



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: March 03, 2016

Jurisdiction: City of Bend

Local file no.: PZ 15-0849

DLCD file no.: 010-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 03/02/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Notice of the proposed amendment was submitted to DLCD 38 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 010-15 {24119}

Received: 3/2/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Bend

Local file no.: **15-0849**

Date of adoption: 02/17/16

Date sent: 3/1/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 02/01/16

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

The adopted changes differ by processing all ADUs as a TYPE I MDS review, allowing tandem parking on site, requiring a design standard for second story ADUs that are over 600 sq. ft. abutting a SR 2 1/2, RL or RS property and a revision to the definition of Story.

Local contact (name and title): Pauline Hardie, Senior Code Planner

Phone: 541-693-2153

E-mail: phardie@bendoregon.gov

Street address: 710 NW Wall Street

City: Bend

Zip: 97701-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Bend Development Code Chapter 1.2 Definitions, 2.1 Residential Districts, 3.3 Vehicle Parking, Loading and Bicycle Parking and 3.6 Special Standards and Regulations for Certain Uses.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
---------------------------	--------------	----------------

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts:

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

The information with this notice includes the adopted City Council Ordinance with exhibits of the adopted text amendments and the findings for the code update.

EXHIBIT A

Development Code Update

Prepared by:
City of Bend Planning Division

Note:

Text in underlined typeface is proposed to be added

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

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

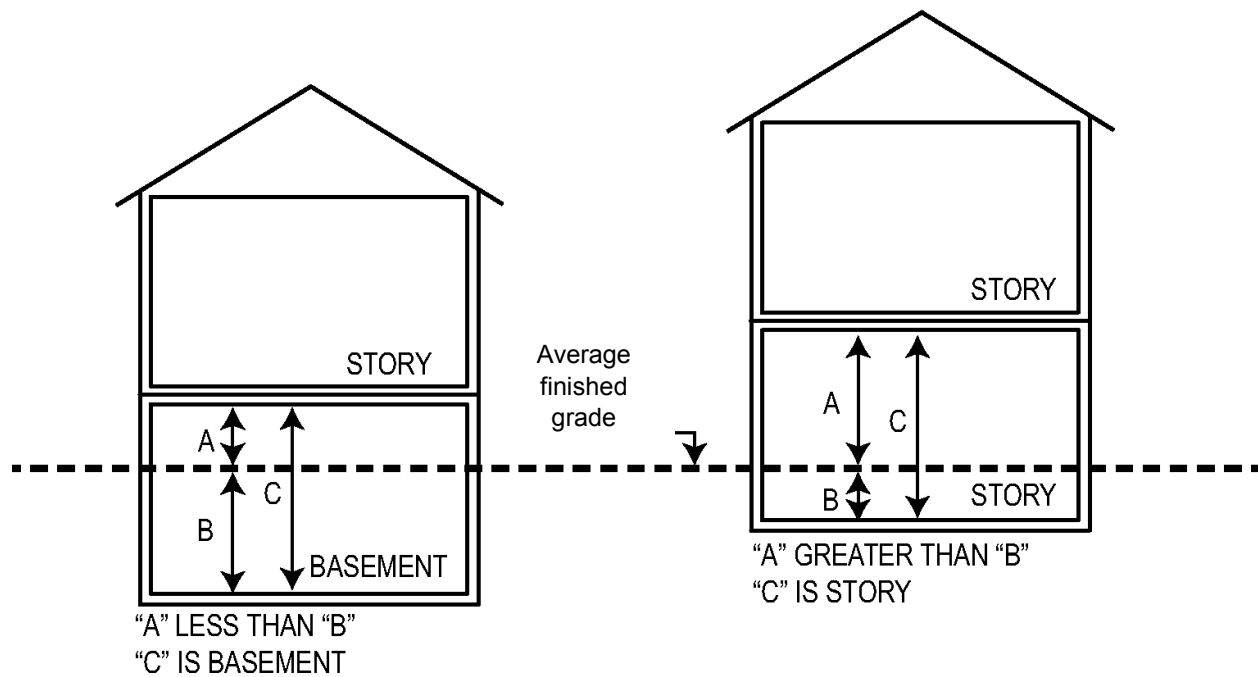
Staff comments are ***bold and italicized***

Chapter 1.2 DEFINITIONS

Accessory dwelling unit means a small, secondary dwelling unit on a lot or parcel with a single-family dwelling unit as a primary use.

Basement means any area of the building having its floor subgrade (Below ground level) on all sides of a building that is wholly or partly below average finished grade when the vertical distance from average finished grade to floor is greater than the vertical distance from average finished grade to ceiling. A basement shall not be counted as a story.

Basement and Story



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

Story means that part of a building intended for occupancy located between the surface of one floor and the surface of the next floor above, or if there is no floor above, then the finished ceiling directly above. A basement is not counted as a story. (See illustration for "story" following the definition for "basement" in this Section.)
Occupiable space located above a garage is not considered a second story if the ridge/peak or height of the roof above the garage is equal to or lower than the peak/ridge or height of the primary one-story dwelling unit.

Chapter 2.1 RESIDENTIAL DISTRICTS

2.1.200 Permitted Land Use.

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

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

~~C. Existing Uses. Uses and structures lawfully established within a Residential Zone prior to the adoption of this code shall be treated as a permitted use. Expansion or enlargement 25 percent or less of the above-referenced uses or structures that are nonresidential shall 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 4.1.1000, Reconsideration.~~
(Delete this section since it is in Table 2.1.200 and it conflicts with Chapter 5.2 Nonconforming Uses and Developments)

Table 2.1.200 – Permitted Land Uses

Land Use	SR 2 1/2	RL	RS	RM-10	RM	RH	UAR
Residential							
*Accessory dwellings units (ADUs)	P/G	P/G	P/G	P	P	P	P

2.1.300 Building Setbacks.

F. General Setback Exceptions.

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

2.1.400 Building Mass and Scale.

A. Floor Area Ratio. Floor area ratio shall apply to the following:

1. All new single-family residential construction including building additions on lots 6,000 square feet or less in size located in a subdivision platted prior to December 1998;
2. Existing homes on lots subject to a partition or lot line adjustment that will result in a lot size of 6,000 square feet or less;
3. The perimeter lots of all new single-family residential subdivisions that are 6,000 square feet or less in size and are adjacent to a subdivision platted prior to December 1998 where the adjoining lot development has a 0.5 FAR or less.

B. Building construction may not exceed 0.50 FAR (50 percent) of the total lot area. The areas of a building subject to this development standard shall include the following:

1. ~~Areas within the building footprint considered to be habitable space as defined by the Oregon Structural Specialty Code (OSSC).~~ Floor area as defined in Chapter 1.2 Definitions. For garages, see 2.1.400.B.2.
2. ~~Only garages exceeding floor area that exceeds 480 square feet in size on lots or parcels 4,000 square feet or greater and only garages exceeding floor area that exceeds 325 square feet in size for lots or parcels less than 4,000 square feet. The first 480 square feet or 325 square feet, respectively, of the garage are excluded from floor area.~~

C. Exceptions to FAR.

1. Attached single-family townhomes without an accessory dwelling unit.
2. Single family detached dwellings with an accessory dwelling unit and attached single-family townhomes with an accessory dwelling unit. See Section 3.6.200. B Accessory Dwelling Unit (ADU) for FAR.
- 2- 3. Accessory structures less than 10 feet in height and 200 square feet in area.

~~3. Unenclosed covered porches and decks are excluded from the calculation. (Floor area as defined does not include unenclosed covered porches and decks).~~

~~4. 5. Basement or any area below at grade living space. This is excluded in the proposed floor area definition).~~

~~5. 4. Lots and Parcels subject to 2.1.300 G Residential Compatibility Standards.~~

2.1.600 Residential Density.

B. Exemptions. The following types of housing are exempt from the density standards in subsection (A) of this section:

1. Residential care homes/facilities.
2. Accessory dwellings units (ADUs).
3. Bed and breakfast inns.
4. Neighborhood commercial uses.
5. Buildings that are listed in the Inventory of Historic Sites within the Bend Area General Plan Exhibit "A" or buildings designated on the Historic National Landmarks Register.
6. Manufactured housing development within the RM or RH Zone.
7. Redevelopment within a residential neighborhood ~~with an existing pattern of development.~~
consistent with the adjacent existing pattern of development. (Consistent with language below).
8. Infill development on a vacant platted lot consistent with the adjacent existing pattern of development.

2.1.900 Architectural Design Standards.

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

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

1. Duplexes and triplexes;
2. ~~Attached single family townhomes;~~ ***(Townhomes are similar to single-family detached dwellings which do not have to comply with the architectural design standards.)***
3. ~~Accessory dwellings;~~ ***(The standards are designed for larger structures which makes it hard for ADUs to comply with. Single family detached dwellings are not required to comply and they are typically larger. Not requiring them to comply also allows more flexibility and reduces cost.)***
4. 2. Multifamily housing residential;
5. 3. Public and institutional buildings;
6. 4. Neighborhood commercial and mixed-use buildings;
7. 5. All other types of permitted/conditional nonresidential use buildings listed in Table 2.1.200.

Chapter 3.3
VEHICLE PARKING, LOADING AND BICYCLE PARKING

3.3.300 Vehicle Parking Standards for On-Site Requirements.

Table 3.3.300

Required Off-Street Vehicle Parking Spaces

Use	Minimum Requirement
Residential	
Accessory dwelling <u>unit</u>	1 space per unit

3.3.300.C. Parking Location and Shared Parking.

1. Location. Vehicle parking is allowed only on approved streets, within garages, carports and other structures, or on driveways or parking lots that have been developed in conformance with this code. Specific locations for parking are indicated within the individual land use districts for some land uses (e.g., the requirement that parking be located to side or rear of buildings, with access from alleys, for some uses). Required off-street parking shall not be located within the front yard setbacks- except for single-family dwellings, ADUs, duplexes and triplexes.

2. Off-Street Parking.

a. Commercial or industrial off-street parking which adjoins a Residential Zone shall be effectively screened by a fence and landscaping with a minimum width of 10 feet unless otherwise specified in this code.

- b. Off-street parking shall not be located within the required front yard setbacks, except for single-family dwellings, ADUs, duplexes and triplexes.

Chapter 3.6

SPECIAL STANDARDS AND REGULATIONS FOR CERTAIN USES

3.6.200 Residential Uses.

B. Accessory Dwelling Unit (ADU). ~~(Attached, Detached or Above Detached Garage).~~ An accessory dwelling unit (ADU) is a small, ~~secondary housing dwelling~~ unit on a property that contains a single-family lot dwelling unit as the primary use, usually the size of a studio apartment. The ~~additional unit can~~ ADU may be a attached, detached unit, a unit attached to a garage, or within a portion of an existing house dwelling unit. The ~~housing maximum~~ density standards does not apply to ADUs, due to their small size and low occupancy level of the use. The following standards of this section are intended to control the size, scale and number of ~~accessory dwellings~~ ADUs on individual ~~lots properties,~~ so as to promote compatibility with adjacent land uses. ~~Accessory dwellings~~ ADUs shall must comply with ~~all of the following standards in addition to the standards of underlying zone~~ the applicable zoning district:

1. ~~Accessory dwellings located in the SR-2 1/2, RL and RS Zones on lots created prior to December 1998 shall require approval through a Conditional Use Permit.~~ ***(This is a draft Urban Boundary efficiency measure. Compatibility of ADUs, including bulk and scale, will be addressed through floor area ratio.)***
2. ~~International Residential Code (IRC). The structure complies with the International Residential Code.~~
 1. Permitted Accessory Dwelling Unit (ADU). An ADU may only be permitted on lots or parcels with a single-family detached dwelling or a single-family attached townhome.
 3. ~~2.~~ Number of Units. A maximum of one ~~accessory dwelling unit~~ ADU is allowed per lot or parcel.
 4. ~~Floor Area. The maximum floor area of the accessory dwelling shall not exceed 600 square feet. All structures on the lot including the main house, garage, etc., must comply with BDC 2.1.400 regarding floor area ratio.~~

3. ADU Size.

- a. An ADU on a property that is 6,000 square feet or less shall not exceed 600 square feet.
- b. An ADU on a property that is greater than 6,000 square feet shall not exceed 800 square feet.

4. Floor Area Ratio. The FAR as defined in Chapter 1.2 Definitions, shall not exceed 0.55 for all buildings on site, cumulatively.

a. Exemptions to FAR.

- i. Accessory structures less than 10 feet in height and 200 square feet in area.

5. ~~Building Height. The building height of detached accessory dwellings and dwellings over detached garages shall not exceed 25 feet, and in no instance shall the accessory unit be taller than the primary structure. The building height of a detached ADU must not exceed 25 feet, or the building height of the primary dwelling unit, whichever is less. The building height of detached accessory dwellings and dwellings over detached garages shall not exceed 25 feet, and in no instance shall the accessory unit be taller than the primary structure.~~

6. ~~Buffering. Where an accessory dwelling unit faces the living space of a dwelling on an adjoining lot, a visual buffer shall be provided using window design, a sight-obscuring fence and/or vegetation.~~

7. 6. Parking. One parking space shall must be provided on site for the accessory dwelling ADU in addition to the parking required for the main primary dwelling. Required parking spaces for the ADU and primary dwelling unit may be provided in tandem on a driveway. A tandem arrangement consists of one car behind the other.

8. ~~Design Review. An accessory dwelling is subject to the standards in BDC 2.1.900, Architectural Design Standards, to provide compatibility and protect the architectural character of older neighborhoods.~~

7. Design Standards. A second story ADU over 600 square feet abutting a SR 2 1/2, RL or RS property must comply with the following:

- a. Exterior doorways and outdoor living areas (e.g., balconies or decks) on the second story and exterior staircases must be setback a minimum of 10 feet from an abutting SR 2 1/2, RL or RS property or they must be oriented towards the interior of the property or an abutting alley.

8. Detached ADUs. A detached ADU must be a minimum of six feet apart from the primary single-family dwelling unit as measured between their building footprints.

9. Process. ADUs are subject to BDC Section 4.2.400 Minimum Development Standards Review.

Chapter 4.1
DEVELOPMENT REVIEW AND PROCEDURES

4.1.1600 Summary of Development Application Types.

There are four types of procedures: Type 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

Development Application	Type I*	Type II*	Type III	Type IV
Site Plan—Mini (ADU, Duplex, Second Dwelling)	X	-	-	-