.
h. The Parking District facilities shall be managed and maintained by an association of building owners in the Commercial/Mixed Employment Districts.
i. Parking for any secondary, second story residential use shall be provided in assigned and reserved parking spaces, or through city approval of a shared or joint use agreement evidenced by a deed, lease, contract or other legal agreement. Reserved residential parking spaces shall not exceed the minimum city standard.
j. Parking lot landscaping will meet or exceed minimum city standards.

I. Industrial Employment Overlay District

1. Purpose. The purpose of the Industrial Employment Overlay District is to provide for research or development of materials, methods, or products, and compatible light manufacturing, in a park-like.

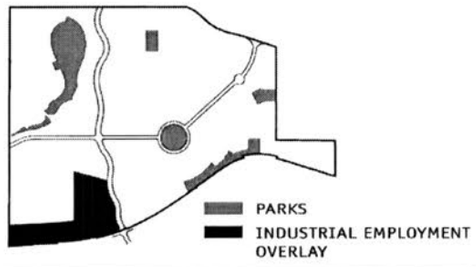


Figure 2.7.320.L
Industrial Employment Overlay District

2. Uses permitted. The following uses are permitted in the Industrial Employment Overlay District subject to the provisions of Chapter 4.2, Site Development and Design Review.

a. Scientific research or experimental development of materials, methods or products including engineering and laboratory research.
b. Administrative, educational and other related activities and facilities in conjunction with a permitted use.
c. Light manufacturing, assembly, fabricating or packaging of products from previously prepared materials.

d. Manufacture, assembly, and testing of electronic equipment, medical instruments and apparatus, optics, photographic equipment and supplies musical instruments, related equipment and similar uses.
e. Manufacture of food products, pharmaceuticals, and the like, but not including the production of fish or meat products, or fermented foods, such as sauerkraut, vinegar, or the like, or the rendering of fats and oils.
f. Master Planned Development subject to the requirements of Chapter 4.5.
g. Accessory uses and buildings customarily appurtenant to a permitted use, such as incidental storage, are permitted.
h. Enclosed storage facilities including mini-warehouse operations, which may include outdoor storage of vehicles, boats, and recreational vehicles screened from adjacent roadways.
i. Printing, publishing and book binding.
j. Automobile and truck repair, service and sales, provided wholly within an enclosed building.
k. Bakery for wholesale and retail distribution
l. Creamery, soft drink or alcoholic beverage bottling plant and similar uses.
m. Dwelling unit for a caretaker or watchman working on the property
n. Commercial laundry, dry cleaning and fabric dying.
o. Motion picture and video production sound stages and studios, television or radio broadcasting studios.
p. Warehouse and distribution or shipping center for prepared goods or packaged items

r. Retail or combination retail/wholesale lumber and building material yard not including concrete mixing permitted within Northwest Crossing District 1, lot 17.

3. Conditional Uses. Uses subject to a Conditional Use Permit and the provisions of Chapter 4.4.

   a. Public buildings and public utility structures and yards.
   b. Fitness facility or health center, to include child care for patrons only, showers, spa, bathrooms, related offices, related retail for exercise clothing and equipment and sale of refreshments.

4. Height Standards.

   a. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed a height of 45 feet.

5. Lot requirements. The following lot requirements shall be observed:

   a. Lot Area: Each lot shall have a minimum area of 1/2 acre.
   b. Lot Width: No requirements.
   c. Lot Depth: Each lot shall have a minimum depth of 100 feet.
   d. Front Yard: The front yard setback shall be a minimum of 20 feet.
   e. Side Yard: Side yard setback shall be a minimum of 10 feet except when abutting a lot in an "R" Zone and then the required side yard shall be 30 feet.
   f. Rear Yard: A rear yard setback shall be a minimum of 15 feet except when abutting a lot in an "R" Zone and then the rear yard shall be 30 feet.
   g. Lot Coverage: The maximum lot coverage by buildings and structures shall be 50 percent of the total lot area.

h. Site Plan Review and Design Review. The provisions of Chapter 4.2 shall apply in the Industrial Employment Overlay District. The provisions of subsection 4.2.700E shall not apply in the Industrial Employment Overlay District provided that west Bend Property Company maintains design review standards and process consistent with the May 2003 Northwest Crossing Rules and Design Guidelines.
i. Off-Street Parking and Loading. Off-street parking and loading space shall be provided as required in Chapter 3.3, Vehicle and Bicycle Parking.

6. Other Required Conditions.
   a. In an Industrial Employment Overlay District directly across the street from an "R" Zone an off-street parking and loading area shall be set back at least 20 feet from the right-of-way, and said area shall be appropriately landscaped along the residential street frontage to protect the character of the adjoining residential property. Such landscaping shall be maintained.
   b. Other yards and unused property on a developed site shall be landscaped and maintained.
   c. Any use or portion thereof causing noise shall be performed in such a manner as not to create a nuisance or hazard on any adjacent property.
   d. Any use or portion thereof causing vibration shall be performed in such a manner as not to create a nuisance or hazard on any adjacent property.
   e. Any operation producing intense heat or glare shall be performed in such a manner as not to create a nuisance or hazard on adjacent property.
   f. There shall be no emission of odorous, toxic, noxious matter, or dust in such quantities as to be readily detectable at any point along or outside property lines so as to produce a public nuisance or hazard.
   g. All off-street parking or loading areas and access drives shall be surfaces with dust-free surface and shall be maintained.

2.7.330 NorthWest Crossing Special Street Standards

A. Figure 2.7.330(A) depicts the street type, tentative street location and alignment in NorthWest Crossing. Table B defines the standards to correspond to the street type shown in Figure 2.7.330(A). The precise street alignment shall be determined as tentative subdivsion plans are submitted and approved. The NorthWest Crossing Street Type Plan, Figure 2.7.330(A)., and the NorthWest Crossing Street Standards, Table 2.7.330(B), shall be applied to the NorthWest Crossing development as illustrated except when an alternate standard is permtted under this Section or through the tentative plan approval process.

B. Any city street standard adopted after the effective date of this chapter, which permits a lesser street standard may be applied to NorthWest Crossing in conformance with the provisions of the new standard.

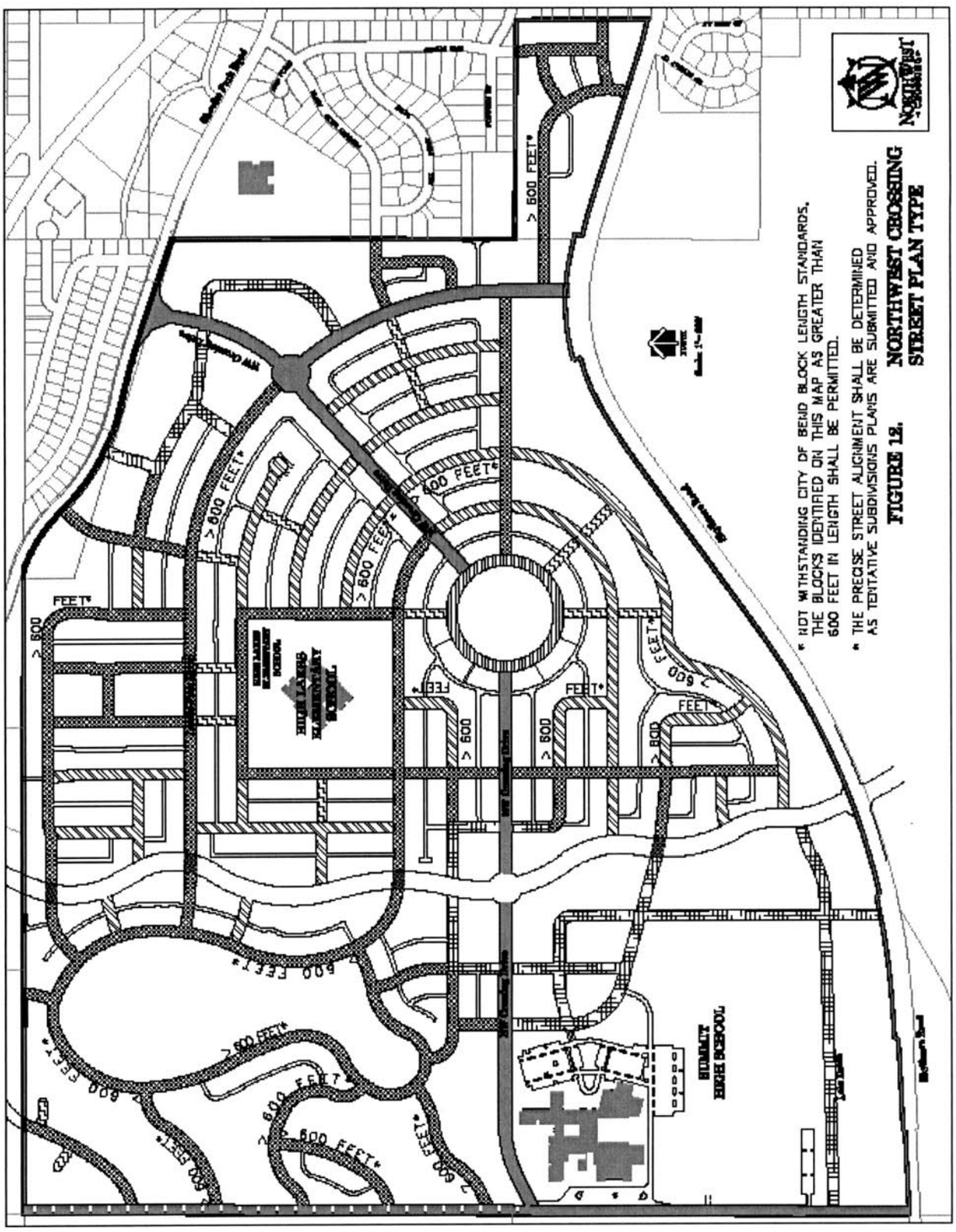
C. Clear Vision Area. At local/local, stop controlled street intersections, the clear vision areas shall consist of a triangular area two sides of which are lot lines measured from the corner intersection on the street lot lines for a distance of 20 feet.

D. Performance Standards for Local Residential Street "B":
   1. Average daily traffic volumes on the local "B" street does not exceed 300 ADT.
   2. The street is connected to a grid street pattern at both block ends.
   3. Blocks shall have dedicated public alley access constructed to City standards.
   4. "No Parking" zones are established 55 feet from the centerline of intersecting local streets.

5. For block lengths exceeding 300 feet, "No Parking" zones shall be established on both sides of the street spaced no greater than 250 feet apart. The "No Parking" zones shall be a minimum of 30 feet in length.

Northwest crossing adopted by ordinance NS – 1782, May 2, 2001
Amended by NS – 1892, October 1, 2003
Amended by NS – 1902, December 17, 2003
Amended by NS – 1968, May 4, 2005
Amended by NS - 1980, August 3, 2005
Amended by NS – 2003, April 5, 2006

Figure 2.7.330.A



NORTHWEST CROSSING

STREET LEGEND AND SPECIFICATIONS:

TYPE	RIGHT-OF-WAY	PAVEMENT WIDTH	TRAVEL LANE	BIKE LANE	PARKING WIDTH	LANDSCAPE WIDTH	SIDEWALK WIDTH
ARTERIAL STANDARD LEFT TURN LANE) (WITH 14' CENTER MEDIAN/	100'	50' WITH NO PARKING (14' MEDIAN)	12'	6'	0	14' ISLAND*	6.5'
COLLECTOR STANDARD	70'	44' WITH PARKING BOTH SIDES	10'	5'	7'	7'**	6.5'**
COLLECTOR ONEWAY STANDARD	60'	32' ONEWAY WITH PARKING BOTH SIDES	12'	1 @ 6'	2 @ 7'	7'	6.5'
LOCAL INDUSTRIAL/ COMMERCIAL STANDARD	60'***	36' WITH PARKING BOTH SIDES	10'	0	8'	6.5'	5'
LOCAL RESIDENTIAL STANDARD A	60'***	32' WITH PARKING BOTH SIDES	9'	0	7'	8.5'	5'
LOCAL RESIDENTIAL STANDARD B	60'	28' WITH PARKING ON BOTH SIDES	10'	0	8'	10.5'	5'
LOCAL RESIDENTIAL STANDARD C	50'	20' WITH NO PARKING	10'	0	0	9.5'	5'
LOCAL ELEMENTARY SCHOOL STANDARD	60'	32' WITH PARKING ONESIDE	12'	0	8'	7'	6.5'
ALLEY	20'	16'	15'	0	0	0	0
PROPOSED COLLECTOR****							

FULL MOVEMENT INTERSECTION

R.O.W. TO BE HELD IN PRIVATE OWNERSHIP

* SIDE LANDSCAPE VARIES WITH MEANDERING SIDEWALK 5' TO 18.5'

** (IN COMMERCIAL, SIDEWALK IS 12' OR 13' w/ TREES IN TREE WELLS)

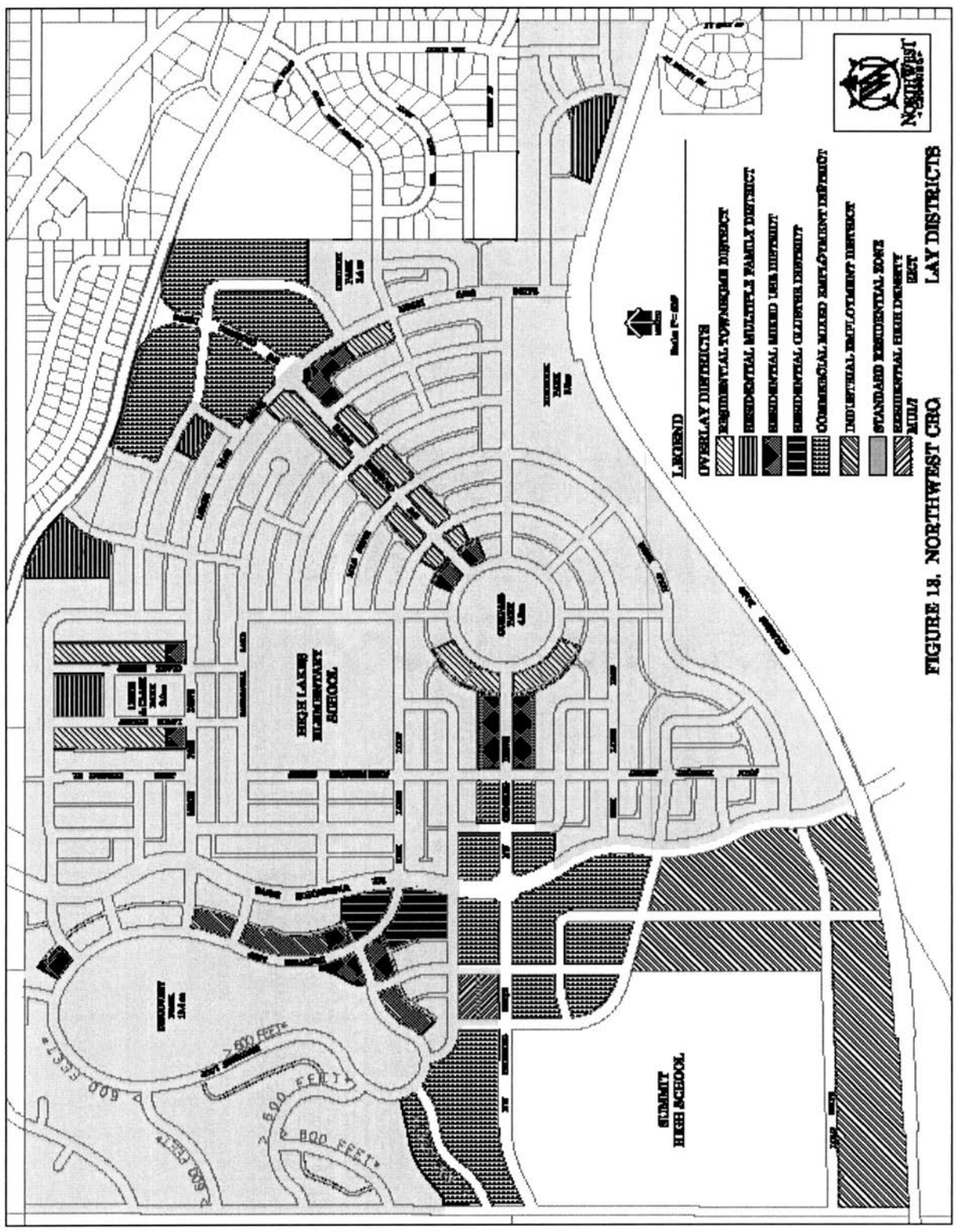
*** 65' RIGHT-OF-WAY WITH MULTI-USE TRAIL

**** THE ALIGNMENT FOR THE PROPOSED COLLECTOR DEPICTS A GENERALIZED CORRIDOR AND PRECISE ALIGNMENT OF THE FUTURE COLLECTOR WILL BE DETERMINED AFTER FURTHER STUDY AND ENGINEERING ANALYSIS.

***** SUBJECT TO STANDARDS IN SECTION 4(c)

TABLE B. NORTHWEST CROSSING
STREET STANDARDS

Figure 2.7.330C
NorthWest Crossing Overlay Districts



2.7.400 Dean Swift Refinement Plan Development Standards

A. Purpose. The Dean Swift Refinement Plan overlay is intended to implement the Dean Swift Neighborhood Plan concepts and to create special overlay zoning standards for the residential and mixed-use designations within the refinement plan area. The overlay standards will:

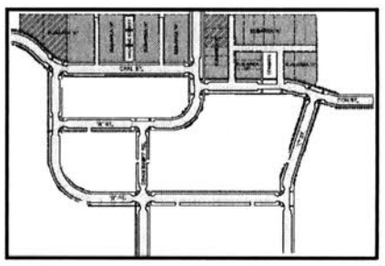
- Provide a variety of housing types
- Locate higher densities near commercial corridors and services
- Create opportunities for neighborhood oriented services
- Ensure compatibility within the neighborhood and surrounding area
- Improve the local street grid for automobiles and pedestrian benefit
- Create a livable neighborhood for all ages.

The Dean Swift Refinement Plan area is approximately 29 acres in size. The area is intended to remain primarily residential in character and use. Through the refinement plan public process, approximately 3.55 acres of the total land area was identified for development as Mixed Employment. In addition, residential sub-areas within the neighborhood have been identified to create a transition between the commercial high use areas along Hwy 20 and the established residential uses to the south. The sub area is shown on the attached map. The Dean Swift residential neighborhood will have an overall density consistent with the RM zone. However, development standards and densities will be different within each sub-area.

B. Use Standards. The special standards of the Dean Swift Refinement Plan area shall supercede the standards of the underlying zone. Where no special standards are provided, the applicable standards of the underlying zone shall apply.

1. Modified RM Residential Overlay

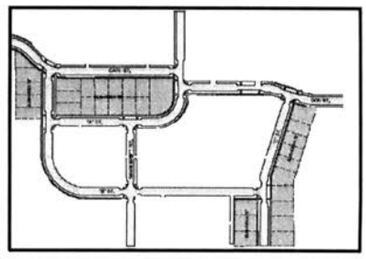
a. Sub-area "A" is located along the north side of Carl and Don Streets and south of the Highway 20 commercial district. Sub-area "A" does not extend to Purcell Boulevard. The purpose of this area is to provide a transition between the commercial development to the north along Hwy 20 and the residential neighborhood. The development characteristics of Sub-area "A" are as follows:



Sub-Area "A"

- The residential density range is 10-21 units per gross acre.
- The maximum building height is 40 feet.
- Lot coverage has been increased to 50% to allow flexibility to develop higher residential densities.
- Two locations within the sub-area have been designated for "live/work" development. This allows low impact commercial use on the ground floor of a building provided that an equal or greater area of residential use is provided on the upper floors.

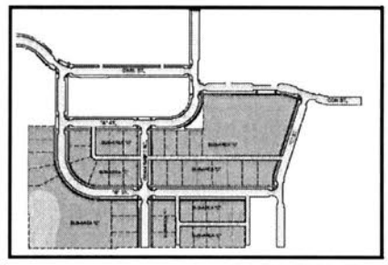
b. Sub-area "B" is located south of Carl Street, west of Dean Swift Road and north of the proposed "A Street". A second portion of sub-area "B" is located along the proposed north/south "C Street" that parallels Purcell Boulevard between Don Street and Bear Creek Road. The purpose of sub-area "B" is to provide a diversity of housing types and density transition to the single-family home development in sub-area "C". The development characteristics of Sub-area "B" are as follows:



Sub-area "B"

- The residential density range for this sub-area is 7 to12 units per gross acre.
- The minimum lot size in this sub-area is 4,500 square feet except where zero lot line attached housing is proposed, the minimum lot size can be 2,000 square feet.
- Lot coverage is increased to 45% to allow the flexibility for a variety of housing types.
- The maximum building height is 35 feet.

c. Sub-area "C" is the largest sub-area and is located north of Bear Creek Road, south of the proposed "A Street" and Don Street and west of the proposed "C Street". This area represents a more traditional residential neighborhood. The development characteristics of Sub-area "C" are as follows:



Sub-area "C"

- The residential density range for this sub-area is 6 to 10 units per gross acre.
- The predominate housing type will be single-family except on corner lots where duplex and triplex units may be developed provided each duplex unit shall access and/or front on different streets.
- Accessory dwelling units that are subordinate to the main home are encouraged.
- The minimum lot size is 5000 square feet.
- On lots greater than 7000 square feet, two detached homes may be built, provided all provisions of this code can be met.
- The maximum lot coverage is 45%.
- The maximum building height is 35 feet.

d. Lot Requirements. The lot requirements for the RM zone as described in Chapter 2.1 of this ordinance shall be observed unless specifically addressed by each sub-area or as indicated below.

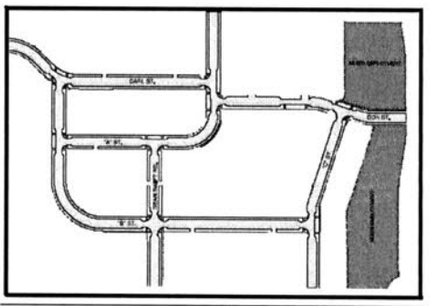
i. The minimum front yard setbacks within all sub-areas shall be 5 feet for buildings except garages and carports shall be setback 18 feet. Corner lots will need to observe the clear vision setbacks in addition to the overlay setbacks. Uncovered porches and stoops may encroach into the setback a maximum of 2 feet.

ii. Side and rear yard setbacks do not increase based on building height

iii. Vehicular access shall be from an alley where provided.

2. Modified Mixed Employment Overlay

a. The permitted and conditional uses in the Mixed-Employment Zone are very diverse. Some of the uses in the ME zone could adversely impact the residential character of the Dean Swift neighborhood thereby obstructing the intent and purpose of the overlay. For this reason, the overlay zone will restrict the permitted and conditional uses for this area. ME uses within the Dean Swift Refinement Overlay will be limited to the following permitted and conditional uses:



Sub-area modified ME

b. Permitted Uses

i. Service commercial and retail uses, excluding drive-thru service.
ii. Professional office, excluding medical uses.
iii. Residential housing located above or behind a permitted or conditional use.
iv. Auto related/ auto dependant uses when contiguous to a commercial zone.

c. Conditional Uses

i. Commercial day nursery or day care facility that is not part of a service for employees of a permitted or conditional use.

d. Service commercial, retail or office buildings greater than 5,000 square feet of gross floor area shall provide residential dwelling units above or behind the use at a ratio of 2 dwelling units per 5,000 sq ft.

C. Neighborhood Open Space. An area of land located in the southwest corner of the Plan area with frontage along Bear Creek Road has been designated as open space as shown on the Refinement Plan map. A natural rock outcrop elevates this area. The area would be difficult to develop for residential purposes and shall remain as natural open space unless it is combined with the contiguous property to the west for public use. The development potential for the preserved area may be transferred to the balance of the parcel for development .

D Street and Pedestrian Standards. All streets within the refinement area are designated as local streets. Bear Creek Road, designated as a minor arterial and Purcell Boulevard, designated as a major collector, border the refinement area. All streets and pedestrian facilities shall be consistent with the requirements of the Bend General Plan, the Zoning Ordinance and the Land Division Ordinance.

E. Alleys. If private or public alleys are proposed within the refinement area, the alley way shall be a minimum of 20 feet in width with a minimum of 18 feet of paved travel surface. All alleys shall comply with Emergency Service access requirements.

F. Pedestrian Corridors/ Trails. Pedestrian corridors and trails shall be dedicated to the City on a final plat. The right of way width shall be 15 feet with a minimum 10 foot paved surface.

G. Street Trees. Tall stature trees shall be planted along all street frontages within the Dean Swift Refinement area with the development of the adjacent properties. Those properties located within the flight path of the private airport located south of Bear Creek shall limit selection to tree species with a maximum mature height of 60 feet. Proposed street tree varieties shall be approved by the City prior to planting. The trees shall be planted a maximum of 30 feet apart. Trees shall be a minimum of 2-inch caliper measured four feet above the ground at the time of planting. Maintenance of the street trees is the responsibility of the adjacent property owner.

H. Fences. Walls and fences located within the front yard setbacks shall not exceed three and one half (3 ½) feet in height. Taller fences or walls may be permitted along interior property lines after first obtaining the necessary permits.

I. Lot Access. New lots within the Dean Swift Refinement Plan area shall utilize rear or side alleyways for vehicular access as designated on the circulation plan.

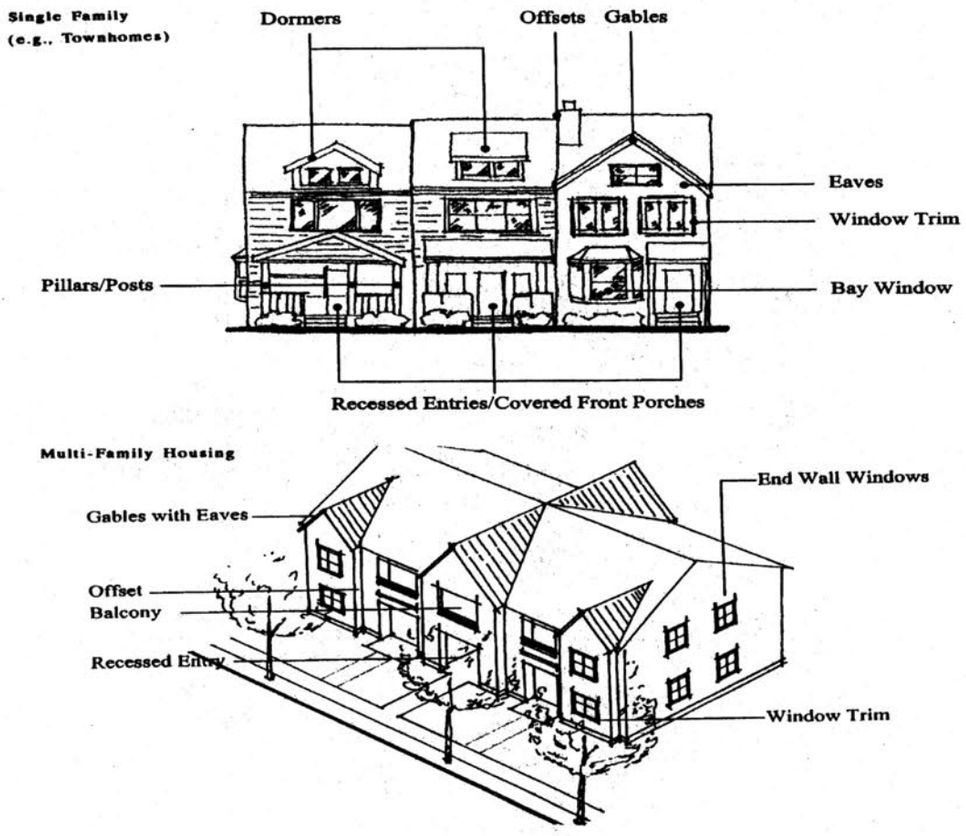
J. Design Standards. The design standards are intended to provide detailed human scale design to preserve the quaint character of the neighborhood while allowing flexibility to develop a variety of building types.

All single family, multiple family, mixed use and commercial buildings must comply with all of the following standards. The illustrations provided are intended to show how to comply, not restrict building types. Other building types and design can be used to comply so long as they are consistent with the design standards.

All buildings shall incorporate design features such as offsets, balconies, projections, window reveals, or similar elements to preclude large expanses of building surfaces.

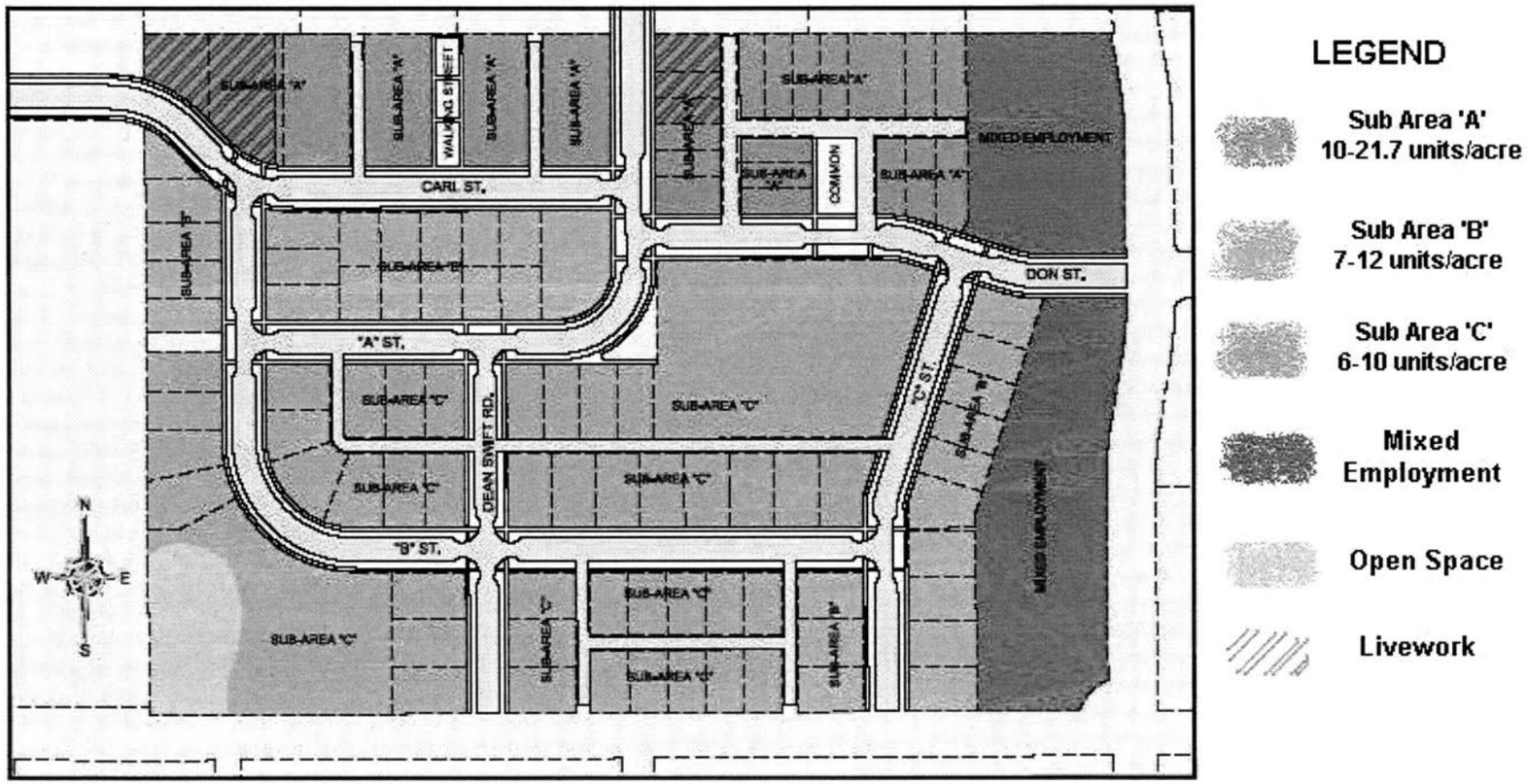
1. Detailed Design Elements. All buildings shall provide detailed design along all elevations (front, sides, and rear). A minimum of 5 architectural features shall be provided on the front elevation and a minimum of 3 architectural features shall be provided on the side and rear elevations selected from the following list of features:

   i. Dormers
   ii. Gables
   iii. Recessed entries
   iv. Covered Porches
   v. Cupolas or towers
   vi. Pillars or Posts
   vii. Eaves with a minimum 12 inch projection
   viii. Window trim with a minimum 4-inch width
   ix. Offsets in building face or roof by a minimum of 16-inches
   x. Bay windows
   xi. Balconies
   xii. Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, board and batt, masonry)



Detailed Design Elements

Adopted by ordinance NS – 1877, August 6, 2003



LEGEND

- Sub Area 'A' 10-21.7 units/acre
- Sub Area 'B' 7-12 units/acre
- Sub Area 'C' 6-10 units/acre
- Mixed Employment
- Open Space
- Livework

Dean Swift Refinement Plan

Chapter 2.7.500 Medical District Overlay Zone

Sections:

2.7.510	**Purpose and Applicability**
2.7.520	**Permitted Land Uses**
2.7.530	**Development Standards**
2.7.540	**Special Development Standards**
2.7.550	**Architectural Design Standards**

10.10.2.6.510 Purpose and Applicability

A. Purpose: The purpose of the Medical District Overlay Zone is to allow for the continuation and flexible expansion of the hospital, medical clinics and associated uses in a planned and coordinated manner. Flexibility is essential to allow existing and future uses to respond and adapt to changes in technology, the medical profession, and society as a whole. The primary uses in the medical district overlay zone are hospitals and other medical clinics and uses. Related uses may be located within the hospital or clinic buildings or as independent uses within the overlay zone area. The overlay zone is intended to enhance the underlying zones of the Urban Medium Density Residential (RM) Zone, Urban High Density Residential (RH) Zone, and the Convenience Commercial (CC) Zone. The overlay zone standards will:

- Strengthen the role currently played by the medical district area around 27th Street and Neff Road as a regional center for healthcare and related services.
- Provide flexibility within the underlying zones to allow medical uses.
- Allow small scale supportive commercial/retail uses to supplement the medical district.
- Balance the need for residential development within the overlay zone to provide options for medical services development.

B. Applicability: Provisions of this section apply to all property within the boundaries of the Medical District Overlay Zone as shown on the attached boundary map, Figure 2.7.550F and on the Bend Urban Area Zoning Map. These provisions modify existing standards of the City of Bend Zoning Ordinance, by applying requirements, limiting allowable uses, or allowing exceptions to general regulations. Where there is a conflict between the provisions of the Medical District Overlay Zone and those of other portions of the Zoning Ordinance, the provisions of this overlay district shall control.

2.7.520 Permitted Land Uses

A. Permitted Uses. The land uses listed in Table 2.7.520 are permitted in each of the applicable Districts, subject to the provision of this Chapter. Only land uses that are specifically listed in Table 2.7.520, and land uses that are approved as similar to those in Table 2.7.520, may be approved.

B. Determination of Similar Land Use. Similar land use determinations shall be made in conformance with the procedures in Chapter 4.1.1400, Declaratory Ruling.

Table 2.7.530 Permitted Uses within the Medical Services District Overlay Zone

Land Use	RM	RH	CC
Residential			
All residential uses permitted or conditionally allowed in the applicable zoning district unless specifically listed herein	P/C	P/C	N
Public and Institutional			
All public and institutional uses permitted or conditionally allowed in the applicable zoning district unless specifically listed herein	P/C	P/C	P/C
Hospitals	N	P	P
Commercial			
All commercial uses permitted or conditionally allowed in the applicable zoning district unless specifically listed herein	N	N	P/C*
General Office* • In buildings built after April 2, 2004, office uses may occupy no more than 33% of the floor area* • In buildings built after April 2, 2004, offices may occupy more than 33% of the floor area*	 P* C*	 P* C*	P*
Dancing and music schools	N	N	P
Mortuaries	N	N	P
Photographic Studios	N	N	P
Service commercial uses up to 4000 square feet, gross floor area, excluding drive-thru and auto-related & auto dependent uses*	C*	C*	P
Eating and drinking establishments up to 4000 square feet, gross floor area, in size.*	C*	C*	P
Auto parts sales	N	N	N
Automobile service station	N	N	N
Minor auto repair	N	N	N
Medical Offices / Uses including a Pharmacy	P	P	P
Miscellaneous Uses			
Club, lodge and fraternal organization	N	N	C
Plant Nursery	N	N	N
Timeshare units	N	N	N
Vacation Rental	N	N	N

Key to Districts:
RM = Medium Density Residential
RH = High Density Residential
CC = Convenience Commercial

Key to Permitted Uses
P = Permitted; subject to the provisions of Chapter 4.1
N = Not Permitted
C = Conditional Use subject to permit standards in Chapter 4.4.

* Use has Special Development Standards subject to Section 2.7.540

2.7.530 Development Standards

A. Height Regulations. No building or structure shall hereafter be erected, enlarged or structurally altered to exceed a height of 45 feet without approval of a Variance.

B. Lot Requirements. The following lot requirements shall be observed:

1. Lot area: For all dwelling units including single family dwellings, two and three family housing, and multiple-family housing in the underlying RM zone, the lot shall be a minimum area of 2,500 square feet for the first unit plus 2,000 square feet for each additional dwelling unit.

   For all dwelling units including single family dwellings, two and three family housing, and multiple-family housing in the underlying RH zone, the lot shall be a minimum area of 2,500 square feet for the first unit plus 1,000 square feet for each additional dwelling unit.

   For any other use there shall be no minimum lot area.

2. Lot width: For Single family dwellings, Two and three family housing, and Multiple-family housing the lot shall be a minimum width of 30 feet. This lot width may be reduced to 20 feet for lots in an approved zero lot line subdivision.

   For any other use there shall be no minimum lot width.

3. Front yard: The minimum front yard setback shall be 10 feet except on corner lots where the clear vision clearance area requirements shall apply and except when adjacent to a lot out side of the Medical District Overlay Zone, the front yard setback shall be same as the front yard setback required in the adjacent zone.

4. Side yard: The minimum side yard setback shall be 5 feet. The side yards shall be increased by ½ foot for each foot by which the building exceeds 15 feet in height.

   For existing or development of new single family detached housing the side yard setback shall be a minimum of 5 feet on each side.

   The side yard setback distance for one or both sides may be waived for an approved zero lot line subdivision or partition.

5. Rear yard: The minimum rear yard setback shall be 5 feet except when adjacent to a lot outside of the Medical District Overlay Zone and then the rear yard setback shall be a minimum of 20 feet. The required rear yard setback shall be increased by ½ foot for each foot by which the building exceeds 15 feet in height.

6. Side and rear yard setbacks for duplexes and triplexes are subject to standards in Chapter 3.6.200.H, Duplex and Triplex Development.

7. Lot coverage: For Single family dwellings, Two and three family housing, and Multiple-family housing the lot coverage shall be a maximum of 50%.

   For any other use there shall be no maximum lot coverage.

C. Off-Street Parking. Off-street parking shall be provided as required in Chapter 3.3, Vehicle Parking, Loading and Bicycle Parking.

2.7.540 Special Development Standards

Within the Medical Services District Overlay Zone certain non-medical uses are permitted or conditionally allowed within the RM and RH zones. These uses are intended to support the medical services uses and their customers.

A. Non-medical Uses. Non-medical uses excluding residential uses as specified in Table 2.7.520 shall be developed in conformance with the following special standards.

1. Small scale non-medical uses may be allowed when accessory to a medical use building or development provided the gross floor area of the accessory use does not exceed 4,000 square feet in area for buildings less than 50,000. For medical buildings with a gross floor area greater than 50,000 square feet, no more than 10% of the gross floor area of the building may be occupied by an accessory non-medical use, unless otherwise approved through a conditional use permit.

2. Small scale non-medical uses may occur within the Medical Service District Overlay Zone as a stand alone business when the total gross floor area of any individual building does not exceed 4,000 square feet. For multiple non-medical uses, where the uses share one building, the total building area shall not exceed 8,000 square feet.

B. Standards for commercial/retail uses and eating and drinking establishments.

1. Drive-up windows and/or drive-through services shall not be permitted.

2. A restaurant, delicatessen, cafeteria, or coffee shop may include an outdoor seating/eating area, provided the outdoor area consists of an all-weather surface not greater than 900 square feet in gross floor area and screened from public rights-of-way and residentially zoned properties by a completely sight-obscuring hedge and/or fence as determined through the Site Plan Review process.

3. For service commercial/retail uses and eating and drinking establishments as allowed in Table 2.7.520 :

   a. There shall be no more than a total of eight (8) acres of site area developed for stand alone service commercial/retail uses and/or eating and drinking establishments within the Medical District Overlay Zone.

   b. Four (4) of the allowable eight (8) acres shall be the existing Commercial Convenience zoned property along 27th Street and Cushing Drive (Watt Way) and Medical Center Drive, South of Neff Road.

   c. The other four (4) acres of allowable area shall be located north of Neff Road.

C. Landscaping requirements. The following standards shall apply to all new development.

1. Street trees. Street trees shall be planted along the frontage of all properties. Only street trees from a list maintained by the City shall be planted. Street trees shall be planted a maximum of 30 feet on center. Trees shall be a minimum of 2-inch caliper measured 4 feet from ground level.

2. Buffering. The City may require additional landscaping within setback areas to mitigate adverse noise, light, glare, and aesthetic impacts to adjacent residential properties from new development.

2.7.550 Architectural Design Standards

The design standards are intended to provide detailed human scale design to preserve the character of the area and surrounding neighborhoods while allowing flexibility to develop a variety of building types.

A. Detailed Design Elements. The following standards shall be met for all new development. A design feature used to comply with one standard may be used to comply with another standard.

1. Design of small scale buildings. All buildings under 20,000 square feet in size shall provide detailed design along all elevations (front, sides, and rear). A minimum of 5 architectural features shall be provided on the front elevation and a minimum of 3 architectural features shall be provided on the side and rear elevations selected from the following list of features:

a. Dormers
b. Gables
c. Recessed entries
d. Covered Porches
e. Cupolas or towers
f. Pillars or Posts
g. Eaves with a minimum 12 inch projection
h. Window trim with a minimum 4-inch width
i. Offsets in building face or roof by a minimum of 16-inches
j. Bay windows
k. Balconies
l. Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, board and batt, masonry)

2. Design of Large-Scale Buildings and Developments. The standards in subsection "c", below, shall apply to "Large-Scale Buildings and Developments", as defined in a-b:

a. Individual buildings with more than 20,000 square feet of enclosed ground-floor space (i.e., "large-scale"). Multi-tenant buildings shall be counted as the sum of all tenant spaces within the same building shell; and

b. Multiple-building developments with a combined enclosed ground-floor space more than 40,000 square feet (e.g., shopping centers, public/institutional campuses, and similar developments).

c. All large-scale buildings and developments, as defined in a-b, shall provide human-scale design by conforming to all of the following criteria:

i. Incorporate changes in building direction (i.e., articulation), and divide large masses into varying heights and sizes, as shown in Figures 4 and 5. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; and use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting); and similar features.

ii. Every building elevation adjacent to a street with a horizontal dimension of more than 100 feet, as measured from end-wall to end-wall, shall have a building entrance; except that buildings elevations that are unable to provide an entrance due to the internal function of the building space (e.g., mechanical equipment, areas where the

public or employees are not received, etc.) may not be required to meet this standard. Pathways shall connect all entrances to the street right-of-way.

Note: The illustrations provided are intended to show how to comply, not restrict building types. Other building types and design can be used to comply so long as they are consistent with the design standards.

Figure 2.7.550A
Examples of Architectural Details (Typical)

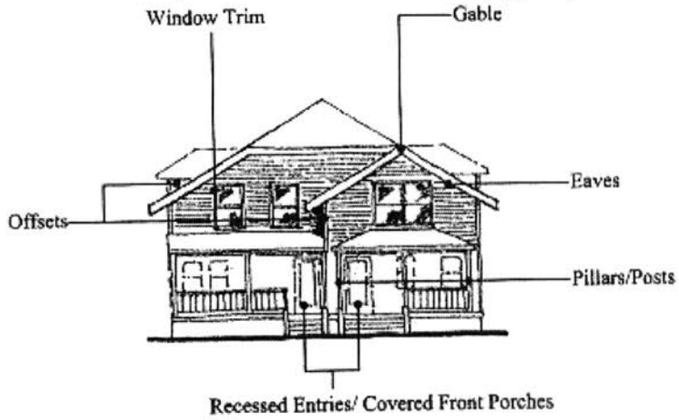


Figure 2.7.550B
Examples of Architectural Details: Townhomes and Multi-Family (Typical)

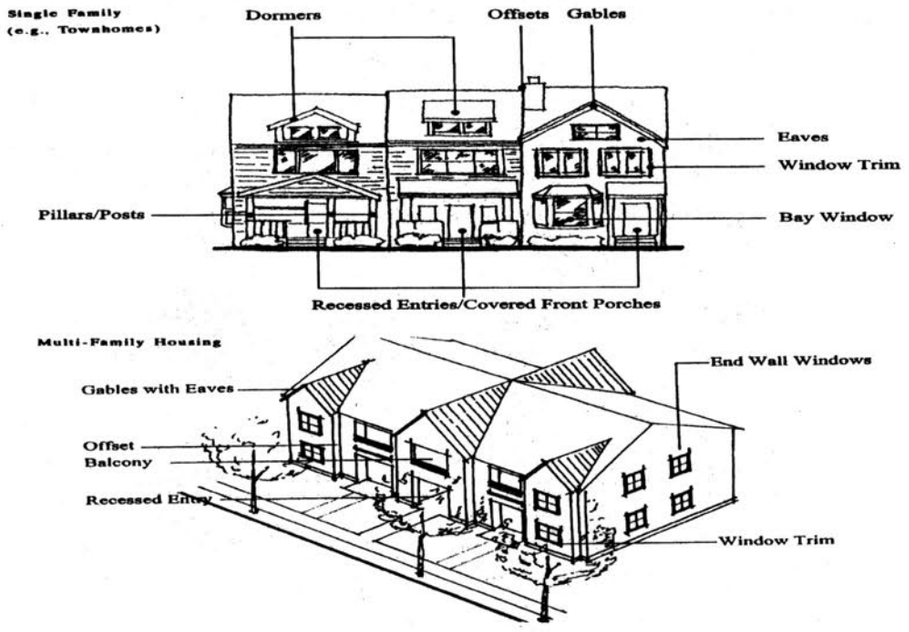


Figure 2.7.550C
Design of Large-Scale Buildings and Developments (Typical)

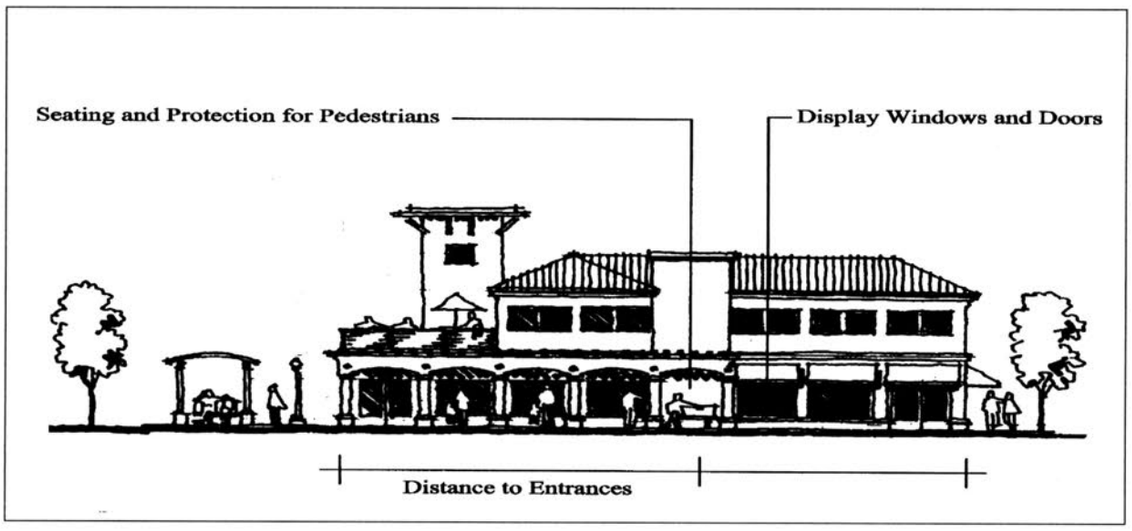
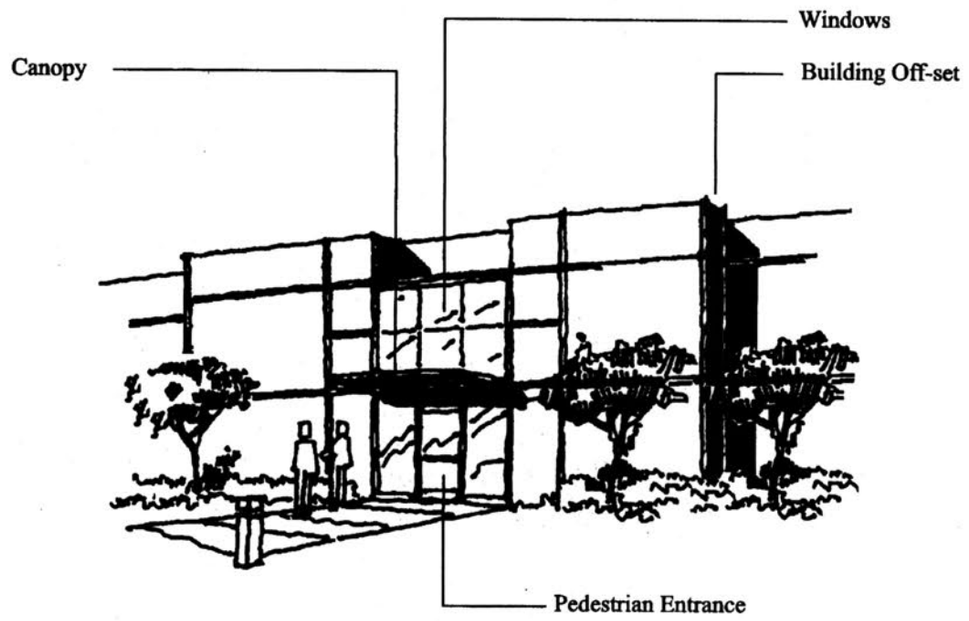


Figure 2.7.550D
Design of Large-Scale Buildings and Developments (Typical)



Note: the examples shown above are meant to illustrate examples of these building design elements, and should not be interpreted as a required design style.

B. Building Height Transition

1. This standard applies to new and vertically expanded buildings on property located in the Medical District Overlay Zone within 100 feet of the boundary of the overlay zone and new or vertically expanded buildings adjacent to properties developed with single story residential uses within the Medical District Overlay Zone. Except that this standard shall not apply to new or vertically expanded single family detached houses.

2. Any new or vertically expanded building, meeting the applicability criterion above, within 20 feet (as measured horizontally) of an existing single-story building with a height of 25 feet or less, as shown in Figure 6, shall meet the building height transition requirements.

3. To provide compatible building scale and privacy between developments, buildings taller than 25 feet shall "step-down" to create a building height transition to adjacent single-story building(s).

4. The building height transition standard is met when the height of the taller building ("x") does not exceed one (1) foot of height for every one (1) foot separating the two buildings ("y"), as shown in Figure 6.

Figure 2.7.550E
Building Height Transition

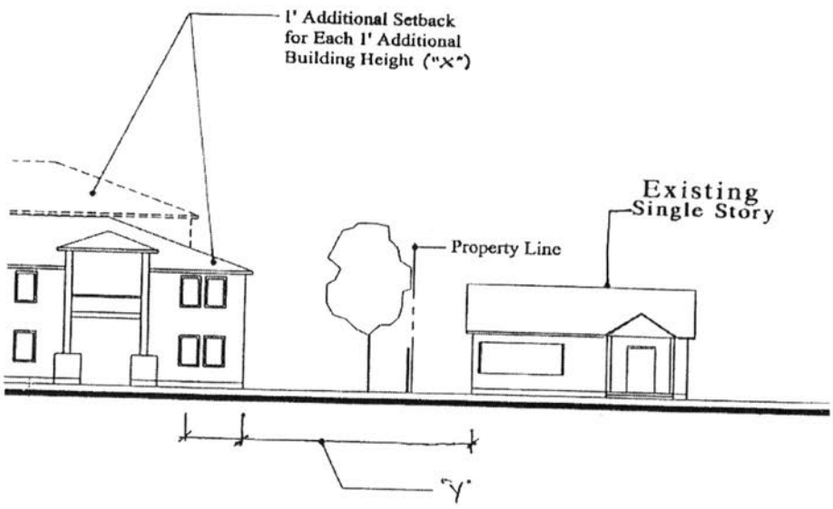
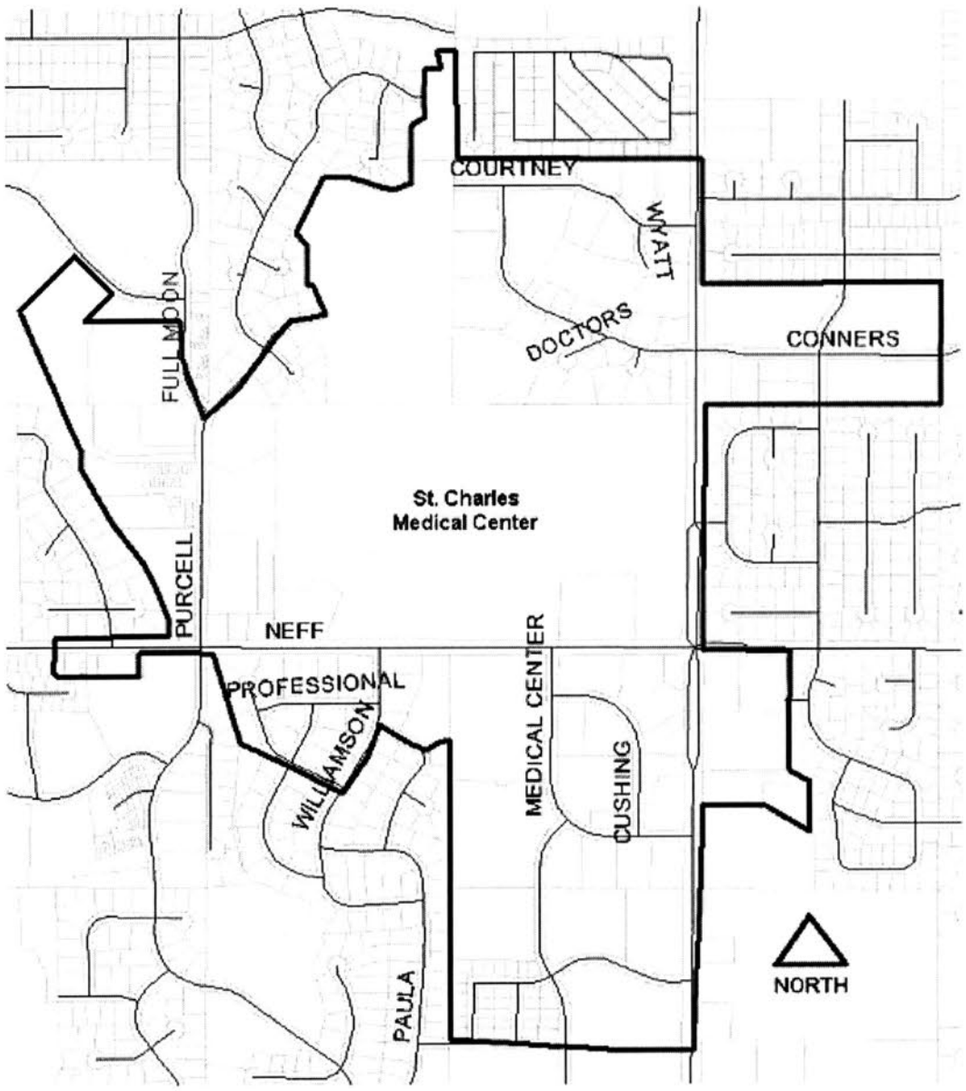


Figure 2.7.550F
Medical District Overlay Zone Boundary



Adopted NS-1914, March 3, 2004

Chapter 2.7.600 Waterway Overlay Zone (WOZ)

Sections:

2.7.610	**Purpose**
2.7.620	**Riparian Corridor Sub Zone**
2.7.630	**River Corridor Areas of Special Interest Sub Zone**
2.7.640	**Flood Plain Combining Zone**
2.7.650	**Deschutes River Corridor Design Review**

2.7.610 Purpose

A. Purpose. The Deschutes River and Tumalo Creek stream corridors within the urban growth boundary of the City of Bend are valuable economic, recreational, scenic and natural resources for the community. The Waterway Overlay Zone (WOZ) is inclusive of all special purpose provisions that pertain to these stream corridors. The WOZ is intended to conserve and enhance the natural resource values of areas along the Deschutes River and Tumalo Creek within the city by:

- Recognizing and respecting the unusual natural beauty and character of the city's major waterways;
- Protecting and enhancing water quality for human use and aquatic life;
- Conserving and restoring habitat for wildlife, fish and other aquatic life;
- Conserving wetlands;
- Controlling erosion and reducing the effects of flooding;
- Improving coordination between the city and agencies regarding development activities near waterways;
- Promoting development that is compatible with the purposes of the WOZ;
- Promoting the preservation and restoration of native riparian vegetation;
- Maintaining the scenic quality of the canyon and rimrock areas along these waterways;
- Conserving and protecting property values; and
- Encouraging development, preservation and enhancement of reasonable public access to major waterways for recreational use and visual enjoyment.

B. Applicability. Provisions of this section apply to all property within the boundaries of the WOZ as shown on the Bend Urban Area Zoning Map and consistent with WOZ boundary determination procedures of subsection C below. Many parcels within the WOZ are affected by more than one sub-zone. Where this is the case, applicable development standards for each sub-zone shall apply within that sub-zone's boundaries. Standards of this section shall apply in addition to applicable standards of the underlying zone. Where there are conflicts between sub-zone standards, the more restrictive standards shall control. The WOZ includes the following sub-zones which are included in this Chapter as 2.7.620 through 2.7.650.

1. Riparian Corridor
2. Deschutes River Corridor Design Review
3. River Corridor Areas of Special Interest
4. Flood Plain

C. WOZ Boundary Determination The WOZ boundary is inclusive of all WOZ sub-zones, as specified in this section. Except for the River Corridor Areas of Special Interest and the Flood Plain
Sub-Zone, the boundary of all sub-zones shall be determined by distance measurement from the designated waterway. The boundary for the River Corridor Areas of Special Interest Sub-Zone is designated on the Bend Urban Area General Plan Map, and shall be considered to be the outer (upland) edge of the mapped boundary line. Unless otherwise provided for specific WOZ sub-zones, boundary measurements shall be made from the ordinary high water mark. Distance measurements shall be made horizontally and at right angles to the edge of the waterway.

D. Tree Removal.

1. Removal. Consistent with the purposes of this section, and because trees contribute to the overall health of the riparian corridor, removal of existing trees greater than 4 inches in diameter within the WOZ is prohibited, except as follows:
   a. Where necessary to accommodate an approved development activity; or
   b. Where the tree is determined by a qualified professional to be diseased or hazardous; or
   c. Where necessary to mitigate potential fire hazard in accordance with the Fire Protection Act of 1997.

2. Findings. Tree removal under this subsection may be authorized by the review authority, based on findings demonstrating conformance with criteria a, b, or c above. Where tree removal is proposed apart from an approved development activity, the review authority may authorize removal as a development action. If no hazard will be created, a tree or snag requested for removal may be required to be left in place as wildlife habitat.

E. Review Process

1. State Agency Coordination. Within the WOZ, the State of Oregon has jurisdiction over certain development activities. In order to ensure coordination between the City of Bend and affected state agencies, notice of proposed activities within the WOZ will be provided to the Division of State Lands, the Oregon Department of Fish and Wildlife, the Oregon Parks and Recreation Department, and the Department of Environmental Quality, in accordance with provisions of Chapter 4.1.245, Notice to Public Agencies.

2. Application Information. In addition to application information required under Chapter 4.1.215, Application Requirements, an application for a development or land use action within the WOZ shall include the following:
   a. A detailed written explanation of the proposal, including the location, amount, and type (species) of any vegetation to be removed or planted, and any material to be graded, excavated, or filled.
   b. An explanation of why any proposed grading, excavation, or fill of material and/or vegetation is necessary.
   c. A site plan drawn to scale, accompanied by such drawings, sketches, photos, and descriptions as are necessary to describe and illustrate the proposed activity. The site plan shall, at a minimum, include:
      - Any proposed structures or impervious surfaces on the site;
      - Location of property lines, easements, existing and proposed structures;

- Identification of existing vegetation on the site, indicating areas of native and non-native plant species;
- Any proposed modifications to existing vegetation;
- A grading and drainage plan, showing existing and proposed site contours at two-foot intervals, or less;
- All applicable WOZ sub-zone boundaries;

- Location of the ordinary high water mark;
- Location of designated wetlands on or abutting the site; boundaries of designated wetlands shall be delineated using methods accepted by the Oregon Division of State Lands;

F. Enforcement and Penalties. In addition to the enforcement and penalty provisions of Chapter 1.3, Enforcement, the Review Authority may require the replacement of vegetation removed in violation of the Waterway Overlay Zone. The City may require greater than one-to-one replacement. The amount of replacement trees, shrubs and ground cover shall be determined by the area of removed vegetation. The property owner shall enter into a mitigation agreement plan approved by the City. The mitigation plan shall include:

1. Mitigation plan. A plan providing for the planting and maintenance of the replacement vegetation. The plan shall make provisions for the replacement of plants that die within three years of planting.
2. Agreement. Failure to enter into a mitigation agreement plan as required by this section or failure to comply with any condition of that plan shall be a Class A civil infraction. Such failure shall be a separate infraction each day the failure to comply continues. In addition, the City may refuse to accept any development permit application for the subject property or stop work on any development approved for the subject property until an acceptable mitigation plan has been executed or complied with.
3. Relief. In addition to monetary penalties, the City may seek injunctive relief to require the property owner or other responsible party to restore the property to the conditions prior to the violation. The injunctive relief may include imposition of a mitigation plan.

G. Replacement of Existing Structures. Notwithstanding other provisions to the contrary in the City of Bend Zoning Ordinance, in the event that an existing structure is partially or entirely damaged or destroyed by fire, natural disaster or other casualty, the subject structure may be repaired or replaced in the same location provided that additional riparian surface area is not disturbed. A property owner who has been convicted of any degree of arson (including inchoate offences) in relation to a fire that damages or destroys the subject structure will not be permitted to utilize this Section as a basis for rebuilding the damaged or destroyed structure.

added by ORD NS-1846, passed November 20, 2002
added by ORD NS-1931, passed July 21, 2004

2.7.620 Riparian Corridor Sub Zone

A. Riparian Corridor Boundary. The width of the Riparian Corridor Sub Zone adjacent to various waterway segments is specified in Tables 2.7.620A, B and C. Boundary distances shall be measured from the ordinary high water mark, or from the upland edge of any designated wetlands, whichever is more landward. For purposes of riparian corridor boundary determination, steep slopes are considered to exist in an area having:

- 60 per cent or greater slope; and
- a vertical rise of 20 feet or more; and
- a continuous horizontal length of 50 ft. or more.

Table 2.7.620A - West Side Riparian Corridor Boundary: Deschutes River

Deschutes River—West Side	Distance
From the South UGB line to the COID intake	30/75 feet[1]
From the COID intake to the Southern River Crossing alignment	30/50 feet[2]
From the Southern River Crossing alignment to the north boundary of McKay Park	40 feet
From the north boundary of McKay Park to the Tumalo Irrigation District intake (south boundary of Block 15, Awbrey Heights Subdivision)	30 feet
From the Tumalo Irrigation intake (south boundary of Block 15, Awbrey Heights Subdivision) to the Mt. Washington Drive bridge	30/50 feet[3]
From the Mt. Washington Drive bridge to the south boundary of Sawyer Park	30 feet
From the south boundary of Sawyer Park to the north UGB line	30/50 feet[4]

[1]Where steep slopes are present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 75 ft. from OHW.

[2]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

[3]Between the River's Edge Golf Course and the Mt. Washington Dr. bridge, where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

[4]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

Table 2.7.620B - East Side Riparian Corridor Boundary: Deschutes River

Deschutes River – East Side	**Distance**
From the South UGB line to the COID intake	30/75 feet[1]
From the COID intake to the Southern River Crossing alignment	30/50 feet[2]
From the Southern River Crossing alignment to the south boundary of the Mill Addition subdivision	40 feet
From the south boundary of the Mill Addition subdivision to the north boundary of the Bend Riverside Motel Condominiums	30 feet
From the north boundary of the Bend Riverside Motel Condominiums to the Mt. Washington Drive Bridge	30/40 feet[3]
From the Mt. Washington Drive bridge to the south boundary of Sawyer Park	30 feet
From the south boundary of Sawyer Park to the north UGB line	30/50 feet[4]

[1]Where steep slopes are present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 75 ft. from OHW.

[2]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

[3]Between the North Unit Dam and the Mt. Washington Dr. bridge, where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

[4]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

Table 2.7.620C - Riparian Corridor Boundary: Tumalo Creek

Tumalo Creek – Both Sides	Distance
Entire segment inside city limits	50 feet

B. Activities Subject to Review and Approval. Within the Riparian Corridor sub-zone, permanent alteration by grading, removal of native vegetation, excavation or fill of soils or rocks, or by placement of structures or impervious surfaces is prohibited, except as provided below in subsections C, E, F and G.

C. Land Use Actions. The following may be approved within the Riparian Corridor by the Review Authority as a land use action:

1. Streets, roads, bridges and driveways.
2. Hard surface pedestrian and bicycle paths, unpaved trails, and boardwalks.
3. Public and private utility transmission and distribution lines, including irrigation pumps and facilities, and drainage facilities.
4. Water-related and water-dependent uses, including parks, interpretive areas, and viewpoints.
5. Maintenance or repair of existing streets, roads, paths, and lawfully existing structures that involves grading, fill, or excavation of more than ten cubic yards of material, including vegetation.
6. Restoration of the riparian corridor, including site grading and re-contouring, when carried out in conformance with an approved restoration plan (see subsection E, below).

D. Approval Criteria for Land Use Actions. The Review Authority may approve a land use permit for uses listed in subsection C, based on findings that the following criteria are satisfied:

1. All necessary state and federal permits have been obtained, or will be obtained by the applicant, as a condition of approval.

2. The proposed development or activity is designed and constructed to minimize intrusion into the riparian corridor. This criterion shall not preclude placement of permitted uses in the riparian corridor at intervals and locations for purposes of providing reasonable public access to, and views of, the waterway. The following shall be specifically addressed in demonstrating conformance with this criterion:

   a. Removal of riparian vegetation shall be limited to the minimum amount necessary to accommodate the proposed use; any vegetation removed in excess of this standard shall be non-native species. The proposal shall specify replacement of that vegetation with riparian species that are native to the Bend area, and similar to existing plant species in the vicinity (excluding noxious weeds as identified by the Deschutes County Soil and Water Conservation District).

   b. Any proposed construction shall be designed in such a manner as to minimize adverse impacts upon a designated wetland, native riparian vegetation, fish and wildlife habitat and water quality within this sub-zone.

   c. Erosion within the riparian corridor shall be prevented during and after construction by the use of mulch, erosion blankets, debris fencing, or similar preventative practices.

   d. Demonstrate that surface runoff from impervious areas will not flow unfiltered or untreated into the adjacent waterways.

E. Restoration Plan. The review authority may require that a restoration plan be prepared by a qualified professional and submitted with an application for a development or land use action within the Riparian Corridor sub-zone. The review authority may require that the applicant post a performance bond in an amount sufficient to ensure fulfillment of an approved planting plan. A restoration plan shall demonstrate conformance with criteria of Section 2.7.620(D), the plan shall include the following elements, in addition to those items required under Section 2.7.610(E)(1):

1. The location, type, and volume of material to be graded, dredged, filled, or removed.
2. Identification of existing walls, riprap, or previously filled steep slopes to be altered or removed.
3. Location, species, and amounts of existing vegetation to be removed.
4. A detailed planting plan for any site area where vegetation is proposed to be removed or replaced.
5. A plan to maintain new vegetation.

   a. The restoration plan shall indicate the minimum grading, dredging, or excavation necessary for any proposed activity. Bio-engineered bank stabilization measures may be required by the review authority.

   b. Species of vegetation to be planted shall be well suited to soil types and slopes. Limited use of non-native species may be approved on an interim basis where necessary to retain soils, prevent noxious weeds, or otherwise facilitate the establishment of native species. The plan shall indicate replacement of all non-native vegetation with native species within a maximum period of five years from the date of approval.

   c. The plan shall indicate maintenance measures for new vegetation sufficient to ensure successful establishment, including irrigation methods, surface water containment, and measures to prevent overspray of herbicides and pesticides.

F. Exempt Activities. The following activities are exempt from review within the Riparian Corridor sub-zone:

1. Normal maintenance of yards and landscaped areas with existing plantings of lawns, ornamental plants, and other non-native vegetation.

2. Normal maintenance and repair of lawfully existing buildings, structures, streets, roads, bridges, dams, paths, utilities, drainage facilities, and irrigation pumps and facilities.

3. Alterations of lawfully existing buildings or accessory structures that do not increase building coverage within the Riparian Corridor sub-zone.

4. Removal of non-native vegetation and noxious weeds, as identified by the Deschutes County Soil and Water Conservation District, and replacement in equal or greater volume with species that are native to the Bend area and similar to existing plant species in the vicinity.

5. Tree removal in accordance with section 2.7.610(D)

6. In all instances exempted above, related disturbance inherent to the exempted activity and intrusion into the riparian area shall be kept at a minimum.

G. Exceptions.

1. Exemptions. The following exceptions to applicable standards of the Riparian Corridor Sub Zone may be authorized by the Review Authority as a Land Use Action:
   a. A legally created lot or parcel which is located entirely within the Riparian Corridor Sub-Zone may be developed with permitted uses, subject to the applicable land use review, in a manner that will have the least impact to inventoried resources of the riparian corridor.
   b. Required yard setback distances may be reduced when such reduction is necessary to enable a proposed structure to be placed outside the Riparian Corridor Sub-Zone.
   c. Structures and impervious surfaces may be placed within the Riparian Corridor Sub-Zone when the Review Authority, in consultation with the Oregon Department of Fish and Wildlife, determines that the proposal will provide equal or better protection of riparian resources than would be achieved by excluding the proposed improvements from the sub-zone. Equal or better protection of riparian resources shall be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures. In no case shall such alterations occupy more than 50% of the width of the Riparian Corridor Sub-Zone on properties upstream of the COID intake; alterations shall not occupy more than 40% of the width of the Riparian Corridor Sub-Zone downstream of the COID intake.

added by ORD NS-1846, passed November 20, 2002

2.7.630 River Corridor Areas of Special Interest Sub-Zone

A. Approval Criteria. Proposed development or land use actions on property subject to the River Corridor Areas of Special Interest Review, shall be subject to the following provisions:

1. The proposal shall be designed and constructed so as to maintain the integrity of the existing natural features and biological system by utilizing exterior building materials that have earth tone colors. Removal of native vegetation shall be limited to the minimum amount necessary to accommodate the proposed development or land use action; any vegetation removed in excess of this standard shall be non-native species.

2. Structures located along the canyon rim of the river shall be set back a minimum of 30 feet from the River Corridor Area of Special Interest boundary for a building 20 feet or less in height. For buildings over 20 feet in height, the building shall set back one additional foot for every additional foot over 20 feet. The maximum building height shall not exceed that of the underlying zone.

3. The permanent alteration of a River Corridor Area of Special Interest by grading, excavation or fill, the placement of structures or impervious surfaces, or by the removal of existing vegetation is only permitted as authorized within the Riparian Corridor sub-zone, or as provided as follows:
   a. Streets and Crossings. Public or private streets and river crossings may be placed within a River Corridor Area of Special Interest to access development activities if it is shown that no other practicable method of access exists. If allowed, the applicant shall demonstrate that:
      i. No other practicable access to the buildable area exists, or access from an off-site location through the use of easements is not possible;

ii. Roads and driveways are designed to be the minimum width necessary and the minimum intrusion into the River Corridor Area of Special Interest while also allowing safe passage of vehicles and/or pedestrians;

b. Utilities, Irrigation Facilities, and Drainage Facilities. Public and private utilities, irrigation facilities, or drainage facilities may be placed within a River Corridor Area of Special Interest when it is shown that no other practicable alternative location exists. If allowed, the applicant shall demonstrate that:

i. No other practicable access exists or access from an off-site location through the use of easements is not possible;
ii. The corridor necessary to construct utilities shall be the minimum width practicable;
iii. Removal of existing trees and native vegetation shall be avoided unless absolutely necessary.
iv. Minimal visual impact to the river corridor will result from the construction of the facility.

c. Removal of Vegetation. Removal of existing vegetation from a River Corridor Area of Special Interest is prohibited, except as indicated below:

i. Existing trees may be removed as provided in Section 2.7.610.D.
ii. The removal of noxious weeds and non-native grasses (e.g. knap weed, toad flax or cheat grass) is encouraged when practicable with minimal disturbance to the ASI.
iii. The removal of existing vegetation, other than trees, when the amount of vegetation removed is the minimum necessary to reduce fire fuels as determined by a qualified professional.

d. Enhancement of a River Corridor Area of Special Interest. Planting of additional vegetation within a River Corridor Area of Special Interest is permitted as indicated below:

i. Plant materials that are or will be visible from the river shall be native to Central Oregon and similar to the existing plant species in the vicinity of the River Corridor Area of Special Interest.

B. <u>Development Credit</u>. When an applicant preserves a River Corridor Area of Special Interest, the development potential for the preserved area may be transferred to the balance of the parcel for development or applied to the subject property as indicated below:

1. For residential lands where the property owner preserves a River Corridor Area of Special Interest, the property owner shall receive a density credit equivalent to the area being preserved as determined through the land use permit process.

2. Where the applicant preserves a River Corridor Area of Special Interest, the property owner may initiate one or more of the activities listed below provided that the compensation does not exceed the benefit of the ASI protection as determined through the land use permit process.

a. Substitute the area of the preserved ASI as the equivalent required on-site landscaping;
b. Receive up to 10% reduction in the required on-site parking spaces;
c. Reduce the front yard setback up to 50% of the standards required for the applicable zone;

3. For subdivision development, where the applicant proposes to preserve a River Corridor Area of Special Interest, the property owner may apply the P.U.D. development standards to the subject property without the additional CUP application.

C. Exceptions. An exception to the provisions of the River Corridor Areas of Special Interest sub-zone may be permitted as provided below:

1. For existing legal lots where the location of a River Corridor Area of Special Interest results in a lot depth for a single family dwelling of 50 feet or less or a building envelope of 800 square feet or less, the front and side yard setbacks may be reduced up to 50% of the standard required for the applicable zone.

2. For existing residential lots where the entire lot is located within an ASI, the property may be developed with permitted uses, subject to the applicable land use review, in a manner that will have the least impact to the ASI.

3. For the construction of public trails or paths that provide public access into the preserved River Corridor Areas of Special Interest.

4. For lots or parcels existing prior to the adoption of this ordinance, where there are buildings on both of the abutting lots with canyon rim setbacks less than the required depth, the setback need not exceed the average setback on the abutting buildings. If there is a building on only one abutting lot or parcel with a setback less than the required setback depth, the setback need not exceed the average of the setback of the abutting building and the required setback.

D. River Corridor Areas of Special Interest Mitigation Requirements.

1. Proposed development or land use actions in the River Corridor Areas of Special Interest sub-zone may trigger a requirement for mitigation. The purpose of mitigation is to restore the value of the visual resource lost due to development activity. It is the burden of the applicant to demonstrate how mitigation restores visual significance. When a proposal impacts a River Corridor Area of Special Interest by grading, excavation, or fill, the placement of structures or impervious surfaces, or by the removal of vegetation, a mitigation plan prepared by a qualified professional shall be submitted to the review authority. The mitigation plan shall include the following:
   a. The location of the impact;
   b. Existing conditions and size of the resource area prior to impact;
   c. Location and size of the proposed mitigation area.

2. The mitigation plan shall be approved by the review authority upon finding conformance with the following criteria:

   a. Proposed vegetation to be removed shall be replaced on the site at a ratio of at least 1:1;

   b. All proposed vegetation planted within the mitigation area shall be native to the region and similar to the vegetation to be removed;

   c. Additional mitigation measures may be required, based on the nature of the impact, such as:

      - Site reclamation
      - Screening of structures, cuts or fills

- Increased vegetative quantities and/or sizes

E. Standards for Designating Additional River Corridor Areas of Special Interest:

1. Any individual or organization may apply for designating new River Corridor Areas of Special Interest. Designation of new areas shall be coordinated with the affected property owners. A "River Corridor Area of Special Interest" designation may be applied or modified pursuant to Section 2.7.700.G of this Chapter. A new designation shall be processed as a map amendment to both the General Plan and Zoning maps pursuant to Chapter 4.1, Land Use Review and Proceedures and this Section.

2.7.640 Flood Plain Combining Zone

A. Purpose. It is the purpose of this zone to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazards so as to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

B. Application of FP Zone.

1. The FP Combining Zone shall apply to the areas identified on the Flood Insurance Rate Map (FIRM), as special flood hazard areas inundated by 100-year flood and floodway areas. The FIA Flood Insurance Study for Bend and the FIRM map are hereby adopted and by this reference included herein. The A and AE zones shown on the FIRM map are hereby zoned FP.
2. When base flood elevation data has not been provided on the FIRM, the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source, in order to administer this section.

3. Information to be Obtained and Maintained.

   a. Where base flood elevation data is provided through the Flood Insurance Study or required as in Subsection B(2), above, record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

   b. For all new or substantially improved floodproofed structures, record the actual elevation (in relation to mean sea level) of the structure's lowest floor. Obtain and maintain the floodproofing certifications required in Section G.2, below.

C. Warning and Disclaimer of Liability. The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Bend, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision made hereunder.

D. Alteration of Watercourses.

1. Prior to any alteration or relocation of a watercourse, notice of the proposed alteration shall be given to affected, adjacent communities and the State Department of Water Resources, and submit evidence of such notification to the Federal Insurance Administration.

2. The applicant shall maintain the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Permit for Use or Development in an FP Zone. No development shall occur in an FP zone unless a permit has been received for the work. Except for improvement of an existing structure which is less than substantial, as determined by the City, no permit shall be issued unless the work will be reasonably safe from flooding, otherwise complies with this ordinance, and all necessary state, federal, and local permits will be obtained as a condition of approval on any permit in an FP zone. The following information shall be submitted with the permit application:

1. The location of the property with reference to channel stations and flood profile elevations.

2. The existing topography and proposed grading plan for the property. Contour intervals shall not be more than one-foot for ground slopes up to five percent and, for areas immediately adjacent to a stream, two-foot for ground slopes between five and ten percent, and five-foot for greater slopes.

3. The location of existing and proposed diking or revetments, if any.

4. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding.

F. Structural Elevation Data Required.

1. A building permit application for substantial improvement to an existing structure or for a new structure within an FP zone shall contain the following data referenced to mean sea level:

    a. The level of the lowest habitable floor and of any basement floor whether or not intended to be habitable.
    b. The level to which the structure is to be floodproofed, if applicable.

2. A statement which notes whether the structure contains a basement.

3. The information required by this subsection shall be maintained in the files of the Building Department with the subject building permit.

G. Regulation of Structures in an FP Zone.

1. Residential Construction.

    a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated 1 foot above base flood elevation.

    b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

        i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

        ii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

        iii. The bottom of all openings shall be no higher than one foot above grade.

        iv. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

    a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

    b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

    c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the City's Building Official.

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section G (1)(b) above.

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

3. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH or AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section I(2) below.

H. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

I. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

J. Land Development Standards in a Flood Hazard Area

1. In addition to the terms of Subsections J and K of this section, a subdivision or other land development, including all utility facilities, within an FP zone shall be designed and constructed to minimize flood damage, including special provisions for adequate drainage to reduce exposure to flood hazards.

2. A land development which will alter or relocate a watercourse shall be designed, constructed and maintained to retain the flood-carrying capacity of the watercourse.

3. A proposed land development of greater than either 50 lots or 5 acres shall include data showing the base flood elevation.

K. Manufactured Home Development Standards

1. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section I(2) above.

2. The placement of a manufactured home in the floodway is prohibited.

L. Utilities Standards in a Flood Hazard Area.

1. A public utility or facility associated with a land development within a FP zone shall be designed, located and constructed to minimize or eliminate flood damage and to avoid raising the water elevation in a regulatory floodway.

2. Any new or replacement water supply system shall be designed, located and constructed to minimize or eliminate infiltration of floodwaters into the system.

3. Any new or replacement sewerage system shall be designed, located and constructed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into the flood waters.

M. Floodways. Located within areas of special flood hazard established in Section B(1), Application of FP Zone, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If Subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section G, Regulations of Structures in an FP Zone.

N. Technical Variances. A technical variance from the requirements of Section 2.7.640, Flood Plain Combining Zone, may be granted by the Hearings Body for new construction and for improvements to existing structures which could not otherwise be authorized, provided the construction or improvements are to be erected or installed on a parcel of land one-half acre or less in size, contiguous to or more or less surrounded by lots with existing structures constructed below the minimum floor elevation established for flood protection purposes. A parcel of land in excess of the one-half acre in single ownership on the effective date of this ordinance is not excluded from the granting of a technical variance, but the burden of proof required for issuing the variance increases as the size of the property under single ownership increases, and the variance shall be granted only if required to equalize circumstances, considering previously developed land adjacent to the parcel for which a variance is sought.

O. Historic Variance. A variance for historic preservation may be granted for the reconstruction, rehabilitation or restoration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

P. **Other Variances.** All other variance applications shall be considered according to the terms of Chapter 5.1 of this ordinance.

1. Applicants for a variance shall include with their application the following information:
   a. The location of the property with reference to channel station and flood profile elevation.
   b. The existing topography and proposed grading plan for the property. Contour intervals shall not be more than one foot for ground slopes up to five percent and for areas immediately adjacent to a stream, two feet for ground slopes between five and ten percent, and five feet for greater slopes.
   c. The location of existing and proposed diking or revetments if any.

amended by ORD. No. NS-1372 passed March 2, 1983
repealed by ORD. No. NS-l462, passed September 2, 1987
added by ORD. No. NS-1462, passed September 2, 1987
added by ORD. No. NS-1475 passed July 20, 1988
amended by ORD. No. NS-1617 passed June 15, 1994
added by ORD. No. NS-1631 passed March 1, 1995
renumbered and reordered by ORD NS-1846, passed November 20, 2002

2.7.650 Deschutes River Corridor Design Review Combining Zone

A. Purpose. It is the purpose of the Deschutes River Corridor Design Review Zone to ensure compliance with the objectives of this Ordinance and the goals and policies relating to the Deschutes River in the Bend Area General Plan. The purpose shall also be to:

- Recognize and respect the unusual natural beauty and character of the Deschutes River.
- Conserve and enhance the existing riparian zone along the Deschutes River.
- Allow the community flexibility in reviewing development proposals within the Areas of Special Interest that are designated on the Bend Area General Plan.
- Maintain the scenic quality of the canyon and rimrock areas of the Deschutes River.
- Conserve and enhance property values.
- Preserve, protect and enhance water quality.
- Encourage development, preservation and enhancement of reasonable public access to the river for recreational use and visual enjoyment.

B. The following areas and uses are exempt from the Deschutes River Design Review process:

1. Public streets and utility facilities existing as of the date of adoption of this ordinance. Notwithstanding anything to the contrary in this ordinance, a variance may be granted to the mandatory 40 foot setback for future public streets and utility facilities.
2. Irrigation facilities, canals and flumes existing as of the date of adoption of this ordinance.
3. The existing Korpine Mill operation on the east side of the Deschutes River.

C. Design Review Procedure. All new development, structures, additions and exterior alterations to structures, including outside storage and off-street parking lots within the Deschutes River Corridor, are subject to a design review process.

1. Prior to filing a design review application, the applicant shall confer with the Planning Department concerning the requirements of formal application.

2. The design review application shall be filed on a form provided by the City Planning Department and shall be accompanied by drawings and information as specified by the Planning Department. Copies of the plan shall be submitted and such additional information as is deemed necessary for the Site Plan Committee or Bend Urban Area Planning Commission to adequately review the applications.

3. The Bend Urban Area Planning Commission shall approve, approve with conditions, or disapprove the design plan. The decision of the Bend Urban Area Planning Commission shall be final unless appealed in accordance with the City of Bend's land use procedures.

4. To approve a design plan the Bend Urban Area Planning Commission must find compliance with the provisions of this ordinance.

D. Site Plan Committee. The Site Plan Committee, as designated in Section C, Design Review Procedure above, shall review a site plan application subject to design review on its technical merits and submit recommendations for approval, conditional approval, or rejection to the Bend Urban Area Planning Commission. The Commission decision shall be based on the site plan criteria, City policies, and standards.

E. Minimum Standards. Within the Deschutes River Corridor the following minimum standards shall apply:

1. Building and Parking Setbacks.

   a. 100 foot setback area. For the areas described below, the setback for all new buildings, parking lots and loading areas shall be a minimum of 100 feet from the ordinary high water mark unless the Bend Urban Area Planning Commission approves a lesser setback. In no case shall the setback be less than 40 feet from the ordinary high water mark of the Deschutes River.

      i. The east and west bank from the Arizona/Commerce Street line to the southern boundary of the Bend Area General Plan map;

      ii. The east bank from the southern property line of Magill's Landing Subdivision to the northern property line of the Bend Riverside Motel;

      iii. The east bank from the southern property line of Sawyer Park to the southern boundary of the Rimrock West Subdivision;

      iv. The east and west banks from the northern boundary of the Rimrock West subdivision to the northern boundary of the Bend Area General Plan map and

      v. The west bank north of the Park District property known as "Flume Park" to the southern boundary of the Rimrock West Subdivision.

   The Bend Urban Area Planning Commission may approve a lesser setback after the applicant has demonstrated through design review that the project provides at least the following:

      i. Protection of water quality, and fish and wildlife habitat;

ii. The improvement or restoration of riverfront riparian areas by the creation of new riparian vegetation areas or by improvements to existing riverfront riparian areas through appropriate plantings, and;

iii. The provision of open space along the riverfront:

b. Commercial Property. For all existing commercially zoned property within the Deschutes River Corridor in existence upon the adoption of this ordinance, the setback for all buildings, parking lots, and loading areas shall be 30 feet from the ordinary high water mark of the Deschutes River.

c. Other Areas. For the areas not described above in a or b, all buildings, parking lots, and loading areas shall be 40 feet from the ordinary high water mark of the Deschutes River. In no case shall the setback be less than 40 feet from the ordinary high water mark of the Deschutes River.

2. Features in Building Setback Area. Within the 30, 40 and 100 foot building setback area, required in a, b and c above, the Bend Urban Area Planning Commission may approve features to enhance or support public use. Such features may include sidewalks, trails, utility facilities, streets and bridges crossing the river, boardwalks, decks, plazas, outdoor cafe seating areas, utilities, lights, bike racks, trash and recycling receptacles, furniture, bank stabilization structures, fences, art work, stairs, bike and pedestrian bridges, boat launch facilities, and vendor carts as defined by Bend Code Section 7.516. The placement and uses shall be subject to the criteria in Section 2.7.650.F, below.

3. Rebuilding of Existing Structures. This setback restriction shall not prohibit rebuilding an existing structure provided that the rebuilt structure is comparable in size, profile, use and location to the structure that previously existed. The term "new development" shall not include rebuilding an existing structure provided that the rebuilt structure is comparable in size, profile, use and location to the structure that previously existed.

4. Building Heights. Maximum structure height shall be limited to 30 feet at the minimum setback line. The Bend Urban Area Planning Commission may allow increases in building heights up to the allowed height in the underlying zone the farther the building sets back from the river. The Bend Urban Area Planning Commission may limit building height the closer to the river a building is allowed. The building height shall be measured from the lowest natural grade facing the river to the highest measurable point on or projecting from the roof of the structure.

F. Site and Design Review Criteria. In addition to the minimum standards above, the Bend Urban Area Planning Commission shall review the development using the following design criteria:

1. Conservation of natural features. Major rock outcrops, stands of trees, riparian areas, or other prominent natural features are an important part of the visual character and quality of the community. The Bend Urban Area Planning Commission shall review the applicant's proposal for impacts on these resources and may limit the amount of removal, require additional screening, or moving or reducing in size the development addition or structure in order to preserve to the greatest extent possible, existing natural features.

2. Compatibility with existing area. The Bend Urban Area Planning Commission shall consider the relationship of the proposed development with the existing surroundings, in terms of

building bulk, height, location, separation, shape, parking areas, lighting, fences, landscaping, open space, visual and physical corridors to the river and adjacent land use.

3. Colors and Materials. The Bend Urban Area Planning Commission shall consider colors and materials. The Bend Urban Area Planning Commission may require new structures and additions to existing structures to be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the building site or colors that are compatible with adjacent buildings.

4. No large areas, including roofs, shall be finished with bright or reflective materials. Metal roofing material is permitted if it is non-reflective and of a color which blends with the surrounding vegetation and landscape.

5. The Bend Urban Area Planning Commission may establish increased setbacks, limitations of building heights, and limitations on the bulk and length of buildings, limitations on lighting, landscaping, fences, size and shape of windows facing the river, size and location of parking, and outdoor storage areas and any other improvement or use listed in section 2.7.650.E above in order to carry out the purpose of this ordinance.

6. For projects proposing development within the setback area, the Bend Urban Area Planning Commission may consider the degree to which the project provides public access along the riverfront, and may require the dedication of public access on an individualized determination that the required access is reasonably related to the project, and that the required dedication is also roughly proportional to the impact of the proposed project.

7. For projects incorporating a setback less than 100 feet the Bend Urban Area Planning Commission may required enhanced site landscaping, minimum corridors between buildings, variations in building setbacks, size or bulk of facades and may impose any other conditions of approval reasonably required to meet the purposes of this ordinance.

added by Ordinance No. NS-1394, passed January 4, 1984, repealed February 1, 1986,
amended by Ordinance No. NS-1414, passed June 19, 1985.
added by Ordinance No. NS-1428, passed February 19, 1986, repealed April 30, 1986,
added by Ordinance No. NS-1584, passed March 3, 1993.
amended by Ordinance No. NS-1593, passed June 2, 1993
amended by Ordinance No. NS-1625, passed December 21, 1994
renumbered and reordered by Ordinance No. NS-1846, passed November 20, 2002

Chapter 2.7.700 Upland Areas of Special Interest Overlay Zone

As early as 1975, Areas of Special Interest have been identified as important features in the landscape intended to be preserved as growth occurs. These areas represent potential private and public open space. The upland features consist of scattered rock outcrops, stands of trees, and dominant ridges and faults that are typical of the Central Oregon landscape. These areas contain high points or changes in elevation that break the line of sight so that the area retains a feeling of undeveloped open space.



A. Purpose: Bend is a community that values its natural features of trees and rocks. This section of the ordinance will fulfill the vision of the Bend Area General Plan to retain and conserve the "natural character" of Bend. Natural resources such as rock outcroppings, draws, mature trees, natural vegetation and animal habitat are assets to the community.

The Upland Areas of Special Interest Overlay Zone is intended to protect valuable natural resources within the City of Bend's Urban Growth Boundary while ensuring reasonable use of the property. This section of the ordinance will establish clear and objective design and development standards to protect these resources and preserve and enhance this vision for Bend's future livability.

B. Applicability:

1. **Affected Property.** The procedures and requirements of the Upland Areas of Special Interest Overlay Zone apply to any real property designated as having an ASI as mapped on the Bend Area General Plan map and the City Zoning Map. These standards shall be in addition to the standards of the underlying zone.

2. **Activities Subject to Review.** Unless specifically exempted from review as described in Section B(3) below, activities subject to review and which require a permit, shall include all development on properties described below:

   a. Partitioning and subdividing of land.
   b. New structural development.
   c. Exterior expansion of any building or structure, or increases in impervious surfaces or storage areas.
   d. Site modifications including grading, excavation or fill, installation of new utilities, construction of roads, driveways, or paths.
   e. Removal of trees or cutting or clearing of any native vegetation within the Upland Area of Special Interest.

3. **Exemptions.** Activities exempt from this section of the ordinance include:

   a. The sale of property.
   b. Temporary emergency action necessary for the safety and protection of property or the public.
   c. Commercial forest practices regulated by the Oregon Forest Practices Act.

C. **ASI Review Process.** For all activity subject to the Upland Area of Special Interest Overlay review, the following shall apply:

1. The ASI Review shall be processed as a "Land Use Permit" as defined in Chapter 4.1, Land Use and Review Procedures. When practicable, the ASI Review shall be processed concurrently with other land use permits.
2. The ASI Review application is subject to the provisions of this Chapter.
3. The ASI Review application shall be filed on a form provided by the City and shall be accompanied by a filing fee, drawings and information specified in this Chapter.

D. **Development Standards**. The ASI Boundary is delineated by the outside edge of the boundary line shown on the Bend Area General Plan map and the City Zoning Map. No development as defined in this Chapter shall occur within an Upland Area of Special Interest boundary unless expressly permitted by the provisions of this Chapter.

The Development Standards shall apply to structures, fences, impervious surfaces including streets and driveways except where provided for in this Section and landscaping as described in Section D(5) below. In addition, No stock piling of fill materials, parking or storage of equipment or personal property shall be placed within an Upland Area of Special Interest.

1. **Setbacks.** There shall be a 25-foot setback from the ASI boundary for all structures requiring a building permit to provide adequate fire fuel break and to reduce the visual impact to the Area of Special Interest. This additional setback area may be used in addition to the ASI area to calculate any density credit.

   The permanent alteration of an Upland Area of Special Interest by grading, excavation or fill, the placement of impervious surfaces, or by the removal of existing vegetation is only permitted in association with the following enumerated uses and subject to the requirements:

2. **Streets and driveways.** Public or private streets and driveways may be placed within an Upland Area of Special Interest to access development activities if it is shown that no other practicable method of access exists. If allowed, the applicant shall demonstrate that:
   a. No other practicable access to the buildable area exists, or access from an off-site location through the use of easements is not possible;
   b. Roads and driveways are designed to be the minimum width necessary and the minimum intrusion into the Upland Area of Special Interest while also allowing safe passage of vehicles and/or pedestrians;
   c. The need for future extensions of shared access, access easements, or private streets to access potential new building sites have been considered at the time of this application in order to avoid subsequent encroachments into an Upland Area of Special Interest.
3. **Utilities and Drainage Facilities.** Public and private utilities or drainage facilities may be placed underground within an Upland Area of Special Interest when it is shown that no other practicable alternative location exists. If allowed, the applicant shall demonstrate that:
   a. No other practicable access exists or access from an off-site location through the use of easements is not possible;
   b. The corridor necessary to construct utilities shall be the minimum width practicable.

c. Removal of existing trees and native vegetation shall be avoided unless absolutely necessary.

Any permanent alteration of an Upland Area of Special Interest by the construction of public or private streets, driveways, utilities or drainage facilities is subject to the mitigation requirements under Section F below.

4. **Removal of Vegetation.** Removal of existing vegetation from an Upland Area of Special Interest is prohibited, except as indicated below:

   a. A tree in danger of falling and thereby posing a hazard to life or property may be removed, following an assessment evaluation from a Qualified Professional. If no hazard will be created, the tree or snag may be required to be left in place within the Upland Area of Special Interest to provide wildlife habitat.

   b. Diseased or dying trees that may pose a threat to the health of surrounding vegetation as determined by a Qualified Professional.

   c. The removal of noxious weeds and non-native grasses (e.g. knap weed, toad flax or cheat grass) is encouraged when practicable with minimal disturbance to the ASI.

5. **Enhancement of an Upland Area of Special Interest.** Planting of additional vegetation within an Upland Area of Special Interest is permitted as indicated below:

   a. Plant materials shall be native to Central Oregon and similar to the existing plant species in the vicinity of the ASI.

   b. No permanent irrigation shall be installed.

6. **Development Credit.** When an applicant preserves an Upland Area of Special Interest, the development potential for the preserved area may be transferred to the balance of the parcel for development or applied to the subject property as indicated below:

   a. For residential lands where the property owner preserves an Upland Area of Special Interest, the property owner shall receive a density credit equivalent to the area being preserved as determined through the land use permit process.

   b. Where the applicant preserves an Upland Area of Special Interest, the property owner may initiate one or more of the activities listed below, provided that the compensation does not exceed the benefit of the ASI protection as determined through the land use permit process.

      - substitute the preserved ASI as the equivalent required on-site landscaping;
      - receive up to 10% reduction in the required on-site parking spaces;
      - reduce the front yard setback up to 50% of the standards required for the applicable zone;
      - develop accessory dwelling units on lots abutting an area of special interest.

   c. For subdivision development, where the applicant preserves an Upland Area of Special Interest, the property owner may incorporate flexible lot development standards typical of a P.U.D. when the area of special interest occupies more than 20% of the subject property.

   d. Opportunities for tax benefit in accordance with the provisions of the Deschutes County Tax Assessor.

E. Exceptions and Variances. An exception or variance to the provisions of this ordinance shall apply to property where no further land division is feasible. An exception or variance is permitted only when considered necessary to allow reasonable economic use of the subject property or to provide public benefit.

1. **Exceptions**.

   a. Properties which have existing structures or site development within an ASI on the effective date of this Chapter, and which do not conform to the standards stated herein, shall be considered non-conforming.

   b. For existing platted lots where the location of an Upland Area of Special Interest results in a building area depth for a single family dwelling of 25 feet or less or a building envelope of 800 square feet or less, or a commercial building area depth of 100 feet, the front and side yard setbacks may be reduced up to 50% of the standard required for the applicable zone.

   c. For existing platted lots where the entire lot is located within an ASI, the property may be developed with permitted uses, subject to the applicable land use review, in a manner that will have the least impact to the ASI.

   d. The construction of public trails or paths that provide public access into the preserved Upland Areas of Special Interest.

2. **Variances**. A variance shall only apply to property where strict interpretation of the standards would preclude reasonable use of the land that could be expected to occur in the zone, and that the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.

   Criteria: No variance request shall be granted unless the applicant can establish:

   a. That special conditions exit which are peculiar to the subject property which make conformance to the standards of this Chapter impractical.

   b. The variance is the minimal deviance from the standards of this chapter needed to accomplish the objective.

   c. The varied standard will conform to the purpose and objectives of the Bend Area General Plan and this Chapter.

   In any case, the granting of a variance shall not adversely affect the potential for public access into an Area of Special Interest, adequate provision for fire protection or the visual integrity of the Area of Special Interest.

   A variance to the standards of this Chapter shall be processed as a "Land Use Permit" as defined in the City Procedures Ordinance. The Review Authority may attach conditions to any variance granted to insure that the variance meets the objectives of the Bend Area General Plan and this Chapter.

F. Areas of Special Interest Mitigation Standards. The development activities listed in Section B and D may trigger a requirement for mitigation. When a proposed development impacts an Upland Area of Special Interest by grading, excavation, or fill, the placement of impervious surfaces, or by the removal of vegetation, a mitigation plan prepared by a qualified professional shall be submitted to the review authority. The mitigation plan shall include the following:

1. The location of the impact, the existing conditions and area size of the resource prior to impact, the location and size of the proposed mitigation area, and a proposed mitigation plan that represents a 1:1 replacement value;

2. All proposed vegetation planted within the mitigation area shall be native to the region and similar to the vegetation removed. Species to be planted in the mitigation area shall replace those impacted by the development activity at a 2:1 ratio;

3. Additional mitigation measures may be required based on the nature of the impact such as:
   - Site reclamation
   - Screening of structures, cuts or fills
   - Increased vegetative quantities and/or sizes

G. Standards for Designating New Upland Areas of Special Interest. Any individual or organization may apply for designating new Upland Areas of Special Interest. Designation of new areas shall be coordinated with the affected property owners. An "Upland Area of Special Interest" designation may be imposed or modified pursuant to an ASI analysis. During January of each "odd numbered" calendar year, individuals may apply to the City for new ASI designations to be added to the General
Plan and zoning maps. The City will process applications received during this time without fee. During the same time period, the City shall review City owned properties for potential new ASI designations. A new designation shall be processed as a map amendment to both the General Plan and Zoning maps pursuant to the City of Bend Procedures Ordinance and this Section.

Procedure.

1. The applicant shall file an application for a General Plan Map amendment and Zoning map amendment on a form provided by the City and shall be accompanied by a filing fee, drawings and appropriate information.

2. The Review Authority shall conduct an evaluation. Using the "ASI" Analysis Methodology, the outcome of the analysis must establish that the proposed sites merit resource protection as an "Area of Special Interest" in order to proceed.

ASI Analysis Methodology. The City shall evaluate potential Upland Areas of Special Interest using the 1999 Natural Areas Scoring System (NASS) developed by the Bend Urban Land Survey team. The NASS is a numerical ranking which represent the relative values of a natural resource site. The following nine criteria and scoring system are used to determine the total assessment score:

Natural Area Scoring System

Criteria	Score	Explanation
Existing Site Use	6	Undeveloped
	4	Minor development
	2	Significant development
	0	Development that substantially reduces open space value
Habitat Value	6	Supports a broad diversity of bird and/or animal life
	4	Supports moderate diversity of bird and/or animal life
	2	
	0	Limited habitat value Almost no habitat value
Trees and Vegetation	6	Mature trees, quality riparian vegetation or other significant vegetation
	4	Some trees, other lower quality vegetation
	2	Little significant vegetation
	0	Almost no vegetation
Natural Features	6	Uncommon or outstanding natural features
	4	Natural features of good quality
	2	Natural features are not distinctive
	0	Almost no natural features
Conflict with Adjacent Land Use	6	No Conflicts
	4	Slight conflicts
	2	Moderate conflicts
	0	Severe conflicts

Criteria	Score	Explanation
Wildlife Linkages	6	Quality connections to other wildlife areas
	4	Some connections
	2	Minor connections
	0	No connections
Scenic Resources	6	Highly attractive scenic resources
	4	Moderately attractive
	2	Limited scenic value
	0	Unattractive
Public Access	6	Potential for high use
	4	Potential for moderate use
	2	Low potential for use
	0	No potential for use
Type of Water Present	6	Has a variety of flows
	4	Year-round water source of good quality
	2	Seasonal water
	0	No water or low quality water source

H. Delineation of New Upland Areas of Special Interest. The ASI delineation is a more precise determination of the location of the designated area. The delineation is determined by several factors including but not limited to the topographical contours, the presence of significant trees and an on-site field location conducted by the Review Authority.

1. Topography. The boundary of the designated area will be determined to be at the toe of the slope or slope transition for upland features as illustrated on an adopted map specific to each ASI unless otherwise determined by the Review Authority based on field observation.

2. Significant Trees. The ASI boundary may include significant trees as defined in this ordinance measured at the outer edge of the tree canopy based on aerial photos and field observation.

3. Evaluation Methodology: A potential new site within the "Upland Feature" category would be evaluated using the following method.



ASI #4 on the east side of 15th Street

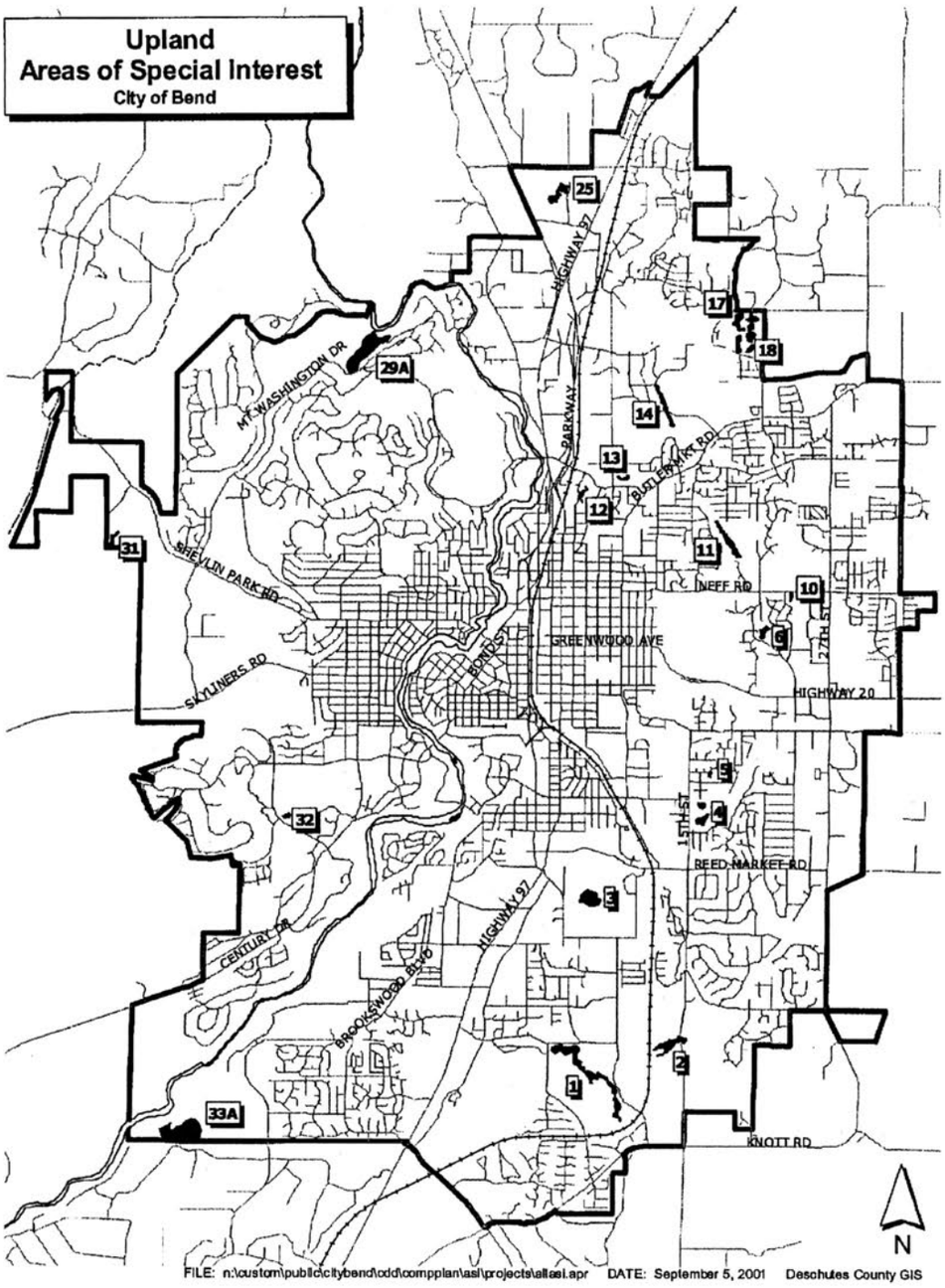
Upland features are natural areas consisting of geologic features and / or vegetation that provide visual and spatial breaks in the developed landscape.

Upland Features

1. Use the following three criteria:
   a. Scenic Resources
   b. Existing Site Use
   c. Natural Features
2. Apply the NASS scoring system for these criteria
3. The combined score must total a minimum of 10 points.

Proposed new sites in the Upland feature category with a minimum score of 10 points would be subject to a second review using all nine NASS criteria. Under the second review, the site must total a minimum of 20 points to be further considered for adoption as an Upland Area of Special Interest.

[added by Ord. NS-1803, passed September 19, 2001]



Chapter 3.0 Development Standards Administration

Sections:

3.0.100 Applicability
3.0.200 Types of Development Standards

3.0.100 Applicability

All developments within the City must comply with the provisions of this ordinance. Some developments, such as major projects requiring land division and/or site design review approval, may require detailed findings demonstrating compliance with each chapter of the code. For smaller, less complex projects, fewer code provisions may apply. Though some projects will not require land use or development permit approval, they are still required to comply with the provisions of this chapter.

3.0.200 Types of Development Standards

The City's development design standards are contained in Chapter 2.0 and Chapter 3.0. It is important to review both chapters, and all relevant code sections within the chapters, to determine which standards apply. The City may prepare checklists to assist property owners and applicants in determining which Sections apply.

A. Chapter 2.0 Each land use district in Chapter 2.0 provides design standards that are specifically tailored to the district. For example, each land use district contains minimum lot sizes, yard setbacks, and building design guidelines that may be different than those provided in another district, due to differences in land use, building types, and compatibility issues

B. Chapter 3.0 The development standards contained within the following sections apply throughout the City, for all land use types except where noted:

3.0 – Design Standards Administration
3.1 – Access, Circulation and Lot Design
3.2 - Landscaping, Street Trees, Fences and Walls
3.3 - Vehicle Parking, Loading and Bicycle Parking
3.4 - Public Improvement Standards
3.5 - Other Design Standards
3.6 – Special Standards for Certain Uses

Chapter 3.1 Access, Circulation, and Lot Design

Sections:

3.1.100 Purpose
3.1.200 Lot and Block Design
3.1.300 Pedestrian Access and Circulation
3.1.400 Vehicular Access Management

3.1.100 Purpose

The purpose of this Chapter is to guide the development of livable neighborhoods that ensure safe and efficient access and circulation for pedestrians and vehicles by providing an interconnected transportation system and multi-modal opportunities that meet or exceed all applicable access standards.

This Chapter provides specific requirements for developers to construct planned transportation facilities (arterials and collectors), local transportation facilities, and on-site circulation that meets the requirements of the City of Bend Development Code, Federal ADA regulations and furthers the orderly layout and use of land, protects community character, and conserves natural resources by promoting well-designed road and access systems and discourages the uncoordinated division and development of land.

3.1.200 Lot and Block Design

Orderly development of neighborhoods requires thoughtful lot layout. The size, width, topography and orientation of lots or parcels shall be appropriate for the location of the land division and for the type of development and use contemplated. New lot development shall be consistent with the lot development provisions herein.

A. General Requirements for Lots and Parcels

1. In areas not served by public sewer, the minimum lot and parcel sizes may be larger than specified in the zoning district in order to comply with the requirements of the Department of Environmental Quality and the County Environmental Health Division and shall be of sufficient size to permit adequate sewage disposal. Any problems posed by soil structure and water table as related to sewage disposal by septic tank shall be addressed and resolved in the applicant's initial plan.
2. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
3. In steep terrain, increased lot or parcel sizes may be required to avoid excessive cuts, fills and steep driveways.
4. On tracts containing water courses or rock outcroppings, increased lot or parcel sizes may be required to allow adequate room for development and protection of the topographic or natural feature.

5. Each lot or parcel shall abut upon a street other than an alley for the minimum width required for lots or parcels in the zone, except for lots or parcels fronting on the bulb of a cul-de-sac, where the minimum frontage shall be 30 feet, approved flag lots, and for lots in zero lot-line developments, where the minimum frontage shall be 20 feet. In zones where a minimum lot width is not specified, the minimum frontage requirement shall be 50 feet.

6. All side lot or parcel lines shall be at right angles to the street lines or radial to curved streets for at least ½ the lot depth wherever practical.

7. Double frontage or through lots and parcels shall be prohibited except where they are essential to provide separation of residential development from major streets or adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation.

8. Corner lots or parcels shall be at least five feet more in width than the minimum lot width allowed in the underlying zone.

9. Solar Access. As much solar access as feasible shall be provided each lot in every new subdivision, considering topography, development pattern and existing vegetation. New subdivision development shall orient streets east/west to maximize solar access where practical.

10. Underground Utilities. All permanent utility service to lots or parcels shall be provided from underground facilities. The subdivider or partitioner shall be responsible for complying with requirements of this section, and shall:

    a. Make all necessary arrangements with the utility companies and other persons or corporations affected by the installation of such underground utilities and facilities in accordance with rules and regulations of the Public Utility Commission of the State of Oregon.

    b. All underground utilities and public facilities installed in streets shall be constructed prior to the surfacing of such streets.

B. Street Connectivity and Formation of Blocks Required. In order to promote efficient vehicular and pedestrian circulation along parallel and connecting streets throughout the City, land divisions and site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

1. Block Length and Perimeter. The block lengths and perimeters shall not exceed the following standards as measured from centerline to centerline of through intersecting streets.

    a. 660 feet block length and 2,000 feet block perimeter in all Residential zones;

    b. 400 feet block length and 1,500 feet block perimeter in the Central Business District, Convenience Commercial, Mixed Use Riverfront and Professional Office Districts;

    c. 660 feet block length and 2640 feet block perimeter for all other Commercial, Industrial and Mixed Employment Districts;

    d. Exceptions. An exception may be granted to the maximum block length in conformance with the Class C Variance criteria in Chapter 5.1.400 for Transportation Improvement Requirements. The applicant must demonstrate that the block length cannot be satisfied due to topography, natural features, existing development or other barriers. When a variance is granted, the land division or site plan shall provide blocks divided by one or more walkways or access ways, in conformance with the provisions of Section 3.1.300; Pedestrian Access and Circulation, below. Walkways shall be located to minimize out-of-direction travel by pedestrians and shall be universally designed to accommodate full access to bicyclists and pedestrians alike, regardless of disability.

2. New street connections to arterials and collectors shall be governed by those requirements in Section 3.1.400; Vehicular Access Management.

3. New developments shall construct planned streets (arterials and collectors) and construct and extend local streets in their proper projection to maintain the function of the street and provide the desirable accessible pattern of orderly development of streets and blocks.

3.1.300 Pedestrian Access and Circulation

A. Purpose. To ensure safe, accessible, direct and convenient pedestrian circulation by developing an off-street system of trails and pedestrian ways in addition to the public sidewalks throughout the City. The pedestrian and circulation system shall implement the Bend Urban Area Transportation System Plan and General Plan goals and policies.

B. On-Site Pedestrian Facility Development. For all developments except single family residences, the applicant shall demonstrate how full pedestrian access and circulation is being achieved based on the following development criteria. Accessible pedestrian ways shall:

1. Connect all building entrances within the development to one another.

2. Connect all parking areas, storage areas, recreational facilities, common areas (as applicable), and adjacent development to the building's entrances and exits.

3. Extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas whenever possible as described in Section 3.1.300(D); Public Pedestrian System Development.

4. Connect or stub to adjacent streets and private property, in accordance with the provisions of Section 3.1.400(F); New Lot Development and Section 3.4.200 Transportation Improvements.

5. Provide pedestrian facilities within developments that are safe, accessible, reasonably direct and convenient connections between primary building entrances and all adjacent streets, based on the following:

   a. Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

   b. Safe and convenient. Bicycling and pedestrian routes that are free from hazards and provide a reasonably direct route of travel between destinations.

   c. Accessible. All pedestrian access routes shall comply with ADAAG standards and be fully accessible as required by the Americans with Disability Act.

   d. Commercial, industrial, mixed use, public, and institutional buildings entrance. The "primary entrance" is the main public entrance to the building. In the case where no public entrance exists, accessible connections shall be provided to each employee entrance.

   e. Residential building entrance. The "primary entrance" is the front door (i.e., oriented toward the street). For multifamily buildings in which each unit does not have its own exterior entrance, the "primary entrance" may be a lobby, courtyard or breezeway which serves as a common entrance for more than one dwelling and be accessible.

6. Single Family Home Construction. Prior to receiving a final occupancy permit for new single family home construction, a sidewalk shall be constructed along the property frontage in

conformance with the City's Standards and specification, unless a bond or cash deposit acceptable to the City has been secured.

a. Sidewalk construction is required when existing sidewalks are present within 600 feet along the same street frontage abutting the subject lot.

C. Pedestrian Facility Development Standards. On-site pedestrian facilities shall conform to the following standards:

1. On-site pedestrian walkways shall have a minimum width of 5-feet.
2. Pedestrian walkways shall be lighted in conformance with Section 3.5.200; Outdoor Lighting Standards.
3. Switchback paths shall be required where grades exceed Americans with Disabilities Act and City of Bend Standards and Specifications and accessible alternate routes such as ramps and/or lifts shall be provided.
4. The City may require landscaping adjacent to a pedestrian walkway for screening and the privacy of adjoining properties. The specific landscaping requirements shall balance the neighbors' privacy with the public safety need for surveillance of users of the public walkway. Tall, sight-obscuring fences or dense landscaping thick enough to conceal hazards are prohibited. No obstructions in accessible routes shall be allowed without approved sight-impaired notification devices.
5. The Planning Director may determine, based upon facts in the application and other public records, that a walkway is impractical due to: physical or topographic conditions (e.g., freeways, railroads, extremely steep slopes, sensitive lands, and similar physical constraints); buildings or other existing development on adjacent properties that physically prevent a connection now or in the future, considering the potential for redevelopment; and sites where the provisions of recorded leases, easements, covenants, restrictions, or other agreements recorded as of the effective date of this Code prohibit the walkway connection.
6. Additional standards for walkway design can be found in Section 3.3 Vehicle and Bicycle Parking.

D. Public Pedestrian System Development

1. Sidewalks. Developments subject to site development review or tentative plan review may be required construction of off-site sidewalks along routes to schools and parksites.
2. Trails. Developments subject to site development review or tentative plan review and having a trail alignment designated on the City of Bend Urban Area Bicycle and Primary Trail System Plan shall be required to dedicate either right-of way or an access easement to the public for a primary or connector trail as a condition of site development approval or a land division as outlined below.

   a. Primary Trails. All primary trails shall be accessible to all pedestrians in conformance with the Americans with Disabilities Act. All applicants with proposed development on lands having a trail alignment designated on the City of Bend Urban Area Bicycle and Primary Trail System Plan are required to dedicate public right-of-way or grant a public access easement for an accessible primary trail. Such trails shall be in the alignment shown on the Plan to the greatest degree practical unless, with consideration of recommendations from the Bend Metro Park and Recreation District, an alternate alignment is deemed acceptable and approved by the City of Bend through the tentative plan review process.

b. Connector Trails. All applicants with proposed development shall dedicate public right-of-way or grant a public access easement for bicycle and pedestrian corridors to connect to Primary Trails pursuant to Section 3.1.400 Vehicular Access Management for the following situations:

- from sidewalks
- streets
- other bicycle and pedestrian amenities, both public and private.

Applicants shall also provide pedestrian connections for pedestrians and bicycles at or near mid-block where the block length exceeds the maximum length required by Section 3.1.200, Lot and Block Design. Pedestrian connections shall also be provided where cul-de-sacs or dead-end streets are permitted, to connect the ends of the streets together, to other streets, and/or to other developments.

c. Primary and Connector Trail Dedication and Construction. Primary and Connector Trail alignments shall be dedicated and constructed by the developer to the standards listed below:

i. Primary Trails shall have a minimum public right-of-way or public access easement width of 20 feet and a minimum constructed trail width of 10 feet, unless, with consideration of recommendations from the Bend Metro Park and Recreation District, an alternate width is deemed acceptable and approved by the City of Bend through the development review process. Primary Trails shall be constructed as depicted on the Bend Urban Area Trails System Plan Map in conjunction with land development, unless, with consideration of recommendations from the Bend Metro Park and Recreation District, an alternate construction standard and construction phasing schedule is deemed acceptable and approved by the City of Bend through the development review process. All primary trails shall be constructed in accordance with all ADA standards.

ii. Connector Trails shall have a minimum right-of-way width of 10 feet and a minimum constructed width of 5 feet. Connector Trails shall be improved with an all-weather, impervious surface such as concrete, asphalt, etc. Construction of Connector Trails to a lesser standard shall be at the discretion of the City of Bend and shall be approved through the development review process.

iii. Both Primary and Connector Trails shall be aligned so as to preserve significant vegetation and topographic features to the greatest extent practical as determined by the City of Bend.

iv. Use and Maintenance of Trails. Trails alignments dedicated as public rights-of-way shall be subject to all use and maintenance restrictions as deemed appropriate pursuant to the Intergovernmental Agreement Regarding Coordinated Planning and Urban Services between the City of Bend and the Bend Metro Park and Recreation District.

d. Setbacks from Primary and Connector Trails. In the instance where a public easement is granted for a primary or connector trail, all structures as defined by this ordinance shall setback 5 feet from the minimum width of the trail.

E. Other Design and Construction Considerations. Public pedestrian facilities shall conform to all of the standards in Subsections 1-4 listed below:

1. Vehicle/walkway Separation. Where walkways are parallel and adjacent to a driveway or street (public or private), they shall be raised six inches and curbed, or separated from the

driveway/street by a five-foot minimum landscaped strip. Special designs may be permitted if this five-foot separation cannot be achieved.

2. Housing/walkway Separation. Pedestrian walkways shall be separated a minimum of five (5) feet from all residential living areas on the ground floor, except at building entrances. Separation is measured from the walkway edge to the closest dwelling unit. The separation area shall be landscaped in conformance with the provisions of Chapter 3.2 Landscaping, Street Trees, Fences & Walls. No walkway/building separation is required for commercial, industrial, public, or institutional uses.

3. Walkway Surface. Walkway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface that makes a smooth surface texture, and shall conform to ADA requirements. Multi-use paths (i.e., for bicycles and pedestrians) shall be the same materials. (See also, Section 3.4.200 Transportation Improvements for public, multi-use walkway standard.)

4. Accessible routes. Walkways from parking areas to accessible entrances shall comply with the Federal Americans with Disabilities Act (ADA), which requires accessible routes of travel from parking spaces to the accessible entrance and from one facility to another on the same site. The route shall comply with all of the following standards:

   a. Shall not contain curbs or stairs;
   b. Must be at least three feet wide;
   c. Constructed with a firm, stable, slip resistant surface; and
   d. The slope shall not be greater than 1:12 in the direction of travel and no greater than 2 percent cross slope.

3.1.400 Vehicular Access Management

Higher order transportation facilities, including arterials and collectors, serve as the primary system for moving people and goods. Access and circulation shall be managed to maintain adequate performance standards and to maintain the functional classification of roadways as required by the City's Transportation System Plan (TSP) and the City of Bend Development Code by:

- providing direct access to individual properties via adequately spaced local streets and alleys;
- providing a balanced transportation system;
- protecting the rights of individuals to reasonable access to private property; and
- ensuring the rights of the citizens of the City and the State of Oregon to safe and efficient travel.

A. Applicability. This section shall apply to all public and private streets within the City and to all properties that abut these streets.

B. Approval of Access Required. Accesses shall comply with the following procedures:

1. Permission to access City streets shall be subject to review and approval by the City Engineer based on the standards contained in this Chapter, the provisions of Chapter 3.4 Public Improvement Standards, and where applicable, any pertinent access management agreements between ODOT and the City. Access will be evaluated and determined as a component of the land use decision process and constructed as detailed in the review and decision of the land use.

2. Permits for access to State highways shall be subject to review and approval by the Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to

the City or Deschutes County. In that case, the City or County shall determine whether access is granted based on ODOT adopted standards.

3. Permits for access to County highways shall be subject to review and approval by Deschutes County, except where the County has delegated this responsibility to the City, in which case the City shall determine whether access is granted based on their adopted standards.

C. Traffic Study Requirements. The City or other agency with access jurisdiction shall require a transportation impact analysis as required in Chapter 4.7 Transportation Analysis.

D. Conditions of Approval. The City or other agency with access permit jurisdiction may require the closing, consolidation, or relocation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways and cross access routes), development of a frontage or backage streets, installation of traffic control devices, and/or other mitigation measures that comply with the Bend Urban Area Transportation System Plan, the City of Bend Development Code, and are approved by the City Engineer as a condition of granting an access permit or access approval, to ensure the safe and efficient operation of the street and highway system.

E. Access Requirements.

1. Access Options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods as determined by the City Engineer, unless one method is specifically required by this ordinance.

   a. Option 1. Access shall be taken from an alley (either an existing, proposed or potential alley), mid-block lane, or lowest functionally classified street possible. If a property has the ability to take access to a lower functionally classified roadway, direct access to a higher functionally classified roadway is not permitted unless required by the City Fire Chief for fire and life safety reasons. This requirement applies to all properties, all zones and all uses (i.e. alleys are considered a lower classification than local streets).

   b. Option 2. Access is from a shared private street or driveway straddling a shared property line with direct access to a public street (i.e., "shared driveway"). If approved, a cross access easement covering the private street or driveway shall be recorded in this case to assure access to the closest street for all users of the private street/drive.

   c. Option 3. Access is through an adjoining property to achieve access to a street (i.e. cross access easement). The cross access easement shall be recorded in this case to assure access to the street system.

   d. Option 4. If neither Option 1, nor Option 2, nor Option 3 is available to the site, access may be allowed from an arterial or collector street adjacent to the development parcel. The owner/developer shall be required to close, consolidate, or relocate one or more existing access points to the arterial or collector as a condition of approval when adequate alternative access becomes available. Street accesses shall comply with the access spacing standards in this Chapter of the City of Bend Development Code. Direct access to property abutting an arterial or collector shall be limited to right turns unless the access is shared and/or the applicant's Transportation Impact Analysis, accepted by the City Engineer, shows the access will operate acceptably, not cause a traffic safety concern, and provide a benefit to the operations of the arterial or collector roadway system. For the purpose of the City of Bend Development Code a benefit to the operations of an arterial or collector roadway system:

- will be found only where an applicant demonstrates that an approach will provide an immediate and long-term benefit to the arterial or collector;
- is evaluated for no less than 20 years;
- must exceed any mitigation of impacts related to the development regarding safety and operations; and
- is a determination requiring the professional judgment of the City.

F. New Lot Development. New lots created through land division that have frontage onto an arterial or collector street shall provide alternative options for access as indicated below:

1. Residential lots shall be required to provide alley access to the individual lots fronting onto the arterial or collector.
2. Exception to residential alleys: If due to physical or topographical constraints, the Planning Director may determine that an alley is impractical. In this situation, double frontage lots may be permitted.
3. Non residential lots shall provide other access alternatives to the individual lots that abut the arterial or collector street. An alley may be developed where practical. Double frontage lots of adequate depth to accommodate the permitted commercial or industrial use may be permitted. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. The creation of double frontage lots does not relieve the property owner from their responsibilities to maintain the sidewalk and park strip on the non-access side.
4. The subdivision shall also provide for local street grid connections to the arterial and collector street as designated in this Chapter of the City of Bend Development Code.

G. Access Spacing. Access spacing on highways and arterials under ODOT jurisdiction shall be subject to the applicable standards and policies contained in the 1999 Oregon Highway Plan (OHP) Access Management Classification System or latest version of the OHP.

The City and ODOT have entered into an Access Management Agreement focused on protecting the Bend Parkway and its ramp terminals as well as all principal arterials within the City's Urban Growth Boundary as identified in the City's TSP. This agreement regulates all matters of access to principal arterials and their cross streets; all land use decisions including, but not limited to, partitions, zoning and comprehensive plan amendment requests; and all ministerial decisions including, but not limited to, site plan approval requests. This access management agreement and its requirements are made a part of the City of Bend Development Code by reference.

Driveway access spacing onto roadways under the jurisdiction of the City shall be regulated by the following standards, unless otherwise approved by the City Engineer:

1. Driveway Spacing:
   a. **Local Streets** shall be ten feet (10') minimum spacing as measured from edge of driveway to edge of driveway.
   b. **Collector Streets** shall be three hundred feet (300') minimum spacing as measured from centerline of driveway to centerline of driveway.
   c. **Arterial Streets** shall be three hundred feet (300') minimum spacing as measured from centerline of driveway to centerline of driveway.

d. Driveways onto arterials and collectors may have directional restrictions depending on the roadway's characteristics including number of lanes, queuing at nearby intersections/driveways, and locations of signals or roundabouts. Directional restrictions will be determined by the City Engineer after a review of the Transportation Impact Analysis provided by the applicant. Driveways spaced closer than 300' may be granted in conformance with Chapter 5.1, Variances and may have directional restrictions.

2. Spacing between Driveways and Intersections:

   a. The maximum distance between driveways onto local streets and local street intersections shall be provided - corner lot driveways shall be located at the furthest distance from the intersection possible.

   b. Three hundred feet (300') is the minimum distance between driveways onto collector/arterial roadways and intersections as measured from centerline of driveway to centerline of street. Driveways to arterials and collectors may have directional restrictions depending on the roadway's characteristics including number of lanes, queuing at nearby intersections/driveways, and locations of signals or roundabouts. Directional restrictions will be determined by the City Engineer after a review of the Transportation Impact Analysis provided by the applicant. Driveways closer to an intersection than 300', when approved by the City Engineer, shall have directional restrictions.

   c. Three hundred feet (300') is the minimum distance between driveways onto local/collector/arterial roadways and intersections that are controlled with a traffic signal or roundabout as measured from centerline of driveway to centerline of controlled intersection. Driveways to locals/collectors/arterials located at least 300' from controlled intersections may still have directional restrictions depending on the roadway's characteristics including number of lanes, queuing at nearby intersections/driveways, and operations of signal or roundabout. Directional restrictions will be determined by the City Engineer after a review of the Transportation Impact Analysis provided by the applicant. Driveways closer to a controlled intersection than 300', when approved by the City Engineer, shall have directional restrictions.

3. Access to Arterial and Collector Roadways. Access to arterials and collectors is permitted provided the intersection or driveway can be constructed to comply with the City of Bend Standards and Specifications, as well as all of the requirements of this Chapter of the Bend Development Code.

   Overall, full access intersections or driveways are allowed every 900 feet on arterials and collectors, while limited access intersections or driveways on arterials and collectors are allowed every 300 feet. Exceptions may be granted as discussed below.

4. Access Spacing Exceptions. An exception for access spacing and directional restrictions on City streets may be granted by the City in conformance with Chapter 5.1, Variances.

H. General Provisions. Direct street access may be restricted for some land uses. For example, access consolidation, shared access, and/or access separation greater than that specified above, may be required by the City, County or ODOT for the purpose of protecting the function, safety and operation of the street or nearby intersections/interchanges for all users. Where no other alternatives exist, the permitting agency may allow construction of an access connection along the property line farthest from an intersection. In such cases, directional restrictions (i.e., right in/out) shall be required.

I. Number of Access Points.

1. Single-family (detached and attached), two-family (duplex), and three-family (triplex) housing types: One street access point is permitted per lot for mid-block lots and one street access per frontage for corner lots, when alley access cannot otherwise be provided; except that two access points may be permitted subject to the access requirements in this Chapter.

2. Multi-family housing and nonresidential uses: One street access point for multiple family (including multi-family housing over commercial uses in a mixed-use development), commercial, industrial, and public/institutional developments is permitted to protect the function, safety and operation of the street(s) and sidewalk(s) for all users; except that additional access points may be permitted, as approved by the City Engineer, subject to the access requirements in this Chapter of the City of Bend Development Code.

3. Shared Access: Shared access may be required, in conformance with Subsection 3.1.400.J, below, in order to maintain the required access spacing and comply with the access requirements of this Chapter of the City of Bend Development Code.

4. Exceptions: A variance in conformance with the variance criteria in Chapter 5.1 and approved through the variance process, the number of access points may be granted for:

    - Gas/service stations
    - Other uses when it can be demonstrated that the variance is in conformance with the variance criteria in Chapter 5.1 and approved through the variance process.

J. Shared Access. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City may require shared driveways as a condition of land division or site design review for traffic safety and access management purposes in accordance with the following standards:

1. Shared driveways and frontage streets. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. For the purpose of this ordinance, "stub" means that a driveway or street temporarily ends at the property line, and shall be extended in the future as the adjacent parcel develops and "developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

2. Access easements. Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including walkways, at the time of final plat approval or as a condition of site development approval.

3. Cross Access. Cross access is encouraged, and may be required between contiguous sites in the Commercial and Industrial zones and for multi-family housing developments in the Residential zones in order to provide for more direct circulation between sites and uses for pedestrians, bicyclists and drivers and to enable compliance with the collector and arterial access management requirements of this Chapter of the City of Bend Development Code.

4. Exceptions. The Planning Director may determine, based upon facts in the application and other public records, that a shared driveway, access easement or cross access is impractical due to: physical or topographic conditions (e.g., extremely steep slopes, sensitive lands, and similar physical constraints); buildings or other existing development on adjacent properties that physically prevent the shared driveway, access easement or cross access connection now or in the future, considering the potential for redevelopment; and sites where the provisions of recorded leases, easements, covenants, restrictions, or other agreements recorded as of the

effective date of the City of Bend Development Code prohibit the shared driveway, access easement or cross access connection.

K. Driveway Openings. Driveway openings (or curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (10 feet minimum width for each travel lane). When obtaining access to off-street parking areas backing onto a public street shall not be permitted except for single-family, duplex or triplex dwellings backing onto a local street or when backing into an alley for all uses if adequate backing distance is provided. The following standards are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians (as measured where the front property line meets the sidewalk or right-of-way):

1. Single family, two-family, and three-family residential uses shall have a minimum driveway opening width of 10 feet, and a maximum width of 24 feet. Wider driveways may be necessary to accommodate approved paved recreational vehicle pads, but the driveway opening or connection to the street shall not be allowed to be wider.

2. Multi-family developments shall have a minimum driveway opening width of 20 feet, and a maximum width of 30 feet, as determined by the City Engineer. These dimensions may be increased if the City Engineer determines that more than two lanes are required based on the number of trips generated or the need for turning lanes.

3. Other Uses. Access widths for all other uses shall be based on 10 feet of width for every travel lane, except that driveways providing direct access to parking spaces shall conform to the parking area standards in Chapter 3.3, Vehicle Parking, Loading and Bicycle Parking. Driveway aprons serving industrial uses and heavy commercial uses may be as wide as 35 feet.

4. Driveway Aprons. Driveway aprons shall be installed between the street and the private drive. Driveway apron design and location shall conform to City of Bend Standards and Specifications and ADA standards for sidewalks and walkways, which require an unobstructed, continuous route of travel that is a minimum of 3 feet in width, with a cross slope not exceeding two (2) percent.

5. Driveway Approach Visibility. Driveways shall be designed and located to provide a vehicle in the driveway with an unobstructed view of the roadway for a sufficient distance as required by City Standards and Specifications and American Association of State Highway and Transportation Officials (AASHTO) policy on intersection sight distance requirements.

6. Loading Area Design. The design of driveways and on-site maneuvering and loading areas for commercial and industrial developments shall include the anticipated storage length for entering and exiting vehicles, in order to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.

7. Exceptions. Exceptions may be approved by the City Engineer on a case-by-case basis.

L. Fire Access and Parking Area Turn-around. A fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment access drive as measured around the building. Parking areas shall provide adequate aisles or turn-around areas for service and delivery vehicles so that all vehicles may enter the street in a forward manner (except for single-family dwellings and alleys that provide adequate backing width).

M. Vertical Clearances. Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13' 6" for their entire length and width.

N. Clear Vision Areas. Clear vision areas are established to ensure that obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists and others approaching potential conflict points at intersections.

Establishment and Measure of Clear Vision Areas: In all zones, clear vision triangles as described below and illustrated in Figure 3.1.400.A & B shall be established at the intersection of two streets, an alley and a street, or a street and a railroad right of way in order to provide adequate vision of conflicting traffic movements as well as street signs.
The clear vision triangle extends across the corner of private property from one street to another. In all cases, the two legs of the clear vision triangle defining the private property portion of the triangle are each measured 20-feet back from the point of intersection of the two corner lot lines, special setback line or access easement line (where lot lines have rounded corners, the lot lines are extended in a straight line to a point of intersection). Additional clear vision area may be required at intersections, particularly those intersections with acute angles, as directed by the City Engineer, upon finding that additional sight distance is required (i.e. due to roadway alignment, etc.). This standard is applicable to public and private streets, alleys and mid-block lanes connecting onto public or private streets, alleys, or mid-block lanes.

There shall be no fence, wall, vehicular parking, landscaping, building, structure, or any other obstruction to vision other than a street sign post, pole (e.g. power, signal, or luminaire pole) or tree trunk (clear of branches or foliage) within the clear vision area between the height of two (2) feet and eight (8) feet above the level of the curb. In cut sections, embankments shall be graded to comply with these requirements.

Exceptions: in all zones, at the intersection of an alley and a street, the minimum length of the two legs of the clear vision triangle defining the private property portion shall be ten (10) feet; in all commercial zones, except the CB zone, the minimum length shall be fifteen (15) feet; and in the CB zone, the minimum length shall be zero (0) feet.

Figure 3.1.400.A
Clear Vision Areas at Intersections

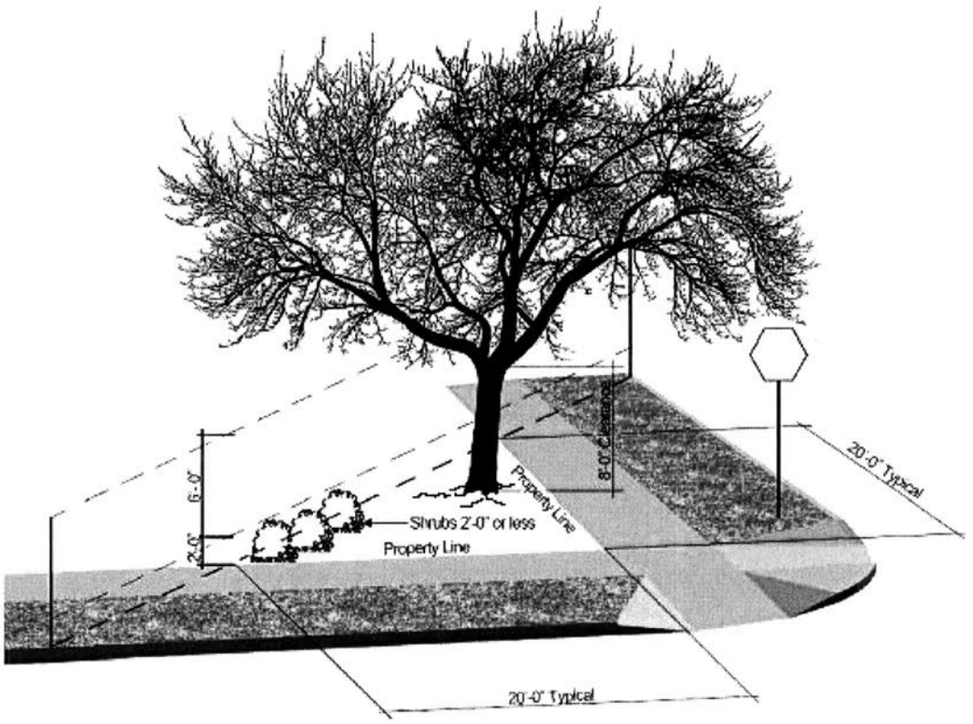
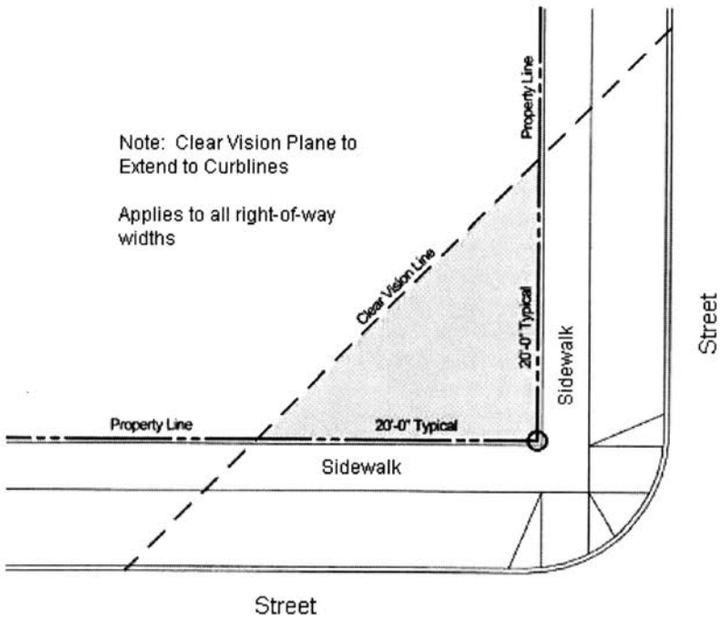


Figure 3.1.400.B
Clear Vision Areas at Intersections



O. Construction. The following development and maintenance standards shall apply to all driveways and private streets. The City of Bend Standards and Specifications document shall prevail in the case of conflicting rules related to the design and construction of infrastructure.

1. Surface Options. Driveways, parking areas, aisles, and turn-arounds may be paved with asphalt, concrete or comparable surfacing or a durable non-paving material (e.g. grass-crete, eco-stone) may be used to reduce surface water runoff, protect water quality, and protect air quality. Gravel shall not be allowed. Paving surfaces shall be subject to review and approval by the City Engineer.

2. Surface Water Management. When an impervious surface is used, all driveways, parking areas, aisles and turn-arounds shall have on-site collection or infiltration of surface waters to eliminate sheet flow of such waters onto public rights-of-way and abutting property. Surface water facilities shall be constructed in conformance with City specifications. Durable non-paving materials (e.g., grass-crete, eco-stone) are encouraged to facilitate on-site infiltration of storm water.

Chapter 3.2 Landscaping, Street Trees, Fences and Walls

Sections:

3.2.100 Purpose
3.2.200 Landscape Conservation
3.2.300 New Landscaping
3.2.400 Street Trees
3.2.500 Fences and Walls

3.2.100 Purpose.

The purpose of this Chapter is to promote community health, safety and welfare by protecting natural vegetation, and setting development standards for landscaping, street trees, fences and walls. Together, these elements of the natural and built environment contribute to the visual quality, environmental health and character of the community. Trees provide climate control through shading during summer months and wind screening during winter. Trees reduce storm water run-off and are a valuable component of the City's infrastructure Trees and other plants also buffer pedestrians from traffic. Walls, fences, trees and other landscape materials provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage by capturing rainwater within their canopies and can improve air and water quality.

3.2.200 Landscape Conservation.

Landscape Conservation prevents the indiscriminate removal of significant trees and other vegetation, including vegetation associated with streams, wetlands and other protected natural resource areas. This section cross-references Chapters 2.7.600 and 2.7.700, which regulates development of areas of special interest.

The purpose of this Section is to incorporate significant native vegetation into the landscapes of development. The use of existing mature, native vegetation within developments is a preferred alternative to removal of vegetation and re-planting. Mature landscaping provides summer shade and wind breaks, allows for water conservation due to larger plants having established root systems, and assists with erosion control within disturbed construction sites.

A. Applicability. The standards in this section shall apply to all development sites containing significant vegetation, as defined below, except for residential development on Residential District lots that were created through a subdivision or partition plat filed with Deschutes County prior to the effective date of this Code.

B. Significant Vegetation. "Significant vegetation" means individual trees with a specific trunk diameter as measured four feet above the ground (known as DBH, "diameter at breast height"), shall be inventoried during the site design process and protected during construction unless otherwise approved for removal through the site plan review process. For the purpose of this section, deciduous trees measuring 6" or greater and coniferous trees measuring 10" or greater shall be considered significant vegetation.

C. **Mapping and Protection Required.** A Tree Protection Plan shall be prepared and submitted with the development application. Significant vegetation shall be inventoried and mapped as required by Chapter 4.2; Site Design Review and Chapter 2.7.600, Water Overlay Zone and 2.7.700, Upland Areas of Special Interest. Trees shall be mapped individually and identified by species and size (DBH). A "protection" area shall be defined around the edge of all branches (drip-line) of each tree (drip lines may overlap between trees) or stand of trees. The City also may require an inventory, survey, or assessment prepared by a qualified professional when necessary to determine tree health, vegetation boundaries, building setbacks, and other protection or mitigation requirements.

D. **Protection Standards.** Significant trees identified as meeting the criteria in Section B above shall be retained unless approved by the City to be removed for development. Preservation shall be considered impracticable when it would prevent development of public streets, public utilities, needed housing or land uses permitted by the applicable land use district. The term "prevent" in this standard means that the development cannot be designed to avoid the significant tree(s). An inability to achieve maximum permitted density by complying with this subsection shall not in itself be considered to prevent development. Building envelopes commensurate with the lot coverage standard of the zone shall be depicted on the Tree Protection Plan. Trees outside the envelope shall be protected unless they prevent development. In instances where applying exceptions to certain development standards would make tree preservation practical, the City may allow one or more of the following exceptions to the development standards when individual trees with a DBH of 24-inches or larger or stands of trees that are in good health as determined by a qualified professional, are preserved by a proposed development with an approved tree preservation plan:

- reductions of setbacks up to 25%
- reduction of required on site parking up to 10%
- increased lot coverage up to 15%
- reduced landscape coverage up to 5%

1. Protection of Significant Trees. The applicant must submit a Tree Protection Plan on a site plan map, drawn to scale that includes the following provisions where appropriate:

   Inventory of Significant Vegetation. Depict all significant vegetation by DBH and species, showing property lines, two-foot contours and rock outcroppings.

   Building Envelopes. The developer shall depict the buildable area of a lot that is consistent with the lot overage area of the zone.

   Barriers. The developer shall depict protection barriers on the site plan and locate and mark with flagging and/or signs all construction roads, parking places for workers, and areas for the storage of building materials, gravel and soil; stake out the exact locations of all utility trenches; erect physical barriers around all trees to be retained or groups of trees around the work site. Barriers that extend beyond the drip line of the tree are preferred.

   Soil Compaction. The Tree Protection Plan shall depict typical details of methods for protecting the critical root zone. If barriers are not feasible to keep away vehicles and foot traffic, use 6-8 inches of wood chips spread over the root zone or bridge root area overlaid by plates of steel or other suitable material.

   Grade Changes. If a grade change is unavoidable, retaining walls shall be used to protect the root system.

   Severing Roots. Avoid cutting anchoring roots if possible. Tunneling for smaller household utility lines may be an option for tree preservation. When root cuts are unavoidable, the cuts shall be made with a pruning saw.

Above Ground Injuries To Trees . Do not use trees for posting signs, electrical wires and pulleys. Keep trees free of nails, screws, and other fastening devices. Prevent trunk injuries by surrounding trunk with 1"x4" wooden slats and securing in place with gauge wire around slats.

Soil Contamination. Altering the soil chemistry can result in weakened trees, making them more susceptible to insects and disease. Prevent adverse effects on soil chemistry by spreading heavy plastic tarping where concrete is to be mixed or sheet rock cut; do not clean paintbrushes and tools over tree roots; dispose of chemical wastes properly and do not drain onto soil.

Altering the Natural Drainage Course. When the natural drainage of a site is altered, watering for existing trees must be augmented by an irrigation system. Prior to site grading, prepare a site drainage plan. Sometimes surface water containment can sustain existing stands of trees without artificial irrigation.

2. The City may approve the provision for substituting the retention of smaller trees in lieu of significant trees if it can be determined by a qualified professional that the small trees have equal or greater measurable benefits as specified in the purpose of this Section and/or that the significant trees will not survive.

3. All existing trees in good health, as determined by a qualified professional, which are located within the front yard setback or within an undeveloped public right of way shall be conserved whenever practical.

4. When the removal of significant trees cannot be avoided, the City may require as part of the required landscaping plan for the development site, the replacement of trees in size and number equivalent to the square inch measurement at DBH.

E. Construction. All areas of significant vegetation shall be protected prior to, during, and after construction. Grading, operation of vehicles and heavy equipment, and storage of supplies and construction materials is prohibited within significant vegetation areas, 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 Chapter 1.3.300(C), Mitigation for Removal of Vegetation. The written approval shall include the specific facts that support the conclusion.

F. Performance Bond. To ensure that the significant trees identified through the development review process will be retained and protected, the review authority may require the developer to post a performance bond in an amount determined by the size of the trees being preserved as shown below:

Tree Size	Bond Amount
4-6 inches DBH	$1000.00
6-10 inches DBH	$1500.00
10-16 inches DBH	$3000.00
Greater than 16 inches DBH	$5000.00

The amount of the required performance bond shall be determined by totaling the number of trees being preserved based on size and bonding value in the above table. The developer may utilize one of the following methods to assure full and faithful performance:

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.

2. A cash deposit in a City account at an approved lending institution.

3. An irrevocable standby letter of credit from a federally insured banking institution or savings and loan operating in Oregon that unconditionally promises to pay the funds pledged upon demand by the City. Such obligation must be unaffected by the financial status of the person who has obtained the letter of credit.

4. An "Assurance Provider" arrangement between the developer, the City and a federally insured financial institution which assures the City that funds to mitigate the loss or damage of significant trees identified through the development review process for preservation and protection will be provided by the federally insured financial institution to the City in the event the developer does not perform in conformance with the Land Use Development Agreement, and the federally insured financial institution must be satisfactory to the City.

5. The City may place a second position lien on the subject property. The lien shall accrue interest at the rate of 6% until such time the lien amount has been collected. The lien amount shall be paid to the City in full prior to the final occupancy of a building or final plat recordation of a subdivision or partition plat.

G. Termination of Bond. If the developer fails to carry out the provisions of the agreement, the City shall call upon the bond, or letter of credit or cash deposit or property lien or Assurance Provider arrangement to finance any cost or expenses resulting from said failure. If the amount of the deposit, letter of credit, bond, or property lien or Assurance Provider arrangement exceeds the cost and expense incurred by mitigating the loss or damage of the significant trees, the City shall deposit the remainder into a City account for the purpose of tree preservation education, tree planting and maintenance. If the amount of the deposit, letter of credit, bond or Assurance Provider arrangement is less than the cost and expense incurred by the City for the improvements and repairs, the developer shall be liable to the City for the difference.

H. Exemptions. The mitigation standards in 10.10.1.3.300(C) shall not apply in the following situations:

1. Dead, Diseased, and/or Hazardous Trees. Trees that are dead or diseased, or poses 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 shall 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 Section 10.10.3.2.200.F.2, below.

2. Emergencies. Significant vegetation may be removed in the event of an emergency without land use approval pursuant to Chapter 10.10.4.0, when the vegetation poses an immediate threat to life or safety, as determined by the Planning Director based on a certified arborist's report submitted to the City.

3.2.300 New Landscaping.

This section sets standards for and requires landscaping of all development sites that require Site Development Review. This section also requires landscape buffering for parking and maneuvering areas, and buffering between different land use districts. Note: Other landscaping standards are provided within the individual land use districts and in Chapter 3.6; Special Standards for Certain Uses, for specific types of development.

A. Applicability. This section shall apply to all new development in all zones requiring Site Development Review.

B. Landscaping Plan Required. A landscape plan is required. All landscape plans shall conform to the requirements in Section 4.2.200(7), Landscape Plan.

C. Landscape Area Standards. A minimum percentage landscape coverage is required. "Coverage" is measured based on the size of plants at maturity or after two years of growth, whichever comes sooner. The minimum required landscaping shall equal 15 percent of the gross lot area for the following uses:

1. Residential – Duplex and Triplex units and Multiple-family developments
2. Commercial and office developments
3. Industrial developments. 75% of the required 15% site landscaping shall be located within the front yards setbacks and parking areas or other areas visible to the public, unless otherwise required as a condition of approval.
4. Mixed Use developments
5. Special landscape standards may be required in accordance with the Special Standards for Certain Uses in Chapter 3.6 or as specified in Chapter 2.7; Special Planned Districts.

D. Landscape Materials. Landscape materials include live trees, shrubs, ground cover plants, non-plant ground covers, and outdoor hardscape features, as described below:

1. Plant Selection. Native vegetation shall be preserved or planted where practical. A combination of live deciduous and evergreen trees, shrubs and ground covers shall be used for all planted areas, (except as provided in subsection 4 below), the selection of which shall be based on local climate, exposure, water availability, and drainage conditions. Fire resistive plants should be planted in forested areas or on slopes where necessary to reduce the risk of fire spreading to structures. As necessary, soils shall be amended to allow for healthy plant growth.

2. Hardscape Features. Ground-level areas for passive use, such as patios, decks, plazas, paved dining areas, etc. may cover up to 15 percent of the required 15 percent landscape area; Swimming pools, sports courts and similar active recreation facilities may not be counted toward fulfilling the landscape requirement.

3. Non-plant Ground Covers. Bark dust, chips, aggregate or other non-plant ground covers may be used, but must be confined to areas underneath plants and is not considered a substitute for ground cover plants. Measures shall be taken to prevent erosion of non-plant ground covers onto adjacent properties or rights-of-way.

4. Tree Size. Required deciduous trees shall have a minimum caliper size of two and one half (2 ½) inches or larger at time of planting, including trees planted adjacent to a public right of way.

5. Shrub Size. Shrubs shall be planted from two-gallon containers or larger.

6. Ground Cover Location and Size. All of the landscaped area that is not planted with trees and shrubs or covered by allowable hardscape features must be planted in ground cover plants, including grasses. Ground cover plants shall be sized and spaced in the following manner: planted at a rate of at least one plant per 18 inches on center, in triangular spacing based on plant habitat (growth rate) with an expected coverage of 80 percent within five years of the time of planting.

7. Significant Vegetation. Significant vegetation preserved in accordance with Section 3.2.200 may be credited toward meeting the minimum landscape area standards in Section 3.2.300C. Credit shall be granted based on the total square footage of the preserved canopy. The Street Tree standards of Section 3.2.400 may be waived when trees preserved within the front yard setbacks provide the same or better shading and visual quality as would otherwise be provided by street trees between the street and sidewalk.

8. Storm Water Facilities. Storm water facilities (e.g., detention/retention ponds and swales) shall be landscaped. Landscaped Bio-swales are encouraged and can be counted in the required amount of landscaped area on the site. Planting of broad leaf canopy trees is encouraged as effective surface water interceptors.

E. Landscape Design Standards. All yards, parking lots and required street tree planter strips shall be landscaped at the time of site development in accordance with the provisions of this Chapter. All required landscaping and related improvements shall be completed prior to the issuance of a Certificate of Occupancy. Only during winter months when the ground is frozen shall the required landscape improvements be eligible for financial guarantee prior to occupancy. Landscaping shall provide erosion control, visual interest, buffering, privacy, open space and pathway identification, shading and wind buffering, based on the following standards:

1. Yard Setback Landscaping. Landscaping in yard setbacks shall satisfy the following criteria:

   a. Based on the proposed use of the site, provide visual screening and privacy within side and rear yards, while leaving front yards and building entrances mostly visible for security purposes; and observing the clear vision requirements of Chapter 3.1;

   b. Use shrubs and trees as windbreaks or solar shading, where needed;

   c. Retain natural vegetation, as practicable;

   d. Define pedestrian pathways and open space areas with landscape materials;

   e. Provide focal points within a development, such as signature trees (i.e., large or unique trees), hedges and flowering plants;

   f. Use trees to provide summer shading within common open space areas and parking lots, and within front yards when street trees cannot be provided;

   g. Use a combination of plants for year long foliage, color and interest; and

   h. Use landscaping to screen outdoor storage and mechanical equipment areas, and to enhance graded areas such as berms, swales and detention/retention ponds.

2. Parking areas. A minimum of 10 percent of the total paved area of all parking lot(s), as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of an evenly distributed mix of broad-canopied deciduous shade trees with shrubs and/or ground cover plants. "Evenly distributed" means that the trees and other plants are distributed around the parking lot perimeter and between parking bays to provide a partial canopy. At a minimum, one tree per eight (8) parking spaces total shall be planted to create a partial tree canopy over and around the parking area. All parking areas with more than 50 spaces shall include landscape islands with trees to break up the parking area into rows.

   All landscaped areas for trees shall have minimum dimensions of four feet by four feet to ensure adequate soil, water, and space for healthy plant growth. Where practical, landscape areas within parking lots shall be designed at a lower grade than the parking surface to allow surface water drainage to collect in the planter areas.

3. Landscape Buffering and Screening Required. Landscape buffering and screening are required under the following conditions:

   a. Parking/Maneuvering Area Adjacent to Streets and Drives. Where a parking or maneuvering area for more than ten (10) vehicles is adjacent and parallel to a public or private street, a landscape buffer consisting of a variety of trees and / or shrubs shall be provided. The width of the landscape buffer shall be the same width as the front yard setback or a minimum of 3 feet whichever is greater. The required screening shall provide breaks, as necessary, to allow for access to the site and sidewalk by pedestrians via pathways.

      The design of the screening shall also allow for visual surveillance of the site for security. Any areas between the parking and maneuvering area and the street/driveway line shall be landscaped with plants or other ground cover. All walls and hedges shall be maintained in good condition, or otherwise replaced by the owner.

   b. Parking/Maneuvering Area Adjacent to Building. Where a parking or maneuvering area, or driveway, is adjacent to a building, the area shall be separated from the building by a raised walkway, plaza, or landscaped buffer no less than two feet in width. Raised curbs, bollards, wheel stops, or other design features shall be used to protect buildings from being damaged by vehicles. The use of sidewalks adjacent to a building shall comply with ADA standards.

      When parking areas are located adjacent to residential ground-floor living space, a landscape buffer with a minimum width of 5 feet is required.

   c. Screening of Mechanical Equipment, Outdoor Storage, Service and Delivery Areas, and Automobile-Oriented Uses. All mechanical equipment, outdoor storage, manufacturing, and service and delivery areas shall be screened to the greatest extent practical from all public streets, residential districts, and housing units on the same site. Screening shall be provided by one or more the following: decorative wall (i.e., masonry or similar quality material as the building), evergreen hedge, non-see through fence, or a similar feature that provides a non-see-through barrier. Walls, fences, and hedges shall comply with the vision clearance requirements and provide for pedestrian circulation, in accordance with Chapter 3.1 – Access, Circulation and Lot Design. (See Section 3.2.500 for other standards related to fences and walls.)

F. Maintenance and Irrigation. The use of drought-tolerant plant species is encouraged. Water efficient irrigation shall be provided for new plants. If the plantings fail to survive, the property owner shall immediately replace them with an equivalent specimen (i.e., evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.). All other landscape features required by this Code shall be maintained in good condition, or otherwise replaced by the owner.

G. Additional Requirements. Additional buffering and screening may be required for specific land uses, as identified within the individual land use districts. In addition, the City may require additional landscaping through the Conditional Use Permit process.

3.2.400 Street Trees.

This section sets standards and requirements for planting trees along all streets for shading, comfort, safety and aesthetic purposes. Street trees shall be planted for all developments that are subject to Site Development Review. Requirements for street tree planting and tree wells are provided herein. Planting along unimproved streets shall be deferred until the construction of curbs and sidewalks. Such deferrals

shall be secured with a bond or cash deposit acceptable to the City. Street trees shall conform to the following standards and guidelines:

A. City of Bend Approved Tree List. The City has developed a list of desirable trees for planting along streets in three size classes: low, medium and tall choices of trees shall be limited to the following list. Exceptions may be granted by the Planning Director:

Street trees shall be those species suitable for the location in which they are placed. Approved tree species include:

1. Trees With Low Mature Tree Height (25 feet or less), for use in areas under power lines or in small planting areas:	
Amur Maple/Acer ginnala	Hawthorn/Crataegus 'variety'
Canada Red Cherry/Prunus Virginiana 'Shubert	Japanese Lilac Tree/ Syringa reticulata
Eastern Redbud / Cercis canadensis	Serviceberry/Amelanchier
Flowering Crabapple/Malus 'variety'	
2. Trees With Medium Mature Tree Height (30 to 45 feet):	
American Hornbeam/Carpinus caroliniana	Hedge Maple/Acer campestre
Callery Pear/Pyrus calleryana	Mountain Ash/Sorbus acuparia 'variety'
3. Tall Mature Tree Height (50 feet or larger):	
Green Ash/Fraxinus pennsylvanica	Pin Oak/Quercus paluatris
Honey Locust/Gleditsia tricanthos 'variety'	Red Maple/Acer rubrum 'variety'
Littleleaf Linden/Tilia cordata	Red Oak/Quercus rubra
Norway Maple/Acer platanoides 'variety'	Pin Oak/Quercus paluatris
Green Ash/Fraxinus pennsylvanica	
4. Other Tree Species: The review authority may approve other tree species as necessary to achieve the purposes of this Ordinance.	
5. Where the City has adopted a Street Tree Master Plan, those trees identified in the master plan shall be used.	

B. Growth Characteristics. Trees shall be selected based on growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. The following should guide tree selection:

1. Provide a broad canopy tree variety unless limited by overhead clearance.
2. Use lower-growing or open-branched trees for spaces under utility wires.
3. Select trees that can be "limbed-up" where vision clearance is a concern.
4. Use narrow or "columnar" trees where awnings, other building features, or narrow sidewalks limit growth, or where greater visibility is desired between buildings and the street.
5. Avoid using trees that are susceptible to insect damage, and avoid using trees that produce excessive seeds or fruit.
6. Select trees that are well adapted to the local environment, considering soil, wind, sun exposure, and exhaust. Drought-resistant trees should be used in areas with sandy or rocky soil.
7. Select trees for their seasonal color, as desired.
8. Use deciduous trees for summer shade and winter sun.

C. Caliper Size. The minimum caliper size at planting shall be 2 ½ inches DBH (diameter at breast height, or four feet above ground), based on the American Association of Nurserymen Standards. If the required caliper is not available, the Planning Director/Review Authority may accept replacement trees with an extended maintenance guarantee of two (2) additional years depending on substituted size.

D. Spacing and Location. Street trees shall be planted within existing and proposed planting strips, or in City approved sidewalk tree wells on streets without planting strips. Small stature trees shall be planted no closer to the curb or sidewalk than three (3) feet, medium trees - three (3) feet and large trees - four (4) feet. Root barriers may be required with street tree planting to protect the City's curb and sidewalk. Street tree spacing shall be based upon the type of tree(s) selected and the canopy size at maturity. Small canopy trees and columnar shaped trees shall be planted no further than thirty (30) feet apart; medium and large canopy trees shall be planted no further than forty (40) feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. A random spacing of street trees may be approved for the equivalent number of trees required for the length of the frontage.

E. Sidewalk Tree Wells. Street trees planted within sidewalk tree wells shall be installed with a City approved tree grate.

F. Soil Preparation, Planting and Care. The developer shall be responsible for planting street trees, including but not limited to, soil preparation, ground cover material, staking, and irrigation. The developer shall also be responsible for tree care (pruning, watering, fertilization, and replacement as necessary) during the first year after planting unless an extended maintenance time is required.

G. Assurances. The City shall require the owner/developer to provide a performance and maintenance bond in an amount equal to 120 % of the actual cost to purchase, plant and maintain for a minimum of one full growing season., to ensure the planting of the tree(s) and care during the first year after planting.

H. Utility Easements. All street trees shall be placed outside utility easements unless the utilities can be placed in a conduit for maintenance. If the existing parking/planter strip contains such easements and is not wide enough to also accommodate street trees, the street tree location requirement in Section D above, may be adjusted as approved by the Planning Director.

3.2.500 Fences and Walls.

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

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

B. Dimensions.

1. The maximum allowable height of fences and walls is 6 feet, as measured from the lowest grade at the base of the wall or fence, with the following exceptions:

a. Retaining walls and terraced walls may exceed 6 feet when permitted as part of a site

development approval, or as necessary to construct streets and sidewalks or as approved in Commercial or Industrial Zones.

b. A building permit and / or approved engineered plans are required for walls exceeding 4 feet in height, in conformance with the International Building Code (IBC)

c. In residential districts the height of fences and walls within a front yard setback shall not exceed 3 ½ feet (except decorative arbors, gates, and similar features), as measured from the grade closest to the street right-of-way.

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

3. Fences and walls shall comply with the clear vision standards of Section 3.1, Access, Circulation and Lot Design.

4. Fences greater than 6 feet in height constructed in the Residential Districts must be constructed in conformance with the International Building Code (IBC).

Chapter 3.3 Vehicle Parking, Loading and Bicycle Parking

Sections:

3.3.100 Purpose
3.3.200 Applicability
3.3.300 Vehicle Parking Standards
3.3.400 Loading Standards
3.3.500 On Street Parking Design Standards
3.3.600 Bicycle Parking Standards

3.3.100 Purpose.

The purpose of this Chapter is to provide basic and flexible standards for the development of vehicle parking, loading and bicycle parking. The design of parking and loading areas is critically important to the viability of some commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Because vehicle-parking facilities can occupy large amounts of land, they must be planned and designed carefully to use the land efficiently while maintaining the visual character of the community. This Chapter recognizes that each development has unique parking needs by providing a flexible approach for determining parking space requirements (i.e., "minimum" and "performance-based" standards). This Chapter also provides standards for bicycle parking because many people use bicycles for recreation, commuting, and general transportation. Children as well as adults need safe and adequate spaces to park their bicycles throughout the community.

3.3.200 Applicability.

All development within the City of Bend shall comply with the provisions of this Chapter.
In the Central Business District (CBD), prior to the issuance of any building permit for construction of a new building, enlargement of an existing building, or the change of use requiring additional off-street parking as required by Section 3.3.300, the owner or occupant shall pay a fee in lieu of providing the required off-street parking or provide the off-street parking as specified in Table 3.3.300. The fee to be paid in lieu of providing parking shall be calculated on the basis of parking spaces required by this Chapter. The fee and the policies regarding fees in lieu of parking shall be established by resolution by the City Council.

The fee shall be a one-time fee deposited into a fund to be used only for the planning, acquisition, development and maintenance of off-street parking facilities located in and/or adjacent to the CBD.

3.3.300 Vehicle Parking Standards for On-Site Requirements.

The minimum number of required off-street vehicle parking spaces (i.e., parking that is located in parking lots and garages and not in the street right-of-way) shall be determined based on the standards in this Vehicle Parking Standards section.

A. Off-Street Parking Requirements. The number of required off-street vehicle parking spaces shall be determined in accordance with the following standards. Off-street parking spaces may

include spaces in garages, carports, parking lots, and/or driveways if vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes).

Table 3.3.300
Required Off-Street Vehicle Parking Spaces

Use	Minimum Requirement
Residential	
All Residential Uses within the CB District	1 space per dwelling unit
Single-family, attached or detached housing, including manufactured home on individual lot.	2 parking space per dwelling unit.
Two and three-family housing (duplex and triplex)	2 space per dwelling unit.
Multi-family housing	Studio units or 1-bedroom units less than 500 sq. ft. – 1 space/unit
	1-bedroom unit 500 sq. ft. or larger – 1 space/unit
	2-bedroom units – 1.5 spaces/unit
	3-or more bedroom units – 2 spaces/ unit
	Retirement complexes for seniors 55 years or older – 1 space per unit.
Bed & breakfast inns and vacation rentals	1 space per bedroom, plus 1 space for the manager or proprietor.
Manufactured home parks	Same as for single family detached housing.
Accessory dwelling	1 space per unit
Commercial	
All Central Business District Commercial Uses	1 space / 500 square feet
Retail trade and services • *General trade* • *Bulky Merchandise(appliance, furniture)*	1 space for 350 square feet of gross floor area. 1 space per 750 square feet of gross floor area.
Banking services	1 space per 350 square feet floor area
Bulk and outdoor retail trade and services, including: auto, boat or trailer sales, retail nurseries, lumberyards, and similar bulk retail uses.	1 space per 1,000 square feet
Hotels/motels	1 space for each guest room, plus 1 space for the manager.
Office Use (*including medical and dental offices, clinic and laboratories, alternative health care)*	1 space per 350 square feet of gross floor area
Restaurants and bars (see Neighborhood Commercial, 2.1 for special parking standards)	1 space per 200 square feet of gross leasable floor area
Entertainment (e.g., theaters, clubs, and other completely enclosed amusement uses)	1 space per 4 seats.

Use	Minimum Requirement
Industrial Uses	
Light manufacture and production businesses(e.g., electronic equipment, printing, bindery, furniture, bakery, crafts, call center and similar uses)	1 space per 2 employees on the largest shift or for each 700 square feet of gross floor area, whichever is less, plus 1 space per company vehicle.
Warehousing and distribution	1 space per 2000 sq. ft. of gross floor area
Public/private utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities)	1 space per 2 employees on the largest shift, plus 1 space per company vehicle; a minimum of 2 spaces is required.
Public and Institutional Uses	
Family daycare (12 or fewer children)	Same as for single-family detached housing
Child care centers for 13 or more children	1 space per 2 employees; a minimum of 2 spaces is required.
Places of worship, churches	1 space per 4 seats in the chapel.
Golf courses, including miniature golf	2 spaces per hole, plus additional spaces for auxiliary uses as required elsewhere in this section.
Public parks and recreational facilities with less than 75,000 square feet of gross area	None required except as required for ADA compliance or as required by a Conditional Use Permit.
Public parks and recreational facilities with more than 75,000 square feet of gross area or containing a structure larger than 800 square feet.	1 space per 10,000 square feet of gross area or 1 space per 1,000 square feet of building floor area, whichever is greater, or as required by a Conditional Use Permit.
Hospitals	1.5 spaces per bed
Nursing and convalescent homes	1 space per 3 patient beds.
Assisted living, residential care facilities	1 space per 2 patient beds or 1 space per apartment unit.
Schools (public and private) – elementary and junior high	1 space per employee or 4 seats in the auditorium, whichever is greater
Schools (public and private) – high schools	1.5 spaces per classroom, plus 1 space per 10 students. If the school is designed to accommodate related uses such as auditoriums, stadiums, theatres, and gymnasiums, additional parking shall be provided at a rate of 1 space per 4 seats.
Schools (public and private) – college and university campuses and trade schools	Parking needs based on a Parking Management Plan for all uses contemplated for the entire campus.
Unspecified uses	
Where a use is not specifically listed in this table, parking requirements shall be determined by finding that a use is similar to those listed in terms of parking needs in conformance with Section 4.1.1400, Declaratory Ruling. The review Authority may approve a Parking Management Plan for Multi Use Developments.	

B. Credit for On Street Parking. The amount of off-street parking required may be reduced by one off-street parking space for every on-street parking space abutting the development, up to 50 percent of the requirement, except for uses within the CB Zone. On-street parking shall follow the established or approved configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by City, ODOT and/or County standards. Parking

credit can only be granted for developments with frontage on streets that allow parking on both sides in accordance with Chapter 3.1, Access, Circulation and Lot Design.

One on-street parking space shall be defined as follows:

1. Parallel parking, each 24 feet of uninterrupted curb, where allowed;
2. 45 degree diagonal, each with 14 feet of curb, where allowed;
3. 90 degree (perpendicular) parking, each with 12 feet of curb, where allowed;
4. Curb space must be connected to the lot that contains the use;
5. Parking spaces will not obstruct a required clear vision area or violate any law; and
6. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or action limiting general public use of on-street spaces is permitted.

C. Parking Location and Shared Parking.

1. Location. Vehicle parking is allowed only on approved streets, within garages, carports and other structures, or on driveways or parking lots that have been developed in conformance with this code. Specific locations for parking are indicated within the individual land use districts for some land uses (e.g., the requirement that parking be located to side or rear of buildings, with access from alleys, for some uses). Required off-street parking shall not be located within the front yard setbacks.

2. Off-street Parking.
   a. Commercial or Industrial off street parking which adjoins a residential zone shall be effectively screened by a fence and landscaping with a minimum width of 10 feet unless otherwise specified in this ordinance.
   b. Off-street parking shall not be located within the required front yard setbacks.

3. Off-site parking. Except for single family dwellings, the vehicle parking spaces required by this Chapter may be located on another parcel of land when commercial off-site parking is permitted in the underlying zone, provided the parcel is within 1000 feet of the use it serves and the amount of off-site parking does not exceed the minimum amount of parking required for the intended use. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement, or similar written instrument.

4. Mixed use developments. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly. (See Subsection 3.3.300.C(5) - Shared Parking, below.)

5. Shared parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature, or of a weekday vs. weekend nature), and provided that the right of joint use is evidenced by a binding agreement that is tied to the land or similar written instrument establishing the joint use. The binding agreement may restrict future changes to use of the property. Shared parking is encouraged.

6. Availability of facilities. Owners of off-street parking facilities may post a sign indicating that all parking on the site is available only for residents, customers and/or employees. Signs shall conform to the standards in the Bend Code.

D. Exceptions and Special Standards for Parking

1. Exceptions for required parking.

   a. Seasonal outdoor seating where the seating area is less than 500 square feet is exempt from the required parking standards.

   b. The total number of required motor vehicle parking spaces for an industrial, commercial, or office use may be reduced by 5 percent for each of the listed activities which are provided by the owners or operators, up to a maximum 10 percent reduction in the total number of motor vehicle spaces per development.

      - Designating at least 10% of the employee motor vehicle parking spaces as carpool/vanpool parking and placing such spaces closer to the building than other employee parking;
      - Providing showers and lockers for employees who commute by bicycle;
      - Providing twice as many covered, secured bicycle parking racks or facilities as required by this ordinance;
      - Providing a transit facility (e.g., bus stop) that is approved by the local transit authority, with related amenities. Related amenities include, but are not limited to, a public plaza, pedestrian sitting areas, shelter, and additional landscaping.
      - Other incentives provided in an approved Employee TDM Plan.

2. Special Standards for Commercial Customer Parking. The motor vehicle parking areas shall be located and designed to facilitate safe and convenient pedestrian and bicycle movement to and from public sidewalks, streets, or transit stops. Ways to achieve this standard may include, but are not limited to:

   - Front facades and primary entrances of all buildings are oriented to a public street or a private internal drive or street, to minimize pedestrian and bicycle travel through a parking area and to provide safe, convenient, and direct travel routes for pedestrians;
   - One or more raised walkways are provided through the parking areas, meeting federal Americans with Disabilities Act requirements, in order to provide safe, convenient, and direct travel routes for pedestrians through the parking areas;
   - Walkways abutting parking spaces or maneuvering areas are protected from vehicles through either landscaping buffers, minimum 3 feet wide on each side, or curbs on both sides.
   - Walkways across vehicle aisles are delineated by non-asphaltic material in a different color or texture than the parking areas;
   - On-site pedestrian walkways and bikeways connect to existing pedestrian and bicycle circulation systems that serve adjacent commercial uses or residential areas;
   - Internal drives or streets are designed to City standards for local streets in regard to pavement width, sidewalks, and street trees. Sidewalks comply with ADA standards. Sidewalks 10-15 feet wide abutting front building facades are strongly encouraged. Internal vehicular circulation design for the site complies with City street connectivity standards, including maximum block length and perimeter.
   - Internal drives or streets connect to public streets abutting the site, unless physically precluded by pre-existing buildings.

- Structures are located on the site to facilitate future infill and redevelopment of parking and landscape areas.).
- For shopping centers abutting one or more future transit routes, one or more transit stops are located and designed with the approval when applicable of the local transit provider;
- No drive-up, drive-in, or drive-through drives or lanes are located between a building and a public or private street.

E. Maximum Number of Parking Spaces. The number of parking spaces provided by any particular use in ground surface parking lots shall not exceed the required minimum number of spaces provided by this Section by more than 50%. Spaces provided on-street, or within the building footprint of structures, such as in rooftop parking, or under-structure parking, or in multi-level parking above or below surface lots, shall not apply toward the maximum number of allowable spaces. Parking spaces provided through "shared parking" also do not apply toward the maximum number.

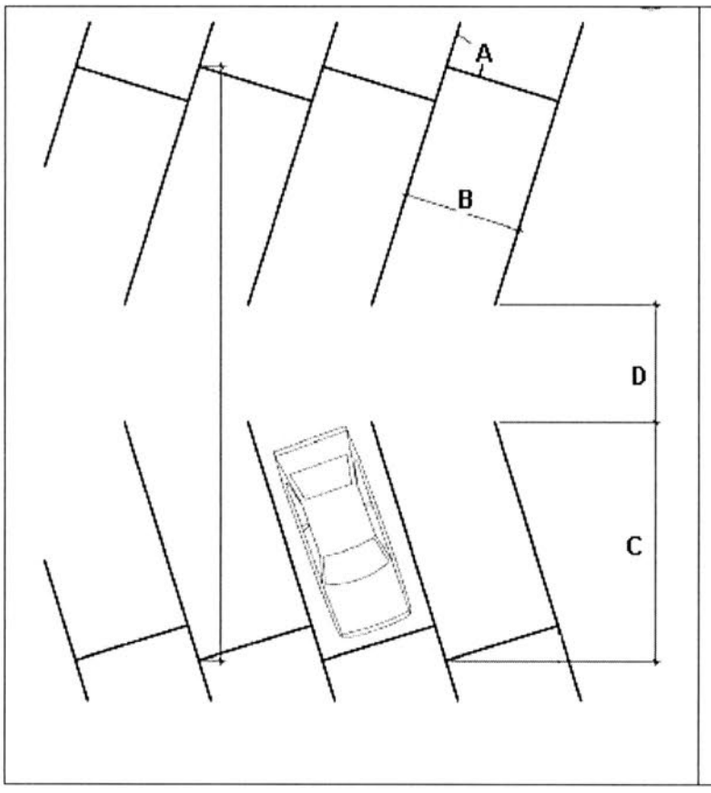
Figure 3.3.300.E1
Parking Stall Dimensions

Parking Angle	Stall Width	20' Stall	Aisle Width (*one-way)	Curb length	Bay Width
	9'-0"	9.0	12.0	22.0	30.0
0°	9'-6"	9.5	12.0	22.0	31.0
	10'-0"	10.0	12.0	22.0	32.0
	9'-0"	19.8	13.0	12.7	52.5
45°	9'-6"	20.1	13.0	13.4	53.3
	10'-0"	20.5	13.0	14.1	54.0
	9'-0"	21.0	18.0	10.4	60.0
60°	9'-6"	21.2	18.0	11.0	60.4
	10'-0"	21.5	18.0	11.9	61.0
	9'-0"	21.0	19.0	9.6	61.0
70°	9'-6"	21.2	18.5	10.1	60.9
	10'-0"	21.2	18.0	10.6	60.4
	9'-0	20.0	24.0	9.0	64.0
90°	9'-6"	20.0	24.0	9.5	64.0
	10'-0"	20.0	24.0	10.0	64.0

* 24' minimum for two-way traffic

F. <u>Parking Stall Standard Dimensions and Compact Car Parking</u>. All off-street parking stalls shall be improved to conform to City standards for surfacing, stormwater management and striping, and provide dimensions in accordance with Table 3.3.300E above and Figure 3.3.300 below.

Figure 3.3.300
Parking Area Dimensions



A = Parking angle
B = Stall Width
C – Stall depth
D = Aisle width

- For one row of parking stalls use "C" +"D" as minimum bay width.
- Public alley width may be included as part of dimension "D", but all parking stalls must be on private property.
- For estimating available parking area use 300-325 square feet per vehicle for stall aisle and access areas.
- For narrow lots, equivalent size stalls and aisles may be approved by the City Engineer.
- For large parking lots exceeding 20 stalls, alternate rows may be designated for compact cars provided that the compact stalls do not exceed 30% of the total required stalls. A compact stall measures 8 feet in width and 17 feet in length.

G. ADA Accessible Parking Spaces. Accessible parking shall be provided for disabled persons, in conformance with the Federal Americans with Disabilities Act (ADA). Accessible parking is included in the total minimum number of required parking spaces in Table 3.3.300. Accessible parking facilities shall comply with the design requirements of the current building code as adopted by the State of Oregon.

3.3.400 Loading Standards.

A. Number of Loading Spaces.

1. Non-residential buildings. Buildings where any of the floor area is in non-residential use must meet the following standards:

   a. No loading spaces are required for buildings with less than 20,000 square feet of non-residential floor area.

   b. One loading space is required for buildings with 20,000 or more square feet of non- residential floor area.

   c. Two loading spaces are required for buildings with more than 50,000 square feet of non-residential floor area.

B. **Size of Loading Spaces**. Required loading spaces must be at least 35 feet long, ten feet wide, and have a height clearance of at least 14 feet.

C. **Placement, Setbacks and Landscaping**. Loading areas must comply with the setback and parking lot landscaping standards in this ordinance. When parking areas are prohibited or not allowed between a building and a street, loading areas are also prohibited or not allowed.

D. **Loading Areas as Off-Street Parking.** Off-street parking areas shall not be used to fulfill requirements of this section and may not be used except during off-peak parking hours.

3.3.500 On Street Parking Design Standards

This section of the City of Bend Development Code provides specific requirements for construction of on-street parking facilities on arterial and collector classified roadways under the jurisdiction of the City of Bend.

A. Parallel on-street parking may be allowed within pull-out parking bays on collector or minor arterial roadways classified per the Bend Urban Area Transportation System Plan as approved by the Planning Director subject to the following limitations:

- parking is located within residential or commercial zoning;
- the posted speed of the roadway facility shall be 35 mph or less;
- the roadway has bike lanes;
- the roadway has sidewalks; and
- the roadway has only a single lane for motorized vehicle travel in each direction.
- the roadway is a one-way street with two lanes of travel
- Disabled accessible parking stalls and their access aisles shall have a maximum 2 percent slope in all directions.

B. When pull-out parking bays are approved, the City Engineer shall approve construction plans in conformance with the following design criteria:

- the AASHTO minimum stopping sight distance shall be provided along the roadway in advance of the bay for the 85 percentile travel speed of the roadway;
- the bays only provide for two to three consecutive parking spaces;
- each parking space is 8' by 25' in size;
- there is spacing provided between successive parking bays of 100 feet.
- the bays enable vehicles to pull easily in and out of travel stream;
- the bays enable street sweeper and/or snow plow vehicles to follow curbs for maintenance purposes; and
- the bays and roadway facilities provide adequate drainage facilities.
- Disabled accessible parking signage shall be visible when a vehicle is parked in the designated space.

3.3.600 Bicycle Parking Standards.

All uses that are subject to Site Development Review shall provide bicycle parking, in conformance with the following standards, which are evaluated during Site Development Review. This Section does

not apply to single-family, two-family, and three-family housing (attached, detached or manufactured housing), home occupations or other developments with fewer than 10 vehicle parking spaces.

A. Number of Bicycle Parking Spaces. A minimum of one bicycle parking space per use is required for all uses subject to Site Development Review. Table 3.3.600 lists additional standards that apply to specific types of development:

Table 3.3.600
Required On-Site Bicycle Parking

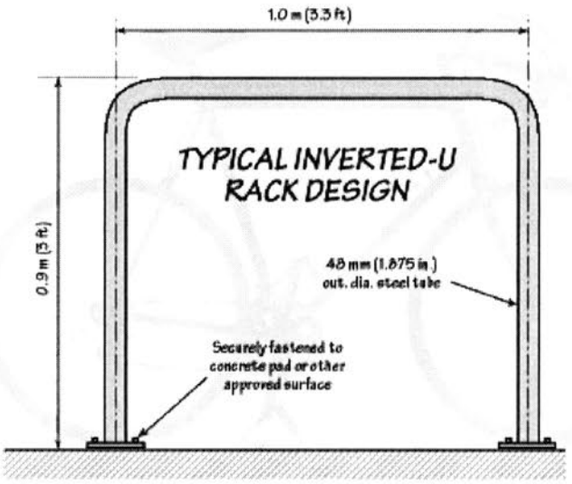
Use	Requirement
Multi-family dwellings with 4 units or more:	1 covered space per unit. Covered bicycle parking spaces may be located within a garage, storage shed, basement, utility room or similar area. In those instances in which the residential complex has no garage or other easily accessible storage unit, the bicycle parking spaces may be sheltered from sun and precipitation under an eave, overhang, an independent structure, or similar cover.
Retirement home or assisted living complex:	2 covered spaces or 1 covered space for every 10 employees, whichever is greater
Retail sales and service	1 covered space for every 10 employees plus 1 space for every 20 motor vehicle spaces
Multiple Uses	For buildings with multiple uses (such as a commercial or mixed use center), bicycle parking standards shall be calculated by using the total number of motor vehicle parking spaces required for the entire development. A minimum of one bicycle parking space for every 10 motor vehicle parking spaces is required.
Street vendors, itinerant merchants, and similar temporary sales operations	No bicycle spaces required
Restaurants, cafes, and bars	1 covered space for every 10 employees plus 1 space for every 20 motor vehicle spaces
Professional office	1 covered space for every 10 employees plus 1 space for every 20 motor vehicle spaces
Medical or dental office or clinic or hospital	1 covered space for every 10 employees plus 1 space for every 20 motor vehicle spaces
Stadium, arena, theater or similar use	1 covered space for every 20 seats
Public or private recreational facility	1 space for every 10 employees plus 1 space for every 20 motor vehicle spaces
Parking Lots	All public and commercial parking lots and parking structures shall provide a minimum of one bicycle parking space for every 10 motor vehicle parking spaces.
Industrial uses without retail trade or service	1 covered space for every 20 employees
Industrial uses with retail	1 covered space for every 20 employees
Elementary School	1 covered space for every 25 students. All spaces should be sheltered under an eave, overhang, independent structure, or similar cover.

Use	Requirement
Junior High School	1 covered space for every 25 students. All spaces should be sheltered under an eave, overhang, independent structure, or similar cover.
High School	1 covered space for every 25 students. All spaces should be sheltered under an eave, overhang, independent structure, or similar cover.
College, university or trade school	1 space for every 10 motor vehicle spaces plus 1 covered space for every dormitory unit. Colleges and trade schools shall provide one bicycle parking space for every 10 motor vehicle spaces plus one space for every dormitory unit. Fifty percent (50%) of the bicycle parking spaces shall be sheltered under an eave, overhang, independent structure, or similar cover.

B. Special Standards for the Central Business District. Within the Central Business District, bicycle parking for customers shall be provided in the right-of-way along the street either on the sidewalks or in specially constructed areas such as pedestrian curb extensions at a rate of one space per 3000 square feet of gross floor area of the building. In addition, individual uses shall provide covered bicycle parking at the rate of one bicycle space for every 10 employees. At a minimum, each uses shall provide one covered bicycle parking space. The bicycle parking shall not exceed six (6) bicycles per parking area. Only when providing the required bicycle parking spaces is not feasible as determined by the City, the developer may pay a fee established by City.

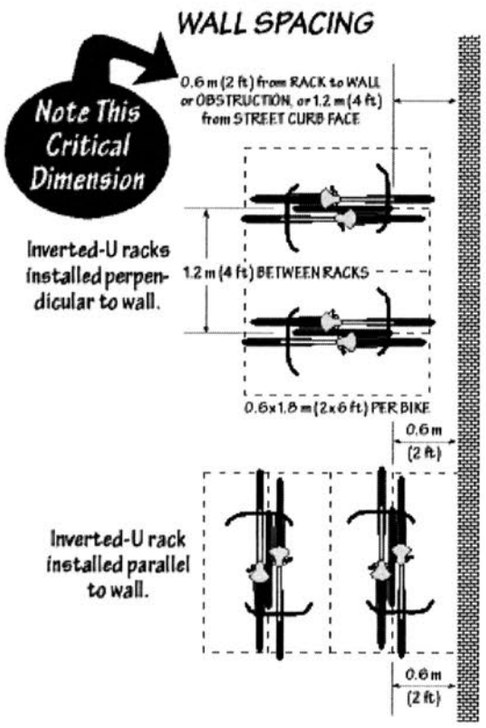
C. Location and Design.

1. All bike racks shall have following design features:
   a. Inverted "U" style racks or similar design as illustrated below.
   b. Each rack shall provide each bicycle parking space with at least two points of contact for a standard bicycle frame.
   c. The bike rack shall have rounded surfaces and corners;
   d. The bike rack shall be coated in a material that will not damage the bicycle's painted surfaces.



2. Each required bicycle parking space shall be on asphaltic concrete, portland cement , or similar hard surface material and each space shall be at least 2 feet wide by 6 feet long with a minimum vertical clearance of 7 feet. An access aisle with of at least 5 feet wide shall be provided and maintained beside or between each row of bicycle parking.

3. The location of the rack and subsequent parking shall not interfere with pedestrian passage, leaving a clear area of at least 36 inches between bicycles and other existing and potential obstructions. Customer spaces may or may not be sheltered. When provided, sheltered parking (within a building, or under an eave, overhang, or similar structure) shall be provided at a rate of one space per 10 employees, with a minimum of one space per use.



4. Bicycle parking shall be conveniently located to both the street right-of-way and at least one building entrance (e.g., no farther away than the closest parking space). It should be incorporated whenever possible into building design and coordinated with the design of street furniture when it is provided. Street furniture includes benches, street lights, planters and other pedestrian amenities.

D. Visibility and Security. Bicycle parking shall be visible to cyclists from street sidewalks or building entrances, so that it provides sufficient security from theft and damage, except for bicycles stored per subsection E below;

E. Options for Storage. Bicycle parking requirements for long-term and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building;

F. Lighting. Bicycle parking should be at least as well-lit as vehicle parking for security.

G. Reserved Areas. Areas set aside for bicycle parking should be clearly marked and reserved for bicycle parking only.

H. Hazards. Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as not to conflict with vision clearance standards (Chapter 3.1 - Access and Circulation).

Chapter 3.4 Public Improvement Standards

Sections:

3.4.100	**Purpose and Authority**
3.4.200	**Transportation Improvement Standards**
3.4.300	**Public Use Areas**
3.4.400	**Sanitary Sewer and Water Service Improvements**
3.4.500	**Storm Drainage Improvements**
3.4.600	**Utilities**
3.4.700	**Easements**
3.4.800	**Construction Plan Approval and Assurances**
3.4.900	**Installation**
3.4.1000	**Street Improvement Standards**

3.4.100 Purpose and Authority

A. Purpose. The purpose of this Chapter is to provide requirements for design and construction of public and private infrastructure including: Transportation facilities; sewer, water and other utilities; and drainage features and activities. One of the primary purposes of this Chapter is to provide standards for attractive and safe streets that can accommodate vehicle traffic from planned growth, and provide a range of transportation options, including options for driving, walking, bicycling, transit and other transportation modes. This Chapter is intended to guide development through the implementation of the City of Bend Standards and Specifications.

B. City's Authority. The City Engineer may, at his/her discretion, modify or waive the required content of this chapter when in his/her judgment special circumstances dictate such change, pursuant to Section 3.4.100(C), below.

C. When Standards Apply. Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall conform to this Chapter. No development shall occur unless the public improvements related to development comply with the public facility requirements established in this Chapter, unless specifically exempt or otherwise specified by a land use review and/or condition of approval from a land use action.

D. Standard Specifications. The City has standard construction specifications consistent with the guidelines of this Chapter and application of engineering principles. They are incorporated in this code by reference as the City of Bend Standards and Specifications document. Where there are conflicts between this Ordinance and the City of Bend Standards and Specifications document, the Development Code shall prevail.

E. Conditions of Development Approval. No development shall occur unless required public facilities are in place or guaranteed, in conformance with the provisions of this Code. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development on public facilities and services. Findings in the development approval shall indicate how the required improvements are roughly proportional to the impact.

3.4.200 Transportation Improvement Standards

A. Development Requirements. No development shall occur unless the development has frontage or approved access to a public or private street, in conformance with the provisions of Chapter 3.1, Access, Circulation and Lot Design, and the following standards are met:

1. Streets within or adjacent to a development shall be improved in accordance with the Bend Urban Area Transportation System Plan (TSP), provisions of this Chapter and other pertinent sections of this Code.

2. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this Section, and public streets shall be dedicated to the applicable City, county or state jurisdiction.

3. All new and/or existing streets and alleys shall be paved per the City of Bend Standards and Specifications document.

B. Variances. Variances to the transportation design guidelines in this Section may be granted by means of a Class C Variance, as governed by Chapter 5.1.400(5), Variance to Transportation Improvement Requirements. A variance may be granted under this provision only if a required improvement is not feasible due to topographic constraints or constraints posed by sensitive lands or the project does not meet the exception standards listed herein.

C. Creation of Rights-of-Way for Streets and Related Purposes. Streets shall be created through the approval and recording of a final subdivision or partition plat; except the City may approve the creation of a Public Right-of-Way by acceptance of a deed, where no plat will be recorded, and provided that the street is deemed essential for the purpose of implementing the Bend Urban Area Transportation System Plan, and the deeded right-of-way conforms to this Code. All deeds of dedication shall be in a form prescribed by the City and shall name "the public" as grantee.

D. Creation of Vehicular Access Easements. The City may require a vehicular access easement established by deed when the easement is necessary to provide for vehicular access and circulation in conformance with Chapter 3.1, Access, Circulation and Lot Design. Access easements shall be created and maintained in accordance with the Uniform Fire Code Section 10.207 and City of Bend Standards and Specifications.

E. Street Location, Width and Grade. Except as noted below, the location, width and grade of all streets shall conform to the City of Bend Standard and Specifications document, the provisions of this Chapter and an approved street plan or subdivision plat. Street location, width and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets.

1. Street grades shall be designed and/or constructed as approved by the City Engineer in accordance with the design standards in Tables A through E in Section 3.4.200, Transportation Improvement Standards.

2. Where the location of a street is not shown in an existing street plan in conformance with Section 3.4.200.I, Future Street Plan and Extension of Streets, the location of streets in a development shall either:

a. Provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this Chapter, or

b. Where it is impractical to connect with existing street patterns because of topographical constraints or where the existing built environment precludes future street connections, the applicant shall conform to a street plan approved by the Review Authority. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.

F. Minimum Rights-of-Way and Street Sections.

Street rights-of-way and improvements shall be the widths defined in Street Improvement Standards Tables A through E below. Additional right of way may be required at intersections of local streets with major collectors or arterial streets.

The following tables and attached notes describe street improvement standards as follows:

a. Table A: Improvement Standards for Dedicated Public Roadways in Residential Zones
b. Table B: Improvement Standards for Dedicated Public Roadways in Commercial Zones
c. Table C: Improvement Standards for Dedicated Public Roadways in Industrial Zones
d. Table D: Improvement Standards for Private Streets
e. Table E: Improvement Standards for Dedicated Public Roadways on Hillsides

Table A: Improvement Standards for Dedicated Public Roadways in Residential Zones (UAR, RL, RS, RM-10, RM AND RH)

Street Classification	Minimum Right of Way	Minimum Pavement Width	Minimum Planter Strip	Max Grade (3)	Sidewalks Both Sides	Bike Lanes
Principal Arterial (2)	100'	76'	5'	6%	Yes	Yes
Major Arterial	100'	76'	5'	6%	Yes	Yes
Minor Arterial	100'	56'	7'	6%	Yes	Yes
Major Collector	80'	56'	6'	8%	6'	Yes
Local Street RM or RH	60'	36'	6'	10%	6'	No
Local Street (1) UAR, RL, RS, RM-10	60'	24'/28'/32'	7'	10%	5'	No
Cul-de-sac all residential zones	60'	24'	7'	10%	5'	No
Alley	20'	20'	None	10%	None	No

Notes:

1. Local Streets:
   a. 24 foot wide street – No parking allowed on either side of the street.
   b. 28 foot wide street – Parking allowed on one side in alternating parking bays (Parking bays shall alternate from side to side of the street to provide parking from both directions, and shall be 8-feet wide and meet City of Bend Standards and Specifications)
   c. 32 foot wide street – Parking allowed both sides in UAR, RL, RS, and RM-10 zones
   d. 36 foot wide street – Parking allowed both sides in RM and RH zones
   e. Special Street widths (see Section 3.4.200 (G) (3))
2. Expressways and Arterials that are Oregon Department of Transportation (ODOT) facilities shall meet ODOT design standards.
3. See Table "E" for grade exceptions in steep terrain areas.

1. Performance Standards for 30-foot wide local residential streets. A narrow 30-foot wide street pavement section, with parking both sides, may be approved when the following performance standards are met:
   a. The street is connected to a grid street pattern at both block ends
   b. Blocks have dedicated public alley access to the roadway, constructed to City of Bend Standards and Specifications
   c. Block length does not exceed 300 feet
   d. Adjacent property use is single family residential only in an RS zone.
   e. All parking requirements for single family residential use are met on site.

Table B: Improvement Standards for Dedicated Public Roadways in Commercial Zones CB, CC, CL, CG, ME, MR and PO

Street Classification	Minimum Right of Way	Minimum Pavement Width	Minimum Planter Strip Width	Minimum Turn Lane/Median Island Width (1)	Maximum Grade (2)	Direct Site Access	Sidewalks Both Sides
Principal Arterial (3)	100'	76'	5'	11'/16'	6%	No	6'
Major Arterial	100'	76'	5'	11'/16'	6%	No	6'
Minor Arterial	100'	56'	8'	11'/16'	6%	No	6'
Major Collector	80'	56'	6'	11'/16'	6%	Yes	6'
Local	60'	36'	7'	None	10%	Yes	5'
Alley (4)	20'	20'	None	None	10%	Yes	None

Notes:
1. The first dimension is the minimum required width of the turn lane while the second dimension applies to the raised median width constructed between intersections:
   a) Intersection turn lane pocket width is 11-feet while the median end cap width is 5-feet in width.
2. See: Table "E" for grade exceptions in steep terrain areas.
3. Expressways and Arterials that are Oregon Department of Transportation (ODOT) facilities shall meet ODOT design standards.
4. Alleys: Not required in Commercial Zones.

Table C: Improvement Standards for Dedicated Public Roadways in Industrial Zones IL and IG

Street Classification	Minimum Right of Way	Minimum Pavement Width	Minimum Planter Strip Width	Minimum Turn Lane/Median Island Width (1)	Maximum Grade (2)	Direct Site Access
Principal Arterial (4)	100'	76'	5'	11'/16'	6%	No
Major Arterial	100'	76'	5'	11'/16'	6%	No
Minor Arterial	100'	56'	7'	11'/16'	6%	No
Major Collector	80'	56'	7'	11'/16'	6%	Yes
Local: No Parking	60'	36'	7'	None	10%	Yes
Local: w/ Parking	60'	44'	6'	None	10%	Yes

Notes:

1. The first dimension is the minimum required width of the turn lane while the second dimension applies to the raised median width constructed between intersections:
   a) Intersection turn lane pocket width is 11-feet while the median end cap width is 5-feet in width.
2. See: Table "E" for grade exceptions in steep terrain areas.
3. Alleys: Not required in Industrial Zones.
4. Expressways and Arterials that are Oregon Department of Transportation (ODOT) facilities shall meet ODOT design standards.

2. Pavement Widths. The required pavement width shall be determined based upon the factors listed below.

   a. Street classification in the Transportation System Plan;
   b. Anticipated traffic volume for the City's planning horizon year;
   c. On-street parking needs;
   d. Sidewalk and bikeway requirements based on anticipated level of use;
   e. Requirements for placement of utilities;
   f. Street lighting;
   g. Minimizing drainage, slope, and sensitive lands impacts, as identified by the General Plan;
   h. Street tree location, as provided for in Chapter 3.2;
   i. Protection of significant vegetation, as provided for in Chapter 3.2;
   j. Safety and comfort for motorists, bicyclists, and pedestrians;
   k. Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided;
   l. Access needs for emergency vehicles; and
   m. Consistent extension of existing street section.

3. Future Street Widths and Special Building Lines. To ensure that adequate transportation corridors will be preserved for the future, a special setback of 50 feet from the centerline shall be applied to City streets with a functional classification of Expressway, Primary Arterial, Major Arterial, and Minor Arterial. Collector streets shall have a special setback of 40-feet from the centerline for all City streets with a functional classification of Collector. The special setback shall be measured at a right angle to the street centerline with the required setback of the underlying zone added to the special setback distance.

4. Exceptions to minimum rights of way standards.
   a. Where opposite sides of the street are designated on the General Plan with different land use zones, the zone with the greater requirement for Right of Way dedication and pavement width will govern both sides of the street.

   b. Where the PF, Public Facilities zone exists, the street improvement standard for the abutting zoning shall apply.

Table D: Improvement Standards for Private Streets

Street Classification	Minimum Roadway Dedication	Pavement width	Maximum grade	Direct site access	Bike Lanes	Sidewalks
Local Residential Streets	Greater than or equal to street improvement width including sidewalks.	24'/28'/32'	10%	Yes	No	5' both sides
"T" Courts Less than or equal to 150 feet long	40'	24'	12%	Yes	No	No
Local Commercial Streets	Greater than or equal to street improvement width, including sidewalks.	36'	10%	Yes	No	5' both sides

Notes:
1. Drainage must be retained on site and not drain to public right-of-way.
2. Minimum roadway dedication (private property) with public property access dedicated for specific use for vehicle and pedestrian circulation.
3. Private Streets shall meet Local Street Standards for dedicated Public Roadways (Tables A through C) except as modified by Table D.

Table E: Improvement Standards for Dedicated Public Roadways on Hillsides

Street Classification	Minimum Right of Way	Minimum Pavement Width	Max. Grade	Sidewalks Both Sides Curb Tight	Bike Lanes
Minor Arterial (All Zones)	100'	36'	8%	6'	Yes
Major Collector (All Zones	80'	36'	8%	6'	Yes
Local: RM or RH Parking Both Sides	60'	36'	10%	6'	No
Local: RS	60'	24'/28'/32'(3)	10%	5'	No
Local Cul-De-Sac	60'	24'/28'/32'(3)	10%	5'	No
Alley	20'	20'	10%	None	No

Notes:
1. Hillside street standards apply to those portions of streets constructed on existing slopes exceeding 15%.
2. Planter strips are not required on those portions of the street that qualify for Hillside Standards.
3. Local Streets:
   a. 24 foot wide street – No parking allowed on either side of the street.
   b. 28 foot wide street – Parking allowed on one side in alternating parking bays (Parking bays shall alternate from side to side of the street to provide parking from both directions, and shall be 8-feet wide and meet City of Bend Standards and Specifications)
   c. 32 foot wide street – Parking allowed both sides in UAR, RL, RS, and RM-10 zones

d. 36 foot wide street – Parking allowed both sides in RM and RH zones
e. Special Street widths (see Section 3.4.200 F (3))

G. Traffic Controls

1. Traffic signals/roundabouts shall be required and installed in accordance with Chapter 4.7, Traffic Impact Analysis, with development when traffic control warrants are met, in conformance with the Highway Capacity Manual and Manual of Uniform Traffic Control Devices. Traffic signal/roundabout design shall be approved by City Engineer. The developer's financial responsibility and the timing of improvements shall be included as a condition of development approval.

2. Traffic controls on roads under State jurisdiction shall be determined by the Oregon Department of Transportation.

H. Medians. The use of landscaped medians improve community appearance, helps maintain system mobility and reduces the effects of wide street widths to all modes of travel. Medians will be landscaped with water efficient plant materials unless otherwise indicated below.

1. At intersections where left turn pockets are constructed, the 16-foot wide median will transition to an 11-foot wide left turn lane with a five-foot pedestrian refuge median separating the left turn lane from oncoming traffic. Intersections and access must comply with Chapter 3.1, Access, Circulation and Lot Design.

2. A lesser median standard may be approved by the City Engineer under the following conditions:
   a. A 12-foot landscape median may be approved if pedestrian refuges are not required because adequately spaced offset intersections safely accommodate pedestrian crossings at the 12-foot median opposite a 12 foot turn pocket.
   b. A 6-foot landscaped median may be approved where the 20-year projected average daily traffic (ADT) volumes are less than 5000 and where pedestrian refuge is required.
   c. Collector streets with no medians may be approved if 20-year projected ADT volumes are less than 5000 and no pedestrian crossing safety issues are identified.

3. In Commercial and Industrial zones, medians may be approved as painted islands or two-way left turn lanes when all of the following conditions exist.
   a. Pavement width is 56-feet or less.
   b. Significant truck turning activity is anticipated and demonstrated.
   c. No alternate access route for trucks is available.
   d. Public safety will not be compromised.

4. Medians on roads under State jurisdiction shall be determined by the Oregon Department of Transportation.

I. Future Street Plan and Extension of Streets.

1. When a street plan has been developed and adopted by City Council along with an area plan, such as a Refinement Plan, that street plan shall guide the location and spacing of future streets pursuant to City of Bend Standards and Specifications.

2. When no adopted street plan exists for the site, a future street plan shall be filed by the applicant in conjunction with an application for a subdivision, in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other parcels within not less than 400 feet of the site boundaries, and other developed streets or public rights-of-way or natural barriers surrounding and adjacent to the proposed land division. The street plan is not binding; rather it is intended to show potential future street extensions with future development.

3. Streets shall be extended to the boundary lines of the parcel or tract to be developed, when the Review Authority determines that the extension is necessary to give street access to, or permit a satisfactory future division of, adjoining land. The point where the streets temporarily end shall conform to a-c, below:

   a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs, since they are intended to continue as through streets when the adjoining property is developed.

   b. A City approved barricade shall be constructed at the end of the street by the subdivider and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The Review Authority may also require signs that indicate the location of a future road connection.

   c. Temporary turnarounds (e.g., hammerhead or bulb-shaped configuration) shall be constructed for stub streets over 150 feet in length.

4. Construction of partial width streets shall not be permitted, except as approved by the City Engineer. A residential partial street improvement may be approved only at the outer boundaries of a subdivision where the street is required by other land use requirement and it is likely that adjacent underdeveloped property of residential zoning will complete the street construction. The following limitations shall apply:

   a. Partial street improvements are only allowed where the final street design is 32 feet or wider, parking both sides.

   b. Partial street improvements are not allowed where the property line is the UGB or City Limits.

   c. "No Parking" signs meeting MUTCD standards shall be installed on both sides of the street and removed only when the roadway is completed to 32 foot width or wider.

J. Street Alignment and Connections.

1. Staggering of streets making "T" intersections at collectors and arterials shall be located to conform with the spacing standards contained in the Bend Urban Area Transportation System Plan and Chapter 3.1, Access, Circulation and Lot Design.

2. Spacing between local / local street intersections shall conform to the spacing standards contained in the City's Standards and Specifications document and Chapter 3.1, Access, Circulation and Lot Design. This standard applies to four-way and three-way (off-set) intersections. Offset local street alignments shall be at least 125 feet distance between the center line of the streets.

3. All local and collector streets that abut a development site shall be extended within the site to provide through circulation, unless prevented by environmental or topographical constraints,

existing development patterns or compliance with other standards in this code. This exception applies only when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the environmental or topographic constraint precludes a street connection.

4. Proposed streets or street extensions shall be located to provide access to existing or planned commercial services and other neighborhood facilities, such as schools, shopping areas and parks.

5. In order to promote efficient vehicular and pedestrian circulation throughout the City, the design of subdivisions and alignment of new streets shall conform to the standards in Chapter 3.1, Access, Circulation and Lot Design.

K. Sidewalks, Planter Strips, Bicycle Lanes. Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the applicable provisions of the Bend Urban Area Transportation System Plan; the General Plan, City of Bend Standards and Specifications and the following standards:

1. The planter strip distance is measured from the face of the curb to the inside edge of the sidewalk.

2. Sidewalks shall be separated from the street by a planter strip and placed at the property line, where practicable, or as otherwise directed by the City Engineer.

3. In areas with high pedestrian volumes, the City Engineer may approve a minimum 10 foot wide sidewalk, curb tight, with street trees in tree wells and / or landscape planters.

4. Bicycle lanes shall be constructed on all collector and arterial streets unless otherwise designated.

5. Sidewalks and planter strips are not required on T-courts.

6. In no instance shall the planter strip be wider than 7-feet at the intersection. This may require the sidewalk to taper from the property line alignment to within 7-feet of the curb.

7. Where practical, sidewalks shall be allowed to meander around existing trees in conformance with the requirements of the Americans with Disabilities Act..

L. Intersection Angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle. In no case shall the centerline angle be less than 80°. In addition, the following standards shall apply:

1. Street design shall provide a minimum of 50 feet of centerline tangent past the intersecting right-of-way unless a lesser distance is approved by the City Engineer.

2. Intersections that are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle.

3. Right-of-way lines at intersections with arterial streets shall have a corner radius of not less than 30 feet.

M. Existing Rights-of-Way. Whenever existing rights-of-way adjacent to or within a tract are of less than standard width, additional rights-of-way shall be provided at the time of subdivision or site development, in conformance with Tables A through E in Section 3.4.200, Transportation Improvement Standards, above.

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

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

2. The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.

3. Connecting pedestrian and bicycle access corridors. Where appropriate at cul-de-sacs, or along blocks more than 600 feet in length, pedestrian and bicycle access corridors shall be provided to minimize travel distance between subdivisions, parks, schools, primary trails, and collector or arterial streets. The Review Authority may determine based on evidence in the record that construction of a separate access corridor is inappropriate or impracticable. Such evidence may include but is not limited to:

   a. The nature of abutting existing development makes construction of an access corridor impractical.
   b. The access corridor would cross a natural area with significant natural habitat and construction would be incompatible with protection of natural values.
   c. The access corridor would cross topography where slopes exceed 30% or where path grade would exceed 18% slope.

O. Grades and Curves. Grades shall not exceed those shown in Tables A through E in Chapter 3.4.200, Transportation Improvement Standards, unless approved through a Variance in accordance with Chapter 5.1.

1. Centerline curve radii and vertical curves shall conform to the American Association of State Highway and Transportation Officials (AASHTO) design criteria.

2. At the intersections of Arterial and/or Collector streets, the approach grade shall average no more than +/- 4% for 250 feet from the edge of the intersecting roadway at full improvement. Local streets intersecting Arterials or Collectors shall provide a minimum of 50 feet of approach grade at no more than an average of +/- 4%.

3. Existing conditions may warrant additional design criteria. All streets and intersection designs shall be subject to the approval of the City Engineer.

4. Lesser grades may be required at intersections as per city specifications. Grades in excess of 10% are subject to Fire Department approval.

P. Curbs, Curb Cuts, Ramps, and Driveway Approaches. Concrete curbs, curb cuts, curb ramps, bicycle ramps and driveway approaches shall be constructed in accordance with Chapter 3.1,

Access, Circulation and Lot Design, City of Bend Standards and Specifications and the following standards:

1. Curb exposure shall be per City Standards and Specifications.

2. There shall be no curbs on alleys unless otherwise approved by the City Engineer.

3. Curb extensions at local residential street intersections are optional. If provided, the minimum width between the curb extensions shall be 24-feet. Curb extensions shall not be used on streets with bike lanes.

Q. Street Adjacent to Railroad Right-of-Way. Wherever the proposed development contains or is adjacent to a railroad right-of-way, a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land shall be created. New railroad crossings and modifications to existing crossings are subject to review and approval by the Oregon Department of Transportation and the rail service provider.

R. Development Adjoining Arterial Streets. Where a development adjoins or is crossed by an existing or proposed arterial street, the development design shall provide access to/from the arterial consistent with Chapter 3.1, Access, Circulation and Lot Design and City of Bend Standards and Specifications.

S. Alleys, Public or Private. Alleys shall conform to the standards in Tables A through E in Section 3.4.200, Transportation Improvement Standards. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley /alley intersections shall have a radius of not less than 12 feet, except where fire department access is required, the inside radius shall not be less than 30 feet. Right of way dedication for public alleys, or roadway dedication for private alleys will be increased to match the pavement width.

T. Private Streets. Private streets shall connect with public streets to complete the City's transportation system grid where practical.

U. Street Names. All street names shall be approved by Review Authority. No street name shall be used that will duplicate or be confused with the names of existing streets in Deschutes County, except for extensions of existing streets. Street names, signs and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers and shall comply with City of Bend Standards and Specifications.

V. Survey Monuments. Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments shall be re-established and protected.

W. Street Signs. The City, county or state with jurisdiction shall install all signs for traffic control. The cost of signs required for new development, including stop signs and any other roadway signs, shall be the responsibility of the developers and shall be installed as part of the street system developed and approved through the land use process. Street name signs shall be installed by developers at all street intersections per City of Bend Standards and Specifications.

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

3.4.300 Public Use Areas

Public open space and parks contribute to the livability of a growing community. They provide space for outdoor recreation and habitat for urban wildlife. These urban spaces are maintained and managed by the Bend Metro Park and Recreation District (BMPRD). Future public use areas are evaluated through the City's land use application process.

A. Neighborhood Parks. The following standards will be used to evaluate a proposed subdivision to determine if the property includes an area that is suitable for a neighborhood park. Upon meeting these standards, the developer shall enter into negotiations with the Bend Metro Park and Recreation District regarding district purchase of land within the property proposed for subdivision for development of a neighborhood park.

1. The subject property is located within a service area identified on the Neighborhood Parks Plan Map adopted by the Bend Metro Park and Recreation District as needing neighborhood parks.

2. The property proposed for subdivision is 10 acres or larger in area.

3. The Bend Metro Park and Recreation District has indicated that the subject property contains a sufficient area that is suitable for neighborhood park development based on the Bend Metro Park and Recreation District Neighborhood Park Classification and Development Standards.

B. Dedication Requirements.

1. Where a proposed park, playground or other public use shown in a plan adopted by the Bend Metro Parks and Recreation District is located in whole or in part in a proposed subdivision, the City may require the dedication or reservation of this area on the final plat for the subdivision.

2. If determined by the City Council to be in the public interest in accordance with adopted General Plan policies, and where an adopted plan of the City does not indicate proposed public use areas, the City may require the dedication or reservation of areas within the subdivision of a character, extent and location suitable for the development of parks and other public uses.

3. All required dedications of public use areas shall conform to Subsection 3.4.100.E, Conditions of Development Approval.

C. Acquisition by Public Agency. If the developer is required to reserve land area for a park, playground, or other public use, the land shall be transferred by deed to the appropriate public agency within 6 months following final plat approval, at a price agreed upon prior to approval of the plat, or the reservation shall be released to the property owner.

D. Additional Considerations for Future Park Development.

1. All lots or parcels that are developed with residential structures shall pay an applicable system development charge for park development as provided for under Bend Code Sections 1.900-923 and ORS 223.297-314. The amount of the system development charge shall be pursuant to a Bend Metro Parks and Recreation District Resolution. The system development charge shall be payable at the time of issuance of the building permit.

2. As a condition of approval, the land owner of a proposed subdivision or partition of land lying within the Bend Urban Growth Boundary, but outside the boundaries of the Bend Metro Park

and Recreation District, shall be required to sign an annexation agreement with the Bend Metro Park and Recreation District.

3.4.400 Sanitary Sewer and Water Service Improvements

A. Sewers and Water Mains Required. Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's construction specifications as described in the City of Bend Standards and Specifications document and the applicable General Plan policies.

B. Sewer and Water Plan Approval. Construction of sewer and water improvements shall not commence until the City Engineer has approved all sanitary sewer and water plans in conformance with City of Bend Standards and Specifications.

C. Master Planned Improvements. Proposed sewer and water systems shall be sized to accommodate additional development within the area as projected by the Water and Sewer Master Plan. The developer may be entitled to system development charge credits and reimbursement for the Master Planned improvements.

D. Inadequate Capacity. Development may be restricted by the City where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and which, if not rectified, will result in a threat to public health or safety, or surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sanitary sewer treatment systems. Any such restrictions shall conform to the criteria and procedures contained in ORS 197.505.

3.4.500 Storm Drainage Improvements.

A. Storm Drainage Improvements Required. Storm Drainage facilities shall be depicted on City approved engineered construction drawings and installed to serve each new development in accordance with applicable City construction specifications as described in the City of Bend Standards and Specifications and the Grading/Clearing Ordinance NS-1879.

B. Accommodation of Upstream Drainage. Drainage facilities shall be designed and constructed to accommodate increased runoff so that discharge rates existing before the proposed development shall not be increased, and accelerated channel erosion will not occur as a result of the proposed land disturbance or development activity. Such facilities shall be subject to review and approval by the City Engineer.

C. Effect on Downstream Drainage. Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for management of additional runoff caused by the development in accordance with City of Bend Standards and Specifications. Drainage shall not be directed to an existing watercourse, channel, stream or canal. Storm drainage facilities shall comply with applicable state and federal regulatory requirements.

D. Easements for Existing Watercourses. Where an existing watercourse traverses a development, such as a natural watercourse, drainage way, channel or stream, or any other existing drainage facility including but not limited to irrigation canals, laterals and associated ditches, there shall be provided and recorded an easement conforming substantially with the lines of such Existing Watercourses and such further width as will be adequate for conveyance and maintenance, as determined by the City Engineer.

E. Easements for Developed Drainage Facilities. Where new drainage facilities are provided that include elements located outside the dedicated public right-of-way, such facilities shall be located within an area provided for in a recorded easement. The easement shall be adequate for conveyance and maintenance as determined by the City Engineer.

3.4.600 Utilities

A. Underground Utilities. All utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities, shall be placed underground, except for surface mounted transformers; surface mounted connection boxes and meter cabinets; temporary utility service facilities during construction; and high capacity electric lines operating at 50,000 volts or above, which may be placed above ground.

The following additional standards apply to all development, in order to facilitate underground placement of utilities:

1. The developer shall make all necessary arrangements with the serving utility to provide the underground services. All above ground equipment shall not obstruct clear vision areas and safe intersection sight distance for vehicular traffic in conformance with Chapter 3.1, Access, Circulation and Lot Design.
2. The City reserves the right to approve the location of all surface mounted facilities.
3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets.
4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

B. Easements. Easements shall be provided and recorded for all underground utility facilities where required by the City.

3.4.700 Easements

A. Requirement. Easements for sewer facilities, storm drainage, water facilities, street facilities, electric lines or other public/private utilities shall be dedicated on a final plat, or provided for in the deed restrictions.

B. Provision. The developer or applicant shall make arrangements with the City, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development.

C. Standard Width. The City's standard width for exclusive public main line utility easements shall be 20 feet, unless otherwise specified by the utility company, applicable district, or City Engineer.

3.4.800 Construction Plan Approval and Assurances

A. Plan Approval and Permit. Public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements, shall not be undertaken except after the plans have been approved by the City and the developer has signed a Public Facilities Infrastructure Agreement (PFIA), paid permit fees, and received a permit. The amount of the permit fee shall be set by City Council with the annual adoption of a fees resolution.

B. Performance Guarantee. The City may require the developer or subdivider to provide bonding or other performance guarantees to ensure completion of required public improvements in accordance with the provision of Section 4.2.400, Bonding and Assurances and Section 4.3.400, Submission of Final Plat.

C. Work within the Public Rights of Way. The City shall approve all contractors and their subcontractors who work in the City rights-of-way.

3.4.900 Installation

A. Conformance Required. Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this Chapter, approved construction plans, and to improvement standards and specifications adopted by the City, referenced within the City of Bend Standards and Specifications.

B. Commencement. Work shall not begin until the City has reviewed and approved the construction plans and notified the contractor of the approval.

C. Resumption. If work is discontinued for more than one month, it shall not be resumed until the City is notified in writing.

D. City Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications requested by the developer shall be subject to land use review under Chapter 4.1, Limitations on Approval. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.

E. Engineer's Certification. All public improvements shall be designed and certified by a civil engineer licensed and registered in Oregon. The civil engineer's professional stamp and signature shall provide written certification to the City that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade. Engineer's certification is required prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance.

Chapter 3.5 Other Design Standards

Sections:

3.5.100 Density Transfers
3.5.200 Outdoor Lighting Standards
3.5.300 Special Setbacks
3.5.400 Solar Setback Standards
3.5.500 Solar Access Permits

3.5.100 Density Transfers

A. Purpose. The purpose of this section is to implement the comprehensive plan and encourage the protection of sensitive lands through the allowance of housing density transfers. "Density transfers" are the authorized transfer of allowed housing units (per Chapter 2) from one portion of a property to another portion of the same property, or from one property to another contiguous property.

B. Determination of Allowable Housing Units. The number of allowed housing units on a property is based on the surface area of the property (in acres) times the maximum allowed housing density in Chapter 2.

C. Density Transfer Authorized. Allowed housing units may be transferred from one portion of a property to another portion of the same property, or from one property to another contiguous property. The density transfer shall protect sensitive land areas as listed below either by dedication to the public or a land trust, or by a non-revocable conservation easement. Sensitive land areas include:

a. Land within the 100-year floodplain;
b. Land or slopes exceeding 25 percent;
c. Drainage ways;
d. Wetlands.
e. Identified Areas of Special Interest
f. Goal 5 Resources
g. A stand or grove of significant trees as defined in Section 3.2

A density transfer shall not be approved unless it meets one or both of the criteria below and it also conforms to Subsections D and E.

1. The applicant shall dedicate land to the public in a size, configuration and condition desirable for public park or recreational purposes; or

2. The density transfer is used to develop a mix of single family and multi-family housing on the same property or development site.

D. Prohibited Density Transfers. Density shall not be transferred from land proposed for street right-of-way, stormwater detention facilities, private streets, and similar areas that the Planning Director determines do not provide open space or recreational values to the public.

E. Density Transfer Rules. All density transfers shall conform to all of the following rules:

1. Allowed housing units shall be transferred only to developable lands ("receiving areas"). The number of allowed housing units shall be reduced on properties from which density is transferred ("sending areas") based on the number of housing units transferred. The new number of housing units allowed on the sending area shall be recorded on a deed for the property that runs with the land. The deed shall state that the number of allowed housing units is subject to review and approval by the City, in accordance with current zoning and development codes.

2. The number of units that can be transferred is limited to the number of units that would have been allowed on the unbuildable area if not for the regulations in this Code.

3. The total number of housing units per property or development site shall not exceed 100 percent of the maximum number of units per gross acre permitted under the applicable comprehensive plan designation; except as otherwise permitted through the Master Planned Development process in Chapter 4.5.

4. All density transfer development proposals shall comply with the development standards of the applicable land use district, except as otherwise allowed by the Master Planned Development process in Chapter 4.5.

5. Public notice of the proposed density transfer is provided to all neighboring properties within 250 feet of the receiving property.

3.5.200 Outdoor Lighting Standards

A. Intent. It is the intent of this ordinance to allow citizens, businesses, and public agencies in Bend to illuminate residential, commercial, industrial, public areas, roadways and walkways with lighting fixtures appropriate to the need while using such illumination in a way that preserves urban vistas and is directed onto and is confined to the property from which it is generated.

B. Outdoor Lighting Fixtures Subject to this Ordinance. Light fixtures subject to the standards in subsection 3.5(C) of this ordinance are outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement. Such devices shall include, but are not limited to, lights for:

1. Buildings and structures;
2. Recreational areas;
3. Parking lot and maneuvering areas;
4. Landscape areas;
5. Streets and street signs;
6. Product display area;
7. Building overhangs and open canopies;
8. Holiday celebrations;
9. Construction Lights;

C. Standards for installation and operation of outdoor lighting. Except as exempt by subsection (D) of this ordinance, new outdoor lighting fixtures installed after February 18, 2004 shall be subject to the standards below. No provision of this ordinance is intended to pre-empt the City of Bend Sign Code or applicable state codes.

1. All outdoor lighting fixtures subject to this Ordinance shall be designed as a full cut-off fixture or have a shielding method to direct light emissions down onto the site and not shine direct illumination or glare onto adjacent properties.

2. All lighting for roadways, roadway signs, intersections, and pedestrian ways shall be designed or have an opaque shielding method to direct light emissions downward and below the horizontal plane of the fixture in the permanently installed position.

3. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.

4. The operation of searchlights for advertising or promotional purposes is prohibited.

5. Outdoor lights at designated Historic Sites or within Historic Neighborhoods that are consistent with the architectural style or era of the building or property shall be consistent with the provisions of this ordinance.

6. Businesses and institutions with outdoor lighting, such as parking lot lights, building lights, landscaping lights and other similar exterior lighting features, are encouraged to extinguish such lights at the end of the working day, except for lights necessary for personal and building safety.

7. All outdoor lighting used for public or private sports stadiums, sports areas, recreation facilities, outdoor performance areas and other similar outdoor facilities shall be extinguished within an hour after conclusion of the final event of the day, except as exempted herein.

8. Externally affixed neon lighting is prohibited except in the following manner: As a trim element that surrounds windows, doors, or building edges; when located on building facades that face street frontages or internal driveways within commercial shopping complexes; such lighting shall not be located more than 15 feet from finished grade and shall not be used to define a building roof-line; and, such lighting shall not include flashing, intermittent or rotating lights. Notwithstanding the provisions of this section, all neon lighting associated with signs shall be in accordance with the provisions of the City of Bend Sign Code.

D. Exemptions. The following light fixtures or uses are exempt from complying with the outdoor lighting standards of this ordinance. These exemptions shall not prevent the city from adoption of later ordinances that may address the retrofitting or removal of outdoor lighting fixtures.

1. All outdoor light fixtures lawfully installed and operating prior to the effective date of this ordinance, and not prohibited by this ordinance. This exemption shall not apply if an existing light fixture is replaced. The addition of supplementary shielding and/or re-aiming of existing fixtures that shine direct illumination or visible glare beyond the property line where the fixture is installed are encouraged to help improve safety and quality of life in Bend.

2. Residential decorative lighting and low wattage lighting used for yards and driveways that do not shine glare, emit direct illumination, or cast a shadow onto adjacent property.

3. Commercial and industrial low wattage lighting used to highlight driveways and landscaping, or applied to a building providing they are properly aimed and shielded to not shine visible glare into the public right of way or onto adjacent or nearby properties.

4. Up-lighting intended to highlight part of a building or landscaping provided that the light distribution from the fixture is effectively contained by an overhanging architectural element or

landscaping element and do not shine beyond the intended target including into the night sky. Such containment elements may include but are not limited to awnings, dense shrubs or year-round dense evergreen tree canopies which will contain or limit illumination of the sky.

5. Correctional Institutions. Exterior lighting for County correctional institutions shall be shielded high-intensity discharge lighting except at the immediate entry area, in which case other lighting may be used that conforms to the intent of this ordinance.

6. Low wattage lights used for holiday decorations for no more than 60 days are exempt from the requirements of this ordinance

7. Carnivals and Fairs that require the use of temporary outdoor lighting fixtures are exempt except that permanent installations at dedicated sites must conform to the requirements of this ordinance.

8. U.S. flags displayed by top mounted lighting only. The illumination of all flags other than the U.S. flag shall be extinguished at the end of public business hours or by 10:00 PM which ever is later.

9. Temporary lighting for television or movie film productions, roadway or utility construction or building construction not to exceed 60 days in any one vicinity. Permanent installations at dedicated sites must conform to the requirements of this ordinance.

10. The operation of outdoor lighting used for public or private sports stadiums, sports areas, recreation facilities, outdoor performance areas and other similar outdoor facilities later than the conclusion of the final event of the day when maintenance such as field grooming, irrigation, cleaning and other similar maintenance activities are required in order to have the facility ready for operation the following morning. Lights during after-events maintenance shall be kept at the minimum level practicable.

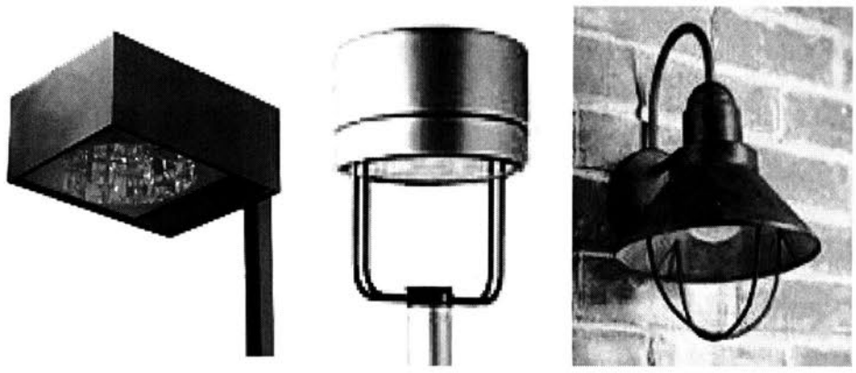
11. All outdoor light fixtures used to highlight art features within a traffic circle or round-about providing they are properly aimed and shielded to not shine visible glare into the public right of way or onto adjacent or nearby properties.

E. Violations and penalties. For any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve or convert any lighting fixture, or cause the same to be done, contrary to or in violation of any provision of this ordinance shall constitute a violation and is subject to enforcement under the provisions of Chapter 3.1, Enforcement of this Ordinance. Each day a lighting fixture is in violation of this ordinance shall constitute a separate violation.

F. Definitions. The following definitions apply to terms in this ordinance.

1. End of business hours or End of business. "End of business hours or end of business" means (a) the end of normal or posted business hours when a business or institution is no longer open to serve customers or clients, and (b) the end of a shift or normal work hours when the majority of employees are gone from the business or institution.

2. Full Cut-off. "Full Cut-off" means a light fixture designed and constructed so that light is directed down and no light is projected above the horizontal plane. [See illustrations below]



3. Glare. "Glare" means stray, unshielded light striking the eye that may result in (a) nuisance or annoyance such as light shining into a window; (b) discomfort causing squinting of the eyes; (c) disabling vision by reducing the ability of the eyes to see into shadows; or (d) reduction of visual performance.

4. High intensity discharge lighting. "High intensity discharge lamp lighting" means high-pressure sodium, mercury vapor, metal halide, low-pressure sodium, induction, sulfur, xenon, and other similar lamps.

5. Installed. "Installed" means initial installation of outdoor lighting fixtures, poles, electrical wiring, and related mounting equipment following the effective date of this ordinance. Projects with approved construction plans prior to effective date of this ordinance are excluded from compliance with the ordinance in the initial installation only.

6. Low Wattage lights. "Low Wattage Lights" means 12-volt direct current lights or individual lamps less than 0.25 watts each strung together within a translucent or transparent plastic cover.

7. Replacement. "Replacement" means the installation of a new lighting fixture in place of an existing fixture, and/or the installation of a new lighting housing or head to an existing pole, bracket or wall, tree, or other structure. Replacement does not mean the changing of light bulbs or lamps in a fixture for the same or lower wattage bulbs.

8. Safety / security. "Safety" means (a) sufficient lighting at building entrances, exits, walkways and parking areas to allow customers and employees to see any physical barriers and to be seen at all times as they access to vehicles and sidewalks, and (b) the use of full cut-off light fixtures above doors, at fire service stanchions, loading areas, and similar building access points.

9. Shielding. "Shielding" means an externally applied device such as a shroud or hood of metal, wood, opaque plastic or opaque painted glass so that light emitted by the fixture is directed downward below the horizontal plane onto the site and does not shine direct illumination or glare onto adjacent or nearby property.

10. Unshielded. "Unshielded" means light fixtures lacking any means to restrict the emitted light to below the horizontal plane or to shine or glare onto adjacent or nearby property.

11. Up-lighting. "Up lighting" means a shielded light fixture usually installed on the ground or permanently mounted to an architectural element, tree, or other structure that has the light from the fixture directed in a contained distribution pattern above the horizontal plane to illuminate

an adjacent or nearby building element, shrub, tree or other landscaping.

3.5.300 Special Setbacks

A. Purpose. The purpose of this section is to ensure that adequate right of way will be available for the appropriate street improvements as the city grows and that there will be no conflicts with the built environment.

B. Applicability. The following special setback standards shall be applied to any lot or parcel that abuts an arterial, collector or local street, in addition to the minimum setback required by the underlying zoning district.

Special Setback Standards

Street Classification	Additional Setback from Centerline of Street
Local Street	30 feet
Collector	40 feet
Arterial (Principal, Major, Minor)	50 feet

NOTE: The additional setback line shall be an assumed property boundary for the purpose of sidewalk construction.

3.5.400 Solar Setbacks

A. Purpose. The purpose of this section is to provide as much solar access as feasible during the winter solar heating hours to existing or potential buildings by requiring all new structures to be constructed as far south on their lots as is feasible and necessary. To achieve compliance, this section requires setbacks based on the shadow that will be produced by a structure on the Winter Solstice, the shortest day of the year when the sun is at its lowest angle. The solar heating hours are a four hour period centered around the solar zenith. Since the sun will be at its lowest angle at either end of the solar heating period, the shadows produced two hours before and two hours after the solar zenith represent the worst case scenario. At these two times on the Winter Solstice, the sun is only 17 degrees above the horizon. The shadow lengths at these two times of day can be calculated using the solar calculator found in Table 3.5.400 at the end of this Section.

1. The shadow cast by an object two hours before and after the solar zenith on December 21 will be 29 degrees west of true north in the morning and 29 degrees east of true north in the afternoon. When measuring solar setbacks, the shadow length will be measured from the highest shade producing point of a structure along the 29 degree angles rather than due north. When measuring the setback, the two setback distances shall be averaged if they are different due to slopes or an angled lot line. A template for measuring these setbacks is attached.

2. The solar setback does not attempt to keep the shadow of a building from crossing a property line. Instead, it attempts to limit the height of the shadow at the north property line of the lot on which a building is located. The "south roof" protection standard limits the height of the shadow to 14 feet at the property line.

3. Solar setbacks shall only be measured to a north lot line. North lot lines are those on the northern edge of a lot with an angle of more than 45 degrees east or west of true north. Depending upon its configuration, it is possible for a lot to have more than one north lot line, or none. When a north lot line abuts a street or common area, the setback will be measured to the next lot line across the street or common area.

B. Standards. Unless otherwise exempted, every new structure or addition to an existing structure shall meet the following standards except as provided in Section C below:

1. All new structures or additions to existing structures shall meet the standard for south roof protection set forth in Table 3.5.400 .

C. Exceptions. The solar setback shall not apply if the applicant establishes:

1. That the structure cannot be located on the lot without violating the requirements contained in Table 3.5.400; and

2. That the structure is built with a highest shade producing point as far south as practicable; and

    a. That the structure is a single family residence with a highest shade producing point less than or equal to 20 feet high; or, if not a single family residence;
    b. That it is a permitted or conditional use for the lot with a highest shade producing point less than or equal to 20 feet high.

D. Exemptions. The governing body may exempt from the provisions of this section any area which it determines to be already substantially shaded due to heavy vegetation, steep north facing slopes, and any area or zone in which taller buildings are planned. As such, the following areas are hereby exempted from the standards of this section:

1. When there is already substantial shading due to existing vegetation. Substantial shading is defined in the code as a reduction of solar insolation of greater than 20%. There is no requirement that the existing vegetation has to be retained after development, only that it exists at the time of request for exemption. An applicant seeking an exemption under this provision shall provide a calculation and/or diagram illustrating that substantial shading as defined in the zoning code already occurs.

2. Steep north facing slopes are also grounds for an exemption. Slopes in any direction but south facing make solar setbacks nearly impossible to achieve. An exemption will be granted under this section for any slope in excess of 5% with an aspect that is up to 90 degrees east or west of true north.

3. It is likely that taller, multi-story buildings will be built on smaller single-family residential lots, in multi-family residential zones, and in zones which allow commercial, industrial, and similar uses as outright uses.

    a. Except as noted herein, in the CN, CC, CL, CG, and CB commercial zones, the IP, IL, and IG industrial zones, MR, ME, PO and PF zones, all lots will be exempt from solar setbacks, except when their north lot line abuts single-family residential-zoned property (RS, RL, SR 2½, UAR-10), where the south roof setback will be applied (except as otherwise exempted).

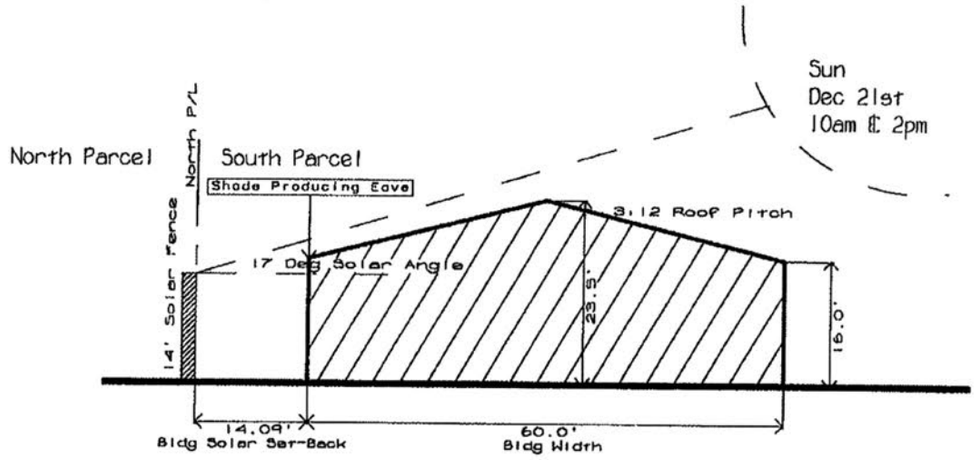
b. In the RM, RM-10, and RH zones, all lots will be exempted except where the north lot line abuts an RS, RL, SR 2½, or UAR-10 zone.
c. In RS, RL, SR 2½, and UAR-10 zones, the City will exempt all lots less than 8,000 square feet in area, or 80 feet or less in average width on the north/south axis.
d. A structure shall be exempted from the provisions of this section if the structure will shade only a protected area in which solar uses are not feasible because the protected area is already substantially shaded at the time a request for exemption is made and approved.

Table 3.5.400

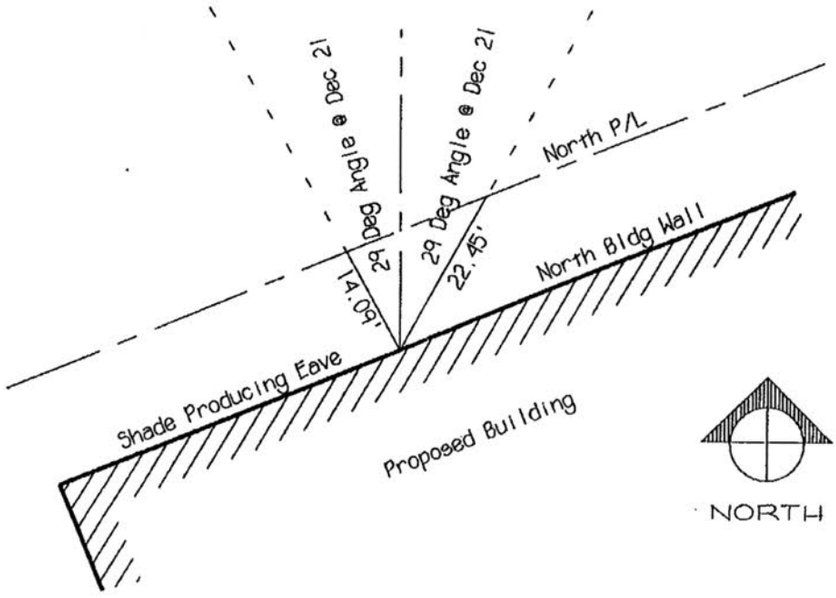
Estimated Solar Setbacks
for
South Roof Protection / 14-foot Fence (SR)

		Highest Shade Producing Point												
Roof Height		16'	18'	19'	20'	21'	22'	23'	24'	26'	27'	28'	29'	30'
North Facing Slope	15°	10.6	21.1		31.7		42.2		52.8	63.4		73.9		84.5
	10°	8.7	17.3		26.0		34.6		43.3	51.9		60.6		69.3
	5°	7.4	14.8		22.1		29.5		36.9	44.3		51.6		59.0
Level 0°		6.5	12.9	16.15	19.4	22.6	25.8	29.05	32.3	38.7	41.9	45.25	48.0	51.7
South Facing Slope	5°	5.8	11.5		17.3		23.1		28.8	34.6		40.4		46.1
	10°	5.2	10.4		15.7		20.9		26.1	31.3		36.6		41.8
	15°	4.8	9.6		14.4		19.1		23.9	28.7		33.5		38.3

These are solar setback lines calculated 29° east and west of north for a lot with no slope gradient of a slope gradient towards the north of south. Solar setbacks will vary if the property slopes in any direction. The building setback line, measured perpendicular from the north property line to the structure will normally be less than the solar setback distance indicated in the table above.



2-Solar Set-Back Section



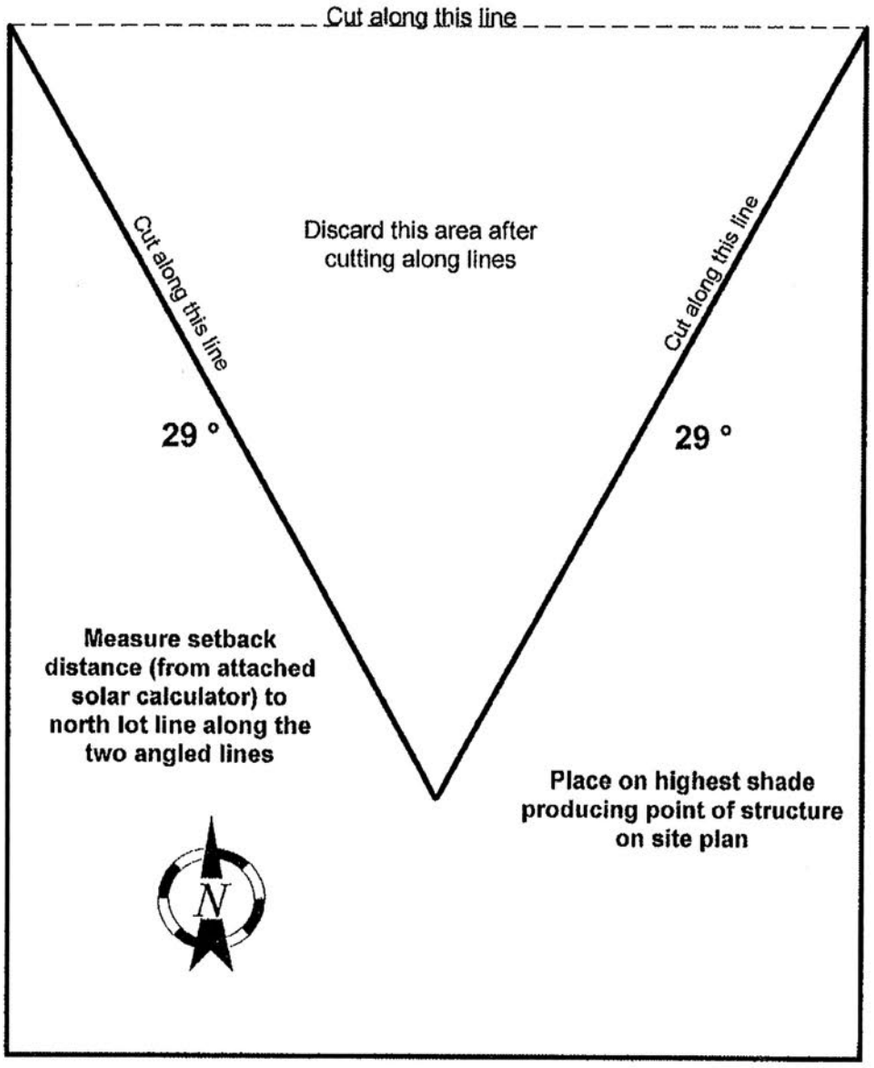
1-Solar Set-Back Plan

A

Solar Set-Back Plan & Sect

Scale 1" = 20'-0"

SOLAR SETBACK TEMPLATE



Typically, with a roof pitch of 4 in 12 or greater, the ridge line will be the highest shade producing point

3.5.500 Solar Access Permits

A. Purpose. The purpose of this section is to provide and preserve solar access to productive solar collectors by establishing limitations for growth of vegetation and building construction on certain lots in the vicinity of a productive solar collector.

B. Applicability. Any owner may submit an application for a solar access permit to provide solar access for a productive solar collector located on the owner's real property.

1. The application for a solar access permit shall be on forms prescribed by the City and shall contain at a minimum:

    a. A legal description of the applicant's lot; including proof of ownership;
    b. Documentation to show that the solar collector is or will be a productive solar collector within 6 months of the application date;
    c. Descriptive drawings of the solar collector showing dimensions and location;
    d. A sun chart and statement of the solar heating hours for which solar access is sought;
    e. A statement that there is no reasonable alternative location for the solar collector that would result in a lesser burden on a neighboring lot;
    f. A statement that trimming the vegetation on the applicant's lot will not permit an alternative location that would lessen the burden on a neighboring lot.
    g. A list of all lots that are within 150 feet to the south, southeast, and southwest of the solar collector, including for each such lot the legal description; the owner of record and address; the exempt vegetation located on the lot; and any existing non-exempt vegetation likely to encroach on the protected area.
    h. A statement that none of the lots impacted are located on a north facing slope with a grade that exceeds, on average 15%;

2. The applicant shall provide a plot plan drawn to scale showing the following information:

    a. The location of and delineating all exempt and non-exempt vegetation as shown on the sun chart photograph as well as any non-exempt vegetation not shown on the sun chart which may encroach on the protected area in the future;
    b. The exact site of the solar collector, it's height and orientation;
    c. An indication of true north;
    d. a survey of the lot

3. Approval criteria.

    a. The solar collector is or will be a productive solar collector.
    b. The protected area to be created by the solar access permit is reasonably located.
    c. The applicant requests solar heating hours no greater than two hours before and after the solar zenith from September 22 to March 21, and three hours before and after the solar zenith from March 22 to September 21.
    d. The solar access provided by the permit would not burden any lot with a north facing slope with an average grade of 15% or greater or which is more than 150 feet from the solar collector.

    An applicant shall be denied if the applicant could trim vegetation on the subject property to permit an alternate location that would be less burdensome upon a neighboring lot.

C. Solar Access Permit Issuance and Recordation.

1. The City shall issue and acknowledge a solar access permit creating the solar access requested in the application or as modified by the City upon approval.

2. The applicant shall record, with the Deschutes County Clerk, the solar access permit in the chain of title of the subject lot and each of the neighboring lots identified in the permit and provide proof of recordation.

3. The solar access permit shall be prescribed by the City and shall contain at a minimum:

    a. A legal description of the applicant's lot and each neighboring lot to be burdened by the solar access created by the solar access permit;
    b. A complete description of the solar access restrictions applicable to each neighboring lot, including the solar heating hours during which solar access is provided, and a sun chart showing the platted skyline, including vegetation and structures and a scaled drawing showing the size and location of the protected area and its orientation with respect to true south
    c. A reference to where the approved application may be obtained.

D. Obligation Created by Solar Access Permit. The owner of any lot burdened by a solar access permit shall trim any vegetation not exempted on a burdened lot that shades the protected area created by the solar access permit, provided that there is no vegetation on the lot benefited by the solar access permit that also shades the protected area. The cost of such trimming shall be borne by the owner of the benefited lot if the vegetation existed at the time of permit application as shown on the plot plan; and for all other vegetation equally by the owner of the burdened lot and the owner of the benefited lot, unless such owners agree otherwise. Before any trimming is required, the permit holder must certify that the solar collector is still productive.

E. Termination of Solar Access Permit.

1. The Community Development Director shall terminate the solar access permit with respect to all or part of the neighboring lots burdened by the solar access permit if a petition for termination is submitted by the permit holder or the successor of interest, or the solar collector is shown to be unproductive for a period of one year or more.

2. The permit holder shall record the termination of the solar access permit with the Deschutes County Clerk and provide proof of recordation to the City.

Chapter 3.6 Special Standards for Certain Uses

Sections:

3.6.100 Purpose
3.6.200 Residential Uses
3.6.300 Non-residential Uses
3.6.400 Temporary Uses

3.6.100 Purpose

This Chapter supplements the standards contained in this ordinance. It provides standards for certain land uses in order to control the size, scale and compatibility of those uses within all the zoning Districts:

3.6.200 Residential Uses

This section supplements the standards contained in Chapter 2.0 and provides standards for the following land uses in order to control the size, scale and compatibility of those uses within all the Residential Districts:

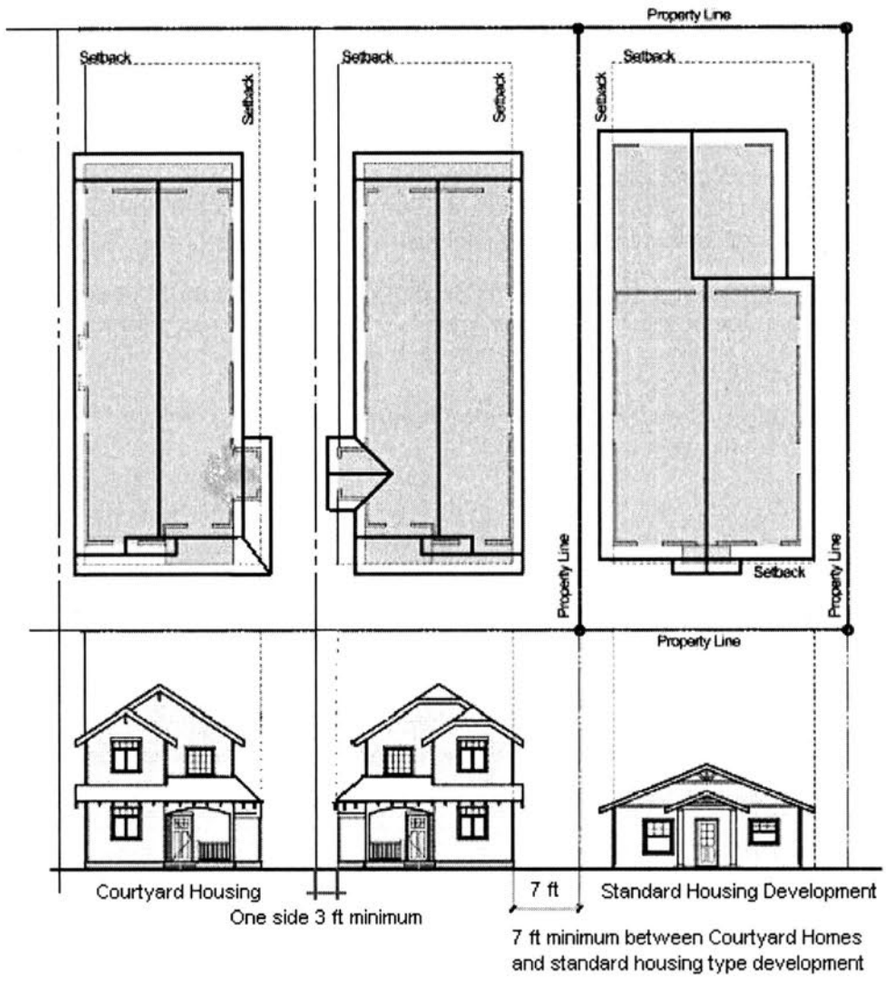
A. Courtyard Housing. Detached "zero lot line" houses on individual lots are subject to the same standards as single family detached housing, except that the 3 ft minimum side yard setback is required on one side of a typical lot. As shown in Figure 3.6.200.A, this type of housing is permitted to allow development on smaller (i.e., narrower) lots and still provide usable outdoor living area in side-oriented courtyards. The following standards are intended to promote compatibility and privacy between adjacent buildings and allow for building maintenance:

1. Setbacks Adjacent to Non-Zero Lot Line Development. When a zero lot line house shares a side property line with a non-zero lot line development (including vacant lots), the zero lot line building shall be setback from the common property line by a minimum of 7 feet;

2. Construction and Maintenance Easement. Prior to building permit approval, the applicant shall submit a copy of a recorded easement for every zero lot line house that guarantees rights for the purpose of construction and maintenance of structures and yards. The easement shall stipulate that no fence or other obstruction shall be placed in a manner that would prevent maintenance of structures on the subject lot;

3. Buffering. The building placement, landscaping, and/or design of windows shall provide a buffer for the occupants of abutting "zero lot line" lots. For example, this standard is met by placing ground-floor windows (along the zero setback) where views are directed into adjacent yards, or by directing views away from yards (e.g., bay window), or by using frosted glass or other window covering that obscures any view to the interior but allows light into the interior. This standards does not apply to adjoining non-zero lot line lots.

Figure 3.6.200.A - Courtyard Housing



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

1. Accessory Dwellings located in the SR 2 ½ , RL and RS zones on lots created prior to December 1998 shall require approval through a Conditional Use Permit.

2. International Residential Code (IRC). The structure complies with the International Residential Code;

3. Number of Units. A maximum of one (1) accessory dwelling unit is allowed per lot;

4. Floor Area. The maximum floor area of the accessory dwelling shall not exceed 600 square feet or 40 percent of the living space of the primary unit, whichever is smaller. All structures on the lot including the main house, garage and etc. must comply with Chapter 2.1.400 regarding Floor Area Ratio.

5. Building Height. The building height of detached accessory dwellings (i.e., separate cottages and dwellings over detached garages) shall not exceed 25 feet, and in no instance shall the accessory unit be taller than the primary structure. For the purpose of this code, an attached accessory dwelling shares a common wall of a living space.

6. Buffering. Where an accessory dwelling unit faces the living space of a dwelling on an adjoining lot, a visual buffer shall be provided using window design, a sight obscuring fence and/or vegetation.

7. Parking. One parking space shall be provided on site for the accessory dwelling in addition to the parking required for the main dwelling.

8. Design Review: An accessory dwelling is subject to the standards in Chapter 2.1.800 Architectural Design Standards to provide compatibility and protect the architectural character of older neighborhoods.

C. Affordable Housing Strategies. Through the adoption of two Resolutions by the City Council (Res. #2423, and Res. #2428), the City of Bend provides an incentive program to Developers to assist in the development of affordable housing. The City defines affordable housing as housing that is available for households making up to 100 percent of median income (gross), so that they are spending no more than 30 percent of their household income on housing related expenses (e.g., rent, mortgage, and essential utilities). Below are the adopted Developer incentives:

1. Expedited Review and Permitting Processing
2. Planning and Building Fee Exemptions up to $10,000 per project.
3. System Development Charge (SDC) Deferrals

Eligibility. Only those projects that are receiving city, state or federal affordable housing funding are eligible to receive developer incentives through the City of Bend's Affordable Housing Developer Incentive Program.

D. Single-family Attached Townhomes. Single-family attached housing (townhome units on individual lots) shall comply with the standards in subsections 1-4, below. The standards are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.

1. Building Mass Supplemental Standard. Within the RS and RM-10 District, the number and width of consecutively attached townhomes (i.e., with attached walls at property line) shall not exceed 4 units. Within the RM and RH Districts the number and width of consecutively attached townhome units shall not be restricted.

2. Alley Access Developments. Townhome developments and subdivisions (4 or more lots) shall receive vehicle access only from a rear alley, except when existing development patterns or topography make construction of an alley impractical (see #3 below for standards for street-access developments). Alley(s) shall be created at the time of subdivision approval, in

accordance with Chapter 3.1, Access, Circulation and Lot Design, Chapter 3.4, Public Improvement Standards, and Chapter 4.3, Land Divisions and Lot Line Adjustment Procedures. As necessary, the City shall require dedication of right-of-way or easements and construction of pathways between townhome lots (e.g., between building breaks) to implement the standards in Chapter 3.1.300, Pedestrian Access and Circulation.

3. Street Access Developments. Townhomes receiving access directly from a public or private street shall comply with all of the following standards, in order to minimize interruption of adjacent sidewalks by driveway entrances, slow traffic, improve appearance of the streets, and minimize paved surfaces for better storm water management.

   a. When garages or carports face the street, the garage or opening shall set back a minimum of 20 feet from the property line fronting the street.

   b. The maximum allowable apron and driveway width facing the street is 24 feet per dwelling unit. The maximum combined garage width per unit facing the street is 50 percent of the total building width.

   c. Two adjacent garages shall share one driveway when individual driveways would otherwise be separated by less than 20 feet (i.e., the width of one on-street parking space). When a driveway serves more than one lot, the developer shall record an access and maintenance easement/agreement to benefit each lot, prior to building permit issuance.

4. Areas Owned in Common. Areas shall be maintained by a homeowners association or other legal entity. A homeowners association may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the City prior to issuance of a building permit.

E. Manufactured Homes on Individual Lots. Manufactured homes are permitted on individual lots, subject to a building permit compliance with the following design standards, consistent with ORS 197.307(5). The following standards do not apply to units that existed on lots within the City prior to the effective date of this ordinance.

1. Floor Plan. The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 square feet;

2. Roof. The manufactured home shall have a pitched roof with a slope not less than three (3) feet in height for each 12 feet in width (14 degrees);

3. Residential Building Materials. The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered "superior" to metal siding and roofing);

4. Garages and Carports. The manufactured home shall have a garage or carport constructed of like materials;

5. Thermal Envelope. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code. Evidence demonstrating that the manufactured home meets "Super Good Cents" energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturer certification shall not be required;

6. Placement. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the foundation skirt;

7. Skirting. The foundation area of the manufactured home shall be fully skirted;

8. Historic Districts. The manufactured home shall not be located in a designated historic district.

F. Manufactured Home Subdivisions. Manufactured home subdivisions are reviewed as a Type II application for tentative plan approval. A manufactured home subdivision shall be subject to the provisions of Chapter 4.3, Land Divisions and Lot Line Adjustment Procedures in addition to the criteria below.

1. Lot size and dimension requirements. The minimum lot area and dimensions within a manufactured home subdivision shall be the same as that allowed within the underlying zone.

2. Permitted uses. Manufactured home subdivisions may contain manufactured homes and related accessory structures.

3. Setbacks. Setbacks for manufactured homes, modular homes, and accessory structures shall be the same as provided in the underlying zone.

G. Manufactured Home Parks. Manufactured home parks are reviewed as a Type II application for site plan review in conformance with ORS 446, the provisions of Chapter 3.0, Development Standards and the following criteria.

1. Minimum Area Required. All manufactured home parks shall consist of a minimum area of 5 acres.

2. Density. The maximum number of manufactured homes allowed within a manufactured home park shall not exceed 10 units per acre. The average area of a mobile home site shall not be less than 4,000 square feet excluding roadway, recreation areas and other accessory facilities. No manufactured home site shall be less than 2,000 square feet in area.

3. Access. Manufactured home park accesses shall be located on public streets improved to a minimum width of 36 feet and which are improved to a point intersecting a collector or arterial street.

4. Permitted uses. Manufactured home parks may contain manufactured homes and accessory structures permitted in this Chapter, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a manufactured home for the use of a caretaker or a manager responsible for maintaining or operating the property.

5. Minimum site requirements.

   a. Park Streets. The minimum surfaced width of the roadway within an accessway shall be 24 feet if there is no parking allowed and 30 feet if parking is allowed on both sides. The first 50 feet of the accessway measured from the public street shall be surfaced to a minimum width of 30 feet and shall be connected to the existing public street according to plans approved by the City.

b. Improvement Standards. The improvement of driveways, walkways, streets, drainage and other utilities shall conform to adopted State standards for such or shall conform to the City's standards specifications manual, whichever is more restrictive.

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

1. The side yard setbacks shall be as required in Chapter 2.1.300, Building Setbacks for the appropriate zoning district.

2. Front and rear yard setbacks shall be as required in Chapter 2.1.300, Building Setbacks for the appropriate zoning district.

3. There shall be a minimum of 15 percent of the site landscaped in conformance with Chapter 3.2. Existing natural landscaping can count as part of the landscape requirement if protected and preserved during construction.

4. Street trees shall be planted in conformance with Chapter 3.2.400.

5. The applicant shall provide lawn consistent with the following:
   - 1 & 2 bedroom units shall provide 200 square feet per unit
   - 3 bedroom units or larger shall provide 300 square feet of lawn per unit.
   - All lawn areas shall be irrigated with an underground irrigation system.

   Exception: An exterior patio or deck may substitute for the lawn requirement at a rate of one square foot of deck for every 2 square feet of lawn, but will not be counted as part of the landscape requirement.

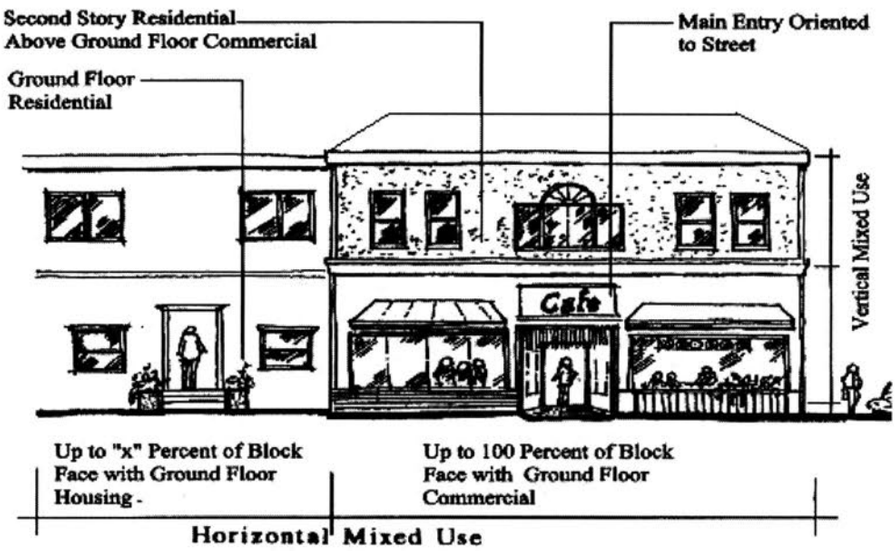
   Lawn area requirement may be omitted if the duplex or triplex unit is within one-quarter mile (measured walking distance) of a public park; and there is a direct, accessible, lighted, and maintained pedestrian trail or sidewalk connecting the site to the park. An exception shall be granted only when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

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

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

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

Figure 3.6.200(I)
Residential Development in Commercial Districts



Note: the example shown above is meant to illustrate required building design elements, and should not be interpreted as a required design style

1. Mixed Use Development. Residential uses shall be permitted in Commercial Districts only when part of a mixed-use development (residential with commercial or public/institutional use). Both "vertical" mixed use (housing above the ground floor), and "horizontal" mixed-use (housing on the ground floor) developments are allowed, subject to the following standards in subsections (2-4) below.

2. Limitation on street-level housing.

   a. Central Business District. Ground floor residential uses on street frontages are prohibited except ground-floor entrances or breezeways are permitted for housing located above or behind a non-residential storefront use.

3. Density. There is no minimum or maximum residential density standard. Density shall be controlled by the applicable lot coverage and building height standards.

4. Common Areas. All common areas (*e.g.,* walkways, drives, courtyards, private alleys, parking courts, etc. and multi-tenant building exteriors) shall be maintained by a legal entity or legal process. Copies of any applicable covenants, restrictions and conditions shall be recorded and provided to the City prior to building permit approval.

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

1. Residential care home accommodates (5) five or fewer individuals and

2. Residential care facility accommodates between (6) six and (15) fifteen individuals. Staff persons required to meet State licensing requirements shall not be counted in the number of facility residents and need not be related to each other or the residents.

Residential care homes and facilities shall comply with the following standards, consistent with ORS 197.660-670:

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

2. Parking for residential care facilities. A minimum of one parking space shall be provided for each employee and typical number of visitors, in accordance with Chapter 3.3 - Parking requirements. Residential care homes are exempt from this requirement.

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

K. Bed and Breakfast Inns Bed and Breakfast Inns are permitted in all Residential Districts within a structure used as a residence and shall comply with the following standards.

1. Maximum size. The bed and breakfast structure is limited to a maximum of 4 bedrooms for guests and a maximum of 8 guests per night.

2. Employees. The bed and breakfast facility may have up to 1 full time equivalent non-resident employee for the facility.

3. Food Service. Food services may be provided only to overnight guests of the bed and breakfast inn.

4. Owner or operator-occupied. The bed and breakfast inn shall be owner or operator-occupied and shall maintain the exterior physical characteristics of a single-family dwelling. No separate structures shall be allowed (except for customary residential accessory buildings such as sheds, or detached garages).

5. Location: There shall be at least 400 feet of separation along the same street between inns.

6. Signs. Signs must meet the standards of the City's Sign Code in Chapter 9.17 of the Bend Code.

7. Monitoring. All Bed and Breakfast Inns shall register with the City of Bend for Transient Room Tax and must maintain a guest logbook. It must include the names and home addresses of guests, guests' license plate numbers if traveling by car, dates of stay and the room number of each guest. The log must be available for inspection by City staff upon request.

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

1. Occupancy: The maximum occupancy for the dwelling shall be two persons per bedroom plus two additional persons. For example, a two bedroom dwelling would have a maximum occupancy of six persons.

2. Parking Minimum: One parking space per bedroom in accordance with Chapter 3.3.

3. Prohibited use: No recreational vehicle, travel trailer, or tent or other temporary shelter shall be used in conjunction with vacation home rental.

4. Monitoring. All Vacation Rental Homes shall register with the City of Bend for Transient Room Tax and must maintain a guest logbook. It must include the names and home addresses of guests, guests' license plate numbers if traveling by car, dates of stay and the room number of each guest. The log must be available for inspection by City staff upon request.

M. Timeshare Units. The purpose of this section is to establish standards for timeshare units in the applicable zoning districts in this code.

1. Density. The density for a Timeshare development shall be within the density range of the underlying zoning.

2. Landscaping. Timeshare operations are commercial in nature and shall be permanently landscaped and maintained, respecting the character of a residential area. In addition, the following requirements shall be met:

   a. If outdoor recreation facilities are provided as part of the Timeshare development, the outdoor facilities shall be screened for both sound and visual impacts.

   b. All vehicle parking, maintenance facilities and trash receptacles shall be screened from view by adjoining residential properties.

   c. On site lighting needs shall be residential in character and shall comply with the provisions of Chapter 3.5.200, Outdoor Lighting Standards.

3. Unit use. No structure shall be utilized for timeshare unless all the units in that structure are used for that purpose.

4. The Hearings Body may require bond(s) to assure installation and maintenance of landscaping, parking and facilities required for buffering. It may also require that an adequate mechanism will exist, such as an owners association, which will assure maintenance of the buffer.

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

1. Type I – Is subject to the Type I procedures outlined in Chapter 4.1; Application and Review Procedures. A Type I home occupation is intended to have minimal impact to the existing neighborhood and shall meet the following operational criteria:

   a. The primary use of the property is residential.

   b. Only one non-resident employee and the residents of the home shall participate in the home occupation.

   c. The home occupation shall be restricted to lawfully built, enclosed structures not to exceed 25 percent of the total floor area per residential unit and be conducted in such a manner as not to give an outward appearance of a business.

   d. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.

e. No products and/or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

f. There shall be no deliveries other than those normally associated with a single dwelling unit. Commercial vehicle deliveries shall not be made during the hours of 6 p.m. to 7 a.m.

Normal deliveries means that the home occupation shall not involve the use, parking, storage or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks. These deliveries or pick-ups of supplies or products, associated with business activities, are allowed at the home only between 7 a.m. and 6 p.m.)

g. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 8 a.m. to 6 p.m. Monday through Friday.

2. Type II – A Type II home occupation exceeds the standards for a Type I home occupation and is subject to a Conditional Use Permit as described in Chapter.4.4; Conditional Use Permits. In addition, a Type II home occupation shall also meet the following operational criteria:

a. The primary use of the property is residential.

b. In addition to the residents of the home, up to three (3) non-resident employees may participate in the home occupation.

c. The home occupation site can accommodate parking for the total number of employees and customers on site.

d. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

e. No outdoor storage or display is allowed.

f. There shall be no deliveries other than those normally associated with a single family dwelling. Commercial vehicle deliveries shall not be made during the hours of 6 p.m. to 7 a.m.

g. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 8 a.m. to 6 p.m. Monday through Friday.

h. Prohibited Home Occupation Uses:

i. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line, is prohibited.

ii. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music by music teachers, art or craft supplies by arts or crafts instructors, computer software by computer consultants, and similar incidental items for sale by home business are allowed.

iii. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, such as:

I. Ambulance service;
II. Animal hospital, veterinary services, kennels or animal boarding;
III. Auto and other vehicle repair, including auto painting;
IV. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site.

i. Enforcement: The Planning Official or designee may visit and inspect the site of a home occupation in accordance with this chapter periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. Code violations shall be processed in accordance with Chapter 1.3; Enforcement.

3.6.300 Non-residential Uses

This section supplements the standards contained in Chapter 2.0 and provides standards for the certain land uses in order to control the scale and compatibility of those uses within the commercial districts

A. Automobile-Oriented and Automobile-Dependent Uses and Facilities. Where permitted, automobile-oriented uses and automobile dependent facilities shall conform to all of the following standards. The standards are intended to provide a vibrant storefront character, slow traffic down, and encourage walking and transit use.

1. Drive-in and drive-through facilities. Drive-in and drive-through facilities (*e.g.,* associated with restaurants and banks and similar uses) shall conform to all of the following standards:
   a. The facility receives vehicular access from an alley or driveway, and not directly from a street.
   b. The drive-in or drive-through facilities (*e.g.,* driveway queuing areas, windows, teller machines, service windows, drop-boxes, and similar facilities) are located within 20 feet of a street and are not oriented to a street corner.

      Exception to location:
      i. Walk-up only teller machines and kiosks may be oriented to a corner; or Drive-thru facility setback may be reduced up to 10 feet when the driving surface is 3-feet lower or 6-feet higher than the abutting sidewalk; or
      ii. Drive-thru facility setback may be reduced up to 10 feet when the facility is visually screened by a landscape buffer 10 feet or wider with a mature vegetation height of at least 3 feet within 3 years of planting and does not conflict with the clear vision areas.
   c. Exception: Automobile Service and Gas stations by virtue of their operating characteristics are exempt from the above standards. However, Automobile Service and Gas Stations shall comply with the provision in sub-section F below.

B. Automobile Service and Gas Stations. The following minimum standards shall apply

1. Minimum lot size: The minimum lot size for a service station shall be 12,000 square feet with a minimum street frontage of 100 feet on a street corner and 120 feet on an interior lot.
2. Required front yard setback. A 10-foot landscaped front yard setback from the property line is required. Only access driveways constructed with the minimum width necessary for the use may encroach into this required setback. Landscaping shall comply with clear vision standards at intersections and driveways.
3. Lighting. Lighting fixtures installed within the fueling island canopy shall not extend below the canopy ceiling. The lighting fixtures, illumination intensity and direction shall comply with the City of Bend Lighting Ordinance in 3.6 of this Chapter.
4. Other Requirements.

a. No storage of inoperable automobiles or parts thereof shall be permitted except in enclosed structures.
b. Landscape Planters shall be used when practical as fuel island bollards to protect gas pumps.
c. Pedestrian sidewalk linking the Service Station to the street is not required.

C. Public and Institutional Land Uses. Public and institutional uses listed in Table 2.1.200 may be allowed in the Residential Districts subject to the following land use standards. These standards are intended to control the scale of these developments and their compatibility with nearby residences and surrounding development.

1. Building Mass. Large-scale buildings shall incorporate changes in building direction (i.e., articulation) and divide large masses into varying heights and sizes. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; windows, and screening trees. The maximum width or length of a building shall not exceed 80 feet (from end-wall to end-wall), except that this standard may be increased through the approval of a Conditional Use Permit, or as part of a Master Planned Development.

2. Vehicle Areas and Trash Receptacles. All vehicle areas (i.e., parking, drives, storage, etc.) and trash receptacles shall be oriented away from adjacent residences to the greatest extent practicable, and shall be screened with an evergreen hedge or solid fence or wall of not less than 6 feet in height.

3. Landscaping. The site shall be landscaped in conformance with Chapter 3.2.

Some Public and Institutional uses, as listed in Table 2.1.200, may require a Conditional Use Permit in conformance with Chapter 4.4.400, Conditional Uses.

D. Accessory Uses and Structures. Accessory uses and structures are those of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures include detached garages, sheds, workshops, green houses and similar structures not intended for habitation by people. (This section does not apply to Accessory Dwellings. *For standards applicable to Accessory Dwellings see subsection 3.6.200.B of this Chapter.* Accessory uses and structures are allowed subject to Site Development Review for all permitted land uses within the Commercial and Industrial Districts except the CB Zone and are permitted outright in conformance with the provisions of Chapter 2.1. All accessory structures shall obtain a building permit if required and comply with all of the following development standards:

1. Primary use required. An accessory structure or use shall not be allowed on a lot before an allowed primary use is established.

2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No accessory use or structure shall encroach into the public right-of-way without an approved revocable permit.

3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.

4. Floor Area. The maximum floor area of the accessory structure in a residential zoning district shall not exceed 600 square feet.

5. Building Height. The building height of a detached accessory structure shall not exceed 25 feet, as measured in accordance with Section 2.1.700; in no instance shall an accessory structure exceed the height of the primary structure.

6. Setback Standards. Accessory structures shall comply with the setback standards of the underlying zone.

E. Plant Nursery. A plant nursery grows and sells shrubs, trees, ornamental bedding plants, and the like. A new plant nursery or the expansion of an existing plant nursery greater than 25 percent of the existing facility, may be permitted as allowed in the applicable zoning districts upon compliance with all of the following standards:

1. Location. The site shall be located on an arterial or collector street.

2. Access. Shall be in conformance with Chapter 3.1, Access, Circulation and Lot Design.

3. Landscaping. Since these operations are commercial in nature, they shall be permanently and well landscaped along all property boundaries, respecting the character of a residential area or entrance into the community.

4. Site Review. Through the Site Development Review process, additional impacts to the adjoining properties may be identified. Provisions may be required where necessary to mitigate unforeseen impacts. Potential conditions for approval may include but are not limited to:

    a. Limited hours of operation 8AM – 6PM (including truck deliveries)
    b. Visual screening of all onsite vehicle parking, equipment storage, and maintenance areas,
    c. No stockpiling of refuse (including compost) within 300-feet of an adjoining residential property
    d. Greenhouses using mechanical heating and cooling equipment shall not be located within 300 feet of an adjoining residential property.
    e. On site lighting needs shall respect the character of the area in which the nursery is located and shall comply with the provisions of Section 3.5.300, Outdoor Lighting Standards.

F. Outdoor Storage and Display within Public Rights-of-way. Sidewalk vendors and outdoor display of merchandise shall be prohibited within the public rights-of-way except within the Central Business District, in which case the use shall be limited to cards, plants, gardening/floral products, food, books, newspapers, bicycles, and similar small items for sale or rental to pedestrians (i.e., non-automobile oriented). A minimum clearance of 5 feet shall be maintained on the sidewalk at all times to allow pedestrians to pass by the displays. All merchandise shall be removed from the public way at the close of business each day.

G. Outdoor Storage and Display On-Site

Display or storage of merchandise such as seasonal sales, garden supplies, furniture, and outdoor equipment is prohibited unless approved through site development review in conformance with Chapter 4.2, Site Development and Design Review.

Exception: Temporary events such as Weekend RV sales, Tent Sales or other special events regulated under section3.6.400, Temporary Uses in this Chapter.

H. Industrial Uses within Commercial Districts. Limited industrial uses are allowed in the Commercial Districts. Permitted industrial uses shall conform to all of the following standards,

which are intended to protect nearby non-industrial businesses from the negative impacts of industrial uses, and also protect the pedestrian-friendly, storefront character of certain Commercial Districts:

1. Retail or Service Use Required. Light manufacture is allowed only when it is in conjunction with a permitted retail or service use *(e.g., a bakery with a retail baked goods outlet or a kiln with retail pottery sales).*

2. Location. The industrial use shall be completely enclosed within a building, or shall be located within a rear yard not adjacent to a street or a residential use.

3. Other Requirements. The industrial use shall not create excessive noise, dust or offensive odors that would be disruptive or be detrimental to other nearby commercial businesses or residential uses.

I. Keeping Farm Animals The purpose of this section is to regulate the raising and breeding of farm animals on residential lots within the City of Bend. These activities are considered to be accessory uses and require a Type I Permit subject to the following standards.

1. Types of animals allowed.

    a. One (1) horse shall have a corral or pasture with a usable area of at least 7,500 square feet; and for each additional horse, an additional 5,000 square feet is required.
    b. Cows, goats, sheep, swine or other livestock shall not be kept on any parcel or lot with an area less than 5 acres.
    c. No more than four (4) rabbits and/or chickens are permitted on parcels and lots greater than 6,000 square feet.

2. Sanitation. Proper sanitation shall be maintained for all farm animals. Proper sanitation includes:

    a. Accumulation of waste prohibited
    b. Odors resulting from the keeping of farm animals prohibited beyond property lines, and
    c. storing all farm animal food in rodent-proof containers.

3. Fencing: All fencing shall be designed and constructed to confine all farm animals within the owner's property.

4. Setbacks: All structures that house large farm animals shall be located a minimum of 25-feet from all existing adjacent residences and at lease fifteen (15) feet from any interior or rear lot line.

J. Convenience Commercial Development Standards. The purpose of this section is to provide special development standards for the development of new uses within the Convenience Commercial Zone. The zone is intended to provide locations for a wide range of small businesses and services as a convenience to residents in the neighborhood in which the zone is located.

1. Limitation on uses.

    a) Maximum size of uses. Except as provided in subsection b) below, the maximum size for any use in the Commercial Convenience Zone shall not exceed 8000 square feet of gross floor area in size, unless approved through a Condition Use Permit process or otherwise exempted by this ordinance.

b) Exceptions to Maximum size:
   i. Grocery Stores less than 35,000 sq ft. are permitted outright.
   ii. Uses located in a Convenience Commercial Zone that are located along a street classified as a Principal Arterial or a higher classification.

c) Multi-tenant buildings or developments shall be restricted to a maximum of 8000 square feet of gross floor area per tenant, unless approved through a Conditional Use Permit process. A tenant is defined as an independent operator unrelated to other tenants within the multi-tenant building or development.

K. Neighborhood Commercial Uses

1. Neighborhood Commercial uses within the Residential districts are intended to provide for the location of small businesses and services in a residential section of the City for the convenience of nearby residents; also to recognize existing uses of this type within the City. Neighborhood Commercial uses are designed to provide land for small-scale commercial uses that are compatible with adjacent residential development. All Neighborhood Commercial uses shall comply with the following standards, which are intended to promote land use compatibility and transition between Neighborhood Commercial and residential uses.

2. Uses Not Permitted. Automobile-oriented and automobile-dependent uses are expressly prohibited.

3. Lot Location and Size Standard. Within the Residential Districts, new Neighborhood Commercial nodes shall be limited to lots that comply with the following location and size standards.
   a. Corner lots at an intersection of a local street and another local or collector street.
   b. The combined area of the lot to be developed and all adjacent lots approved for or developed with a Neighborhood Commercial use may not exceed one-half acre in size.
   c. Neighborhood commercial nodes shall be no closer than 1/4 mile from an existing commercial district or another existing neighborhood commercial node. For purpose of this code, existing shall mean established, approved, or in process / submitted for approval.

4. Node Development. A commercial node is defined as one or more lot(s) or parcel(s) not exceeding a total area of one half (½) acre, excluding road right-of-ways, located at the intersection of a local street and another local or collector street. A Neighborhood Commercial node may consist of multiple lots including interior lots when the following conditions exist:
   a. Neighborhood Commercial development exists on a corner lot or will be established prior to or concurrent with the interior lot development; and
   b. The interior lot adjoins a corner lot developed with a Neighborhood Commercial use or another interior lot or lots that adjoin a corner lot development with a Neighborhood Commercial use; and
   c. The combined frontage for lots used for existing and proposed Neighborhood Commercial uses along any one street frontage shall not exceed 150 feet

5. Exceptions to the above location criteria may be granted if the following apply:
   a. It can be documented that the historic use of the property was previously commercial.

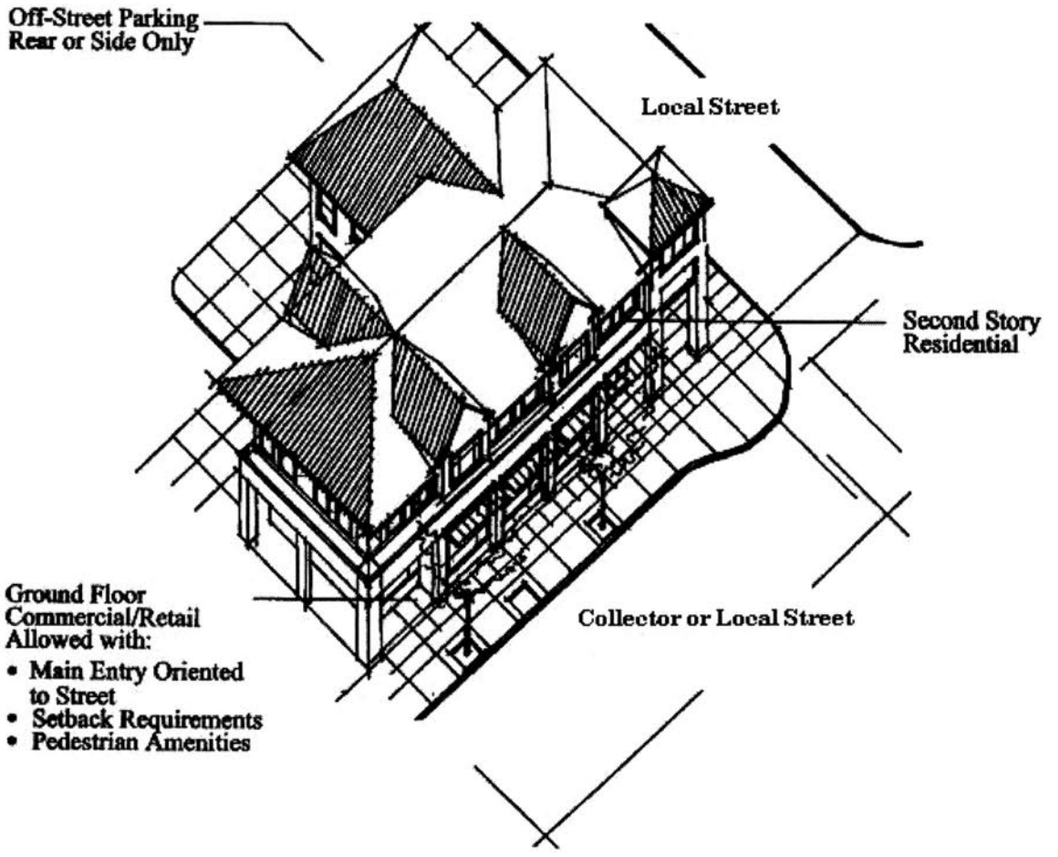
6. Building Design Standard. All new Neighborhood Commercial buildings, building additions, and existing buildings proposed for conversion to a Neighborhood Commercial use shall be subject to the Architectural Design Standards in Section 2.1.800, except existing buildings constructed prior to the date of adoption of this ordinance, shall be exempt from the Architectural Design Standards. For the purpose of this ordinance, the term "constructed" means the date of issuance of a building permit for structural construction or alteration of a building.

7. Building Setbacks. All new neighborhood commercial buildings shall have a maximum front yard building setback of 10-feet, notwithstanding the underlying zone requirements.

8. Floor Area Standard. The maximum total commercial floor area shall not exceed 5,000 square feet total per Neighborhood Commercial node and shall be limited to a maximum ground floor area of 3,000 square feet per user. Floor area is measured by totaling the interior floor area of all building stories, except crawl spaces (i.e., areas with less than 7 ½ feet of vertical clearance). Floor area dedicated to residential use within a mixed-use building shall not be counted toward the calculation of commercial floor area.

9. Hours of Operation. Commercial uses shall not exceed the following hours of operation: 7 a.m. to 10 p.m. In addition, live entertainment shall be prohibited.

Figure 3.6.300.G
Neighborhood Commercial (Typical Site Layout)



10. Parking. Off-street parking is optional for neighborhood commercial uses located where on-street parking is available adjacent to the neighborhood commercial site, except for food service uses. Parking for food service uses shall be subject to the standards in Chapter 3.3, Vehicle and Bicycle Parking. Off-street parking for neighborhood commercial uses is subject to the following criteria:

    a. Off street parking, driveways and other vehicular use and circulation areas shall not be placed between a building and the street.

    b. Where off-street parking is adjacent to a street, the parking and maneuvering area shall be separated from the right-of-way by a 3-foot minimum landscape planter.

    c. In no instance, shall there be more than six (6) off-street parking spaces per site.

L. Utilities This subsection shall apply to the erection, construction, alteration, or maintenance by public utility of municipal or other governmental agencies of underground, overhead electrical, gas, steam or water transmission or distribution systems, collection, communication, supply or disposal system, including poles, towers, wires, mains drains, sewers, pipes, conduits, cables, fire alarm boxes. Traffic signals, hydrants, pumping stations and other similar equipment and accessories in connection therewith, but not including buildings, may be permitted in any zone. Utility transmission and distribution lines, poles and towers may exceed the height limits otherwise provided for in this ordinance. However, in considering an application for a public utility use the Hearings Body shall determine that the site, easement, or right of way easement will not result in the uneconomic parceling of land. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed and installed as to minimize their effect on scenic values.

M. Landing Strips for Aircraft, Heliports. All landing strips for aircraft or heliports shall be so designed and the runways and facilities so orient, that the incidents of aircraft passing directly over dwellings during landing and take off pattern is minimized. They shall be located so that traffic, both land and air, shall not constitute a nuisance to neighboring uses. The proponents shall show that adequate controls or measures will be taken to prevent offensive noise, vibrations, dust or bright lights. New landing strips/heliports or the expansion of an existing landing strips or heliports shall not be construed to be a permitted use in any zone established by this ordinance unless and until a Conditional Use permit shall first have been secured.

N. Hydroelectric Facilities

1. No new hydroelectric facility shall be constructed, and no existing hydroelectric facilities shall be enlarged or expanded in size of area or generating capacity on Tumalo Creek within the City of Bend.

2. Hydroelectric facilities are allowed as a conditional use on the Deschutes River and irrigation canals within the City of Bend. Such conditional use shall be governed by the conditions set forth in (3) below.

3. In addition to the general conditional use permit criteria set forth in Chapter 4.4, the criteria set forth below shall apply to any construction or expansion of, or other modification to, hydroelectric facilities in areas where such facilities are permitted as a conditional use. A Conditional Use Permit may be granted for the construction or expansion of, or other

modification to, a hydroelectric facility only upon findings by the Hearings Body that the proposal meets each of the following criteria, where applicable:

a. The facility is located at and physically connected to an existing man-made diversion or impoundment.

b. The facility will not increase the maximum surface area or capacity of the impoundment created by the existing dam or diversion to which the facility will be connected.

c. The facility will maintain or enhance to the greatest extent possible, the existing scenic, visual, environmental, and aesthetic qualities of the affected stretch of the river.

d. The facility will maintain or enhance the existing recreational opportunities on or adjacent to the affected stretch of the river.

e. The facility will maintain or enhance existing fish and wildlife habitat, and will have no adverse impact upon any threatened or endangered fish, wildlife, or plant species or their habitat.

f. The facility and its operation will maintain or enhance existing water quality in the affected stretch of the river, except during construction of the facility, during which time adverse impacts on water quality will be minimized. Specifically, the facility and its operation will not:

    i. Deposit, or create a zone for the deposit of, sediments in the river or adjacent to the site;
    ii. Increase the temperature of the river in the affected stretch by any means, including but not limited to removal of vegetation or reduction in stream flow; or
    iii. Create the potential for, or result in, spillage, leakage or discharge of oil, chemicals or other substances or waste products which could reach the river.

g. The facility and its operation will not increase soil or bank erosion or destroy bank habitat at or on land adjacent to the site, except during construction of the facility, during which time soil or bank erosion and destruction of bank habitat will be minimized.

h. The facility and its operation will maintain existing public access to the affected stretch of the river.

i. The facility will not be located at or immediately adjacent to any identified archeological or historical site, national or state park, wildlife refuge, Bureau of Land Management Outstanding Natural Area or area of Critical Environmental Concern, Federal Research Natural Area, or U. S. Forest Service Special Interest Area.

j. The facility and its operation will comply with all applicable noise and pollution regulations of the Oregon Department of Environmental Quality.

k. The facility and its operation will comply with all applicable state fill-and-removal statutes and regulations.

4. The applicant for a Conditional Use Permit under Subsection (3) above shall submit the following for approval:

a. Detailed construction plans and profiles of all facility features, including building elevations of the powerhouse and other structures, excavation plans and narrative as to where blasting will occur, where excess material will be deposited, and landscaping and reclamation plans.

b. Detailed plans for meeting the criteria set forth in Subsection (3) above.

c. Detailed plans for river enhancement documenting both on-site and off-site enhancement plans consistent with adopted river-related goals and policies, such as plans and methods

for conserving water and enhancing stream flow. The plan shall identify costs, time schedules and coordination activities with affected persons and agencies for such enhancement plans.

d. A cash deposit or performance bond in an amount equal to 100 percent of the estimated cost of river enhancement and landscaping.

e. Detailed plans for a water conservation and stream enhancement program to be funded by a portion of revenues generated by the operation of the proposed facility. The program plans shall contain the following:

i. A program timetable;
ii. Projected gross revenues from the proposed facility;
iii. Projected program expenditures and the percentage of gross revenue they represent;
iv. Projected water savings and the percentage of known current water losses they represent;
v. A declaration by the applicant that at least fifty percent of the conserved water will remain undiverted by the applicant;
vi. A declaration by the applicant that water diverted for power generation will not cause water flow in that affected stretch of the river (from the diversion to the tailrace exit) to fall below the minimum stream flow for that stretch as recommended by the Oregon Department of Fish and Wildlife; and
vii. A declaration by the applicant that it will enter into an agreement with the City of Bend, prior to beginning construction of the facility, by which the applicant agrees to fulfill all of the requirements of this subsection.

O. <u>Destination Resorts</u>.

1. Information to be supplied by the applicant:
   a. Proposed land uses and densities
   b. Building types
   c. Circulation pattern
   d. Park, playground, and open space
   e. Existing natural features
   f. Impacts on schools, roads, water and sewerage systems, fire protection
   g. Proposed ownership pattern
   h. Waste disposal facilities
   i. Water supply system
   j. Lighting
   k. General timetable for development

2. The Conditional Use Permit may be granted upon the following findings:

   a. That any exceptions from the standards of the underlying zone and subdivision ordinance are warranted by the design and amenities incorporated in the development plan;

   b. That the proposal is in harmony with the surrounding area or its potential future use;

   c. That the system of ownership and the means of developing, preserving, and maintaining open space is adequate;

   d. That sufficient financing exists to assure that the proposed development will be substantially completed in the timetable outlined by the applicant;

e. That open space shall comprise 65 percent of the land. Open space shall mean land not in streets or structures;

f. That adequate provision is made for the preservation of natural resources such as bodies of water, natural vegetation, and special terrain features;

g. That the areas of activities are contained in the center of the development, or that adequate buffer yards are established to protect adjacent private lands.

3. Dimensional Standards:

   a. The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings of the zone in which the development is located do not apply within a Destination Resort.

   b. The Hearings Body shall establish yards, height limitations, space between buildings for the development, or may delegate this to the Site Plan Committee.

4. Commercial uses designed and sized to meet the needs of the development's population are allowed subject to the following:

   a. That such use shall be contained within the development,

   b. That adequate screening and site design shall insure compatibility between these activities and adjacent uses.

3.6.400 Temporary Uses

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to, construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, seasonal sales such as Christmas tree sales and vegetable stands, and medical emergency housing.

A. **Seasonal and Special Events.** These types of uses occur only once in a calendar year and for no longer a period than 30 days. Prior to operating, the use shall comply with the following criteria:

1. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (*e.g.,* prior development permit approval);
2. The applicant, if not the property owner, has written proof of the property-owner's permission to temporarily place the use on his/her property;
3. No parking will be utilized by customers and employees of the temporary use which is needed by the property owner to meet their minimum parking requirement under Chapter 3.3 - Vehicle and Bicycle Parking;
4. The use provides adequate vision clearance, as required by Section 3.1.200, and shall not obstruct pedestrian access on public streets;
5. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 3.1.400 - Vehicular Access Management;
6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;

7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)
8. The temporary use shall terminate no later than 30 days after initial start-up.

B. Temporary Housing.

1. Supervision: On site supervision must be provided at all times. At least one competent adult must be present for every 25 persons utilizing the facility.

2. Loitering: There shall be no loitering at the facility location.

3. Outdoor Activities: All functions associtated with a Temporary Housing use, except for children's play areas, outdoor recreation areas, parking and outdoor waiting must take place within the building proposed to house the Temporary Housing use. Outdoor waiting for clients, if any, may not be in the public right-of-way, must be physically separated from the public right-of-way and must be large enough to accommodate the expected number of clients. Waiting shall not take place beyond one hour before the facility opens or more than one hour after it has closed.

4. Development Standards: The development standards for the base zone and any overlay zone shall apply to Temporary Housing uses, unless superceded by standards in this section.

5. Parking: The parking space requirements for Temporary Housing uses shall be 1 space per 500 square feet of gross floor area.

6. Signs: Signs shall comply with all applicable Oregon codes and City of Bend ordinances including, but not limited to the Sign Ordinance and Design Review provisions in this ordinance.

7. Separation: Any proposed Temporary Housing facility must be located at least 1000 feet from any other Temporary Housing facility.

8. Compliance: Any Temporary Housing facility must meet all other applicable requirements of federal, state, and /or local authorities including but not limited to local Fire Department, building and Environmental Health requirements.

C. Temporary Sales Office or Model Home. The use of any real property within the City as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:

1. Temporary sales office:
   a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
   b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.

2. Model house:
   a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and

b. The model house shall be designed as a permanent structure that meets all relevant requirements of this Code.

D. Temporary Building. A temporary trailer or prefabricated building for use on any residential, commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, is subject to site development review and conformance with the following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already developed;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 3.1.200 - Vehicular Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.3 - Vehicle Parking, Loading and Bicycle Parking;
5. The use will not result in decreased level of service for transportation facilities within one quarter-mile.
6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
7. The building complies with applicable building codes;
8. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
9. The length of time that the temporary building will be used does not exceed six months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit. The permit shall be reviewed through a Type II review.

E. Temporary Placement of Educational Modulars. A temporary permit for the placement of educational modular classrooms may be granted for up to two years after first obtaining Type I application approval. In addition to meeting the criteria 1-8 listed above in subsection 3.6.400(D), an application for a temporary use permit for educational modulars shall contain the following;

1. A schematic site plan that shows:
   a. the type of modular proposed; and
   b. the proposed placement location of the modular;
2. Show the calculation of the parking requirements in conformance with Chapter 3.3 of this Ordinance and provide proof that the applicant meets those requirements;
3. Proof of compliance with the landscaping requirements in Chapter 3.2 of this ordinance;
4. Prior to occupancy of the educational modulars, the applicant shall obtain the necessary building and electrical permits and fire inspections.

F. Medical Emergency Housing. In addition to the standards and procedures provided in Section 4.9.100.C, the following additional standards are applicable to development of temporary housing for medical emergencies.

1. Temporary use permits may be granted in residential zones for relatives of the family residing

on the property if the temporary home will be used because of a medical problem requiring the use of such a unit. The existence of a medical problem that requires the patient to reside on the same site as his or her relatives shall be supported by the certificate of a medical doctor. The permit shall not exceed one year and may only be renewed with another certificate from a medical doctor.

2. Temporary use permits may be granted in connection with construction projects. The duration of such permits shall; not continue beyond the construction period and the permit shall; terminate upon occupancy of the building being constructed. The Building Official may issue such permits.
3. The temporary house may be a manufactured dwelling, manufactured home, manufactured structure, or mobile home as defined in Chapter 1.2 of this code. No permanent structure or foundation shall be established for the medical emergency housing. Recreational vehicles and trailers are prohibited.
4. The applicant shall obtain required temporary permits for electrical, water, and other services as appropriate before the home is occupied.

Chapter 4.0 Applications and Review Procedures

Sections:

4.0.100 Introduction

4.0.100 Introduction.

Chapter 4.0 through Chapter 4.7 provides all of the application requirements and procedures for obtaining permits required by this code.

Chapter 4.1 Land Use Review and Procedures

Sections:

4.1.100	**Purpose**
4.1.200	**General Provisions**
4.1.300	**Legislative Procedures**
4.1.400	**Type I Procedures**
4.1.500	**Type II and Type III Applications**
4.1.600	**Deschutes River Corridor Design Review Procedures**
4.1.700	**Refinement Plan Review Procedures**
4.1.800	**Land Use Action Hearings**
4.1.900	**Land Use Action Decisions**
4.1.1000	**Reconsideration**
4.1.1100	**Appeals**
4.1.1200	**Proceedings on Remand**
4.1.1300	**Limitations on Approvals**
4.1.1400	**Declaratory Ruling**
4.1.1500	**Development Agreements**

4.1.100 Purpose

This ordinance is enacted to provide a uniform procedure for the grant or denial and processing of applications, approvals and determinations by the City of Bend under the applicable City comprehensive plan, land use regulations, subdivision and partition ordinance, and other ordinances which by their terms incorporate by reference the procedures in this ordinance. This ordinance shall be known as the City of Bend Land Use Review and Procedures Ordinance.

The provisions of this ordinance do not apply to the issuance, suspension, or revocation of any on-site sewage disposal, sign, building, electrical or plumbing permits except as they relate to Planning Division consideration of permitted uses.

Notwithstanding any reference to the contrary, this ordinance shall not apply to applications for land use or development approval for lands lying outside the city limits of the City of Bend. Outside the City limits where authorized by an intergovernmental agreement, the functions of the City Planning Director and City Review Authority identified herein may be exercised by their counterparts in accordance with the respective intergovernmental agreements.

4.1.200 General Provisions

Sections:

4.1.210 Pre-application Conference
4.1.215 Application Requirements
4.1.220 Acceptance of Application
4.1.225 Incomplete Applications
4.1.230 False Statements on Application and Supporting Documents
4.1.235 Withdrawal of Application
4.1.240 Applicable Standards
4.1.245 Notice to Public Agencies
4.1.250 Conflicting Procedures
4.1.255 Time Computation

4.1.210 Pre-application Conference.

A. Pre-application Conference. A pre-application conference with the City of Bend is required for complex applications or for applicants who are unfamiliar with the land use process. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the applicable land use ordinances, to provide for an exchange of information regarding applicable requirements of the comprehensive plan, zoning ordinance or land division ordinance and to identify issues likely to arise in processing an application. The city zoning ordinance may require that a pre-application conference be held for particular types of applications.

B. Public Meeting. The applicant for a Land Use Action for a Bend Area General Plan Map Amendment, Zoning Map Amendment, Conditional Use Permit, Subdivision or, Site Plan Review for new development or an alteration/addition to an existing building exceeding 10,000 square feet shall present the proposal at a public meeting prior to submitting the land use application to the City Planning Division. The presentation shall be made at either, a regular or special meeting with a neighborhood association recognized by the City of Bend whose boundaries the subject property lies within, or a public meeting arranged and conducted by the applicant. The presentation at the public meeting shall include the following:

1. A map depicting the location of the subject property proposed for development.
2. A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any structures if applicable.
3. A description of the nature of the use including but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.
4. The expected or anticipated impacts from the development.
5. Any mitigation proposed by the applicant to alleviate the expected/anticipated impacts.
6. Provide opportunity for public comments. Applicants are encouraged to reconcile as many public concerns as possible prior to submittal of their application.

C. Public Meeting Notification. If any part of a proposed new development as referenced in subsection 4.1.210(B) above is to be constructed within the boundaries of a recognized neighborhood association of the City of Bend, the applicant shall notify the administrative body of such association of the presentation. It shall be the responsibility of the applicant to schedule the meeting/presentation and provide adequate notification to the residents of the affected

neighborhood of the date, time and location of the meeting/presentation. It shall be the applicant's responsibility to provide the information listed in subsection 4.1.210(C) (1) (a - c) below to the administrative body for the neighborhood association. Such meeting shall be held no less than 15 days and no more than 45 days from the date that the applicant notifies the administrative body of the affected neighborhood association. The following provisions shall be applicable to the applicant's obligation to notify the residents of the area affected by the new development application, whether the proposed development is within the boundaries of a recognized neighborhood association or not:

1. The applicant shall send mailed notice of the public meeting to all property owners within 500 feet of the boundaries of the subject property, and, if any part of the subject property is within the boundaries of a neighborhood association recognized by the City of Bend, notice shall be mailed to the administrative body of such neighborhood association. The property owner list shall be compiled from the Deschutes County Tax Assessor's property owner list from the most recent property tax assessment roll. The address for the administrative body of the affected neighborhood association shall be obtained from the City of Bend. The notice shall be sent a minimum of 15 days prior to the public meeting, and shall include at a minimum:

    a. Date, time and location of the public meeting.
    b. A brief written description of the proposal and proposed use, but with enough specificity so that the project is easily discernable.
    c. The location of the subject property, including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessors map) which depicts the subject property.

4.1.215 Application Requirements

A. Property Owner. For the purposes of this section, the term "property owner" shall mean the owner of record or the contract purchaser and does not include a person or organization that holds a security interest.

B. Applications for development or land use actions shall:

1. Be submitted by the property owner or a person who has written authorization from the property owner as defined herein to make the application;
2. Be completed on a form prescribed by the city;
3. Include supporting information required by the zoning or land division ordinances and that information necessary to, in the judgment of the Planning Director; demonstrate compliance with applicable criteria;
4. Be accompanied by the appropriate filing fee;
5. Provide proof of ownership in the form of a Deed, or other recorded document; and
6. In the case of applications for a quasi-judicial plan amendment or zone change, may be accompanied by applications for a specific development proposal.
7. Include an affidavit from the applicant attesting that the public meeting required by Section 4.1.210 (B) of this ordinance was conducted in accordance with the provisions listed therein. If the public meeting was arranged and conducted by the applicant, the notification materials listed in Section 4.1.210 (C) (1) (a-c) must also be submitted.

C. The following applications are not subject to the ownership requirement set forth in subsection 4.1.215(B)(1) of this section:

1. Applications submitted by or on behalf of a public entity or public utility having the power of eminent domain with respect to the property subject to the application; or
2. Applications for development proposals sited on lands owned by the state or the federal government.

4.1.220 Acceptance of Application.

A. Type I, II, and III applications shall not be accepted until the Planning Director has determined that the requirements of Section 4.1.215 of this Chapter have been met and; the application is complete or the application is deemed to be complete under state law. A pre-submittal meeting shall be required for all Type II, III and IV land use applications as defined in Chapter 1.2. The purpose of the pre-submittal meeting is to determine whether the proposed development application is complete prior to acceptance of the application for processing by the City.

B. An application is complete when, in the judgment of the Planning Director, complete information to address all criteria has been provided by the applicant.

C. Acceptance of an application as complete shall not preclude a determination at a later date that additional criteria needs to be addressed or a later determination that additional information is needed to adequately address applicable criteria.

4.1.225 Incomplete Applications.

A. If an application is incomplete, the Planning Director shall, within thirty (30) days of receipt of the application, notify the applicant in writing of exactly what information is missing. The applicant may amend the application or submit a new application supplying the missing information.

B. The applicant shall have thirty (30) days from the date of notice from the Planning Director to supply the missing information. Additional time, up to 180 days, may be granted upon request of the applicant pursuant to ORS 227.178.

C. If the applicant submits the missing information within the 30-day period specified in subsection (B) above, the application shall be deemed complete upon receipt of the missing information.

D. If an applicant does not submit the missing information within the 30-day period specified in subsection B above, the application may be processed in accordance with Section 4.1.500, Review of Type II or Type III Applications.

4.1.230 False Statements on Application and Supporting Documents.

If the applicant or the applicant's representative or apparent representative makes a misstatement of fact on the application regarding property ownership, authority to submit the application, acreage, or any other fact material to the acceptance or approval of the application, and such misstatement is relied upon by the Review Authority in making a decision whether to accept or approve the application, the Planning Director may upon notice to the applicant and subject to an applicant's right to a hearing, declare the application void.

4.1.235 Withdrawal of Application.

An applicant may withdraw an application in writing at any time prior to the time a land use action decision becomes final. If the land owner is not the applicant, no consent to withdraw the application is needed from the land owner.

4.1.240 Applicable Standards.

The standards and criteria applicable to an application shall be the standards and criteria applicable at the time the application was first submitted if the application and requested information, if any, are received within one hundred eighty (180) days of the time the application was first submitted.

4.1.245 Notice to Public Agencies.

In addition to any notice required by this ordinance, written notice shall be provided to public agencies as prescribed below.

A. Division of State Lands. The city shall notify the Oregon Division of State Lands (DSL) of any application that involves lands that are wholly or partially within areas that are identified as a significant wetland on the city's Local Wetland Inventory. Notice shall be in writing using the DSL Wetland Land Use Notification Form, and shall be sent within five working days of acceptance of a complete application. [See ORS 227.350]

B. Department of Fish and Wildlife. The city shall notify the Oregon Department of Fish and Wildlife (ODFW) in writing of any application for development activities within the riparian corridor. A mitigation recommendation shall be obtained from ODFW. Approval of the proposed development shall include a condition requiring compliance with the ODFW mitigation recommendations. [See OAR 635-415]

C. Parks and Recreation Department. The city shall notify the Oregon Parks and Recreation Department (OPRD) in writing of any application for a proposed change, improvement, or activity within the ¼ mile boundary of either the Upper Deschutes Scenic Waterway or the Middle Deschutes Scenic Waterway. A landowner proposing a change, improvement, or activity within a State Scenic Waterway shall notify OPRD using the form provided by OPRD. The proposed change, improvement, or activity shall not be approved by the city unless either OPRD has given its written approval, or OPRD has not responded within one year from the date of notification. [See OAR 736-40]

D. Other agencies. The city shall notify other public agencies, as appropriate, that have statutory or administrative rule authority to review or issue state permits for local land use actions.

4.1.250 Conflicting Procedures.

Notwithstanding the provisions of this section, where other provisions of the City of Bend Code or City of Bend ordinances specify procedures with greater opportunity for public notice and comment, those procedures shall apply.

4.1.255 Time Computation.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the city is not open for business pursuant to a city ordinance, in which case it shall also be excluded.

4.1.300 LEGISLATIVE PROCEDURES

Sections:

4.1.310 Hearing Required
4.1.315 Notice
4.1.320 Initiation of Legislative Changes
4.1.325 Review Authority
4.1.330 Final Decision
4.1.335 Corrections

4.1.310 Hearing Required

No legislative change shall be adopted without review by the Planning Commission or Hearing Officer and a final public hearing before the City Council. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

4.1.315 Notice

A. Published Notice.

1. Notice of a Type IV legislative change shall be published in a newspaper of general circulation in the City at least twenty (20) days prior to each public hearing.

2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director.

C. Individual Notice. Individual notice to property owners, as defined in Section 4.1.215(A) of this Chapter, shall be provided in conformance with ORS 227.

D. Neighborhood Associations. Notice of Type IV legislative changes shall be mailed to the administrative body of any neighborhood association recognized by the City of Bend, where the legislative change affects any land within the boundary of such neighborhood association.

4.1.320 Initiation of a Legislative Change.

Requests for a plan map or text amendment of the Bend Urban Area General Plan by an individual, corporation, or public agency. A Type IV legislative change may be initiated by application of individuals upon payment of required fees as well as by the City Council or the Planning Commission. Any Type III change initiated by an individual that includes a plan amendment and/or zone change for specific real property may be accompanied by the appropriate applications for a specific development proposal. Approval of such a plan amendment and/or zone change accompanied by a specific development proposal may be conditioned upon initiation of the development proposal within a specified time period, at the discretion of the Hearings Body, to ensure no greater intensity of use than that contemplated in the Type III proceeding. Approvals of Type III plan amendments/and or zone

changes that are not accompanied by applications for a specific development proposal shall be based on evaluation of the highest impact uses authorized in the proposed zone.

4.1.325 Review Authority.

A. The following shall serve as hearings or review body for legislative changes in this order:

1. The Planning Commission or Hearings Officer.
   a. For Type III actions the Hearings Officer shall serve as the initial Hearings Body.
   b. For Type IV actions the Planning Commission shall serve as the initial Hearings Body.
2. The City Council, subject to Section 4.1.1100 of this ordinance.

B. Any Type III or Type IV change initiated by the City Council shall be reviewed by the Planning Commission or Hearings Officer prior to action being taken by the City Council.

4.1.330 Final Decision.

All Legislative changes shall be adopted by ordinance.

4.1.335 Corrections.

The City's comprehensive plans and zoning ordinances, subdivision ordinance, and development procedures ordinance may be corrected by order of the City Council to cure editorial and clerical errors. A public Hearing on a corrections order is not required.

4.1.400 TYPE I PROCEDURES

Sections:

4.1.410 Type I Applications
4.1.420 Decision
4.1.430 Type I Actions

4.1.410 Type I Applications.

A. A Type I application may be handled administratively by the Planning Director without public notice or hearing.

B. The Planning Director has the discretion to determine that for the purposes of this ordinance a Type I application should be treated as if it were a Type II application.

4.1.420 Decision.

A. Type I applications acted upon without notice or hearing shall be approved or denied by the Planning Director or his/or her designee within 30 days of the Planning Director's acceptance of the application.

B. Notice of a decision shall be provided to the applicant or the applicant's representative.

C. The decision may be appealed under Section 4.1.430 of this ordinance.

D. A Type I decision becomes final when no further appeal under this ordinance is available.

4.1.430 Type I Actions.

If the authority under which a Type I action is undertaken provides a means of review or appeal of a decision independent from this procedures ordinance, the review or appeal shall be in accordance with the procedures independently provided and not in accordance with this ordinance. If the authority under which a Type I action is reviewed does not provide a means of review or appeal of a decision, then review or appeal shall be in accordance with Section 4.1.1100 of this ordinance.

4.1.500 TYPE II OR TYPE III APPLICATIONS

Sections:

4.1.510	**Effect of Determinations Made Outside of Established Processes.**
4.1.515	**Process for Type II or Type III Applications.**
4.1.520	**Administrative Land Use Decisions with Prior Notice.**
4.1.525	**Administrative Decision without Prior Notice.**
4.1.530	**Final Action in Type II or Type III Actions.**
4.1.535	**Temporary Approval.**
4.1.540	**Supplementation of Application within First 30 Days of Submittal.**
4.1.545	**Modification of Application.**

Any informal interpretation or determination, or any statement describing the uses to which a property may be put, made outside the declaratory ruling process in accordance with Section 4.1.1400 or outside the process for approval or denial of a Type II or III permit in conformance with Section 4.1.500-900 shall be deemed to be a supposition only. Such informal interpretations, determinations, or statements shall not be deemed to constitute final City action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

4.1.515 Process for Type II or Type III Applications.

A. Except for comprehensive plan amendments and zone changes and other instances where a hearing is required by state law or by other ordinance provision, the Planning Director may decide upon a Type II application administratively either with prior notice, as prescribed under Section 4.1.520 or without prior notice, as prescribed under Section 4.1.525 or may refer the application to the Hearings Body for hearing as a Type III. The Planning Director shall take such action within 45 days of the date the application is accepted or deemed accepted as complete. This time limit may be waived at the option of the applicant.

B. The Planning Director's choice between or among administrative or hearing procedures to apply to a particular application or determination shall not be an appeal-able decision.

C. Quasi-judicial zone change and plan amendment applications shall be reviewed as a Type III and referred to a hearing before the Review Authority.

4.1.520 Administrative Land Use Decisions with Prior Notice.

A. Notice of the application shall be sent at least fourteen (14) days prior to the issuance of a decision to persons entitled to notice under Section 4.1.820. Such notice shall include all the information specified under Section 4.1.825. except for the information specified in subsections 7 and 10 of Section 4.1.825 (A).
B. Any person may comment in writing on the application within fourteen (14) days from the date notice was mailed or a longer period as specified in the notice.

C. The Planning Director's decision to approve, deny or send to a hearing shall be made within forty-five (45) days after an application is accepted as complete. This time limit may be waived by the written consent of the Applicant.

D. Notice of the Planning Director's decision and the appeal period shall be sent to all persons entitled to notice under Section 4.1.820 and to all persons who commented. The notice shall contain the applicable information required under Section 4.1.825.

E. The applicant, all persons entitled to notice under Section 4.1.820 and all other persons commenting as provided in this section constitute parties to the administrative decision. Any party can appeal the decision in accordance with Section 4.1.1100, Appeals.

4.1.525 Administrative Decision without Prior Notice.

The procedures for administrative decisions without prior notice shall be the same as those set forth in Section 4.1.520 of this Chapter, except that no prior notice shall be given.

4.1.530 Final Action in Type II or III Actions.

A. Except as otherwise provided, the City shall take final action, including consideration of appeals to the council, in Type II or III actions within one hundred twenty (120) days after the application is deemed complete.

B. If the applicant refuses or fails to submit missing information within the 30 days specified in Section 4.1.225 of this ordinance, the application shall be deemed complete, for purposes of processing the application, on the 31st day after the application was first submitted, and final action of City Council, if required, shall be taken within one hundred fifty-one (151) days after the application was first received unless otherwise provided.

C. The periods set forth in this section during which a final decision on an application must be made may be extended for a reasonable period of time to a date certain at the written request of the applicant.

D. Applications for the following determinations or approvals are exempt from the 120-day time limit established by this section:

1. Quasi-judicial comprehensive plan amendments;
2. Revocation proceedings;
3. Verification of nonconforming uses;
4. Lot of record determinations;
5. Initiation of approval determinations;
6. Consideration of remanded applications; and
7. Legislative Actions.

4.1.535 Temporary Approval.

A. The purpose of temporary land use approval is to allow an applicant in certain hardship or emergency situations to proceed without notice to those ordinarily entitled to notice with a land use action proposed in an application made to the Planning Division before the Division completes its

review of the proposed use. In all cases, an applicant receiving temporary approval must obtain final approval on the submitted application pursuant to the procedures specified in this ordinance.

B. Subject to subsection (E) below, the City Council or the Planning Director may authorize a temporary land use approval, provided:

1. An application for the land use approval has been accepted as complete.
2. A fee for review of the temporary approval has been paid.
3. The applicant has demonstrated good and sufficient cause for such a temporary approval.
4. It appears that the application will be given final approval in substantially the form submitted by the applicant.
5. The applicant accepts each and every risk of loss and damage that may result if the application is denied, and further agrees in writing to hold City, its officers, agents and employees harmless from such loss and damage.
6. The applicant agrees in writing to restore the site to its original condition if the application for the land use approval is denied.
7. The applicant posts a bond or other form of security acceptable to the Review Authority in an amount sufficient to cover the costs of restoration required by Section 4.1.530 above.

C. For the purposes of this section, "good cause" shall include only hardship or emergency situations arising due to factors that, through the exercise of ordinary diligence, the applicant could not have foreseen. "Good cause" does not include an applicant's request for a temporary permit for reasons of convenience only.

D. A temporary use approval shall not be granted for variances, zone changes or plan amendments.

E. The scope of the temporary approval shall be limited to allow the applicant to proceed only with that portion of the proposed use justifying the applicant's claim of hardship or emergency.

F. A temporary use approval shall expire as follows:

1. Six months from the date of approval, if no decision has been reached on the underlying application.
2. On the date the appeal period runs on the decision on the underlying application.
3. On the date that all appeals of the decision on the underlying application are decided and final.

G. A decision to approve a temporary use application is not appealable.

4.1.540 Supplementation of Application within First 30 Days of Submittal.

An applicant shall not submit any evidence to supplement its application during the 30 days following submittal of its application, except to respond to a request for additional information made under Section 4.1.225. Any evidence submitted by an applicant in violation of this section will not be considered in determining whether the application is complete and will be returned to the applicant.

4.1.545 Modification of Application.

A. An applicant may modify an application at any time during the approval process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process, subject to the provisions of Section 4.1.540 and this Chapter.

B. The Review Authority shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application (as that term is defined in Chapter 1.2, Definitions unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 120-day time clock as of the date the modification is submitted. The 120-day time clock for an application, as modified, may be restarted as many times as there are modifications.

C. The Review Authority may require that the application be re-noticed and additional hearings be held.

D. Up until the day a hearing is opened for receipt of oral testimony, the Planning Director shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Hearings Body shall make such determinations. The Review Authority 's determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the City on an application.

4.1.600 DESCHUTES RIVER DESIGN REVIEW PROCEDURES

For all property subject to the Deschutes River Design Review process pursuant to the City Zoning Ordinance, the following procedures shall apply:

A. There shall be two review tracks for Deschutes River Design Review depending on the level and type of activity proposed. Notwithstanding these provisions, the Planning Director may refer any application to the Planning Commission for approval. The Planning Commission's consideration shall be subject to land use permit procedures.

1. Review Track I: A Type II administrative review shall be performed by the Planning Director for the following activities:

   a. Minor alterations of 10 percent or less to an existing building facade facing river.
   b. Changes in window or door placement visible from the river.
   c. Changes in parking locations.
   d. Fill or removal activity within 10 feet of the ordinary high water mark of the Deschutes River.
   e. New construction or additions that is not visible from the river due to topography, vegetation or existing development.

2. Review Track II: Notwithstanding Section 4.1.815, a Type III review shall be performed by the Planning Commission for the following activities:

   a. Appeal of a Type II administrative review decision.
   b. New construction and new development.
   c. Master Plan approval for large scale projects.
   d. Variances to an application in conformance with Chapter 5.1, Variances.
   e. Fill and removal activities associated with new development or for creation of fire breaks in association with appropriate fire prevention authorities.

B. Procedures: The applicant shall request approval for a procedure in writing to the Planning Division on forms provided by the city. The request shall include a site plan and a description of work and materials that will be used. The Review Authority shall review the request and respond to the applicant in writing of the decision and any conditions placed on the decision.

C. Land Use Permit Procedures: Land Use permit review shall be conducted by the Planning Commission as follows:

1. Notice for land use permit applications shall be as set forth in Section 4.1.820, Notice of Hearing or Administrative Action, and Section 4.1.825, Contents of Notice. The Commission may hold a public hearing for any Land Use Action applications. The hearings procedure shall be as set forth in Section 4.1.800, Land Use Action Hearings.

2. Appeals of the decision of the Planning Commission shall be to the City Council, subject to the procedures and restrictions set forth in Section 4.1.1100, Appeals.

D. Where the procedures in this section conflict with other provisions of this ordinance with respect to Deschutes River Corridor Design Review, the provisions of this section shall prevail.

4.1.700 REFINEMENT PLAN REVIEW PROCEDURES

A. Refinement Plan Development and Approval Process.

1. Initiation. The process to establish a refinement plan shall be initiated by the City Council. The Planning Commission or interested property owners may submit requests to the City Council to initiate the refinement plan process. If owners request initiation of a refinement plan process, the City Council may require an application fee to cover the cost of creating the plan.

2. Steering Committee. The City Council may appoint a steering committee to guide development of the plan. The steering committee may include persons representing affected property owners, neighbors, city staff, agencies, special districts and the community at large. The role of the steering Committee is advisory to the Planning Commission and the City Council.

B. Refinement Plan Content. At a minimum, a refinement plan shall include the following text and diagrams:

1. Plan Objectives. A narrative shall set forth the goals and objectives of the plan.
2. Site and Context. A map of the site and context shall identify the project area.
3. Land Use Diagram. The land use diagram shall indicate the distribution and location of planned land uses, including open space and parks, within the area covered by the refinement plan.
4. Density. If residential uses are proposed, a narrative shall describe planned residential densities.
5. Facilities Diagram. The facilities diagram shall depict the general location and extent of major components of sanitary sewer, water, and other essential facilities proposed to be located within the area covered by the refinement plan and needed to support the land uses described in the plan.
6. Circulation/Transportation Diagram. The circulation diagram shall indicate the proposed street pattern for the refinement plan area, including pedestrian pathways and bikeways. Design standards and street cross sections shall be included, if different than normal City standards.
7. Design and Development Standards. If standards differ from normal City standards, design and development standards shall be included in the plan.

C. Land Use Review. Except as set forth below, the review procedures for Land Use Activity Categories outlined in Chapter 4.1.300; Legislative Procedures, of this code shall apply for all property subject to a Refinement Plan overlay zone.

1. Administrative Review. The following activities shall be reviewed either administratively or by a Hearings Body.
   a. Type I applications.
   b. Type II/III applications conforming to the standards of the refinement plan.
   c. Administrative amendments to the refinement plan.
   d. Minor amendments to the refinement plan
   e. Lot line adjustments consistent with the refinement plan.

2. Planning Commission Review. The Planning Commission shall review the following activities:

a. Class B or C Variance
b. Lot line adjustments that are not consistent with the refinement plan.

3. City Council Review. The following activities shall be reviewed by the City Council as either a quasi-judicial or legislative amendment.

a. Major amendments to the refinement plan.
b. Appeals of land use decisions.

D. Amendments and Adjustments to the Refinement Plan. Amendments to an approved refinement plan are classified as administrative, minor, or major amendments.

1. Administrative Amendments. Administrative amendments may be approved by the City Planning Director pursuant to development action procedures. Public notice of administrative amendments is not required. Administrative amendments include:

a. Street, easement, sidewalk, and trail relocations that result in a location change of less than 50 feet from what is depicted on refinement plan diagrams.
b. Public park relocations that result in a location change of less than 100 feet from what is depicted on refinement plan diagrams.
c. Increases in the size of public neighborhood parks, provided that transportation connections remain consistent with the refinement plan.
d. Reductions in the size of public neighborhood parks, provided the reductions are less than 10% of park area depicted on refinement plan diagrams and that the reductions do not result in a park that is less than 20,000 square feet in size.
e. Changes related to street trees, street furniture, fencing, or signage that was approved as part of the refinement plan.
f. A change in the utility plan other than what would be necessary for other authorized adjustments.

2. Minor Amendments. A minor amendment to a refinement plan shall be processed as aType II application. Notice of the pending decision shall be provided to all owners of land within or abutting the Refinement Plan district(s) in question. The Hearings Body decision shall include findings demonstrating that the change will not affect adversely:

- the purpose and objectives of the refinement plan,
- the functioning of the refinement plan, or
- the coordination of transportation and infrastructure provision to properties within the refinement plan area.

Minor amendments are those that result in any of the following:

a. A change in the circulation/transportation plan that requires an identified transportation element to be moved 50 to 100 feet from the location depicted on the refinement plan circulation/transportation diagram.

b. A change in the circulation/transportation plan that requires a required transportation element including local street, easement, sidewalk or trail to be shifted 50 to 100 feet in any direction from what is depicted on the refinement plan circulation/transportation diagram.

c. A change in the land use diagram that reduces the size of a public park or facility more than 10%, or moves the location more than 100 feet from the location depicted on the land use diagram.

3. Major Amendment. A major amendment to a refinement plan shall be processed as a comprehensive plan amendment affecting the existing refinement plan. The amendment shall

follow either quasi-judicial or legislative procedures and meet plan amendment and zone change criteria. Findings must additionally demonstrate that the change will not affect adversely:

- the purpose and objectives of the refinement plan,
- the functioning of the refinement plan, or
- the coordination of transportation and infrastructure provision to properties within the refinement plan area.

Major amendments are those that result in any of the following:

a. A change in land use plan boundary or density, unless as part of the original approvals an alternative design was approved outlining acceptable plan designation options (for example, a residential designation may be approved as an alternative use for a park site).

b. A change in the circulation/transportation plan that causes a required transportation element, including a trail, to be added, eliminated or moved more than 100 feet from the location depicted on the refinement plan circulation/transportation diagram.

c. A change in the land use diagram that adds or eliminates a designated public park or facility.

d. A change in development standards, except those set forth as minor or administrative amendments.

4.1.800 LAND USE ACTION HEARINGS

Sections:

4.1.810	**Filing of Staff Report for Hearing**
4.1.815	**Hearings Body**
4.1.820	**Notice of Hearing or Administrative Action**
4.1.825	**Contents of Notice**
4.1.830	**Burden of Proof**
4.1.835	**Nature of Evidence**
4.1.840	**Limitation on Oral Presentations**
4.1.845	**Standing**
4.1.850	**Record**
4.1.855	**Disclosure of Ex Parte Contacts**
4.1.860	**Disclosure of Personal Knowledge**
4.1.865	**Challenge for Bias, Prejudgment of Personal Interest**
4.1.870	**Hearings Procedure**
4.1.875	**Setting the Hearing**
4.1.880	**Close of the Record**
4.1.885	**Continuances or Record Extensions**
4.1.890	**Objections to Jurisdiction, Procedure, Notice or Qualifications**
4.1.895	**Reopening the record**

4.1.810 Filing of Staff Report for Hearing.

A. At the time an application, that in the judgment of the Planning Director requires a hearing, is deemed complete, a hearing date shall be set.

B. A staff report shall be completed seven days prior to the hearing. If the report is not completed by such time, the hearing shall be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date that is at least seven days after the date the initial staff report is complete. Pursuant to Section 4.1.885; Continuances or Record Extensions, grant of a continuance under these circumstances shall be at the discretion of the Hearings Body.

C. A copy of the staff report shall be mailed to the applicant, shall be made available at a reasonable cost to such other persons who request a copy and shall be filed with the Hearings Body.

D. Notwithstanding subsection 4.1.810(B) above, oral or written modifications and additions to the staff report shall be allowed prior to or at the hearing.

4.1.815 Hearings Body.

A. The following shall serve as the Hearings Body in this order:
   1. Hearings Officer.
   2. Planning Commission, where the Hearings Officer cannot hear the matter due to a conflict of interest, or as otherwise specified by provisions of City Code.
   3. City Council subject to Section 4.1.1100, Appeals.

4.1.820 Notice of Hearing or Administrative Action.

A. Individual Mailed Notice.

1. Except as otherwise provided for herein, notice of a Type II or III application shall be mailed at least ten (10) days prior to the hearing for those matters set for hearing, or at least fourteen (14) days prior to issuance of a written decision for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:

   a. The applicant.

   b. Owners of record of property as shown on the most recent property tax assessment roll of property located:

      i. Within 100 feet of the property that is the subject of the notice and where any structure being proposed is less than or equal to 45 feet in height. The notice boundary shall increase by 200 feet for every 15-foot increment of structure height above 45 feet.

      ii. The required notice area boundary shall be measured from the opposite side of any street rights of way, rivers, and/or canals adjacent to the subject property from which the notice area originates.

      iii. The applicant shall bear the cost (i.e. mailing, etc.) of any increased notice area required by a structure with height in excess of 45 feet.

   c. The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park.

   d. The administrative body of a neighborhood association recognized by the City of Bend, where any part of the proposed development is within the boundaries of a recognized neighborhood association.

2. Notwithstanding subsection 4.1.820(A)(1)(b)(i) above, all owners of property within 250 feet of property that is the subject of a plan amendment application or zone change application shall receive notice.

3. Mailed notice per ORS 227.160-227-185 shall be provided to all property owners affected by a proposed text or plan amendment.

4. The failure of a property owner to receive mailed notice shall not invalidate any land use approval if the Planning Division can show by affidavit that such notice was given.

5. The Planning Director may increase the minimum notice area required under subsection 4.1.820(A)(1)(b)(i) above, at his or her sole discretion.

B. Posted Notice.

1. Notice of a land use action application for which prior notice procedures are required shall be posted on the subject property by the applicant/property owner for at least 10 continuous days prior to any date set for receipt of comments. Such notice shall, where practicable, be visible from any adjacent public way. Failure of applicant/property owner to maintain posting of the sign for 10 continuous days shall not invalidate a land use approval.

2. Posted notice of an application for a utility facility line approval shall be by posting the proposed route at intervals of not less than 500 feet. The notice shall be posted as close as practicable to, and be visible from, any public way in the vicinity of the proposed route.

C. Published Notice. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the City at least ten (10) days prior to the hearing.

4.1.825 Contents of Notice.

A. All mailed notices of a land use action hearing shall:

1. Describe the nature of the applicant's request and the nature of the proposed uses that could be authorized.

2. List the criteria from the zoning ordinance and the general plan applicable to the application at issue.

3. Set forth the street address or easily understood geographical reference to the subject property.

4. State the date, time and location of any hearing or date by which written comments must be received.

5. State that any person may comment in writing and include a general explanation of the requirements for submission of testimony and the procedures for conduct of testimony, including, but not limited to, a party's right to request a continuance or to have the record held open.

6. If a hearing is to be held, state that any interested person may appear and provide evidence.

7. State that failure to raise an issue in person at a hearing or in writing precludes appeal by that person to the Land Use Board of Appeals (LUBA), and that failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue.

8. State the name of a city representative to contact and the telephone number where additional information may be obtained.

9. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.

10. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost.

11. All mailed notices shall contain the following statement:

ORS. 197 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

B. All mailed and published notices for hearings shall contain a statement that recipients may request a copy of the staff report at a reasonable cost.

C. All mailed and published notices concerning applications necessitating an exception to one of the statewide land use planning goals shall state that a goal exception is proposed and shall summarize the issues in an understandable manner.

4.1.830 Burden of Proof.

Throughout all local land use proceedings the burden of proof rests on the applicant.

4.1.835 Nature of Evidence

All relevant evidence shall be received.

4.1.840 Limitation on Oral Presentations.

The Hearings Body may set reasonable time limits on oral testimony.

4.1.845 Standing.

A. Any interested person may appear and be heard in a land use action hearing, except that in appeals heard on the record, a person must have participated in a previous proceeding on the subject application.

B. Any person appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing shall have standing and shall be a party. A person whose participation consists only of signing a petition shall not be considered a party.

4.1.850 Record.

A. An audio tape recording of the hearing shall be made.

B. All exhibits presented shall be marked to show the identity of the person offering the exhibit.

C. Exhibits shall be numbered in the order presented, and shall be dated.

D. When exhibits are introduced, the exhibit number or letter shall be read into the record.

4.1.855 Disclosure of Ex Parte Contacts.

A. Prior to making a decision, the Hearings Body or any member thereof shall not communicate directly or indirectly with any party or his or her representative in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should such communication - whether written or oral - occur, the Hearings Body member shall:

1. Publicly announce for the record the substance of such communication; and

2. Announce the parties' right to rebut the substance of the ex parte communication during the hearing.
3. Communication between City staff and the Hearings Body shall not be considered to be an ex parte contact.

4.1.860 Disclosure of Personal Knowledge.

A. If the Hearings Body or any member thereof uses personal knowledge acquired outside of the hearing process in rendering a decision, the Hearings Body or member thereof shall state the substance of that knowledge on the record and allow all parties the opportunity to rebut such statement on the record.

B. For the purposes of this section, a site visit by the Hearings Body shall be deemed to fall within this rule. After the site visit has concluded, the Hearings Body must disclose its observations and conclusions gained from the site visit in order to allow for rebuttal by the parties.

4.1.865 Challenge for bias, prejudgment or personal interest.

A. Prior to or at the commencement of a hearing, any party may challenge the qualification of the Hearings Body, or a member thereof, for bias, prejudgment or personal interest. The challenge shall be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, the Hearings Body or the member shall disqualify itself, withdraw or make a statement on the record of its capacity to hear. A Planning Commission member with a conflict identified under ORS 197 must disqualify him or herself after disclosure.

4.1.870 Hearings Procedure.

A. A hearing shall be conducted as follows:

1. The Hearings Body shall explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.

2. A statement by the Hearings Body regarding pre-hearing contacts, bias, prejudice or personal interest shall be made.
3. Any facts received, noticed or recognized outside of the hearing shall be stated for the record.

4. Challenges to the Hearings Body's qualifications to hear the matter shall be stated and challenges entertained.

5. The Hearings Body or his or her designee shall list applicable substantive criteria, explain that testimony and evidence must be directed toward that criteria or other criteria in the comprehensive plan or land use regulations that the person believes to apply to the decision, and that failure to address an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond precludes appeal to LUBA based on that issue. The failure of the applicant to raise a constitutional or other issues related to the proposed conditions of approval with sufficient specificity to allow the Hearings Body to respond to the issue precludes the applicant from pursuing an action for damages in circuit court.

6. Order of presentation:

a. Open the hearing.
b. Staff report.
c. Proponents' presentation.
d. Opponents' presentation.
e. Proponents' rebuttal.
f. Opponents' rebuttal may be allowed at the Hearings Body's discretion.
g. Staff comment.
h. Questions from or to the chair may be entertained at any time at the Hearings Body's discretion.
i. Close the hearing.

7. The record shall be available for public review at the hearing.

8. A form of preliminary statement incorporating the provisions of this section is set forth as Appendix A to this Chapter for use by the City Council.

4.1.875 Setting the Hearing.

A. After an application is deemed accepted a hearing date shall be set. A hearing date may be changed by the city staff, or the Hearings Body up until the time notice of the hearing is mailed. Once the notice of hearing is mailed any changes in the hearing date shall be processed as a continuance in accordance with Subsection 4.1.885 of this chapter.

B. If an applicant requests that a hearing date be changed, such request shall be granted only if the applicant agrees that the extended time period for the hearing shall not count against the 120-day time limit set forth in Section 4.1.530; Final Action in Type II or III Actions, of this ordinance.

4.1.880 Close of the Record.

A. Except as set forth herein, the record shall be closed to further testimony or submission of further argument or evidence at the end of the presentations before the Hearings Body.

B. If the hearing is continued or the record is held open under Section 4.1.885, further evidence or testimony shall be taken only in accordance with the provisions of that section.

C. Otherwise, further testimony or evidence will be allowed only if the record is reopened under Section 4.1.895; Reopening the Record, below.

D. An applicant shall be allowed, unless waived, to submit final written arguments in support of its application after the record has closed within such time limits as the Hearings Body shall set. The Hearings Body shall allow applicant at least seven days to submit its argument, which time shall be counted against the 120-day clock.

4.1.885 Continuances or Record Extensions.

A. Grounds.

1. Prior to the date set for an initial hearing, an applicant shall receive a continuance upon any request if accompanied by a corresponding extension of the 120 day clock. If a continuance

request is made after the published or mailed notice has been provided by the City, the Hearings Body shall take evidence at the scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance.

2. Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:

   a. Where additional documents or evidence are submitted by any party; or
   b. Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony.

   For the purposes of subsection 4.1.885(A)(2) above, "additional documents or evidence" shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.

3. The grant of a continuance or record extension shall be at the discretion of the Hearings Body.

B. Except for continuance requests made under subsection (A)(1) above, the choice between granting a continuance or leaving the record open shall be at the discretion of the Hearings Body. After a choice has been made between leaving the record open and granting a continuance, the hearing shall be governed thereafter by the provisions that relate to the path chosen.

C. Continuances.

1. If the Hearings Body grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial hearing

2. An opportunity shall be provided at the continued hearing for persons to rebut new evidence and testimony received at the continued hearing.

3. If new written evidence is submitted at the continued hearing, any person may request prior to the conclusion of the continued hearing that the record be left open for at least 7 days to allow submittal of additional written evidence or testimony. Such additional written evidence or testimony shall be limited to evidence or testimony that rebuts the new written evidence or testimony.

D. Leaving record open. If at the conclusion of the hearing the Hearings Body leaves the record open for additional written evidence or testimony, the Hearings Body shall allow for response to written evidence or testimony submitted during the period the record is held open.

E. A continuance or record extension granted under this section shall be subject to the 120-day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an applicant, the time period during which the 120-day clock is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.

4.1.890 Objections to Jurisdiction, Procedure, Notice or Qualifications.

A. Any objections not raised prior to the close of oral testimony are waived. Parties alleging procedural error shall have the burden of proof at LUBA as to whether the error occurred and whether the error has prejudiced the party's substantial rights.

4.1.895 Reopening the Record.

A. The Hearings Body may at its discretion reopen the record, either upon request or on its own initiative. The Hearings Body shall not reopen the record at the request of an applicant unless the applicant has agreed in writing to an extension or a waiver of the 120-day time limit.

B. Procedures.

1. Except as otherwise provided for in this section, the manner of testimony (whether oral or written) and time limits for testimony to be offered upon reopening of the record shall be at the discretion at the Hearings Body.

2. The Hearings Body shall give written notice to the parties that the record is being reopened, stating the reason for reopening the record and how parties can respond. The parties shall be allowed to raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

4.1. 900 LAND USE ACTION DECISIONS

Sections:

4.1.910	**Decision**
4.1.915	**Findings as to Application Acceptance Date**
4.1.920	**Findings as to Legal Lot of Record Status**
4.1.925	**Notice of Decision**
4.1.930	**Decision on Plan Amendments and Zone Changes**
4.1.935	**Reapplication Limited**
4.1.940	**Proposed Order**
4.1.945	**Compliance with ORS 227.350**
4.1.950	**Correction of Clerical Errors**

4.1.910 Decision.

A. Approval or denial of a Type II or III application shall be based upon and accompanied by a written statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria standards and facts set forth.

B. Any portion of an application not addressed in a Review Authority's decision shall be deemed to have been denied.

C. A decision on a Type II or III application is not final until the Review Authority issues a written decision, the decision or notice of the decision has been mailed and the appeal period to the next higher Review Authority within the City has run.

D. Unless a temporary use permit has been issued, no building permit shall be issued until a decision is final. Appeal of a final decision to LUBA does not affect the finality of a decision for purposes of issuing building permits. If an applicant elects at his or her own discretion to proceed under a land use action with a pending LUBA appeal, he or she shall proceed only if:

1. The applicant accepts each and every risk of loss and damage that may result if the application is denied, and further agrees in writing to hold City, its officers, agents and employees harmless from such loss and damage.

2. The applicant agrees in writing to restore the site to its original condition if the application for the land use approval is denied.

3. The applicant posts a bond or other form of security acceptable to the Review Authority in an amount sufficient to cover the costs of restoration of the site to its pre-approval condition.

4.1.915 Findings as to Application Acceptance Date.

Each decision shall include findings as to when the proposed Type II or III action application was deemed complete and formally accepted as such by the Planning Director.

4.1.920 Findings as to Legal Lot of Record Status.

Each decision shall include a finding that the property subject to the proposed land use action is a legal lot of record as that term is defined in the City of Bend Zoning Ordinance.

4.1.925 Notice of Decision.

A Review Authority's decision shall be in writing and mailed to all parties; however, one person may be designated by the Review Authority to be the recipient of the decision for a group, organization, group of petitioners or similar collection of individual participants.

4.1.930 Decision on Plan Amendments and Zone Changes.

Except as set forth herein, the Hearings Body shall have authority to make decisions on all quasi-judicial zone changes and plan amendments. No Type III or IV plan amendment or zone change shall be effective unless adopted by the City Council.

4.1.935 Reapplication Limited.

A. If a specific application is denied on its merits, reapplication for substantially the same proposal may be made at any time after the date of the final decision denying the initial application.

B. Notwithstanding subsection (A) of this above, a final decision bars any reapplication for a nonconforming use verification or for a determination on whether an approval has been initiated, unless the applicant comes forward with new evidence that was not available at the time the decision was made, and which could not, through reasonable diligence, have been discovered by the applicant prior to the decision. A lot of record determination shall be subject to reapplication under subsection (A) above, only if the applicant presents new factual evidence not submitted with the prior application.

4.1.940 Proposed Order.

The Review Authority may request that any prevailing party to draft a set of proposed findings and conclusions.

4.1.945 Compliance with ORS 227.350.

A. Final approval of any activity referred to in ORS 227.350(1) regarding state-identified wetlands must include the notice statements required by ORS 227.350(3).

B. Individual notice to the applicant and the owner of record consistent with ORS 227.350(5) shall be provided, unless notice in the written decision notice satisfies that requirement.

C. Failure of the City to provide notice as required in this section shall not invalidate City approval.

D. This section shall not become operative until the Division of State Lands makes available to the City a copy of the applicable portion of the Statewide Wetland Inventory.

4.1.950 Correction of clerical errors.

Upon its own motion or the motion of a party, the City Council may, subject to any applicable public notice and hearing requirements, enact an ordinance correcting clerical or typographical errors in plan amendment or zone change ordinances and any maps appended thereto implementing decisions of the Review Authority. Such changes shall be entered only if the council is able to make a finding that the decision of the Review Authority, including appendices, is not accurately reflected in the implementing ordinances.

4.1. 1000 RECONSIDERATION

Sections:

4.1. 1010 **Request for Reconsideration.**
4.1. 1020 **Procedure.**
4.1. 1030 **Limitation on Reconsideration.**

4.1.1010 Reconsideration.

A. An applicant may request that the Review Authority's decision be reconsidered as set forth herein. A request for reconsideration shall be accompanied by a fee established by the City and by applicant's written consent that the 120-day time clock will not run during the period of the reconsideration and the resulting extended appeal period. The fee will be waived where in the opinion of the Planning Director, the reconsideration is requested to correct a clerical or technical error that is the City's fault.

B. Grounds for reconsideration of an administrative decision are limited to the following instances:

1. The applicant's submission of additional documents or evidence, that merely clarifies or supports the pending application, directed to one or more discreet aspects of the approval. The new information shall not constitute a modification of application as defined herein.

2. Correction of an error in a condition established by the Review Authority where the condition is not supported by the record or is not supported by law;

3. Correction of errors that are technical or clerical in nature.

4.1.1020 Procedure.

A. A request for reconsideration shall be filed with the Planning Director within twelve (12) days of the date the decision was mailed. The request shall identify the condition or issue to be considered and shall specify how the applicant would be adversely affected if the issue were to remain uncorrected.

B. Upon receipt of a request for reconsideration of a Hearings Body's decision, the Planning Director shall notify all parties to the proceeding of the request and allow for a ten-day comment period on the request. At the end of the comment period, the Hearings Body shall determine whether the request for reconsideration has merit. No comment period or prior notice shall be required for an administrative reconsideration.

C. The Review Authority shall modify the decision upon a determination that the request has merit and the issue substantially affects the applicant. Notice of the modification shall be sent to all parties to the proceeding. If the Review Authority determines that no modification is warranted, a determination shall issue to that effect.

D. Filing a request for a reconsideration shall not be a precondition for appealing a decision.

E. Filing a request for reconsideration stays the deadline for any party to file an appeal of the Review Authority's decision. A new 12-day appeal period for all parties to the proceeding shall commence upon mailing of a modification or upon mailing a determination that a modification is not warranted. If an opponent files an appeal and an applicant has requested reconsideration, the opponent's appeal shall be stayed pending disposition of the request for modification. If the decision is not modified, the appeal will be processed in accordance with the procedures set forth in Section 4.1.1100. If the decision is modified, the appellant must within 12 days of the mailing of the modified decision file in writing a statement requesting that its appeal be activated or the appeal will be invalidated.

4.1.1030 Limitation on Reconsideration.

No decision shall be reconsidered more than once before the same Review Authority.

4.1.1100 APPEALS

Sections:

4.1.1110	**Who May Appeal**
4.1.1115	**Filing Appeals**
4.1.1120	**Notice of Appeal**
4.1.1125	**Determination of Jurisdictional Defects**
4.1.1130	**Transcript Requirement for Appeals to City Council**
4.1.1135	**Consolidation of Multiple Appeals**
4.1.1140	**Scope of Review**
4.1.1145	**Hearing on Appeal**
4.1.1150	**Type I Appeals**
4.1.1155	**Rehearing**
4.1.1160	**Remands**
4.1.1165	**Withdrawal of an Appeal**

4.1.1110 Who May Appeal.

A. The following may file an appeal:

1. A party;

2. In the case of an appeal of an administrative decision without prior notice, a person entitled to notice, a person adversely affected or aggrieved by the administrative decision, or any other person who has filed comments on the application with the Planning Division; and

3. A person entitled to notice and to whom no notice was mailed; and

B. A person to whom notice is mailed is deemed notified even if notice is not received.

4.1.1115 Filing appeals.

A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Planning Division and pay an appeal fee.

B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received at the offices of the City services no later than 5:00 PM on the twelfth day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than 5:00 PM on the twelfth day following mailing of the decision as modified. Notices of Appeals shall not be received by facsimile machine.

C. If the City Council is the Hearings Body and the council declines review, 75% of the appeal fee will be refunded when City Council does not hear the appeal and when the appellant does not appeal the issue to the Land Use Board of Appeals.

D. The appeal fee shall be paid by cash or check or money order, except that local, state or federal governmental agencies may supply a purchase order at the time of filing.

4.1.1120 Notice of Appeal.

A. The Notice of Appeal shall contain:

1. A description of the decision which is being appealed, including the date of decision.

2. A statement describing the interest the person who is appealing has in the decision. Only persons who have proper standing as provided by the law, and who have participated in the decision being appealed (if provision for such participation was provided in the previous proceeding) may appeal the decision. The statement of interest must demonstrate the person's standing and participation.

3. A description of the issues sought to be raised by the appeal; and a statement that the issues were raised during the proceeding that produced the decision being appealed. This description must include the specific criteria relied upon as the basis for the appeal, and an explanation of why the decision has not complied with the standards or requirements of the criteria. The issues raised by the appeal must be stated with sufficient specificity to afford the reviewing authority an opportunity to resolve each issue raised.

4. In the case of an appeal to the City Council, the Notice of Appeal shall include the following additional information to assist the Council in deciding whether to grant discretionary review of the decision being appealed:

   a. How the appeal presents issues that have significant public policy or community wide implications for the City, as opposed to more limited issues which primarily involve the directly affected property or persons involved in the land use decision being appealed.

   b. Why it is necessary or desirable for the City Council to review these issues; and why the issues cannot be adequately and fairly reviewed by the Land Use Board of Appeals.

B. If the appeal asks for City Council discretionary review of the decision being appealed, and the person appealing wants to present additional evidence (beyond that already in the record made as part of the decision being appealed), then the Notice of Appeal shall also contain:

1. A statement summarizing the new evidence and the criteria to which it will relate.

2. An explanation why the proposed new evidence was not submitted as part of the record made in the decision being appealed. Evidence that is substantially similar to evidence already in the record of the decision being appealed will not be allowed. Evidence that could have been submitted in the record of the decision being appealed will not be allowed unless there is a compelling reason that justifies its presentation as part of the appeal.

4.1.1125 Determination of Jurisdictional Defects.

A. Any failure to conform to the requirements of Sections 4.1.1115; Filing Appeals and 4.1.1120; Notice of Appeal, above shall constitute a jurisdictional defect.

B. Determination of jurisdictional defects in an appeal shall be made by the Review Authority to which an appeal has been made.

4.1.1130 Transcript Requirement for Appeals to City Council.

A. Except as otherwise provided in this section, appellants shall provide a complete transcript of any hearing appealed from the Hearings Officer or Planning Commission, from audio recordings provided by the City, below.

B. Appellants shall submit the transcript to the Planning Division no later than the close of the day 5 days prior to the date set for a de novo appeal hearing or, in on-the-record appeals, the date set for receipt of written arguments. Unless excused under this section, an appellant's failure to provide a transcript shall cause the Council to decline to consider the appellant's appeal further and shall, upon notice mailed to the parties, cause the lower Hearings Body's decision to become final.

C. An appellant shall be excused from providing a complete transcript if appellant was prevented from complying by:

   1. The inability of the Planning Division to supply appellant with an audio recording of the prior proceeding; or

   2. Defects on the audio recording of the prior proceeding that make it not reasonably possible for applicant to supply a transcript. Appellants shall comply to the maximum extent reasonably and practicably possible.

4.1.1135 Consolidation of Multiple Appeals.

A. If more than one party files a notice of appeal on a land use action decision, the appeals shall be consolidated and noticed and heard as one proceeding.

B. In instances of multiple appeals where separate appellants have asked for a differing scope of review, any grant of de novo review shall control over a separate request for a more limited review on appeal.

4.1.1140 Scope of Review.

A. Before Hearings Officer or Planning Commission. The review on appeal before the Hearings Officer or Planning Commission shall be de novo.

B. Before the Council:

1. Review of land use decisions by the City Council on appeal shall be discretionary. A decision by the City Council to not grant discretionary review of the appeal shall be the final determination of the City, and the appeal of the decision shall be to the Land Use Board of Appeals as provided by law. The City Council's decision whether to grant discretionary review shall be made without testimony or argument from persons interested in the appeal, except as specifically permitted by the City Council.

2. The scope of review for appeals that are granted discretionary review by the City Council shall be:

   a. Restricted to the issues raised in the Notice of Appeal, or as prescribed by the City Council.

   b. Be conducted during an appeal hearing before the City Council on the record made as part of the decision being appealed, unless the City Council has permitted the presentation of new evidence as part of the appeal.

   c. De novo review if the City Council so chooses.

3. The record for discretionary review by the City Council shall include:

   a. The land use application or request which is the subject of the appeal, any staff report, and all written comments, exhibits, or any other materials or information considered by the decision maker in the proceedings that produced the decision being appealed.

   b. A written transcript of all proceedings before the decision maker, or a stipulated written summary of the proceedings submitted by all of the parties to the appeal.

4. An appeal hearing before the City Council shall be conducted according to such procedures as the City Council shall prescribe, which may include an opportunity for presentations by the parties to the appeal.

5. Decisions reviewed by the City Council can be affirmed, remanded, reversed, or modified in whole or in part by the City Council.

4.1.1145 Hearing on appeal.

A. The appellant and all other parties to the decision below shall be mailed notice of the hearing on appeal at least ten (10) days prior to any de novo hearing or deadline for submission of written arguments.

B. Except as otherwise provided in this chapter, the appeal shall be heard as provided in Section 4.1.800, Land Use Action Hearings. The applicant shall proceed first in all appeals.

C. The order of Hearings Body shall be as provided in Section 4.1.815; Hearings Body of this ordinance.

D. The record of the proceeding from which appeal is taken shall be a part of the record on appeal.

E. The record for a review on the record shall consist of the following:

1. A written transcript of any prior hearing;
2. All written and graphic materials that were part of the record below;
3. The Review Authority's decision appealed from;
4. Written arguments, based upon the record developed below, submitted by any party to the decision;
5. Written comments submitted by the Planning Commission or individual Planning Commissioners, based upon the record developed below; and
6. A staff report and staff comment based on the record: and
7. Other information deemed relevant by the Review Authority.

F. No oral evidence, argument or comment other than staff comment based on the record shall be taken. The council shall not consider any new factual information in an "on the record" proceeding.

4.1.1150 Type I appeals.

Notice of the hearing date set for appeal shall be sent only to the applicant. Only the applicant, his or her representatives, and his or her witnesses shall be entitled to participate. Continuances shall be at the discretion of the Hearings Body, and the record shall close at the end of the hearing.

4.1.1155 Re-hearing.

Re-hearings shall not be allowed.

4.1.1160 Remands.

Applications shall not be remanded to a lower level Review Authority after appeal, except by City Council as provided in subsection 4.1.1140(5), above.

4.1.1165 Withdrawal of an appeal.

An appeal may be withdrawn in writing by an appellant at any time prior to the rendering of a final decision. Subject to the existence of other appeals on the same application, in such event the appeal proceedings shall terminate as of the date the withdrawal is received. An appeal may be withdrawn under this section regardless of whether other non-filing parties have relied upon the appeal filed by the appellant.

4.1.1200 PROCEEDINGS ON REMAND

Sections:

4.1.1210	**Purpose.**
4.1.1215	**Hearings Body.**
4.1.1020	**Notice and Hearings Requirements.**
4.1.1225	**Scope of Proceeding.**
4.1.1230	**Effect of Reversal.**

4.1.1210 Purpose.

This chapter shall govern the procedures to be followed where a decision of the City has been remanded by LUBA or the appellate courts or a decision has been withdrawn by the City following an appeal to LUBA.

4.1.1215 Hearings Body.

The Hearings Body for a remanded or withdrawn decision shall be the Hearings Body from which the appeal to LUBA was taken, except that in voluntary or stipulated remands, the council may decide that it will hear the case on remand. If the remand is to the Hearings Officer, the Hearings Officer's decision may be appealed under this ordinance to the council, subject to the limitations set forth herein.

4.1.1220 Notice and Hearings Requirements.

A. The City shall conduct a hearing on any remanded or withdrawn decision, the scope of which shall be determined in accordance with the applicable provisions of this section, the LUBA or Appellate Court decision, and applicable state law. Unless state law requires otherwise, only those persons who were parties to the proceedings before the City shall be entitled to notice and be entitled to participate in any hearing on remand.

B. The hearing procedures shall comply with the minimum requirements of state law and due process for hearings on remand and need comply with the requirements of Section 4.1.800; Land Use Action Hearings, only to the extent that such procedures are applicable to remand proceedings under state law.

4.1.1225 Scope of Proceeding.

A. On remand, the Hearings Body shall review those issues that LUBA or the Appellate Court required to be addressed. In addition, the Council shall have the discretion to reopen the record in instances in which it deems it to be appropriate.

B. At the Council's discretion, a remanded application for a land use permit may be modified to address issues involved in the remand or withdrawal to the extent that such modifications would not

substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors. Any greater modification would require a new application.

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

4.1.1230 Effect of Reversal.

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

4.1.1300 LIMITATIONS ON APPROVALS

Sections:

4.1.1310	**Expiration of Approval.**
4.1.1315	**Initiation of Use.**
4.1.1320	**Extensions to Avoid Environmental or Health Hazards.**
4.1.1325	**Modification of Approval.**
4.1.1330	**Transfer of Permit.**
4.1.1335	**Revocation of Approvals.**

4.1.1310 Expiration of Approval.

A. Scope.

1. Except as otherwise provided herein, this section shall apply to and describe the duration of all approvals of land use permits provided for under this ordinance, the zoning ordinances and the land division ordinance.

2. This section does not apply to:

   a. Those determinations made by declaratory ruling, such as verifications of nonconforming uses, lot of record determinations and expiration determinations that involve a determination of the legal status of a property, land use or land use permit rather than whether a particular application for a specific land use meets the applicable standards of the zoning ordinance. Such determinations, whether favorable or not to the applicant or land owner, shall be final unless appealed and shall not be subject to any time limits;

   b. Temporary use permits of all kinds, which shall be governed by applicable ordinance provisions specifying the duration of such permits; or

   c. Quasi-judicial map changes.

B. Duration of Approvals.

1. Except as otherwise provided under this section or under applicable zoning ordinance provisions, a land use permit is void one year after the date the discretionary decision becomes final if the use approved in the permit is not initiated within that time period.

2. Except as otherwise provided under applicable ordinance provisions, preliminary approval of plats or master plans shall be void after one year from the date of preliminary approval, unless the final plat has been submitted to the Planning Division for final approval within that time period, an extension is sought under this section or the preliminary plat or master plan approval has been initiated as defined herein.

3. In the case of a land use approval authorized under applicable approval criteria to be completed in phases, each phase must be initiated within the time specified in the approval, or initiated within one (1) year of completion of the prior phase if no timetable is specified.

C. Extensions.

1. The Planning Director may grant one extension of up to one year for a land use approval or a phase of a land use approval, unless the applicable criteria have changed, if:

a. An applicant makes a written request for an extension of the development approval period;

b. The request, along with the prescribed fee, is submitted to the city prior to the expiration of the approval period;

D. Procedures.

1. A determination of whether a land use has been initiated shall be processed as a declaratory ruling.

2. Approval of an extension granted under this section is an administrative decision, is not a land use decision described in ORS 197.015 or this ordinance. An extension is not subject to appeal as a land use decision and shall be processed under this ordinance as a development action, except to the extent it is necessary to determine whether the use has been initiated.

E. Effect of Appeals. The time period set forth in subsection B of this section shall be tolled upon filing of an appeal to LUBA, until all appeals are resolved.

4.1. 1315 Initiation of Use.

A. For the purposes of this Chapter, development action undertaken under a land use approval described in Section 4.1.1310; Expiration of Approval, above has been "initiated" if it is determined that:

1. The proposed use has lawfully occurred;

2. Substantial construction toward completion of the land use approval has taken place; or

3. Where construction is not required by the approval, the conditions of a permit or approval have been substantially exercised and any failure to fully comply with the conditions is not the fault of the applicant.

B. For the purposes of this section, "substantial construction" has occurred when the holder of a land use approval has physically altered the land or structure or changed the use thereof and such alteration or change is directed toward the completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development.

4.1.1320 Extensions to Avoid Environmental or Health Hazards.

A. In addition to extensions granted pursuant to subsection 4.1.1310(C) and notwithstanding any other provision of the Bend Code, a one-time extension may be granted to a tentative plat approval and any associated land use permits regarding the time for final plat approval where conditions of the approval, or extensions thereof, require or can be read to require approvals from other agencies for sewer or water systems and (1) the applicant can show that without such extension or extensions, a health or environmental hazard or risk thereof would continue to exist, be exacerbated or likely would be created and (2) the applicant submits a time frame and plan for meeting the outstanding conditions with the concurrence of a homeowner's association having an ownership interest in project lands and such concurrence is demonstrated in the application.

B. Such an extension shall be administrative, in writing, and not subject to appeal and shall, subject to the termination provisions of subsection 4.1.1320(C) below, be granted for a time period not to exceed one year.

C. In lieu of submittal of the time frame and plan and concurrence of the homeowner's association with the application, that requirement of Section (A) above may be satisfied by conditioning approval of the extension to require establishment of the agreed-to time frame and plan within the first 60 days of the extension period, which time line and plan shall thereupon be deemed to be a condition of the extension approval.

D. An extension under this section shall be conditioned upon adherence to the time lines and plan proposed in the extension application or as agreed to pursuant to subsection 4.1.1320(C) above.

E. Failure to demonstrate compliance with any extension condition shall, after notice and hearing under this ordinance, result in termination of the extension granted under this section.

4.1. 1325 Modification of Approval.

A. An applicant may apply to modify an approval at any time after a period of 60 days has elapsed from the time a land use action approval has become final.

B. Unless otherwise specified in a particular zoning ordinance provision, the grounds for filing a modification shall be that a change of circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved. A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties.

C. An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in this section, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a modification shall be treated as an application for a new proposal.

D. An application for a modification shall be processed as a land use action.

E. The effect, if any, of a modification upon the original approval time limitation shall be established in the modification decision.

F. For modification of approval of a PUD or Master Planned Subdivision issued prior to the adoption of this ordinance, any proposed modification shall be subject to the criteria in Chapter 4.5.300.

4.1. 1330 Transfer of Permit.

A. A land use action permit shall be deemed to run with the land and be transferable to applicant's successors in interest.

B. The Planning Division may require that an applicant record a notice of land use permit and conditions of approval agreement in the Deschutes County Records. Such an agreement shall set forth a description of the property, describe the permit that has been issued and set forth the conditions of approval. The Planning Director is authorized to sign the notice and agreement on behalf of the City.

C. The terms of the approval agreement may be enforced against the applicant and any successor in interest.

4.1.1335 Revocation of Approvals.

A. Approvals shall be subject to revocation according to standards set forth in the applicable zoning ordinances.

B. Revocations shall be processed as a declaratory ruling under this ordinance. Section 4.1.515; Process for Type II or III Applications notwithstanding, a public hearing shall be held in all revocation proceedings.

4.1. 1400 DECLARATORY RULING

Sections:

4.1.1410	**Availability of Declaratory Ruling**
4.1.1415	**Persons Who May Apply**
4.1.1420	**Procedures**
4.1.1425	**Effect of Declaratory Ruling**
4.1.1430	**Interpretation**

4.1.1410 Availability of Declaratory Ruling.

A. Subject to the other provisions of this section, there shall be available for the City's comprehensive plans, zoning ordinances, the subdivision and partition ordinance and this ordinance a process for:

1. Interpreting a provision of a comprehensive plan or ordinance (and other documents incorporated by reference) in which there is doubt or a dispute as to its meaning or application;

2. Interpreting a provision or limitation in a land use permit issued by the City or quasi-judicial plan amendment or zone change in which there is doubt or a dispute as to its meaning or application;

3. Determining whether an approval has been initiated or considering the revocation of a previously issued land use permit, quasi-judicial plan amendment or zone change;

4. Determining the validity and scope of a nonconforming use; and

5. Lot of Record

6. Determination of other similar status situations under a comprehensive plan, zoning ordinance or land division ordinance that do not constitute the approval or denial of an application for a permit.

Such a determination or interpretation shall be known as a "declaratory ruling" and shall be processed in accordance with this chapter. In all cases, as part of making a determination or interpretation the Planning Director (where appropriate) or Hearings Body (where appropriate) shall have the authority to declare the rights and obligations of persons affected by the ruling.

B. A declaratory ruling shall be available only in instances involving a fact-specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy. Declaratory proceedings shall not be used to grant an advisory opinion on a specific quasi-judicial land use application. Declaratory proceedings shall not be used as a substitute for seeking an amendment of general applicability to a legislative enactment.

C. Declaratory rulings shall not be used as a substitute for an appeal of a decision in a land use action or for a modification of an approval. In the case of a ruling on a land use action a declaratory ruling shall not be available until 60 days after a decision in the land use action is final.

D. The Planning Director may refuse to accept and the Hearings Officer may deny an application for a declaratory ruling if:

1. The Planning Director or Hearings Officer determines that the question presented can be decided in conjunction with approving or denying a pending land use action application or if in the Planning Director or Hearings Officer's judgment the requested determination should be made as part of a decision on an application for a quasi-judicial plan amendment or zone change or a land use permit not yet filed; or

2. The Planning Director or Hearings Officer determines that there is an enforcement case pending in circuit court in which the same issue necessarily will be decided as to the applicant and the applicant failed to file the request for a declaratory ruling within two weeks after being cited or served with a compliant.

The Planning Director or Hearings Officer's determination to not accept or to deny an application under this section shall be the City's final decision.

4.1.1415 Persons Who May Apply.

A. Subsection 4.1.215(B); Application Requirements notwithstanding, the following persons may initiate a declaratory ruling under this chapter:

1. The owner of a property requesting a declaratory ruling relating to the use of the owner's property;
2. In cases where the request is to interpret a previously issued quasi-judicial plan amendment, zone change or land use permit, the holder of the permit; or
3. In all cases arising under Section 4.1.1410; Availability of Declaratory Ruling, the Planning Director.

No other person shall be entitled to initiate a declaratory ruling.

B. A request for a declaratory ruling shall be initiated by filing an application with the Planning Division and, except for applications initiated by the Planning Director, shall be accompanied by such fees as have been set by the Planning Division. Each application for a declaratory ruling shall include the precise question on which a ruling is sought. The application shall set forth whatever facts are relevant and necessary for making the determination and such other information as may be required by the Planning Division.

4.1.1420 Procedures.

Except as set forth in this chapter or in applicable provisions of a zoning ordinance, the procedures for making declaratory rulings shall be the same as set forth in this ordinance for land use actions. Where the Planning Division is the applicant, the Planning Division shall bear the same burden that applicants generally bear in pursuing a land use action.

4.1.1425 Effect of declaratory ruling.

A. A declaratory ruling shall be conclusive on the subject of the ruling and bind the parties thereto as to the determination made.

B. Section 4.1.935, Reapplication Limited, notwithstanding, and except as specifically allowed therein, parties to a declaratory ruling shall not be entitled to reapply for a declaratory ruling on the same question.

C. Except when a declaratory ruling is made by the City Council, the ruling shall not constitute a final policy of the City of Bend.

4.1.1430 Interpretation.

Interpretations made under this chapter shall not have the effect of amending the interpreted language. Interpretation shall be made only of language that is ambiguous either on its face or in its application. Any interpretation of a provision of the comprehensive plan or other land use ordinance shall consider applicable provisions of the comprehensive plan and the purpose and intent of the ordinance as applied to the particular section in question.

4.1.150 Development Agreements

A. Purpose. The purpose of this section is to clarify the authority and procedures for City Council consideration of Development Agreements outside the land use process.

B. Applicability. The City Council may establish a Development Agreement between the City and any person having a legal or equitable interest in real property for the development of that property. Development Agreements that do not include a "land use decision" are not governed by the City's land use ordinances, and may be established in any manner deemed appropriate by the Council, consistent with the Council's authority under the City's Charter. Development Agreements that contain a legislative or quasi-judicial land use decision or request a final decision on a "land use action" are governed by this section. The following include but are not limited to situations that may require a Development Agreement as described by this section:

1. Multiple party or partnership situations
2. Large infrastructure requirements
3. Timing issues
4. Litigation
5. Urban Renew

C. Initiation. Development Agreements governed by this section may be initiated by the Council on its own motion or in response to a request by city staff, following consultation with any person having a legal or equitable interest in the property that is the subject of the proposed Development Agreement. Neither city staff nor the Council are required to proceed with consideration of a request for a Development Agreement.

D. Negotiations. Negotiations between the parties to a Development Agreement shall commence upon a request by the City Council to identified City staff to establish a Memorandum of Understanding (MOU) regarding the anticipated scope of the Development Agreement.

E. Adoption. The provisions of ORS 94.504 – 94.528 shall be followed in the adoption of a Development Agreement under this section. Once a preliminary agreement is reached between the parties, the owner or owners of the property that is the subject of the Development Agreement shall submit an application to the Planning Director for adoption of the Development Agreement and for any land use decisions requested in connection with the Development Agreement.

F. Hearings Body. Notwithstanding any other provision of this Code to the contrary, the City Council shall be the Hearings Body for a Development Agreement and any land use actions requested as part of, or pursuant to, a Development Agreement subject to this section. The Council may appoint a Hearings Officer or the Planning Commission to serve as the Hearings Body for specific land use decisions associated with a proposed Development Agreement, prior to the final decision on the Development Agreement as a whole. In that event, the Council shall establish a schedule for such decisions, and shall consider, but shall not be bound by, such decisions.

APPENDIX

PRELIMINARY STATEMENT IN LAND USE ACTION HEARINGS OR APPEALS BEFORE THE COUNCIL

Introduction

This is a hearing on (insert application type and number).

Applicant requested (set forth what the applications are and what is being requested.)

(If an appeal) These applications were previously considered by the (Planning Director). [or, if Hearings Officer or Planning Commission after a public hearing held on (insert date). Evidence and testimony were received at that hearing.] The (Planning Director, Hearings Officer or Planning Commission) (denied/approved) the applicant's requests.

Burden of Proof and Applicable Criteria

The applicant has the burden of proving that he/she is entitled to the land use approval sought. The standards applicable to the application(s) before us are as follows: (list applicable criteria)

Hearings Procedure

The procedures applicable to this hearing provide that the (Hearings Body) will hear testimony, receive evidence and consider the testimony, evidence and information submitted into the record on appeal as well as that evidence constituting the record in the prior proceeding. The record as developed to this point is available for public review at this hearing.

Testimony and evidence at this hearing must be directed toward the criteria set forth in the notice of this hearing and listed in this statement. Testimony may be directed to any other criteria in the comprehensive land use plan of the City or land use regulations which any person believes apply to this decision.

Failure on the part of any person to raise an issue with sufficient specificity to afford the (Hearings Body) and parties to this proceeding an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.

The failure of the applicant to raise a constitutional or other issues related to the proposed conditions of approval with sufficient specificity to allow the Hearings Body to respond to the issue precludes the applicant from pursuing an action for damages in circuit court.

Order of Presentation

The hearing will be conducted in the following order. The staff will give a report of the prior proceedings and the issues raised by the applications on appeal. The applicant will then have an opportunity to make a presentation and offer testimony and evidence. Opponents will then be given a chance to make a presentation. After both proponents and opponents have made a presentation, the proponents will be allowed to make a rebuttal presentation. At the Hearings Body's discretion, opponents may be recognized for a rebuttal presentation. At the conclusion of this hearing, the staff will be afforded an opportunity to make any closing comments. The Hearings Body may limit the time period for presentations.

Questions to and from the Hearings Body may be entertained at any time at the Hearings Body's discretion. Cross-examination of witnesses will not be allowed. However, if any person wishes a question be asked of any person during that person's presentation, please direct such question to the Hearings Body after being recognized. The Hearings Body is free to decide whether or not to ask such questions of the witness.

Pre-hearing Contacts

I will now direct a question to the other members of the Hearings Body. If any member of the Hearings Body, including myself, has had any pre-hearing contacts, now is the time to state the substances of those pre-hearing contacts so that all persons present at this hearing can be fully advised of the nature and context of those contacts and with whom contact was made. Are there any contacts that need be disclosed?

At this time, do any members of the Hearings Body need to set forth the substance of any ex parte observations or facts of which this body should take notice concerning this appeal?

Any person in the audience has the right during the hearings process to rebut the substance of any communication or observation that has been placed in the record.

Challenges for Bias, Prejudgment, or Personal Interest

Any party prior to the commencement of the hearing may challenge the qualifications of the Hearings Body or any member thereof of bias, prejudgment or personal interest. This challenge must be documented with specific reasons supported by facts.

I will accept challenges now.

Should any Hearings Body member be challenged, the member may disqualify himself or herself, withdraw from the hearing or make a statement on the record of their capacity to hear the appeal.

(Hearing no challenges, I shall proceed.)

Chapter 4.2 Site Development and Design Review

Sections:

4.2.100	**Purpose**
4.2.200	**Site Development Review Applicability and Procedures**
4.2.300	**Design Review Applicability and Procedures**
4.2.400	**Bonding and Assurances**
4.2.500	**Development in Accordance With Permit Approval**

4.2.100 Purpose

The purpose of this Chapter is to:

- Provide rules, regulations and standards for efficient and effective administration of site development review;
- Carry out the development pattern and plan of the City and its General Plan policies;
- Promote the public health, safety and general welfare;
- Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage;
- Encourage the conservation of energy resources; and
- Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

4.2.200 Site Development Review Applicability and Procedure.

A. In all zones, except for a single family unit on one lot, all new uses, buildings, outdoor storage or sales areas and parking lots or alterations shall be subject to the provisions of this section.

Site Development Review approval may not be required where a proposed alteration of an existing building does not exceed 10% or 1000 square feet, whichever is greater, of the original structure unless the Planning Director finds the original structure or proposed alteration does not meet the requirements of this ordinance or other ordinances of the City of Bend. In the residential zones where duplexes and triplexes are allowed, such development may undergo a Type I review process if they meet minimum standards as set forth in subsection 3.6.200(H), Duplex and Triplex Development.

Existing lawfully developed sites that do not conform to the current site development standards are only required to meet those standards on the portions of the site development affected by the proposed alteration or expansion. Development of such sites shall be in accordance with Section 5.2.

B. General Submission Requirements. The applicant shall submit an application in conformance with the provisions of Chapter 4.1, Procedures.

C. Development Review Information. An application for site development review shall include the following additional information, as deemed applicable by the City Planning Director based on the size, scale and complexity of the development.

1. Site analysis map. At a minimum the site analysis map shall contain the following:

   a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;

   b. Topographic contour lines shown at 6-inch intervals for slopes 5% or less. For slopes greater than 5%, contour lines shall be shown at 1-foot intervals. Identify slopes greater than 25%.

   c. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;

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

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

   g. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;

   h. The location, size and species of trees and other vegetation having a caliper (diameter) of six (6) inches or greater at four feet above grade;

   i. Locally or federally designated historic and cultural resources on the site and the adjacent parcels.

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

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

2. Additional information, as determined by the City Planning Director. The City may require, at the applicant's expense, studies, reports or exhibits prepared by qualified professionals to address specific site features.

3. Proposed site development plan. The site development plan shall contain the following information (as applicable):

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

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

   c. The location and dimensions of all existing and proposed structures, utilities, pavement and

other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;

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

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

g. Other information determined by the City Planning Director. The City may require studies, reports or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with this Code.

4. Deed restrictions. The applicant shall submit copies of all existing and proposed restrictions or covenants.

5. Architectural drawings. The City Planning Director may request architectural drawings showing one or all of the following:

   a. Building elevations (as determined by the City Planning Director) with building height and width dimensions;

   b. Floor Plans

   c. Building materials, colors and type;

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

6. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required in conformance with the City's Grading Ordinance #NS-1879. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Section 3.4.500; Storm Drainage Improvements.

7. Landscape plan. A landscape plan may be required, and at the direction of the City Planning Director shall show the following:

   a. The location, size, and species of the existing and proposed plant materials (at time of planting);

   b. Existing and proposed building and pavement outlines;

   c. Specifications for soil at time of planting, irrigation if plantings are not drought-tolerant (may be automatic or other approved method of irrigation) and anticipated planting schedule;

   d. The location, size, and species of the existing and proposed plant materials (at time of planting);

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

f. Other information as deemed appropriate by the City Planning Director. An arborist's report may be required for sites with mature trees that are protected under Chapter 3.2, Landscape, Street Trees, Fences and Walls of this Code.

8. Sign drawings shall be required in conformance with the City's Sign Code.

9. Narrative. Letter or narrative report documenting compliance with the applicable approval criteria contained in Section (D) Approval Criteria, listed below.

10. Traffic Impact Study. As required by Chapter 4.7.

D. Site Development Approval Criteria. Prior to issuance of building permits, the City shall approve, approve with conditions or disapprove the proposed site development plan. In approving the plan, the City shall find that all provisions of the ordinance are met. The following criteria shall be considered:

1. The proposed land use is permitted by the underlying land use district;

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

3. The minimum standards in Section 3.2.200; Landscape Conservation, Section 3.2.300; New Landscaping, 3.2.500; Fences and Walls and Chapter, 3.3; Vehicle and Bicycle Parking are met;

4. All applicable building and fire code standards are met.

5. All required public facilities have adequate capacity as determined by the City, to serve the proposed use.

In accordance with Chapter 4.1, the land use approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Development Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

4.2.300 Design Review Applicability and Procedures

A. This section shall apply within all commercial zoning districts including (ME) Mixed Employment, (PO) Professional Office and non-industrial uses within the (IL) Light Industrial and (IG) General Industrial zones and shall apply to the following building types:

1. Multi-family housing;

2. Public and institutional buildings, except buildings which are not subject to site development review; and

3. Commercial and mixed-use buildings subject to site development review as follows:
   a. All new building construction
   b. Any exterior modifications to existing buildings
   c. All new parking lots
   d. All storage and display areas
   e. All new signage

f. All building expansion greater than 5,000 square feet

This section shall not apply to the (CBD) Central Business District.

B. Exceptions. The following activities are not subject to Section 4.2.300; Design Review Applicability and Procedures:

1. Maintenance of the exterior of an existing structure such as re-painting, re-roofing or re-siding where similar materials and colors are used or materials and colors are used that comply with the provisions of this ordinance.
2. Interior remodeling or new tenant improvements.
3. Reconstruction of buildings subject to Commercial Design Review and considered to be non-conforming structures as determined in Chapter 5.2; Non-conforming Uses and Development.
4. Building expansions not exceeding 25% of the gross square footage of the original building and where the expansion does not exceed 5000 square feet in area.
5. Parking lot expansions not exceeding 25% of the gross square footage of the original lot and where the total amount of parking does not exceed the parking allowed by the Zoning Ordinance by 50%.
6. Buildings that are listed in the Inventory of Historic sites within the Bend Area General Plan, Exhibit "A", or buildings designated on the Historic National Landmarks Register.

C. General Submission Requirements. The applicant shall submit an application in conformance with the provisions of Chapter 4.1; Land Use Review and Procedures. In addition, the applicant shall attend a City of Bend Pre-application meeting prior to filing an application for Design Review.

D. Design Review Information. In addition to the site development review information required in Section 4.2.300, an application for Design Review shall also include the following additional information, as deemed applicable by the City Planning Director based on the size, scale and complexity of the development as presented to the City at the pre-application conference:

1. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
2. Loading and service areas for waste disposal, loading and delivery;
3. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
4. Location, type, and height of outdoor lighting;
5. Location of mail boxes, if known;
6. Locations of bus stops and other public or private transportation facilities;
7. Locations, sizes, and types of signs;

E. Design Review Approval Criteria. The review authority shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying an application for Design Review:

1. Design Standards. The application complies with all relevant Design Standards contained in Chapter 3 and 2. All of the following standards shall be met:

   a. Chapter 3.1 - Access and Circulation;
   b. Chapter 3.2 - Landscaping, Significant Vegetation, Street Trees, Fences and Walls;
   c. Chapter 3.3 - Automobile and Bicycle Parking;
   d. Chapter 3.4 - Public Facilities and Franchise Utilities;
   e. Chapter 3.6 - Other Standards (Telecommunications Facilities, Solid Waste Storage, Environmental Performance, Signs), as applicable.

2. Existing Development. The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2; Non-Conforming Uses and Development;

4.2. 400 Bonding and Assurances for All Developments.

A. Performance Bonds for Public Improvements. On all projects where public improvements are required, the City shall require a bond in an amount not greater than 100% or other adequate assurances as a condition of site development approval in order to guarantee the public improvements.

B. Release of Performance Bonds. The bond or assurance shall be released when the City Planning Director finds the completed project conforms to the site development approval, including all conditions of approval.

C. Completion of Landscape Installation. Landscaping shall be installed in accordance with the land use approval prior to issuance of an occupancy permit. A security equal to the cost of the landscaping as determined by the City Planning Director or a qualified professional may be accepted at the the discretion of the Planning Director. The security shall assure such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.

4.2.500 Development in Accordance With Permit Approval.

A. Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site development review approval), grading permits and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 4.2.400; Bonding and Assurances for All Developments. Site Development Review and Site Design Review approvals shall be subject to all of the limitations found in Chapter 4.1; Land Use Review and Procedures.

B. Phased Development. Phasing of development may be approved with a Site Development Review application, subject to the following standards and procedures:

1. A proposed phasing plan shall be submitted with the Site Development Review application.

2. The Review Authority shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than five years without reapplying for site development review.

3. Approval of a phased site development proposal requires satisfaction of all of the following criteria:

   a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;

   b. The phased development shall not result in requiring the City or other property owners to construct public facilities that are required as part of the approved underlying development proposal; and

   c. An application for phasing may be approved after Site Development Review approval as a modification to the approved plan, in accordance with Chapter 4.1; Land Use Review and Procedures.

Chapter 4.3 Land Divisions and Lot Line Adjustment Procedures

Sections:

4.3.100 Purpose
4.3.200 General Requirements
4.3.300 Approval Process
4.3.400 Submission of Final Plat
4.3.500 Lot Line Adjustments
4.3.600 Lot of Record

4.3.100 Purpose

A. Purpose. The purpose of this chapter is to:

1. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments, as defined below and in Chapter 1.2; Definitions:
   a. Subdivisions are the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
   b. Partitions are the creation of two or three parcels within one calendar year.
   c. Lot line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots.
   d. Lot consolidation is the combining of two or more lots or parcels into one legal lot or parcel.
2. Carry out the City's development pattern, as envisioned by the Bend Area General Plan.
3. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
4. Promote the public health, safety and general welfare through orderly and efficient urbanization;
5. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;
6. Provide adequate light and air, prevent overcrowding of land, provide open space opportunities, and facilitate adequate provision for transportation, water supply, sewage and drainage; and
7. Encourage the conservation of energy resources.

4.3.200 General Requirements

A. Pre-application Meeting. Prior to submitting a tentative plan, each applicant or his representative is required to meet with the Planning Division to review the proposal. The intent of this meeting is to advise the applicant of the requirements and standards of this ordinance.

B. Application Submission. Any person proposing a land division, or his authorized agent or representative, shall include with an application and filing fee for a land division, a tentative plan prepared by a licensed surveyor or engineer together with improvement plans and other supplementary material as may be required. A master development plan may also be required in accordance with subsection 4.3.200(C) below. The applicant must submit 15 copies of any plan required together with all required accompanying material to the Planning Division.

C. Informational Requirements. The following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan shall be considered complete unless all such information is provided.

1. General information required:

   a. Proposed name of the land division.

   b. Names, addresses and phone numbers of the owner of record, authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed with the Corporation Commission by the applicant.

   c. Date of preparation, true north, scale, and gross area of the proposed subdivision.

   d. Appropriate identification of the drawing as a tentative plan for a subdivision.

   e. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.

   f. Certified copy of the recorded instrument under which the applicant claims an ownership interest, or copy of a land sales contract which binds the applicant in the event of tentative approval.

   g. A Title Report and/or a Subdivision Guarantee prepared within the previous ninety (90) days.

   h. If a tract of land has water rights, the application shall be accompanied by a water rights division plan approved by the irrigation district or other water district holding the water rights, or when there is no such district, by the County Watermaster.

   i. A letter or other written documentation from the Bend Metro Parks and Recreation District which indicates that the applicant has met with the District to discuss the proposed land division and provide the District an opportunity to review the design for options to enhance existing parks and trails, and develop new parks and trails.

   j. If the proposed subdivision contains more than 10 lots, the application shall be accompanied by a computer water analysis prepared by the City of Bend Engineering Division.

2. Existing Conditions. Information concerning existing on-site conditions and conditions within 300 feet of all property included in the proposed land division:

   a. Location, names, and widths of existing improved and unimproved streets and roads, bikeways, and access corridors.

   b. Location of any existing features such as section lines, section corners, city and special district boundary lines, and survey monuments.

c. Location of existing structures, irrigation canals and ditches, pipelines, waterways, railroads, and any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.

d. Location and direction of water courses, and the location of areas subject to flooding and high water tables, including areas lying below the100-year flood elevation as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.

e. Location, width, and use or purpose of any existing easement or right-of-way for utilities, bikeways, and access corridors within and adjacent to the proposed land division.

f. Existing sanitary and storm sewer lines, water mains, septic facilities, culverts, and other underground and overhead utilities within and adjacent to the proposed land division.

g. Contour lines related to City datum and having minimum intervals of two feet.

h. Bend Area General Plan and Zoning Map classification of lands within and adjacent to the proposed land division.

i. Names and addresses of all property owners within 100 feet of the property.

3. Information concerning proposed land division:

a. Location, names, width, typical improvements, cross sections, bridges, culverts, approximate grades, curve radii and centerline lengths and reserve strips of all proposed streets, and the relationship to all existing and projected streets within 300 feet.

b. Location, width, and purpose of all proposed easements or rights-of-way for utilities, bikeways, and access corridors, and relationship to all existing easements and rights-of-way within 300 feet.

c. Location of at least one permanent bench mark within the proposed land division boundary.

d. Location, approximate area, and dimensions of each lot or parcel, and proposed lot or parcel numbers.

e. Location, approximate area, and dimensions of any lot or parcel proposed for public use, the use proposed, and plans for improvements or development thereof.

f. Proposed use, location, approximate area, and dimensions of any lot or parcel intended for nonresidential use within a residential land division.

g. Phasing – show phase lines on the tentative plan.

h. Source, method, and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all utilities.

i. Description and location of any proposed common area and community facility.

j. Proposed deed restrictions including access restrictions or protective covenants if such are proposed to be utilized.

k. Statement from each utility company proposed to serve the proposed land division stating that each such company is able and willing to serve the proposed subdivision as set forth in the tentative plan, and the conditions and estimated costs of such service. Each utility purveyor shall be noted on the tentative plan.

l. Proposed fire protection system for the land division, including fire hydrant locations and sizes of water mains.

m. Solar Access. Provide a statement relative to the solar access to be provided by the subdivision plan.

4. Future Subdivision. Where a tract is proposed to be divided into parcels or lots of an acre or more, the Review Authority may require an arrangement of parcels, lots and streets such as to permit future subdivision in conformity to the street requirements and other requirements contained in this ordinance.

4.3.300 Approval Process

A. Phased Tentative Plan. An overall development plan shall be submitted for all developments affecting land under the same ownership for which phased development is contemplated. The Review Authority shall review a phased development plan at the same time the tentative plan for the first phase of a phased subdivision is reviewed. The phased development plan shall include, but not be limited to the informational requirements of Section 4.3.200; General Requirements of this ordinance, as well as the following elements:

1. Overall development plan, including phase or unit sequence, and the schedule for initiation of improvements and projected completion date.

2. Show compliance with the Bend Area General Plan and implementing land use ordinances and policies.

3. Overall facility development plan, including transportation and utility facilities plans that specify the traffic pattern plan for motor vehicles, bicycles, and pedestrians, water system plans, sewer system plans and utility plans.

4. Development plans for any common elements or facilities.

5. The Review Authority may require a potential development pattern for streets, bikeways, and access corridors for adjoining lands to be submitted together with the phased tentative plan as part of the overall development plan.

B. Approval of a Master Planned Development. As an alternative to a phased tentative plan, a Master Planned Development plan may be submitted in conformance with Chapter 4.5. Any tentative plan submitted subsequently for the Master Planned Development area shall substantially conform to the approved Master Planned Development plan unless approved otherwise by the City.

C. Development Options. If the subject property and the surrounding area is eligible for Mid-block Development, the proposed development plan design shall enable the future development of Mid-block Development for the adjoining properties.

D. Required Findings For Land Division Approval. The Review Authority shall not approve a tentative plan for a proposed subdivision or partition unless the Review Authority finds, in addition to other requirements and standards set forth in this ordinance, that the land division as proposed or modified will satisfy the intent and requirements of this ordinance, and Bend Zoning Ordinance, and be in compliance with the Bend Area General Plan. Such findings shall include the following:

1. No application for subdivision or partition shall be approved unless the following requirements are met:

a. The land division contributes to orderly development and land use patterns in the area, and provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, special terrain features, and other natural resources to the maximum degree practicable as determined by the City of Bend.

b. The land division will not create excessive demand on public facilities and services required to serve the development.

c. The land division contributes to the orderly development of the Bend area transportation network of roads, bikeways, and pedestrian facilities, and does not conflict with existing public access easements within or adjacent to the land division.

d. The proposed land division provides a variety of lot sizes in conformance with the following standards:

   i. No more than 50% of the lots are the same size with a size differential of 10% or more except for zero lot line attached housing.

e. Each lot or parcel is suited for the use intended or offered.

f.. An approved water rights division plan.

g. If the land division adjoins an SM or SMR zone, the existence and location of such zone shall be entered on the deed for the lots or parcels created by the land division.

h. The tentative plan for the proposed subdivision meets the requirements of ORS 92.090.

i. If the tentative plan is approved with phasing, the final plat for each phase shall be filed in accordance with the applicable provisions of Article IV of this ordinance.

2. The Review Authority shall deny an application for partitioning when it appears the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern having the effect of creating more than three (3) parcels without subdividing.

3. Additional Factors to be Considered. In addition to the requirements set forth in subsections one (1) and (2) of this section, the following additional factors shall be considered by the Review Authority when appropriate:

   a. Placement and availability of utilities.
   b. Safety from fire, flood, and other natural hazards.
   c. Adequate provision of public facilities and services.
   d. Possible affects on natural, scenic, and historical resources.
   e. Need for onsite or offsite improvements such as, but not limited to, access corridors, pedestrian facilities, and bikeways.
   f. Need for additional setback, screening, landscaping, and other requirements relative to the protection of adjoining and area land uses.
   g. Conformance with the approved master development plan, master facilities plan and refinement plan.

E. Supplemental Improvement Requirements For Partitions.

1. In the approval of a land partition, the Review Authority may require as a condition of approval any improvements that may be required for a subdivision under the provisions of this ordinance. All roads in partitions shall be dedicated to the public without reservation or restriction.

2. Easement Access. The Review Authority may require the applicant to improve an easement access serving two or more parcels according to the City's street standards.

F. Special Partitioning Regulations.

1. The partitioning of a tract of land in which not more than one (1) parcel is created and transferred to a public or semi-public agency for the purpose of a road, railroad, electric substation, park, trail or canal right-of-way may be approved by the Review Authority without proceeding through the land division process as outlined in this ordinance without proceeding through the tentative plan review process as specified in this ordinance. Such tracts may be smaller than the minimum lot and/or parcel size allowed in the zone in which the tract is located without need for variance.

4.3.400 Submission of the Final Plat

A. Filing Time Period Requirements. Except as provided for herein, the applicant shall prepare and submit to the City, a final plat that is substantially in conformance with the tentative plan as approved.

B. Submission of Final Plats for Phased Development.

1. If a tentative plan is approved for phased development, the final plat for the first phase shall be filed within one (1) year of the approval date for the tentative plan.

2. The final plats for any subsequent phase shall be filed within three (3) years of the approved date for the tentative plan, unless a longer period of time is allowed through the tentative plan approval process.

3. If the applicant fails to file a final plat, the tentative plan for those phases shall become null and void.

C. Form of Final Plat. The final plat shall be submitted in the form prescribed by state statute and this ordinance. All plats and other writings or dedications made a part of such plats offered for recording shall be made in conformance with state statute, upon material that is 18 inches by 24 inches, suitable for binding and copying, have such characteristics of strength and permanency as may be required by the City. The plan shall be of such a scale, and the indication of the approvals thereof and of the dedication and affidavit of the surveyor, shall be of such size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch. The plat may contain as many sheets as necessary, but a fact sheet and index page shall be included for plats of two or more sheets.

D. Requirements of Survey and Plat of Land Division. Any final subdivision plat submitted shall meet the survey and monumentation requirements of the applicable Oregon Revised Statutes.

E. Information on Plat. In addition to the requirements of the tentative plan approval or otherwise required by law, the following information shall be shown on the plat:

1. Name of subdivision or partition.

2. Name of owner, applicant, and engineer or surveyor.

3. The date, scale, north point, legend, controlling topography such as bluffs, creeks and other bodies of water, and existing highways and railroads.

4. Legal description of the tract boundaries.

5. Reference points of existing surveys, identified, related to the plat by distances and bearings, and reference to a field book or map as follows:

   a. Stakes, monuments, or other evidences found in the ground and used to determine the boundaries of the subdivision.
   b. Adjoining corners of adjoining subdivision.
   c. Other monuments found or established in making the survey or required to be installed by provisions of this ordinance.
   d. The exact location and width of rights-of-way and easements intercepting the boundary of the tract.

6. Tract boundary lines, and street rights-of-way and center lines, with dimensions, bearing or deflecting angles, radii, arcs, points of curvature and tangent bearings. Normal high water lines for any creek, bay, or other body of water. Tract boundaries and street bearings shall be shown to the nearest 0.01 feet. No ditto marks shall be used.

7. Streets. The width of the streets being dedicated and the curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated together with the long chord distance and bearing.

8. Easements. Easements shall be noted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

9. Lot Numbers. Lot numbers beginning with the number "1" and numbered consecutively.

10. Public Lands. Public lands, including strips and easements shall be clearly marked to distinguish it from lots intended for sale.

11. Access Restrictions. Limitations on rights of access to and from streets, lots, and other parcels of land.

12. Area. The area of each lot, if larger than one acre, to the nearest hundredth of an acre; and the area of each lot less than one acre, to the nearest square foot.

13. Certificates and Signatures. The following certificates and signatures are required and shall be combined where appropriate:
   a. A signature by each party having any record title interest in the land, consenting to the preparation and recording of the plat.
   b. The seal and signature of the surveyor responsible for the survey and final map.
   c. The signature of the County Surveyor.
   d. The signature of the County Tax Assessor.
   e. The signature of the County Tax Collector.
   f. A signature of an authorized representative of the irrigation district, where applicable. All plans, plats or replats of land divisions located within the boundaries of an irrigation

district, drainage district, water control district, district improvement company, or similar service district shall be submitted to the board of directors of the district or company and its approval thereof shall be indicated thereon by the board before City approval of such plan, plat, or replat of any subdivision. Except, that if the applicant is unable to obtain action or approval of any district or company within 45 days, the applicant shall notify the governing body in writing and thereafter the governing body shall serve notice on that district or company by certified mail advising the district or company that any objections to the plan, plat, or replat must be filed in writing with the governing body within 20 days. Failure of the district or company to respond shall be considered an approval of such plan, plat, or replat.

g. The signature of the City Engineer.

h. The signature of the City Planning Director.

i. A signature of approval by the Board of County Commissioners.

j. Other certificates or signatures that may be required by state regulations.

F. Supplemental Information with Plat. The following data, if applicable, shall accompany the plat.

1. Title Report. A preliminary title or subdivision guarantee report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises; such report shall show evidence of a clear and marketable title and shall have been prepared within 30 days prior to submitting the final plat for review.

2. Survey Data Sheets. Sheets and drawings shall contain the following information:

   a. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any. A survey control work sheet may be substituted for this item.

   b. The computation of distances, angles, and courses shown on the plat.

   c. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing.

3. Deed Restrictions. A copy of any deed restrictions applicable to the subdivision.

4. Homeowner's Association. A copy of any homeowner's association agreements proposed or required for the subdivision.

5. Dedications. A copy of any dedication requiring separate documents with specific reference to parks, playgrounds, etc.

6. Taxes. A list of all taxes and assessments on the tract which have become a lien on the land subdivided.

7. Improvements. If grading, street improvements, sidewalks, pedestrian access corridors, bikeways, sewer or water facilities are required as a condition of approval of the final plat, the following shall be required to be submitted with final plat:

   a. Improvement Plan in accordance with Chapter 3.4; Public Improvement Standards of this ordinance.
   b. Plans and profiles of sanitary sewers, location of manholes, and drainage system.
   c. Plans and profiles of the water distribution system showing pipe sizes and location of valves and fire hydrants.

d. Specifications for the construction of all utilities.
e. Grading plans and specifications as required for areas other than streets and ways.
f. Planting plans and specifications for street trees and other plantings in public areas.
g. Plans for improvements, design factors, or other provisions for fire protection or fire hazard reduction.

8. Subdivision Adjoining SM or SMR Zones. Any final plat of which adjoins an SM or SMR zone must clearly show where such zone is located in relation to the subdivision boundaries.

9. Condominium Plats. Any final plat for a condominium shall be accompanied by a copy of the condominium declaration.

G. Technical Review of Plat

1. Ordinance Check. Upon receipt by the Planning Division, the plat and other data shall be reviewed by the Review Authority to determine that the land division as shown is substantially the same as it appeared on the approved tentative plan, and for compliance with provisions of this ordinance and other applicable laws.

2. Field Check. The City Engineer and Planning Director or their designated representatives may make such checks in the field as are desirable to verify that the map is sufficiently correct. The Engineer or Planning Director, or representatives thereof, may enter the property for this purpose.

3. Reimbursement. Expenses incurred by the City Engineer in the technical plat review shall be reimbursed by the applicant prior to final approval of the plat.

H. Conditions of Plat Approval.

1. The Review Authority shall determine whether it conforms with the approved tentative plan and with these regulations. If the Review Authority does not approve the plat, it shall advise the applicant of the changes or additions that must be made and shall afford him a opportunity to make corrections. If the Review Authority determines that the plat conforms to all requirements it shall recommend approval, provided supplemental documents and provisions for required improvements are satisfactory.

2. No plat of a proposed land division shall be approved unless:

   a. Streets and roads for public use are to be dedicated without any reservation or restriction.
   b. Streets and roads held for private use and indicated on the tentative plan have been approved by the City.
   c. The plat contains provisions for dedication to the public of all streets, roads, bikeways, access corridors, parks, sewage disposal, and water supply system, if made a condition of the approval of the tentative plan.
   d. Explanations of all common improvements required as conditions of approval of the tentative plan shall be recorded and referenced on the plat.
   e. If the land division adjoins an SM or SMR zone, the existence and location of such zone shall be entered on the deeds for all lots or parcels created by the land division.

3. No plat of a land division shall be approved unless the developer has either constructed and had accepted by the City the required improvements or the developer has executed an improvement agreement pursuant to the provisions of Section (E) above. If the developer chooses to construct the improvements, he shall also file with the City a warranty bond executed by a

surety company to cover the one (1) year warranty periods following acceptance by the City. Said bond shall be in the amount of twelve (12%) percent of the value of the improvements.

I. Improvement Agreement

1. The developer may, in lieu of completion of the required improvements and repair to existing streets and facilities, request the City to approve an agreement between himself and the City specifying the schedule by which the required improvements and repairs shall be completed. Provided, however, any schedule of improvements agreed to shall not exceed one (1) year from the date the final plat is recorded. The agreement shall also provide the follow information:

   a. A list of all the contractors who will construct or complete the improvements and repairs required, and the cost of the project.
   b. That the City may call upon the security filed to construct or complete the improvements and repairs if the schedule of improvements is not adhered to.
   c. That the City shall recover the full cost and expense of any work performed by the City to complete construction of the improvements and repairs, including, but not limited to, attorneys' and engineering fees.
   d. That a warranty period for such improvements shall be in effect for one (1) year following the completion and acceptance of the improvements. A form of surety shall be deposited with the City following acceptance of the improvements. Said form of surety shall be in the amount of twelve (12) percent of the value of the improvements and shall be for a minimum time period of eighteen (18) months.
   e. That building permits will not be issued for construction on any lot or parcel within the land division until such time as all required improvements are completed, unless otherwise authorized by the City.

2. The City may reject an agreement authorized by this section for any reason the City deems sufficient.

J. Bond or Cash Deposit.

1. The developer shall file, with any agreement specified in Section (I) above, to assure his full and faithful performance thereof, one of the following:

   a. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.
   b. A cash deposit in a City account at an approved lending institution.
   c. An irrevocable standby letter of credit from a federally insured banking institution or savings & loan operating in Oregon that unconditionally promises to pay the funds pledged upon demand by the City. Such obligation must be unaffected by the financial status of the person who has obtained the letter of credit.
   d. An "Assurance Provider" arrangement between the developer, the City and a federally insured financial institution which assures the City that funds to complete the performance of the developer's improvement agreement will be provided by the federally insured financial institution to the City in the event the developer does not complete performance of the improvement agreement. The form of the Assurance Provider arrangement, and the federally insured financial institution must be satisfactory to the City.

2. Such assurance of full and faithful performance shall be for 120% of the cost of the improvements and repairs as determined by the City.

3. If the developer fails to carry out the provisions of the agreement, the City shall call upon the bond, or letter of credit or cash deposit or Assurance Provider arrangement to finance any cost or expenses resulting from said failure. If the amount of the deposit, letter of credit or bond or Assurance Provider arrangement exceeds the cost and expense incurred by completing the improvements, the City shall release the remainder. If the amount of the deposit, letter of credit or bond or Assurance Provider arrangement is less than the cost and expense incurred by the City for the improvements and repairs, the developer shall be liable to the City for the difference.

K. Final Plat Approval. After the final plat has been checked and approved as provided in this article, and when all signatures appear thereon, except those of the Planning Director, County Clerk, and Board of County Commissioners, the Planning Director shall certify the final plat and submit it to the Board of County Commissioners for final approval.

L. Filing of Plat.

1. No plat shall have any force or effect until the same has been finally approved by the Board of County Commissioners. No title to any property described in any offer of dedication shall pass until the final plat has been filed.

2. The Planning Director or his representative shall file the approved final plat, including an exact copy thereof as described in subsection four (4) of this section, with the County Clerk.

3. No plat shall be filed unless all ad valorem taxes and all special assessments fees or other charges required by law to be placed upon the tax roll, which have become a lien upon the land division or which will become a lien during the calendar year, have been paid.

4. The applicant shall also submit with the final plat an exact photo mylar copy thereof. The engineer or surveyor who made the plat shall make an affidavit to indicate that the photocopy or tracing is an exact copy of the plat. The copy shall be filed with the County Recorder and shall be certified to him to be an exact copy and then shall be filed in the archives of the County, and be preserved by filing without folding. The applicant shall provide copies to the County Assessor, County Sanitarian, City Engineer, City Planning Division, and appropriate postal and fire protection agencies. One original exact copy shall be filed with the City Engineer.

M. Errors in the Final Plat. If an error in the final plat is discovered after the plat has been filed with the County Clerk, said error shall be corrected by the filing of a correction plat which shall be submitted in the same manner as a final plat.

N. Notice of Filing of Final Plat. The applicant shall provide notice of the filing of the final plat to all parties who participated in the land use proceedings leading up to the filing of the final plat.

4.3.500 Lot Line Adjustments

A. Applicability of Regulations

1. The boundary adjustment of no more than two lots or parcels by relocation of a common boundary where an additional lot or parcel is not created or eliminated shall only be granted in accordance with the provisions of this ordinance.

B. Filing Procedures and Requirements.

1. Any person proposing a Lot Line Adjustment shall prepare and submit two (2) copies of the documents hereinafter described, in accordance with the prescribed procedures and the appropriate filing fee, to the Planning Division.

2. An application for a Lot Line Adjustment shall be accompanied by the following materials:

   a. A scale drawing prepared by a licensed surveyor or engineer showing the existing lot lines, the proposed lot lines, existing water, sewer and utility lines, and the footprint of all existing structures with setbacks to the existing and proposed lot lines noted.
   b. Legal descriptions for the existing lots or parcels and for the lots or parcels as adjusted.
   c. A copy of the current property tax status from the County Tax Assessor. All taxes must be paid in full.
   d. A copy of the deed or other recorded instrument that signifies ownership of the affected lots or parcels.
   e. If the lots or parcels are not served by the City sewer system, provide documentation from the County Environmental Health Division which indicates that the proposed adjustment will be in compliance with all applicable requirements for sanitary septic systems when such systems exist on the lots or parcels affected by the adjustment.

C. Requirements for Tentative Approval.

1. No application for lot line adjustment shall be approved unless the following standards are met:

   a. The adjustment does not result in lot or parcel sizes that are less than those established by the underlying zoning designation.
   b. Nonconforming lots or parcels that are less than the minimum size established for the zone shall not be further reduced in size.
   c. Existing structures shall not be made nonconforming with regard to setbacks, lot coverage or other requirements of the underlying zone, or this ordinance.
   d. Existing water and sewer service lines to the adjusted lots or parcels shall be in conformance with current City standards or shall be constructed to conform with current City standards.
   e. Existing sanitary septic systems on the adjusted lots or parcels shall meet all requirements of the County Environmental Health Division.
   f. The two lots or parcels subject to the proposed boundary line adjustment shall not be subject to any other pending lot line adjustment applications with other lots or parcels.

D. Requirements for Final Approval.

1. In order to obtain final approval of a lot line adjustment, the following requirements shall be completed within one (1) year of the tentative approval:

   a. New deeds or other instrument conveying ownership containing the legal descriptions for the adjusted parcels shall be recorded with the County Clerk.
   b. A survey drawing containing the stamp and signature of a licensed surveyor or engineer shall be recorded with the County Surveyor.
   c. All property taxes on the adjusted parcels shall be paid in full.
   d. Verification of acceptance of water and sewer line construction to the adjusted lots or

parcels by the City Engineering Division.

e. The applicant shall provide notice of the filing of the final plat to all parties who participated in the land use proceedings leading up to the filing of the final plat.

4.3.600 Lot of Record

Not all tax lots are "lots of record" (legal lots). The City of Bend will not issue any permits on a parcel until it is determined that it is a lot of record. If your parcel is not in an approved subdivision or partition, has not been issued a land use permit, or has never been determined to be a lot of record, you will need to file a declaratory ruling for a lot of record. This will determine when your parcel was created and if it was created in accordance with the law in effect at the time of creation. For lots created in Deschutes County prior to annexation into the City, the Deschutes County Lot of Record Ordinance shall apply.

A. What is a lot of record? A lot or parcel held in separate ownership as shown on the records of the Deschutes County Clerk, which conforms to all zoning and subdivision/partition requirements in effect on the date the lot or parcel was created.

B. What is not a lot of record?

1. A lot or parcel created solely by a tax lot segregation because of an assessors role change or for the convenience of the assessor;
2. A lot or parcel created by an intervening section or township line or right of way;
3. A lot or parcel created by the foreclosure of a security interest.

C. Remedy for parcels found not to be lots of record.

1. Consolidate the subject lot or parcel with a contiguous lot or parcel that is a determined to be a lot of record. Both parcels must be held in the same ownership as shown on the records of the Deschutes County Clerk.
2. Apply for and obtain approval for a single lot partition in conformance with the ORS 92.177 and Section 4.3.300 of this ordinance

Chapter 4.4 Conditional Use Permits

Sections:

4.4.100 Purpose
4.4.200 Approvals Process
4.4.300 Application Submission Requirements
4.4.400 Criteria, Standards and Conditions of Approval
4.4.500 Additional Development Standards for Conditional Use Types

4.4.100 Purpose.

There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as "Conditional Uses" in this ordinance. The purpose of this Chapter is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

4.4.200 Approvals Process.

A. Application. An application for a new conditional use shall be processed as a Type II procedure, in conformance with Chapter 4.1; Land Use Review and Procedures. The application shall meet submission requirements in Section 4.4.300; Application Submission Requirements, and the approval criteria contained in Section 4.4.400; Criteria, Standards, and Conditions of Approval of this Chapter.

B. Modification of Approved or Existing Conditional Use. Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.1.1325; Modification of Approval.

4.4.300 Application Submission Requirements.

In addition to the submission requirements in Chapter 4.1; Land Use Review and Procedures, an application for conditional use approval must include the information listed below, as applicable.

1. Existing site conditions;
2. Site plan;
3. Preliminary grading plan;
4. Landscape plan;
5. Architectural drawings of all structures;
6. Drawings of all proposed signs;
7. A copy of all existing and proposed restrictions or covenants;
8. Narrative report or letter documenting compliance with all applicable approval criteria in Section 4.4.400; Criteria, Standards and Conditions of Approval.

4.4.400 Criteria, Standards and Conditions of Approval.

The City shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings with respect to each of the following standards and criteria:

A. Use Criteria.

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

2. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval that include but are not limited to those listed in Section 4.4.400(C) below; and

3. All required public facilities have adequate capacity as determined by the City, to serve the proposed use.

B. Site Design Standards. Where appropriate, the criteria for Site Development Review approval listed in Chapter 4.2.200.D; Site Development Review Applicability and Procedures shall be met.

C. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that any negative impact of the proposed use on the surrounding uses and public facilities is minimized. The City may impose as many of these and other applicable conditions on one conditional use application as it finds necessary. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;

2. Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;

3. Requiring larger setback areas, lot area, and/or lot depth or width than those required in this Development Code;

4. Limiting the building height, size or lot coverage, and/or location on the site;

5. Designating the size, number, location and/or design of vehicle access points or parking areas;

6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved, so long as findings in the development approval indicate how the dedication and/or improvements, if not voluntarily accepted by the applicant, is roughly proportional to the impact of the proposed development;

7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;

8. Limiting the number, size, location, height and/or lighting of signs;

9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;

10. Requiring berms, screening or landscaping and the establishment of standards for their

installation and maintenance;

11. Requiring and designating the size, height, location and/or materials for fences;

12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;

13. Requiring the dedication of sufficient land to the public, and/or construction of a pedestrian/bicycle pathways in accordance with adopted plans, so long as findings in the development approval indicate how the dedication and/or construction, if not voluntarily accepted by the applicant, is roughly proportional to the impact of the proposed development. Dedication of land and design and construction shall conform to the provisions of Chapter 3.1; Access, Circulation and Lot Design and Section 3.1.300; Legislative Procedures in particular.

D. Hydroelectric Facilities. In addition to the general conditional use permit criteria, the following criteria shall apply to any construction or expansion of, or other modification, to hydroelectric facilities in areas where such facilities are permitted as a conditional use.

1. Conditional Use criteria for a Hydroelectric Facility. A Conditional Use Permit may be granted for the construction or expansion of, or other modification to, a hydroelectric facility only upon findings by the Hearings Body that the proposal meets each of the following criteria, where applicable:

   a. The facility is located at and physically connected to an existing man-made diversion or impoundment.

   b. The facility will not increase the maximum surface area or capacity of the impoundment created by the existing dam or diversion to which the facility will be connected.

   c. The facility will maintain or enhance to the greatest extent possible, the existing scenic, visual, environmental, and aesthetic qualities of the affected stretch of the stream or river.

   d. The facility will maintain or enhance the existing recreational opportunities on or adjacent to the affected stretch of the stream or river.

   e. The facility will maintain or enhance existing fish and wildlife habitat, and will have no adverse impact upon any threatened or endangered fish, wildlife, or plant species or their habitat.

   f. The facility and its operation will maintain or enhance existing water quality in the affected stretch of the stream or river, except during construction of the facility, during which time adverse impacts on water quality will be minimized. Specifically, the facility and its operation will not:

      i. Deposit, or create a zone for the deposit of, sediments in the stream or river or adjacent to the site;
      ii. Increase the temperature of the stream or river in the affected stretch by any means, including but not limited to removal of vegetation or reduction in stream flow; or

      iii. Create the potential for, or result in, spillage, leakage or discharge of oil, chemicals or other substances or waste products that could reach the stream or river.

   g. The facility and its operation will not increase soil or bank erosion or destroy bank habitat at or on land adjacent to the site, except during construction of the facility, during which time soil or bank erosion and destruction of bank habitat will be minimized.

h. The facility and its operation will maintain existing public access to the affected stretch of the stream or river.

i. The facility will not be located at or immediately adjacent to any identified archeological or historical site, national or state park, wildlife refuge, Bureau of Land Management Outstanding Natural Area or area of Critical Environmental Concern, Federal Research Natural Area, or U. S. Forest Service Special Interest Area.

j. The facility and its operation will comply with all applicable noise and pollution regulations of the Oregon Department of Environmental Quality.

k. The facility and its operation will comply with all applicable state fill-and-removal statutes and regulations.

l. The following shall be submitted for approval:

   i. Detailed construction plans and profiles of all facility features, including building elevations of the powerhouse and other structures, excavation plans and narrative as to where blasting will occur, where excess material will be deposited, and landscaping and reclamation plans.

   ii. Detailed plans for meeting the criteria set forth in Subsection (c) above.

   iii. Detailed plans for stream or river enhancement documenting both on-site and off-site enhancement plans consistent with adopted stream or river-related goals and policies, such as plans and methods for conserving water and enhancing stream flow. The plan shall identify costs, time schedules and coordination activities with affected persons and agencies for such enhancement plans.

   iv. A cash deposit or performance bond in an amount equal to 100 percent of the estimated cost of stream or river enhancement and landscaping.

   v. Detailed plans for a water conservation and stream enhancement program to be funded by a portion of revenues generated by the operation of the proposed facility. The program plans shall contain the following:

      I. A program timetable;

      II. Projected gross revenues from the proposed facility;

      III. Projected program expenditures and the percentage of gross revenue they represent;

      IV. Projected water savings and the percentage of known current water losses they represent;

      V. A declaration by the applicant that at least fifty percent of the conserved water will remain un-diverted by the applicant;

      VI. A declaration by the applicant that water diverted for power generation will not cause water flow in that affected stretch of the stream or river (from the diversion to the tailrace exit) to fall below the minimum stream flow for that stretch as recommended by the Oregon Department of Fish and Wildlife; and

      VII. A declaration by the applicant that he or she will enter into an agreement with the City of Bend, prior to beginning construction of the facility, by which the applicant agrees to fulfill all of the requirements in paragraphs *a through f* of this subsection,.

4.4.500 Additional Development Standards for Conditional Use Types.

A. Concurrent Variance Application(s). A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application, and both applications may be reviewed concurrently.

B. Additional Development Standards. Development standards for specific uses are contained in Chapter 3.6, Special Standards for Certain Uses.

Chapter 4.5 Master Planning and Development Alternatives

Sections:

4.5.100 Purpose, Applicability and Location
4.5.200 Infill Development Options
4.5.300 Master Planned Development
4.5.400 Planned Neighborhoods

4.5.100 Purpose, Applicability and Location

A. Purpose. The purpose of this Section is to:

1. Encourage innovative planning that results in complete neighborhoods, more mixed-use development, improved protection of open spaces, transportation options, and site phasing of development;
2. Encourage developments that recognize the relationship between buildings, their use, open space, and transportation options, providing varied opportunities for innovative and diversified employment environments;
3. Facilitate the efficient use of land;
4. Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
5. Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development;
6. Encourage energy conservation and improved air and water quality and;
7. Assist the City in planning infrastructure improvements.

4.5.200 Infill Development Options

Small vacant or underdeveloped properties overlooked by traditional development patterns can become economically viable development. Some lots in existing residential areas may have standard widths but may be unusually deep compared to other properties in the area. Essentially unused space at the back of a lot may provide room for one or more lots for infill housing. Infill lots may be developed as "flag lots", "mid-block developments", or "T-courts", as defined below:

a. **Mid-block Development.** Lots may be developed without frontage onto a public street when lot access is provided by Mid-block Lanes, as shown in Figure 4.5.200A. Mid-block Lanes are public or private access ways that provide an opportunity for the redevelopment of under utilized and oversized residential lots that are served or can be served by a community sewer and water system. Mid-block Lanes shall be required when existing lot depths are 150 feet or greater and the surrounding pattern of development will facilitate mid-block lane development. Lots with a depth less than 150 feet may develop using flag lots.

1. **Eligibility for Mid-block Lanes.** To determine if an existing area is eligible for Mid-block Lane development, the following criteria shall be met and be approved through a Conditional Use permit before applying the Mid-block Lane standard:

   Minimum lot area: twice that required by the underlying zone

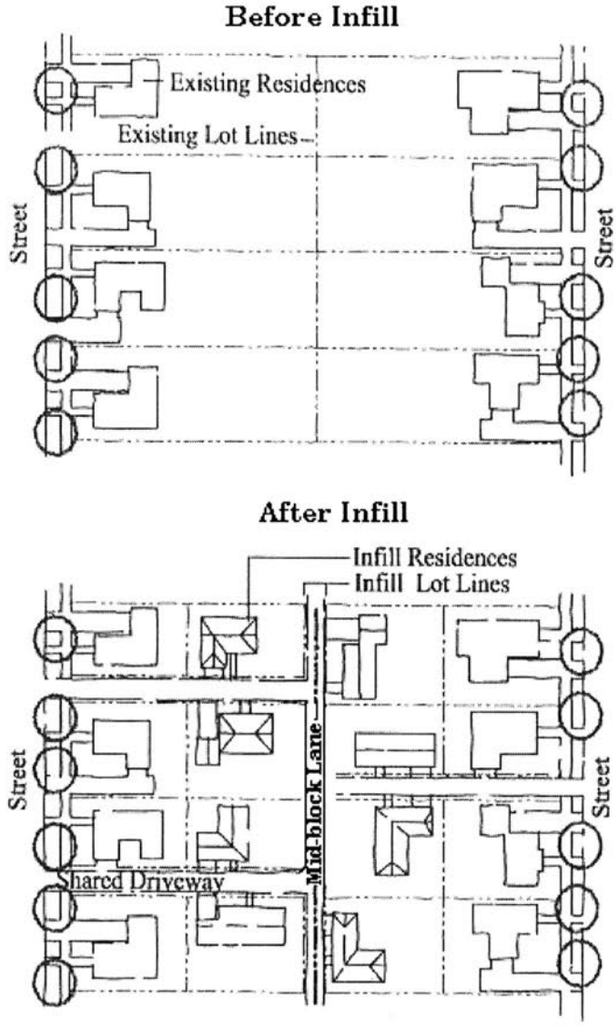
   Minimum lot width: 20 feet wider than the width required by the underlying zone

   Minimum lot depth: 150 feet

   Maximum lot size: ½ acre

2. **Driveway and Lane Width.** For the purpose of this code, a Shared Driveway is defined as an access driveway providing access from a local public street to no more than 4 dwelling units including accessory dwellings. The minimum width of all Shared Driveways shall be 20 feet. For the purpose of this code the definition of a shared lane or Mid-block Lane is a narrow private or public street providing lot frontage and access for rear lot development. The minimum improved width of a Mid-block Lane shall be 28 feet. The minimum Shared Driveway and lane widths shall be observed except as required by the Uniform Fire Code or by the City Standards and Specifications when public utilities are present.

Figure 4.5.200A
Mid-Block Infill



3. **Dedication of Shared Driveways and Mid-block Lanes.** The Shared Driveways and Mid-block Lanes shall meet the standards for private streets, per Chapter 3.4; Public Improvement Standards. The property owner shall record a public access easement, a minimum of 20 feet in width for a Shared Driveway and 28 feet in width for a Mid-block Lane. Where the Shared Driveway or Mid-block Lane is shared across a property line, a portion of the easement (i.e., 10-14 feet) from each property sharing a Shared Driveway or Mid-block Lane for vehicle access similar to an alley shall be granted. Dedication, as applicable, shall be so indicated on the face of the subdivision or partition plat.

4. **Maximum Shared Driveway and Mid-block Lane Length.** The maximum Shared Driveway length is subject to requirements of the Uniform Fire Code, but shall not exceed 150 feet, without connecting to a Mid-block Lane. The length of a Mid-block Lane shall not exceed 300 feet between intersections of a public street. The Mid-block Lane and Shared Driveway access shall be constructed to meet the Fire Department emergency access standards and required turning radius for emergency vehicles.

5. **Future Street Plans.** Building placement and alignment of Shared Driveways and lanes shall be designed so that future street connections can be made as surrounding properties develop.

6. **Lot Development.** Residential lots created by Mid-block Lane development shall be subject to Floor Area Ratio (FAR) in conformance with Section 2.1.400.

B. Flag Lots. Flag lots may be created only when Mid-block Lanes cannot be extended to serve future re-development. To determine if an existing lot is eligible for Flag lot development, the following criteria shall be met

Minimum lot area: twice that required by the underlying zone
Minimum lot width: 20 feet wider than the width required by the underlying zone

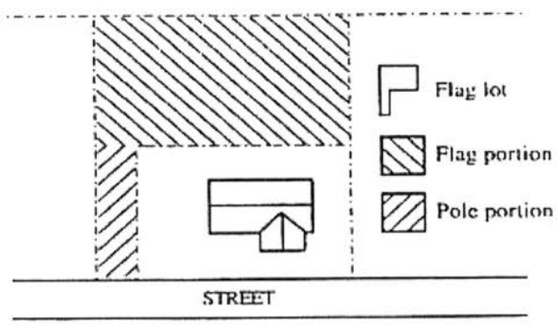
1. **Development Standards**.

   a. The minimum lot frontage for a flag lot shall be 20 feet. A 20-foot wide flag lot driveway may serve no more than two (2) parcels or lots (the front parent parcel and the flag lot) and no more than four (4) dwelling units, including accessory dwellings. A shared drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots.

   b. No fence, structure or other obstacle shall be placed within the shared drive alignment.

   c. Residential lots created as flag lots shall be subject to Floor Area Ratio (FAR) in conformance with Section 2.1.400. For the purpose of calculating FAR the Flag Pole area of the lot shall not be counted.

   b. Flag lot development shall not be permitted on collector or arterial streets.



Exception:

1. A 30-foot wide shared flag lot driveway may be developed between two adjoining properties and can serve a maximum of four (4) lots and no more than (2) dwelling units per lot, including accessory dwellings.

C. T-Courts: T-Courts are short private streets intended to facilitate residential infill and redevelopment of properties when no other development alternative exists. Residential lots created by "T-court" development shall be subject to Floor Area Ratio (FAR) in conformance with Section 2.1.400. In addition, T-Court development shall comply with the following development standards.

1. Minimum access way width shall be 40 feet and shall be recorded as an easement or a tract. The access width shall including private utility easements as needed.

2. Minimum pavement width shall be 24 feet.

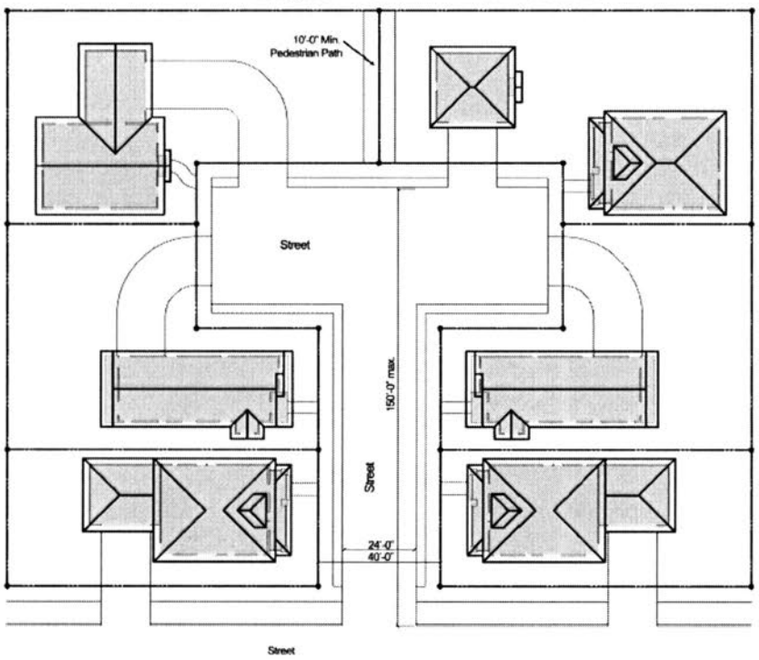
3. Maximum length of the T-Court shall be 150 feet from the centerline of the intersecting street to the centerline of the T-court.

4. No parking is allowed within the T-Court. "No Parking" signs shall be required and maintained.

5. A pedestrian pathway shall be provided at the "T" where appropriate to connect to adjoining development.

6. The "T" Court shall only provide access to parcels that have frontage on the "T" Court.

Figure 4.5.200B – "T" Courts



4.5.300 Master Planned Developments

A. Applicability. The Master Planned Development designation may be applied over any of the City's land use districts for any property or combination of properties three (3) acres or greater in size. For projects consisting of one or more properties totaling 20 acres or larger at the date of adoption of this ordinance, a Master Neighborhood Development Plan shall be required in conformance with Section 4.5.400; Master Planned Neighborhood Development.

B. Review and Approval Process.

1. Review Steps. There are three required steps for Master Planned Development approval:

Step 1. **The approval of a Concept Development Plan**. The concept development plan shall include an area plan that depicts the development site concept including the surrounding area within 500 feet, and a facilities plan for sewer, water and transportation, and Park facilities;

Step 2. **The approval of a Tentative Development Plan**. A tentative development plan shall identify the final proposed location of all lots, tracts, parcels, open space, rights-of-way, building envelopes, zoning designations and other features; and

Step 3. The approval of preliminary subdivision plat(s) and/or site development review application(s).

2. Approval Process. A Master Planned Development seeks to change one or more of the development standards contained in this ordinance, the underlying zoning and/or Bend Area General Plan designation. Therefore, a Master Planned Development Concept Plan application shall be reviewed using the Type III procedure in accordance with Chapter 4.1; Land Use Review and Procedures.

The Tentative Development Plan may be reviewed using the Type II procedure in accordance with Chapter 4.1; Land Use Review and Procedures and shall ensure substantial compliance with the approved / proposed MPD Concept Development Plan.

In order to expedite the process, the review steps, notification and hearings may be combined. The applicant shall submit an application in conformance with the following provisions:

a. The Master Planned Development shall include, but not be limited to the informational requirements of Chapter 4.3.200; General Requirements of this ordinance, as well as the following elements:

i. Existing and planned major street network plans, including proposed arterial, collector and local street alignments within the master planned area and where the streets will connect with the existing street system;

ii. Existing and planned water and sewer facilities to serve the master planned area, including line sizes, general location or routes and how the lines will tie into adjacent areas and facilities;

iii. Existing and planned pedestrian and bicycle corridors within the master planned area and where these facilities will connect with existing facilities;

iv. Public and/or private parks, open space or common areas.

v. Planned densities and types of uses within the affected area.

vi. A written narrative that explains or describes:

I. How the proposed water, sewer and street system will be adequate to serve the size and type of development and uses planned for this area;

II. How the location and sizing of water and sewer facilities on-site will be consistent with the existing and planned facilities;

III. How adequate water flow volumes will be provided to meet fire flow and domestic demands; and,

IV. The function and location of any private utility system.

vii. Draft Development Code text in a format prescribed by the City, which provides special development standards intended to implement the proposed MPD.

b. No application for a Master Planned Development shall be approved unless the applicant can explain in a written narrative how the following requirements are met:

i. The MPD contributes to orderly development and land use patterns in the area, will be compatible with adjacent developments and will not adversely affect the character of the area.

ii. The MPD will not create excessive demand on public facilities and services required to serve the development.

iii. The MPD contributes to the orderly development of the Bend area transportation network of roads, bikeways, and pedestrian facilities, and does not conflict with existing public access easements within or adjacent to the development.

iv. The MPD provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, designated areas of special interest, and other natural resources to the maximum degree practicable. Preservation shall be considered impracticable when it would prevent development of public streets, public utilities, needed housing or land uses permitted by the applicable land use district. The term "prevent" in this standard means that the development cannot be designed to avoid the significant tree(s). An inability to achieve maximum permitted density by complying with this subsection shall not in itself be considered to prevent development.

v. The MPD conforms to the Bend Area General Plan map, or amendments to the general plan map, text or policies shall be proposed and approved as part of the Master Planned Development plan in conformance with Chapter 4.6 of this ordinance.

C. Applicability of Chapter 3.0 – Development Standards. The development standards of Chapter 3.0 apply to all Master Planned Developments, unless otherwise specified as part of a MPD concept proposal.

1. Concept Development Plan Submission.

a. General Submission Requirements. The applicant shall submit an application containing all of the general information required for a Type II or III procedure, as governed by Chapter 4.1; Land Use Review and Procedures. In addition, the applicant shall submit the following information:

ii. A statement of planning objectives to be achieved by the Master Planned Development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.

ii. A concept schedule indicating the approximate dates when construction of the Master Planned Development and its various phases are expected to be initiated and completed.

iii. Narrative report or letter documenting compliance with the applicable approval criteria contained in this ordinance.

iv. Special studies or reports prepared by qualified professionals may be required by this ordinance, the City Planning Director, Planning Commission or City Council to determine potential traffic, geologic, noise, environmental, natural resource and other impacts, and required mitigation.

b. Additional Information. In addition to the general information described above, the concept development plan application shall include the following exhibits and information:

i. Site Analysis map, as defined in Section 4.2.300; Site Development Review Application Submission Requirements;

ii. Conceptual site plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);

iii. Grading concept plan (for hillside or sloping properties, or where extensive grading is anticipated);

iv. Landscape concept plan and tree preservation plan in accordance with Chapter 3.2;

vi. Architectural concept plan (e.g., information sufficient to describe architectural styles, building heights, and general materials);

vi. Sign concept plan (e.g., locations, general size, style and materials of signs);

vii. Copies of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

viii. Facilities plan showing how the planned development will be served by streets, sewer and water.

2. **Concept Development Plan Approval Criteria.** The applicant shall submit a narrative and plans detailing how the following criteria are satisfied. The City shall make findings demonstrating that all of the following criteria are satisfied when approving, or approving with conditions, the concept plan. The City shall make findings demonstrating that one or all of the criteria are not satisfied when denying an application:

a. Bend Area General Plan. All relevant provisions of the Bend Area General Plan are met except as proposed to be modified by the applicant in conformance with Section 4.5.300I above.

b. Land Division Chapter. All of the requirements for land divisions, as applicable, shall be in conformance with Chapter 4.3; Land Divisions and Lot Line Adjustment Procedures; except as proposed to be modified by the applicant in conformance with Section 4.5.300I above.

c. Applicability of Chapter 2.0 and 3.0 All of the land use and design standards contained in Chapter 2.0; Land Use District Administration and Chapter 3.0; Development Standards

Administration are met, except as proposed to be modified by the applicant in conformance with Section 4.5.300I above.

d. Requirements for Open Space. Public and Private open space within a development is highly encouraged as a public benefit. Open space, consistent with the purpose of this Chapter, shall be designated within a Master Planned Development when:

i. The Master Planned Development area is 40 acres or greater; or

ii. The applicant is seeking exceptions to Bend Area General Plan, Zoning Designations or the standard development code provisions and/or density.

e. Standards for Open Space Designation. The following standards shall apply:

i. The open space area shall be shown on the concept development plan and recorded with the final plat or separate instrument; and

ii. The open space shall be conveyed in accordance with one of the following methods:

I. By dedication to the Park District or City as publicly owned and maintained open space. Open space proposed for dedication to the Park District or City must be acceptable with regard to the size, shape, location, improvement, environmental condition, and budgetary and maintenance abilities;

II. By leasing or conveying title (including beneficial ownership) to a corporation, owners association or other legal entity. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.

f. Standards for Approval. In granting approval for a Master Planned Development concept development plan the applicant must demonstrate that the proposal is consistent with the criteria for land division approval in Chapter 4.3.300; Approval Process

g. Additional Approval Criteria for Master Planned Development Applications. A recommendation or a decision to approve, approve with conditions or to deny an application for a MPD application shall be based on the criteria listed in Chapter 4.6.300(B), Criteria for Quasi-Judicial Amendments.

D. Administrative Procedures.

1. Land Use District Map Designation. After a Master Planned Development Concept Development Plan and Tentative Development Plan have been approved, the approved Master Planned Development designation for the subject development site shall be shown on a map maintained by the City that illustrates the location of approved Master Planned Developments and the approved MPD overlay text will be added to Chapter 2.7 of this code as a new Planned District.

   As a condition of approval, the applicant shall record a Deed Restriction on the subject properties and all future lots and parcels created, noting inclusion in the approved Master Planned Development area.

2. Time Limit for Filing a Tentative Development Plan. Within three years after the date of approval of the concept plan, the applicant or his or her successor shall prepare and file with the City a tentative development plan, in conformance with the requirements of this Chapter. If the tentative development plan is not submitted within 3-years, the Master Planned Development

Concept Plan shall expire.

3. Extension. The City shall, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that all of the following are satisfied:

   a. No changes have been made on the original conceptual development plan as approved;

   b. There have been no changes to the applicable Bend Area General Plan policies and ordinance provisions on which the approval was based.

4. **Tentative Development Plan Submission Requirements**. The applicant shall submit an application for a Tentative Development Plan. The contents of the application information shall be determined by the conditions of approval for the concept development plan. At a minimum, the tentative development plan shall identify the final proposed location of all lots, tracts, parcels, open space, rights-of-way, building envelopes and other features, prior to approval of a development permit (e.g., Land Division, Development Review, Site Development Review, etc.). The tentative development plan shall be reviewed using a Type II procedure in conformance with Chapter 4.1; Land Use Review and Procedures.

5. **Tentative Development Plan Approval**. The City shall approve the tentative development plan upon finding that the final plan conforms to the concept plan and all required conditions of approval. Minor changes to the approved concept development plan may be approved with the tentative development plan, if consistent with all of the site development review standards set forth in this ordinance and the following criteria.

   a. Increase or decrease of residential densities or lot coverage by no more than 15 percent, when such change conforms to the Bend Area General Plan;

   b. A reduction to the amount of open space or landscaping by no more than 10 percent;

   c. An increase in lot coverage by buildings or changes in the amount of parking by no more than 15 percent. Greater changes require approval of a modification in conformance with Chapter 4.1; Land Use Review and Procedures;

   d. No change in land use shall be permitted without approving a modification to an approved concept development plan in conformance with Chapter 4.1; Land Use Review and Procedures;

   e. No change that places development within environmentally sensitive areas including ASI's or areas subject to a potential hazard shall be approved without approving a modification to an approved concept development plan in conformance with Chapter 4.1; Land Use Review and Procedures;

   f. The location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements shall be as proposed on the concept development plan, or as modified through conditions of approval. Changes in the location or alignment of these features by more than 50 feet shall require approval of a modification, in conformance with Chapter 4.1; Land Use Review and Procedures; and

   g. Other changes made to the approved concept development plan shall require approval of a modification, in conformance with Chapter 4.1; Land Use Review and Procedures.

6. **Development Review and Building Permit Approvals**. Upon receiving tentative development plan approval, the applicant may apply for one or more development reviews

(e.g., Land Division, Development Review, Site Development Review, etc.). Building permits shall not be issued until all required development permits have been issued and appeal periods have ended.

a. Development Review. Chapter 4.2; Site Development and Design Review applies to developments requiring Site Development Review or Architectural Design Review. Chapter 4.3; Land Division and Lot Line Adjustment Procedures applies to land divisions (partitions and subdivisions).

7. **Modification of a Master Planned Development.** A modification request shall be subject to a Type II application procedure and the applicable criteria used for the initial approval. The Planning Director may decide to refer the request to the Hearings Body for a hearing as a Type III application if the original approval was determined by a Hearings Body.

4.5.400 Master Planned Neighborhood Development

The purpose of this Section is to ensure the development of fully integrated, mixed-use, pedestrian-oriented neighborhoods. The intent is to minimize traffic congestion, urban and suburban sprawl, infrastructure costs, and environmental degradation, particularly as new development takes place on large parcels of land.

A. Applicability. This Section applies to all properties comprised of one or more, lots, parcels, and/or tracts, in any zoning District which totals 40 acres or larger at the date of this ordinance adoption.

B. Master plan required. Prior to land division approval, a master plan shall be prepared for all properties, lots, parcels and/or sites meeting the criteria in subsection 4.5.400(A), above. Master plans shall follow the procedures in Section 4.5.300; Master Planned Developments. A Master Plan may not be required if a Special Planned District has been adopted for the subject area.

C. Land use and design standards. Master Planned Neighborhood Developments shall be evaluated based on the criteria in Section 4.5.300, Master Planned Developments, and shall include the following design elements:

1. All lots have access to active or passive recreational areas or uses by walking or bicycling a distance not greater than ¼ mile as measures along an existing or proposed trail or sidewalk route. Such areas or uses may include natural open space and developed and maintained park land located within adjacent neighborhoods. Trails or trail corridors are not to be considered as a recreational use /open space for the purpose of meeting this requirement.

2. All lots have easy access to Neighborhood Commercial services by walking or bicycling a distance not greater than ¼ mile as measured along an existing or proposed sidewalk or pedestrian route. Such neighborhood commercial uses may be provided outside the boundaries of the proposed master planned neighborhood within adjacent neighborhoods or commercial districts.

3. The neighborhood shall consist of a mix of housing types to achieve at least 60% of the maximum gross density designated within the underlying zone regardless of the total number of actual acres developed with housing. Density shall be calculated by multiplying the maximum density allowed in the underlying zones by the gross area of the property. (example: RS zone has a maximum density of 7.3 units per acre x 40 gross acres = 292 dwelling units) In addition, the area developed with housing shall not exceed 110% of the allowable density for the

developed acreage. In the example above, if only 36 acres of the 40 acres were developed in housing, the total housing allowed on the 36 acres would be 289 dwelling units instead of the entire 292 units.

4. Land needed for public use (e.g., schools, parks, fire stations, and other facilities) shall be designated on the master plan, in accordance with the City of Bend, Bend Metro Parks and Recreation District, Bend LaPine School District Sites and Facility Plans.

5. The neighborhood shall contain at least 10% of the gross area as public space such as parks, pavilions, squares and plazas to encourage public gatherings.

6. The neighborhood shall provide easy access to regional employment, shopping and service located outside of the proposed neighborhood by providing opportunities for multi-modal transportation (e.g. transit nodes, multi-use pathways and trails)

7. The required neighborhood design elements shall be included in all Neighborhood Development Master Plans unless it can be proven that the abutting and/or adjacent developed lands include the elements necessary to meet the intent of this section. Adequate proof shall include studies, demographics, and other suitable information in order to provide the City with factual data to support findings for approval. The expense for supplying the proof shall be borne solely by the property owner or applicant. The proof shall provide reliable evidence that the adjacent and/or abutting properties contain the elements necessary to create or complement the proposed neighborhood.

D. Implementation. Upon approval of a Neighborhood Development Master Plan, the development shall follow the Land Division procedures in Chapter 4.3, and the Site Design Review procedures in Chapter 4.2, as applicable. Any modifications to the approved master plan shall be subject to the standards and procedures in Chapter 4.1; Land Use Review and Procedures.

Chapter 4.6 Land Use District Map and Text Amendments

Sections:

4.6.100 Purpose
4.6.200 Legislative Amendments
4.6.300 Quasi-Judicial Amendments
4.6.400 Conditions of Approval
4.6.500 Record of Amendments
4.6.600 Transportation Planning Rule Compliance

4.6.100 Purpose.

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code, the Bend Area General Plan, the Bend Area General Plan map and the land use district map. These will be referred to as "map and text amendments." Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

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.

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;
2. The request is consistent with the applicable Bend Area General Plan goals and policies;
3. The applicant can demonstrate a public need or benefit for the proposed amendment.

4.6.300 Quasi-Judicial Amendments.

A. Applicability, Procedure and Authority. Quasi-judicial amendments generally refer to a plan amendment or zone change affecting a single or limited group of properties and that involves the application of existing policy to a specific factual setting. Quasi-judicial amendments shall follow the Type III procedure, as governed by Chapter 4.1, Land Use Review and Procedures using the standards of approval in Section 4.6.300.B, Criteria for Quasi-judicial Amendments below. Based

on the applicant's ability to satisfy the approval criteria, the applicant may be approved, approved with conditions, or denied.

B. Criteria for Quasi-Judicial Amendments. The applicant shall submit a written narrative which explains how the approval criteria wil be met. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Approval of the request is consistent with the relevant Statewide Planning Goals that are designated by the Planning Director or designee;
2. Approval of the request is consistent with the relevant policies of the Comprehensive Plan that are designated by the Planning Director or designee;
3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property; and
4. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property that is the subject of the application; and the provisions of Section 4.6.600; Transportation Planning Rule Compliance.

4.6.400 Intent to Rezone

A. If the City Council determines that the public health and welfare and convenience will best be served by a proposed change of the zone, the City Council may indicate its general approval in principal of the proposed rezoning by the adoption of a "Resolution of Intent to Rezone". This resolution shall include any conditions, stipulations, or limitations, which the City Council may feel necessary to require in the public interest as a prerequisite to final action, including those provisions which the City Council may feel necessary to prevent speculative holding of the property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such a resolution a binding commitment on the City Council. Such a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning.

1. Content of Site Plan. Where a site plan is required pursuant to this ordinance, it shall include the location of existing and proposed buildings, structures, accesses, off-street parking, loading spaces and landscaping; topography, existing and proposed; mechanical roof facilities, architectural perspective, layout and all elevations drawn to scale including location, area and design of signs and all landscaping.
2. Resolution of Intent Binding. The fulfillment of all conditions, stipulations and limitations contained in the resolution of intent, on the part of the applicant, shall make the resolution binding on the City Council. Upon compliance with the resolution by the applicant, the City Council shall by ordinance effect such reclassification.
3. Resolution of Intent Void Upon Failure to Comply. The failure of the applicant to substantially meet any of all conditions, stipulations or limitations contained in a resolution of intent, including the time limit placed in the resolution, shall render said resolution null and void, unless an extension is granted by the City Commission upon recommendation of the Planning Commission.

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.

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.

Chapter 4.7 Transportation Analysis

Sections:

4.7.100	**Purpose and Authority**
4.7.200	**Transportation Impact Study**
4.7.300	**Analysis Methodology**
4.7.400	**Approval Criteria**
4.7.500	**Mitigation Requirements / Conditions of Approval**

4.7.100 Purpose and Authority.

A. Purpose. This Chapter is based on sound planning and engineering principles. The City will review land use actions and major roadway projects for potential impacts and to ensure that new development contributes to the orderly development of the Bend Urban Area Transportation System Plan network of roads, bikeways, and pedestrian facilities by:

- Establishing policies and procedures for evaluation of land use actions and major roadway projects to protect existing and future operations of roadways;
- Establishing service level standards (operations standards) for transportation facilities identified in the Bend Urban Area Transportation System Plan;
- Ensuring consistency with the functions, capacities, and service level standards of facilities identified in local and regional transportation system plans and the City of Bend Development Code;
- Extending transportation facilities to and through development property;
- Ensuring conditions are applied to mitigate the full extent of impacts and protect transportation facilities so that all land use proposals contribute their fair share towards the transportation system plan.

This Chapter also identifies elements that will need to constitute the scope of work for traffic studies used to evaluate major roadway projects.

B. City's Authority. The City Engineer may, at his/her discretion, modify or waive the required content of this chapter when in his/her judgment, special circumstances dictate such change. The City Engineer may at his/her discretion expand the requirements and/or study area if needed to address any issue that comes to light after the initial approval of a scope of work. Certain information may come to light over the course of the analysis that causes the City to require additional analysis to address traffic operations or safety issues that had not been anticipated.

C. Applicability. Land use actions will be reviewed for impacts and potential mitigation through a Transportation Impact Study.

1. **Land Use Actions.** A Transportation Impact Study (TIS) shall be required for development projects when the land use involves one or more of the following actions:

   a. A comprehensive plan map amendment; or
   b. A zone change; or

c. A land use action that takes access or seeks to take access directly onto an arterial or collector facility or within 300 feet of an interchange, ramp terminal, arterial-arterial intersection, arterial-collector intersection or collector-collector intersection; or
d. A land use action where the forecast net increase in site traffic volume is greater than 100 Average Daily Trips (ADT).

2. **Roadway Projects Initiated by a Public Agency.** A Transportation Impact Study shall be performed to determine geometric requirements when a major roadway infrastructure project involves one or more of the following:

   a. The project is inconsistent with the regional or local Bend Urban Area Transportation System Plan (TSP); or
   b. The project considers removal of an existing traffic signal or roundabout; or
   c. The project considers installation of a traffic signal or roundabout at an intersection other than a ramp terminal, arterial-arterial intersection, arterial-collector intersection or a collector-collector intersection.

3. **Exceptions.** A trip generation letter may be provided in lieu of a Transportation Impact Study for applications that do not involve a General Plan map amendment or zone change provided that the applicant can demonstrate that the project will generate fewer than 100 vehicle trips per day, and that the site access driveways meet sight distance, operations and safety requirements.

4.7.200 Transportation Impact Study

A. The Transportation Impact Study shall be prepared under the responsible charge of a professional engineer licensed in Oregon, and qualified to perform such studies.

The Transportation Impact Study needs to provide sufficient information to the City so that the City can assess the impact to the transportation system, evaluate proposed mitigation measures, and craft reasonable conditions for the proposed land use action. Engineers are reminded of their responsibilities under state law which specifies that they shall at all times recognize that their primary obligation is to protect the safety, health, property and welfare of the public in the performance of their professional duties. These standards provided herein in no way serve as a substitute for the application of sound professional engineering judgment expected to be used by practitioners in the preparation and documentation of transportation analyses.

1. **Determination of Scope of Work**. It shall be required that the person responsible for preparing the transportation impact analysis, first receive approval from the City Engineer for the scope of work for the report. The scope of work at a minimum shall identify the study area, and the study area intersections as indicated below. Requests for deviation from the provisions of this chapter shall be submitted in writing to the City Engineer.

2. **Scope of Work.** The Transportation Impact Study Scope of Work shall include these elements:

   a. Study Area. The Study area shall include:

      i. The existing street infrastructure along the property frontage (i.e. right-of-way, sidewalks, bicycle lanes, medians, driveway aprons);

      ii. All driveway access points except single family residential dwellings;

      iii. All street connection points to abutting arterials or collectors;

iv. Any intersection with an interchange, or ramp terminal, and any arterial-arterial intersection, arterial-collector intersection or collector-collector intersection, that is within one-mile driving distance of the site and has more than 15 peak hour trips added to any lane group. The driving distance shall be measured from each access point (driveway or street) of the development onto the transportation system.

v. Other transportation facilities required to be studied by the Transportation Planning Rule OAR 660-012-0060.

b. Analysis Period. At a minimum, an operations analysis shall be performed for the weekday p.m. peak hour at the study area intersections. Certain land use applications may also be required to study the a.m. peak hour, the peak hour of the proposed project, the peak hour of a nearby generator (e.g. School arrival/dismissal times), or a weekend peak hour. The peak traffic times to be studied in the Transportation Impact Study shall be determined at the discretion of the City Engineer.

For each of the Study Years, analyses with and without the proposed project shall be provided.

c. Study Years. The intersection operations analysis and traffic forecasts shall include the following study years:

i. Existing conditions (current year); and

ii. Year of completion of each phase; and

iii. Five years beyond final development phase; and

iv. for those projects that involve a zone change, Bend Urban Area General Plan map amendment, or a major roadway infrastructure project an additional study year shall be provided. This study year shall reflect the Transportation Planning Rule OAR 660-012-0060 requirements.

Transportation Planning Rule analysis year shall be either the 15-Year projection of traffic or the traffic projections from the twenty-year period beginning with the date of adoption of the Bend Urban Area Transportation System Plan, whichever provides the longest projection. These traffic projections, whether for the 15-Year projection or the Bend Urban Area Transportation System Plan planning year, shall be provided by the City Engineer. The Bend Urban Area Transportation System Plan traffic model will be used as a basis for these projections.

d. Exceptions. For a development proposal that results in a net reduction in traffic, the five year estimate analysis period may be deleted at the discretion of the City Engineer.

4.7.300 Analysis Methodology

The analysis methodology described herein shall apply to all required transportation impact analysis including Transportation Impact Studies and Trip Generation Letters.

A. Forecasts and Operations

1. For each of the analysis years defined in Section 4.7.200 above, (except for existing conditions), the traffic forecast and operations analysis shall be prepared for conditions with

and without the proposed project. The operations analysis shall be performed in conformance with the Highway Capacity Manual (HCM) or other reference approved by the City Engineer.

2. Traffic counts for the existing conditions analysis shall be no more than one year old dated from the date of land use application. If pertinent transportation system conditions have changed since the count, then new field counts shall be performed.

3. Field counts shall include a minimum of a 2-hour turning movement count for each peak period studied (between 4:00 and 6:00 for p.m. peak hour counts). Additional hours of turning movement counts will be needed to determine compliance with traffic signal warrants, all-way stop warrants or to determine the extent of over-capacity conditions. Counts for other hours will be determined as needed. Counts may need to be seasonally adjusted as required by the City Engineer to reflect peak conditions (i.e. summer peak, ski season/winter peak, or school traffic peak) for the transportation system element being analyzed.

4. The traffic forecasts for the year of completion of each phase shall be calculated to be field counts plus 100 percent of the traffic from the other approved, but not yet constructed developments, plus an annual growth factor which would factor the existing counts up to the analysis year. The City Engineer or designee will supply traffic assignments for other approved, but not yet constructed development; however, it is the study engineer's responsibility to determine build out status of these developments.

   The annual growth factor shall be determined by the City Engineer after considering first ODOT's Transportation Planning Analysis Unit (TPAU) traffic growth rates for the roadway in question, then the City of Bend's traffic growth rates. If no data are available, the annual traffic growth factor shall be 3 percent per year.

5. **Trip Distribution.** Trip assignments should replicate overall origin/destination patterns in the City. Existing field count turning movement patterns should be used as a guide for trip assignments as appropriate. The assignment should be adjusted to reflect future committed transportation facilities, changes in zoning or development patterns.

6. **Intersection Control Type and Roadway Geometry**. The operations analysis shall use existing transportation system conditions (control type and roadway geometry). Committed transportation facilities may also be considered in the analyses. Committed transportation facilities means those proposed transportation facilities and infrastructure which are consistent with the acknowledged comprehensive plan and have approved funding for construction in a public facilities plan or the Six-Year Highway or Transportation Improvement Program.

7. **Trip Generation**. Project generated traffic shall be forecast using average trip generation rates from the latest edition of the publication Trip Generation (ITE) or shall be created from local data (the procedure for collecting such data shall comply with the guidelines in the ITE Trip Generation Handbook). Adjustments such as those applicable for pass-by trips, that are well supported by multiple studies in the ITE Trip Generation Handbook may be applied.

   For Bend Urban Area General Plan map amendments or zone change applications, the trip generation shall represent the worst case trip generation of the existing and proposed zoning. This accommodates the highest trip generator allowed outright in the zone. However, if General Plan map amendments or zone changes are accompanied by a concurrent site plan application, the trip generation for the site plan may be utilized instead.

B. Required Information

1. **Sight Distance Measurements**. For all driveways, study area intersections, and new intersections created by the development (with the exception of single family residential driveways), an intersection sight distance measurement shall be provided that shows compliance with City of Bend Standards and Specifications for the posted or 85th percentile speed (whichever is greater). Field measurements shall be used wherever possible, and plan measurements from civil drawings provided for planned intersections or driveways.

2. **Adjacent and nearby driveways and street connecting points**. For arterial and collector roadways, the applicant's Transportation Impact Study shall document the location of all existing driveways and street connecting points near the frontage of the property. This shall be used in evaluating compliance with access management standards as provided in Chapter 3.1; Access, Circulation and Lot Design. In all instances, the documentation shall provide sufficient detail to address the requirements of Chapter 3.1; Access, Circulation and Lot Design.

3. **Pedestrian and Bicycle System**. The applicant's Transportation Impact Study shall document the location of all existing and planned sidewalk and trail system elements within the study area of the proposed project for use in evaluating compliance with the Bend Urban Area Transportation System Plan, City of Bend Standards and Specifications, and the City of Bend Development Code.

4. **Crash Histories.** Crash histories and a calculated crash rate shall be reported for all study area intersections or those locations required by the City Engineer or designee. Crash histories shall provide a three (3) year history of ODOT and Bend Police Department reported crashes.

5. **Access Management Standards.** Land use applications that take access or seek to take access directly onto a collector or arterial facility or access within 300 feet of an interchange, ramp terminal, arterial-arterial intersection, arterial-collector intersection or collector-collector intersection will need to demonstrate compliance with the Access Management Standards provided in Chapter 3.1; Access, Circulation and Lot Design. Access to a state facility or within jurisdictional coverage of a state facility shall comply with Oregon Department of Transportation (ODOT) requirements.

6. Individual scopes of work for Transportation Impact Studies for major roadway infrastructure will vary depending on the project, but shall be established by the City Engineer or designee for non-ODOT projects. The scope of the study for ODOT projects shall be coordinated with the City and agreed upon by the City Engineer or designee. The purpose of this requirement is to promote cooperative planning efforts and to help assure that the impacts of major transportation projects consider system-wide impacts.

   Scopes for major roadway projects, in addition to the items previously listed in this Chapter of the Bend Development Code, shall include at a minimum:

   - Determination and identification of existing system status (access management, queuing/storage, crash rates, sight distance, volumes, operations, etc.);
   - Projection of future demands (volumes, queuing/storage, etc.);
   - Development of alternatives that will mitigate existing system deficiencies and operate within the operations standards of the facility as defined in this Code;
   - Assess compliance with the Oregon Administrative Rule, 660 Division 12, Transportation Planning, the Bend Urban Area Transportation System Plan, and the City of Bend Development Code.

C. **Transportation Planning Rule Compliance.** This section implements the City's Bend Urban Area Transportation System Plan with regard to level of service and operation standards. The Transportation Impact Study provided for a zone change and/or Bend Urban Area General Plan map amendment shall comply with and provide information on the requirements of the Oregon Administrative Rule section 660-012-060 (TPR) and demonstrate that the proposed land uses are consistent with the identified function, capacity, and performance standards (level of service, volume to capacity ratio and widths) of the facility as defined in the adopted Bend Urban Area Transportation System Plan and the City of Bend Development Code. The operations standards in the City of Bend Development Code implement the policies of the Bend Urban Area Transportation System Plan.

4.7.400 Approval Criteria

Prior to land use approval, the City must review the applicant's transportation analysis to determine whether or not the proposal will create excessive demand on the public facilities and services required to serve the proposed development. The City will assess the impacts of new development on the transportation system. The key factors used to assess the impacts to the transportation system include, but are not necessarily limited to:

- number of trips by all modes associated with the proposal,
- turning movement demand by vehicles of various types,
- operations analyses results,
- location of the project,
- safety issues, location of the driveways (evaluated for conflict points and location criteria established in Chapter 3.1; Access, Circulation and Lot Design).

The City Engineer will determine if the development or study area has adequate transportation facilities to support the proposed development based on compliance with the Operations Standards. The City shall also evaluate the crash histories and crash rates provided to identify any queuing issues. Crash rates greater than 1.0 per million entering vehicles and inadequate queue storage may need to be mitigated. Mitigation shall ensure that the transportation facilities are providing adequate capacity and safety concurrent with the development of the property.

Zone changes and Bend Urban Area General Plan map amendments cannot be granted if the Transportation Impact Study shows that the proposed development would overburden the City's existing or planned transportation facilities now or in the future. The Transportation Impact Study must demonstrate that compliance with the TPR and the operations standards of the City of Bend Development Code can be achieved within the adopted Bend Urban Area Transportation System Plan.

Similarly, major roadway infrastructure projects should not be approved if the Transportation Impact Study shows that the proposed infrastructure projects would overburden the City's existing or planned transportation facilities now or in the future. The Transportation Impact Study must demonstrate that compliance with the TPR and the operations standards of the City of Bend Development Code can be achieved within the adopted Bend Urban Area Transportation System Plan.

A. **Transportation System Assessment.** This assessment of the transportation system will be used as the basis for requiring mitigation and imposing conditions of approval. Review measures for the transportation system include an evaluation of the existing and proposed transportation system. The applicant shall assess the presence and extent of:

- right-of-way dedications,

- public utility and access easements,
- ADA facilities,
- sidewalks, trails, and pedestrian connections,
- bike lanes,
- turn lanes,
- travel lanes,
- intersection operations and queuing,
- crash rates and crash type/patterns in the vicinity of the proposal, and
- access management and circulation.

At a minimum, development proposals shall be required to provide adequate setbacks, create public access and utility easements, and dedicate right of way for roadways and trails to allow construction of the transportation system and facilities in accordance with the Bend Urban Area Transportation System Plan and the City of Bend Development Code. Other exactions and mitigations will be required on a rough proportionality basis.

B. Operations Standards. The intersection analyses provided in the Transportation Impact Study will be evaluated for safety deficiencies, queuing deficiencies, compliance with the Transportation Planning Rule, and the Bend Urban Area Transportation System Plan, any applicable development agreements, and regional transportation system plans. Intersections under the jurisdiction of the Oregon Department of Transportation shall also be evaluated for compliance with the Oregon Highway Plan. Intersections that do not comply with the criteria listed in those documents, as well as those criteria listed below, may be required to be mitigated.

1. Two-Way Stop Control - Approaches with greater than 100 peak hour trips; average delay for the critical lane group is less than or equal to 50 seconds during the Peak Hour;

2. All-way stop control - Average delay for the intersection as a whole is less than or equal to 80 seconds during the Peak Hour;

3. Roundabout - Volume to capacity ratio for the intersection as a whole is less than or equal to 1.0 during the Peak Hour;

4. Signalized Intersection under the jurisdiction of the City of Bend:

   a. For intersections that are not constructed to the widths and infrastructure elements of the Bend Urban Area Transportation System Plan or other approved master plan and not located within or directly adjoining a historic district or Central Business Zone, the volume to capacity ratio for the intersection as a whole is less than or equal to 1.0 during the Peak Hour.

   b. For intersections that are not constructed to the widths and infrastructure elements of the Bend Urban Area Transportation System Plan or other approved master plan and are located within or directly adjoining a historic district or Central Business Zone, the volume to capacity ratio for the intersection as a whole is less than or equal to 1.0 during the hour directly preceding and following the Peak Hour.

   c. For intersections that are already constructed to the widths and infrastructure elements of the Bend Urban Area Transportation System Plan or other approved master plan, the operation standard shall be a volume-to-capacity ratio less than or equal to 1.0 for the intersection as a whole during the hour directly preceding and following the Peak Hour.

5. Signalized intersection under ODOT jurisdiction:

a. In addition to the City of Bend operations standards, intersections on ODOT facilities will also be required to comply with ODOT mobility standards, which are typically a higher standard (lower volume to capacity ratio). The concurrency requirements may vary with ODOT. Coordination with ODOT should be considered in the study process. City operations standards and concurrency standards will apply as a minimum on ODOT facilities.

Table 4.7.400a
Signalized Intersection Operations Standards

Intersection Status/Jurisdiction	City of Bend Operations Standards	ODOT Operations Standards and Concurrency
Built to TSP/Master Plan; within CB/historic district	v/c less than 1.0 for hour preceding and following Peak Hour	N/A
Built to TSP/Master Plan; outside of CB/historic district	v/c less than 1.0 for hour preceding and following Peak Hour	City Operations Standards and ODOT Mobility Standards or Concurrency Standards
Not Built to TSP/Master Plan; within CB/historic district	v/c less than 1.0 for hour preceding and following Peak Hour	N/A
Not Built to TSP/Master Plan; outside of CB/historic district	v/c less than 1.0 for Peak Hour	City Operations Standards and ODOT Mobility Standards or Concurrency Standards

C. Pro-rata Share Contributions. Each development shall contribute its proportional share to the costs of the transportation system that will be required as a result of the cumulative impact that various developments combined will have on the system, regardless of whether the impact of an individual development would by itself cause a facility to fall below the operations standards set forth above. Developments shall be required to contribute their proportional share for all intersections within the study area as well as mitigate operations as described below.

4.7.500 Mitigation Requirements/Conditions of Approval

The transportation impact analyses for each of the study time frames need to show compliance with the operations criteria listed above, or the applicant will be required to mitigate to bring the operations into compliance. Mitigation shall be in compliance with City of Bend Standards and Specifications, the Bend Urban Area Transportation System Plan and the requirements of the Bend Development Code.

Exception: The 5-Year projected analyses are used only for planning purposes and will not require mitigation.

If mitigation is identified as being necessary, but cannot be imposed due to rough proportionality limitations, the City of Bend may deny the application or require modifications to limit impacts.

Concurrency for the City of Bend requires that the mitigation be in place at the time of final platting of the residential subdivision (or individual phases of the residential subdivision), or at the time of occupancy permits for commercial, industrial, duplex, tri-plex buildings, and all other non-single family buildings.

Exception: Construction of emergency service access requirements may be needed earlier.

Requirements for Existing Year Traffic, Year of Completion of each phase, and Year of Completion of each phase plus Project. Mitigations shall:

- comply with applicable requirements and design elements of the City of Bend Development Code and the Bend Urban Area Transportation System Plan and regional transportation system plan;
- meet appropriate installation warrants (all-way stop warrants for both all-way stop and roundabout installations, traffic signal warrants for new signal installations, and left or right turn lane warrants);
- have the least negative impact on all applicable transportation facilities;
- be shown to operate the best of similar threshold mitigations for the intersection itself as well as for the corridor as a whole; and
- have construction plans approved by the City Engineer.

Requirements for Transportation Planning Rule Analyses Years shall:

- be included in the Bend Urban Area Transportation System Plan at the time of final platting of the subdivision (or individual phases of the subdivision), or at the time of commercial building permits;
- have the least negative impact on all applicable transportation facilities;
- be shown to operate the best of similar threshold mitigations for the intersection itself as well as for the corridor as a whole; and
- comply with applicable requirements and design elements of the City of Bend Development Code and the Bend Urban Area Transportation System Plan and regional transportation system plan.

The following mitigation measures are acceptable to such an extent that the concurrency standard can be achieved.

A. Construct Transportation System Operations Mitigation

Operations mitigations shall include the construction of the full intersection infrastructure and control, to bring the intersection into compliance with the Bend Urban Area Transportation System Plan. Intersection improvements of this nature will be identified by the City Engineer or designee.

Proposed new traffic signals shall show concurrency operations as well as improved corridor operations in terms of signal progression and reduced corridor delay, and be shown to cause no significant adverse impact to the corridor during integrated corridor operations. The City Engineer and the Oregon Department of Transportation Region 4 Transportation Manager or their designees must approve design of all new traffic signals.

Mitigation in the form of roadway widening shall be constructed in conformance with the roadway classification of the Bend Urban Area Transportation System Plan, and the cross-sections as set forth in the City of Bend Development Code in Chapter 3.4; Public Improvement Standards, including sidewalks, bike lanes, medians and total roadway widths. Roadways wider than 5 lanes are not approvable at this time.

Mitigation in the form of intersection widening shall be constructed in conformance with the Transportation System Plan designation widths. Right turn lanes, when approved by the City Engineer and Region 4 ODOT Traffic Manager, or their designees, proposed for intersection

operations mitigation, shall be implemented with appropriately designed pedestrian island refuges in compliance with City and/or ODOT standards.

Operations mitigations shall not include widening to accommodate additional travel lanes for the following situations:

- roadways that are already constructed to the widths consistent with the Bend Urban Area Transportation System Plan;
- roadways located within or directly adjoining the City's Central Business Zone; and
- intersections and roadways located within or directly adjoining a historic overlay zone or historic district.

The City acknowledges that in certain situations, no physical mitigation may be available to improve intersection operations to the operations criteria. In these situations, other forms of mitigation shall be proposed by the applicant as discussed below and conditions of approval will be created to minimize the application's impact on the intersections in question.

B. Construct Interim Transportation System Operations Mitigation

Applicants may choose to construct interim operations mitigations, as approved by the City Engineer, that will bring the intersection into concurrency compliance with the operations standards outlined in this Chapter of the Bend Development Code, and, as well, pay their proportionate share towards the full intersection infrastructure to bring the intersection into compliance with the Bend Urban Area Transportation System Plan as described above.

Interim operations mitigations may include the construction of additional turn lanes, additional travel lanes, upgraded operations controls, etc., considering the following limitations and requirements.

Interim mitigation in the form of improved signal timing and phasing may be achieved by installing the necessary communications and field equipment that would provide the increased capacity necessary to achieve the concurrency standards. The applicant needs to demonstrate through a field calibrated corridor operations model (approved by the City Engineer or designee) that the proposed signal timing and phasing changes will provide the additional capacity necessary to meet the concurrency standards. The City Engineer and the Oregon Department of Transportation Region 4 Transportation Manager or their designees must approve timing and phasing, communications and field equipment.
Proportionate share calculations will be calculated based on the ratio of development trips to growth trips for the anticipated cost of the full Bend Urban Area Transportation System Plan intersection infrastructure. The calculation is provided herein:

Proportionate Share Contribution = [Net New Trips/(Planning Period Trips–Existing Trips)] X Estimated Construction Cost

Where net new trips are the total entering trips that are proposed to be added to the Study area intersection by the development; estimated construction cost is the cost to construct the master planned infrastructure from the transportation system plan in today's dollars.

C. Limit Proposed Land Uses

When impacts are greater than can be mitigated by the applicant due to rough proportionality limitations, the applicant may need to reduce the proposed trip generation by restricting uses within the site or by applying for a more appropriate land use to achieve the concurrent operations

standards. The Transportation Impact Study will need to show that the proposed limitations will be adequate to reduce the trips and bring the transportation system into compliance with the operations criteria.

D. Amend Bend Urban Area Transportation System Plan to add Arterial and/or Collector Facilities

In cases where mitigation is necessary, but would require widening of a roadway or an intersection beyond the limits allowed in the Bend Urban Area Transportation System Plan or the City of Bend Development Code, the applicant may choose to provide additional off-site capacity by amending the Transportation System Plan to include additional arterial or collector routes. The applicant's Transportation Impact Study will need to show that the proposed mitigation will be adequate to redistribute the transportation system's trips and bring the transportation system into compliance with the Operations Standards. In this case, unless the proposed roadways are contained within the development's site, the proposed mitigation (alternate route(s)) would not need to be physically constructed, but the Bend Urban Area Transportation System Plan amendments must have been approved prior to approval of the land use application.

E. Amend Bend Urban Area Transportation System Plan to Provide Alternative Transportation Elements

In cases where mitigation is necessary, but would require widening of a roadway or an intersection beyond the limits allowed in the Bend Urban Area Transportation System Plan or the City of Bend Development Code, the applicant may choose to provide additional capacity by amending the Transportation System Plan to include additional off-site trail, pedestrian or transit facilities. The Transportation Impact Study will need to show that the proposed additional off-site trail, pedestrian, or transit facilities will be adequate to enhance mode splits sufficiently to bring the transportation system into compliance with the operations criteria. In this case, unless the proposed elements are contained within the development's site, the proposed mitigation would not need to be physically constructed, but the Bend Urban Area Transportation System Plan amendments must have been approved prior to approval of the land use application.

F. Reduce Impacts with a Travel Demand Management (TDM) Program

The applicant may choose to develop a TDM program to reduce net new trip generation for a proposed project when trip reductions are necessary to minimize off-site mitigation requirements. Proposed elements of the TDM program will be evaluated to determine trip reduction rates. The following trip reduction rates shall be applied if a TDM program with these elements were to be developed by the applicant:

- Provide employee showers, lockers, and secure bike parking according to requirements of the Bend Development Code - five percent (5%) trip reduction;
- Project is located within ¼ mile of a transit route – five percent (5%) trip reduction;
- Project is located within ¼ mile of a transit route and employer provides free or significantly reduced monthly bus passes to employees - ten percent (10%) trip reduction;
- Project provides free priority parking for carpools/vanpools – five percent (5%) trip reduction;
- Project provides free priority parking for carpools/vanpools but fee non-priority parking for other employees - ten (10%) trip reduction;

- Other TDM elements as approved by the City Engineer;
- Maximum trip reduction for combined TDM program elements - twenty-five (25%) trip reduction.

The Transportation Impact Study will need to show that the proposed trip reductions will be adequate to reduce the development's trips and bring the transportation system into compliance with the operations criteria. A modification to the original site plan approval would need to be obtained if TDM program elements change significantly.

Chapter 5.0 Exceptions to Code Standards

Sections:

5.0.100 Introduction

5.0.100 Introduction.

This Chapter provides standards and procedures for variances and non-conforming situations (i.e., existing uses or development that do not comply with the Code). This code cannot provide standards to fit every potential development situation. The City's varied geography, and complexities of land development, requires flexibility. Chapter 5.0; Exceptions to Code Standards provides that flexibility, while maintaining the purposes and intent of the Code. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other code provisions. The standards for non-conforming uses and development are intended to provide some relief from code requirements for older developments that do not comply.

Chapter 5.1 Variances

Sections:

5.1.100	**Purpose**
5.1.200	**Class A Variances**
5.1.300	**Class B Variances**
5.1.400	**Class C Variances**

5.1.100 Purpose.

The purpose of this Chapter is to provide flexibility to development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met. Granting a variance involves discretionary decision-making requiring a Type II procedure.

5.1.200 Class A Variances.

A. Purpose. A Class A variance is a variance from the standards of this ordinance relating to on-site development requirements. The Review Authority may grant variances to the following on-site requirements using the approval criteria in Subsection 5.1.200(B); Class A Variance Approval Criteria below, provided the request does not exceed 25% of the requirement. The applicant shall provide a written narrative or letter describing the reason for the variance, why it is required, alternatives considered, and compliance with the approval criteria.

1. Building Setbacks as required in the base land use district.
2. Landscape area requirements

B. Class A Variance. Approval Criteria. A Class A Variance shall be granted if the applicant can demonstrate compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other physical conditions of the site;
2. The variance does not result in the removal of significant trees as defined by this ordinance;
3. The variance is consistent with the design standards provided in Chapters 3.1; Access , Circulation and Lot Design, 3.2; Landscaping, Street Trees, Fences and Walls, 3.3; Vehicle Parking, Loading and Bicycle Parking, and 3.4; Public Improvement Standards.

5.1.300 Class B Variances.

A. Purpose. The purpose of this Section is to provide standards for variances to on-site development standards that exceed the criteria in Section 5.1.200; Class A Variances, above. The applicant shall provide a written narrative or letter describing the reason for the variance, why it is required, alternatives considered, and compliance with the approval criteria.

B. Class B Approval Criteria. The City shall approve, approve with conditions, or deny an application for a variance based the following criteria:

1. The proposed variance will not be materially detrimental to the stated purposes of the applicable Code requirements listed herein and to other properties in the same land use district or vicinity;
2. A hardship exists that is peculiar to the nature of the requested use, lot size or shape, topography, sensitive lands, or other similar circumstances related to the property or use over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
3. The use proposed is permitted within the underlying zoning district, and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
4. Existing physical and natural systems, such as but not limited to, traffic, drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred in compliance with the subject Code standard;
5. The hardship is not self-imposed and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience; and
6. The variance requested is the minimum variance that would alleviate the hardship.

5.1.400 Class C Variances

A. Purpose. A Variance request can be specific to certain aspects of development. The purpose of this Section is to provide specific criteria for reviewing certain variance requests. The specific situations identified as Class C Variances include:

1. Variance to Vehicular Access and Circulation Standards
2. Variance to Parking Standards
3. Variance to Maximum or Minimum on site development requirements to reduce tree removal and/or Impacts to Wetlands (Waterway Overlay Zone)
4. Variance to Maximum Height
5. Variance to Transportation Improvement Requirements.
6. Variance for Deviations Regarding Access to State Highways
7. Floodplain sub-zone Variances

The applicant shall provide a written narrative or letter describing the reason for the variance, why it is required, alternatives considered, and compliance with the approval criteria.

B. Class C Variance Criteria. The Class C variance requests are best determined using the specific criteria listed below.

1. Variance to Vehicular Access and Circulation Standards. Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in

conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding all of the following:

a. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
b. There are no other alternative access points on the street in question or from another street, alley or access-way;
c. The access separation requirements cannot be met;
d. The request is the minimum variation required providing adequate access;
e. The approved access or access approved with conditions will result in a safe access; and
f. The vision clearance requirements of Chapter 3.1 will be met.

2. **Variance to Parking Standards.** The City may approve a variance to the minimum or maximum standards for off-street parking in Section 3.3 upon finding all of the following:

   a. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity;
   b. The need for additional parking cannot be met through provision of on-street parking, structure parking or shared parking with adjacent or nearby uses; and
   c. All other parking design and building orientation standards are met, in conformance with the standards in Chapter 2; Land Use Districts and Chapter 3; Design Standards.

   The City may approve a reduction of required bicycle parking per Section 3.3.600; Bicycle Parking Standards, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.

   The City may allow a reduction in the amount of vehicle stacking area required for drive-through and drive-in facilities if such a reduction is deemed appropriate after analysis of the size and location of the development and other pertinent factors.

3. **Variance to Maximum or Minimum on site development requirements to Reduce Tree Removal and/or Impacts to Wetlands (Waterway Overlay Zone)**. The City may grant a variance to the applicable on site requirements of this Code, including building height, for the purpose of preserving a tree or trees on the site of proposed development or avoiding wetland impacts. Modification shall not be more than is necessary for the preservation of trees or wetlands on the site.

4. **Variance to Maximum Height.** The City may grant a variance to the maximum height limitations not otherwise exempted by this ordinance when the following criteria are met:

   a. The structure is not located within the Deschutes River Corridor or the Tumalo Creek Corridor.
   b. The proposed height does not create a burden on the City's Fire Department for fire fighting requirements.
   c. The location, size, design characteristics of the proposed structure shall have minimal adverse impact on the property values and livability of the permitted development in the surrounding area.
   d. The structure will provide an aesthetically pleasing and functional environment and relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features to the greatest extent practical.
   e. The requested height is the minimum deviation necessary.
   f. If the structure is located in the CB zone, the Class B Approval Criteria shall also apply.

5. **Variance to Transportation Improvement Requirements.** The City may approve, approve with conditions, or deny a variance to the transportation improvement standards of Chapter 3.4; Public Improvement Standards, based on the criteria for granting variances provided in Subsection 3.4.200(B); Transportation Improvement Standards.

6. **Variance for Deviations Regarding Access to State Highways** shall be subject to review and approval by the Oregon Department of Transportation.

7. **Variances to Floodplain Sub-zone**

   a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size that is contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) below2 have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases. The City shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:

      i. The danger that materials may be swept onto other lands to the injury of others;
      ii. The danger to life and property due to flooding or erosion damage;
      iii. The susceptibility of the proposed development and its contents to flood damage and the effect of such damage on the individual owner;
      iv. The importance of the services provided by the proposed development to the community;
      v. The necessity to the development of a waterfront location, where applicable;
      vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
      vii. The compatibility of the proposed use with existing and anticipated development;
      viii. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
      ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
      x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
      xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

   b. A variance may be issued for the reconstruction, rehabilitation, or restoration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places per Subsection 5.1.400.B(7) in this Section.

   c. A variance shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

   d. A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

   e. A variance shall only be issued upon:
      i. A showing of good and sufficient cause;
      ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

iii. A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in this Section, or conflict with existing local laws or ordinances.

g. A variance as interpreted in the National Flood Insurance Program is based on the general zoning law principle that it pertains to a physical piece of property; it is not personal in nature and does not pertain to the structure, its inhabitants, economic or financial circumstances. It primarily addresses small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

h. A variance may be issued for a nonresidential building in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 5.1.400.D.2 and otherwise complies with Section 2.6.600, Waterway Overlay Zone.

i. Any applicant to whom a variance is granted shall be given notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Chapter 5.2 Non-Conforming Uses and Developments

Sections:

5.2.100 Non-Conforming Uses
5.2.200 Non-Conforming Developments

5.2.100 Non-Conforming Uses.

Where, at the time of adoption of this Code, a use of land exists that would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

A. Expansion Prohibited. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land;

B. Location. No such nonconforming use shall be moved in whole or in part to any portion of its lot, or any other lot, other than that occupied by such use at the effective date of adoption or amendment of this Code; unless such move would bring the use into conformance with this ordinance.

C. Discontinuation or Abandonment. The nonconforming use of land shall not be discontinued for any reason for a period of more than 12 months. For purposes of calculating the 12 month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:

1. On the date when the use of land is physically vacated;
2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

D. Application of Code Criteria and Standards. If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of the land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.

E. Non-Conforming Street Access Connections that exist prior to the adoption of this code and that do not conform with standards in Chapter 3.1 shall be brought into compliance when the following conditions exist:

1. When a new access permit is requested for the subject property; or

2. When a building permit or land use application is submitted that results in an increase of trip generation by twenty [20] percent and one-hundred [100] average daily trips (ADT).

5.2.200 Non-conforming Structures.

Where a structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, its location on the lot or other requirements concerning the structure; and the structure was lawful when constructed; the structure may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

A. Enlargement or Alteration.

1. If the owner or occupant wishes to enlarge or alter an existing nonconforming structure in a manner which would increase the non-conformity, they shall apply for a Conditional Use Permit under Chapter 4.4.

2. If an applicant proposes to reduce the nonconformity of the structure, the application shall be reviewed using the applicable review process (either Development Review or Architectural Design Review).

B. Reconstruction after Destruction. Should a nonconforming structure or the nonconforming portion of a structure be destroyed by any means to an extent more than 80 percent of its current assessed value as determined by the Deschutes County assessor, it shall be reconstructed only in conformity with all of the Development Code.

C. Location. Should such development be moved for any reason and by any distance, either within or outside the site on which it was established, it shall thereafter conform to all of the regulations of the Development Code.

ORDINANCE NO. NS-2017

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN MAP, BY CHANGING THE DESIGNATION OF AN AREA OF LAND ZONED COMMERCIAL HIGHWAY, (CH) TO GENERAL COMMERCIAL, (CG) AND AN AREA OF LAND ZONED INDUSTRIAL PARK, (IP) LOCATED NORTH OF BEAR CREEK ROAD AND EAST OF PURCELL BOULEVARD TO MIXED-EMPLOYMENT, (ME) AND AN AMENDMENT TO THE BEND AREA GENERAL PLAN TEXT PREFACE AND CHAPTER 6.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Planning Commission's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of Staff dated May 29, 2006, regarding file PZ-03-733.

Section 2. The City of Bend General Plan Map is amended by changing the designation of the property shown in "Exhibit A" from Commercial Highway (CH) to General Commercial, (CG) and Industrial Park (IP) to Mixed Employment (ME). In addition, the map shall be further revised to reflect those Plan Map amendments that have been approved prior to the effective date of this ordinance but have not yet been included on the Plan Map.

Section 3. The General Plan text in the Preface and Chapter 6 is amended as described in "Exhibit B".

Section 4. If any portion of this ordinance is found to be unenforceable for any reason, only that portion shall be affected. The remainder of the ordinance shall remain in full force and effect.

Read for the first time the 21st day of June, 2006.

Read for the second time the 5th day of July, 2006.

Placed upon its passage the 5th day of July, 2006.

YES: 6 NO: 0

Authenticated by the Mayor the 5th day of July, 2006.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"
GENERAL PLAN MAP

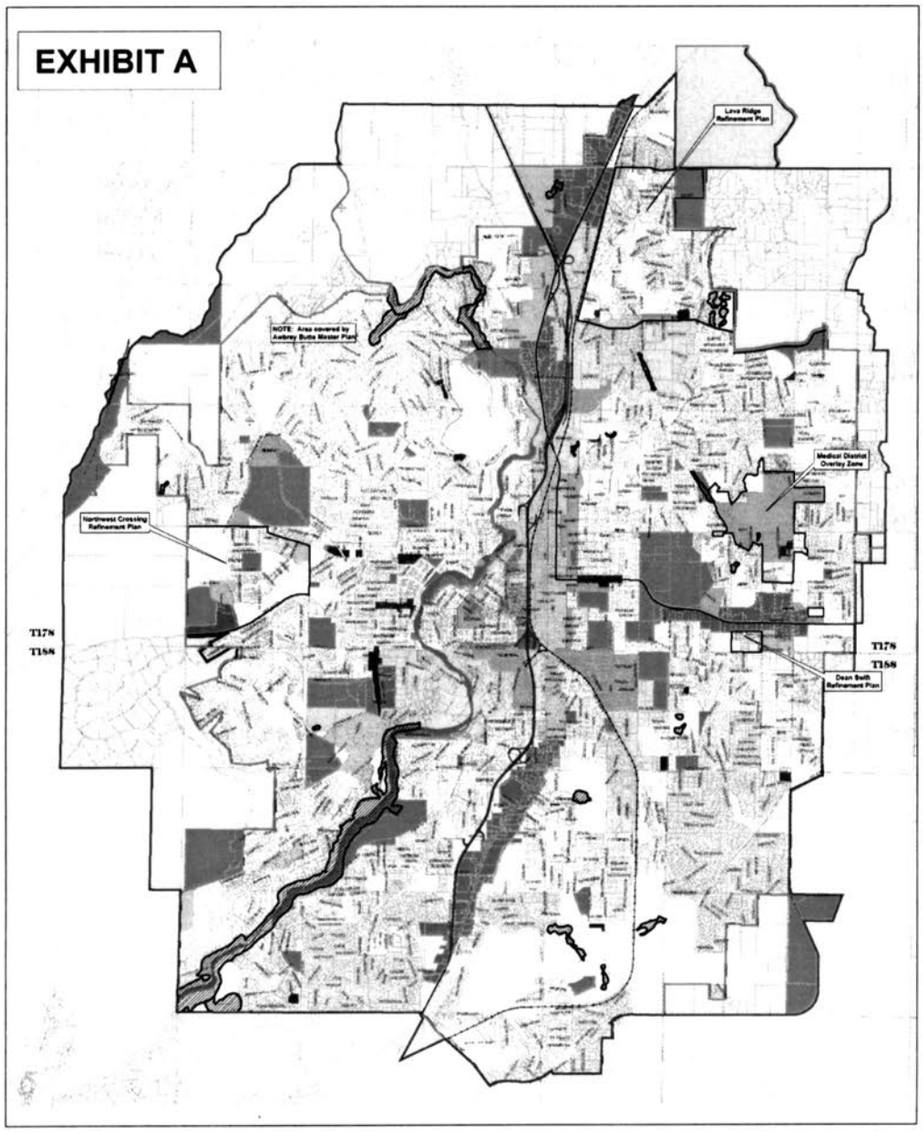

EXHIBIT A
Lava Ridge Refinement Plan
NOTE: Area covered by Awbrey Butte Master Plan
Medical District Overlay Zone
Northwest Crossing Refinement Plan
T17S
T16S
T17S
T16S
Deschutes River
Deschutes River
Deschutes River

EXHIBIT "B"
GENERAL PLAN TEXT AMENDMENTS

- Make the following changes to the narrative text of the General Plan Preface as follows:

❑ *Changes proposed by individuals or other agencies. ~~At any time an~~ A proposal by an individual, corporation, or public agency ~~can propose a~~ to change to the Plan text, land use map, other exhibits, or policies shall be considered as determined by the procedures ordinance. A person or agency proposing a change has the burden to demonstrate a public need and benefit for the change.*

- Make the following changes to the narrative text and Tables of Chapter 6 on the following pages:

Page 6-12

Table 6-5
Industrial Designations

Plan Category	Description	Size Requirement
~~Industrial Park~~	~~provides for research and development facilities and compatible light manufacturing in a park-like setting~~	~~minimum ½ acre lot size; no maximum~~
Light Industrial	provides for heavier commercial and light industrial uses in built- up areas of the urban area	no minimum or maximum size
General Industrial	provides for light and heavier industrial uses with a minimum conflict between uses	no minimum or maximum size
Mineral Extraction	provides for the extraction of pumice, ash, and rock to serve the construction needs of the urban area	no minimum or maximum development size

Page 6-13

A second area planned for mixed commercial and industrial development runs through the middle of the urban area. One area covers an older industrial and commercial area along NE 1st and NE 2nd streets. A second area is in a mixed development area along Highway 20 North. This land use category is labeled Mixed Employment, and recognizes the existing pattern of light industrial, commercial, and institutional uses in this area. It provides for land in the center of the urban area to be redeveloped to a more intensive mix of industrial and commercial businesses and employment that is consistent with the diversified economy of the urban area. On the east side of Bend, south of East Hwy 20 and west of 27th Street is a small area designated for Mixed Employment. The existing development pattern provides a compatible transition between highway commercial to the north and single family residential development to the south across Bear Creek Road.

<u>Commercial Corridor Areas</u>

Although the General Plan recognizes the opportunity for redevelopment and infill along the existing corridors, it sets new expectations for site and building development that will benefit both the customers and the community. New developments along the corridors will be required to have a good site layout to serve vehicles, and to address pedestrian and bicycle needs as well. The large "super store" retailers may develop along the existing corridors, and the city will need to develop special standards to address the traffic and design issues associated with these large developments. The two main land use categories along the highways and main arterial streets are Limited Commercial and ~~Highway~~ General Commercial.

Page 6-14

Although commercial corridor development will be limited in the future, the appearance of such areas continues to be a concern. Additional landscaping and trees, plus widening or adding new sidewalks shall be encouraged. Because ~~highway~~general commercial areas are located on the

Plan along major entrances to the community, special consideration shall be given to landscaping, setbacks, access and signing.

Commercial Center Areas
Part of the land needed for commercial development will be met by new small commercial centers or stores as generally designated on the Plan Map. These centers are intended to support residential neighborhoods and reduce vehicle trips or trip lengths by providing commercial uses near or within developing residential areas. These new centers could be on one parcel, or several parcels within a limited geographic area like the commercial area on Newport Avenue, and should have several of the characteristics listed below that avoid the problems and appearance of "strip commercial" developments:

- ❑ *buildings closer to the sidewalk*
- ❑ *limited vehicle access points*
- ❑ *shared parking facilities*
- ❑ *parking distributed around buildings*
- ❑ *walkways for pedestrian access*
- ❑ *uses that serve the neighborhood*
- ❑ *smaller monument signs*
- ❑ *buildings on site in scale with each other*

The ~~two~~ main Plan designation~~s~~ for neighborhood oriented ~~commercial center~~ development ~~are Neighborhood Commercial and~~ is Convenience Commercial. In addition, a 25-acre Limited Commercial center is planned near the west edge of the urban area. This center is intended to serve residential growth on the west side of the urban area, and is part of a large undeveloped parcel. This site will be adjacent to Mt. Washington Drive, but is shown on the Plan Map with a general site designation until a master plan is developed for this commercial site and related industrial and residential development.

Page 6-15

Neighborhood Commercial areas are intended to provide locations for small businesses and services that fit into the residential development pattern and provide a convenience to residents in the immediate neighborhood. Specific Neighborhood Commercial sites are not shown on the Plan Map, but are permitted outright in residential zones. They are intended to serve residential areas within a five or ten minute walk. Such uses are appropriate in residential areas if the following conditions are met: the building design and site landscaping shall be similar to the residential pattern in the area; the site size is one-quarter to one-half acre; the site is at least one-~~half~~quarter to three-quarters of a mile from another commercial zone or neighborhood commercial node; and there is a market study or other analysis that shows there is an adequate residential base or other conditions in the area that can support the use.

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Table 6-7 Commercial Designations

Plan Category	Description	Size Requirements
Convenience Commercial	provides for frequent shopping and service needs of nearby residents	up to 5 acres maximum
General Commercial	provides a broad mixing of commercial uses in older, close-in sections of the community and uses having large site requirements with orientation to highway access.	none
Limited Commercial	provides locations for a wide range of retail, service, and tourist commercial uses in the community along highways or in new centers	5-30 acres
~~Highway Commercial~~	~~provides for those uses that have large site requirements, or are oriented to highway access, or provide services to visitors~~	~~none~~
Central Business District	only applied to several blocks of downtown Bend	none
~~Neighborhood Commercial~~	~~provides location for small services and businesses that fit into residential area and serve the immediate neighborhood~~	~~¼ to ½ acre maximum~~

This is the draft from the first reading on June 21, 2006
~~Struckthrough~~ and underlined text highlight changes from existing ordinance

ORDINANCE NO. NS-2018

AN ORDINANCE UPDATING BEND CODE SECTION 5.480 ("SAFE KID ZONES") BY PROVIDING FOR SAFE KID ZONE DESIGNATION TO NEW PARKS ~~AND SCHOOLS~~ CONSTRUCTED IN THE CITY OF BEND

WHEREAS, the Bend Code establishes Safe Kid Zones as all public schools and parks, and

WHEREAS, The number of parks has grown in recent years, requiring an update to the ordinance, and

WHEREAS, the Council believes that it is in the public interest to exclude schools from the Safe Kid Zone designation because the Bend LaPine School District has the authority to exclude persons that represent a threat to the safety of children,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Sections 5.480 through 5.550 are amended to read:

Section 5.480 Purpose.

(1) Safe Kid Zones are designated to insulate youth in those public places where youth congregate from those whose illegal conduct poses a threat to safety and welfare.

(2) Safe Kid Zones in the City are all public ~~schools, all public~~ parks~~, and all public areas and public ways adjacent to public schools and public parks~~.

(3) Safe Kid Zones include, but are not limited to, the following list of places:

~~(a) Public Schools~~

~~Bear Creek - 51 NE 13th Street, Bend, Oregon~~
~~Juniper - 1300 NE Norton Avenue, Bend, Oregon~~
~~Kenwood - 701 NW Newport Avenue, Bend, Oregon~~
~~Kindergarten - Admin. Center - 520 NW Wall Street, Bend, Oregon~~
~~Kingston - NW 12th and NW Kingston, Bend, Oregon~~
~~Marshall - 1291 NE 5th Street, Bend, Oregon~~
~~Thompson - 437 NW Wall Street, Bend, Oregon~~
~~Cascade - 19740 Century Drive, Bend, Oregon~~
~~Pilot Butte - 1500 NE Penn Avenue, Bend, Oregon~~
~~Bend Senior High - 230 NE 6th Street, Bend, Oregon~~
~~Mountain View - 2755 NE 27th Street, Bend, Oregon~~

Public Parks

~~Brooks Pacific~~
~~Columbia Pioneer~~
~~Deschutes River Trail Ponderosa~~
~~Drake Riverview~~
~~Harmon Sawyer~~
~~Hillside I St. Helens~~
~~Hillside II Stover~~
~~Hollinshead Summit~~
~~Jaycee Sylvan~~
~~Juniper Woodriver Village~~
~~Kiwanis/Centennial~~
~~Mirror Pond~~

Al Moody Park Site - Daggett Lane
Alpine Park Site - SW Swarens Ave./Century Drive
Awbrey Village Park - 3015 SW Merchant Way
Blakely Park - 1155 SW Blakely
Brandis Square
Brooks Park - 35 NW Drake Road
Columbia Park - 264 SW Columbia Street
Compass Park Site - NW Crossing Drive
Davis Park Site
Deschutes River Trail
Dohema River Access
Drake Park - 777 NW Riverside
Farewell Bend Park - Southern Crossing
First Street Rapids Park - NW First Street
Foxborough Park - 61308 Sunflower Lane
Genna Stadium
Harmon Park - 1100 NW Harmon Road
Harvest Park - 20220 Morgan Loop
Hillside Park - 2050 NW 12th Street/1116 NW Trenton Ave
Hixon Park Block - 125 SW Crowell Way
Hollinshead Park - 1235 NE Jones Road
Hollygrape Park - Hollygrape Street
Jaycee Park - 478 Railroad Street
Juniper Swim & Fitness Center
Juniper Park - 800 NE 6th
Kiwanis Park - 800 SE Centennial Street
Larkspur Park & Bend Senior Center - 1700 SE Reed Market Road
Larkspur Trail - 1700 SE Reed Market Road
Lewis & Clark Park - 2520 NW Lemhi Pass Drive
McKay Park - 166 SW Shevlin Hixon Drive
Mt. View Park - 1975 NE Providence Drive
Orchard Park Site - 4th Street/ Seward Avenue
Overturf Park Site - 17th Street
Pacific Park (Administration Office) - 200 NW Pacific Park Lane
Pageant Park - 691 Drake Road
Park Services Center - 1675 SW Simpson
Pine Nursery Park - East of Purcell Street at Empire Ave Intersection
Pine Ridge Park Site - Intersection of Columbine Lane and Porcupine Dr
Pine Tree Park Site - Intersection of Purcell Street and Empire Ave.
Pioneer Park - 1525 Hill Street
Ponderosa Park - 225 SE 15th Street
Providence Park - 1055 NE Providence Drive
Quail Park - Regency Street
Riverbend Park - Columbia Street and Shevlin Hixon Drive
River Canyon Natural Area

5.485 Civil Exclusion.

(1) A person is subject to exclusion for a period of 90 days from entering or remaining in the area within 500 feet of a Safe Kid Zone if that person has been cited to appear, arrested or otherwise taken into custody within a Safe Kid Zone for:

(a) Any Assault, as defined by ORS 163.160 - 185 and 163.208,

(b) Menacing, as defined by ORS 163.190,

(c) Harassment, as defined by ORS 166.025,

(d) Disorderly Conduct, as defined by ORS 166.025,

(e) Recklessly Endangering, as defined by ORS 163.195,

(f) Coercion, as defined by ORS 163.275,

(g) Any sexual offense, as defined by ORS 163.355 - 465,

(h) Endangering the Welfare of a Minor, as defined by ORS 163.575,

(i) Any offense under State law governing the possession, distribution, sale or manufacture of controlled substances,

(j) Any offense under State law governing the possession, distribution or sale of alcoholic beverages,

~~(k) Arson or Reckless burning, as defined by ORS 164.315 - 335,~~

~~(l) Criminal Mischief, as defined by ORS 164.345 - 365,~~

(m) Possession or using a weapon in violation of ORS 166.180, 166.190, 166.220, 166.240, 166.250 or 166.272 or City Ordinance NS-1361, Section 5.025,

~~(n) The driving offense of Driving While Under the Influence of Intoxicants, as defined by ORS 813.010; Reckless Driving, as defined by ORS 811.140; Attempting to Elude a Police Officer, as defined by ORS 811,540; or Careless Driving, as defined by ORS 811.135,~~

(o) Being under the influence of intoxicating liquor or controlled substances, as defined by ORS 426.460.

(2) If a person excluded from a Safe Kid Zone is found within the perimeter of the Safe Kid Zone and its 500 foot protective buffer zone during the exclusion period, that person may be arrested for trespass in the second degree, as defined by ORS 164.245.

5.500 Appeal and Variance.

(1) The person to whom an exclusion notice is issued shall have the right to an appeal from the issuance of the notice. <u>The exclusion notice will notify the person of the right to appeal and process for appeal.</u>

(a) An appeal of the exclusion must be filed, in writing, within 5 calendar days of the issuance of the notice. Such appeal must be filed with the Municipal Court. A hearing on the appeal shall be held before the Judge of the Municipal Court within 20 calendar days of the appeal. The exclusion shall be stayed during the pendency of the appeal.

(b) The City shall have the burden to show by a preponderance of evidence that the exclusion was based upon the conduct proscribed by Section ~~3~~ <u>5.485</u> of this ordinance. Copies of documents in its control and which are intended to be used by the City at the hearing shall be made available to the appellant at least 2 days prior to the hearing.

(c) A determination by a court having jurisdiction of the matter, that the officer who issued the exclusion notice, at the time had probable cause to arrest the person to whom the exclusion notice was issued for the conduct described in Section ~~3~~ <u>5.485</u>, shall be prima facie evidence that the exclusion was based on conduct proscribed by those statutes.

(2) Variances.

(a) Variances from the exclusion may be granted at any time during the exclusion period by the Chief of Police or his designate, <u>or by the Municipal Court</u>.

(b) The Chief of Police or the Municipal Court shall grant a variance to any person who can establish that he or she was a bona fide resident of the zone of exclusion prior to receipt of the exclusion notice. A variance may also be granted when, in the discretion of the Chief of Police or the Municipal Court, the exclusion order is no longer necessary to preserve public safety.

(c) All variances shall be in writing, for a specific period of time and only to accommodate a specific purpose, all of which shall be stated on the variance.

(d) The person shall keep the variance on his or her person at all times the person is within the zone of exclusion.

(e) In the event a person is found to be outside the scope of the terms of the variance, the variance shall immediately become void and that person is thereupon subject to arrest for trespass.

(f) In the event a person holding a variance is arrested for trespass or any conduct proscribed by Section ~~3~~ 5.485 of this ordinance, while in the zone of exclusion, that person shall be ineligible for any new variances for a period of one year from the date of arrest.

Read for the first time the 21st day of June, 2006.

Read for the second time the 5th day of July, 2006.

Placed upon its passage the 5th day of July, 2006.

YES: 5 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 5th day of July, 2006.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-2019

AN ORDINANCE REQUIRING LICENSURE OF PAYDAY LENDERS; PROVIDING REGULATIONS ON PAYDAY LOAN OPERATIONS; AND PROVIDING MEANS FOR ENFORCEMENT OF SUCH REGULATIONS CONSISTENT WITH OREGON LAW

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Bend Code Chapter 7 is amended by adding new sections 7.850 through 7.895 as follows:

7.850 Purpose.

The City finds that, in order to minimize the detrimental effects that certain payday lending practices have on individuals and families, payday lenders should require payment of a portion of the original loan amount prior to the renewal of a payday loan, borrowers should be able to rescind a payday loan, and borrowers should be able to convert a payday loan into a payment plan. This Chapter shall be construed in conformity with the laws and regulations of the State of Oregon.

7.855 Definitions. As used in this Article unless the context requires otherwise:

(a) Payday Lender. A lender in the business of making payday loans as defined by ORS 725.600. The term "Payday Lender" shall also include a person or entity that takes an assignment to or becomes the successor in interest to a payday loan from a Payday Lender.

(b) Payday Loan. A payday loan as defined by state law.

(c) Borrower. A natural person who receives a payday loan.

(d) Cancel. To annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.

(e) Principal. The original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

(f) Manager. The City Manager or designee.

(g) Municipal Court. The Bend Municipal Court.

7.860 License required.

(a) Within 60 days of the effective date of the ordinance enacting this Article, any Payday Lender operating in the City of Bend shall apply for and obtain a License to operate as a Payday Lender. The license and fee paid for the license shall be in addition to the business license required by Bend Code Section 7.720. A person or entity that acquires the interest of a Payday Lender in a payday loan shall not be required to obtain a license unless that person or entity acquires the rights to payday loans that originate in Bend on a regular basis.

(b) A separate license shall be required for each location a lender operates in the City of Bend and each license must be renewed annually.

(c) The license application shall be in a form to be determined by the Manager.

(d) The Manager shall require the Payday Lender to report its fee schedule in the Payday Lender's license application.

(e) No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current license to do business issued by the City of Bend.

(f) The amount of the license fee shall be set by council resolution.

7.865 Administrative Authority.

(a) The Manager is authorized and directed to enforce all provisions of this Article. The Manager shall have the power to investigate any and all complaints regarding alleged violations of this Article. The Manager may delegate any or all authority granted under this Section to a designee.

(b) The Manager is authorized to adopt and enforce administrative rules interpreting and applying this Article. The Manager or designee shall make written findings of fact and conclusions of law to support all administrative rules.

(c) Prior to adoption of a new administrative rule, the Manager shall give public notice of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted. At the public hearing, the Manager or designee shall hear oral and written testimony concerning the proposed rule. The Manager shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.

(d) The Manager shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.

(e) Unless otherwise stated, all rules shall be effective upon adoption by the Manager. All rules adopted by the Manager shall be filed City Recorder. Copies of all current rules shall be available to the public upon request.

(f) Notwithstanding any other provision of this section, the Manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

(g) Inspection of Records. The City of Bend reserves the right to review and/or copy the records of any Payday Lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the Manager or its designee.

7.870 Payment of Principal Prior to Payday Loan Renewal.

A Payday Lender may not renew a Payday Loan unless the Borrower has paid an amount equal to at least twenty-five percent (25%) of the principal of the original Payday Loan, plus interest on the remaining balance of the Payday Loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

7.875 Cancellation of Payday Loan.

(a) A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if, within three business days of taking out the loan, the Borrower:

(1) Informs the Payday Lender in writing that the Borrow wishes to cancel the Payday Loan and any future payment obligations; and

(2) Returns to the Payday Lender the uncashed check or proceeds given to the Borrow by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.

(b) A Payday Lender shall conspicuously disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

7.880 Payment Plan for a Payday Loan.

(a) A Payday Lender and a Borrower may agree to convert the loan repayment obligation to a payment plan for a Payday Loan at any time. The repayment plan shall not require the Borrower to pay a greater amount of interest than provided by the lending agreement, or allowed by state law, whichever is less. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.

(b) After a Payday Loan has been renewed to the maximum number of times allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. The payment plan shall not require the Borrower to pay a greater amount of interest than allowed by the lending agreement or state law, whichever is less. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.

(c) A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the payday loan has been renewed the number times allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

(d) The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.

(e) The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for prepayment of the amount then owed under the payment plan.

(f) A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Article. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Section.

(g) The Payday lender remains responsible for compliance with all requirements of the Bend Code, even though the Payday lender may transfer or assign its interest in the Payday loan to a third party. In such case, the Payday Lender and the third party shall be jointly and severally obligated to comply with the provisions of the Bend Code, throughout the term of the payday loan.

7.885 Remedies.

(a) Failure to comply with any provision of Bend Code Sections 7.850 through 7.895 or the administrative rules is a Class A civil infraction. Each separate violation is a separate civil infraction; and each day that a violation continues to exist constitutes a separate civil infraction.

(b) Civil penalties shall be payable to the City of Bend.

(c) In addition to other remedies, any violation of Bend Code Sections 7.850 through 7.895 is declared to be a nuisance and may be enjoined or abated by any process available to the City of Bend or any aggrieved private citizen by law.

(d) Civil remedies. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies.

(e) Civil infractions may be filed in the Bend Municipal Court, which shall have non-exclusive jurisdiction to enforce the provisions of Bend Code Sections 7.850 through 7.895. Upon a finding that the Payday Lender violated any provision of Bend Code Sections 7.850 through 7.895, the Municipal Court may require, in addition to the civil penalties available by law, the Payday Lender to pay the city or private party's actual costs in bringing the case, including a reasonable attorney's fee.

(f) Upon finding that a Payday Lender violated Bend Code Sections 7.850 through 7.895 or any regulation adopted thereunder, the Payday Lender's license shall be revoked. Such revocation may be made by the Municipal Court or by the Manager.

7.890 Appeals.

Appeals of the orders of the Bend Municipal Court or other court where an action to enforce this code is filed may be taken in the manner provided by Oregon Law.

7.895 Complaints.

The Manager shall have the authority to investigate any and all complaints alleging violation of this Chapter or administrative rules adopted hereunder.

Section 2. Severability.

If any provision of this ordinance, or its application to any person or circumstance is declared invalid or unenforceable, the remainder of the Ordinance and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the ordinance shall be severed.

Read for the first time the 5th day of July, 2006.

Read for the second time the 19th day of July, 2006.

Placed upon its passage the 19th day of July, 2006.

YES: 6 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 19th day of July, 2006.

Bill Friedman, Mayor

Attest:

City Recorder Patricia Stell