

ORDINANCE NS- 2297

AN ORDINANCE AMENDING BEND DEVELOPMENT CODE SECTION 3.6.500, SHORT-TERM RENTALS, AND DECLARING AN EMERGENCY

Findings:

- A. Deschutes Landing was constructed in two different zoning districts: Mixed-Use Riverfront (MR) District and Standard Density Residential (RS) District. The BDC allows Type I STRs in the MR District within the Old Mill Master Plan without concentration limits; however, the RS properties in Deschutes Landing are subject to the concentration limits.
- B. The proposed BDC amendments will exempt all the properties in Deschutes Landing from obtaining a Type I STR permit and from the concentration limits. This will allow STRs to be regulated consistently throughout Deschutes Landing similar to Mount Bachelor Village and the Courtyards at Broken Top Lots 1-8 and Lots 21-32.
- C. Notice of the September 11, 2017, Planning Commission public hearing and of the September 20, 2017, City Council public hearing was printed in the Bend Bulletin on August 27, 2017. A notice was mailed to the Southern Crossings Neighborhood Association and to the property owners in Deschutes Landing on August 23, 2017.
- D. The Planning Commission held a public hearing on September 11, 2017 to accept testimony on the request. At the conclusion of the hearing, the Planning Commission voted to recommend the proposed text amendments be approved by the City Council.
- E. The Bend City Council held a public hearing on September 20, 2017 to accept evidence, receive public testimony and consider the Planning Commission's recommendation. The City Council found that the text amendments satisfy the criteria for approval contained in Section 4.6.200 of the Bend Development Code and voted on the amendments to the Bend Development Code.

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

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

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

Section 3. Declaration of Emergency. The City Council finds that this ordinance is necessary for the health, safety and welfare of the public, and finds that an emergency exists. The ordinance therefore becomes effective upon its passage.

First Reading: September 20, 2017

Second reading and adoption by roll call vote: October 4, 2017

YES: Casey Roats, Mayor NO: NONE

Sally Russell

Bill Moseley

Bruce Abernethy

Nathan Boddie

Justin Livingston

Barb Campbell



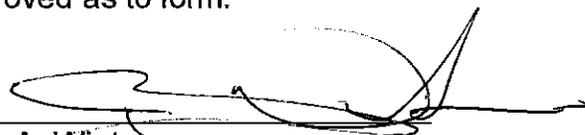
Casey Roats, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to form:



Mary A. Winters

**Development Code Update
City Council
October 4, 2017**

Prepared by:
City of Bend Planning Division

Note:

Text in underlined typeface is proposed to be added

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

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

3.6.500 Short-Term Rentals.

C. Review Type. Short-term rentals are permitted subject to the following permit processes, provided all other requirements of this section are met:

1. Other than as provided in subsection (C)(2) of this section, ~~Short-term rentals~~ within commercial zoning districts (CL, CG, CC, CB, CN), the Mixed Employment Zone (ME) and the Mixed-Use Riverfront Zone (MR) within the Old Mill District boundary (noted as Type I in Figure 3.6.500.C) shall be:
 - a. Processed as a Type I application.
 - b. These STRs shall be exempt from the concentration limits in subsection (E) of this section.
2. Short-term rentals within Mount Bachelor Village, Deschutes Landing subdivision, and Courtyards at Broken Top Lots 1 through 8 and Lots 21 through 32, ~~shall be~~ are :
 - a. Exempt from obtaining a STR permit (an annual STR operating license ~~shall~~ will still be required).
 - b. Exempt from the concentration limits for short-term rentals in subsection (E) of this section.

**EXHIBIT B
FINDINGS OF FACT
BEND DEVELOPMENT CODE (BDC) UPDATE
AMENDMENT PZ 17-0571**

Procedural Findings

Notice of the proposed amendments was provided to the Department of Land Conservation and Development (DLCD) on August 10, 2017 and a revised notice was provided on August 25, 2017. A notice of the September 11, 2017, Planning Commission public hearing and of the September 20, 2017, City Council public hearing was printed in the Bend Bulletin on August 27, 2017. A notice was mailed to the Southern Crossings Neighborhood Association and to the property owners in Deschutes Landing on August 23, 2017.

The Planning Commission held a public hearing on September 11, 2017 and recommended approval of the proposed text amendments to the City Council. On September 20, 2017, the City Council held a public hearing and conducted the first reading and on October 4, 2017, the Council held a second reading and voted unanimously for emergency adoption of the amendments.

Criteria of Approval

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

Applicable Procedures

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

Findings Regarding Compliance with Applicable Criteria:

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

4.6.200 Legislative Amendments.

A. Applicability, Procedure and Authority. Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of

the comprehensive plan and map, Development Code and changes in the zoning map not directed at a small number of properties. They are reviewed using the Type IV procedure in accordance with Chapter 4.1, Land Use Review and Procedures and shall conform to Section 4.6.600, Transportation Planning Rule Compliance. A Legislative Amendment may be approved or denied.

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

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

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

FINDING: The proposed amendments do not affect State goals, commission rules or land use statutes. Therefore, this criterion is not applicable.

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

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

Chapter 1: Plan Management and Citizen Involvement

Goals:

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

FINDING: When Deschutes Landing was developed, it included a small section of RS zoned land that is outside of the MR District and Old Mill Master Plan, which dates to the 1990s. The BDC allows Type I STRs in the MR zone within the Old Mill Master Plan without concentration limits; however, the RS properties in Deschutes Landing that are outside of the MR zone are subject to the concentration limits. The amendments to the BDC Section 3.6.500, Short-Term Rentals will exempt all the properties in Deschutes Landing from obtaining a STR permit and from the concentration limits. This will allow STRs to be regulated consistently throughout Deschutes Landing regardless of the zoning district.

In addition, Deschutes Landing's recorded CC&Rs (Document Number 2007-40127) permit STRs. The proposed amendments to exempt Deschutes Landing from obtaining a Type I STR permit and from the concentration limits will allow all lots to have a STR similar to Mt. Bachelor Village and the Courtyards at Broken Top Lots 1-8 and Lots 21-32.

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: The Planning Commission held a public hearing on September 11, 2017. A notice of the September 11, 2017, Planning Commission public hearing and of the September 20, 2017, City Council public hearing was printed in the Bend Bulletin on August 27, 2017. A notice was mailed to the Southern Crossings Neighborhood Association and to the property owners in Deschutes Landing on August 23, 2017. Staff received thirteen emails and multiple phone calls regarding the proposed BDC amendments. On September 20, 2017, the City Council held a public hearing and conducted the first reading and on October 4, 2017, the Council held a second reading and voted unanimously for emergency adoption of the amendments.

Therefore, compliance with Chapter 1 has been met.

Chapter 6: The Economy and Lands for Economic Growth

Goals

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

FINDING: Chapter 6 recognizes that tourism contributes to the Bend economy. The Comprehensive Plan states: *Bend's role as a regional social and cultural center is also an important consideration as a driver of economic growth. Bend's high quality cultural and natural amenities are repeatedly cited by business owners and employees as reasons to relocate to, or remain in, Bend. They are also the driver of much of the tourism industry, which is a significant portion of the economy. Such amenities play an important role in continuing to attract tourist dollars, new households and future firms.* The proposed BDC amendments will exempt all the properties in Deschutes Landing from the concentration limits and from obtaining a Type I STR permit, which will benefit the tourism industry.

Based on the findings stated above, staff concludes that the proposed text 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: Deschutes Landing's recorded CC&Rs specifically allow rental of the houses for fewer than 30 days. This puts Deschutes Landing in the same status as Mt. Bachelor Village and Courtyards at Broken Top Lots 1-8 and Lots 21-32, which are exempted by the BDC from the need to obtain a STR permit because they were specifically designed to have STRs. This proposed BDC amendments will allow a similar exemption for all of Deschutes Landing.

Therefore, the proposed amendments to the BDC meet this criterion.

4.6.500 Record of Amendments.

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

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

4.6.600 Transportation Planning Rule Compliance.

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

FINDING: The new text amends the BDC, a functional component of the Comprehensive Plan, and is an amendment to a land use regulation as noted in OAR 660-012-0060. The proposed text amendments will exempt all the properties in Deschutes Landing from obtaining a STR permit and from the concentration limits. The ITE Manual does not provide trip generation data for STRs. The City has never found that a STR use creates different traffic demands than a residential use. The use of a dwelling unit as a STR is anticipated to create fewer PM peak hour trips because vacation and recreation uses tend to concentrate during the weekends and on holidays. Because the long-term residential use remains unchanged as a permitted use, the proposed text amendments do not cause a "significant effect" under ORS 660-012-0060.

Conclusion: The proposal is in compliance with this section of the TPR.

V. CONCLUSIONS: Based on the above Findings, the proposed BDC amendments meet all applicable criteria for adoption.