



CITY OF BEND

# Planning Commission Transmittal Memorandum

**Meeting Date: 10/28/2024 (Public Hearing)**

**File Number: PLTEXT20240523**

**Staff Member: Pauline Hardie, Senior Planner**

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**SUBJECT:** Bend Development Code amendments implementing certain Oregon state laws and legislation to facilitate housing development. The amendments are to BDC Chapters 1.1, General Administration, 1.2, Definitions, 2.1, Residential Districts, 2.2, Commercial Zoning Districts, 2.3, Mixed-Use Zoning Districts, 2.4, Industrial Zoning Districts, 2.6, Public Facilities Zoning District, 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans, 3.3, Vehicle Parking, Loading and Bicycle Parking, 3.6, Special Standards and Regulations for Certain Uses, 3.8, Development Alternatives, 4.1, Development Review and Procedures, 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, 4.3, Land Divisions and Property Line Adjustments, and creating BDC 3.6.250, Income Qualified Housing and Chapter 5.3, Adjustments. There are also minor amendments throughout for consistency and clarity. (Type IV Legislative Process with Planning Commission recommendation to City Council)

**LOCATION:** Citywide

**PROPOSAL/ISSUE:**

- Proposed amendments implement certain Oregon state laws and legislation to facilitate housing development.
- Proposed amendments eliminate the requirement to apply for building permits in advance of, or concurrently with, a Middle Housing Land Division application.
- Proposed amendments remove the local option to request that City Council hear appeals on quasi-judicial development applications and the option for Council to call up and review a decision of the Hearings Officer or Planning Commission.
- Proposed amendments support development of townhomes, cottage developments and shared courts.
- Proposed amendments include additional revisions to other sections of the BDC for consistency and clarity.



## **BACKGROUND:**

### **Oregon State Laws and Legislation.**

The following highlights the Oregon state laws and legislation that are part of the package of proposed amendments that facilitate housing development.

#### **Senate Bill 8 (ORS 197A.445) (Effective January 1, 2022)**

- SB 8 requires local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites. SB 8 provides height and density bonuses in areas zoned for residential uses. The proposed amendments create a new section, BDC 3.6.250(B), Income Qualified Housing Allowed Outright, to implement the requirements of SB 8.

#### **House Bill 4064 (Effective March 23, 2022)**

- HB 4064 prohibits local governments from subjecting manufactured homes and prefabricated structures to standards that do not apply to site-built single-unit dwellings on the same property, except:
  - Protections related to statewide land use planning goals; and
  - Regulations related to thermal envelope performance standards.
- The amendments update definitions and requirements for manufactured dwelling parks and prefabricated structures and delete placement and skirting requirements for manufactured dwellings.

#### **House Bill 3395 (Effective June 30, 2023)**

- HB 3395 allows housing within commercial land use districts if it is affordable to households with incomes of 60 percent of the Area Median Income (AMI) or less, or for mixed-use structures with ground floor commercial with residential units that are affordable to moderate income (80-120% AMI) households. The Bill requires local governments to only apply those approval standards, conditions and procedures that would be applicable to the residential zone that is most comparable in density to the allowed commercial uses. The proposed amendments recommend the Mixed-Use Neighborhood (MN) District as the applicable standards due to the District's density, height, and setback requirements. These provisions do not apply to vacant land or land that was added to the Urban Growth Boundary (UGB) within the last 15 years. The proposed amendments create a new section, BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing, to implement HB 3395.

Note: HB 3395 overlaps somewhat with the provisions of SB 8. The main differences are that HB 3395 applies only to commercial land on which industrial uses are not allowed (whereas SB 8 has broader applicability); HB 3395 has different affordability

requirements for mixed-use residential development; and SB 8 includes density and height bonuses, whereas HB 3395 does not.

### **House Bill 3151 (Effective January 1, 2024)**

- HB 3151 expands upon SB 8 and includes the following:
  - HB 3151 updates the definition of “affordable housing” to include manufactured dwelling parks serving households with incomes of 120% AMI or less.
  - HB 3151 adds property owned by a housing authority, manufactured dwelling park nonprofit cooperative, or nonprofit corporation organized as a public benefit corporation whose primary purpose is the development of affordable housing to the list of properties where local government is required to allow “affordable housing”.
- The proposed amendments incorporate HB 3151 into the new section, BDC 3.6.250(B), Income Qualified Housing Allowed Outright.

### **House Bill 2984 (Effective January 1, 2024)**

- HB 2984 requires local governments to allow conversion of a building or a portion of a building from a commercial use to a residential use without requiring a zone change or conditional use permit, as long as the land is not zoned to allow for industrial uses. The proposed amendments create a new section, BDC 3.6.200(C), Conversion from Commercial to Residential Uses, to implement HB 2984.

### **House Bill 4063 (Effective June 6, 2024)**

- HB 4063 allows a city to approve a partition and middle housing land division for a property in the same calendar year.

### **Senate Bill 1537 (SB 1537 was adopted by the Oregon State Legislature in 2024 and signed into law on May 6, 2024. See below for effective dates)**

- **Housing Land Use Adjustments.** SB 1537 requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. An “adjustment” is defined as a deviation from an existing land use regulation. A “distinct adjustment” is defined as an adjustment to one of the development or design standards where each discrete adjustment to a listed standard that includes multiple component standards is only counted as an individual adjustment. The Bill has a list of items which are not included in the definition of “adjustment” – these items include a request to allow a use of property not otherwise allowed in a zone, and deviations to requirements related to accessibility, affordability, fire or building codes, local tree codes, etc.

The Bill provides that a local government’s decision on an application for an adjustment is a limited land use decision; only the applicant may appeal the decision; and if the application is denied, the local government is required to send notice of the denial decision only to the applicant.

The proposed amendments create a new chapter, BDC 5.3, Adjustments, to implement the adjustment requirements. The requirements go into effect on January 1, 2025, and sunset on January 2, 2032.

- **Opting In to Amended Housing Regulations (Effective June 7, 2024).** Section 9 of SB 1537 amends the goal-post rule (ORS 227.178) to enable an applicant for the development of housing to “opt in” to new standards adopted by a city that were adopted after the applicant submitted an application. This enables an applicant to apply a city’s new development standards and criteria if they choose to, without having to withdraw and resubmit their application.
- **Limited Land Use Decisions (Effective January 1, 2025).** Bend’s limited land use decisions apply a Type II administrative process that provides notice and an opportunity for written comments, and final decisions are accompanied with staff findings explaining the criteria or standards related to the decision. The final decision is rendered at a staff level, with an opportunity to appeal to a Hearings Officer or Planning Commission. SB 1537 makes two substantive changes to the limited land use statute:
  1. It adds three types of applications to the definition of a limited land use decision: replats, property line adjustments, and extensions, alterations, or expansions of a nonconforming use. Tentative subdivision or partition and site plan review are already included as types of limited land use decisions.
  2. It requires cities to apply limited land use procedures to all of these application types, except a city may instead alternatively apply a ministerial process (e.g. Type I application or plan check) when there is no discretion required to make the decision.

### **2023-2025 City Council Goals**

In addition, the proposed amendments support the 2023-2025 Bend City Council Affordable Housing and Sustainability Development Goal which includes a strategy to optimize housing continuum. This strategy is supported by an action to “explore revenue and code/policy options to increase affordable and middle-income housing.” The proposed amendments implement Senate Bill 8 and House Bills 2984, 3151 and 3395 which require cities to allow housing in areas other than in Residential Districts. This will help to increase the diversity of housing opportunities in underutilized commercial and mixed-use areas and in some cases in the Light Industrial (IL) District, which would help

meet Bend's housing needs for affordable and middle-income housing. This will also give affordable development, in particular, the ability to compete for land despite challenging market conditions due to high demand.

**DISCUSSION:** The following highlights the proposed amendments to the BDC that implement the Oregon state laws and legislation discussed above as well as other proposed amendments:

**BDC 1.2, Definitions.**

- Amends definitions for manufactured dwelling parks (HB 4064 and ORS 446.003) and place of worship (ORS 227.500).
- Adds a new definition for prefabricated structure.

**Chapter 2.1, Residential Districts.**

- Adds Income Qualified Housing to BDC Table 2.1.200 - Permitted and Conditional Uses.
- Increases maximum lot coverage for townhomes to 60% due to their smaller minimum lot size requirements.

**Chapter 2.2, Commercial Zoning Districts.**

- Adds Income Qualified Housing to BDC Table 2.2.300 - Permitted and Conditional Uses.
- Clarifies that an accessory dwelling unit may be permitted with an existing, legally established single-unit dwelling.

**Chapter 2.3, Mixed-Use Zoning Districts.**

- Adds Income Qualified Housing to BDC Table 2.3.200 - Permitted and Conditional Uses.
- Clarifies that an accessory dwelling unit may be permitted with an existing, legally established single-unit dwelling.

**Chapter 2.4, Industrial Zoning Districts.**

- Adds Income Qualified Housing Allowed Outright to BDC Table 2.4.300 – Permitted and Conditional Uses.

**Chapter 2.6, Public Facilities Zoning District.**

- Adds Income Qualified Housing Allowed Outright and Cemetery/Mausoleum to BDC Table 2.6.200 – Permitted and Conditional Uses.

**Chapter 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans.**

- Adds Income Qualified Housing to several master plan's use tables.

**Chapter 3.3, Vehicle Parking, Loading and Bicycle Parking.**

- Clarifies the electric service capacity requirements to comply with OAR 660-012-0410.

### **Chapter 3.6, Special Standards and Regulations for Certain Uses**

- **BDC 3.6.200(C), Conversion from Commercial to Residential Uses** (House Bill 2984, ORS 197A.445(3)). Adds a new section, BDC 3.6.200(C), Conversion from Commercial to Residential Uses, to allow the conversion of a building or a portion of a building from a commercial use to a residential uses in certain zones and meeting certain density requirements.
- **BDC 3.6.200(E), Manufactured Homes on Individual Lots.** Amends requirements for manufactured homes on individual lots to clarify prefabricated structures are also permitted. Deletes placement and skirting requirements and amends the thermal envelop requirement for these dwelling units (HB 4064).
- **BDC 3.6.200(G), Manufactured home Parks.** Amends the minimum lot area for manufactured home parks from five acres to one acre in compliance with ORS 197.478(5).
- **BDC 3.6.250, Income Qualified Housing.** Adds a new section BDC 3.6.250, Income Qualified Housing, to include all the newly required and existing affordable housing options in one location. This new section includes the following three options:
  1. **Residential Use of Commercial Lands for Income Qualified Housing** (House Bill 3395 and ORS 197A.460)
  2. **Income Qualified Housing Allowed Outright** (SB 8, HB 2984 and HB 3151, and ORS 197A.445(3))
  3. **Affordable Housing Strategies.** This section currently exists in the BDC as BDC 3.6.200(C), Affordable Housing Strategies and the proposed amendments relocate it to the new Income Qualified Housing section as BDC 3.6.250(C), Affordable Housing Strategies. No major revisions are proposed.

### **Chapter 3.8, Development Alternatives.**

- **BDC 3.8.500 Cottage Housing Development and BDC 3.8.900, Cottage Cluster Developments.** Clarifies that parking can be located in the rear perimeter setbacks when accessed from an alley or private driveway.
- **BDC 3.8.1000, Shared Courts.**
  - Increases the maximum lot coverage for the townhomes to 80% due to their smaller lot sizes.
  - Reduces the front setback for enclosed livable space onto a private access drive from five feet to three feet to allow for more flexibility in the design of the front facades.
  - Allows the front door on interior lots to orient to a private access drive or common open space area.

### **Chapter 4.1, Development Review and Procedures.**

- Allows a permit, limited land use decision, or zone change application for the development of housing to “opt in” to standards and criteria that were adopted after the applicant submitted their application (SB 1537).
- Allows a limited land use decision reviewed under land use standards that do not require discretion to be made by the Community and Economic Development Director using a Type I process. The decision to use a Type I application is not an appealable decision.
- Revises BDC 4.1.412, Completeness Check, and adds a new section BDC 4.1.413, Final Action in Type II or III Applications, for clarity.
- Removes the local option to request that City Council hear appeals on quasi-judicial development applications.
- Removes the option for the City Council to call up on its own motion and discretion a decision of the Hearings Officer or Planning Commission.

#### **Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review.**

- Adds back in a submittal requirement that was inadvertently deleted with a previous code update to coordinate with electric utility companies when a development’s tree canopy at 15 years will be within ten feet of an overhead powerline, transformer or underground electrical service as required by OAR 660-012-0405(4)(d)).
- Adds a Minimum Development Standards Review (Type I application) category for the conversion of a building or a portion of a building from a commercial use to a residential use in compliance with BDC 3.6.200(C), Conversion from Commercial to Residential Uses. (HB 2984)

#### **Chapter 4.3, Land Divisions and Property Line Adjustments.**

- Allows a middle housing land division application to be submitted when the application is being reviewed concurrently with a conceptual site plan showing proposed detached middle housing and removes the requirement for building permits for each lot or parcel to be issued prior to final plat approval. These amendments eliminate the requirement to apply for building permits in advance of, or concurrently with, a Middle Housing Land Division application.
- Allows one vacant parcel of a partition (original) to be further divided into not more than three new parcels through a middle housing land division during the same calendar year that the original partition was recorded with Deschutes County. (HB 4063)

#### **Chapter 5.3, Adjustments.**

- Creates Chapter 5.3, Adjustments, in compliance with SB 1537. The new chapter includes a purpose statement, definitions (adjustments, distinct adjustments, net residential acre and visitability), applicability, review process (Type I application), approval criteria and development and design standard adjustment options.

## **Additional Amendment for Consideration**

When residential uses are provided with a development in the Commercial Districts, the BDC includes standards that balance the allowance for mixed-use developments with the need to conserve the city's supply of commercial land for commercial uses. Specifically, BDC 3.6.200(I)(5) requires the commercial or public/institutional uses in a mixed-use development to occupy at least the floor area equivalent to the entire ground-floor area of the development. This requirement is intended to provide a commercial storefront character on the ground floor of a vertical mixed-use building with any residential uses primarily above the commercial uses.

During the Planning Commission work session on October 14, 2024, the Commission discussed whether a development application that proposes an entrance lobby on the ground floor that serves the upper floor residential uses should be allowed without having to provide an equal amount of commercial or public/institutional floor area on the upper floors to offset the residential use on the ground floor.

To allow this type of vertical mixed-use building with a limited amount of residential floor area on the ground floor, staff is recommending the following exception to BDC 3.6.200(I)(5) for Planning Commission's consideration:

### ***BDC 3.6.200, Residential Uses.***

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- I. ***Residential Uses within Commercial Districts.*** Residential uses, such as multi-unit dwellings, are encouraged adjacent to employment, shopping and services. All residential developments shall must comply with subsections (I)(1) through (5) of this section, which are intended to guide mixed-use development; allow limited residential uses within commercial districts while conserving the community's supply of commercial land for commercial uses; provide for designs which are compatible with a storefront character; avoid or minimize impacts associated with traffic and parking; and ensure proper management and maintenance of common areas. Residential uses that existed prior to the effective date of the ordinance codified in this chapter are considered permitted uses and not a nonconforming use.

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5. **Commercial and Public/Institutional Floor Area.** The commercial or public/institutional uses shall must occupy at least the floor area equivalent to



the entire ground-floor area of the development. The commercial or public/institutional uses shall be constructed prior to or concurrently with the residential uses.

a. **Exception to the Floor Area Requirement.** Ground-floor entrance lobbies and other common access areas such as hallways or stairways that lead to residential units above or behind the commercial or public/institutional uses are permitted.

**PUBLIC OUTREACH:** Notice of the proposed BDC amendments was provided to the Department of Land Conservation and Development (DLCD) on September 20, 2024. A notice of the October 28, 2024, Planning Commission public hearing was printed in the Bend Bulletin on October 6, 2024, and mailed and emailed to the Neighborhood Districts on September 25, 2024. Staff also emailed the proposed amendments to people who have expressed an interest in the amendments, to the Bend Development Code Update Group and to the Neighborhood District Land Use Chairs on September 25, 2024. The Bend Development Code Update Group includes community members comprised of architects, lawyers, developers, land use planners, and engineers and staff from Central Oregon Builders Association (COBA), Oregon LandWatch and Bend Park and Recreation District as well as people who are generally interested in amendments to the BDC. On October 14, 2024, the Planning Commission held a work session and reviewed the proposed amendments.

**ATTACHMENTS:**

**Exhibit A: Draft Bend Development Code Amendments**

**Exhibit B: Staff Findings and Recommendation to the Planning Commission**

**Exhibit C: Unlocking Infill: More Housing in More Places**

Note: The application, plans, documents, and other evidence submitted by or on behalf of the applicant can be accessed through the **Online Permit Center Portal** on the City of Bend website at [www.bendoregon.gov/permitcenter](http://www.bendoregon.gov/permitcenter). Open the Portal and select the *Application Search* link under the Planning & Historic header, then enter the project number in the search bar to find the project.

Copies of the application materials and applicable criteria can also be obtained by contacting the staff reviewer listed above.

## EXHIBIT A

### DRAFT Development Code Update September 25, 2024

Prepared by:  
City of Bend Planning Division

File #: PLTEXT20240523

#### 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

In the use tables in the BDC rename \*Manufactured homes on individual lots to \*Manufactured homes and prefabricated structures on individual lots.

## Chapter 1.1

### GENERAL ADMINISTRATION

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#### 1.1.500 Preexisting Approvals.

- A. ***Legality of Preexisting Approvals.*** Developments, including subdivisions, projects requiring development review or site design review approval, or other development applications for which applications were filed prior to the effective date of the ordinance codified in this code, and which have not legally expired, may occur pursuant to such approvals; except that modifications to development approvals shall comply with BDC 4.1.1325, Modification of Approval. All conditions of preexisting approvals shall apply.
- B. ***Subsequent Development Applications.*** All development proposals and applications received by the Community and Economic Development Director after the adoption of this code shall be subject to review for conformance with the standards under this code or as otherwise provided by State law.
- C. ***Duration of Exemption from Subsequently Adopted Land Use Ordinance.*** For the purposes of ORS 92.040(2) and (3), after September 9, 1995, construction within an approved subdivision shall be subject to the land use laws that were in effect on the date of the subdivision application and shall not be

subject to subsequently adopted land use laws. This exemption from subsequently adopted local land use laws shall terminate three years from the date the local land use decision becomes final ~~unless the subdivision was approved as a Master Planned Development with adopted lot development standards.~~

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## Chapter 1.2

### DEFINITIONS

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**Manufactured dwelling park** means any place where four or more manufactured dwellings or prefabricated structures are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership. See BDC Chapter 3.6, Special Standards for Certain Uses, for standards related to manufactured dwelling parks. *(HB 4064 and ORS 446.003)*

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**Place of worship** means a non-residential place for people to gather for religious ~~practice~~ activity. Examples include churches, synagogues, temples, and mosques, chapels, or meeting houses ~~and accessory uses including bible study schools and day care.~~ A place of worship may be used for activities customarily associated with the practices of the religious activity, including worship services, religious classes, weddings, funerals, meal programs and childcare. *(ORS 227.500)*

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**Prefabricated structure** means a prefabricated structure, as defined in ORS 455.010, that is relocatable, more than eight and one-half feet wide and designed for use as a single-dwelling unit. *(ORS 197A.015)*

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## Chapter 2.1

### RESIDENTIAL DISTRICTS

(UAR, RL, RS, RM-10, RM RH)

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**2.1.200 Permitted and Conditional Uses.**

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**Table 2.1.200 – Permitted and Conditional Uses**

*(Other uses in Table 2.1.200 remain unchanged)*

Land Use	RL	RS	RM-10	RM	RH	UAR
<b>Residential</b>						
<u>*Income Qualified Housing</u>	<u>See BDC 3.6.250</u>					

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\*Subject to special standards as described in BDC 2.1.900, Architectural Design Standards, and/or BDC Chapter 3.6, Special Standards and Regulations for Certain Uses.

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**2.1.600 Residential Density.**

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**D. ~~Density Bonus for Affordable Housing~~ Income Qualified Housing.** See BDC ~~3.6.200(C)~~-3.6.250(B), Income Qualified Housing Allowed Outright and BDC 3.6.250(C), Affordable Housing Strategies.

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**2.1.700 Maximum Lot Coverage and Floor Area Ratio.**

**A. *Maximum Lot Coverage and Floor Area Ratio.*** The following maximum lot coverage and floor area ratio standards apply:

**Table 2.1.700. Residential Lot Coverage**

Residential Zone	Lot Coverage	FAR
Low Density Residential (RL)	35%	None
Standard Density Residential (RS), and Medium-10 Density Residential (RM-10)	<p>50% for lots or parcels with single-story dwelling unit(s) and single-story accessory structures and single-story single-room occupancies.</p> <p><u>60% for lots or parcels with townhomes and accessory structures, regardless of the number of stories.</u></p> <p>45% for all other lots or parcels.</p>	<p>1.1 for three-story residential uses and accessory structures.</p> <p>None for all other uses.</p>
Medium Density Residential (RM)	<p>50% for lots or parcels with single-story single-unit detached dwelling unit(s) and single-story accessory structures.</p> <p>45% for all other lots or parcels with single-unit detached dwellings and accessory structures and nonresidential uses.</p> <p>60% for lots or parcels with townhomes, duplexes, triplexes, quadplexes, single-room occupancies and multi-unit and accessory structures.</p>	None
High Density Residential (RH)	None	None

**B. Exceptions.**

1. Lot Coverage for ~~Affordable Housing~~ Income Qualified Housing. See BDC ~~3.6.200(C)~~ 3.6.250(C), Affordable Housing Strategies.
2. Development in conformance with the provisions of BDC Chapter 3.8, Development Alternatives.

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**2.1.800 Building Height.**

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

A. **Standard.** The following building heights apply to all development within the Residential District:

- 1. Buildings within the UAR, RL, RS and RM-10 Districts may be no more than 35 feet in height.
- 2. Buildings within the RM Zone may be no more than 40 feet in height.
- 3. Buildings within the RH Districts may be no more than 50 feet in height.

B. **Exceptions to Maximum Building Height Standard for Affordable Housing Income Qualified Housing.** ~~See BDC 3.6.200(C)~~ See 3.6.250(B), Income Qualified Housing Allowed Outright and BDC 3.6.250(C), Affordable Housing Strategies.

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**Chapter 2.2**

**COMMERCIAL ZONING DISTRICTS (CB, CC, CL, CG)**

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**2.2.300 Permitted and Conditional Uses.**

The land uses listed in Table 2.2.300 are allowed in the Commercial Districts, subject to the provisions of this code. Uses that are listed in Table 2.2.300 and land uses that are similar are permitted or conditionally allowed. The land uses identified with a “C” in Table 2.2.300 require Conditional Use Permit approval prior to development, in accordance with BDC Chapter 4.4.

**Table 2.2.300 – Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	CB	CC	CL	CG
Residential				

*Accessory dwelling units (ADU) on a lot or parcel that contains an existing, legally established single-unit dwelling.	P	P	P	P
*Income Qualified Housing	See BDC 3.6.250			

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\*Special standards for certain uses subject to BDC Chapter 3.6.

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**2.2.400 Development Standards.**

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B. **Height.** All buildings in the Commercial Districts ~~shall~~ must comply with the height standards contained in Table 2.2.400 unless excepted below ~~or in compliance with a variance approval.~~

1. Residential Exception. The maximum height may be increased by 10 feet above the maximum allowed height when residential uses are provided above the ground floor (“vertical mixed use”), except for buildings along the west side of Brooks Street where the maximum building height is 35 feet regardless of use. The building height increase for residential uses applies only if the top floor is residential and does not apply to buildings that have variance approval to exceed the permitted height.
2. Income Qualified Housing. See 3.6.250(B), Income Qualified Housing Allowed Outright and BDC 3.6.250(C), Affordable Housing Strategies.

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**Chapter 2.3**

**MIXED-USE ZONING DISTRICTS (ME, MR, PO, MU, AND MN)**

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**2.3.200 Permitted and Conditional Uses.**

- A. **Permitted and Conditional Uses.** The land uses listed in Table 2.3.200 are allowed in the Mixed-Use Districts, subject to the provisions of this chapter. Only land uses that are listed in Table 2.3.200 and land uses that are approved as “similar” to those in Table 2.3.200 may be permitted or conditionally allowed. The land uses identified with a “C” in Table 2.3.200 require Conditional Use Permit approval prior to development, in accordance with BDC Chapter 4.4.
- B. **Exceptions.** Existing uses and buildings lawfully established under previously effective land use regulations are allowed to continue subject to BDC Chapter 5.2, except as otherwise specified in this section.
1. Existing lawfully established residential uses are permitted in all Mixed-Use Zones and are not subject to BDC Chapter 5.2 unless otherwise nonconforming.
  2. Uses in the MU and MN Zones that are not in conformance with the provisions in this section but that were lawfully established in their current location prior to the adoption of this code ~~shall~~ must be treated as permitted uses. Expansion or enlargement 25 percent or less of the above-referenced uses or structure’s square footage that are nonresidential ~~shall~~ are ~~be~~ subject to the provisions of BDC Chapter 4.2, Site Plan Review and Design Review. For expansion or enlargement greater than 25 percent, the conditional use criteria, standards and conditions within BDC Chapter 4.4, Conditional Use Permits, ~~shall~~ also apply. Conditions of prior approvals ~~shall~~ continue to apply unless modified in conformance with BDC 4.1.1325, Modification of Approval.

**Table 2.3.200. Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	ME	MR	PO	MU	MN
<b>Residential</b>					
*Accessory dwelling units (ADU) on a lot or parcel that contains an existing, legally established single-unit dwelling.	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
*Income Qualified Housing	<u>See BDC 3.6.250</u>				



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\*Special standards for certain uses subject to BDC Chapter 3.6 and BDC 2.1.900.

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C. **Limitations.** The following limitations apply to those uses identified as “L” in Table 2.3.200:

1. **New Residential Uses.** In order to ensure that the ME and PO Zones retain a focus on employment uses, new residential uses in the ME and PO Zones are limited as follows:
  - a. Residential uses that are part of a mixed-use development in which nonresidential uses occupy at least the floor area equivalent to the entire ground-floor area of the development are permitted.
  - b. Residential uses that are part of a mixed-use development in which nonresidential uses occupy less than the floor area equivalent to the entire ground-floor area of the development are conditional.
  - c. Residential uses that are not part of a mixed-use development are prohibited.
  - d. ~~Exception~~ Exemptions. The following are exempt from subsection (C)(1) of this section:
    - i. ~~Urban Dwelling Sites.~~ See BDC 3.8.800, Urban Dwelling Sites.
    - ii. **Conversion of a Building or a Portion of a Building From Commercial to a Residential Use.** See BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

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### 2.3.300 Development Standards.

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B. **Height.** All buildings in the Mixed-Use Districts ~~shall~~ must comply with the height standards contained in Table 2.3.300 except as described below ~~or in compliance with a variance approval.~~

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2. **Height Bonus for Affordable-Income Qualified Housing.**

- a. Affordable Housing Strategies. An increase in building height not to exceed 10 feet above the height of the zoning district may be allowed for multi-unit dwellings when the additional units gained by the height increase are affordable housing units in conformance with BDC ~~3.6.200(C)~~ 3.6.250(C), except for properties abutting a residentially designated property. This ~~shall~~ can not be combined with the increase in building height for vertical mixed use under subsection (B)(1) of this section.
- b. Income Qualified Housing Allowed Outright. See 3.6.250(B).

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## Chapter 2.4

### INDUSTRIAL ZONING DISTRICTS (IG, IL)

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#### 2.4.300 Permitted and Conditional Uses.

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**Table 2.4.300 – Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	IG	IL
<b>Residential</b>		
* <u>Income Qualified Housing Allowed Outright</u>	<u>N</u>	<u>See BDC 3.6.250(B)</u>

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\*Special standards in conformance with BDC Chapter 3.6, Special Standards for Certain Uses, and BDC 2.4.800, Special Development Standards.

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## Chapter 2.6

**PUBLIC FACILITIES ZONING DISTRICT (PF)**

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**2.6.200 Permitted and Conditional Uses.**

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**Table 2.6.200 – Permitted and Conditional Uses.**

*(Other uses in Table remain unchanged)*

Land Use	PF
<u>*Income Qualified Housing Allowed Outright.</u>	<u>See BDC 3.6.250(B)</u>
<u>Cemetery/mausoleum</u>	<u>P</u>

\*\*\*

\*Special standards for certain uses subject to BDC Chapter 3.6 and BDC 2.1.900.

\*\*\*

**Chapter 2.7**

**SPECIAL PLANNED DISTRICTS, REFINEMENTS PLANS, AREA PLANS AND MASTER PLANS.**

\*\*\*

**Article II. NorthWest Crossing Overlay Zone.**

**2.7.320 Districts.**

\*\*\*

**I. Industrial Employment Overlay District.**

\*\*\*

2. *Uses Permitted.* The following uses are permitted in the Industrial Employment Overlay District subject to the provisions of BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review.

\*\*\*

v. Income Qualified Housing. See BDC 3.6.250(B), Income Qualified Housing Allowed Outright.

\*\*\*

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

\*\*\*

- B. ***Use Standards.*** The special standards of the Dean Swift Refinement Plan area supersede the standards of the underlying zone. Where no special standards are provided, the applicable standards of the underlying zone apply.

\*\*\*

#### **2. *Modified Mixed Employment Overlay.***

- a. The permitted and conditional uses in the Mixed Employment Zone are very diverse. Some of the uses in the ME Zone could adversely impact the residential character of the Dean Swift neighborhood, thereby obstructing the intent and purpose of the overlay. For this reason, the overlay zone will restrict the permitted and conditional uses for this area. ME uses within the Dean Swift Refinement Overlay will be limited to the following permitted and conditional uses.

##### **b. *Permitted Uses.***

- i. Service commercial and retail uses, excluding drive-through service.
- ii. Professional office, excluding medical uses.
- iii. Residential ~~housing~~ uses located above or behind a permitted or conditional use.

(A) Exception. For a conversion of a building or a portion of a building from commercial to a residential use, see BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

iv. Auto-related/auto-dependent uses when contiguous to a Commercial Zone.

v. Shelters, see BDC 3.6.600.

vi. Income Qualified Housing. See BDC 3.6.250.

c. **Conditional Uses.**

i. Commercial day nursery or day care facility that is not part of a service for employees of a permitted or conditional use.

d. Service commercial, retail or office buildings greater than 5,000 square feet of gross floor area ~~shall~~ must provide residential dwelling units above or behind the use at a ratio of two dwelling units per 5,000 square feet.

i. Exception. For a conversion of a building or a portion of a building from commercial to a residential use, see BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

\*\*\*

**Article IV. Medical District Overlay Zone**

\*\*\*

**2.7.520 Permitted Land Uses.**

\*\*\*

**Table 2.7.520 Permitted Uses within the Medical Services-District Overlay Zone**

*(Other uses in Table remain unchanged)*

Land Use	RM	RH	CC
Residential			

<u>Income Qualified Housing</u>	<u>See BDC 3.6.250</u>
---------------------------------	------------------------

\*\*\*

**2.7.530 Development Standards.**

A. **Height Regulations.** No building or structure can be erected, enlarged or structurally altered to exceed a height of 45 feet, except the maximum height in the High Density Residential (RH) District is 50 feet without approval of a variance. For Income Qualified Housing, see 3.6.250(B), Income Qualified Housing Allowed Outright and BDC 3.6.250(C), Affordable Housing Strategies.

\*\*\*

**Article VII. Murphy Crossing Refinement Plan.**

\*\*\*

**2.7.820 Districts.**

\*\*\*

C. **Permitted Land Uses.** Unless otherwise specified in the table below, the land uses listed within the applicable zoning districts within this Development Code must be permitted, subject to the provisions of this code.

**Table 2.7.820.C.**

*(Other uses in Table remain unchanged)*

Land Use	RS	RM	ME	CG
<b>Residential</b>				
<u>*Income Qualified Housing</u>	<u>See BDC 3.6.250</u>			

\*\*\*

\*Special standards for certain uses subject to BDC Chapter 3.6.

\*\*\*

**Article X. Central Oregon Community College (COCC) – Special Planned District/Overlay Zone**

\*\*\*

**2.7.1004 Permitted and Conditional Uses.**

\*\*\*

**Table 2.7.1004.A – Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	Core Campus Area	Campus Village Area
<b>Residential Uses</b>		
<u>Income Qualified Housing</u>	<u>See BDC 3.6.250</u>	

\*\*\*

**Article XI. Juniper Ridge Overlay Zone**

\*\*\*

**2.7.2030 Employment Sub-District**

\*\*\*

**Table 2.7.2030.A Permitted Land Uses**

*(Other uses in Table remain unchanged)*

Land Use	Employment Sub-District
----------	-------------------------

*Income Qualified Housing Allowed Outright.	<u>See BDC 3.6.250(B)</u>
---	---------------------------

\*\*\*

\*Special standards in conformance with BDC Chapter 3.6, Special Standards for Certain Uses.

\*\*\*

## **Article XII. Stone Creek Master Planned Development**

\*\*\*

### **2.7.3030 Permitted Uses.**

All residential uses described in BDC 2.1.200 for the RM zone are permitted in the residential areas of the Stone Creek Master Planned Development area as further described under BDC 2.7.3050 and 2.7.3055. Uses as described in BDC 2.2.300 for the CC zone are permitted in the commercial area. The public school and park are permitted uses in the areas shown on the Stone Creek Master Plan overlay map.

\*\*\*

### **2.7.3050 Single-Unit District.**

Development within the Single-Unit District is limited to detached or attached (townhome) single-unit dwellings, duplexes, triplexes, quadplexes, ~~and~~ single-room occupancies with six or fewer units and shelters. For Income Qualified Housing, see BDC 3.6.250.

### **2.7.3055 Multi-Unit District.**

- A. Multi-unit dwellings may be located on platted lots, as zero lot line products, or as units in a condominium or apartment development with shared use of common facilities such as driveways, parking areas, sidewalks, entryways, pedestrian access corridors, open space and lawn areas. Multi-unit dwellings need not have frontage on a public road so long as permanent legal access established through a nonrevocable easement, with provisions for maintenance, is provided to each dwelling unit.
- B. Shelters are a permitted use. See BDC 3.6.600, Shelters.



C. Single-room occupancies are a permitted use. See BDC 3.6.200(O), Single-Room Occupancy.

D. Income Qualified Housing is a permitted use. See BDC 3.6.250, Income Qualified Housing.

**2.7.3060 Public/Community Use Districts.**

There are three public or community use districts within the Stone Creek Master Planned Development, as shown in Figure 2.7.3075.A. One is designated for a public neighborhood park, one for a community recreation facility, and the third is the site of the Silver Rail Elementary School. No other uses are permitted in these districts, except for shelters, see BDC 3.6.600, and Income Qualified Housing Allowed Outright, see BDC 3.6.250(B).

\*\*\*

**Article XIV. Bend Central District**

\*\*\*

**2.7.3220 Land Uses.**

\*\*\*

**Table 2.7.3220. Permitted Uses in the Bend Central District by Subdistrict**

*(Other uses in Table remain unchanged)*

Land Use	1st/2nd Street	3rd Street	4th Street	South
<b>Residential</b>				
<u>*Income Qualified Housing</u>	<u>See BDC 3.6.250</u>			

\*\*\*

\*Special standards for certain uses subject to BDC Chapter 3.6, Special Standards and Regulations for Certain Uses.

\*\*\*

**2.7.3230 Development Standards.**

\*\*\*

**C. Building Height.**

**1. Affordable Housing Strategies.** In the 1st/2nd Street, 3rd Street and South Subdistricts, buildings ~~may exceed the 65-foot height~~ are permissible up to a maximum of 85 feet in height; provided, that if at least 10 percent of the residential units are at affordable rates in conformance with BDC ~~3.6.200(C)~~ 3.6.250(C), Affordable Housing Strategies.

**2. Height Bonus for Income Qualified Housing Allowed Outright.** See 3.6.250(B), Income Qualified Housing Allowed Outright.

~~2.3.~~ Equipment used for small-scale alternative energy production does not count towards maximum building heights.

\*\*\*

**2.7.3245 Commercial Ready Space.**

A. The ground floor of buildings that front main streets identified in Figure 2.7.3207, Main Streets, must be developed as either commercial or commercial-ready space by complying with the following:

1. The entire ground floor space must be constructed to accommodate nonresidential uses.
2. If residential uses are provided immediately above the ground floor level (i.e., second floor residential), horizontal occupancy separation must be provided to accommodate future commercial occupancies as required by the Oregon Structure Specialty Code at the time of construction.
3. The ground floor must have an interior height of not less than 12 feet measured from the entry level finished floor to the bottom of the structural members of the floor above.

B. Exemption. The following are exempt from the commercial-ready space standards:

1. Parking located within a structure is exempt from commercial-ready space standards.
2. Conversion of a building or a portion of a building from commercial to a residential use. See BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

\*\*\*

## Article XV. Southeast Area Plan.

\*\*\*

### 2.7.3320 General Commercial Districts (CG).

\*\*\*

#### C. *Shopping Street.*

1. Properties over 20 acres (including abutting land in common ownership), that contain 10 acres or greater of area with a plan designation of General Commercial (CG), are required to provide a minimum of one “shopping street.” The shopping street must be identified and designated at the time of master plan, site plan, land division, and/or annexation with a development application and identified on the plat and development agreement, if applicable. In addition to the required elements in BDC 2.2.500(C)(2), a “shopping street” must comply with the following standards:
  - a. The length of the shopping street must have a minimum block length of 300 feet.
  - b. Off-street parking must be located behind the primary structure.
  - c. Vehicular access is not permitted from a shopping street.
2. The following uses are prohibited on sites abutting a shopping street: residential uses that are not part of a mixed-use development, automobile-dependent and automobile-oriented retail sales and services, drive-in and drive-through facilities, standalone commercial and public parking, and commercial storage. Ground-floor residential uses on shopping street frontages are prohibited except ground-floor entrances or breezeways are permitted for housing located above or behind a nonresidential storefront use.
  - a. Exemptions. The following are exempt from subsection (C)(2) of this section:
    - (A) The conversion of a building or a portion of a building from commercial to a residential use in compliance with BDC 3.6.200(C) is permitted on a shopping street. **(HB 2984 allows stand-alone residential with the conversion of a building from a commercial use to a residential use.)**

(B) Residential Use of Commercial Lands for Income Qualified Housing. See BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing. (HB 3395 allows stand-alone residential)

(C) Income Qualified Housing Allowed Outright. See BDC 3.6.250(B), Income Qualified Housing Allowed Outright. (SB 8 allows stand-alone residential)

**D. Special Standards and Regulations for Certain Uses.**

1. Standalone residential uses, including live/work townhome dwelling units, that are not part of a mixed-use development must meet the following standards:

\*\*\*

h. Exemption.

(A) Conversion of a building or a portion of a building from commercial to a residential use in compliance with BDC 3.6.200(C) is exempt from subsection (D)(1) of this section.

(B) Residential Use of Commercial Lands for Income Qualified Housing. See BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing. (HB 3395 [ORS 197A.46] requires local governments to only apply those approval standards, conditions and procedures that would be applicable to the residential zone that is most comparable in density to the allowed commercial uses. The proposed amendments require BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing to comply with the Mixed-Use Neighborhood (MN) District.)

\*\*\*

**2.7.3330 Mixed Employment Districts (ME)**

\*\*\*

**B. Special Standards and Regulations for Certain Uses.**

1. *Residential Uses Identified as "L" in Table 2.3.200.* Residential uses identified as "L" in Table 2.3.200 are subject to the limitations set forth in BDC 2.3.200(C) except that commercial or public/institutional uses are only required to occupy at least 75 percent of the floor area equivalent to the entire ground-

floor area of the development. The commercial or public/institutional uses must be constructed prior to or concurrently with the residential uses.

a. Exemption. The following are exempt from subsection (B)(1) of this section.

- i. Urban Dwelling Sites. See BDC 3.8.800, Urban Dwelling Sites.
- ii. Conversion of a building or a portion of a building from commercial to a residential use. See BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

\*\*\*

### **Article XIX. Discovery West Master Planned Development.**

\*\*\*

#### **2.7.3740 Review Procedures.**

The following review procedures are applicable to uses within the Discovery West Master Planned Development:

\*\*\*

- D. Shelters are subject to BDC 3.6.600, Shelters, and single-room occupancies are subject to BDC 3.6.200(O), Single-Room Occupancy, and the conversion of a building or a portion of a building from commercial to a residential use is subject to BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

\*\*\*

#### **2.7.3750 Larger Lot Residential District.**

##### **A. Permitted Uses.**

\*\*\*

- 11. For Income Qualified Housing, see BDC 3.6.250.

\*\*\*

#### **2.7.3760 Standard Lot Residential District.**

**A. Permitted Uses.**

\*\*\*

11. For Income Qualified Housing, see BDC 3.6.250.

\*\*\*

**2.7.3770 Residential Mixed-Use District.**

**A. Permitted Uses.**

\*\*\*

7. For Income Qualified Housing, see BDC 3.6.250.

\*\*\*

**2.7.3780. Commercial/Mixed Employment Districts.**

\*\*\*

B. For Income Qualified Housing, see BDC 3.6.250.

\*\*\*

**Article XXI. Petrosa Master Planned Development**

\*\*\*

**2.7.3940 Review Procedures.**

The following review procedures are applicable to uses and structures within the Petrosa Master Planned Development:

\*\*\*

C. Shelters are subject to BDC 3.6.600, Shelters, and single-room occupancies are subject to BDC 3.6.200(O), Single-Room Occupancy, and the conversion of a building or a portion of a building from commercial to a residential use is subject to BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

**2.7.3950 Residential Zoning Districts.**

\*\*\*

**Table 2.7.3950 – Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	RS	RM	RH
<b>Residential</b>			
*Income Qualified Housing	<u>See BDC 3.6.250</u>		

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

\*\*\*

**2.7.3960 Commercial General**

\*\*\*

**Table 2.7.3960 – Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	CG
*Income Qualified Housing.	<u>See BDC 3.6.250</u>

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

\*\*\*

- C. **Height Bonus.** Inclusion of the features listed below allow additional building height as an incentive for certain uses or site design that provide a public or community benefit. For each feature incorporated into a project, in addition to any such features otherwise required, a 10-foot height bonus will be granted. This height bonus is in addition to existing exceptions for inclusion of residential uses in BDC 2.2.400(B) and incentives for affordable housing in BDC ~~3.6.200(C)~~ 3.6.250(C), Affordable Housing Strategies. Height bonuses, exceptions, and other incentives can be combined so long as the building height does not exceed

75 feet. For height bonuses for Income Qualified Housing Allowed Outright, see BDC 3.6.250(B), Income Qualified Housing Allowed Outright.

\*\*\*

**Article XXII. Treeline Master Planned Development**

\*\*\*

**2.7.4040 Review Procedure**

The following review procedures are applicable to uses and structures within the Treeline Master Planned Development:

\*\*\*

- B. Shelters are subject to BDC 3.6.600, Shelters, ~~and~~ single-room occupancies are subject to BDC 3.6.200(O), Single-Room Occupancy, and the conversion of a building or a portion of a building from commercial to a residential use is subject to BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

\*\*\*

**2.7.4050 Residential Zoning Districts.**

\*\*\*

**Table 2.7.4050. Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	RL	SLO
* Income Qualified Housing	<u>See BDC 3.6.250</u>	

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

\*\*\*



**Article XXIII. Easton Master Planned Development**

\*\*\*

**2.7.4140 Review Procedures.**

\*\*\*

The following review procedures are applicable to ~~single-unit dwellings, duplexes, triplexes, and quadplexes~~ uses and structures within the Easton Master Planned Development:

- A. Single-unit dwellings, accessory dwelling units, townhomes, duplexes, triplexes, and quadplexes are subject to BDC 4.2.400, Minimum Development Standards Review. BDC 3.6.200(H), Duplex, Triplex and Quadplex Development, BDC 4.2.500, Site Plan Review, and BDC 4.2.600, Design Review, do not apply. A Minimum Development Standards Review application is not required; however, compliance with BDC 4.2.400, Approval Criteria, is required and will be verified through the building permit process.
- B. Shelters are subject to BDC 3.6.600, Shelters, ~~and~~ single-room occupancies are subject to BDC 3.6.200(O), Single-Room Occupancy, and the conversion of a building or a portion of a building from commercial to a residential use is subject to BDC 3.6.200(C), Conversion from Commercial to Residential Uses.
- C. All other uses are subject to BDC 4.2.500, Site Plan Review. BDC 2.1.900, Architectural Design Standards, BDC 2.2.600, Commercial Design Review, and BDC 4.2.600, Design Review, do not apply.

\*\*\*

**2.7.4150 Residential Zoning Districts.**

\*\*\*

**Table 2.7.4150 – Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	RS	RM	MHO
<b>Residential</b>			

*Income Qualified Housing	See BDC 3.6.250
---------------------------	-----------------

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

\*\*\*

D. **Lot Area and Dimensions.** Lot areas and lot dimension standards for residential uses are listed in the following table. For other uses permitted in each zone, the lot area and dimensions are subject to the type of residential structure being occupied. ~~For Lot area and dimensions exceptions for affordable housing, see BDC 3.6.200(C)~~ 3.6.250(C), Affordable Housing Strategies.

\*\*\*

**2.7.4160 Commercial General**

\*\*\*

B. **Permitted Uses.** The land uses listed in Table 2.7.4160 are permitted in the Commercial General District, subject to the provisions of this chapter. Only land uses that are specifically listed in Table 2.7.4160, land uses that are incidental and subordinate to a permitted use, and land uses that are approved as “similar” to those in Table 2.7.4160 may be permitted.

**Table 2.7.4160 – Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	CG
*Income Qualified Housing.	See BDC 3.6.250

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

\*\*\*

**Article XXIV. Stevens Ranch Master Planned Development**

\*\*\*

**2.7.4240 Review Procedures for Residential Dwellings.**

Single-unit detached dwellings, townhomes, duplexes, triplexes and quadplexes are subject to BDC 4.2.400, Minimum Development Standards Review. BDC 4.2.500, Site Plan Review, and BDC 4.2.600, Design Review, do not apply. Uses that meet standards of BDC 4.2.400(A)(3) are exempt from BDC 4.2.400, Minimum Development Standards Review. Single-room occupancies are subject to BDC 3.6.200(O), Single-Room Occupancy, and the conversion of a building or a portion of a building from commercial to a residential use is subject to BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

\*\*\*

**2.7.4250 Residential.**

**Table 2.7.4250.A – Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	RS	RM	RH
<b>Residential</b>			
<u>*Income Qualified Housing.</u>	<u>See BDC 3.6.250</u>		

\*\*\*

\*Subject to special standards as described in BDC Chapter 3.6, Special Standards and Regulations for Certain Uses, except as otherwise set forth herein.

\*\*\*

D. *Lot Area and Dimensions.* Lot areas and lot dimension standards for residential uses are listed in the following table. For other uses permitted in each zone, the lot area and dimensions are subject to the type of structure being occupied. For lot area and dimensions exceptions for affordable housing, see BDC ~~3.6.200(C)~~ 3.6.250(C), Affordable Housing Strategies.

\*\*\*

**2.7.4260 Commercial.**

A. *Permitted Uses.* The land uses listed in Table 2.7.4260.A are permitted in the Commercial Districts within the Stevens Ranch Master Planned Development area in lieu of those listed in BDC Chapter 2.2 and are subject to the provisions of this chapter. The land uses identified with a “C” in Table 2.7.4260.A require conditional use permit approval prior to development, in accordance with BDC Chapter 4.4, Conditional Use Permits. Allowed uses also include land uses that are incidental and subordinate to a permitted use, and land uses that are approved as similar to those in Table 2.7.4260.A.

**Table 2.7.4260.A – Permitted and Conditional Uses**

*(Other uses in Table remain unchanged)*

Land Use	CL	CG
<b>Residential</b>		
**Income Qualified Housing.	<u>See BDC 3.6.250</u>	

\*\*\*

\*\* Subject to special standards for certain uses as described in BDC Chapter 3.6, except as otherwise set forth herein.

\*\*\*

C. **Height Bonus.** Inclusion of the features listed below allow additional building height as an incentive for certain uses or site designs that provide a public or community benefit. For each feature incorporated into a project, in addition to any such features otherwise required, a 10-foot height bonus will be granted. This height bonus is in addition to existing exceptions for inclusion of residential uses in BDC 2.2.400(B) and incentives for affordable housing in BDC ~~3.6.200(C)~~ 3.6.250(C), Affordable Housing Strategies. Height bonuses, exceptions, and other incentives can be combined so long as the building height does not exceed 75 feet. For height bonuses for Income Qualified Housing Allowed Outright, see 3.6.250(B), Income Qualified Housing Allowed Outright.

\*\*\*

**E. Additional Standards for Residential Uses.**

1. Stand-alone residential uses, including live/work townhome dwelling units, that are not a part of a mixed-use development must meet the following standards:

\*\*\*

**e. Exemptions. The following are exempt from subsection (E)(1) of this section:**

- (A) Conversion of a building or a portion of a building from commercial to a residential use in compliance with BDC 3.6.200(C) is exempt from subsection (D)(1) of this section.
- (B) Residential Use of Commercial Lands for Income Qualified Housing. See BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing. (Proposed amendments require BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing to comply with the Mixed-Use Neighborhood (MN) District)

\*\*\*

**Article XXV. Talline Master Planned Development**

\*\*\*

**2.7.4440 Review Procedures.**

The following review procedures are applicable to uses and structures within the Talline Master Planned Development:

\*\*\*

- D. Shelters are subject to BDC 3.6.600, Shelters, and single-room occupancies are subject to BDC 3.6.200(O), Single-Room Occupancy, and the conversion of a building or a portion of a building from commercial to a residential use is subject to BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

\*\*\*

**Article XXVII. Parkside Place Master Planned Development**

\*\*\*

**2.7.4640 Residential Standards.**

\*\*\*

- D. **Lot Area and Dimensions.** Lot areas and lot dimension standards for residential uses are listed in the following table. For other uses permitted in each zone, the lot area and dimensions are subject to the type of structure being occupied. For lot area and dimensions exceptions for affordable housing, see BDC ~~3.6.200(C)~~ 3.6.250(C), Affordable Housing Strategies.

\*\*\*

**Article XXIX. Caraway Master Planned Development**

\*\*\*

**2.7.4850 Residential Zoning Districts.**

\*\*\*

- C. **Lot Area and Dimensions.** Lot areas and lot dimension standards for residential uses are listed in the following table. ~~For~~ lot area and dimensions exceptions for affordable housing, see BDC ~~3.6.200(C)~~ 3.6.250(C), Affordable Housing Strategies.

\*\*\*

**Chapter 3.3**

**VEHICLE PARKING, LOADING AND BICYCLE PARKING**

\*\*\*

**3.3.300 Vehicle Parking Standards for On-Site Parking.**

\*\*\*

- E. **Electrical Service Capacity.** *(Need to amend to comply with OAR 660-012-0410 which requires (E)(1) to apply to buildings, not developments)*

1. Applications submitted after March 31, 2023, for new multi-unit residential ~~developments~~ buildings with five or more dwelling units or new mixed-use ~~developments~~ buildings consisting of privately owned commercial space and five or more dwelling units must provide sufficient electrical service capacity, as defined in ORS 455.417, to serve no less than 40 percent of all vehicle parking spaces on a site containing the dwelling units. Townhomes are not included for purposes of determining the applicability of this regulation.
2. New commercial buildings under private ownership must provide sufficient electrical service capacity, as defined in ORS 455.417, to serve no less than 20 percent of all vehicle parking spaces on the site.
3. Fractional numbers derived from a calculation of the vehicle parking spaces must be rounded up to the nearest whole number.

\*\*\*

## Chapter 3.6

### SPECIAL STANDARDS AND REGULATIONS FOR CERTAIN USES

#### Sections:

**3.6.100 Purpose.**

**3.6.200 Residential Uses.**

**3.6.250 Income Qualified Housing**

**3.6.300 Nonresidential Uses.**

**3.6.400 Temporary Uses.**

**3.6.500 Short-Term Rentals.**

**3.6.600 Shelters.**

\*\*\*

### 3.6.200 Residential Uses.

\*\*\*

**C. Affordable Housing Strategies.** The City of Bend provides an incentive program to developers to assist in the development of affordable housing.

1. For the purposes of the incentive program, the City defines affordable housing as housing with a sales price or rental amount that is within the means of a household that may occupy moderate and low-income housing, meeting one of the thresholds defined in subsections (C)(1)(a) and (b) of this section.
  - a. In the case of dwelling units for sale, "affordable" means housing in which the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a family at 80 percent of the area median income, based upon most recent HUD income limits for the Bend Metropolitan Statistical Area (Bend MSA).
  - b. In the case of dwelling units for rent, "affordable" means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a family at 60 percent of the area median income, based upon most recent HUD income limits for the Bend Metropolitan Statistical Area (Bend MSA).
2. In association with the land use review process, and prior to the issuance of a building permit for any units in an affordable housing development, the owner must enter into an affordable housing development agreement with the City. The development agreement must set forth the commitments and obligations of the City and the owner, including, as necessary, conditions to ensure the completion of affordable housing in the development.
3. The owner must execute any and all documents deemed necessary by the City in a form to be established by the City Attorney, including, without limitation, restrictive covenants, deed restrictions, and related instruments (including requirements for income qualification for tenants of for rent units) to ensure the continued affordability of the affordable housing units in accordance with this section.
4. Developments in compliance with subsection (C)(1) of this section may be eligible for the following incentives unless otherwise specified:



a. *Density Bonus.* A developer may be eligible for a density bonus when a percentage of the proposed dwelling units are affordable. The percentage of affordable units is based on the maximum number of dwelling units that would be allowed under the Comprehensive Plan designation for the subject site. The corresponding density bonus in Table 3.6.200.C is an increase in dwelling units over the maximum residential density that can be rented or sold as affordable units or at market rate.

The maximum density must be calculated in compliance with BDC 2.1.600(C)(1). For purposes of calculating maximum density, fractional units are rounded down to the next whole unit. For purposes of calculating the number of affordable units and density bonus units, fractional units are rounded up to the next whole unit.

For example, a 10,000-square-foot lot designated RM is permitted four units (maximum density is rounded down). Of the four units, the developer proposes 20 percent of the units to be affordable (four units \* 20 percent = 0.8 units, which is rounded up to one unit). Therefore, of the four units, one must be affordable. Since the applicant is proposing 20 percent of the units as affordable, the developer may receive a corresponding density bonus of 20 percent (four units \* 20 percent = 0.8 units, which is rounded up to one additional unit). Therefore, the proposed project may have five units, one of which must be affordable.

**Table 3.6.200.C – Density Bonus**

<b>Percent of Affordable Units Based on Maximum Density</b>	<b>Density Bonus</b>
5%	5%
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%

- b. ~~**Building Height Incentive.** An increase in building height not to exceed 10 feet above the height of the underlying zone may be allowed for quadplexes and multi-unit housing when the additional units gained by the height increase are affordable housing units.~~
- c. ~~**Lot Coverage Exception.** For affordable housing developments where 50 percent or more of the dwelling units are deemed affordable in conformance with subsection (C)(1) of this section, the entire development may develop with a 50 percent lot coverage.~~
- d. ~~**Lot Area and Dimensions Exception.** For affordable housing developments where 50 percent or more of the dwelling units are deemed affordable in conformance with subsection (C)(1) of this section, the required lot area and dimensions for the proposed lots or parcels may be reduced up to 20 percent for the entire residential development. For affordable housing developments where less than 50 percent of the dwelling units are deemed affordable in conformance with subsection (C)(1) of this section, the required lot area and dimensions for the proposed affordable housing dwelling units' lots or parcels may be reduced up to 20 percent.~~

*(Relocated to new section, BDC 3.6.250(C), Affordable Housing Strategies)*

**C. Conversion from Commercial to Residential Uses. (Implements HB 2984, ORS 197A.445(3))**

1. **Applicability.** The conversion of a building or a portion of a building from a commercial use to a residential use is permitted except where the City determines the following:
  - a. The lot or parcel is zoned Public Facilities (PF) District, Light Industrial (IL) District or General Industrial (IG) District.
  - b. The lot or parcel contains a slope of 25 percent or greater.
  - c. The property is within a 100-year floodplain.
2. **Review Process.** The conversion of a building or a portion of a building from a commercial use to a residential use is processed as a Type I application subject to BDC 4.2.400(B), Minimum Development Standards Review for All Other Uses.
3. **Density.**
  - a. Minimum Density. The minimum density standards of the Medium Density Residential (RM) Zone apply, except there is no minimum residential density standard for a "vertical" mixed use building or development.
  - b. Maximum Density. There is no maximum density.

\*\*\*

E. ***Manufactured Homes and Prefabricated Structures on Individual Lots.*** Manufactured homes and prefabricated structures are permitted on individual lots, subject to building permit compliance with the following design standards. The following standards do not apply to units that existed on lots within the City prior to the effective date of the ordinance codified in this code.

1. *Thermal Envelope.* The manufactured home or prefabricated structure must be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-unit dwellings constructed under the ~~State Building Code~~ Low-Rise Residential Dwelling Code;
- ~~2. *Placement.* The manufactured home must be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade, and complying with the minimum set-up standards of the adopted State Administrative Rules for Manufactured Dwellings. Where the building site has a sloped grade, no more than 12 inches of the enclosing material can be exposed on the uphill side of the foundation skirt;~~
- ~~3. *Skirting.* The foundation area of the manufactured home must be fully skirted;~~
- 4.2. *Historic Districts.* The manufactured home or prefabricated structure must not be located in a designated historic district.

***(Amendments comply with HB 4064)***

F. ***Manufactured Home Subdivisions.*** Manufactured home subdivisions are reviewed as a Type II application for tentative plan approval. A manufactured home subdivision ~~shall be~~ is subject to the provisions of BDC Chapter 4.3, Land Divisions and Property Line Adjustments, in addition to the criteria below.

1. *Lot Size and Dimension Requirements.* The minimum lot area and dimensions within a manufactured home subdivision ~~shall be~~ are the same as that allowed within the underlying zone.
2. *Permitted Uses.* Manufactured home subdivisions may contain manufactured homes, prefabricated structures and related accessory structures.
3. *Setbacks.* Setbacks ~~for manufactured homes, modular homes, and accessory structures shall be~~ are the same as provided in the underlying zone.

G. **Manufactured Home Parks.** Manufactured home parks are reviewed as a Type II application for site plan review in conformance with ORS Chapter 446, the provisions of this title and the following criteria:

1. *Minimum Area Required.* All manufactured home parks ~~shall consist of~~ must be a minimum area of ~~five~~ one acres. **(ORS 197.478(5))**
2. *Density.* The maximum number of manufactured homes allowed within a manufactured home park ~~shall~~ must not exceed 10 units per acre. The average area of a mobile home site ~~shall~~ must not be less than 4,000 square feet excluding roadway, recreation areas and other accessory facilities. No manufactured home site ~~shall~~ must be less than 2,000 square feet in area.
3. *Access.* Manufactured home park accesses ~~shall~~ must be located on public streets improved to a minimum width of 36 feet and which are improved to a point intersecting a collector or arterial street.
4. *Permitted Uses.* Manufactured home parks may contain manufactured homes, prefabricated structures and accessory structures permitted in this chapter, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a manufactured home for the use of a caretaker or a manager responsible for maintaining or operating the property.
5. *Minimum Site Requirements.*
  - a. *Park Streets.* The minimum surfaced width of the roadway within an access way ~~shall~~ must be 24 feet if there is no parking allowed and 30 feet if parking is allowed on both sides. The first 50 feet of the access way measured from the public street ~~shall~~ must be surfaced to a minimum width of 30 feet and ~~shall~~ must be connected to the existing public street according to plans approved by the City.
  - b. *Improvement Standards.* The improvement of driveways, walkways, streets, drainage and other utilities ~~shall~~ must conform to adopted State standards for such or ~~shall~~ conform to the City's Standards and Specifications manual, whichever is more restrictive.

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- I. **Residential Uses within Commercial Districts.** Residential uses, such as multi-unit dwellings, are encouraged adjacent to employment, shopping and services. All residential developments ~~shall~~ must comply with subsections (I)(1) through (5) of this section, which are intended to guide mixed-use development; allow limited residential uses within commercial districts while conserving the community's

supply of commercial land for commercial uses; provide for designs which are compatible with a storefront character; avoid or minimize impacts associated with traffic and parking; and ensure proper management and maintenance of common areas. Residential uses that existed prior to the effective date of the ordinance codified in this chapter are considered permitted uses and not a nonconforming use.

\*\*\*

5. Commercial and Public/Institutional Floor Area. The commercial or public/institutional uses ~~shall~~ must occupy at least the floor area equivalent to the entire ground-floor area of the development. The commercial or public/institutional uses shall be constructed prior to or concurrently with the residential uses.
  
6. Exemptions. BDC 3.6.200(C), Conversion from Commercial to Residential Uses, BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing and BDC 3.6.250(B), Income Qualified Housing Allowed Outright are exempt from this section.

\*\*\*

### **3.6.250 Income Qualified Housing.**

**A. Residential Use of Commercial Lands for Income Qualified Housing** The purpose of this section is to allow development consistent with the requirements of ORS 197A.460. (Implements House Bill 3395 and ORS 197A.460).

#### **1. Applicability.**

- a. An income qualified housing development is permitted if the proposed development will produce:
  - i. Residential structures subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making each unit affordable to a household with income less than or equal to 60 percent of the area median income as defined in ORS 456.270; or
  - ii. Mixed use structures with ground floor commercial units and residential units subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making the properties affordable to moderate income households with income between 80 and 120 percent of area median income, as defined in ORS 456.270.
  
- b. Development under this section does not apply on lands where the City determines that:

- i. The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;
  - ii. The property contains a slope of 25 percent or greater;
  - iii. The property is within a 100-year floodplain; or
  - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:
    - (A) Natural disasters and hazards; or
    - (B) Natural resources, including air, water, land or natural areas, but not including open spaces.
  - c. Development under this section does not apply on lots or parcels that are vacant at the time of development application submittal, or that were added to the urban growth boundary within the 15 year period immediately preceding the date of development application submittal.
2. **Permitted Zoning Districts.** Commercial and Mixed-Use Districts.
3. **Density.**
- a. Minimum Density. The minimum density standards of the Medium Density Residential (RM) Zone apply, except there is no minimum residential density standard for a “vertical” mixed use building or development.
  - b. Maximum Density. There is no maximum density.
4. **Development Standards.** Development is subject to the standards of the Mixed-Use Neighborhood (MN) District.

**B. Income Qualified Housing Allowed Outright** The purpose of this section is to allow the development of income qualified housing consistent with the requirements of ORS 197A.445. ***(Implements SB 8, HB 2984 and HB 3151 and ORS 197A.445)***

1. **Affordability.** As used in this section:
- a. “Income qualified housing” means residential property whose affordability, including affordability under an affordable housing covenant as provided in ORS 456.270 to 456.295, is enforceable for a period of no less than 30 years, and:
    - i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income; or
    - ii. The average of all units on the property is made available to households with incomes of 60 percent or less of the area median income; or

iii. The property is a manufactured dwelling park that serves only households with incomes of 120 percent or less of the area median income.

b. “Area median income” means the median income for the metropolitan statistical area in which housing is located as determined by the Oregon Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development.

2. **Applicability.**

a. An income qualified housing development is permitted if the proposed development is on property that is:

i. Owned by a public body as defined in ORS 174.109, a nonprofit corporation that is organized as a religious corporation, a nonprofit corporation that is organized as a public benefit corporation whose primary purpose is the development of affordable housing, a housing authority as defined in ORS 456.005, or a manufactured dwelling park nonprofit cooperative as defined in ORS 62.803; or

ii. Located in a Residential, Commercial or Mixed-Use Zoning District or Public Facilities (PF) Zoning District.

iii. Located in the Light Industrial (IL) District and the property is:

(A) Publicly owned; and

(B) Adjacent to lands zoned to allow residential uses or schools.

b. Development under this section does not apply on lands where the City determines that:

i. The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;

ii. The property contains a slope of 25 percent or greater;

iii. The property is within a 100-year floodplain; or

iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:

(A) Natural disasters and hazards; or

(B) Natural resources, including air, water, land or natural areas, but not including open spaces or historic resources.

3. **Density and Height Bonus.** Development of income qualified housing under this section may comply with the following density and height requirements, at the greater of:

- a. The density bonus for affordable housing in compliance with BDC 3.6.250(C), Affordable Housing Strategies; or
- b. The following density and height bonuses:
  - i. For property zoned RL, RS or RM-10, 200 percent of the existing maximum density and 12 additional feet above the height of the underlying zone;
  - ii. For property zoned RM, 150 percent of the existing maximum density and 24 additional feet above the height of the underlying zone; or
  - iii. For property zoned RH, or Commercial or Mixed-Use Districts, 125 percent of the existing maximum density and 36 additional feet above the height of the underlying zone.
- c. The Review Authority may reduce the density or height of the density bonus allowed under this section as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. If the City of Bend utilizes this reduction authority, the City will adopt findings supported by substantial evidence demonstrating the necessity of the reduction.

**C. Affordable Housing Strategies.** The City of Bend provides an incentive program to developers to assist in the development of affordable housing.

- 1. For the purposes of the incentive program, the City defines affordable housing as housing with a sales price or rental amount that is within the means of a household that may occupy moderate- and low-income housing, meeting one of the thresholds defined below:
  - a. In the case of dwelling units for sale, “affordable” means housing in which the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a family at 80 percent of the area median income, based upon most recent HUD income limits for the Bend Metropolitan Statistical Area (Bend MSA).
  - b. In the case of dwelling units for rent, “affordable” means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a family at 60 percent of the area median income, based upon most recent HUD income limits for the Bend Metropolitan Statistical Area (Bend MSA).
- 2. In association with the land use review process, and prior to the issuance of a building permit for any units in an affordable housing development, the owner must enter into an affordable housing



development agreement with the City. The development agreement must set forth the commitments and obligations of the City and the owner, including, as necessary, conditions to ensure the completion of affordable housing in the development.

3. The owner must execute any and all documents deemed necessary by the City in a form to be established by the City Attorney, including, without limitation, restrictive covenants, deed restrictions, and related instruments (including requirements for income qualification for tenants of for-rent units) to ensure the continued affordability of the affordable housing units in accordance with this section.

4. Developments in compliance with subsection (C)(1) of this section may be eligible for the following incentives unless otherwise specified:

a. **Density Bonus.** A developer may be eligible for a density bonus when a percentage of the proposed dwelling units are affordable. The percentage of affordable units is based on the maximum number of dwelling units that would be allowed under the Comprehensive Plan designation for the subject site. The corresponding density bonus in Table 3.6.250.C is an increase in dwelling units over the maximum residential density that can be rented or sold as affordable units or at market rate.

The maximum density must be calculated in compliance with BDC 2.1.600(C)(1). For purposes of calculating maximum density, fractional units are rounded down to the next whole unit. For purposes of calculating the number of affordable units and density bonus units, fractional units are rounded up to the next whole unit.

For example, a 10,000-square-foot lot designated RM is permitted four units (maximum density is rounded down). Of the four units, the developer proposes 20 percent of the units to be affordable (four units \* 20 percent = 0.8 units, which is rounded up to one unit). Therefore, of the four units, one must be affordable. Since the applicant is proposing 20 percent of the units as affordable, the developer may receive a corresponding density bonus of 20 percent (four units \* 20 percent = 0.8 units, which is rounded up to one additional unit). Therefore, the proposed project may have five units, one of which must be affordable.

**Table 3.6.250.C – Density Bonus**

<b><u>Percent of Affordable Units Based on Maximum Density</u></b>	<b><u>Density Bonus</u></b>

<u>5%</u>	<u>5%</u>
<u>10%</u>	<u>10%</u>
<u>20%</u>	<u>20%</u>
<u>30%</u>	<u>30%</u>
<u>40%</u>	<u>40%</u>
<u>50%</u>	<u>50%</u>

b. **Building Height Incentive.** An increase in building height not to exceed 10 feet above the height of the underlying zone may be allowed for quadplexes and multi-unit housing when the additional units gained by the height increase are affordable housing units.

c. **Lot Coverage Exception.** For affordable housing developments where 50 percent or more of the dwelling units are deemed affordable in conformance with subsection (C)(1) of this section, the entire development may develop with a 50 percent lot coverage.

d. **Lot Area and Dimensions Exception.** For affordable housing developments where 50 percent or more of the dwelling units are deemed affordable in conformance with subsection (C)(1) of this section, the required lot area and dimensions for the proposed lots or parcels may be reduced up to 20 percent for the entire residential development. For affordable housing developments where less than 50 percent of the dwelling units are deemed affordable in conformance with subsection (C)(1) of this section, the required lot area and dimensions for the proposed affordable housing dwelling units' lots or parcels may be reduced up to 20 percent.

*(The Affordable Housing Strategies section currently exists in the BDC. The amendment relocates it from BDC 3.6.200(C) to this new section as 3.6.250(C). No major amendments are proposed to the text.)*

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### Chapter 3.8

#### DEVELOPMENT ALTERNATIVES

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### 3.8.500 Cottage Housing Development.

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K. **Parking.** Parking for CHDs must be located on the CHD property and identified on the tentative subdivision plan and/or site plan. On-site parking must meet the following standards:

1. Parking may be located within an enclosed garage, carport or unenclosed parking space.
2. Parking may be located in common tracts if intended to be shared by the entire CHD in groups of not more than five adjoining spaces separated by at least four feet of landscaping. An enclosed garage or carport intended to be shared by the entire CHD must not exceed 1,200 square feet in size.
3. Parking must not be located in the perimeter setbacks and must be screened from streets and adjacent residential uses by a landscape buffer containing landscaping and/or architectural screening. The width of the landscape buffer is the same width as the perimeter setbacks.

a. Exception. Parking is allowed in the rear perimeter setbacks when accessed by an alley or private driveway.

4. Parking is allowed between or adjacent to structures only when it is located toward the rear or side of the cottage and is served by an alley or private driveway.

a. Exception: Parking is allowed on a driveway between the garage or carport of a cottage and the street.

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### 3.8.900 Cottage Cluster Developments.

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K. **Design Standards.** Cottage clusters must meet the following design standards. No other design standards apply to cottage clusters unless noted in this section.

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4. *Pedestrian Access.*

- a. ~~An accessible~~ A pedestrian path must be provided that connects the main entrance of each cottage to the following:
  - i. The common courtyard;
  - ii. Shared parking areas;
  - iii. Community buildings; and
  - iv. Sidewalks in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.

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5. *Parking Design.*

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b. *Parking Location and Access.*

- i. Parking must not be located in the perimeter setbacks and must be screened from public streets and adjacent residential uses by a landscape buffer containing landscaping and/or architectural screening. The width of the landscape buffer is the same width as the perimeter setbacks. See subsection (K)(5)(c) of this section.

(A) Exceptions. Parking is allowed on a driveway between the garage or carport of a cottage and the street. Parking is allowed in the rear perimeter setbacks when accessed by an alley or private driveway.

- ii. Aisle widths must comply with BDC 3.3.300(F), except a 20-foot access aisle is permitted for 90-degree parking.

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**3.8.1000 Shared Courts**

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**D. *Shared Court Lots and Parcels.***

1. No minimum lot area or dimensions.
2. The private access drive provides frontage for the interior lots or parcels. Property lines abutting the private access drive are considered front property lines.
3. The setbacks of the underlying zoning district apply except the following front setbacks apply to property lines abutting the private access drive:
  - a. The minimum front setback is ~~five~~ three feet for enclosed livable spaces.
  - b. Garage entrances accessing the private access drive must be set back at either five feet from the front property line, or a minimum of 20 feet from the front property line. If the garage entrance is set back five feet from the front property line, the ground floor enclosed livable space must not be located more than eight feet from the front property line.
4. The maximum lot coverage is 80 percent.

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#### **I. Design Standards.**

1. *Front Door.*
  - a. Dwelling units that abut a street must have the front door entrance oriented toward the street frontage. A three-foot or wider path that is physically separated from the private access drive must be provided from the sidewalk to the front door. The entrance must either:
    - i. Face the street;
    - ii. Be at an angle of up to 45 degrees from the street;
    - iii. Face a common open space that abuts the street and is abutted by dwellings on at least two sides; or
    - iv. Open onto a porch. The porch must be at least 20 square feet in area and have at least one entrance facing the street or have a roof. A covered walkway or breezeway is not a porch.
  - b. Exceptions to the front door standards in subsection (I)(1)(a) of this section:

- i. When the lot or parcel abuts an arterial.
- ii. When the development site's frontage is 75 feet or less.
- c. Dwelling units that are on the interior of the shared court development must have the front door entrance oriented towards the private access drive or a common open space area. ~~open to a porch covered by either a roof or living space. A covered walkway or breezeway is not a porch. If the main entrance is from a covered porch, the covered porch must:~~
  - i. ~~Meet a minimum area of 20 square feet;~~
  - ii. ~~Meet a minimum depth of four feet; and~~
  - iii. ~~Have an entry that faces the private access drive.~~

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## Chapter 4.1

### DEVELOPMENT REVIEW AND PROCEDURES

#### Sections:

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#### **4.1.320 Completeness Check and Final Action.**

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#### **4.1.413 Final Action in Type II or III Applications.**

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#### **~~4.1.430 Final Action in Type II or III Actions.~~**

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#### **4.1.220 Application Requirements.**

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B. Applications ~~shall~~ must:

1. Be submitted by the property owner or a person who has written authorization from the property owner as defined herein to make the application;
2. Be completed ~~on a form~~ in a manner prescribed by the City;
3. Include supporting information required by this code and any other information necessary to, in the judgment of the Community and Economic Development Director, demonstrate compliance with applicable criteria;
4. Be accompanied by the appropriate filing fee as set forth in the adopted Fees Resolution;
5. Provide proof of ownership in the form of a deed, or other recorded document; and
6. In the case of applications for a quasi-judicial plan amendment or zone change, may be accompanied by applications for a specific development proposal.
7. For applications that require a public meeting under BDC 4.1.215(A), include a Public Meeting Verification of Compliance form signed by the applicant and a representative of the neighborhood district(s), attesting to the contents of the materials provided at the meeting. If no representatives of the neighborhood district(s) are present at the meeting, the applicant may submit a statement to that effect. If the public meeting was arranged and conducted by the applicant, the notification materials listed in BDC 4.1.215(B)(1)(a) through (c) must also be submitted.

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**4.1.240 Applicable Standards.**

A. ~~The standards and criteria applicable to an application shall be the standards and criteria applicable at the time the application was first submitted.~~ If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted in compliance with BDC 4.1.412(A), approval or denial of the application must be based on the following:

1. Upon the standards and criteria that were applicable at the time the application was first submitted; or

2. For an application that includes one or more dwelling units, micro units, or single room occupancies, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

B. If an applicant requests review of an application under standards and criteria that are operative at the time of the request as provided in subsection (A)(2) of this section, the following applies:

1. Any applicable timelines for completeness review and final action restart as if a new application were submitted on the date of the request.

2. For the purposes of this section the application is not deemed complete until:

a. The City determines that additional information is not required under BDC 4.1.412(A), or

b. The applicant makes a submission under BDC 4.1.412(A) in response to the City's request.

3. The City may deny a request if:

a. The City has issued a public notice of the application; or

b. A request under subsection (A)(2) of this section was previously made for same application.

4. The City may not require that the applicant:

a. Pay a fee, except to cover additional costs incurred by the City to accommodate the request;

b. Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

c. Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

***(In compliance with SB 1537)***

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#### ***4.1.310 Type I Applications***

A. A Type I application may be handled administratively by the Community and Economic Development Director without public notice or hearing because a Type I decision is neither a land use decision nor a limited land use decision under ORS 197.015.

1. Exception. A limited land use decision that is made under land use standards that do not require interpretation or the exercise of policy or legal judgment may be made by the Community and Economic Development Director using a Type I process under ORS 197.195. The Community and Economic Development Director's decision to make a limited land use decision a Type I application under this section is not an appealable decision.



***(In compliance with SB 1537, Section 45)***

- B. The Community and Economic Development Director may elevate a Type I application to a Type II application when there is a need to interpret or exercise policy or legal judgment, or to apply discretionary land use standards. The Community and Economic Development Director's decision to elevate a Type I application to a Type II application is not an appealable decision.
- C. When the applicant elects to use a discretionary track, the application will be elevated to a Type II application (Discretionary Track).

**4.1.320 Completeness Check.**

- A. Type I applications ~~shall be~~ is are subject to the completeness check procedures found in BDC 4.1.412.
- B. Once accepted as complete, an applicant may place the application on "hold" for a period of no longer than 60 days, which may be extended by the Community and Economic Development Director for good cause, up to a total 245 days.

**4.1.412 Completeness Check.**

- A. ~~Except as provided in subsections (C) and (D) of this section, the City shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals, within 120 days after the application is deemed complete.~~

- 1. ~~For middle housing land divisions, See BDC 4.3.700, Expedited and Middle Housing Land Divisions. (Relocated to BDC 4.1.413, Final Action in Type II or III Applications)~~

- B. ~~A. Except as otherwise provided for through a Completeness Check Meeting, if~~ If an application for a permit, limited land use decision or zone change is incomplete, the City ~~shall~~ must notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application ~~shall~~ must be deemed complete for the purpose of ~~subsection (A) of this section~~ BDC 4.1.413, Final Action in Type II or III Applications, upon receipt by the City of:

- 1. All of the missing information;

2. Some of the missing information and written notice from the applicant that no other information will be provided; or
3. Written notice from the applicant that none of the missing information will be provided.

~~CB.~~ On the one hundred eighty-first day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (~~BA~~) of this section and has not submitted:

1. All of the missing information;
2. Some of the missing information and written notice that no other information will be provided; or
3. Written notice that none of the missing information will be provided.

~~D.~~ The 120-day period set in subsection (A) of this section may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days. ***(Relocated to BDC 4.1.413, Final Action in Type II or III Applications)***

~~EC.~~ Except as provided under the Completeness Check Meeting process, ~~a~~An applicant shall must not submit any evidence to supplement its application during the 30 days following submittal of its application, except when requested by the Community and Economic Development Director. Any evidence submitted by an applicant in violation of this section will not be considered in determining whether the application is complete and will be returned to the applicant.

\*\*\*

**4.1.413 Final Action in Type II or III Applications.**

A. The City must take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals, within 120 days after the application is deemed complete, except as follows:

1. For middle housing land divisions, See BDC 4.3.700, Expedited and Middle Housing Land Divisions.
2. The 120-day period set may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days.

3. A decision involving an application for the development of residential structures within the urban growth boundary, where the City has tentatively approved the application and extends the 120 days by no more than seven days in order to assure the sufficiency of its final action. (In compliance with HB 3395)

B. Applications for the following determinations or approvals are exempt from the 120-day time limit established by this section:

1. Quasi-judicial Comprehensive Plan amendments;

2. Revocation proceedings;

3. Declaratory rulings;

4. Consideration of remanded applications;

5. Legislative actions;

6. Major master plan; and

7. Annexations.

\*\*\*

**~~4.1.430 Final Action in Type II or III Actions.~~**

A. ~~Where provided by this code or State statute, the City shall take final action, including consideration of appeals to the Council, in Type II or III actions within 120 days after the application is deemed complete.~~

B. ~~The periods set forth in this section during which a final decision on an application must be made may be extended for a reasonable period of time to a date certain at the written request of the applicant. The total of all extensions cannot exceed 245 days.~~

C. ~~Applications for the following determinations or approvals are exempt from the 120-day time limit established by this section:~~

1. ~~Quasi-judicial Comprehensive Plan amendments;~~

- ~~2. Revocation proceedings;~~
- ~~3. Declaratory rulings;~~
- ~~4. Consideration of remanded applications;~~
- ~~5. Legislative actions; and~~
- ~~6. Major master plans.~~

***(Revised and relocated to BDC 4.1.413)***

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#### **4.1.445 Modification of Application.**

- A. An applicant may modify an application at any time during the ~~approval review~~ process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process, ~~subject to the provisions of BDC 4.1.412 and this chapter.~~

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#### **4.1.600 Deschutes River Design Review Procedures.**

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- C. Track B applications ~~shall~~ must be reviewed by the Planning Commission as follows:
  1. Notice for applications ~~shall~~ must be as set forth in BDC 4.1.420, 4.1.423, and 4.1.424. The Commission ~~shall~~ must hold a public hearing for any Type III applications. The hearings procedure ~~shall~~ must be as set forth in BDC 4.1.800, Quasi-Judicial Hearings.
  2. The Planning Commission ~~shall~~ must review the entire project, even if only a portion of the project falls within the Deschutes River Corridor Design Review Combining Zone.
  3. Appeals of the decision of the Planning Commission ~~shall be to the City Council, subject to the procedures and restrictions set forth in BDC 4.1.1100, Appeals.~~ may be appealed to the Land Use Board of Appeals (LUBA) as provided by law.

\*\*\*

#### **4.1.815 Hearings Body.**

A. The following must serve as the Hearings Body as determined by the Community and Economic Development Director:

1. Hearings Officer.
2. Planning Commission for matters of interpretation of this code, appeals of Type II decisions where the Hearings Officer cannot hear the matter due to a conflict of interest, or as otherwise specified by provisions of City code.
- ~~3. City Council, subject to BDC 4.1.1100, Appeals.~~
4. 3. City Council for annexation applications, subject to BDC Chapter 4.9, Annexations.

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#### **4.1.1100 Appeals.**

Appeals must be in accordance with BDC 4.1.1100 through BDC 4.1.1165. For expedited and middle housing land divisions, see BDC 4.3.700, Expedited and Middle Housing Land Divisions.

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#### **4.1.1115 Filing Appeals.**

- A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Planning Division and pay an appeal fee.
- B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received by the Community and Economic Development Department no later than the close of the public counter on the twelfth day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than the close of the public counter on the twelfth day following mailing of the decision as modified. Notices of appeals shall not be received by facsimile machine or e-mail.
- C. In the case of an appeal of an administrative (Type II) decision to a Hearings Officer or to the Planning Commission, the Hearings Body's decision on appeal shall become final 12 days after the decision is

mailed. ~~Except that, within 12 days after the decision is mailed, the City Council may, on its own motion and at its discretion, call up the decision of the Hearings Officer or Planning Commission and conduct an on the record review of the decision limited to issues identified in the Council's motion.~~

~~D. In the case of an appeal of a Type III decision, the City Council's decision whether to grant review shall be discretionary. If the City Council declines review, the appellant may be entitled to a partial refund in accordance with the City's adopted Fees Resolution.~~

D. The appeal of a Hearings Officer or Planning Commission Type II decision or of a Type III decision may be appealed to the Land Use Board of Appeals (LUBA) as provided by law.

#### **4.1.1120 Notice of Appeal.**

A. The Notice of Appeal ~~shall~~ must contain:

1. A description of the decision which is being appealed, including the date of decision.
2. A statement describing the interest the person who is appealing has in the decision. Only persons who have proper standing as provided by the law, and who have participated in the decision being appealed (if provision for such participation was provided in the previous proceeding), may appeal the decision. The statement of interest must demonstrate the person's standing and participation.
3. A description of the issues sought to be raised by the appeal; and a statement that the issues were raised during the proceeding that produced the decision being appealed. This description must include the specific criteria relied upon as the basis for the appeal, and an explanation of why the decision has not complied with the standards or requirements of the criteria. The issues raised by the appeal must be stated with sufficient specificity to afford the reviewing authority an opportunity to resolve each issue raised.
- ~~4. In the case of a discretionary appeal request to the City Council, the Notice of Appeal shall include the following additional information to assist the Council in deciding whether to grant discretionary review of the decision being appealed:
  - ~~a. How the appeal presents issues that have significant public policy or community-wide implications for the City, as opposed to more limited issues which primarily involve the directly affected property or persons involved in the land use decision being appealed.~~~~

b. ~~Why it is necessary or desirable for the City Council to review these issues; and why the issues cannot be adequately and fairly reviewed by the Land Use Board of Appeals.~~

\*\*\*

#### 4.1.1140 Scope of Review.

A. ***Before Hearings Officer or Planning Commission.*** The review of a Type II decision on appeal before the Hearings Officer or Planning Commission is de novo.

B. ***Before the Council.***

1. ~~Review of land use decisions by the City Council on appeal is discretionary. A decision by the City Council to not grant discretionary review of the appeal is the final determination of the City and will be considered to be an adoption by the Council of the decision being appealed, including any interpretations of this code or of the Bend Comprehensive Plan included in the decision. The final decision may be appealed to the Land Use Board of Appeals as provided by law. The City Council's decision whether to grant discretionary review will be made without testimony or argument from persons interested in the appeal.~~

2. ~~The scope of review for appeals that are granted discretionary review by the City Council shall be:~~

a. ~~Restricted to the issues raised in the Notice of Appeal, or as prescribed by the City Council.~~

b. ~~Be conducted during an appeal hearing before the City Council on the record made as part of the decision being appealed.~~

3. ~~The record for discretionary review by the City Council shall include:~~

a. ~~The land use application or request which is the subject of the appeal, any staff report, and all written comments, exhibits, or any other materials or information considered by the decision-maker in the proceedings that produced the decision being appealed.~~

b. ~~A written transcript of all proceedings before the decision-maker, or a stipulated written summary of the proceedings submitted by all of the parties to the appeal.~~

~~e. Appellants shall submit the transcript or stipulated written summary of the proceedings to the Planning Division no later than the close of the day five days prior to the date set for receipt of written arguments.~~

~~d. An appellant shall be excused from providing a transcript or stipulated written summary of the proceedings if the appellant was prevented from complying by:~~

~~i. The inability of the Planning Division to supply the appellant with an audio recording of the prior proceeding; or~~

~~ii. Defects on the audio recording of the prior proceeding that make it not reasonably possible for the appellant to supply a transcript. Appellants shall comply to the maximum extent reasonably and practicably possible.~~

~~4. An appeal hearing before the City Council shall be conducted according to such procedures as the City Council shall prescribe, which may include an opportunity for presentations by the parties to the appeal.~~

~~5. Decisions reviewed by the City Council can be affirmed, remanded, reversed, or modified in whole or in part by the City Council.~~

#### **4.1.1145 Hearing on Appeal.**

A. The appellant and all other parties to the decision below shall must be mailed notice of the hearing on appeal at least 20 days prior to any de novo hearing or deadline for submission of written arguments.

B. Except as otherwise provided in this chapter, the appeal shall must be heard as provided in BDC 4.1.800, Quasi-Judicial Hearings. The applicant shall must proceed first in all appeals.

C. The order of Hearings Body shall be as provided in BDC 4.1.815, Hearings Body.

D. The record of the proceeding from which appeal is taken shall ~~be~~ is a part of the record on appeal.

E. The record for a review on the record shall must consist of the following:

1. Minutes and audio recordings of any prior hearing, if available;

2. All written and graphic materials that were part of the record below;



3. The Review Authority's decision appealed from;
4. Written arguments, based upon the record developed below, submitted by any party to the decision;
5. A staff report and staff comment based on the record; and
6. Other information deemed relevant by the Review Authority.

~~F. The Council shall not consider any new factual information in an "on the record" proceeding. Brief oral argument by the applicant and the appellant on the record may be allowed by the Council.~~

\*\*\*

**4.1.1160 Remands.**

Applications ~~shall~~ must not be remanded to a lower level Review Authority after appeal, ~~except by City Council as provided in BDC 4.1.1140(B)(5).~~

\*\*\*

**4.1.1600 Summary of Development Application Types.**

There are four types of procedures: Types I, II, III, and IV. Table 4.1.1600 lists the City's development applications and their required types of procedure(s).

**Table 4.1.1600. Summary of Development Application Types**

***(Other Development Applications in Table remain unchanged)***

Development Application	Type I*	Type II*	Type III	Type IV
<del>Condo Plat/Condo Change of Use</del> <b><i>(Required by HB 3395)</i></b>	✕			
<del>Replat</del> <b><i>(Locate with Type II applications)</i></b>		✕		

\*Unless elevated by the Community and Economic Development Director as authorized in BDC Chapter 4.1.

\*\*\*

## 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.

\*\*\*

**14. Coordination with Electric Utility Companies.** For developments where the tree canopy at fifteen years will be within ten feet of an overhead powerline, transformer or underground electrical service, a letter or other written documentation from the local electric utility company must be submitted which indicates that the applicant has met with the company to discuss the tree canopy plan and coordination with pre-design, design, building and maintenance phases. **(Required by OAR 660-012-0405(4)(d))**

**1415. 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.

\*\*\*

#### 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.

1. **Applicability.** This section applies to:

- a. The construction of a new single-unit detached dwelling, townhome, accessory dwelling unit, duplex, triplex, quadplex, single room occupancies with six or fewer units and cottage cluster developments; or
- b. A request for new vehicular access to an existing residential use, or a request to relocate or reconfigure an existing residential vehicular access that does not increase a nonconformity or create a nonconformity.

Except as provided in subsection (A)(2)(a) of this section, a dwelling unit is also considered new if the livable space of an existing dwelling unit is increased by 50 percent or more. (Partial to full demolition of the existing dwelling unit's livable space replaced with new square footage of livable space is considered new square footage.)

A Minimum Development Standards Review application is not required for new construction under subsection (A)(1)(a) of this section; however, compliance with subsection (A)(3) of this section, Approval Criteria, is required and will be verified through the building permit process. A Minimum Development Standards Review application is not required for new or modified vehicular access to an existing residential use under subsection (A)(1)(b) of this section; however, compliance with subsection (A)(3) of this section, Approval Criteria, is required and will be verified through the right-of-way permit process.

When the applicant elects to use a discretionary track, a Minimum Development Standards Review application must be submitted and will be elevated to a Type II application (Discretionary Track).

2. **Exemptions.** The following is not subject to this section:
  - a. New construction of 200 square feet or less in area to an existing dwelling unit's livable space. In such instances, subsection (A)(3)(b)(i) of this section must be met.
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.
  - a. The proposed land use is a permitted or conditionally permitted use in the zoning district.
  - b. The following standards are met:

\*\*\*

iv. *Street and Alley Improvements for All Uses Other Than ADUs.*

\*\*\*

(B) If ~~there is the property abuts an~~ alley access to the property and one or more of the alley driveway approaches that access the street are not improved to City of Bend Standards and Specifications, then an alley approach must be improved to City of Bend Standards and Specifications with the proposed development unless the Community and Economic Development Director grants a waiver of this requirement under BDC 3.4.150, Waiver and Modification of Public Improvement Standards.

\*\*\*

v. *Sidewalk Improvements for All Uses Other Than ADUs.*

(A) When an existing public sidewalk exists within 600 feet of the front property line on the same side of the street of any of the frontages, sidewalks must be constructed along all frontage(s) of the site unless the Community and Economic Development Director grants a waiver of this requirement under BDC 3.4.150, Waiver and Modification of Public Improvement Standards. A corner lot or parcel has two or more front property lines and frontages.

\*\*\*

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

1. *Applicability.* This subsection applies to uses identified in “Permitted and Conditional Use” tables in each zoning district, as well as those uses listed in BDC Chapters 2.7 and 3.8, other than those in subsection (A) of this section where there is one or more of the following:

- a. A building expansion of up to 50 percent of the existing building area or up to 5,000 square feet, whichever is less.
- b. An outdoor use or parking expansion of up to 50 percent of the existing outdoor use area or parking area or up to 5,000 square feet of new outdoor use area (not including food carts) or parking area, whichever is less. Paving existing gravel is a parking expansion unless the existing gravel parking was previously approved in a land use decision and is not legal nonconforming.

- c. A change of use of a building or property that increases demand on public facilities. A determination that there is an increase in demand on public facilities is made when:
  - i. The development will result in an increase of trip generation by 20 percent or 100 average daily trips (ADT); and/or
  - ii. The development will require that the water meter or water or sewer laterals be increased in size.
- d. A permanent or semi-permanent stand-alone commercial use no larger than 250 square feet in size on an existing commercial site (e.g., produce stand, food cart and similar uses).
- e. Relocating or reconfiguring an existing driveway or vehicular access that does not increase a nonconformity or create a nonconformity.
- f. Construction of a detached non-occupied accessory storage structure that is less than 5,000 square feet and less than 50 percent of the primary structure.
- g. Construction of a new non-occupied storage structure that is less than 5,000 square feet in existing storage areas.
- h. Conversion of a building or a portion of a building from a commercial use to a residential use in compliance with BDC 3.6.200(C), Conversion from Commercial to Residential Uses.

All other changes must be processed as a Type II unless exempted.

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

\*\*\*

- c. The following standards are met:

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- ix. When an existing public sidewalk exists within 600 feet of the front property line on the same side of the street of any of the frontages, sidewalks ~~shall~~ must be constructed along all

frontage(s) of the site unless the Community and Economic Development Director grants a waiver of this requirement under BDC 3.4.150, Waiver and Modification of Public Improvement Standards. A corner lot or parcel has two or more front property lines and frontages.

\*\*\*

## Chapter 4.3

### LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS

\*\*\*

#### 4.3.700 Expedited and Middle Housing Land Division

##### A. *Applicability.*

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##### 2. *Middle Housing Land Divisions.*

- a. A middle housing land division applies to duplexes, triplexes, quadplexes, townhomes, or cottage developments.
- b. A middle housing land division application may be submitted when the parent site is developed with middle housing, has an active building permit to construct middle housing, ~~or the application for a land division must be~~ is being reviewed concurrently with a building permit application for construction of middle housing, or the application is being reviewed concurrently with a conceptual site plan showing proposed detached middle housing.
3. Within the same calendar year that a partition (original) is recorded with Deschutes County, one of the resulting vacant parcels may be further divided into not more than three parcels through a middle housing land division, provided that:
  - a. The original partition was not a middle housing land division; and
  - b. The original parcel or parcels not divided will not be part of the resulting partition plat for the middle housing land division.

***(Implements HB 4063)***

4. An expedited land division and middle housing land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015.

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**F. Final Plat Requirements for Expedited and Middle Housing Land Divisions.**

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**2. Middle Housing Land Division Final Plat.**

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- b. ~~A final plat will not be approved until building permits are issued for each dwelling unit on each lot or parcel.~~

\*\*\*

**Title 5**

**EXCEPTIONS TO CODE STANDARDS**

**Chapters:**

**5.0 Exceptions to Code Standards**

**5.1 Variances**

**5.2 Nonconforming Uses and Developments**

**5.3 Adjustments**

\*\*\*

**Chapter 5.3**

**ADJUSTMENTS**

**Sections:**

**5.3.100 Purpose.**

**5.3.200 Definitions.**

**5.3.300 Applicability.**

**5.3.400 Review Process.**

**5.3.500 Approval Criteria.**

**5.3.600 Development and Design Standard Adjustment Options.**

**5.3.100 Purpose.**

Senate Bill 1537 was adopted by the Oregon State Legislature in 2024 and signed into law on May 6, 2024. SB 1537 requires local governments to grant adjustments for specific development and design standards if the request for an adjustment in an application to develop housing meets certain conditions. The purpose of this section is to allow adjustments consistent with the requirements of SB 1537. The granting of adjustments in SB 1537 and this section sunsets on January 2, 2032.

**5.3.200 Definitions.**

**Definitions.** The following words and phrases used in this chapter, which supplement the definitions found in BDC Chapter 1.2 and elsewhere in this code, have the following meanings:

**Adjustment** means a deviation from an existing land use regulation. “Adjustment” does not include:

1. A request to allow a use of property not otherwise permissible under applicable zoning requirements;
2. Deviations from land use regulations or requirements related to accessibility, affordability, fire ingress or egress, safety, tree preservation, hazardous or contaminated site clean-up, wildlife protection, or statewide land use planning goals relating to natural resources or natural hazards; or
3. A complete waiver of land use regulations or any changes beyond the explicitly requested and allowed adjustments; or
4. Deviations to requirements related to the implementation of fire or building codes, federal or state air, water quality or surface, ground or stormwater requirements, or requirements of any federal, state or local law other than a land use regulation.



**Distinct adjustment** means an adjustment to one of the development or design standards in BDC 5.3.700, Development and Design Standard Adjustment Options, where each discrete adjustment to a listed standard that includes multiple component standards must be counted as an individual adjustment.

**Net residential acre** means an acre of land, excluding rights of way for streets, roads or utilities or sensitive land.

**Visitable** means capable of being approached, entered and used by individuals with mobility impairments, including but not limited to individuals using wheelchairs. A dwelling unit subject to the Oregon Residential Specialty Code is visitable if it meets one or more of the provisions for Type C units in ICC A117.1 (2017)

### **5.3.300 Applicability.**

**A. Applicability.** An application to develop housing qualifies for an adjustment only if the following are met:

1. The development is located on lots or parcels in Residential, Commercial or Mixed-Use Zoning Districts.
2. The development is for a minimum of ten dwelling units per net residential acre.
3. The development is within the urban growth boundary and City limits.
4. The development is for net new dwelling units (i.e., the replacement of one or more existing dwelling units does not qualify as net new dwelling units), including:
  - a. Single-unit detached dwellings;
  - b. Manufactured dwelling parks;
  - c. Accessory dwelling units (ADUs);
  - d. Duplexes, triplexes, quadplexes, cottage developments, and townhouses;
  - e. Multi-unit residential; or
  - f. Mixed-use residential where at least 75 percent of the developed floor area will be used for residential uses.

### **5.3.400 Review Process.**

- A. A decision on an application for an adjustment under this section is a limited land use decision and is processed as a Type I Application. The adjustment application must be reviewed concurrently with the associated development application.
- B. Only the applicant may appeal the decision of a Type I Adjustment application.

### **5.3.500 Submittal Requirements.**

- A. The applicant must submit the following:

1. A narrative and site plan demonstrating that the development proposal, in total on site, meets the minimum of ten dwelling units per net residential acre.
2. A narrative confirming that the total requested adjustments in BDC 5.3.700, Development and Design Standard Adjustment Options, do not exceed 10 distinct adjustments.
3. A narrative that states how one of the criteria in BDC 5.3.600, Approval Criteria, is met.

### **5.3.600 Approval Criteria.**

A. **Approval Criteria.** An applicant may request a maximum of 10 distinct adjustments to the development and design standards in BDC 5.3.700, Development and Design Standard Adjustment Options provided the applicant states how at least one of the following criteria apply:

1. The adjustments will enable development of housing that is not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations.
2. The adjustments will enable development of housing that reduces the sale or rental prices per residential unit.
3. The adjustments will increase the number of dwelling units within the application.
4. The adjustments will enable the provision of accessibility or visitability features in dwelling units that are not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations.
5. All of the units in the application are subject to a zero equity, limited equity, or shared equity ownership model including resident-owned cooperatives and community land trusts making them affordable to moderate income households as described in ORS 456.270 to 456.295 for a period of 90 years.
6. All dwelling units are subject to an affordable housing covenant to be affordable to moderate income (80-120% Area Median Income) households for at least 30 years.
7. At least 20% of units are subject to an affordable housing covenant to be affordable to low-income households ( $\leq$ 80% Area Median Income) for at least 60 years.

### **5.3.700 Development and Design Standard Adjustment Options.**

A. **Development Standards Adjustment Options.** The following development standards may be adjusted:

1. Side or rear setbacks not more than 10 percent.
2. Common area, open space area or landscape area on the same lot or parcel as the proposed dwelling units of not more than a 25 percent reduction.
3. Minimum lot or parcel sizes, not more than 10 percent, and including lot widths or depths not more than 10 percent.
4. Building lot coverage requirements not more than 10 percent.

5. For developments that require bicycle parking:
  - a. The minimum number of spaces for use by residents of the project, provided the application includes at least one-half space per unit; or
  - b. The location of the spaces as required in other sections of the chapter, provided that lockable, covered bicycle parking spaces are located within the development site.
6. Except for single-unit detached dwellings and ADUs:
  - a. Unit density maximums not more than an amount as necessary to account for other adjustments under this section. The maximum densities cannot be fully waived.
  - b. Ground floor uses of a mixed-use building to allow:
    - i. Residential uses except for one face of the building that faces the street and is within 20 feet of the street; and
    - ii. Nonresidential active uses that support the residential uses of the building, including lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces.
7. Except for single-unit detached dwellings, ADUs and cottage developments, building height maximums that:
  - a. Are in addition to existing applicable height bonuses; and
  - b. Are not more than an increase of the greater of one story or a 20 percent increase to the corresponding zone height. Where a fractional number results, the number is rounded down to the next whole number. In no case can the height exceed both an increase of one story and 20 percent of the corresponding zone height.

**B. Design Standards Adjustment Options.** The following design standards may be adjusted:

1. Facade materials, color or pattern.
2. Facade articulation.
3. Roof forms and materials.
4. Entry and garage door materials.
5. Window materials.
6. Total window area, not more than 30 percent, provided the application includes at least 12 percent of the total facade as window area.
7. Except for single-unit detached dwellings and ADUs:
  - a. Building orientation requirements, not including transit street orientation requirements.
  - b. Building height transition requirements, not more than 50 percent from the corresponding zone.
  - c. Balcony and porch requirements.

d. Recess and offset requirements.

**CITY OF BEND PLANNING DIVISION  
STAFF FINDINGS AND RECOMMENDATION  
TO THE PLANNING COMMISSION**



CITY OF BEND

**PROJECT NUMBER:** PLTEXT20240523

**HEARING DATE** October 28, 2024  
City of Bend Council Chambers  
710 NW Wall Street, Bend, OR 97703

**REPORT DATE:** October 21, 2024

**LOCATION:** Citywide

**REQUEST:** Bend Development Code (BDC) Text Amendments implementing several legislative bills to facilitate housing development. The amendments are to BDC Chapters 1.1, General Administration, 1.2, Definitions, 2.1, Residential Districts, 2.2, Commercial Zoning Districts, 2.3, Mixed-Use Zoning Districts, 2.4, Industrial Zoning Districts, 2.6, Public Facilities Zoning District, 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans, 3.3, Vehicle Parking, Loading and Bicycle Parking, 3.6, Special Standards and Regulations for Certain Uses, 3.8, Development Alternatives, 4.1, Development Review and Procedures, 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, 4.3, Land Divisions and Property Line Adjustments, and creating BDC 3.6.250, Income Qualified Housing and Chapter 5.3, Adjustments. There are also minor amendments throughout for consistency and clarity. (Type IV Legislative Process with Planning Commission recommendation to City Council)

**STAFF REVIEWER:** Pauline Hardie, Senior Planner, (541) 693-2153,  
phardie@bendoregon.gov

**I. APPLICABLE CRITERIA AND PROCEDURES:**

**Bend Development Code (BDC)**

**Approval Criteria**

Chapter 4.6, Land Use District Map and Text Amendments  
Section 4.6.200, Legislative Amendments

**Procedures**

**Bend Comprehensive Plan Goals and Policies**

Chapter 1: Citizen Involvement

Chapter 2: Land Use Planning

Chapter 10: Housing

**II. PROCEDURAL FINDINGS:**

- 1. PLANNING COMMISSION REVIEW:** The matter before the Planning Commission is the review of proposed text amendments to the Bend Development Code implementing several legislative bills to facilitate housing development. The proposed amendments are to BDC Chapters 1.1, General Administration, 1.2, Definitions, 2.1, Residential Districts, 2.2, Commercial Zoning Districts, 2.3, Mixed-Use Zoning Districts, 2.4, Industrial Zoning Districts, 2.6, Public Facilities Zoning District, 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans, 3.3, Vehicle Parking, Loading and Bicycle Parking, 3.6, Special Standards and Regulations for Certain Uses, 3.8, Development Alternatives, 4.1, Development Review and Procedures, 4.2, Minimum Development Standards Review, Site Plan Review and Design Review, 4.3, Land Divisions and Property Line Adjustments, and creating BDC 3.6.250, Income Qualified Housing and Chapter 5.3, Adjustments. There are also minor amendments throughout for consistency and clarity. The recommended amendments are attached as Exhibit A.
- 2. PUBLIC NOTICE AND COMMENTS:** Notice of the proposed BDC amendments was provided to the Department of Land Conservation and Development (DLCD) on September 20, 2024. A notice of the October 28, 2024, Planning Commission public hearing was printed in the Bend Bulletin on October 6, 2024, and was mailed and emailed to the Neighborhood Districts on September 25, 2024. Staff also emailed the proposed amendments to people who have expressed an interest in the amendments, to the Bend Development Code Update Group, and to the Neighborhood Districts Land Use Chairs on September 25, 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 PLTEXT20240523 in the search bar to find the project.
- 3. RECORD.** The documents in CityView for PLTEXT20240523 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 PLTEXT20240523 in the search bar to find the project.
- 4. BACKGROUND:** The City of Bend is proposing a package of amendments to the Bend Development Code (BDC) to implement certain Oregon state laws and bills which were created to facilitate housing. The amendments also eliminate the requirement to apply for building permits in advance of, or concurrently with, a Middle Housing Land Division

application. In addition, the proposed amendments remove the local option to request that City Council hear appeals on quasi-judicial development applications and the option for Council to call up and review a decision of the Hearings Officer or Planning Commission. Lastly, the proposed amendments include changes that support the development of townhomes, cottage developments and shared courts, as well as revisions to other sections of the BDC for consistency and clarity.

### **III. 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, Development 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 10: Housing, and maintain Goal 9: Economic Development, Goal 11: Public Facilities and Services, Goal 12: Transportation and Goal 14: Urbanization.

**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 proposed BDC amendments was provided to the Department of Land Conservation and Development (DLCD) on September 20, 2024. A notice of the October 28, 2024, Planning Commission public hearing was printed in the Bend Bulletin on October 6, 2024, and was mailed and emailed to the Neighborhood Districts on September 25, 2024. Staff also emailed the proposed amendments to people who have expressed an interest in the

amendments, to the Bend Development Code Update Group, and to the Neighborhood Districts Land Use Chairs on September 25, 2024.

On October 14, 2024, the Planning Commission held a work session to review the package of amendments. On October 28, 2024, the Planning Commission will hold a public hearing and make a recommendation on the amendments to the City Council. The City Council will review the proposed amendments on November 20, 2024.

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. During the preparation of the amendments, multiple opportunities for review and comment were provided to community members and affected governmental units.

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

The amendments implement Senate Bill 8 and House Bills 2984, 3151 and 3395 which require cities to allow housing in areas other than in Residential Districts. The amendments add a new section BDC 3.6.250, Income Qualified Housing, to include all the newly required and existing affordable housing options in one location. This new section includes the following three options:

### **BDC 3.6.250, Income Qualified Housing**

1. **BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing** (House Bill 3395 and ORS 197A.460)
2. **BDC 3.6.250(B), Income Qualified Housing Allowed Outright** (SB 8, HB 2984 and HB 3151, and ORS 197A.445(3))
3. **BDC 3.6.250(C), Affordable Housing Strategies.** This section currently exists in the BDC as BDC 3.6.200(C), Affordable Housing Strategies. The amendments relocate it to the new Income Qualified Housing section as BDC 3.6.250(C), Affordable Housing Strategies.

The amendments also create BDC 3.6.200(C), Conversion from Commercial to Residential Uses to implement House Bill 2984. This section allows the conversion of a building or a portion of a building from a commercial use to a residential use in the Commercial and Mixed-Use Districts.



In addition, the amendments support the 2023-2025 Bend City Council Affordable Housing and Sustainability Development Goal which includes a strategy to optimize housing continuum. This strategy is supported by an action to “explore revenue and code/policy options to increase affordable and middle-income housing.” The proposed amendments will provide opportunity to increase the diversity of housing opportunities in underutilized Commercial and Mixed-Use Districts and in some cases in the Light Industrial (IL) District and the Public Facilities (PF) District, which would help meet Bend’s housing needs for affordable and middle-income housing. This will also give affordable development, in particular, the ability to compete for land despite challenging market conditions due to high demand. Therefore, the amendments are justified and needed, and compliance with Goal 2 is met.

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

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

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

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

**Goal 9, Economic Development,** is implemented through Oregon Administrative Rule (OAR) Division 9, which is intended to ensure that each jurisdiction maintain an adequate land supply for economic development and employment growth. The amendments retain the uses that are currently allowed in the Commercial and Mixed-Use Districts and in the Light Industrial (IL) District and Public Facilities (PF) District but allow for flexibility by allowing certain new residential and mixed-use developments. In addition, Senate Bill 8 and House Bill 3395 exempt cities from having to consider or update an analysis as required by a statewide planning goal relating to economic development as part of implementing this legislation. Therefore, compliance with Goal 9 is maintained.

**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.

According to the 2016 Bend Housing Needs Analysis, Bend is planning for growth of about 38,500 people between 2008 and 2028, requiring nearly 16,700 new dwelling units. Bend’s housing needs are changing and key demographic changes are occurring in Bend and across the nation. Baby Boomers may need affordable housing or may choose to downsize their housing, resulting in greater demand for small single-family dwellings, cottages, accessory

dwelling units, townhomes, apartments, and condominiums and growth in Millennial households will increase the need for affordable housing for renters and homeowners such as: small single-family dwellings, cottages, accessory dwelling units, duplexes, townhomes, garden apartments, and apartments.

In addition, the City Council has a 2023-2025 Affordable Housing and Sustainability Development Goal which includes a strategy to optimize housing continuum. This strategy is supported by an action to “explore revenue and code/policy options to increase affordable and middle-income housing.”

These amendments may allow a modest increase in the number of dwelling units being built due to allowing units to be built on lots that were previously restricted to only commercial or mixed-use development requirements. Senate Bill 8 and House Bill 3151 require local governments to allow affordable housing developments meeting a specific definition and criteria on a wide range of sites. House Bill 2984 allows the conversion of commercial buildings or a portion of a building to a residential use and House Bill 3395 allows residential structures in Commercial and Mixed-Use Districts, provided they meet the required area median income thresholds.

In addition, Senate Bill 1537 requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. The adjustments may enable development of housing that is not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations, or which reduces the sale or rental prices per residential unit.

The proposed amendments implement Council’s goal and provide opportunities to build needed housing that was identified in the Bend Housing Needs Analysis acknowledged in the December 2016 Urban Growth Boundary Expansion and they support the changing demographics and lifestyles of Bend’s current and future residents.

Therefore, Goal 10 has been met.

**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. Individual projects proposed that are allowed by these Bills will be reviewed for potential impacts to facilities through a Sewer and Water Analysis and Transportation Facilities Report/Transportation Impact Analysis in compliance with BDC Chapter 4.7, Transportation Analysis. The amendments will not result in the need to adjust or amend existing policies or projects in the City’s adopted facility plans. Therefore, compliance with Goal 11 is maintained.

**Goal 12, Transportation**, requires the City to provide and encourage a safe, 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. Findings demonstrating compliance with the Transportation Planning Rule are discussed further in this document. Therefore, compliance with Goal 12 is maintained.

**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 Bills collectively encourage optimizing development and redevelopment of land in the Urban Growth Boundary and re-use of existing buildings. 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 with 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 Housing Options and Affordability** Bend residents have access to a variety of high quality housing options, including housing affordable to people with a range of incomes and housing suitable to seniors, families, people with special needs, and others. Housing design is innovative and energy efficient.

**FINDING:** Senate Bill 8 and House Bills 2984, 3151 and 3395 provide the pathway for allowing housing in areas other than in Residential Districts. The amendments implement these Bills which will help to increase the diversity of housing options for market rate and income-qualified housing in underutilized commercial and mixed-use areas and in some cases in the Limited

Industrial (IL) District and Public Facilities (PF) District, which would help meet Bend’s housing needs.

In addition, Senate Bill 1537 requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. The adjustments to development standards include, but are not limited to, side or rear setbacks, minimum lot or parcels sizes including lot widths and depths, lot coverage, and height requirements and the adjustments to design standards include, but are not limited to, façade materials and articulation, window area, balcony and porch requirements, and recess and offset requirements. These adjustments provide flexibility that support innovative housing designs.

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

**FINDING:** The amendments create a new section, BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing, to implement House Bill 3395. The Bill requires local governments to only apply those approval standards, conditions and procedures that would be applicable to the residential zone that is most comparable in density to the allowed commercial uses. The proposed amendments recommend the standards applicable to the Mixed-Use Neighborhood (MN) District due to the District’s density, height, and setback requirements. This will help to ensure compatibility of the development with the surrounding areas and the “built” environment is as attractive as feasible.

- **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:** A notice of the October 28, 2024, Planning Commission public hearing was printed in the Bend Bulletin on October 6, 2024, and mailed and emailed to the Neighborhood Districts on September 25, 2024. Staff also emailed the proposed amendments to people who have expressed an interest in the amendments, to the Bend Development Code Update Group and to the Neighborhood Districts Land Use Chairs on September 25, 2024. The Bend Development Code Update Group includes community members comprised of architects, lawyers, developers, land use planners, and engineers and staff from Central Oregon Builders Association (COBA), Oregon LandWatch and Bend Park and Recreation District as well as people who are generally interested in amendments to the BDC.

On October 14, 2024, the Planning Commission held a work session to review the package of amendments. On October 28, 2024, the Planning Commission will hold a public hearing and make a recommendation on the amendments to the City Council. The City Council will review the proposed amendments during a public hearing on November 20, 2024.

- **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 amendments implement the Comprehensive Plan through effective, clear and consistent language that reflects the intent of the vision. The amendments integrate the required Bills into the BDC by creating Chapter 5.3, Adjustments, and BDC 3.6.200(C), Conversion from Commercial to Residential Units. In addition, the amendments create BDC

3.6.250, Income Qualified Housing, to include the newly required income qualified housing Bills and the existing BDC affordable housing option in one location. This new section includes the following three options:

1. **Residential Use of Commercial Lands for Income Qualified Housing** (House Bill 3395 and ORS 197A.460)
2. **Income Qualified Housing Allowed Outright** (SB 8, HB 2984 and HB 3151, and ORS 197A.445(3))
3. **Affordable Housing Strategies.** This section currently exists in the BDC as BDC 3.6.200(C), Affordable Housing Strategies and the proposed amendments relocate it to the new Income Qualified Housing section as BDC 3.6.250(C), Affordable Housing Strategies. No major revisions are proposed.

## **Policies**

### ***Development within the Urban Growth Boundary***

**1-7** The City will encourage compact development and the integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel.

**FINDING:** The various Senate and House Bills expand opportunities to develop market-rate and income-qualified housing in the Commercial and Mixed-Use Districts. People living in these Districts may drive less because they have more nearby destinations, reducing their driving time and allowing for more alternative travel methods, such as biking and walking. In addition, the amendments implement Senate Bill 8 which allows income qualified housing developments in the Light Industrial (IL) and Public Facilities (PF) Districts which could reduce trips due to convenient access to employment.

### ***Citizen Involvement***

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

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

**FINDING for 1-15 and 1-16:** Notice of the proposed BDC amendments was provided to the Department of Land Conservation and Development (DLCD) on September 20, 2024. A notice of the October 28, 2024, Planning Commission public hearing was printed in the Bend Bulletin on October 6, 2024, and was mailed and emailed to the Neighborhood Districts on September 25, 2024. Staff also emailed the proposed amendments to people who have expressed an interest in the amendments, to the Bend Development Code Update Group and to the Neighborhood Districts Land Use Chairs on September 25, 2024. The Bend Development Code Update Group includes community members comprised of architects, lawyers, developers, land use planners, and engineers and staff from Central Oregon Builders

Association (COBA), Oregon LandWatch, and the Bend Park and Recreation District, as well as people who are generally interested in amendments to the BDC.

On October 14, 2024, the Planning Commission held a work session to review the package of amendments. On October 28, 2024, the Planning Commission will hold a public hearing and make a recommendation on the amendments to the City Council. The City Council will review the proposed amendments on November 20, 2024.

Therefore, compliance with Chapter 1 has been met.

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

### **Goals:**

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

**FINDING:** Bend's median home price hovers close to \$800,000, while the area median household income (AMI) is about \$74,000. This puts housing, particularly home ownership, so far out of reach for most people that only 8 percent of the local workforce can afford a home in Bend.<sup>1</sup>

The proposed amendments implement certain Oregon state laws and legislation to help facilitate housing development. This will increase housing types permitted in various districts, resulting in a larger range of choices in housing types and location. In addition, the amendments implement Senate Bill 1537 which requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. The adjustments to development standards include, but are not limited to, side or rear setbacks, minimum lot or parcels sizes including lot widths and depths, lot coverage, and height requirements and the adjustments to design standards include, but are not limited to, façade materials and articulation, window area, balcony and porch requirements, and recess and offset requirements. The amendments also eliminate the requirement to apply for building permits in advance of, or concurrently with, a Middle Housing Land Division application, and there are amendments which provide additional flexibility for the development of townhomes, cottage developments and shared courts. These amendments support a variety of living styles and affordability, accommodate different housing needs and promote flexibility in development standards for more efficient use of residential lands.

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<sup>1</sup> Up For Growth, Housing Underproduction in the US, 2023

## Housing Mix, Density, and Affordability

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

**FINDING:** According to Bend’s Housing Needs Analysis, Appendix K of the Bend Comprehensive Plan, Bend is planning for growth of about 38,500 people between 2008 and 2028. As shown in Table 18 of the Comprehensive Plan, Bend has a need for 13,700 additional dwellings for the remainder of the 2008-2028 forecast period, between 2017 and 2028.

Table 18. Needed housing by needed mix, Bend, 2014-2028

	Needed Units (2008 - 2014)	Units permitted 2009 to end of July 2014	Remaining Need (Mix applied to remaining total)	
			Units	Percent of New Units
Single-family detached	9,175	2,411	7,574	55%
Single-family attached	1,668	112	1,377	10%
Multi-family	5,838	389	4,819	35%
<b>Total</b>	<b>16,681</b>	<b>2,912</b>	<b>13,770</b>	<b>100%</b>

Source: ECONorthwest

The summary of key findings about housing affordability in the Housing Needs Analysis states that the decreases in housing affordability for homeowners shows an increased need for less costly smaller single-unit detached housing, both smaller lots and smaller units, such as cottages or cluster housing, and townhouses. Demand for owner-occupied multi-unit housing, such as garden apartments or urban condominiums, may increase, especially in walkable areas with access to services. These types of more affordable owner-occupied units are the types likely to be preferred by some downsizing baby Boomers and Millennials, especially as first houses for Millennials.

In addition, according to the Housing Needs Analysis, 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. Additionally, 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 amendments will help implement a mix of housing indicated in the adopted Housing Needs Analysis by increasing housing types permitted in various zones including the Commercial and Mixed-Use Zoning Districts, the Public Facilities (PF) District, and the Light Industrial (IL) District. Senate Bill 8 and House Bill 3151 require local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites. House Bill 2984 allows the conversion of commercial buildings or a portion of a building to a residential use and House Bill 3395 allows residential in Commercial and Mixed-Use Districts, provided they meet the required area median income thresholds. This results in a range of choices in housing types and location.

In addition, the amendments implement Senate Bill 1537, which requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. These adjustments may make it more feasible to build all types of housing.

The amendments also eliminate the requirement to apply for building permits in advance of, or concurrently with, a Middle Housing Land Division application which will support development of middle housing and home ownership opportunities.

Also, the following amendments support the development of cottages and townhomes:

**BDC 3.8.500 Cottage Housing Development and BDC 3.8.900, Cottage Cluster Developments.** Clarifies that parking can be located in the rear perimeter setbacks when accessed from an alley or private driveway.

**BDC 3.8.1000, Shared Courts.**

- Increases the maximum lot coverage for the townhomes to 80% due to their smaller lot sizes.
- Reduces the front setback for enclosed livable space onto a private access drive from five feet to three feet to allow for more flexibility in the design of the front facades.
- Allows the front door on interior lots to orient to a private access drive or common open space area to allow for more flexibility in the design of the development.

Therefore, the amendments support the development of housing identified in the Housing Needs Analysis.

**5-5** The main purpose of maximum densities shown on the Plan Map is to maintain proper relationships between proposed public facilities and services and population distribution. One purpose of minimum densities is to assure efficiency of land use, particularly for larger sites. Another is to encourage development of housing in locations and at densities that support healthy, accessible, and affordable housing choices.

**FINDING:** The amendments allow more housing opportunities in the Commercial and Mixed-Use Districts with BDC 3.6.200(C), Conversion from Commercial to Residential Uses, and BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing. These new sections include the following density requirements:

- **Minimum Density.** The minimum density standards of the Medium Density Residential (RM) Zone apply, except there is no minimum residential density standard for a “vertical” mixed use building or development.
- **Maximum Density.** There is no maximum density.

To ensure land for housing in the Commercial and Mixed-Use Districts is used efficiently, there are no minimum density requirements proposed for vertical mixed-use developments and all



other types of residential developments will be subject to the Medium Density Residential (RM) District's density requirement of 7.3 units per acre.

As used in the BDC, density means a measurement of the number of dwelling units in relationship to a specified amount of land. Although the City of Bend uses individual dwelling units as a measurement, it does not measure the size of the units. An apartment building may be comprised of all one-bedroom units, or it may have all three-bedroom units, but the overall structure can result in similar levels of FAR (Floor area ratio means a measurement of building density calculated by dividing the gross enclosed floor area of a building measured to the inside of the external walls by the land area of the development.) Based on this, there are no maximum density requirements proposed. This will allow the development standards including lot coverage, setbacks and height to regulate the size and density of the building.

**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 summary of key findings about housing affordability in the Housing Needs Analysis states that the decreases in housing affordability for homeowners shows an increased need for less costly smaller single-unit detached housing, both smaller lots and smaller units, such as cottages or cluster housing, and for townhouses. Demand for owner-occupied multi-unit housing, such as garden apartments or urban condominiums, may increase, especially in walkable areas with access to services. These types of more affordable owner-occupied units are the types likely to be preferred by some downsizing baby Boomers and Millennials, especially as first houses for Millennials.

In addition, according to the Housing Needs Analysis, 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 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 BDC middle housing land division process in BDC 4.3.700, Expedited and Middle Housing Land Division allows the creation of multiple lots or parcels from a single parent site on which middle housing is developed or proposed, which results in each of the units being located on its own individual lot or parcel. Under the current code, a middle housing land division application may be submitted when the parent site is developed with middle housing, has an active building permit to construct middle housing, or the application is being reviewed concurrently with a building permit application for construction of middle housing. In addition, a building permit for each lot or parcel must be issued prior to final plat being approved. This has created challenges with financing the design and plan costs for the new individual lot owners because lenders are not able to lend against a property that does not legally exist. This results in the parent site property owner having to finance each intended new lot's individual structure and site utility plans.

To address this, the amendments will allow a middle housing land division application to be submitted when the application is being reviewed concurrently with a conceptual site plan showing proposed detached middle housing and removes the requirement for building permits for each lot or parcel to be issued prior to final plat approval. Therefore, the amendments eliminate the requirement to apply for building permits in advance of, or concurrently with, a middle housing land division application.

In addition, in compliance with House Bill 4063, the amendments allow one vacant parcel of a partition (original) to be further divided into not more than three new parcels through a middle housing land division during the same calendar year that the original partition was recorded with Deschutes County.

These amendments will encourage a wider range of applicants to pursue a middle housing land division. Given the potential for smaller lot or parcel sizes to be created through a middle housing land division and potentially smaller units to be developed, a single unit of middle housing on a middle housing lot or parcel is likely to sell at a lower price point than a traditional single detached dwelling unit.

In addition, Senate Bill 1537 requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. The adjustments to development standards include, but are not limited to, side or rear setbacks, minimum lot or parcels sizes including lot widths and depths, lot coverage and height requirements, and the adjustments to design standards include, but are not limited to, façade materials and articulation, window area, balcony and porch requirements and recess and offset requirements. The adjustment process may result in cost-saving measures which may make some housing more affordable.

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

**FINDING:** The following amendments provide flexibility to support a mix of housing types and densities:

**BDC 3.8.500 Cottage Housing Development and BDC 3.8.900, Cottage Cluster Developments.** Clarifies that parking can be located in the rear perimeter setbacks when accessed from an alley or private driveway.

**BDC 3.8.1000, Shared Courts.**

- Increases the maximum lot coverage for the townhomes to 80% due to their smaller lot sizes.
- Reduces the front setback for enclosed livable space onto a private access drive from five feet to three feet to allow for more flexibility in the design of the front facades.
- Allows the front door on interior lots to orient to a private access drive or common open space area to allow for more flexibility in the design of the development.

In addition, the amendments increase the lot coverage to 60 percent for townhomes in the Standard Density Residential (RS) District due to their allowable smaller lot sizes (average minimum lot or parcel size: 1,500 sq. ft. for each unit). Lot coverage refers to the amount of a lot covered by buildings and other structures. If the lot coverage requirements are too restrictive, then the buildable area may be too small for an average-size home and the developer may need to increase the lot size which inadvertently decreases density. The amendments to increase the lot coverage can help projects develop to the maximum density allowed by zoning.

The amendments also implement Senate Bill 1537, which requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. The adjustments to development standards include, but are not limited to, side or rear setbacks, minimum lot or parcels sizes including lot widths and depths, lot coverage and height requirements, and the adjustments to design standards include, but are not limited to, façade materials and articulation, window area, balcony and porch requirements and recess and offset requirements. These adjustments provide additional flexibility that support a mix of housing types and densities.

**5-9** The City and County will support public and private non-profit and for-profit entities that provide affordable housing in Central Oregon.

**FINDING:** Senate Bill 8 and House Bill 3151 support public and private non-profit and for-profit entities that provide affordable housing since the Bills require local governments to allow income-qualified housing on property that is:

- Owned by a public body as defined in ORS 174.109, a nonprofit corporation that is organized as a religious corporation, a nonprofit corporation that is organized as a public benefit corporation whose primary purpose is the development of affordable housing, a housing authority as defined in ORS 456.005, or a manufactured dwelling park nonprofit cooperative as defined in ORS 62.803; or
- Located in a Residential, Commercial or Mixed-Use Zoning District or Public Facilities (PF) District; or located in the Light Industrial (IL) District and the property is publicly owned; and adjacent to lands zoned to allow residential uses or schools.

**5-16** The City may consider density bonuses as an incentive to providing affordable housing.

**FINDING:** Senate Bill 8 requires local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites. The proposed amendments create a new section, BDC 3.6.250(B), Income Qualified Housing Allowed Outright, to implement the requirements of Senate Bill 8 which includes the following density and height bonuses in BDC 3.6.250(B):

***3. Development of income qualified housing under this section may comply with the following density and height requirements, at the greater of:***

- a. The density bonus for affordable housing in compliance with BDC 3.6.250(C), Affordable Housing Strategies; or***

- b. The following density and height bonuses:**
- i. For property zoned RL, RS or RM-10, 200 percent of the existing maximum density and 12 additional feet above the height of the underlying zone;**
  - ii. For property zoned RM, 150 percent of the existing maximum density and 24 additional feet above the height of the underlying zone; or**
  - iii. For property zoned RH, or Commercial or Mixed-Use Districts, 125 percent of the existing maximum density and 36 additional feet above the height of the underlying zone.**
- c. The Review Authority may reduce the density or height of the density bonus allowed under this section as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. If the City of Bend utilizes this reduction authority, the City will adopt findings supported by substantial evidence demonstrating the necessity of the reduction.**

In addition, the BDC includes an incentive program with density bonuses to assist with the development of affordable housing in BDC 3.6.250(C), Affordable Housing Strategies.

**5-20** When affordable housing development is required by City policy or code or to meet eligibility criteria for a City incentive program or a policy requirement, affordable housing means housing with a sales price or rental amount that is within the means of a household that may occupy moderate- and low-income housing. Unless otherwise specified, affordable housing must meet one of the thresholds defined below. Nothing in this policy prevents the city from providing support for housing at other levels of affordability.

- In the case of dwelling units for sale, affordable means housing in which the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a for a family at 80% of the area median income, based upon most recent HUD Income Limits for the Bend Metropolitan Statistical Area (Bend MSA).
- In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a family at 60% of the area median income, based upon most recent HUD Income Limits for the Bend MSA.

**FINDING:** The BDC includes BDC 3.6.200(C), Affordable Housing Strategies, that implements this policy. The amendments relocate this section to BDC 3.6.250, Income Qualified Housing, as BDC 3.6.250(C), Affordable Housing Strategies, so that all the income qualified options are located in one place in the BDC.

**5-21** In order to ensure the continued affordability of affordable housing that has been committed by a property owner or required by the City, the City may:

- Specify a minimum number of years that affordability must be maintained;

- Require an applicant to demonstrate how affordability will be ensured throughout the specified period, including addressing how units will be made available to households meeting the targeted income level, resale/recapture for ownership units, and/or rent increases for rental units, as applicable;
- Establish phasing requirements for construction of affordable housing units;
- Condition land use approvals to implement affordable housing requirements;
- Require restrictive covenants, deed restrictions, and/or related instruments as deemed necessary by the City; and/or
- Require other measures deemed necessary by the City.

**FINDING:** The new section BDC 3.6.250, Income Qualified Housing, includes the following sections for developing income qualified housing:

1. **BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing** (House Bill 3395 and ORS 197A.460)
2. **BDC 3.6.250(B), Income Qualified Housing Allowed Outright** (SB 8, HB 2984 and HB 3151, and ORS 197A.445(3))
3. **BDC 3.6.250(C), Affordable Housing Strategies.** This section currently exists in the BDC as BDC 3.6.200(C), Affordable Housing Strategies and the amendments relocate it to the new Income Qualified Housing section as BDC 3.6.250(C), Affordable Housing Strategies.

Each of the BDC sections above ensure continued affordability through various requirements including affordable housing covenants and affordable housing development agreements.

**5-24** Homes built to HUD Class A manufactured home standards will be permitted in manufactured home parks, or on individual lots. Non-Class A manufactured homes may be allowed in manufactured home parks or as replacement for non-conforming manufactured homes subject to conditional use approval standards that are clear and objective and that encourage retention and replacement of existing affordable housing stock.

**5-25** Homes built to HUD manufactured home standards located on individual lots in areas already developed with conventional housing shall be subject to special siting standards as provided by state needed housing law.

**5-26** Manufactured and modular homes meeting IRC Modular and CABO building code standards shall be permitted on the same basis as site-built homes.

**FINDING for 5-24 through 5-26:** House Bill 4064 prohibits local governments from subjecting manufactured homes and prefabricated structures to standards that do not apply to site-built single-unit dwellings on the same property, except:

- Protections related to statewide land use planning goals; and
- Regulations related to thermal envelope performance standards.

The amendments update definitions and requirements for manufactured dwelling parks and prefabricated structures and delete placement and skirting requirements for manufactured

dwellings. In addition, the amendments rename “Manufactured homes on individual lots” to “Manufactured homes and prefabricated structures on individual lots” in the use tables.

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

**FINDING:** The proposed amendments implement certain Oregon state laws and legislation to facilitate housing development. This will increase housing types permitted in various districts, resulting in a larger range of choices in housing types and location. The amendments will allow income-qualified housing on lands zoned Commercial and Mixed-Used Districts, Public Facilities (PF), and Light Industrial (IL) Districts, and allow will conversion of a building from a commercial to residential use in the Commercial and Mixed-Used Districts. The amendments also allow manufactured dwelling parks serving households with incomes of 120 percent AMI or less on certain non-residential lands. These amendments will offer a wide variety of housing types in addition to what is already permitted in the Residential Districts.

The amendments also eliminate the requirement to apply for building permits in advance of, or concurrently with, a Middle Housing Land Division application, and provide additional flexibility for the development of townhomes, cottage developments and shared courts.

**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:** Senate Bill 1537 requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. The adjustments include, but are not limited to, side or rear setbacks and lot or parcel sizes including lot widths or depths. The Bill has a list of items which are not included in the definition of “adjustment” – these items include a request to allow a use of property not otherwise allowed in a zone, and deviations to requirements related to accessibility, affordability, fire or building codes, local tree codes, etc.

The proposed amendments create a new chapter, BDC 5.3, Adjustments, to implement the adjustment requirements. The requirements go into effect on January 1, 2025, and sunset on January 2, 2032.

### ***Public Utilities and Services***

**5-48** All residential areas will be provided with community water and sewer services and other facilities necessary for safe, healthful, convenient urban living consistent with the density of development.

**FINDING:** The amendments update the current BDC electric vehicle service capacity requirements for multi-unit residential and new mixed-use developments to comply with OAR 660-012-0410 which requires BDC 3.3.300(E)(1) to apply to buildings, not developments:

#### ***E. Electrical Service Capacity.***

- 1. Applications submitted after March 31, 2023, for new multi-unit residential developments buildings with five or more dwelling units or new mixed-use developments buildings consisting of privately owned commercial space and five or more dwelling units must provide sufficient electrical service capacity, as defined in ORS 455.417, to serve no less than 40 percent of all vehicle parking spaces on a site containing the dwelling units. Townhomes are not included for purposes of determining the applicability of this regulation.**
- 2. New commercial buildings under private ownership must provide sufficient electrical service capacity, as defined in ORS 455.417, to serve no less than 20 percent of all vehicle parking spaces on the site.**
- 3. Fractional numbers derived from a calculation of the vehicle parking spaces must be rounded up to the nearest whole number.**

Therefore, the amendments will require facilities for services that contribute to a safe, healthful, convenient urban living.

### ***Residential Development***

**5-55** The City will support residential infill development to help achieve the mix of housing identified in the adopted Housing Needs Analysis.

**FINDING:** According to the Bend Housing Needs Analysis, Bend is planning for growth of about 38,500 people between 2008 and 2028, requiring nearly 16,700 new dwelling units. Bend's housing needs are changing and key demographic changes are occurring in Bend and across the nation. Baby Boomers may need affordable housing or may choose to downsize their housing, resulting in greater demand for small single-family dwellings, cottages, accessory dwelling units, townhomes, apartments, and condominiums and growth in Millennial households will increase the need for affordable housing for renters and homeowners such as: small single-family dwellings, cottages, accessory dwelling units, duplexes, townhomes, garden apartments, and apartments.

The amendments implement certain Oregon state laws and legislation that support residential infill development and a mix of housing identified in the adopted Housing Needs Analysis. Senate Bill 8 and House Bill 3151 require local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites. House Bill 2984 allows commercial to residential building conversions without requiring a zone change or conditional use permit and House Bill 3395 allows housing within commercial land use districts if it is affordable to households with incomes of 60 percent AMI or less, or for mixed-use structures with ground floor commercial with residential units that are affordable to moderate income (80 – 120% AMI) households.

These amendments also support residential infill by removing barriers to the criteria and final plat requirements for a middle housing land division. This allows a middle housing land division application to be submitted when the application is being reviewed concurrently with a conceptual site plan showing proposed detached middle housing and removes the requirement for building permits for each lot or parcel to be issued prior to final plat approval. These amendments eliminate the requirement to apply for building permits in advance of, or concurrently with, a Middle Housing Land Division application.

In addition, in compliance with House Bill 4063, the amendments allow one vacant parcel of a partition (original) to be further divided into not more than three new parcels through a middle housing land division during the same calendar year that the original partition was recorded with Deschutes County.

Therefore, the amendments support residential infill development to help achieve the mix of housing identified in the adopted Housing Needs Analysis.

**5-56** The City will promote a mix of housing types in areas zoned residential through clear and objective standards and in compliance with HB 2001.

**FINDING:** The Oregon State Legislature passed House Bill (HB) 2001 in 2019, which requires cities over 25,000 population to allow the development of "middle housing," such as:

- Duplexes “on each lot or parcel zoned for residential use that allow for the development of detached single family dwellings”, and
- Triplexes, quadplexes, cottage clusters, and townhomes “in areas zoned for residential use that allow for the development of detached single family dwellings.”

In 2001, the City implemented HB 2001 with the adoption of Ordinance No. NS-2423, which approved amendments to the BDC to allow duplexes, triplexes, quadplexes, townhomes and cottage clusters in all residential zoning. The proposed amendments clarify that parking can be located in the rear perimeter setbacks for cottage developments when accessed from an alley or private driveway. The amendments also increase the lot coverage for townhomes in the Standard Density Residential (RS) District due to the smaller allowable lot sizes. The amendments are clear and objective and continue to promote a mix of housing types in all residential zoning districts in compliance with HB 2001.

### ***Shelters and Transitional Housing***

**5-57** The City will support removing barriers for the development of shelters and other types of supportive and transitional housing for people who lack housing in all plan designations, except Industrial General (IG).

Population estimates anticipate an additional 20,000 people moving to Bend by the year 2030.<sup>2</sup> Bend, like many communities in the western United States, is becoming an unaffordable place to live for many people. While Bend has one of the leading Affordable Housing Programs in the state of Oregon, local wages, a tourism-based economy, and rising housing prices have left many people behind and struggling to find housing.

The amendments implement certain Oregon state laws and legislation, including Senate Bill 8 and House Bills 2984, 3151 and 3395, that may facilitate additional options for transitional housing, consistent with this policy. Senate Bill 8 requires local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites including property zoned Light Industrial (IL) District if the property is:

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<sup>2</sup> Portland State University Center Population Research Center.



(A) Publicly owned; and

(B) Adjacent to lands zoned for residential uses or schools.

House Bill 2984 requires cities and counties to allow developers to convert commercial buildings within their urban growth boundaries into residential housing without requiring zoning changes or conditional use permits. This allowance may offer a more affordable way to provide additional housing or transitional housing in the city. House Bill 3395 allows housing within commercial land use districts if it is affordable to households with incomes of 60 percent of the Area Median Income (AMI) or less, or for mixed-use structures with ground floor commercial with residential units that are affordable to moderate income (80-120% AMI) households.

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:** The amendments allow more housing options to be developed in nonresidential districts. This provides opportunities to increase the availability of workforce housing for workers who currently live outside of the area but work in the City. Workforce housing also helps employers address labor shortages by making housing more accessible to workers. It also reduces traffic congestion by helping employees live closer to their jobs. Of regional employers responding to a Bend Chamber of Commerce Poll, 91% said the high cost of housing limits their growth and strains their existing workforce (Bend Chamber of Commerce, 2022). Locating housing that is affordable near employment helps the economy and enhances the community's overall livability.

In addition, allowing residential uses in nonresidential districts helps put housing near commercial services, which is convenient to the residents.

#### **■ Ensure an adequate supply of appropriately zoned land for industrial, commercial, and mixed-use development opportunities.**

**FINDING:** The amendments do not change the zoning designation of any lands and retain the uses that are currently allowed in the Commercial and Mixed-Use Districts and in the Light Industrial (IL) District and Public Facilities (PF) District. The amendments allow for flexibility by allowing new residential or mixed-use developments opportunities.

### ***Industrial Development***

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

**FINDING:** Senate Bill 8 requires local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites including property zoned to allow for industrial uses only if the property is:

- (A) Publicly owned;
- (B) Adjacent to lands zoned for residential uses or schools; and
- (C) Not specifically designated for heavy industrial uses.

The City has identified a need for two large lot (at least 50-acre) industrial sites for targeted industries specified in the Economic Opportunities Analysis (EOA). This need will be met through the opportunity for one large lot industrial site in the eastern portion of Juniper Ridge and one large lot industrial site on the DSL property (see Comprehensive Plan Figure 11-6). The large-lot industrial site in Juniper Ridge does not meet the criteria listed above since it is not located adjacent to lands zoned for residential uses or schools. The large lot on the DSL property is located in the Stevens Ranch Master Planned Development which allows heavy industrial uses and therefore does not meet the criteria listed above either. Therefore, the two sites continue to be protected for industrial uses.

**6-18** The City will work to preserve prime industrial lands for industrial purposes and protect them from incompatible commercial and residential uses.

**FINDING:** Senate Bill 8 requires local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites including property zoned Light Industrial (IL) District if the property is:

- (A) Publicly owned; and
- (B) Adjacent to lands zoned for residential uses or schools.

The criteria listed above limits the locations of where an income qualified housing project may be located and therefore preserves industrial lands for industrial purposes.

**6-23** The City must replace lands designated for industrial land uses on the Comprehensive Plan map that are subsequently changed to non-industrial designations through adoption of an area plan. The City will ensure these lands are replaced either through a rezoning of land within the UGB and/or an amendment to the UGB to ensure an adequate supply of industrial land for industrial jobs.

**FINDING:** No changes are proposed to the Comprehensive Plan map with this package of amendments. Senate Bill 8 requires local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites including property zoned to allow for industrial uses only if the property is:

- (A) Publicly owned;
- (B) Adjacent to lands zoned for residential uses or schools; and
- (C) Not specifically designated for heavy industrial uses.

Under Senate Bill 8, a local government shall allow a proposed affordable housing development if it meets the above criteria and may not require a zone change or conditional use permit for it. In addition, development under Senate Bill 8 does not trigger any requirement that a local government consider or update an analysis as required by a statewide planning goal relating to economic development.

### ***Mixed Use Development***

**6-24** Mixed-use development may be regulated through one or more plan designations and zoning districts to encourage the development of a mix of employment, or a mix of employment and residential uses.

**FINDING:** The amendments implementing the various Senate and House Bills will encourage a mix of employment and residential uses. Senate Bill 8 and House Bill 3151 require local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites including in the Commercial and Mixed-Use Districts. House Bill 2984 allows commercial to residential building conversions without requiring a zone change or conditional use permit, and House Bill 3395 allows housing within the Commercial and Mixed-Use Districts if it is affordable to households with incomes of 60 percent AMI or less, or for mixed-use structures with ground floor commercial with residential units that are affordable to moderate income (80 – 120% AMI) households.

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

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

**FINDING:** The Bills expand opportunities to develop market-rate and income-qualified housing in the Commercial and Mixed-Use Districts. Allowing residential uses in these Districts fosters pedestrian usage by combining commercial/retail uses and residential uses in the same buildings or in close vicinity of each other. This helps to reduce dependency upon the automobile, makes pedestrians a focal point, and encourages a more walkable environment.

**6-26** The City will encourage vertical mixed use development in commercial and mixed use zones, especially where those occur within the Central Core, Opportunity Areas, and along transit corridors.

**FINDING:** House Bill 3395 allows housing within commercial land use districts for mixed-use structures with ground floor commercial with residential units that are affordable to moderate income (80-120% AMI) households. The amendments create a new section, BDC 3.6.250(A),

Residential Use of Commercial Lands for Income Qualified Housing, to implement House Bill 3395. The development of this income qualified housing option will be permitted in the Commercial and Mixed-Use Districts and it will have to comply with the Mixed-Use Neighborhood (MN) District which will help to ensure compatibility of the development with the surrounding area.

### ***Commercial Development***

**6-29** The City will encourage development and redevelopment in commercial corridors that is transit-supportive and offers safe and convenient access and connections for all transportation modes.

**FINDING:** The amendments expand opportunities to develop market-rate and income-qualified housing in the Commercial and Mixed-Use Districts. This allows for a mix of uses which enables residents to meet their needs without using a car. This offers safe and convenient access and is an important aspect of reducing the community's reliance on the automobile and lowering transportation costs.

**6-31** The City shall strive to retain and enhance desirable existing commercial areas and encourage property owners' efforts to rehabilitate or redevelop older commercial areas.

**FINDING:** The amendments implement Senate Bill 8 and House Bill 3151, 2984 and 3395 which provide opportunities for property owners to rehabilitate or redevelop their property into housing that could support existing commercial areas. House Bill 2984 requires cities and counties to allow developers to convert commercial buildings into residential housing without requiring zoning changes or conditional use permits. In addition, House Bill 3395 allows housing within commercial land use districts if it is affordable to households with incomes of 60 percent of the Area Median Income (AMI) or less, or for mixed-use structures with ground floor commercial with residential units that are affordable to moderate income (80-120% AMI) households. Development under House Bill 3395 is not applicable to lands that were added to the Urban Growth Boundary (UGB) during the 15 years preceding the date of development application submittal. Senate Bill 8 and House Bill 3151 require local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites and they provide height and density bonuses in the Commercial and Mixed-Use Districts.

**6-38** The City will provide a process through the development code to review and approve exceptions to height limits where it supports City goals and policies.

**FINDING:** The BDC currently includes an incentive for the development of affordable housing to allow an increase in building height not to exceed 10 feet above the height of the underlying zone for quadplexes and multi-unit housing when the additional units gained by the height increase are affordable housing units. This incentive currently exists in the BDC as BDC 3.6.200(C), Affordable Housing Strategies and the amendments relocate it to the new Income Qualified Housing section as BDC 3.6.250(C), Affordable Housing Strategies.

In addition, in the Mixed-Employment, Mixed-Use Urban and Mixed-Use Neighborhood Districts and in the Commercial Districts, except for buildings along the west side of Brooks Street where the maximum building height is 35 feet, the maximum height may be increased by 10 feet above

the maximum allowed height when residential uses are provided above the ground floor (“vertical mixed use”), except for properties abutting a residentially designated district. The building height increase for residential uses applies only if the top floor is residential, and does not apply to buildings that have variance approval to exceed the permitted height.

The amendments include additional exceptions to height limits. For example, Senate Bill 8 provides height and density bonuses in areas zoned for residential uses for the development of income qualified housing. In addition, Senate Bill 1537 requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. One of the adjustments to the development standards is to the building height maximums. Except for single-unit detached dwellings, ADUs and cottage developments, an adjustment to the building height maximums are in addition to existing applicable height bonuses and may not be more than an increase of the greater of one story or a 20 percent increase to the corresponding zone height. In no case can the height exceed both an increase of one story and 20 percent of the corresponding zone height.

**6-40** The City will limit the amount of ground-floor residential development in the commercial zones and mixed employment zones to preserve economic lands for economic uses.

**FINDING:** The Bend Development Code has requirements for limiting ground floor residential uses in the Commercial Districts and in the Mixed-Employment (ME) and Professional Office (PO) Districts; however, several of the Bills require local governments to allow standalone residential uses in these areas. Senate Bill 8 and House Bill 3151 require local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites. House Bill 2984 allows commercial to residential building conversions without requiring a zone change or conditional use permit, and House Bill 3395 allows housing within commercial land use districts if it is affordable to households with incomes of 60 percent AMI or less, or for mixed-use structures with ground floor commercial with residential units that are affordable to moderate income (80 – 120% AMI) households.

In addition, Senate Bill 1537 requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. One of the adjustments is to the development standards for ground floor uses of a mixed-use building to allow:

- Residential uses except for one face of the building that faces the street and is within 20 feet of the street; and
- Nonresidential active uses that support the residential uses of the building, including lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces.

Allowing these additional housing options and adjustments for residential uses in the Commercial and Mixed-Use Districts fosters communities where people can live, work, and shop, and therefore supports and preserves economic development.

### ***Inclusive Economy***

**6-43** The City will work with public agencies and community partners to support solutions for houselessness. This includes finding ways to keep people in their homes, provide temporary transitional housing, increase the availability of affordable housing, and provide flexible shelter and housing options for people experiencing hardships due to economic instability and other legitimate reasons.

**FINDING:** The amendments implement certain Oregon state laws and bills, including Senate Bill 8 and House Bills 2984, 3395 and 3151. These Bills are intended to increase the availability of affordable housing, and local legislation implementing them may provide flexible shelter and housing options for people experiencing hardships due to economic instability and other legitimate reasons.

**6-44** The City will help people experiencing houselessness through adoption of policies, with municipal and Development Code changes, funding, and collaboration with public agencies and non-profits to enable additional supports and services such as shelters and safe parking options.

**FINDING:** The amendments implement certain Oregon state laws and bills, including Senate Bill 8 and House Bills 2984, 3395 and 3151, which may facilitate additional housing options for people experiencing houselessness, consistent with this policy. Senate Bill 8 requires local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites including property zoned Light Industrial (IL) District if the property is:

(A) Publicly owned; and

(B) Adjacent to lands zoned for residential uses or schools.

House Bill 2984 requires cities to allow developers to convert commercial buildings within their urban growth boundaries into residential housing without requiring zoning changes or conditional use permits. House Bill 3395 allows housing within commercial land use districts if it is affordable to households with incomes of 60 percent of the Area Median Income (AMI) or less, or for mixed-use structures with ground floor commercial with residential units that are affordable to moderate income (80-120% AMI) households.

Therefore, the amendments satisfy Chapter 6, Economy.

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

### **Goals**

■ **To have public and private utility systems provide adequate levels of service to the public at reasonable cost;**

**FINDING:** Senate Bill 8 and House Bills 2984, 3151, and 3395 only apply to developments that can be adequately served by water, sewer, storm water drainage and streets, or which will be adequately served at the time that development on the lot is complete. The anticipated increase in housing density in existing areas is not expected to result in overburdening of public facilities and services, and new public facilities and services will be designed to serve anticipated development, including residential development in non-residential districts.

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

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

### ***Water Facilities and Systems***

**8-18** Within the urban planning area, public and private water systems shall be consistent with City Standards and Specifications for construction and service capabilities.

**FINDING for 8-1 and 8-18:** Senate Bill 8 and House Bills 2984, 3151, and 3395 only apply to developments that can be adequately served by water, sewer, storm water drainage and streets, or which will be adequately served at the time that development on the lot is complete. The anticipated increase in housing density is not expected to result in overburdening of public facilities and services, and new public facilities and services will be designed in compliance with the City Standards and Specifications for construction and service capabilities.

### ***Storm Drainage Facilities and Systems***

**8-33** Hazard and resource areas with the following characteristics shall be considered unsuitable for urban development:

- flood zones;
- water supply watersheds; and
- riparian corridors and natural drainageways.

**FINDING:** In compliance with Senate Bill 8 and House Bills 2984, 3395 and 3151, the following new sections do not apply to lands where the City determines that the property is within the 100-year floodplain:

- **BDC 3.6.200(C), Conversion from Commercial to Residential Uses** (House Bill 2984, ORS 197A.445(3)).
- **BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing** (House Bill 3395 and ORS 197A.460)
- **BDC 3.6.250(B), Income Qualified Housing Allowed Outright** (SB 8, HB 2984 and HB 3151, and ORS 197A.445(3))

Existing development standards within the Waterway Overlay Zone (BDC 2.7.600) will continue to apply to development proposed near the Deschutes River and ensure that riparian resources are protected. Therefore, the amendments satisfy Chapter 8, Public Facilities and Services.

### ***General Growth Management Policies***

**11-1** The City will encourage compact development and the integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel.

**FINDING:** The Senate and House Bills implemented by the amendments were enacted to expand opportunities to develop market-rate and income-qualified housing in the Commercial and Mixed-Use Districts, and encourage optimizing development of land in the Urban Growth Boundary and re-use of existing buildings. The mix of uses is an important aspect of reducing

the community's reliance on the automobile and lowering transportation costs. In addition, neighborhoods that are more walkable and are located near employment and commercial services help improve access to daily needs.

**11-2** The City will encourage infill and redevelopment of appropriate areas within Bend's Central Core, Opportunity Areas and transit corridors (shown on Figure 11-1).

**FINDING:** The amendments implement Senate Bill 8 and House Bill's 2984, 3151 and 3395. These amendments may help encourage infill and redevelopment within Bend's Central Core, Opportunity Areas, and transit corridors due to allowing units to be built on lots that were previously restricted to only commercial or specific mixed-use development requirements. Senate Bill 8 requires local governments to allow affordable housing developments meeting a specific definition and criteria on a wide range of sites. House Bill 2984 allows the conversion of commercial to residential and House Bill 3395 allows residential in commercial districts and in mixed-use structures provided they meet the required area median income thresholds.

### ***Policies for Land Use and Transportation***

**11-12** The City shall explore incentives for re-development of existing commercial strips in order to help reduce the need to expand the Urban Growth Boundary.

**FINDING:** Senate Bill 8 incentivizes re-development of existing commercial strips through density and height bonuses. The proposed amendments create a new section, BDC 3.6.250(B), Income Qualified Housing Allowed Outright, to implement the requirements of Senate Bill 8. Development of income qualified housing under this section in the Commercial and Mixed-Use Districts may comply with the bonuses, at the greater of the density bonus for affordable housing in compliance with BDC 3.6.250(C), Affordable Housing Strategies, or 125 percent of the existing maximum density and 36 additional feet above the height of the underlying zone.

House Bill 2984 allows commercial to residential building conversions without requiring a zone change or conditional use permit, which may facilitate redevelopment of existing commercial strips into a mix of residential and commercial uses. In addition, Senate Bill 1537 requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. In the Commercial and Mixed-Use Districts, this will allow applications for multi-unit residential developments or mixed-use residential developments where at least 75 percent of the developed floor area will be used for residential uses, to request adjustments to different development standards including, but not limited to, side or rear setbacks, bicycle parking, ground floor uses, height bonuses, and design standards such as façade materials, window areas and building orientation requirements.

### ***Policies for Centers and Corridors***

**11-23 and 11-27** The City will encourage development and redevelopment in commercial corridors that is transit-supportive and offers safe and convenient access and connections for all modes.



**FINDING:** The Bills implemented by the amendments are intended to expand opportunities to develop market-rate and income-qualified housing in the Commercial and Mixed-Use Districts, and allow commercial to residential building conversions without requiring a zone change or conditional use permit, which may facilitate more housing development near commercial services. This allows for a mix of uses which enables residents to meet their needs without using a car. This also offers safe and convenient access, and is an important aspect of reducing the community's reliance on the automobile and lowering transportation costs.

**11-24** The City will encourage vertical mixed use development in commercial and mixed use zones, especially where those occur within the Central Core, Opportunity Areas and along transit corridors.

**FINDING:** The amendments create a new section, BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing, to implement House Bill 3395. House Bill 3395 allows mixed-use structures with ground floor commercial with residential units that are affordable to moderate income (80-120% AMI) households. In addition, Senate Bill 1537 requires a local government to grant a request for no more than ten distinct adjustments to specific development and design standards when an application to develop housing meets certain conditions and criteria. One of the adjustments is to the development standards for ground floor uses of a mixed-use building to allow:

- Residential uses except for one face of the building that faces the street and is within 20 feet of the street; and
- Nonresidential active uses that support the residential uses of the building, including lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces.

Providing flexibility to vertical mixed-use standards can facilitate neighborhoods where people can live, work, and shop in the Central Core, Opportunity Areas and along transit corridors.

### ***Policies for Special Site Needs***

**11-37** The City has identified a need for two large lot (at least 50-acre) industrial sites for targeted industries specified in the EOA. This need will be met through the opportunity for one large lot industrial site in the eastern portion of Juniper Ridge and one large lot industrial site on the DSL property (see Figure 11-6).

**11-38** Subsequent area planning for properties that are identified as meeting a special site need shall include regulations to protect the site for the identified use. The regulations will be consistent with the Regional Large Lot Industrial Land provisions for Crook, Deschutes and Jefferson Counties in Oregon Administrative Rules, Chapter 660, Division 24. The regulations will be consistent with the model code prepared as part of the 2011 Regional Economic Opportunities Analysis.

**FINDING for 11-37 and 38:** Senate Bill 8 requires local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites, including property zoned to allow for industrial uses, only if the property is:

- (A) Publicly owned;
- (B) Adjacent to lands zoned for residential uses or schools; and
- (C) Not specifically designated for heavy industrial uses.

The large-lot industrial site in Juniper Ridge does not meet the criteria listed above since it is not located adjacent to lands zoned for residential uses or schools. The large lot on the DSL property is located in the Stevens Ranch Master Planned Development which allows heavy industrial uses, and therefore does not meet the criteria listed above either. Therefore, the two sites continue to be protected for industrial uses.

Therefore, the amendments satisfy Chapter 11, Growth Management .

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

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

**FINDING:** The proposed amendments implement Senate Bill 8 and House Bills 2984, 3151 and 3395, which require cities to allow housing in areas other than in Residential Districts. The amendments also update certain middle housing land division submittal and final plat requirements, allow for adjustments to development and design standards in compliance with Senate Bill 1537, provide additional flexibility to the development standards for townhomes, cottage developments and shared courts, and include minor changes throughout the BDC for consistency and clarity. By implementing these Bills, the amendments facilitate development of more affordable and market-rate housing units, support smaller housing units, and provide more rental and home ownership opportunities in the City of Bend. These outcomes demonstrate that the amendments help meet the needs identified in the Housing Needs Analysis, address public needs related to housing, and provide a public benefit by expanding opportunities for residential development, including affordable housing. Therefore, the amendments to the BDC meet this criterion.

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

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

**FINDING:** In the event the BDC text 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 Transportation Planning Rule (TPR), at OAR 660-012-0060, requires the City to adopt mitigation measures whenever “an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility.” 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.

An amendment causes a significant effect under the TPR when it changes the functional classification of an existing or planned transportation facility, changes the standards for implementing the functional classification system, or meets any of the standards in OAR 660-012-0060(1)(A) - (C) regarding degradation of the performance of an existing or planned transportation facility.

A land use regulation amendment “significantly affects” transportation under Subsection 1(a) if it “Change[s] the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan).” The amendments are not tied to any one development application and do not change any functional classification under OAR 66-012-0060(1)(a).

A land use regulation amendment “significantly affects” transportation under Subsection 1(b) if it “Change[s] standards implementing a functional classification system.” The amendments do not change the City’s standards for implementing its functional classification system under OAR 66-012-0060(1)(b).

Under Subsection (1)(c), a land use regulation amendment “significantly affects” transportation if it results in (A) types or levels of travel or access inconsistent with the functional classification of a transportation facility; (B) degrades the performance of a transportation facility such that it would not meet performance standards identified in the TSP or comprehensive plan; or (C) degrades the performance of a transportation facility that is otherwise projected to not meet the performance standards in the TSP or comprehensive plan. To determine whether the amendments “significantly affect” a transportation facility within the meaning of (1)(c) a local government may compare the most traffic-generative use reasonably allowed in the current zone with the most traffic-generative use reasonably allowed in the new zone.

The amendments implementing the Bills do not result in any of the significant effects listed in OAR 660-012-0060(1)(c)(A) through (C) because the code changes do not change the most traffic generative use allowed under the current code. House Bill 3395, which requires allowance of income-qualified housing in the Commercial and Mixed-Use Districts subject to certain criteria, requires the local government to apply the most comparable residential density to the allowed commercial uses in the subject district. The proposed amendments recommend the standards applicable to the Mixed-Use Neighborhood (MN) District due to the District’s density, height, and setback requirements. Developments allowed under Senate Bill 8, and

House Bills 2984 and 3151, must be adequately served by public services, including streets, at the time of development.

In the Commercial and Mixed-Use Districts, the Public Facilities (PF) District, and the Light Industrial (IL) District, commercial, retail, and employment related uses tend to generate more average daily trips than the traffic generated from income-qualified housing developments. For example, taking a one-acre site, a reasonable floor area ratio (FAR) for commercial development is 0.50. Using the Institution of Transportation Engineers (ITE) Trip Generation Manual 11<sup>th</sup> Edition daily average trip rates, a general office building on a one-acre site with a FAR of 0.50 would be expected to generate approximately 236 trips per day; general office uses are an allowed use in every Commercial and Mixed-Use District that is impacted by these code amendments. An income-qualified housing development on the same acre would likely be a mid-rise multi-unit development with 25 units, generating approximately 114 average daily trips. The mid-rise multi-unit development or income-qualified housing use generates less average daily trips than other uses likely to develop in the Commercial and Mixed-Use Districts. 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(1)(c(A) through (C).

**IV. CONCLUSIONS:** Based on the findings throughout this report, the proposed amendments to the Bend Development Code meet all applicable criteria for City Council adoption.

**VI. RECOMMENDATION:** Staff recommends that the Planning Commission recommend approval of the proposed Bend Development Code amendments to the City Council.

# Unlocking Infill: More Housing in More Places

## EXPANDING HOUSING OPPORTUNITIES IN VARIOUS ZONES

### **Getting more affordable housing units on the ground in more zones:**

SB 8, passed in 2021, allows development of affordable housing on lands not zoned for residential uses and increases the number of units allowed in zones with deed-restricted affordable housing.

### **More flexibility to build affordable housing on commercial land:**

HB 3395, passed in 2023, allows affordable housing on commercial land, as long as its not in an industrial zones, and provides flexibility based on income levels and mixed-use options. For example, housing that is affordable to a household making 80% to 120% of the area median income can be built on commercial land if commercial use is built on the ground floor of the development.

### **Allowing affordable housing to be an outright use on certain properties:**

HB 3151 bill, passed in 2023, updates the definition of affordable housing to include manufactured home parks and requires local governments to allow affordable housing on properties owned by housing authorities or non-profits.

The definition of affordable housing now includes manufactured home parks that serve households making 120% or less of the area median income. This has the potential for manufactured home parks to be eligible for different zones and higher density standards in line with affordable housing criteria. Zones include residential, commercial, mixed-use districts or public facilities. Land zoned light industrial that is public owned and next to lands zoned for residential use or schools also qualifies.

## CONVERTING COMMERCIAL BUILDINGS INTO HOUSING UNITS

HB 2984, passed in 2023, means a city can allow a developer to convert a commercial building into residential housing without doing extra steps in the land use process, such as a zone change or conditional use permit. The bill does not allow this in land zoned for industrial uses or public facilities.

## STREAMLINING THE DEVELOPMENT PROCESS

### **More flexibility during the application process for developers:**

SB 1537, which will go into effect on Jan. 1, 2025, Offers more flexibility during the application process for developers, including adjustments to development standards and the ability to "opt-in" to new city standards adopted after an application is submitted. Some examples of what a developer could request include reducing bicycle parking or certain setbacks.

This bill also allows a developer to "opt in" to a city's standards and criteria that were adopted after an application was submitted. For example, say a developer submitted an application for a housing project at a time where 35-foot buildings were not permitted in a certain zone, but then a few months later a City passes new codes to allow for 35-foot buildings in that zone. This bill would allow the developer to opt-in to using the newer codes so the housing project could be built up to 35 feet tall and therefore include more housing units. Adjustments will sunset on Jan. 2, 2032.

