

## ORDINANCE NO. NS-2503

### **AN ORDINANCE AMENDING THE BEND DEVELOPMENT CODE (BDC) RELATING TO TREE PRESERVATION AND STREET TREE AND PLANTER STRIP LANDSCAPING, INCLUDING CHAPTERS 1.1, GENERAL ADMINISTRATION, 1.2, DEFINITIONS, 1.3, ENFORCEMENT, 2.7, SPECIAL PLANNED DISTRICTS, REFINEMENT PLANS, AREA PLANS AND MASTER PLANS, 3.1, LOT, PARCEL, AND BLOCK DESIGN, ACCESS AND CIRCULATION, 3.2, LANDSCAPING, STREET TREES, FENCES AND WALLS, 3.5 OTHER DESIGN STANDARDS, 4.2, MINIMUM DEVELOPMENT STANDARDS REVIEW, SITE PLAN REVIEW AND DESIGN REVIEW, 4.3, LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS, AND 4.5, MASTER PLANS**

#### Findings:

- A. The 2022-2023 Bend City Council Goals include an Environment and Climate Goal. That goal commits the City to “(i)mprove the quality of life for more people in Bend by increasing equitable access to clear air, water and to a healthy environment and to implement solutions that fulfill the City’s commitment to being good stewards of our natural environment, decreasing carbon emissions and mitigating the effects of climate change.” The goal is supported by several guiding principles and action items, one of which provides direction to revise the Bend Development Code and other relevant standards to protect trees while balancing housing affordability and natural resource preservation.
- B. The Council Goals also include a Housing Goal, which commits the City to “(t)ake meaningful action to make this statement a reality: People who live and work in Bend can afford housing in Bend.” That goal also includes guiding principles and action items, which include reducing regulatory barriers to housing development.
- C. Oregon expresses its housing policies in various ways, including through ORS 197.304, known as the needed housing statute. That statute provides that the availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern. The statute requires that standards, conditions, and procedures regulating development of housing must be clear and objective, and that those standards, conditions, and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.
- D. On March 15, 2023, the Bend City Council held a work session to review and discuss existing tree preservation code requirements. After discussion, the Council was supportive of developing potential amendments to City codes for large-scale developments to protect larger trees, similar to the approach reflected in the Southeast Area Plan (SEAP), and to increase Bend’s urban tree canopy. The Council directed staff to work with the Stewardship Subcommittee on the formation of a temporary committee to advise staff on potential code updates.

- E. The Council expressed that this project should be approached with an intent to balance the important goals of tree preservation and housing development, and indicated that proposed new or updated tree preservation standards should not impede the development of housing, which remains a critical need across Oregon and especially in Bend.
- F. On May 3, 2023, the Council approved a resolution forming the Tree Regulation Update Advisory Committee (TRUAC) to make recommendations to Council on necessary amendments to the City's tree preservation regulations. TRUAC was made up of 15 volunteers representing developers, neighborhoods, arborists, architects, environmental and equity interests. TRUAC held nine public meetings to discuss objective code amendments to help preserve trees during new development while balancing the need for housing in the community. On December 5, 2023, a majority of TRUAC recommended a package of amendments to the BDC for tree preservation and mitigation to be considered by the Planning Commission and City Council. The recommended amendments are incorporated into Exhibit A.
- G. The proposed amendments to BDC 3.2.200, Tree Preservation, include new applicability requirements, submittal requirements, clear and objective tree protection requirements and a discretionary review track, tree preservation incentives, mitigation options, root protection zone requirements and conditions of approval. The proposed amendments balance the need for housing production, housing affordability, and natural resource preservation.
- H. The proposed amendments to the BDC also update the street tree requirements for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments and add new requirements for water efficient planter strip landscaping.
- I. The City of Bend has been working to fulfill its regulatory water conservation directives outlined in the 2021 Water Management and Conservation Plan. One of the directives includes updating code requirements and implementing best management practices to promote water use efficiency. The proposed amendments will require water efficient planter strip landscaping comprised of ornamental grasses, shrubs and plants if a new sidewalk and planter strip is required with the development or street trees are required to be planted in an existing planter strip.
- J. The proposed amendments also globally change all references in the BDC from "Neighborhood Associations" to "Neighborhood Districts" to be consistent with recently adopted Ordinance No. NS-2498.
- K. The application was processed in accordance with Bend Development Code (BDC) 4.1.500, Type IV Legislative Procedures. The City provided timely and sufficient notice of the legislative changes pursuant to Section 4.1.515 of the Bend Development Code.
- L. The City submitted a Notice of Proposed Amendment to the Oregon Department of Land Conservation and Development (DLCD) on May 5, 2024.

- M. A notice of the June 10, 2024, Planning Commission public hearing was printed in the Bend Bulletin on May 19, 2024, and mailed and emailed to the Neighborhood Associations/Districts on May 10, 2024. A notice of the June 20, 2024, City Council public hearing was printed in the Bend Bulletin on May 19, 2024, and mailed and emailed to the Neighborhood Associations/Districts on May 22, 2024.
- N. On June 10, 2024, the Planning Commission held a public hearing on this package of amendments (Project Number PLTEXT20230178) and deliberated on the matter. The Planning Commission voted to recommend that the City Council approve the proposed text amendments in Exhibit A and made several other related recommendations for Council to consider at their June 20, 2024 meeting.
- O. The City Council held a public hearing on June 20, 2024, to accept evidence, receive public testimony, and consider the Planning Commission's recommendations. The City Council found that the amendments satisfy the criteria for approval contained in Section 4.6.200 of the Bend Development Code and voted to approve the text amendments to the Bend Development Code as amended on June 20, 2024, including amendments to add a discretionary track option for the Industrial Zones to BDC 3.2.200(C)(2)(a)(vi), striking the Southeast Area Plan incentives in BDC 2.7.3360(B), Tree Preservation, consistent with staff's presentation to the Planning Commission in order to have consistent citywide standards, include land division final plat approval along with building final inspection as triggers for the three-year preservation condition of approval to BDC 3.2.200(G), Tree Preservation Conditions of Approval, and exempt residential developments on sites one acre or smaller from all tree preservation requirements including mitigation.

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


- Section 1. The Bend Development Code is amended as depicted in the attached Exhibit A. All other provisions of the Bend Development Code remain unchanged and in full effect.
- Section 2. In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit B.
- Section 3. If any provision, section, phrase or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

First Reading: June 20, 2024

Second reading and adoption by roll call vote: July 17, 2024

YES: Mayor Melanie Kebler  
Mayor Pro Tem Megan Perkins  
Councilor Barb Campbell  
Councilor Anthony Broadman  
Councilor Ariel Méndez

NO: none

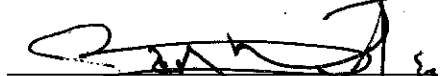


\_\_\_\_\_  
Melanie Kebler, Mayor

ATTEST:

  
\_\_\_\_\_  
Morgen Fry, City Recorder

APPROVED AS TO FORM:

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

**Exhibit A**  
**Bend Development Code Update**

Draft: May 3, 2024

Revised Draft: May 14, 2024

Revised Draft: June 4, 2024

Revised Draft: June 10, 2024

Revised Draft and First Reading: June 20, 2024

Prepared by:

Planning Division

Note:

Text in underlined typeface is proposed to be added.

Text in ~~striketrough~~ typeface is proposed to be deleted.

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

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

**BEND DEVELOPMENT CODE**

Replace Neighborhood Associations with Neighborhood Districts

Replace BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls with BDC Chapter 3.2, Landscaping, Tree Preservation, Fences and Walls.

Replace BCD 3.2.200, Landscape Conservation with BDC 3.2.200, Tree Preservation

Replace BDC 3.2.300(D), Landscape Materials with BDC 3.2.300(D), Landscaping

Replace BDC 3.2.400, Street Trees with BDC 3.2.400, Street Trees and Planter Strip Landscaping

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**Chapter 1.1**

**GENERAL ADMINISTRATION**

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**1.1.300 Consistency with Plan and Laws.**

~~Each~~ All development and every use application and other procedure ~~initiated~~ under this code ~~shall~~ must be consistent with the adopted Comprehensive Plan of the City of Bend as implemented by this code, all applicable local ordinances, and State and Federal laws and regulations. All provisions of this code ~~shall~~ must be construed in conformity with the adopted Bend Comprehensive Plan.

This code 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.

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## Chapter 1.2 DEFINITIONS

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~~**Canopy or tree canopy** means all portions of the tree with foliage.~~ ***(Relocated to Tree Canopy)***

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**Clearing** means the cutting or removal of vegetation, including trees.

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

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**Construction activity** means any activity that includes, but is not necessarily limited to, land disturbance and/or land disturbing activity; hauling of soil and rock; handling of building materials and construction tools; or operation of motorized machinery and motor vehicles on a site or on any access routes to a site. ***(Consistent with BC Title 16.05.060 Definitions and Acronyms.)***

\*\*\*

**Diameter at breast height (DBH)** means the diameter or thickness of a tree trunk measured at four and one-half feet above the ground. For multi-stemmed trees, the DBH is found by taking the square root of the sum of

all squared stem DBHs rounding to the nearest whole number measured four and one-half feet above the ground. Example: You have three stems that measure 5", 6" and 8" so the DBH would be  $\sqrt{(5^2+6^2+8^2)} = \sqrt{(25+36+64)} = \sqrt{125} = 11"$ .

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

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"ISA" means the International Society of Arboriculture.

"ISA Best Management Practices" means the guidelines established by ISA for arboricultural practices for use by arborists, tree workers, and the people who employ their services.

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Land disturbance and land disturbing activities mean activities that include, but are not necessarily limited to, demolition, construction, clearing, grading, filling, excavation, tree removal, or compaction.

***(Consistent with BC Title 16.05.060 Definitions and Acronyms.)***

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**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. ***(This definition is currently in the BDC and is only added for reference. No changes recommended.)***

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**Native plants** mean ~~vegetation commonly found growing in Central Oregon~~ the indigenous terrestrial and aquatic species that have evolved and occur naturally in a particular region, ecosystem, and habitat.

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**Overhead spray irrigation system** means a system that delivers water through the air (e.g., spray heads and rotors).

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**Planter strip** means an area for street trees and other plantings within the public right-of-way, usually between the street and sidewalk. *(This definition is currently in the BDC and is only added for reference. No changes recommended.)*

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**Priority tree** means an individual tree with a trunk diameter of 20" DBH or larger. See BDC 3.2.200, Tree Preservation.

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**Qualified professional/individual** means, for the purpose of preparing vegetation restoration or tree protection plans, assessing the health of trees or other similar activities, or preparing a tree inventory, 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.

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**Regulated tree** means an individual tree with a trunk diameter of six inches DBH or larger. Regulated trees include Priority Trees. See BDC 3.2.200, Tree Preservation.

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**Root protection zone** means a circular area measured from the outside trunk of the tree equal to one foot in radius for every inch of tree at diameter at breast height. For offsite trees with root protection zones that extend into the site, the root protection zone may be estimated but no less than the extent of the dripline.

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**Sensitive lands** means wetlands, ~~significant trees~~ areas within a site with one or more Regulated Trees, steep slopes, floodplains and other natural resource areas designated for protection or conservation by the Bend



Comprehensive Plan or the State of Oregon. **(Consistent with BC Title 16.05.060 Definitions and Acronyms.)**

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

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

**(Redefined as Regulated Tree and Priority Tree)**

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**Street tree** means a tree typically planted in the right-of-way adjacent to the street. (See BDC 3.2.400, Street Trees and Planter Strip Landscaping and the City of Bend Approved Street Tree List in Appendix D of the City of Bend Standards and Specifications.)

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**Tree caliper** means an ANSI (American National Standards Institute) standard for the measurement of nursery trees.

**Tree canopy** means all portions of the tree with foliage. **(Relocated from Canopy.)**

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**Turf or lawn** means nonagricultural land planted as closely mowed, managed grasses.

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**Water efficient irrigation** means systems designed to apply water with an even and directed distribution to prevent runoff, over-spray onto non-landscaped areas, low head drainage and other similar conditions.

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## 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 Violation of This Code as Civil Infraction.**

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

**A. *Minimum Requirements Intended.*** The provisions of this code are minimum requirements adopted for the protection of the public health, safety, and general welfare.

**B. *Most Restrictive Requirements Apply.*** When the requirements of this code vary from or conflict with other applicable standards, the most restrictive or the highest standard ~~shall~~ will govern. When requirements of this code vary from or conflict with other provisions of this code, the more specific provision ~~shall~~ will prevail over a more general provision.

**1.3.200 Violation of Code Prohibited.**

Construction, alteration, maintenance or use of any building or structure or land division or transfer in violation of this code is prohibited.

Except to the extent that this code provides decision-making authority to others, City planning staff ~~shall~~ administer this code and ~~shall~~ apply the standards and criteria in this code to all applications for approval required or authorized by this code. No building permits may be issued for any structure that lacks an approval required by this code. Any use of land in violation of this code is declared to be a nuisance.

**1.3.300 Violation of This Code as Civil Infraction.**

**A. ~~Violating~~ Violations or noncompliance with any provision of this code or any approval or permit issued under this code is a Class A civil infraction. The City may seek injunctive relief to compel compliance and restoration of pre-violation status quo as part of the civil infraction proceedings. If a violation is ongoing, each day that a violation remains is a separate violation. ~~The civil penalty for removal of a significant tree is shown in Table 1.3.1.~~**

**Table 1.3.1.**

<b>Tree Size</b>	<b>Civil Penalty</b>
4—6 inches DBH	\$1,000
6—10.9.9 inches DBH	\$1,500
10—16 inches DBH	\$3,000
Greater than 16 inches DBH	\$5,000

*(Relocated Table to 1.3.300.C below)*

**B. Injunctive Relief and Abatement.**

4. The civil infraction process and civil penalties are in addition to any legal or equitable remedy available to the City.

**C. ~~Mitigation for the Removal of Vegetation~~ Landscaping and Regulated Trees.** The Review Authority City may require the replacement of ~~vegetation~~ landscaping and Regulated Trees removed in violation of this code or in violation of a land use approval. ~~The City may require a greater number of trees or shrubs than was removed in order to take into account total vegetation volume, but may also accept a lesser amount of vegetation replacement based on a fire mitigation plan submitted by a qualified professional and approved by the City. The amount of replacement trees, shrubs, and ground cover shall be determined by the volume of removed vegetation.~~ The City may require replacement of removed landscaping and any Regulated Trees that are removed in an amount that is at least equivalent to what was removed, in the determination of the City. The City may choose to accept a lesser amount of replacement trees based on a fire mitigation plan submitted by a qualified professional and approved by the City. Maintenance of landscaping and replacement trees are the responsibility of the property owner. If the landscaping or replacement tree fails to survive within three years from the date planting, the property owner must replace it with an equivalent specimen (i.e., evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.). Replanting must occur within the planting period for Central Oregon or during the time period of notice by the City. The City may require the property owner to prepare and comply with a mitigation plan providing for planting and maintenance of replacement vegetation, with provisions for replacement of plants that die within three years of planting. The mitigation plan is subject to City approval. The City may refuse to accept any development permit application for a property for which a mitigation plan is required and has not been executed or complied with.

The civil penalty for unauthorized removal of a Regulated Tree is shown in Table 1.3.1.

**Table 1.3.1.**

<b>Tree Size</b>	<b>Civil Penalty</b>
<u>6 – 9.9 inches DBH</u>	<u>\$1,500</u>
<u>10 – 16 inches DBH</u>	<u>\$3,000</u>
<u>Greater than 16 inches DBH</u>	<u>\$5,000</u>

**D. Evidence.** In a legal proceeding for noncompliance with this code, the owner, ~~or lessee, and/or a business~~ on the property at the time of the violation ~~shall~~ will be presumed to be responsible for the violation. This presumption may be overcome by a preponderance of the evidence showing that the violation was committed by some person other than the owner and/or possessor and that the owner and/or possessor was not able to control or prevent the violation. Persons who are not owners and/or possessors are responsible for the violation if their action or failure to act causes the violation. The person responsible for property tax payment is considered the owner. ~~Where commercial premises have a sign identifying the business on the property, that business is rebuttably presumed to be responsible for violation on the premises.~~ Agents, managers or employees are also responsible for their acts or omissions that constitute violations.

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## **Chapter 2.7**

### **SPECIAL PLANNED DISTRICTS, REFINEMENT PLANS, AREA PLANS AND MASTER PLANS**

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#### **Article I. Lava Ridge Refinement Plan.**

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##### **2.7.200 Lava Ridge Refinement Plan.**

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**D. Street Trees.** ~~Street trees shall be provided along all arterial streets and streets designated as connector streets on Figure 2.7.200.C, 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 two inch caliper measured four feet from ground level. Street Trees must be planted in compliance with BDC 3.2.400, Street Trees and Planter Strip Landscaping.

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### **Article III. Dean Swift Refinement Plan Development Standards**

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#### **2.7.400 Dean Swift Refinement Plan Development Standards**

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**G. *Street Trees.*** ~~Full stature~~ Street trees shall ~~must~~ be planted along all street frontages within the Dean Swift Refinement area with the development of the adjacent properties in compliance with BDC 3.2.400, Street Trees and Planter Strip Landscaping. ~~These p~~Properties located within the flight path of the private airport located south of Bear Creek shall must 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 two 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.~~

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### **Article IV. Medical District Overlay Zone.**

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#### **2.7.540 Special Development Standards.**

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**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 two inch caliper measured four feet from ground level.~~ **(Street**

**trees are required in BDC 3.2.400, Street Trees)** Street Trees must be planted in compliance with BDC 3.2.400, Street Trees and Planter Strip Landscaping.

2. **Buffering.** The City may require additional landscaping within setback areas of nonresidential development to mitigate adverse noise, light, glare, and aesthetic impacts to ~~adjacent~~ abutting residential properties ~~from new development.~~

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## Article V. Waterway Overlay Zone (WOZ)

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### 2.7.610 Purpose.

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#### D. Tree Removal.

1. **Removal.** ~~Consistent with the purposes of this section, and because trees contribute to the overall health of the riparian corridor, r~~Removal of existing trees greater than four inches DBH 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~~ as determined by the Fire Code Official.
2. **Findings.** Tree removal under this subsection may be authorized by the Review Authority, based on findings demonstrating conformance with criteria in subsection (D)(1)(a), (b), or (c) of this section. 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 BDC 4.1.245, Notice to Public Agencies.
  
2. **Application Information.** In addition to application information required under BDC 4.1.220, Application Requirements, an application for a development or land use action within the WOZ shall include the following:

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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~~ must, 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 nonnative plant species;
- Any proposed modifications to existing vegetation;
- Location of existing trees, the tree size (Diameter at Breast Height), proposed tree status (trees to be removed or preserved) and location of the root protection zone of each tree proposed to be preserved.
- 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; and

- 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;

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## Article VI. Upland Areas of Special Interest Overlay Zone

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### 2.7.700 Areas of Special Interest Overlay Zone

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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 Regulated Trees and an on-site field location conducted by the Review Authority.

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2. ***Significant Regulated Trees.*** The ASI boundary may include significant Regulated Trees as defined in this code measured at the outer edge of the tree canopy based on aerial photos and field observation.

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## Article VIII. Manufactured Home Park Redevelopment Overlay

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### 2.7.930 Special Development Standards

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B. ***Continued Use as a Manufactured Home Park.*** Manufactured homes have reduced impacts on the land because the unit does not require a permanent foundation. However, many existing manufactured home parks are not developed at the maximum density. In order for the existing parks to develop at the allowable 10 units per acre park owners may take advantage of the following incentives:



1. The average area of a mobile home site may be 3,000 square feet provided all spacing requirements of the Building Code can be met.
2. Park owners that receive displaced residents from redeveloping parks will not be obligated to relocate these displaced units when the park redevelops as required by Ordinance NS-2036.
- ~~3. Up to 10 percent of the existing trees may be removed to accommodate new manufactured home placement, provided the trees being removed are not specimen trees. For the purpose of this code, a specimen tree would be a tree of any species which is determined by a certified arborist to be of an exemplary size or variety for the area;~~

**C. Redeveloping Manufactured Home Parks.** Redeveloping manufactured home park owners that choose to take advantage of the provisions of this overlay ~~shall~~ must initiate an “Intent to Rezone” with the City by filing an application for a plan amendment and zone change in conformance with BDC Chapter 4.6. The application for “Intent to Rezone” shall be accompanied by an application for development, and the applicable fees.

In addition to the approval criteria for development found in BDC Chapter 4.6, the applicant ~~shall~~ must address the following general standards.

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2. **Building Height.** To encourage innovative housing designs, provide more efficient use of land, encourage the preservation of open space and existing trees and to achieve greater allowable densities, an increase in building height not to exceed 10 feet above the height of the zone may be allowed provided the applicant’s proposal meets all of the following criteria:
  - a. The added height will provide for additional affordable housing units.
  - b. The additional building height is needed to preserve ~~existing trees and the added height and total building area proposed is equivalent to the area of significant trees being saved~~ more than 20 percent of the Priority Trees or more than 25 percent of the total DBH of Regulated Trees.
  - ~~c. The additional building height is buffered from view by existing preserved trees. (This is not clear and objective.)~~

d. ~~The building requesting the added height has a required minimum 1:1 side and/or rear yard setback from an existing adjoining residential use based on the finished building height.~~

~~Example: a 40-foot tall building would have a 40-foot minimum side and/or rear yard setback from an existing adjoining residential use. (This is an excessive setback requirement.)~~

e. c. The proposed building incorporates sustainable Leed Silver Certification construction methods.

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## **Article X. Central Oregon Community College (COCC)**

### **– Special Planned District/Overlay Zone**

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#### **2.7.1009 ~~Natural Resource Plan~~ Tree Preservation and Rock Outcroppings.**

~~In conformance with the landscape conservation requirements of BDC Chapter 3.2, an inventory of significant vegetation shall be submitted along with a preservation plan for each site plan application. Regulated trees must be preserved in compliance with BDC 3.2.200, Tree Preservation. The natural resource inventory shall include all significant vegetation by size (DBH) and species, as well as~~ In addition, rock outcroppings must be identified on a plan, with two-foot contours shown.

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## **Article XI. Juniper Ridge Overlay Zone**

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#### **2.7.2030 Employment Sub-District**

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**G. *Employment Sub-District Natural Resource Areas.*** Heritage trees, significant rock outcrops, and natural landscape buffers within the Employment Sub-District are identified in Figure 2.7.2030.B, Employment Sub-District Natural Resource Identification Map. Natural landscape buffers are required to be maintained with native landscaping or, if they are disturbed by adjacent site development, to be revegetated with

native landscaping. Heritage trees and significant rock outcrops are mapped solely with the intention of providing guidance to site design and site development, with the overall goal of preserving as many of these resources as is practicable. The City may allow one or more of the exceptions to development standards listed in BDC 3.2.200(D), Tree Preservation Incentives, if heritage trees and/or significant rock outcrops identified in Figure 2.7.2030.B are preserved by a proposed development. The identification of heritage trees in Figure 2.7.2030.B is based upon the Phase I: Juniper Ridge Ecological Site Assessment – Summary Report and Maps, prepared by Gene Hickman and Matt Shinderman, 2007. The tree preservation standards in BDC 3.2.200, Tree Preservation do not apply to the Employment Sub-District, except trees to be preserved must be protected from development impacts according to BDC 3.2.200(F), Root Protection Zone Requirements.

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#### **Article XV. Southeast Area Plan**

- 2.7.3300 Southeast Area Plan.**
- 2.7.3305 Purpose.**
- 2.7.3307 Definitions.**
- 2.7.3310 Applicability.**
- 2.7.3320 General Commercial Districts (CG).**
- 2.7.3330 Mixed Employment Districts (ME).**
- 2.7.3340 Light Industrial Districts (IL).**
- 2.7.3350 Public Facilities Districts (PF).**
- 2.7.3360 ~~Tree Preservation and Rock Outcropping Standards.~~**
- 2.7.3370 Collector Street Standards.**
- 2.7.3380 Arterial Street Cross-Section Standards for 27th Street and Knott Road.**
- 2.7.3390 Bicycle Facilities and Multi-Use Paths.**

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- 2.7.3360 ~~Tree Preservation and Rock Outcropping Standards~~**

**A. *Applicability.*** The following ~~preservation and landscaping standards~~ are required in addition to the requirements in BDC Chapter 3.2, Landscaping, ~~Street Trees~~ Tree Preservation, Fences and Walls.

**~~B. *Tree Preservation.*~~**

~~1. For sites two acres or larger, at least 50 percent of all trees measuring 24 inches in diameter or greater as measured four feet above the ground (known as DBH, “diameter at breast height”) must be retained on site unless exempted in subsection (B)(4) of this section.~~

~~2. ***Site Plan Review Incentives.*** As part of a site plan review application under BDC 4.2.500, the City may allow one or more of the following incentives when more than 50 percent trees with a DBH of 24 inches are preserved:~~

~~a. Reduction of setbacks up to 30 percent.~~

~~b. Increased lot coverage up to 20 percent.~~

~~c. Reduced landscape coverage up to 10 percent.~~

~~d. A 10-foot increase in building height above the height of the underlying zone and in addition to the increase in building height allowance for affordable housing units per BDC 3.6.200(C)(4)(b).~~

~~3. ***Land Division Incentive.*** As part of a land division application, the City may allow the following incentive when more than 50 percent of individual trees with a DBH of 24 inches are preserved on the development site:~~

~~a. Reduction to lot dimensions, including lot size, by up to 10 percent.~~

~~4. ***Exemptions.*** Trees protected under subsection (B) of this section may be removed only if:~~

~~a. The minimum density for the zone cannot be met after exhausting all available incentives in subsections (B)(2) and (3) of this section, as demonstrated on the Tree Protection Plan. In this case, up to 70 percent may be removed to accommodate the minimum density. For housing projects, including needed housing projects, the developer must make a request in writing in order for the City to apply the exception as a discretionary alternative.~~

~~b. A site undergoing development review includes a public facility or school and the removal of trees with a DBH of 24 inches or greater is necessary to accommodate buildings or accessory uses~~

~~(e.g., ball fields) as demonstrated on the Tree Protection Plan. Trees not within the building footprint or footprint of the accessory use(s) must be retained.~~

~~c. The trees are located within an existing public right of way, in existence on the date this code becomes effective (May 21, 2021).~~

~~d. The trees are located within an existing or proposed arterial or collector identified in Figure 2.7.3370-1, Street Plan for Southeast Area Plan.~~

**C B. Rock Outcrops.** Existing on-site rock outcrops, defined as lava rocks or clusters of naturally occurring lava rock that are incorporated into the development's landscaping that do not qualify as significant rock outcrop areas, may be credited toward meeting the minimum landscape area standards in BDC 3.2.300(C), Landscape Area Standards. Credit will be granted based on the total square footage of the preserved rock outcrop area.

**D C. Significant Rock Outcrop Areas.** Significant rock outcrop areas are defined as rocks or clusters of naturally occurring rock that (1) have at least one point a height of at least eight feet from the surrounding terrain, and (2) are over 3,000 square feet in area.

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## **2. Protection Standards.**

a. No development may occur in a significant rock outcrop area except pedestrian amenities, multi-use trails, and multi-use paths, or unless exempted in subsection (D C)(5) of this section.

\*\*\*

## **5. Exemptions.**

a. If a significant rock outcrop area exceeds more than three percent of a total development site area, the area in excess of three percent may be developed and is not subject to the protection standards in subsection (D C)(2) of this section.

~~b. Where the minimum density for the zone cannot be met without removing significant rock outcrop areas after exhausting all available incentives identified in subsections (D)(3) and (4) of this section as demonstrated in an inventory and map. For housing projects, including needed housing~~

projects, the developer must make a request in writing in order for the City to apply the exception as a discretionary alternative. Significant rock outcrop areas not located within the building footprint or footprint of the accessory use(s) or accessory structure(s) must be retained.

***(Relocated to BDC 2.7.3360.C.6. below)***

e. b. Significant rock outcrops located within a public right-of-way in existence on the date this code becomes effective (May 21, 2021) are not required to be preserved under these regulations.

**6. Discretionary Track.** For projects that include the development of housing, if the applicant states in the written narrative they are electing to use a Type II discretionary path, then the applicant may request that the Review Authority make an exception to the significant rock outcropping protection standards if the applicant can demonstrate that the minimum density for the zone cannot be met without removing significant rock outcrop areas after exhausting all available incentives identified in subsections (C)(3) and (4) of this section as demonstrated in an inventory and map. Significant rock outcrop areas not located within the building footprint or footprint of the accessory use(s) or accessory structure(s) must be retained. ***(Relocated from BDC 2.7.3360.C.5.b. above)***

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## Chapter 3.1

### LOT, PARCEL AND BLOCK DESIGN, ACCESS AND CIRCULATION

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#### 3.1.500 Clear Vision Areas.

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C. The following standards apply to clear vision areas:

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3. Unless exempted below, there must be no fence, wall, vehicular parking, sign, building, structure, or any other obstruction to vision within the clear vision area between the height of two feet and eight feet above the top of the curb. In cut sections, embankments must be graded to comply with these requirements. Shrubs or foliage must not exceed two feet in height. Existing trees must be limbed to a minimum of eight feet above the top of curb or 12 feet above adjacent bike lanes. New trees are not

permitted within the clear vision area, except street trees may be planted a minimum of five feet from the edge of a driveway or an alley.

a. *Exemptions.*

- i. Street sign, post or pole (e.g., power, signal, or luminaire pole).
- ii. Any private post or pole eight inches or less in diameter (width or length).

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### **Chapter 3.2**

## **LANDSCAPING, ~~STREET TREES~~ TREE PRESERVATION, FENCES AND WALLS**

Sections:

### **3.2.100 Purpose.**

### **3.2.200 ~~Landscape Conservation~~ Tree Preservation.**

### **3.2.300 New Landscaping.**

### **3.2.400 Street Trees and Planter Strip Landscaping.**

### **3.2.500 Fences and Retaining 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 tree preservation, 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 stormwater runoff 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 Tree Preservation.**

~~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 BDC 2.7.600 and 2.7.700, Upland Areas of Special Interest Overlay Zone which regulate 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 the ordinance codified in this code.~~

#### **A. Applicability.**

1. The standards in this section apply to the following applications:
  - a. Land division applications subject to BDC Chapter 4.3, Land Divisions and Property Line Adjustments.
  - b. Site Plan Review applications subject to BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review.
  - c. Applications subject to BDC Chapter 4.2.400(A) Minimum Development Standards Review for Single-Unit Detached Dwellings, Townhomes, Accessory Dwelling Units, Duplexes, Triplexes, Quadplexes, Single Room Occupancies with Six or Fewer Units and Cottage Cluster Developments.
  - d. Exceptions.



- i. Land division and Site Plan Review applications on sites one acre or smaller may comply with either the tree preservation requirements in subsections (C)(1) or (2) of this section, or with BDC 3.2.200(E), Mitigation Options.
  - ii. A site with three or fewer Regulated Trees may comply with either the tree preservation requirements in subsections (C)(1) or (2) of this section, or with BDC 3.2.200(E), Mitigation Options.
2. Applications that include one or more dwelling units, micro units, or single room occupancies on a site one acre or smaller are exempt from this section. *(Added by the City Council on June 20, 2024)*
3. When the trunk of a tree straddles a property line at ground level and crosses the right of way, it is considered an on-site tree for the purposes of the tree preservation requirements. Where the trunk of a tree straddles a property line at ground level with another property, it is not considered for the purposes of the tree inventory; but nothing in this code authorizes removal of the boundary tree without written authorization for removal of all involved property owners, nor does this code relieve any applicant or property owner from complying with all applicable provisions of state law regarding responsibility and removal of boundary trees.
4. No trees subject to this section may be removed prior to a final land use decision or final decision of the Review Authority.

**B. Submittal Requirements.** The following information must be prepared by a qualified professional or surveyor and submitted with the development application as applicable:

**1. Tree Inventory.**

- a. Submit a tree inventory table with the following information:
  - i. An assigned number for each Regulated Tree.
  - ii. Tree type or common name, genus and species.
  - iii. Tree size (Diameter at Breast Height).
  - iv. Proposed tree status (trees to be removed or preserved).

b. If a tree(s) is proposed to be exempt from the Tree Preservation Requirements of BDC 3.2.200(C) based on poor or very poor health, the tree inventory table must identify the condition of the proposed tree(s) using the following categories:

i. Poor (significant health issues and likely in decline).

ii. Very poor or dead (in severe decline or dead).

In addition, supporting documentation from an ISA Certified Arborist must be included and it must state whether the tree should be exempt.

**2. Tree Preservation Site Plan.** Submit a site plan with the following information:

a. Location of all proposed improvements clearly identified, including building footprints, streets, alleys, access, utilities, applicable setbacks, buffers and required landscaping.

b. Location and corresponding numbers from the inventory table of all Regulated Trees on the site and within abutting rights-of-way.

c. Proposed tree status (trees to be removed or preserved).

d. Location of root protection zones for on-site trees proposed to be preserved and the portion of any off-site tree's root protection zone that extends into the site as identified in BDC 3.2.200.F.1, Identify a Root Protection.

e. An indication that protection fencing of each tree proposed to be preserved will be installed in compliance with BDC 3.2.200(F), Root Protection Zone Requirements.

f. Location and tree type of any proposed replacement tree in compliance with BDC 3.2.200(E), Mitigation Options.

**3. Tree Preservation Calculations.** Provide calculations that demonstrate the percent of Priority Trees proposed to be preserved on-site and the percent of the total DBH of all Regulated Trees proposed to be preserved on-site. Trees with trunks that straddle a property line at ground level with another property are not included as part of the tree preservation calculations.

**4. Tree Replacement Calculations.** When the standards in BDC 3.2.200(C)(1)(a) or (b) will not be met, provide calculations that demonstrate the number of required replacement trees to be planted on-site

or that will require a payment in lieu of tree preservation in compliance with BDC 3.2.200(E), Mitigation Options.

**C. Tree Preservation Requirements.** Development sites subject to these regulations must comply with at least one of the requirements in BDC 3.2.200(C)(1), Clear and Objective Track Tree Preservation Requirements, or the applicant may request a discretionary track to preserve less than five percent of the total DBH of Regulated Trees on-site in accordance with BDC 3.2.200(C)(2), Discretionary Track. Where a fractional number results, the number is rounded up to the nearest whole number.

Trees that are documented by an ISA Certified Arborist as poor or very poor health in BDC 3.2.200(B)(1)(b) and approved by the Review Authority as such are exempt from this subsection and BDC 3.2.200(E), Mitigation Options.

**1. Clear and Objective Track Tree Preservation Requirements.**

- a. At least 20 percent of all Priority Trees on-site must be preserved; or
- b. At least 25 percent of the total DBH of all Regulated Trees on-site must be preserved; or
- c. At least five percent of the total DBH of all Regulated Trees on-site must be preserved with mitigation provided in compliance with BDC 3.2.200(E), Mitigation Options.

**2. Discretionary Track.**

- a. If the applicant states in the written narrative they are electing to use a Type II discretionary track, then the applicant may request that the Review Authority make a determination that less than five percent of the total DBH of all Regulated Trees on-site may be preserved if the applicant can demonstrate that is necessary due to one or more of the following:
  - i. **Block Length and Perimeter Standards.** The removal is necessary to construct and/or extend a connected network of local streets needed to meet block length or perimeter requirements in BDC 3.1.200(D)(2).
  - ii. **Connectivity.** The removal is necessary for streets, alleys or multi-use path extensions required to meet BDC standards.
  - iii. **Arterials and Collector Streets.** The removal is necessary to construct the planned alignment of an arterial or collector street identified in the Transportation System Plan (TSP).
  - iv. **Utilities.** The removal is necessary due to existing or proposed utilities that cannot be relocated to an alternative location.

- v. **Site Topography.** The removal is necessary due to the topography of the site and the tree(s) is located within or abutting areas of cuts or fills that are deemed threatening to the life of the tree, as determined by an ISA Certified Arborist. In addition, supporting documentation from an arborist must indicate that these trees will not be viable with slight modifications to the proposed grading or the utilization of shallow tree wells or root borders.
  - vi. **General Industrial District (IG) and Light Industrial District (IL) Zones.** The removal is necessary to construct large level sites to accommodate industrial, commercial (not including small-scale personal and professional services), and public and institutional uses. **(Added by the City Council on June 20, 2024)**
- b. If preservation of less than five percent of the total DBH of all Regulated Trees on-site is approved by the Review Authority, mitigation is required in compliance with BDC 3.2.200(E), Mitigation Options.

**D. Tree Preservation Incentives.** The Review Authority may allow one or more of the following incentives when more than 20 percent of the Priority Trees are preserved on-site or when more than 25 percent of the total DBH of all Regulated Trees is preserved on-site:

1. Reduction of setback requirement up to 30 percent on a lot or parcel with a tree identified for preservation.
2. Increased lot coverage requirement up to 20 percent on a lot or parcel with a tree identified for preservation.
3. Reduced landscape coverage requirement up to 10 percent on a lot or parcel with a tree identified for preservation.
4. Reduction to lot or parcel dimensions, including size, by up to 10 percent when part of a land division.

**E. Mitigation Options.** If the preservation requirements in BDC 3.2.200(C)(1)(a) or (b) are not met, the following mitigation options, or combination thereof, are required:

**1. On-Site Tree Replacement.**

- a. Replacement trees must be planted on-site to make up for anything less than the total DBH required in BDC 3.2.200(C)(1)(b). To determine the number of required replacement trees based on the ratios below, use the DBH of the largest tree or trees proposed for removal that will cumulatively equal or exceed the DBH required to meet the 25 percent preservation standard.

- i. 6" to 9.9" DBH tree removed: One replacement tree.
  - ii. 10" to 19.9" DBH tree removed: Two replacement trees.
  - iii. 20" or larger DBH tree removed: Four replacement trees.
- b. Replacement trees must comply with the requirements in BDC 3.2.300(D)(4), Tree Size.
- c. Replacement trees must be installed prior to one of the following:
- i. Prior to the building permit final inspection when the tree will be planted on a lot or parcel with a new building.
  - ii. Prior to land division final plat approval.
  - iii. Prior to a final planning inspection for lots, parcels or tracts approved as open space.

Only during winter months when the ground is frozen may the required replacement trees be eligible for deferral, provided the City approves a financial or other guarantee in a form acceptable to the City.

- d. Replacement trees are in addition to the tree requirements in BDC 3.2.400, Street Trees and Planter Strip Landscaping, BDC 3.2.300(E)(1), Parking Areas and BDC.3.2.300(E)(2), Parking Lot Driveway and Drive Aisles.

**2. Payment in Lieu of Tree Preservation.**

- a. A payment in lieu of tree preservation must be made for each replacement tree required in subsection (E)(1)(a) of this section but not planted on site. The payment will be established in the City's fee resolution.
- b. The applicant must make a payment in lieu of tree preservation prior to issuance of a building permit or land division final plat approval, whichever occurs first.
- c. The payment in lieu of tree preservation is a one-time payment deposited into a dedicated city fund. The funds must be spent on costs directly related to the maintenance of existing trees in the public right-of-way or other City-owned property, or to increase Bend's urban tree canopy city-wide.

**F. Root Protection Zone Requirements.** These standards apply to any on-site tree that is identified to be preserved and to any root protection zone that extends into the site from an offsite tree. The tree protection methods and specifications must be consistent with ISA best management practices.

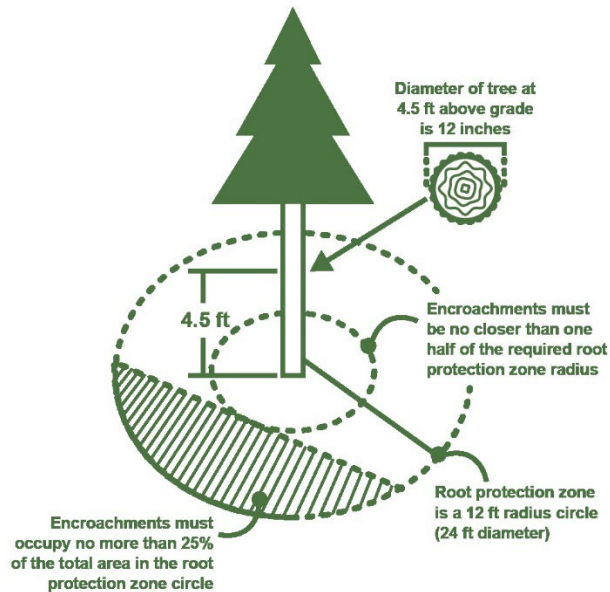
- 1. Identify a root protection zone.** Root protection zone means a circular area measured from the outside trunk of the tree equal to one foot in radius for every inch of tree at diameter at breast height.

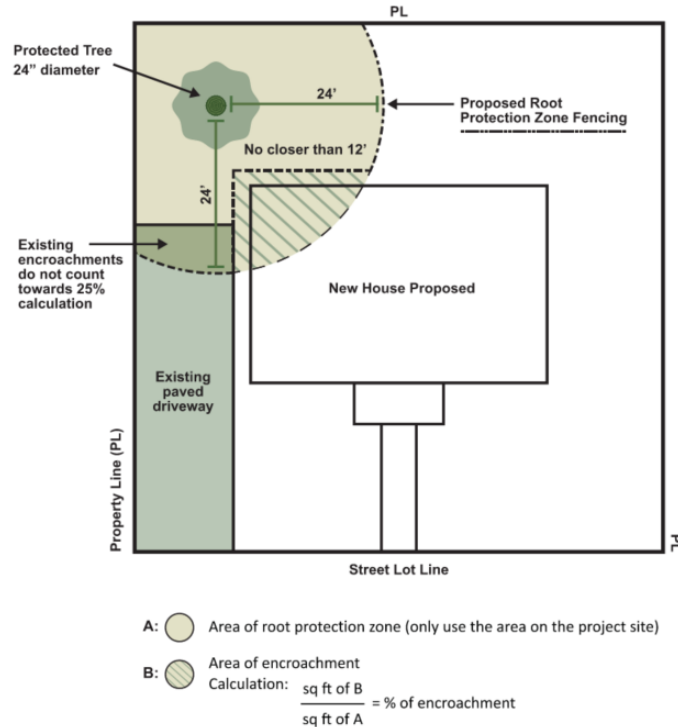
For offsite trees with root protection zones that extend into the site, the root protection zone may be estimated but no less than the extent of the dripline.

**2. Encroachments.**

- a. Existing Encroachments. Existing encroachments into the root protection zone may remain.
  
- b. New Encroachments for Structures, Impervious Surfaces and Utilities.
  - i. New encroachments into the root protection zone are allowed provided the area of all new encroachments is less than 25 percent of the remaining root protection zone area when existing encroachments are subtracted; and
  
  - ii. New encroachments are no closer than one half of the required root protection zone radius.

**Figure 3.2.200.F – Example of Permissible Encroachments**





**3. Prohibited in Root Protection Zone.** The following are prohibited within the root protection zone of each tree:

- a. Clearing, grading and construction activity including vehicle or equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, excavation or fill, compaction, trenching or other work activities.
- i. Exception: Demolition of existing structures or other encroachments is permitted in the root protection zone. Trees damaged or destroyed during demolition must be replaced in compliance with BDC 3.200(E), Mitigation Options.
- b. New structures, impervious surfaces and utilities unless approved to encroachment in compliance with subsection (F)(2)(b) of this section. When approved to encroach into the root protection zone, the activities in subsection (F)(3)(a) of this section are permitted. Trees damaged or destroyed during the construction of the new structure, impervious surfaces and utilities must be replaced in compliance with BDC 3.200(E), Mitigation Options.

**4. Protection fencing:**

- a. Required protection fencing must be installed before any construction activities start; and may only be removed upon completion of final planning inspection.
- b. Protection fencing must be installed at the edge of the root protection zone and permissible encroachment area on the development site in accordance with the City of Bend Standards and Specifications. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.
- c. When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site.
- d. Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

**5. Landscaping and Irrigation.** Any landscaping or irrigation approved within the root protection zone may be installed before or after the removal of the protection fence and must not disturb existing trees including roots within the root protection zone.

**G. Tree Preservation Conditions of Approval.**

- 1. **Trees Identified for Preservation.** As a condition of land use approval that runs with the land, trees identified and required for preservation are the responsibility of the property owner and must be preserved for a minimum of three years from the date of land division final plat approval or a building final inspection, whichever occurs first. If a tree, as determined by an ISA Certified Arborist and approved by the Planning Manager, is determined during the three year period to be dead, diseased and/or hazardous or poses a hazard to personal safety, property or the health of other trees, it may be removed.
- 2. **Replacement Trees.** Maintenance of replacement trees are the responsibility of the property owner. If the replacement tree fails to survive within three years from the date of building final inspection, the property owner must replace it with an equivalent specimen (i.e., evergreen tree replaces evergreen tree, deciduous tree replaces deciduous tree, etc.). Replanting must occur within the planting period for Central Oregon or during the time period of notice by the City.
- 3. **Tract or Easement.** An applicant may delineate and show the preserved trees or replacement trees in a tract or easement. All existing tree(s) in a tract must be protected by a permanent restrictive covenant or easement approved in a form by the City. The size of the tract must be the minimum



necessary as recommended by an ASI Certified Arborist to adequately encompass the critical root zone and ensure long term survival of the tree. No portion of a tree tract must be less than 20 feet in width. All tree tracts or easements must include a permanent maintenance agreement to be approved by the City on forms provided by the Community and Economic Development Director, which designates the private homeowners association, property owner association, or other private entity responsible for the maintenance of the trees. The area of land contained in a tree protection tract may be excluded from the calculations for determining compliance with minimum and maximum density requirements.

**H. Exemptions.** The following activities are exempt from the provisions of this section and the mitigation standards in BDC 1.3.300(C), Removal of Landscaping and Regulated Trees and BDC 3.2.200(E).

Mitigation Options:

- 1. Emergencies.** Regulated Trees may be immediately removed in the event of an emergency when the tree poses an immediate threat to life or safety. The Planning Manager retains authority to determine if particular circumstances constitute or constituted an emergency.

~~**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 six inches or greater and coniferous trees measuring 10 inches 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 BDC Chapter 4.2, Site Plan Review and Design Review, BDC 2.7.600, Waterway Overlay Zone (WOZ), and 2.7.700, Upland Areas of Special Interest Overlay Zone. 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 subsection (B) of this section must be retained unless approved by the City to be removed for development. Preservation is 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 must not in itself be considered to prevent development. Building envelopes commensurate with the lot coverage standard of the zone must be depicted on the Tree Protection Plan. Trees outside the envelope 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 percent.~~

- ~~Increased lot coverage up to 15 percent.~~

- ~~Reduced landscape coverage up to five percent.~~

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:

- a. ~~*Inventory of Significant Vegetation.*~~ Depict all significant vegetation by DBH and species, showing property lines, two-foot contours and rock outcroppings.

- b. ~~*Building Envelopes.*~~ The developer shall depict the buildable area of a lot that is consistent with the lot coverage area of the zone.

- c. ~~*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.

- d. ~~*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 six to eight inches of wood chips spread over the root zone or bridge root area overlaid by plates of steel or other suitable material.

- e. ~~*Grade Changes.*~~ If a grade change is unavoidable, retaining walls shall be used to protect the root system.

f.—~~*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.~~

g.—~~*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 one inch by four inch wooden slats and securing in place with gauge wire around slats.~~

h.—~~*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.~~

i.—~~*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 are 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 BDC 1.3.300(C), Mitigation for the 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 will require the developer to post a performance bond in an amount determined by the size of the trees being preserved as shown below:

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

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 six percent 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 BDC 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 pose a hazard to personal safety, property or the health of other trees, may be removed if the Planning Director approves a report and recommendation from a certified arborist or other qualified professional. Prior to tree removal, the applicant 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 subsection (H)(2) of this section.~~

2. ~~*Emergencies.* Significant vegetation may be removed in the event of an emergency without land use approval pursuant to BDC Title 4, 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.**

A. ***Applicability.*** This section applies to all new development requiring Site Plan Review in compliance with BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review.

B. ***Landscaping Plan Required.*** A landscape plan is required. ~~All landscape plans shall conform to the requirements in conformance with BDC 4.2.300(A)(7), Landscape Plan Submittal Requirements.~~

**C. Landscape Area Standards.** A minimum percentage landscape coverage is required on-site. Coverage is measured based on the size of plants at maturity or after two years of growth, whichever comes sooner. The minimum required ~~landscaping~~ landscape coverage is 15 percent of the gross lot area for the following uses:

1. Residential – Single-room occupancies with more than six units, micro-unit developments and multiple-unit developments.
2. Commercial and office developments.
3. Industrial developments. Seventy-five percent of the required ~~45 percent site~~ landscaping shall must be located within the front ~~yard~~ setbacks and parking areas or other areas visible to the public, unless otherwise required as a condition of approval.
4. Mixed-use developments.
5. Public and institutional developments.

~~5.6.~~ Special landscape standards may be required in accordance with BDC Chapters 2.7, Special Planned Districts, 3.6, Special Standards and Regulations for Certain Uses, and 3.8, Development Alternatives.

**D. Landscaping Materials.** Landscape materials include live trees, shrubs, ground cover plants, nonplant ground covers, and outdoor hardscape features, as described below:

1. **Plant Selection.** ~~Native vegetation must be preserved or planted where practical.~~ A combination of live deciduous and ~~evergreen~~ conifer trees, shrubs and ground covers must be used for all planted areas, the selection of which must be based on local climate, exposure, water availability, and drainage conditions. Fire resistive plants ~~should~~ must be planted in forested areas or on steep slopes ~~where necessary~~ to reduce the risk of fire spreading to structures. ~~As necessary, soils must be amended to allow for healthy plant growth.~~ **(This is addressed in BDC 3.2.300.G, Soil Preparation, Planting and Care.)**
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 ~~45 percent~~ landscape area; swimming pools, sports courts and similar active recreation facilities may not be counted toward fulfilling the landscape requirement.

3. **Nonplant Ground Covers.** Bark dust, chips, aggregate or other nonplant ground covers may be used ~~and but~~ are not considered a substitute for ground cover plants. ~~Measures must be taken to prevent erosion of nonplant ground covers onto adjacent properties or rights of way.~~
4. **Tree Size.**
  - a. **Deciduous Trees.** ~~Required~~ All deciduous trees at planting must have a minimum caliper size of two inches measured at four and one-half feet above ground at six inches above the soil or root ball for bare root trees. If the required caliper is not available as demonstrated by letters submitted by three different local nurseries, the Planning ~~Director-Manager/~~Review Authority may accept a smaller caliper tree no less than one and one-half inches.
  - b. **Conifer Trees.** Required conifer trees at planting must be a minimum six feet in height measured from the soil to the top of the tree.
5. **Shrub Size.** Shrubs ~~shall~~ and ornamental grasses must be planted from ~~two~~ one-gallon containers or larger. ***(Two gallons are an odd size and not frequently available)***
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~~ must be sized and spaced in the following manner: planted at a rate of at least one plant per ~~48~~ 36 inches on center, in triangular spacing based on plant habitat (growth rate) with an expected coverage of ~~80~~ 50 percent within five years of the time of planting. ***(Proposed changes encourage less turf and overplanting.)***
7. ~~Significant Vegetation~~ **Regulated Trees.** ~~Significant vegetation~~ Regulated trees preserved in accordance with BDC 3.2.200, Tree Preservation may be credited toward meeting the minimum landscape area standards in subsection (C) of this section. Credit ~~shall~~ will be granted based on the total square footage of the preserved tree canopy at the time of application submittal. ~~The street tree standards of BDC 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. **Stormwater Facilities.** 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.** Landscape design standards must comply with the following:

**1. Parking Areas.**

- a. When a development is not subject to BDC 3.3.300.D, Developments with More Than One-Half Acre of New Surface Parking Area, a minimum of 10 percent of the parking lot area must be landscaped as measured around the perimeter of all parking spaces, maneuvering lanes and maneuvering areas including all driveways, aisles, and drive-ins and drive through lanes, and interior landscaping. Such landscaping must 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.
  - i. At a minimum, one tree per eight parking spaces total must be planted to create a partial tree canopy over and around the parking lot area as measured above.
  - ii. All parking areas on a site with more than 50 spaces must include landscape islands with trees to break up the parking area into rows of not more than 8 contiguous parking spaces.
- b. Developments with more than one-half acre of new surface parking area that opt to comply with the tree canopy requirement in BDC 3.3.300.D.2.a must comply with the following:
  - i. To determine surface parking lot area, measure the total of all new areas on which a vehicle is designed to maneuver and drive on, including all new parking spaces, driveways, aisles, and drive-in and drive-through lanes within the parking lot. Paved areas not used by passenger vehicles, such as loading areas or outdoor storage of goods and materials, are not counted as surface parking lot area.
  - ii. To determine canopy coverage, calculate the expected diameter of the tree canopy at 15 years after planting. Tree canopy must be measured from a plan view of the tree planting plan. Where canopies overlap, the overlap must only be counted once. Except for unenclosed carports, canopy that covers a building does not count toward meeting the coverage standard.
  - iii. For existing trees that will remain on the site after development, the calculation may use the actual ~~crown area~~ tree canopy of any existing trees or the anticipated ~~crown area~~ tree canopy of any existing trees at maturity but no more than 15 years after planting.



- iv. The 15-year time period applies regardless of whether the tree will be mature at that time. If a tree species will be mature before 15 years, use the expected tree canopy for a mature tree of that species.
- v. Trees must be located in a continuous trench and include three or more continuous trees, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. ~~A tree planted in a disconnected individual planter does not count towards the canopy requirements.~~

**2. Parking Lot Driveway and Drive Aisles.** Developments with more than one-half acre of new surface parking area that opt to comply with parking lot driveways and drive aisles trees in BDC 3.3.300.D.2, b. must comply with the following:

- a. **Parking Lot Driveway Tree Requirements.** ~~Parking lot driveway trees must be from the City of Bend Approved Street Tree List in the City of Bend Standards and Specifications Appendix D, and they must be planted based on the minimum planter width and spacing requirements. One tree must be planted every 25 feet of parking lot driveway, except large trees identified in BDC 3.2.400.A, City of Bend Approved Tree List can be 35 feet apart.~~ For driveway segments of sufficient length to require more than one tree, the trees must be planted in a continuous trench except where planting a tree would conflict with existing trees, retaining walls, utilities or similar physical barriers or are interrupted by driveways, drive aisles, or pedestrian facilities.
- b. **Parking Lot Drive Aisle Tree Requirements.** At a minimum, one tree per eight parking spaces total must be planted to create a partial tree canopy over and around the parking area. All parking areas must include landscape islands with trees to break up the parking area into rows of not more than 8 contiguous parking spaces.

For purposes of this subsection, a parking lot driveway and drive aisle are defined as follows:

Parking Lot Driveway	Drive aisle
<ul style="list-style-type: none"> <li>● Provides access to and from the surrounding streets, and connections through the site to buildings and parking lot drive aisles</li> <li>● Provides access to a limited number</li> </ul>	<ul style="list-style-type: none"> <li>● A vehicular access bordered by parking spaces</li> <li>● Primarily serves as access to abutting parking spaces</li> </ul>

<p>of parking spaces (only along a portion of its length; only on one side)</p> <ul style="list-style-type: none"> <li>• Usually intersects with multiple other driveways and drive aisles along its length</li> </ul>	<ul style="list-style-type: none"> <li>• Will have few or no intersections, with the exception of T- intersections, usually with abutting drive aisles</li> </ul>
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**Parking Lot Driveways (Blue) and Drive Aisles (Orange)**

3. **Landscape Buffering and Screening Required.** Landscape buffering and screening are required under the following conditions:
  - a. **Parking/Maneuvering Area Adjacent to Streets.** Where a parking or maneuvering area for more than 10 vehicles is adjacent to a street, a landscape buffer consisting of a variety of trees, ground cover and/or shrubs must be provided. The width of the landscape buffer must be the same width as the minimum front setback or a minimum of four feet (excluding curb dimensions), whichever is greater. The required screening must provide breaks, as necessary, for pedestrian facilities.
  - b. **Parking/Driveway/Maneuvering Area Adjacent to Building.** Where a parking or maneuvering area, or driveway, is adjacent to a building, the area must 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 must be used to protect buildings from being damaged by vehicles. See also BDC 3.2.300.E.3(2), Parking Lot Driveway and Drive Aisles.

When parking areas are located next to residential ground-floor living space, a landscape buffer with a minimum width of five feet is required.

**c. *Screening of Mechanical Equipment, Outdoor Storage, Service and Delivery Areas, and Automobile-Oriented Uses.*** All ground level mechanical equipment, outdoor storage, manufacturing, and service and delivery areas ~~shall~~must be screened ~~to the greatest extent practical~~ from all public streets, abutting Residential Districts, and housing dwelling units on the same site. Screening ~~shall~~must be provided by one or more of 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 BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation. (See BDC 3.2.500 for other standards related to fences and walls.)

**d. *Landscape Islands.*** Landscape islands must be provided at the ends of each parking drive aisle and must be a minimum of four feet in width (excluding curb dimensions).

**4. *Tree Planter Dimensions.*** All areas for required trees must have minimum dimensions of four feet by four feet (excluding curb dimensions).

**F. *Landscape Installation Requirement.***~~All yards, parking lots and required street tree planter strips must be landscaped at the time of site development in accordance with the provisions of this chapter. All required landscaping and related improvements must be completed prior to the issuance of a Certificate of Occupancy any building final inspection.~~ Only during winter months when the ground is frozen may the required landscape improvements be eligible for deferral, provided the City approves a financial or other guarantee prior to occupancy in a form acceptable to the City.

**G. *Soil Preparation, Planting and Care.*** Soil preparation, ground cover material, staking, and irrigation must be installed in accordance with the provisions of the American National Standards Institute ANSI A300 (Latest Edition).

**H. *Maintenance and Irrigation.*** ~~The use of drought-tolerant plant species is encouraged.~~ Water efficient irrigation must be provided for new ~~plants~~ landscaping. If the plantings fail to survive, the property owner must immediately replace them with an equivalent specimen (i.e., evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.) in compliance with the minimum size requirements in

BDC 3.2.300(D), Landscaping. All other landscape features required by this code must be maintained in good condition, or otherwise replaced by the owner.

**3.2.400 Street Trees and Planter Strip Landscaping.**

**A. Applicability.** This section sets standards and requirements for planting trees and planter strip landscaping along all streets. Except for BDC 3.8.400(A), Mid-Block Development, and 3.8.1000, Shared Courts, street trees must be planted for developments subject to:

1. BDC Chapter 4.3, Land Divisions and Property Line Adjustments, for residential land divisions, and
2. BDC 4.2.500, Site Plan Review.
3. BDC 4.2.400, Minimum Development Standards Review when there is an existing sidewalk or a sidewalk is required with the development.

**B. City of Bend Approved Tree List.** The City has developed a list of trees for planting along streets in three size classes: low, medium and tall. Choices of trees are limited to the following list. Exceptions may be granted by the Planning Manager or designee. Multi-trunk and weeping varieties are not appropriate as street trees.

Street trees must be those species suitable for the location in which they are placed. Typically, trees with a hardiness rating for zones 1 through 5 will survive in Central Oregon as long as irrigation is provided. Approved tree species include:

1.	<b>Trees with Low Mature Tree Height (25 feet or less), for use in areas under power lines:</b>	
	Approved Street Tree	Estimated Tree Canopy Diameter at 15-years after planting
	Amur Maple/Acer ginnala	15 feet
	Canada Red Cherry/Prunus virginiana 'Shubert'	15 feet
	Eastern Redbud/Cercis canadensis	15 feet

	Flowering Crabapple/Malus 'variety' (choose fruitless varieties)	20 feet
	Hawthorn/Crataegus 'variety'	20 feet
	Japanese Lilac Tree/Syringa reticulata	12 feet
	Serviceberry/Amelanchier	15 feet
<b>2.</b>	<b>Trees with Medium Mature Tree Height (30 to 45 feet):</b>	
	American Hornbeam/Carpinus caroliniana	35 feet
	Gallery Pear/Pyrus calleryana	15 feet
	Hackberry/Celtis occidentalis 'variety'	40 feet
	Hedge Maple/Acer campestre	25 feet
	Mountain Ash/Sorbus acuparia 'variety'	20 feet
<b>3.</b>	<b>Trees with Tall Mature Tree Height (50 feet or larger) to be used along collector and arterial streets to create a canopy over the roadway:</b>	
	Green Ash/Fraxinus pennsylvanica	40 feet
	Honey Locust/Gleditsia tricanthos 'variety'	50 feet

	Littleleaf Linden/ <i>Tilia cordata</i>	20 feet
	Norway Maple/ <i>Acer platanoides</i> 'variety'	30 feet
	Green Beech/ <i>Fagus sylvatica</i>	35 feet
	Pin Oak/ <i>Quercus palustris</i>	40 feet
	Red Maple/ <i>Acer rubrum</i> 'variety'	20 feet
	Red Oak/ <i>Quercus rubra</i>	60 feet
4.	<del>Where the City has adopted a Street Tree Master Plan, those trees identified in the master plan must be used.</del>	

*(The City of Bend Approved Tree List has been relocated to the City of Bend Standards and Specifications, Appendix D, City of Bend Approved Street Tree List)*

**B. Street Tree Requirements.** Street trees must be planted along all streets for developments subject to this section in compliance with the following:

1. **Street Tree List.** All new street trees must be from the City of Bend Approved Street Tree List which is based on the width of the planter strip. Trees with a mature height of 50 feet or taller must be used along collector and arterial streets, except when they are located beneath a powerline. Multi-trunk and weeping varieties are not appropriate as street trees. See the City of Bend Standards and Specifications Appendix D for the City of Bend Approved Street Tree List.

**C. Spacing and Location.**

1. **2. Location.** Street trees must be planted along all street frontages on the development site within existing or proposed planting strips or in City-approved sidewalk tree wells on streets without planting strips. Where the ~~landscape~~ planter strip is less than four feet wide (excluding curb dimensions) and/or

~~tree well is not wide enough to accommodate street trees, the street trees may~~ must be planted on the site within five feet from the back of the sidewalk. Root barriers are required with street tree planting to protect the City's curb and sidewalk. Existing trees located in a proposed planting strip, tree well, or within five feet from back of sidewalk can count towards this requirement.

~~**2-3. Spacing.** Trees with low mature height must be planted no further than 25 feet apart; trees with medium and tall mature height must be planted no further than 35 feet apart, Street trees must be planted based on the species and spacing distance provided in the City of Bend Approved Street Tree List, except where planting a tree would conflict with existing trees, driveways, retaining walls, utilities and similar physical barriers or it would conflict with the areas identified in City of Bend Standards and Specifications 12.2.3.5, Street Tree Location and Spacing.~~ A random spacing of trees may be approved for the equivalent number of trees required for the length of the frontage.

~~3. Trees must be planted no closer than 35 feet from a stop sign. **(Required in City of Bend Standards and Specifications 12.2.3.5, Street Tree Location and Spacing.)**~~

~~4. New trees are not permitted within the clear vision area **(Required in BDC 3.1.500, Clear Vision Areas and in the City of Bend Standards and Specifications)**~~

~~4. Tree Size. See BDC 3.2.300(D)(4), Tree Size.~~

~~**5. Utility Easements.** All street trees must be placed outside utility easements unless the utilities can be placed in a conduit for maintenance (this may require additional easements) or when approved by the utility provider. If the existing planter strip contains such easements and is not wide enough to also accommodate street trees, the street tree location requirements may be adjusted as approved by the Planning Manager per subsection (B)(2) of this section. **(Relocated from 3.2.400.G, Utility Easements.)**~~

~~D. Where sidewalks are being constructed with a development the street trees must not be planted until the sidewalks are completed. **(Relocated to also include planter strip landscaping in BDC 3.2.400.E, Sidewalk Construction)**~~

~~E. **6. Sidewalk Tree Wells.** Street trees planted within sidewalk tree wells must be installed with a City-approved tree grate.~~

~~**C. Planter Strip Landscaping.** Effective November 1, 2024, when the development approval requires a new sidewalk and planter strip, or the planting of street trees in an existing planter strip, the required landscaping must comply with the following:~~

1. Planter strips must be landscaped with only ornamental grasses, shrubs, and plants from the City of Bend Approved Plant List. Turf (all cool season lawn species) and artificial turf are prohibited in the planter strips. See the City of Bend Standards and Specifications Appendix E for the City of Bend Approved Plant List.
2. Planter strips must be landscaped with a minimum of 10 plants per 100 square feet of planter area and result in an expected coverage of 50 percent within five years of the time of planting. Ornamental grasses must not make up more than 25% of the plants in the planter strip.
3. Shrubs and ornamental grasses at the time of planting must be a minimum of one gallon, and perennials and groundcover plants must be a minimum of four-inch pots.
4. Overhead spray irrigation systems are not permitted in planter strips that are less than 8 feet in width (excluding curb dimensions). For widths eight feet and above, see City of Bend Standards and Specifications.

**D. Installation.** All street trees, landscaping and irrigation in the planter strips must be installed in compliance with the City of Bend Standards and Specifications, the requirements of this section and the city's approved street tree and plant list.

**E. Sidewalk Construction.** Where sidewalks are being constructed with a development, the street trees and/or landscaping must not be planted until the sidewalks are completed and approved by the City. *(Relocated from BDC 3.2.400.D)*

**F. Assurances.** If the street trees and planter strip landscaping are not otherwise covered by a maintenance bond for public infrastructure, then the Planning Director Manager may require the owner/developer to provide a performance and maintenance bond in an amount equal to 120 percent 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.

**G. Utility Easements.** ~~All street trees must be placed outside utility easements unless the utilities can be placed in a conduit for maintenance. If the existing planter strip contains such easements and is not wide enough to also accommodate street trees, the street tree location requirement in subsection (C) of this section may be adjusted as approved by the Planning Manager.~~ *(Relocated to Street Tree requirements.)*

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## Chapter 3.5

### OTHER DESIGN STANDARDS



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### 3.5.100 Density Transfers

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**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~~must protect sensitive land areas as listed below either by dedication to the public or a land trust, or by a nonrevocable conservation easement. Sensitive land areas include:

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7. A stand or grove of ~~significant~~ Regulated Trees as defined in BDC Chapter 3.2, Landscaping, Tree Preservation, Fences and Walls.

\*\*\*

## Chapter 4.2

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

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#### 4.2.300 Submittal Requirements.

**A.** An application for review under this chapter must include the following information, as deemed applicable by the Community and Economic Development Director based on the size, scale and complexity of the development.

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

\*\*\*

- ~~g. The location, size and species of trees and other vegetation having a caliper (diameter) of six inches or greater at four feet above grade; (*This will be required in 3.2.200(B)(2), Tree Preservation Site Plan*)~~

- ~~h.~~ g. Locally or federally designated historic and cultural resources on the site and the adjacent parcels;
- ~~i.~~ h. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed;
- ~~j.~~ i. Name, address, email address and telephone number of project designer, engineer, surveyor, and/or planner, if applicable.

\*\*\*

**7. Landscape Plan Submittal Requirements.** ~~A landscape plan.~~ The following (as applicable) must be submitted in compliance with BDC Chapter 3.2, Landscaping, ~~Street Trees~~ Tree Preservation, Fences and Walls and it must include the following (as applicable):

**a. Landscape Plan.** Landscape plans must include the following:

- ~~a.~~ i. Existing and proposed plant and non-plant materials. Include a ~~A~~ planting schedule containing the location, size, ~~and~~ species, and quantity of the existing and proposed plant materials (at time of planting) and include plant installation timeline.
  - ~~b.~~ ii. ~~Existing and proposed building and pavement outlines.~~ Existing and proposed structures, streets, driveways, walkways and other hard surfaces.
  - iii. Existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas.
  - iv. Existing and proposed street tree and planter strip landscaping in compliance with BDC 3.2.400, Street Trees and Planter Strip Landscaping.
  - v. Clear vision areas.
- b. Irrigation plans.**
- ~~c.~~ Irrigation plans, written soil specifications at time of planting, and anticipated plant installation time line.
  - ~~d.~~ The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas; **(Relocated to subsection (a) of this section.)**

- ~~e.~~ Existing and proposed abutting street right of way landscaping; **(Relocated to subsection (a) of this section.)**
- f. **d.** Landscape calculations pursuant to BDC 3.2.300.C, Landscape Area Standards and a site plan clearly identifying the area included in the calculations.
- ~~g.~~ **e.** Developments that opt to comply with the tree canopy requirement in BDC 3.3.300.D.2.a. must provide a tree canopy plan demonstrating compliance with BDC 3.2.300.E.1.b, Developments with More Than One-Half Acre of New Surface Parking Area.
- ~~h.~~ **f.** Developments that opt to comply with the parking lot driveway and drive aisle tree requirements in BDC 3.3.300.D.2.b must provide a site plan demonstrating compliance with BDC 3.2.300.E.2, Parking Lot Driveway and Drive Aisles. The site plan must label the parking lot driveway and drive aisles.
- ~~i.~~ **g.** Other information as deemed appropriate by the Community and Economic Development Director. ~~An arborist's report may be required for sites with mature trees that are protected under BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls.~~

**8. Tree Preservation Plan.** The tree preservation requirements in conformance with BDC 3.2.200, Tree Preservation.

**9. ~~8.~~ Sign Drawings.** Depictions of conceptually proposed signs ~~shall~~ must be in conformance with BC Chapter 9.50, Signs. A separate sign application and permit will be required for all signs.

**10. ~~9.~~ Narrative.** Letter or narrative report documenting compliance with the applicable approval criteria contained in BDC 4.2.500(D), Site Plan Review Approval Criteria.

**11. ~~10.~~ Traffic Impact Study.** A Traffic Impact Analysis, ~~shall be submitted~~ if required by BDC Chapter 4.7, Transportation Analysis.

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

**13. ~~12.~~** If the properties are not served by the City sewer system in accordance with BC Title 15, provide documentation from the Deschutes County Environmental Soils Division which indicates that the

proposed development will be in compliance with all applicable requirements for sanitary septic systems when such systems exist on the properties affected by the development.

**14. 13.—Additional Information.** The Community and Economic Development Director may require, at the applicant’s expense, studies, reports or exhibits prepared by qualified professionals to address specific site features or concerns.

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**4.2.400 Minimum Development Standards Review.**

**A. *Minimum Development Standards Review for Single-Unit Detached Dwellings, Townhomes, Accessory Dwelling Units, Duplexes, Triplexes, Quadplexes, Single Room Occupancies with Six or Fewer Units and Cottage Cluster Developments.***

\*\*\*

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

\*\*\*

b. The following standards are met:

\*\*\*

x. Except for ADUs, street trees and planter strip landscaping are required in compliance with BDC 3.2.400, Street Trees and Planter Strip Landscaping when there is an existing sidewalk or a sidewalk is required with the development.

xi. Sites larger than one acre must comply with BDC 3.2.200, Tree Preservation.

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

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3. **Approval Criteria.** The Review Authority shall ~~shall~~ must approve, approve with conditions, or deny an application for minimum development standards review based upon the criteria listed below.

\*\*\*

c. The following standards are met:

\*\*\*

xiii. Street trees and planter strip landscaping are required in compliance with BDC 3.2.400, Street Trees and Planter Strip Landscaping when there is an existing sidewalk or a sidewalk is required with the development.

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### Chapter 4.3

#### LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS

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##### 4.3.300 Tentative Plan.

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**B. Informational Requirements.** A tentative plan must be prepared by a professional land surveyor, a registered professional engineer or a registered landscape architect and contain the information listed below. Some information may be omitted from the tentative plan if it is provided in accompanying materials. No tentative plan will be considered complete unless all the required information is provided.

\*\*\*

**6. Tree Preservation Plan.** The tree preservation requirements in conformance with BDC 3.2.200, Tree Preservation.

**7. Street Trees and Landscaping in Planter Strips Plan.** For residential land divisions, a street tree and planter strip landscaping plan demonstrating compliance with BDC 3.2.400, Street Trees and Planter Strip Landscaping.

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## Chapter 4.5

### MASTER PLANS

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#### 4.5.100 Master Plan General Provisions

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**E. Submittal Requirements.** The following information must be submitted as deemed applicable by the Community and Economic Development Director based on the size, scale, and complexity of the master plan:

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##### 1. Existing Conditions Submittal Requirements.

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##### b. Existing Site Conditions Map.

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ii. The existing site conditions map must include the following information on site:

(A) The location of existing structures, parking, loading and service areas, and pavement.

Existing aerial photos may be used; and

(B) The location, size and species of ~~trees and other vegetation having a caliper (diameter) of six inches or greater at four feet above grade~~ Regulated Trees or existing aerial photos may be submitted.

\*\*\*

##### 2. Proposed Master Plan Submittal Requirements.

\*\*\*

b. Scaled maps or diagrams that include the following information (as applicable):

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- vii. Conceptual Landscape concept plan and tree preservation plan in accordance with BDC Chapter 3.2, Landscaping, ~~Street Trees~~ Tree Preservation, Fences and Walls.

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**F. Modifications to Approved Area Plans, Master Plans, PUDs and Special Planned Districts.**

1. The following modifications to a master plan, area plan, PUD or special planned district may be approved with a land division or with an application in compliance with BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review, and Design Review, unless the Community and Economic Development Director elevates the application to the Planning Commission for hearing as a Type III application.

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- d. Any changes in the amount of parking relative to that approved in the master plan by no more than 15 percent. In no case, shall the parking exceed the maximum parking requirements in BDC 3.3.300(B), Maximum Number of Parking Spaces. ~~A proposed modification that is part of an approved TPDM plan must comply with BDC Chapter 4.8, Transportation and Parking Demand Management (TPDM) Plan;~~ ***(Since there is no minimum parking requirements, the 15 percent is no longer needed.)***

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**G. Tree Preservation Standards.**

1. The requirements in BDC 3.2.200, Tree Preservation cannot be modified by a master plan application or by a modification of a master plan.
2. The requirements in BDC 3.2.200, Tree Preservation must be submitted and reviewed with a subsequent land division and/or site plan review application.
3. Master plan applications may propose tree preservation in open space areas to meet the requirements of BDC 3.2.200, Tree Preservation on a community wide basis.

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**EXHIBIT B  
FINDINGS OF FACT  
BEND DEVELOPMENT CODE (BDC) UPDATE  
AMENDMENT PLTEXT20230178**

**I. PROCEDURAL FINDINGS:**

**(1) PUBLIC NOTICE AND COMMENTS.** Notice of the BDC amendments was provided to the Department of Land Conservation and Development (DLCD) on May 5, 2024. Staff emailed the proposed amendments and Planning Commission hearing date to over 300 people who have expressed an interest in the amendments, to the Bend Development Code Update Group and to the Neighborhood Association Land Use Chairs on May 3, 2024. A notice of the June 10, 2024, Planning Commission public hearing was printed in the Bend Bulletin on May 19, 2024, and mailed and emailed to the Neighborhood Associations on May 10, 2024. A notice of the June 20, 2024, City Council public hearing was printed in the Bend Bulletin on May 26, 2024, and mailed and emailed to the Neighborhood Districts Land Use Chairs on May 22, 2024. Public comments can be viewed in the [Online Permit Center Portal](#) on the City of Bend website. Open the Portal and select the *Application Search* link under the Planning & Historic header, then enter the project number PLTEXT20230178 in the search bar to find the project.

**(2) RECORD.** The documents in CityView for PLTEXT20230178 are made part of the record and are placed before the Planning Commission and City Council for consideration during the proceedings on the legislative amendments. The documents are available for review and can be viewed in the [Online Permit Center Portal](#) on the City of Bend website by opening the portal and selecting the *Application Search* link under the Planning & Historic header, then enter the project number PLTEXT20230178 in the search bar to find the project.

**(3) PROPOSAL.** The City of Bend is proposing a package of amendments to the Bend Development Code (BDC). The primary purpose of the proposed amendments is to support a City Council goal to encourage sustainable development, and specifically to update and provide objective tree protection standards for larger new developments while balancing the need for housing production, housing affordability, and natural resource preservation. There are also amendments for street tree and planter strip landscaping requirements and other minor changes throughout for consistency and clarity.

The proposed text amendments are to Bend Development Code (BDC) Chapters 1.1, General Administration, 1.2, Definitions, 1.3, Enforcement, 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans, 3.1, Lot, Parcel, and Block Design, Access and Circulation, 3.2, Landscaping, Street Trees, Fences and Walls, 3.5 Other Design Standards, 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, 4.3, Land Divisions and Property Line Adjustments, and 4.5, Master Plans. The recommended amendments are attached as Exhibit A.

**II. CRITERIA OF APPROVAL:**

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

**III. APPLICABLE PROCEDURES:**

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

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

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

**4.6.200 Legislative Amendments.**

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

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

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

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

**FINDING:** The amendments are consistent with the applicable State land use law. In particular, they satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning and Goal 12: Transportation and maintain Goal 6: Air, Water and Land Resources Quality, Goal 10: Housing and Goal 11: Public Facilities and Services.

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

**FINDING:** Notice of the BDC amendments was provided to the Department of Land Conservation and Development (DLCD) on May 5, 2024. A notice of the June 10, 2024, Planning Commission public hearing was printed in the Bend Bulletin on May 19, 2024, and mailed and emailed to the Neighborhood Associations on May 10, 2024. A notice of the June 20, 2024, City Council public hearing was printed in the Bend Bulletin on May 26, 2024, and mailed and emailed to the Neighborhood Associations on May 22, 2024. Staff emailed the proposed amendments and Planning Commission hearing date to over 300 people who have expressed an interest in the amendments, to the Bend Development Code Update Group and to the Neighborhood Association Land Use Chairs on May 3, 2024.

On June 10, 2024, the Planning Commission held a public hearing and recommended approval of the amendments to the City Council. The City Council held a public hearing on June 20, 2024, to accept evidence, receive public testimony, and consider the Planning Commission's recommendation.

Therefore, Goal 1 has been met.

**Goal 2, Land Use Planning**, requires a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

**FINDING:** The Goal is met because the City followed the land use planning process and policy framework established in the City's acknowledged Comprehensive Plan and BDC as a basis for the decisions and actions related to the new regulations regarding the use of land and to assure an adequate factual base for these decisions and actions. The amendments will be considered by the City Council after a public hearing. Multiple opportunities were provided for review and comment by community members and affected governmental units during the preparation of this ordinance.

Goal 2 specifically states that minor plan changes should be based on special studies or other information, which will serve as the factual basis to support the change. The public need and justification for the particular change should be established.

For the last few years, community members have raised concerns about trees being cut down during new development projects on larger sites in the City. In response, the Council held a work session on March 15, 2023, to review and discuss existing tree preservation requirements in the Development Code. After discussion, the Council was supportive of developing potential amendments to City codes for large-scale developments to protect larger trees and to increase Bend's urban tree canopy. The Council expressed that this project should be approached with an intent to balance the important goals of tree preservation and housing development and indicated that proposed tree preservation standards should not impede the development of housing, which remains a critical need across Oregon and especially in Bend. The Council directed staff to work with the Stewardship Subcommittee on the formation of a temporary committee to advise staff on potential code updates.

On April 14, 2023, the Stewardship Subcommittee discussed the formation of a temporary

committee and the scope and timeline for bringing potential code updates to the Council for consideration. On May 3, 2023, the Council approved a resolution forming the Tree Regulation Update Advisory Committee (TRUAC) to make recommendations to Council on necessary amendments to the City's tree preservation regulations. According to the Project Charter of Resolution 3323, the amendments must:

1. Provide consistency between Bend Municipal Code (BMC) Chapter 16.10, Clearing, Grading, and Erosion Control on Construction Sites, BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls and City of Bend Standards and Specifications Chapter 12, Landscape Architecture and Irrigation Systems.
2. Provide clear and objective tree preservation standards for the development of housing, including needed housing, and include an optional discretionary process for applicants for development.
3. Consider preservation standards for larger trees similar to the Southeast Area Plan.
4. Consider alternatives to preserving trees, including tree replacement and a fee-in-lieu of preservation for the purpose of developing and protecting the City's urban tree canopy.

TRUAC was made up of 15 volunteers representing developers, neighborhoods, arborists, architects, environmental and equity interests. TRUAC held nine meetings to discuss objective code amendments to help preserve trees during new development while balancing the need for housing in the community. TRUAC's discussions led to a flow chart of options which first encourage the preservation of Priority Trees (20" or larger measured at four and one-half feet above the ground known as DBH, for "diameter at breast height") on a site and then provide flexibility by allowing an option to preserve a percent of the overall DBH of all Regulated Trees (6" or larger) on a site. TRUAC also discussed options for mitigation if the preservation requirements could not be met, including on-site tree replacement and payment in lieu of preservation. The following highlights TRUAC's recommendations for tree preservation standards which are included in the proposed package of amendments to the BDC:

#### **A. Applicability.**

- Land division application.
- Site Plan Review application.
- Applications for developments on sites larger than one acre for Single-Unit Detached Dwellings, Townhomes, Accessory Dwelling Units, Duplexes, Triplexes, Quadplexes, Single Room Occupancies with Six or Fewer Units and Cottage Cluster Developments.
- Exceptions.
  - Land division and Site Plan Review applications on sites one acre or smaller may either comply with the tree preservation requirements or provide mitigation.
  - A site with three or fewer Regulated Trees may either comply with the tree preservation requirements or provide mitigation.

#### **B. Size of Regulated Trees to be Inventoried and Mapped: 6" DBH or larger.**

#### **C. Clear and Objective Tree Preservation Options:**

- **Option 1.** Preserve at least 20 percent of the Priority Trees, or
- **Option 2.** Preserve at least 25 percent of the total DBH of all Regulated Trees, or
- **Option 3.** Preserve at least 5 percent of the total DBH of all Regulated Trees, plus mitigate.

**D. Discretionary Path.** Option to apply for a discretionary path when the proposed development site has some existing constraints or adherence to Development Code requirements or Standards and Specifications makes it infeasible to preserve at least 5 percent of the total DBH of all Regulated Trees. If the request for a discretionary path is approved, mitigation will be required.

**E. Mitigation Options:**

- **Tree Replacement Ratio.** Mitigation trees are required on a site to make up for anything less than preservation of 25 percent of the total DBH of all Regulated Trees. The mitigation required to meet the standard is based on the largest tree or trees proposed for removal that equal or exceed the required DBH. The following is the tree replacement ratios:
  - 6" to 9.9" DBH: One Tree
  - 10" to 19.9" DBH: Two Trees
  - 20" DBH or larger: Four Trees
- **Payment In-Lieu of Tree Preservation.** A payment in lieu of tree preservation must be made for each replacement tree required but not planted on-site.

During the City Council meeting on June 20, 2024, the Council approved the following amendments regarding tree preservation:

- The addition of the discretionary track option for the Industrial Zones:
 

**BDC 3.2.200(C)(2)(a)(vi) General Industrial District (IG) and Light Industrial District (IL) Zones. The removal of trees is necessary to construct large level sites to accommodate industrial, commercial (not including small-scale personal and professional services), and public and institutional uses.**
- Strike the Southeast Area Plan incentives in BDC 2.7.3360(B), Tree Preservation, consistent with staff's presentation to the Planning Commission on June 10, 2024, in order to have consistent citywide standards.
- Include land division final plat approval along with building final inspection as triggers for the three-year preservation condition of approval to BDC 3.2.200(G), Tree Preservation Conditions of Approval.
- Exempt residential developments on sites one acre or smaller from all tree preservation requirements including mitigation.

The proposed amendments support the 2023-2025 Bend City Council Environment and Climate Goal which includes a strategy to advance the Community Climate Action Plan

(CCAP) and encourage sustainable development. This strategy is supported by an action to develop new policies to support sustainable development including policies that are responsive to community concerns, such as the Tree Code, auto dependent uses in commercial zones and natural gas policy.

The proposed amendments also include prohibiting the installation of turf and inefficient spray irrigation in planter strips in the right-of-way which meets Council’s Environment and Climate strategy “to protect our watershed through conservation and water stewardship” and action “to implement conservation goals in the Water Management and Conservation Plan (WMCP)”.

Therefore, the amendments are justified and needed, and compliance with Goal 2 is met.

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

**Goal 6, Air, Water and Land Resources Quality,** addresses water and process discharges from development, and is aimed at protecting air, water, and land from impacts from those discharges. The City’s acknowledged regulations implementing Goal 6 remain in effect with no change in applicability. The amendments do not affect the City’s ability to maintain and improve air, water or land resources. The proposed requirements for tree preservation and to plant new trees on site to help mitigate for the trees removed and the additional street tree requirements will help maintain and improve air quality. The leaves of trees improve air quality by absorbing carbon dioxide and other particles in the air, which the trees use to build their own trunks, branches, and leaves. When they absorb carbon dioxide, they keep the carbon and release the oxygen—a process that purifies the air that we breathe. Therefore, compliance with Goal 6 is maintained.

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

**Goal 8, Recreational Needs,** requires the City to satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts. This goal is not applicable as the amendments have no effect on the availability of or access to recreational opportunities.

**Goal 9, Economic Development,** is implemented through Oregon Administrative Rule (OAR) Division 9, which is intended to ensure that each jurisdiction maintain an adequate land supply for economic development and employment growth. This goal is not applicable as the amendments have no effect on economic development and economic growth.

**Goal 10, Housing,** requires that communities provide for the housing needs of citizens of the state. The Goal also requires cities to inventory its buildable residential lands, project future

needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types. The proposed amendments balance the important goals of tree preservation and housing development by providing clear and objective standards and several options to comply with the regulations, and do not impede the development of housing, which remains a critical need across Oregon and especially in Bend. Therefore, compliance with Goal 10 is maintained.

**Goal 11, Public Facilities and Services**, requires the City to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. The amendments will not result in the need to adjust or amend existing policies or projects in the City's adopted facility plans. The amendments to prohibit installation of turf and inefficient spray irrigation in planter strips in the right-of-way helps conserve water resources and implements the City's Water Management and Conservation Plan. Therefore, compliance with Goal 11 is maintained.

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

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

**Goal 14, Urbanization**, requires the City to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. The amendments do not encourage sprawl or lower than targeted densities, or uncoordinated development. The management of the City's land use inventories is unaffected by these amendments and therefore, the City's long-standing acknowledgment of compliance with Goal 14 is maintained.

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

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

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

## **2. The request is consistent with the applicable Bend Comprehensive Plan goals**

## and policies;

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

### Chapter 1: Plan Management and Citizen Involvement

#### Goals

- **Create and Preserve Great Neighborhoods** Bend has a variety of great neighborhoods that promote a sense of community and are well-designed, safe, walkable, and include local schools and parks. Small neighborhood centers provide local shops, a mix of housing types, and community gathering places. The character of historic neighborhoods is protected and infill development is compatible.

**FINDING:** The proposed tree preservation amendments will require a percent of trees to be preserved for larger developments including land divisions and developments subject to Site Plan Review. The proposed amendments will also require street trees and water-efficient planter strip landscaping for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments when there is an existing sidewalk, or a sidewalk is required with a development. These amendments support a well-designed neighborhood that is safe and walkable. Trees bring a natural element into urban settings, support community gathering spaces by providing shade and provide for a safe and walkable area by calming traffic and providing separation between vehicle traffic and pedestrian areas.

- **Protect and Enhance Bend’s Natural Beauty, Heritage and Natural Environment** As Bend grows, it preserves and enhances natural areas and wildlife habitat. Protect and enhance Bend’s natural beauty noting especially the trees, rocks, rivers, view, sounds and historic structures. Wildfire risk management is a key consideration. Bend takes a balanced approach to environmental protection and building a great city.

**FINDING:** The proposed amendments seek to balance planned urban growth with preservation of the natural environment. The proposed regulations first encourage the preservation of larger, Priority Trees and then provide flexibility by allowing an option to preserve a percent of the overall DBH of Regulated Trees. The amendments also include options for mitigation including on-site tree replacement and payment in lieu of preservation. The trees that are preserved as well as new trees planted will support Bend’s natural areas and wildlife habitat.

To address wildfire risk, development should adhere to the best practices in the Oregon Defensible Space for Homeowners and Renters and to the policies in the Oregon Fire Code for tree and plant clearances and limbing. It is also recommended that developers use fire resistant building materials, along with the fire-resistant plants from the New OSU Extension Fire Resistant Plant Guide, to help reduce the wildfire risk.



- **Ensure Quality Design and Attractive Development** Ensure that the “built” environment is as attractive as feasible.

**FINDING:** The proposed amendments offer options for tree preservation, replanting trees on a site and/or making a payment in lieu of tree preservation. The proposed amendments also include additional requirements for street trees and new water efficient planter strip landscaping. These amendments will help ensure that the “built” environment is as attractive as feasible since trees and landscaping help soften the surfaces of streets and buildings.

- **Build Cost Effective Infrastructure.** Bend plans and builds water, wastewater, storm water, transportation, and green infrastructure in a cost-effective way that supports other project goals. Efficient use of existing infrastructure is a top priority.

**FINDING:** The proposed amendments for street trees and planter strip landscaping will help ensure green infrastructure is installed in the right-of-way in a manner that:

- Supports street tree health and longevity, providing long-term and cost-effective urban heat island mitigation (shade) and rainwater interception (reducing stormwater runoff);
- Supports water conservation goals identified in City Council Goals and the City’s 2021 Water Management and Conservation Plan including reducing water demand and future costs for water infrastructure; and
- Reduces water overspray and conveyance of excess flow and transport of sediment and pollutants from streets into stormwater systems, groundwater and the river.

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

**FINDING:** For the last few years, community members have raised concerns about trees being cut down during new development projects on larger sites in the City. In response, the Council held a work session on March 15, 2023, to review and discuss existing tree preservation requirements in the Development Code. After discussion, the Council was supportive of developing potential amendments to City codes for large-scale developments to protect larger trees and to increase Bend’s urban tree canopy. The Council expressed that this project should be approached with an intent to balance the important goals of tree preservation and housing development and indicated that proposed tree preservation standards should not impede the development of housing, which remains a critical need across Oregon and especially in Bend. The Council directed staff to work with the Stewardship Subcommittee on the formation of a temporary committee to advise staff on potential code updates.

On April 14, 2023, the Stewardship Subcommittee discussed the formation of a temporary committee and the scope and timeline for bringing potential code updates to the Council for consideration.

On May 3, 2023, the City Council approved a resolution forming the Tree Regulation Update Advisory Committee (TRUAC) to make recommendations to Council on necessary

amendments to the City's tree preservation regulations. According to the Project Charter of Resolution 3323, the amendments must:

1. Provide consistency between Bend Municipal Code Chapter 16.10, Clearing, Grading, and Erosion Control on Construction Sites, BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls and City of Bend Standards and Specifications Chapter 12, Landscape Architecture and Irrigation Systems.
2. Provide clear and objective tree preservation standards for the development of housing, including needed housing, and include an optional discretionary process for applicants for development.
3. Consider preservation standards for larger trees similar to the Southeast Area Plan.
4. Consider alternatives to preserving trees, including tree replacement and a fee-in-lieu of preservation for the purpose of developing and protecting the City's urban tree canopy.

TRUAC was comprised of 15 volunteers representing developers, neighborhoods, arborists, architects, environmental and equity interests. TRUAC's membership categories and overall committee size were considered by Council to ensure that it was widely representative of the community. TRUAC has held nine meetings open to the public to discuss objective code amendments to help preserve trees during new development while balancing the need for housing in the community. TRUAC's discussions led to a flow chart of options which first encourage the preservation of Priority Trees on a site and then provide flexibility by allowing an option to preserve a percent of the overall DBH of all Regulated Trees on a site. There are also options for mitigation including on-site tree replacement and payment in lieu of preservation. TRUAC's recommendations for tree preservation standards are included in the proposed package of amendments to the BDC.

The City held hybrid informational sessions on March 7, 2024, and March 12, 2024. These sessions were informal opportunities for the community to learn more about what changes were recommended by TRUAC for Planning Commission and City Council consideration. They also provided an opportunity for the attendees to ask questions and receive answers in real time by staff and TRUAC members, which is different from the traditional public comment process during a Planning Commission and City Council public hearing. During the sessions, staff provided information on how to provide public comment during the legislative hearing process so that their public testimony to the decision-makers can be considered in an official Planning Commission recommendation or Council legislative land use decision. The informational sessions were advertised in the following medias:

- Neighborhood Leader Newsletter: February 21, 2024
- Nextdoor (Social Media): March 6, 2024
- Facebook and Instagram: February 28, 2024, and March 4, 2024
- Press Release: February 28, 2024
- Bend Community Development Newsletter: February 28, 2024
- Bend Current newsletter: February 29, 2024
- City of Bend Tree Regulation Code Update Website

Staff emailed the proposed amendments and the Planning Commission hearing date to over 300 people who have expressed an interest in the amendments, to the Bend Development

Tree Code Update

June 20, 2024

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Code Update Group and to the Neighborhood Association Land Use Chairs on May 3, 2024. The Bend Development Code Update Group includes community members comprised of architects, lawyers, developers, land use planners, and engineers and staff from COBA, Oregon LandWatch and Bend Park and Recreation District as well as people who are generally interested in amendments to the BDC.

On June 10, 2024, the Planning Commission held a public hearing and recommended approval of the amendments to the City Council. The Council held a public hearing on June 20, 2024, to accept evidence, receive public testimony, and consider the Planning Commission's recommendation.

- **Create Clear and Consistent Implementing Ordinances.** Implement the plan through effective, clear and consistent ordinances and language that reflect the intent of the vision.

**FINDING:** The primary purpose of the proposed amendments is to support a City Council goal to encourage sustainable development, and specifically to update and provide objective tree protection standards for larger new developments while balancing the need for housing production. Oregon expresses its housing policies in various ways, including through ORS 197.304, known as the needed housing statute. That statute provides that the availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern. The statute requires that standards, conditions, and procedures regulating development of housing must be clear and objective, and that those standards, conditions, and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

The proposed amendments provide several clear and objective options for tree preservation as part of land development so that the requirements do not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay. The first option encourages the preservation of at least 20 percent of the larger Priority Trees on a site and the next option provides flexibility by allowing preservation of at least 25 percent of the total DBH of all Regulated Trees on a site. In addition, there is an option to preserve at least five percent of the total DBH on a site plus provide mitigation or a developer can apply for a discretionary approval path to preserve less than five percent of the total DBH on a site with mitigation. Also, when a site is one acre or smaller, there is an option to just provide mitigation in lieu of tree preservation. The options for mitigation include on-site tree replacement and payment in lieu of tree preservation. To support the development of housing, the proposed tree preservation requirements will not apply to sites one acre or smaller that include residential development.

Therefore, the proposed amendments are clear and objective and will not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

## **Policies**

### *Citizen Involvement*

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

**FINDING:** For the last few years, community members have raised concerns about trees being cut down during new development projects on larger sites in the City. In response, the Council held a work session on March 15, 2023, to review and discuss existing tree preservation requirements in the Development Code. After discussion, the Council was supportive of developing potential amendments to City codes for large-scale developments to protect larger trees and to increase Bend's urban tree canopy. The Council expressed that this project should be approached with an intent to balance the important goals of tree preservation and housing development and indicated that proposed tree preservation standards should not impede the development of housing, which remains a critical need across Oregon and especially in Bend. The Council directed staff to work with the Stewardship Subcommittee on the formation of a temporary committee to advise staff on potential code updates.

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

**FINDING:** Throughout this work effort, the City provided updated information on a dedicated web page including information that lead up to the creation of TRUAC, “frequently asked questions” about how and where the new tree preservation regulations might apply, meeting materials and video recordings of all TRUAC meetings, information on how and when to provide public comment, and summaries of decision points leading up to TRUAC’s final set of recommendations.

The City held hybrid informational sessions on March 7, 2024, and March 12, 2024. These sessions were informal opportunities for the community to learn more about what changes were recommended by TRUAC for Planning Commission and City Council consideration. They also provided an opportunity for the attendees to ask questions and receive answers in real time by staff and TRUAC members, which is different from the traditional public comment process during a Planning Commission and City Council public hearing. During the sessions, staff provided information on how to provide public comment during the legislative hearing process so that their public testimony to the decision-makers can be considered in an official Planning Commission recommendation or Council legislative land use decision. The informational sessions were advertised in the following medias:

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- Bend Current newsletter: February 29, 2024
- City of Bend Tree Regulation Code Update Website

In addition, the draft templates for water efficient planter strip landscaping were shared with various groups over the past year to gather feedback including the Utility Public Advisory Group (UPAG), Oregon Landscape Contractor Association (OLCA), Central Oregon Builders Association (COBA), Harmony Farms, Avion Water, the Bend Development Code Update Group and local nurseries.

Notice of the BDC amendments was provided to the Department of Land Conservation and Development (DLCDD) on May 5, 2024. A notice of the June 10, 2024, Planning Commission public hearing was printed in the Bend Bulletin on May 19, 2024, and mailed and emailed to the Neighborhood Associations on May 10, 2024. A notice of the June 20, 2024, City Council public hearing was printed in the Bend Bulletin on May 26, 2024, and mailed and emailed to the Neighborhood Associations on May 22, 2024. Staff emailed the proposed amendments and Planning Commission hearing date to over 300 people who have expressed an interest in the amendments, to the Bend Development Code Update Group and to the Neighborhood Association Land Use Chairs on May 3, 2024. The Bend Development Code Update Group includes community members comprised of architects, lawyers, developers, land use

planners, and engineers and staff from COBA, Oregon LandWatch and Bend Park and Recreation District as well as people who are generally interested in amendments to the BDC.

On June 10, 2024, the Planning Commission held a hybrid public hearing, considered any public comment received, and recommended approval of the amendments to the City Council. The Council held a public hearing on June 20, 2024, to accept evidence, receive public testimony, and consider the Planning Commission's recommendation.

Therefore, compliance with Chapter 1 has been met.

## **Chapter 2: Natural Features and Open Space**

### **Goals:**

- to preserve interesting and distinct geologic formations and areas of natural vegetation;
- to shape the urban development and provide visual relief from developed land;
- to soften the appearance of street corridors with planter and median strips;
- to encourage environmental awareness so that citizens will become stewards of our natural areas; and
- to support the coordinated efforts of public agencies, private organizations and individuals to preserve and enhance the area's natural features and open space.

**FINDING:** The proposed amendments offer options for tree preservation, replanting trees on a site and/or making a payment in lieu of tree preservation. These different options will help provide visual relief from development. The proposed amendments also include additional requirements for street trees and new water efficient planter strip landscaping requirements which will help soften the appearance of street corridors.

### ***Policies***

#### ***Natural Features and Open Space***

**2-6** Major rock outcrops, stands of trees, or other prominent natural features identified in the Comprehensive Plan shall be preserved as a means of retaining the visual character and quality of the community.

**FINDING:** There are no changes proposed to any rock outcrops, stands of trees, or other prominent natural features identified in the Comprehensive Plan. The native fauna and flora will continue to be protected as required in BDC Article V. Waterway Overlay Zone (WOZ) and Article VI. Upland Areas of Special Interest Overlay Zone.

**2-7** Natural tree cover should be retained along streets in new developments to retain the natural character of Central Oregon within the urban area as the community grows.

**FINDING:** The proposed tree preservation amendments will not apply to trees along streets since they are located in the right-of-way. However, the BDC currently requires new developments subject to Site Plan Review and residential land divisions to plant street trees and the proposed amendments will require street trees for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments when there is an existing sidewalk or a sidewalk is required with a development. The city approved street list has been updated with over 70 approved streets trees that were selected after careful evaluation to ensure that they will survive in the high desert. Therefore, these amendments will require additional street trees and support the natural character of Central Oregon as the community grows.

**2-8** All residential development should respect the natural ground cover of the area, and the city shall work with developers to preserve mature trees within the subdivision.

**FINDING:** The proposed amendments provide developers clear and objective options for preserving trees on a site during the land division process. The options include preserving at least 20 percent of all Priority Trees on a site or preserving at least 25 percent of the total DBH of all Regulated Trees on a site. In addition, a developer has the option to preserve at least five percent of the total DBH on a site plus provide mitigation or they can apply for a discretionary approval path to preserve less than five percent with mitigation. The options for mitigation include on-site tree replacement and/or payment in lieu of tree preservation which would help with purchasing, planting and maintaining trees throughout the city.

When a tree is identified for preservation, a critical step in retaining a healthy tree is to protect not only the tree itself during construction activity but also the ground covering its most important roots, known as the root protection zone. The proposed amendments will require fencing to be installed at the edge of the root protection zone and signage designating the protection zone and penalties for violations. In addition, the proposed amendments will prohibit clearing, grading and construction activity including vehicle or equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, excavation or fill, compaction, trenching or other work activities within the root protection zone. The proposed requirements are designed to preserve and protect the tree.

**2-9** The City shall develop standards to conserve mature native trees and standards that describe the types of trees for commercial and industrial developments that are compatible with Central Oregon's climate.

**FINDING:** The proposed amendments require all Regulated Trees on a site to be inventoried and mapped as part of a development application. The amendments offer a developer several options for preserving trees including preserving at least 20 percent of all Priority Trees on a site, preserving at least 25 percent of the total DBH of all Regulated Trees on a site, or preserving at least 5 percent of the total DBH of Regulated Trees on site plus mitigation. These standards encourage the preservation of mature trees on commercial and industrial sites.

In addition, a majority of TRUAC supported that the tree preservation requirements apply to all species of trees when they have a DBH of six inches or more (Regulated Trees) since all types of trees contribute to the urban canopy and with a greater variety of trees, the urban canopy will be more resilient to droughts, pests and diseases than those made up of a single species.

The proposed amendments will also require new parking lots over one-half acre to use the City Approved Street Tree list for parking lot driveway trees, and to be planted based on the minimum planter width and spacing requirements. Also, as part of the proposed amendments the approved street tree list will be relocated from BDC 3.2.400, Street Trees to an appendix of the City of Bend Standards and Specifications so that it can be kept current.

**2-11** The City shall develop flexible subdivision and development standards that make it easier for developers to provide open space within a neighborhood.

**FINDING:** The proposed amendments do not directly affect the open space standards for a development and will continue to allow the preservation of trees to be in open space areas in a neighborhood.

**2-12** The City shall evaluate and adopt standards for the types of landscape materials and amount of open area buffers around structures that reduce the risk of loss from wildfires at the edge of the urban area.

**FINDING:** When a developer opts to preserve trees on-site or they provide replacement trees on-site as mitigation, and they are located at the edge of the urban area, they should adhere to the best practices in the Oregon Defensible Space for Homeowners and Renters and to the policies in the Oregon Fire Code for clearances and limbing. It is also recommended that they use fire resistant building materials, along with the fire-resistant plants from the New OSU Extension Fire Resistant Plant Guide, to help reduce the risk of loss from wildfires at the edge of the urban area.

In addition, the state is in the process of creating the Oregon Defensible Space Code to establish minimum requirements for protecting life and property. Standards in the Oregon Defensible Space Code are intended to mitigate the risk of life, structures and other values from wildfire. Following adoption by the State, the City of Bend will evaluate whether to adopt these standards into the City's fire code which would allow trees to be located within the defensible space provided they comply with minimum tree spacing and ladder fuel reduction.

**2-13** The City shall have the primary responsibility for reviewing land development that includes opportunities for the creation of private open space areas.

**FINDING:** The proposed amendments will allow a developer to plant replacement trees on a site, including in a private open space area, when mitigation is required. The city would review the proposed replacement trees for compliance with the BDC. In addition, a developer may delineate and show preserved trees and/or replacements trees in a tract or easement.



All existing tree(s) in a tract must be protected by a permanent restrictive covenant or easement approved in form by the City.

**2-14** The City will consider how best to protect important native fauna and flora within the Bend urban area, as identified by the open space and natural features inventory.

**FINDING:** There are no changes proposed to the boundaries of the Waterway Overlay Zone (WOZ) or Areas of Special Interest (ASI), or mapped natural features in other overlay zones, area plans, or master plans. The native fauna and flora will continue to be protected as required in BDC Article V. Waterway Overlay Zone (WOZ) and Article VI. Upland Areas of Special Interest Overlay Zone.

### ***Deschutes River Corridor***

**2-17** The City shall prepare development regulations to further reduce visual and ecological impacts of development along Tumalo Creek and the Deschutes River.

**FINDING:** The development regulations that reduce visual and ecological impacts of development along Tumalo Creek and the Deschutes River remain in effect. No additional development regulations are proposed to further reduce visual and ecological impacts of development along Tumalo Creek and the Deschutes River.

Therefore, the amendments satisfy Chapter 2, Natural Features and Open Space.

## **Chapter 5: Housing**

### **Goals:**

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

**FINDING:** The proposed amendments provide flexibility since it is not always possible to retain at least 20 percent of the Priority Trees on a site or at least 25 percent of the total DBH of all Regulated Trees on a site. The proposed amendments include mitigation options as well as a discretionary path to preserve less than five percent of the total DBH on a site. This flexibility balances tree preservation and the need to develop housing.

The BDC currently requires street trees for developments subject to Site Plan Review and residential land divisions. The proposed amendments will require street trees for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments when there is an existing sidewalk

along the property frontage or a sidewalk is required to be installed with a development. Street trees play an important role in providing healthy urban communities and they can produce significant social impacts by improving human health, reducing crime, increasing community interaction, and boosting property values (Burden, 2006)<sup>1</sup>. Therefore, the amendments will provide a sense of community, keep neighborhoods livable, and preserve natural features.

## ***Policies***

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

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

According to Bend's Housing Needs Analysis, Bend is planning for growth of about 38,500 people between 2008 and 2028, requiring 16,700 new dwelling units. Bend's housing needs are changing, based on key demographic changes occurring in Bend and across the nation. Some Baby Boomers may choose to downsize their housing, resulting in greater demand for small single-unit detached dwellings, cottages, accessory dwelling units, townhomes, apartments, and condominiums and the growth in Millennial households will increase the need for affordable housing for renters and homeowners such as: small single-unit detached dwellings, cottages, accessory dwelling units, duplexes, townhomes, garden apartments, and apartments. The proposed tree preservation requirements will not apply to residential developments on sites one acre or smaller and residential developments on larger sites will have clear and objective options as well as a discretionary track option. Therefore, the proposed amendments support the development of a mix of housing units indicated in the adopted Housing Needs Analysis on smaller lots.

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

**FINDING:** The proposed amendments do not create barriers to the development of housing since they provide developers several options for tree preservation and/or mitigation. In addition, the proposed amendments include the following incentives that support the development of housing when more than 20 percent of the Priority Trees are preserved on a site or when more than 25 percent of the total DBH of all Regulated Trees is preserved on a site:

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<sup>1</sup> Burden, D.(2006). 22 Benefits of urban street trees. Retrieved from: [www.michigan.gov/documents/dnr/22\\_benefits\\_208084\\_7.pdf](http://www.michigan.gov/documents/dnr/22_benefits_208084_7.pdf), date accessed 1 August 2015. Ferguson, B.K.(2005).Porous pavements. Boca Raton: CRCPress, Taylor & Francis.

1. Reduction of setbacks up to 30 percent on a lot or parcel with a tree identified for preservation.
2. Increased lot coverage up to 20 percent on a lot or parcel with a tree identified for preservation.
3. Reduced landscape coverage up to 10 percent on a lot or parcel with a tree identified for preservation.
4. Reduction to lot or parcel dimensions, including size, by up to 10 percent, for a lot or parcel with a tree identified for preservation, when part of a land division.

Therefore, the proposed amendments balance the important goals of tree preservation and housing development, and do not impede the development of housing, which remains a critical need in Bend.

**5-8** The City will apply innovative and flexible zoning tools to support a mix of housing types and densities.

**FINDING:** The City supports a mix of housing types, including middle housing which is commonly developed on smaller sites. Recognizing the challenges of developing on these sites due to setbacks, lot coverage, stormwater retention, etc., the proposed tree preservation requirements will not apply to residential developments on sites one acre or smaller. This will allow residential uses to develop on smaller sites and meet their allowable densities.

For sites larger than one acre, the proposed amendments first encourage the preservation of at least 20 percent of Priority Trees on a site and then provide flexibility by allowing an option to preserve at least 25 percent of the DBH of all Regulated Trees on a site. There is also an option to preserve at least five percent of the DBH on a site with mitigation or an applicant may apply for a discretionary track process with mitigation to preserve less than five percent of the total DBH of all Regulated Trees if the applicant can demonstrate that the removal is necessary due to one or more criteria. The proposed options for mitigation include on-site tree replacement and/or payment in lieu of preservation. Therefore, the proposed tree preservation amendments provide flexibility and support a mix of housing types and densities.

### **Neighborhood Appearance**

**5-33** All new developments shall include trees in the road right of way, as practical, in the planter strip between the curb and sidewalk.

**FINDING:** The BDC currently requires street trees for developments subject to Site Plan Review and residential land divisions. Consistent with this policy, the proposed amendments will also require street trees for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments when there is an existing sidewalk along the property frontage or a sidewalk is required to be installed with a development.

**5-35** All residential development will respect the natural ground cover of the area and existing and mature trees within the community should be preserved where practicable.

**FINDING:** The proposed amendments provide developers clear and objective options for preserving existing and mature trees on a site. For sites larger than one acre, the options include preserving at least 20 percent of all Priority Trees on a site or preserving at least 25 percent of the total DBH of all Regulated Trees on a site. In addition, a developer has the option to preserve at least five percent of the total DBH with mitigation or they can apply for a discretionary approval path with mitigation to preserve less than five percent. The options for mitigation include on-site tree replacement and/or payment in lieu of tree preservation which would help with purchasing, planting and maintaining trees throughout the city.

**5-36** The City encourages flexibility in design to promote safety, livability and preservation of natural features. To that end, the City will provide development code standards to allow flexibility on dimensional standards, such as lot size and setbacks, to achieve these objectives.

**FINDING:** The Bend Code, City of Bend Standards and Specifications and the BDC include requirements for setbacks, separation distances between structures, access, stormwater management, accessible routes, utility connections, bike parking, height limits, and more. Acknowledging these requirements are often not as simple as adding another story or shifting the building on the site in order to preserve trees, the proposed amendments offer developers several options for preserving trees on a site. In addition, the proposed amendments allow one or more of the following incentives when more than 20 percent of the Priority Trees on a site are preserved or when more than 25 percent of the total DBH of all Regulated Trees is preserved on a site:

1. Reduction of setbacks up to 30 percent on a lot or parcel with a tree identified for preservation.
2. Increased lot coverage up to 20 percent on a lot or parcel with a tree identified for preservation.
3. Reduced landscape coverage up to 10 percent on a lot or parcel with a tree identified for preservation.
4. Reduction to lot or parcel dimensions, including size, by up to 10 percent, for a lot or parcel with a tree identified for preservation, when part of a land division.

## **Transportation Connectivity**

**5-41** In all residential areas the City shall encourage the use of open space amenities such as landscaped traffic islands or extra-width planting strips.

**FINDING:** Although the proposed amendments do not require extra-wide planter strips, they do include new requirements for street trees and planter strip landscaping that will provide a sense of open space and visual buffer from the travel lanes. The BDC currently requires street trees for developments subject to Site Plan Review and residential land divisions. The proposed amendments will also require street trees for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments when there is an existing sidewalk along the property frontage or a sidewalk is required to be installed with a development.

The proposed amendments also relocate the street tree list from BDC 3.2.400, Street Trees to an appendix of the City of Bend Standards and Specifications so it can be updated more quickly and often. The list has been updated with over 70 approved streets trees which were selected after careful evaluation to ensure that they will survive in the high desert and are appropriate for the applicable planter strip widths. For example, the updated street tree list will allow larger trees including Ponderosa Pines to be installed in planter strips with a minimum width of ten feet. The tree species selection and minimum spacing and planter strip width requirements will help ensure the healthy growth and longevity of street trees.

The proposed amendments will also require water efficient planter strip landscaping comprised of ornamental grasses, shrubs and plants if a new sidewalk and planter strip is required with the development or street trees are required to be planted in an existing planter strip. An approved planter strip planting list will be an appendix to the City of Bend Standards and Specifications.

**5-46** Cul-de-sac and “hammer-head” residential streets may be allowed only where existing development, steep slopes, open space, or natural features prevent connections, or when the objectives of connectivity are met within the neighborhood.

**FINDING:** If there are Regulated Trees on a site that an applicant proposes to preserve and a cul-de-sac would enable a developer to keep those trees, the BDC currently allows an applicant to state in a written narrative they are electing to use a Type II discretionary track and request that the Review Authority make a determination that a cul-de-sac is allowed due to natural features that preclude street extension and through circulation. In addition, when a cul-de-sac is approved, there is an opportunity to preserve trees in the middle of the cul-de-sac in a center landscape median.

Therefore, the amendments satisfy Chapter 5, Housing.

## **Chapter 6: Economy**

### **Goals:**

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

**FINDING:** Preserving and growing Bend’s urban tree canopy supports jobs for urban foresters, arborists, tree trimmers, and landscapers. This promotes a vital, diverse and sustainable economy while also enhancing the community’s overall livability.

## **Industrial Development**

**6-22** Wherever industrial uses abut residential uses or residential zoning, special development standards relating to setbacks, screening, signs, and building height will be established for the industrial uses.

**FINDING:** There are no side or rear setbacks in the industrial zones except when a proposed industrial use abuts a residential zone. In this situation, the setback increases to 20 feet. While the proposed amendments do not directly affect industrial zone setback or screening standards, the increased setback area would provide an ideal location to preserve trees since they can provide screening of the industrial uses.

## **Mixed Use Development**

**6-25** Mixed-use development will achieve the following purposes:

- o provide a variety of employment opportunities and housing types;
- o foster pedestrian and other non-motor vehicle access within and to the site;
- o ensure compatibility of mixed-use development with the surrounding area and minimize off-site impacts associated with the development;
- o ensure the site planning, access, parking areas and building designs are functionally coordinated and aesthetically pleasing; and
- o where applicable, improve the natural conditions along the Deschutes River, and encourage access to and enjoyment of the Deschutes River.

**FINDING:** Preserving Regulated Trees in mixed-use developments can help integrate the development with the surrounding area by softening the surfaces of parking areas and buildings associated with it. In addition, the required street trees and planter strip landscaping will foster pedestrian access to the development by providing a safe and aesthetically pleasing walking environment.

## **Commercial Development**

**6-33** All commercial developments shall be subject to development standards relating to setbacks, landscaping, physical buffers, screening, access, signs, building heights, parking areas, and design review.

**FINDING:** All proposed commercial developments will be required to comply with the proposed tree preservation requirements and water efficient planter strip landscaping requirements. Most commercial developments are already required to comply with the street tree planting standards.

**6-36** Commercial developments that abut residential zones or residential uses shall be subject to special setback and screening provisions.

**FINDING:** In the Commercial Zones, the following standards apply when a proposed development abuts a Residential Zone:

- a. Nonresidential buildings abutting a Residential Zone shall be set back a minimum of 10 feet from the Residential Zone. The minimum setback distance for any portion of a commercial, mixed-use, or nonresidential building exceeding 25 feet in height shall increase one foot for each additional foot of building height over 25 feet.

- b. A landscape buffer of no less than five feet is required along the abutting Residential Zone. The landscape buffer, to the extent practical, shall provide both a visual and auditory buffer that includes trees, shrubs and ground cover.

While the proposed amendments do not directly affect commercial zone setback or buffer standards, the additional setback area provides an ideal location to preserve trees to help screen the proposed development from the Residential Zone.

Therefore, the amendments satisfy Chapter 6, Economy.

## Chapter 7: Transportation Systems

### Goals

*Increase System Capacity, Quality, and Connectivity for All Users (e.g., drivers, walkers, bicyclists, transit riders, mobility device users, commercial vehicles, and other forms of transportation):*

- Increase the number of people who walk, ride a bike, and/or take transit.

**FINDING:** The BDC currently requires street trees for developments subject to Site Plan Review and residential land divisions. The proposed amendments will require street trees and water efficient planter strip landscaping for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments when there is an existing sidewalk along the property frontage or a sidewalk is required to be installed with a development. Street trees create walk appeal and where space is beautiful and safe, people are more likely to be active, including walking or riding a bicycle.

In addition, the proposed amendments make transit stops more attractive when trees are preserved around them, or street trees are planted nearby. According to “Transit Riders ‘Perception of Waiting Time and Stops’ Surrounding Environments”, making the spaces around transit stops more attractive could develop a more positive public perception of public transportation. This finding backs up the idea that views of public transit can benefit from the presence of nature.<sup>2</sup>

Therefore, the proposed amendments could increase the number of people who walk, ride a bike or take transit.

### *Steward the Environment:*

- Minimize the impacts of the transportation system on natural features.
- Minimize the impacts of the system on air and water quality and noise.

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<sup>2</sup> Lagune-Reutler, Marina, Andrew Guthrie, Yingling Fan, and David M. Levinson. 2016. "Transit Riders' Perception of Waiting Time and Stops' Surrounding Environments."

- Reduce carbon emissions from transportation.

**FINDING:** The proposed amendments will require tree preservation and/or mitigation and they will also require street trees for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments when there is an existing sidewalk, or a sidewalk is required with a development. In addition, the proposed amendments include requirements for water efficient planter strip landscaping. These amendments will help minimize the impacts of the transportation system on air and water quality and will help reduce carbon emissions, thereby creating a healthier atmosphere and making air safer to breath.

### **Bicycles, Pedestrians, and Complete Streets**

**7-47** The City is committed to providing safe and comfortable walking and biking routes to schools.

**7-48** The City is committed to providing safe and comfortable walking and biking routes to parks.

**FINDING for 7-47 and 7-48:** Transportation System Plan Policy 40 states the following:

The City's policy is that all streets should be 'complete streets'. A complete street is one that is designed to allow everyone to travel safely and comfortably along and across the street by all travel modes. Arterials, collectors, and most local streets will have buffered sidewalks. Arterials, collectors, and select local streets will have facilities in compliance with the Low Stress Network and the Pedestrian Master Plan.

The proposed amendments include new street tree and water efficient planter strip landscaping requirements for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments when there is an existing sidewalk, or a sidewalk is required with a development. Street trees create a buffer between sidewalks and the road, which gives pedestrians a real and perceived boost in protection. Enhanced planter strip landscaping rather than turf or where no landscaping currently exists also helps to make the street system more pedestrian friendly. Trees near the street also encourage drivers to slow down. Therefore, the proposed street tree requirements will provide safe and comfortable walking and bike routes to schools and parks.

### **Environmental**

**7-62** The City will consider the environmental impacts of the overall transportation system and act to mitigate negative effects and enhance positive features.

**FINDING:** Emissions from vehicles contribute to poor air quality. Trees help reduce carbon emissions by mitigating CO<sub>2</sub> through the absorption and sequestration of carbon dioxide. The proposed tree preservation standards and options to mitigate on-site or pay a fee in lieu of preservation will help mitigate the negative environmental impacts of urbanization. The



proposed street tree requirements will also help mitigate negative effects from vehicles and add natural elements to an otherwise hardscape-focused area.

Therefore, the amendments satisfy Chapter 7, Transportation Systems.

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

### **Goals**

To ensure that public services will not negatively impact the environment or the community.

**FINDING:** According to water production analysis completed in the 2021 Water Management and Conservation Plan and data from the City of Bend Water Conservation field audits, 60% of the City’s annual water use goes through landscape irrigation systems with varying levels of efficiency. The proposed amendments for water efficient planter strip landscaping and restrictions on overhead spray irrigation systems in planter strips less than eight feet in width will help ensure that new planter strips start with a decreased site water requirement and lessen water waste with irrigation designs that efficiently deliver water and properly manage water throughout the landscape.

### **Water Facilities and Systems**

**8-20** The City shall continue to implement a water conservation program that emphasizes education, enforcement, metering, and other methods to use water efficiently.

**FINDING:** The City of Bend has been working to fulfill its regulatory water conservation directives outlined in the 2021 Water Management and Conservation Plan. One of the directives includes updating code requirements and implementing best management practices to promote water use efficiency. The proposed amendments include requirements for planter strips to be landscaped with ornamental grasses, shrubs, and plants from the city’s approved water efficient plant list. The proposed amendments will also prohibit turf and artificial turf in the planter strips, and they will prohibit overhead spray irrigation systems in planter strips less than eight feet in width. The proposed amendments are necessary to achieve Bend’s 20-year goal of mitigating long term water demands associated with landscape and irrigation and help offset the need for expensive new water infrastructure.

Therefore, the amendments satisfy Chapter 8, Public Facilities and Services.

## **Chapter 9: Community Appearance**

### **Goals**

The purpose of including a community appearance section and policies in the *Comprehensive Plan* is to provide direction to significantly improve the appearance of the entire community, and especially in those high visibility areas along the commercial corridors. The community

appearance section of this Plan has therefore been prepared in conformance with the following general goals:

- To make a concerted effort to improve the appearance of the community, particularly in the commercial, industrial and multi-unit areas;
- To initiate community action programs for the purposes of developing an awareness in the community's citizens of appearance-related issues, evaluating community appearance and developing specific improvement programs;
- To identify those characteristics that give the community its individual identity and to preserve and expand those characteristics as growth occurs; and
- To significantly improve the appearance along the state highways and other transportation corridors as one means of recapturing the individual and distinct identity of the Bend area.

**FINDING:** The proposed amendments recognize Regulated Trees on private property and street trees as assets that contribute to the appearance of the community. Preserving trees gives greater vitality to neighborhoods and preserves the unique character of the community.

### ***Policies***

**9-1** The city, county, and special districts shall publicly advocate and coordinate activities relating to beautification and landscaping throughout the community. Unless otherwise agreed, each agency shall be responsible for improving the appearance of its own properties.

**FINDING:** The proposed amendments will require planter strips in the City's right-of-way to be landscaped with ornamental grasses, shrubs, and plants from the city's water efficient plant list, and require additional street trees. The proposed amendments will also prohibit the installation of turf and inefficient spray irrigation in planter strips which meets Council's Environment and Climate strategy to protect our watershed through conservation and water stewardship and action to implement conservation goals in the Water Management and Conservation Plan (WMCP).

**9-2** Community appearance shall continue to be a major concern and the subject of a major effort in the area. Major natural features, such as rock outcrops or stands of trees, should be preserved as a community asset as the area develops.

**FINDING:** The proposed amendments for tree preservation aim to retain the community's existing mature tree canopy where possible, while allowing a developer to partially offset the removal of existing trees with onsite mitigation or through payment of a fee in lieu of tree preservation.

Trees that grow in backyards and parks, along streets, in parking lots and in riparian areas as well as on undeveloped properties are all part of Bend's urban canopy. Trees are community assets because they:

- Produce oxygen and improve air quality.
- Reduce urban heat island effects.
- Control stormwater runoff and soil erosion.
- Contribute to human health and well-being.
- Provide wildlife habitat and bird migration corridors.

Since trees are a community asset, the proposed amendments provide several options for large-scale developments to preserve trees and to increase Bend's urban tree canopy. In addition, the proposed amendments include root protection zone requirements during construction activity since they can be damaged by soil compaction, grade changes, root crushing and pruning, damage to the bark, incorrect storage of construction materials, and dumping of construction wastes.

**9-3** The city will use advisory committees, public workshops, and other measures, to identify those characteristics that give the community its individual identity and preserve and expand those characteristics as growth occurs.

**FINDING:** For the last few years, community members have raised concerns about trees being cut down during new development projects on larger sites in the City. In response, the Council held a work session on March 15, 2023, to review and discuss existing tree preservation requirements in the Development Code. After discussion, the Council was supportive of developing potential amendments to City codes for large-scale developments to protect larger trees and to increase Bend's urban tree canopy. The Council expressed that this project should be approached with an intent to balance the important goals of tree preservation and housing development and indicated that proposed tree preservation standards should not impede the development of housing, which remains a critical need across Oregon and especially in Bend. The Council directed staff to work with the Stewardship Subcommittee on the formation of a temporary committee to advise staff on potential code updates.

On April 14, 2023, the Stewardship Subcommittee discussed the formation of a temporary committee and the scope and timeline for bringing potential code updates to the Council for consideration. On May 3, 2023, the City Council approved a resolution forming the Tree Regulation Update Advisory Committee (TRUAC) to make recommendations to Council on necessary amendments to the City's tree preservation regulations.

TRUAC was made up of 15 volunteers representing developers, neighborhoods, arborists, architects, environmental and equity interests. TRUAC held nine public meetings to discuss code amendments to help preserve trees during new development on larger sites while balancing the need for housing in the community. TRUAC received public input throughout its duration as a temporary committee and TRUAC's recommendations for tree preservation are included in the proposed package of amendments to the BDC.

In addition, the City held hybrid informational sessions on March 7, 2024, and March 12, 2024. These sessions were informal opportunities for the community to learn more about what changes were recommended by TRUAC for Planning Commission and City Council consideration. They also provided an opportunity for the attendees to ask questions and

receive answers in real time by staff and TRUAC members, which is different from the traditional public comment process during a Planning Commission and City Council public hearing. During the sessions, staff provided information on how to provide public comment during the legislative hearing process so that their public testimony to the decision-makers can be considered in an official Planning Commission recommendation or Council legislative land use decision. The informational sessions were advertised in the following medias:

- Neighborhood Leader Newsletter: February 21, 2024
- Nextdoor (Social Media): March 6, 2024
- Facebook and Instagram: February 28, 2024, and March 4, 2024
- Press Release: February 28, 2024
- Bend Community Development Newsletter: February 28, 2024
- Bend Current newsletter: February 29, 2024
- City of Bend Tree Regulation Code Update Website

**9-6** The city will develop landscape designs for arterial and collector street medians that include hardscape and/or waterwise designs with native plantings and arterial and collector planter/buffer strips that include hardscape with tree wells or waterwise designs with native plantings, trees or other vegetation.

**FINDING:** The proposed amendments include requirements that planter strips to be landscaped with ornamental grasses, shrubs, and plants from the city's water efficient plant list. The proposed amendments prohibit turf and artificial turf in the planter strips, and they also prohibit overhead spray irrigation systems in planter strips less than eight feet in width. The proposed amendments are necessary to achieve Bend's 20-year goal of mitigating long term water demands associated with landscape and irrigation and help offset the need for expensive new water infrastructure.

**9-10** The city shall develop an Urban Forestry Plan which shall include:

- o annual tree planting plans for existing areas of the community;
- o a city approved street tree list;
- o steps to re-capture and maintain a "tree-city USA" designation; and
- o the adoption of a formal Bend City Tree Ordinance which includes regulating the removal of trees on commercial and industrial land and during residential subdivision development.

**FINDING:** The proposed amendments will relocate the street tree list from BDC 3.2.400, Street Trees to an appendix of the City of Bend Standards and Specifications. The list has been updated and includes over 70 new streets trees which were selected after careful evaluation to ensure that they will survive in the high desert and are appropriate for specific planter strip widths. The approved street tree lists will:

- Ensure a strong, healthy urban forest since tree diversity provides resilience to pests and pathogens;
- Prevent conflicts with sidewalks, streets, buildings, and utilities - "Right Tree, Right Place"; and
- Maximize the important services that trees provide for human health and the environment.

In addition, the proposed tree preservation amendments will require a percent of trees to be preserved for land division applications and commercial and industrial developments subject to Site Plan Review. The amendments offer a developer several options for preserving trees including preserving at least 20 percent of all Priority Trees on a site, preserving at least 25 percent of the total DBH of all Regulated Trees on a site, or preserving at least 5 percent of the total DBH of Regulated Trees on site plus mitigation.

During the City Council meeting on June 20, 2024, the Council approved the following discretionary track for industrial zoned properties to allow additional flexibility since certain industrial uses may require large level sites for big building footprints, delivery vehicles, storage areas for supplies and materials, outdoor equipment, etc.

**BDC 3.2.200(C)(2)(a)(vi) General Industrial District (IG) and Light Industrial District (IL) Zones. The removal of trees is necessary to construct large level sites to accommodate industrial, commercial (not including small-scale personal and professional services), and public and institutional uses.**

Therefore, the amendments satisfy Chapter 9, Community Appearance.

## Chapter 10: Natural Forces

### Goals

- to maintain or improve the air quality for a healthful and desirable urban environment.

**FINDING:** Trees can improve air quality through a number of means, including by (1) reducing air temperature thus altering pollution concentrations, (2) reducing energy consumption in buildings, which consequently reduces air pollutant emissions from the power sources, and most notably, (3) directly removing pollutants from the air.<sup>3</sup> The proposed amendments provide several options for a developer to preserve trees on a site and/or provide mitigation including on-site tree replacement and payment in lieu of tree preservation to help with purchasing, planting and maintaining trees throughout the city. The proposed amendments also include new street tree requirements. These amendments will help protect and further the development of the City's urban tree canopy which will help improve air quality.

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<sup>3</sup> National Parks Service, Air Pollution Removal by Urban Forests, January 7, 2022, [Air Pollution Removal by Urban Forests \(U.S. National Park Service\) \(nps.gov\)](https://www.nps.gov/air-pollution-removal-by-urban-forests)

## **Wildfire**

**10-18** The City will adopt strategies to reduce wildfire hazard to lands inside the City and included in the Urban Growth Boundary. These strategies may, among others, include the application of the International Wildland-Urban Interface Code with modifications to allow buffers of aggregated defensible space or similar tools, as appropriate, to the land included in the UGB and annexed to the City of Bend.

**FINDING:** When a developer opts to preserve trees on a site and they are located at the edge of the urban area, they should adhere to the best practices in the Oregon Defensible Space for Homeowners and Renters and to the policies in the Oregon Fire Code for clearances and limbing. It is also recommended that they use fire resistant building materials, along with the fire-resistant plants from the New OSU Extension Fire Resistant Plant Guide, to help reduce the risk of loss from wildfires at the edge of the urban area.

In addition, the state is in the process of creating the Oregon Defensible Space Code to establish minimum requirements for protecting life and property. Standards in the Oregon Defensible Space Code are intended to mitigate the risk of life, structures, and other values from wildfire. Following adoption by the State, the City of Bend will evaluate whether to adopt these standards into the City's fire code which would allow trees to be located within the defensible space provided they comply with minimum tree spacing and ladder fuel reduction.

Prior to and during the public hearing on June 20, 2024, questions and concerns arose around wildfire risk. However, no evidence was introduced in to the record supporting any link between the proposed amendments and increased risk of wildfire, or establishing any incompatibility between the proposed amendments and Comprehensive Plan policies related to fire. A representative from Bend Fire and Rescue testified at the public hearing and did not identify any increased fire risk or increased concerns about fire risk related to the proposed amendments.

Therefore, the amendments satisfy Chapter 10, Natural Forces.

## **Chapter 11: Growth Management**

### **General Growth Management Policies**

**11-5** The City will adopt strategies to reduce wildfire hazard to lands inside the City and included in the Urban Growth Boundary. These strategies may, among others, include the application of the International Wildland-Urban Interface Code with modifications to allow buffers of aggregated defensible space or similar tools, as appropriate, to the land included in the UGB and annexed to the City of Bend.

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Therefore, the amendments satisfy Chapter 11, Growth Management.

Based on the findings stated above, the Planning Commission and City Council conclude that the amendments are consistent with the applicable Bend Comprehensive Plan Goals and Policies.

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

**FINDING:** For the last few years, community members have raised concerns about trees being cut down during new development projects on larger sites in the City. The primary purpose of the proposed amendments is to update and clarify tree preservation standards for these developments while balancing the need for housing production, housing affordability, and natural resource preservation. Tree preservation provides a public benefit by keeping neighborhoods livable, reducing impacts of the transportation system on air and water quality, reducing energy usage, and cooling the built environment through shade and making areas more walkable. The proposed amendments also provide a public benefit since they include new requirements for street trees and water efficient planter strip landscaping. Street trees create spaces that are beautiful and safe and encourage people to be more active and water efficient planter strip landscaping will help reduce stormwater runoff and lessen water waste.

As stated in the findings above, the proposed amendments balance the need for tree preservation and housing, and they provide a public need and benefit.

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

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

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

**4.6.600 Transportation Planning Rule Compliance.**

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

**FINDING:** The new text amends the BDC which is a functional component of the Bend Comprehensive Plan and is an amendment to a land use regulation as noted in OAR 660-012-0060. The amendments are not tied to any one development application and do not affect the functional classification of any street. These amendments do not change allowable uses or change regulations that result in the generation of additional vehicle trips; therefore, the amendments will have no immediately measurable impacts on the amount of traffic on the existing transportation system. Because of this, the text amendments do not cause a “significant effect” under ORS 660-012-0060.

**V. CONCLUSIONS:**

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