



Summary of Noteworthy Changes Proposed for the City Zoning Ordinance

Readers' Note: This document was first developed in January, 2009 and has now been updated to reflect the regulations proposed as part of the City Council Public Hearing Draft (5-29-2009)

In 2007 the City of Missoula launched a project to comprehensively update its zoning and subdivision regulations. After months of public discussion a *Concepts and Directions Report* was prepared in April of 2008 by Duncan & Associates, the consultant conducting the rewrite. The report serves as a roadmap for how proposed code language would address the topics raised by the hundreds of Missoulians who participated in the process. Now that the first draft of the proposed Zoning Ordinance has been drafted and reviewed by City agencies and the Zoning and Subdivision Regulations Update Advisory Group the team has summarized the noteworthy changes proposed for the Zoning Ordinance. To enable the reader to track the proposed changes back to the *Concepts and Directions Report*, this summary has been organized using the topic areas in the report.

MAKING THE REGULATIONS EASIER TO USE AND UNDERSTAND:

- An entire chapter is dedicated to process, from general land development procedures (such as map amendments and annexations) to specific variance from building development regulations. The chapter lays out steps and processes (flow charts and tables) with consistent sub-categories to describe procedures in an easy-to-read way.
 - Currently procedures are found in individual chapters or buried within other unrelated chapters. The descriptions are vague and inconsistent. Some parts of procedures have never been codified but have become common practice.
- Public involvement procedures have been clarified throughout. The Procedures chapter includes descriptions of public notice and appeals at a general, as well as specific, level. Certified mail is required for notification for all public hearings. Protest procedures are described for land use actions for which state law provides the ability to protest.
- All zoning districts are renamed to fit a more common rationale for naming and provide a system for any future districts if needed.
 - Currently, Residential districts especially are referred to with A's, B's, R', L's, and S's.
- Common types of zoning districts (residential, commercial, etc.) are consolidated into one chapter.
 - Currently, each zoning district has its own chapter.

- Use of tables to describe Use Categories, Building Types, and Parcel and Building Standards across the common types of zoning districts.
 - Currently, these items are addressed in text or lists in each chapter and there is a high degree of inconsistency and redundancy.
- Density calculations are simplified to provide consistency across zone districts and to avoid the need for staff interpretation. Density for each district will be based on lot (parcel) size exclusively.
 - Currently, there are at least three different ways of calculating density and in some cases both density and parcel area requirements for the same district.
 - Simplifying the measurement of density results in “rounding” differences in some districts like the current RLD-4 where currently four dwelling units are allowed per acre. The revised ordinance would replace this with a 10,000 square foot parcel size requirement.
 - Because of the change in density measurement, some residential zoning districts (i.e., LSR, SRR, RLD and multi-dwelling) will allow a slight increase in residential density, typically less than 10 percent.
- Use Classifications are updated, expanded, and in some cases consolidated. An entire chapter is dedicated to descriptions and grouping of uses.
 - Currently, many descriptions of modern uses are not addressed while other uses such as office types are described 12 different ways.
- Increase number of conditional uses when State law mandates those uses as being appropriate in some form.
 - Currently, many uses that are mandated to be permitted in certain zoning districts by State law are not stated as such.
- Administrative Adjustments is a new section intended to provide a streamlined approval procedure for minor modifications to selected zoning ordinance standards and minimum lot area requirements. The process provides flexibility to address unusual development conditions. The proposal includes requiring mailed and posted notice of an adjustment application and a waiting period before the zoning officer takes **final action**.
 - Currently, all types of variance (minor or major) must be approved by the Board of Adjustment. This presents an overly onerous, expensive, and time-consuming process for what are often inconsequential adjustments.
- Separate chapter for accessory uses, clarifies the setback standards for accessories such as garage to residence. The standards are grouped based on residential or non-residential districts.
 - Currently, accessory uses are covered as permitted uses referred to as “residential accessory buildings and uses” and include a variety of ways of applying setbacks.

PROMOTING HOUSING VARIETY AND LIFESTYLE CHOICE:

- Residential building types are expanded and defined. Diagrams are used to help readers visualize each building type.
 - Currently, inconsistencies exist between many descriptions of residential building types such as duplex and two-family dwelling.
- Minimum lot-size requirements for detached houses in two-dwelling and multi-dwelling districts are reduced to 3,000 square feet.
 - In most districts this is a rounding down from 3500 or 3600 feet to 3000, although in at least two districts, the current R-II and R-XII, the change would allow two single-family structures where one duplex (two homes in one structure) is allowed now. The relaxed lot size requirement in the R-II and R-XII would promote single dwelling ownership where duplex or multi-dwelling would otherwise be the norm without changing density in the districts.

- A new residential building type is introduced: multi-dwelling house. Specific-use standards are included to provide specific direction on when and under what conditions the new building type would be approved.
 - Currently, the only residential building types with development standards are townhouse and multi-dwelling site design standards.
- Elimination of the current cluster development standards including the planning neighborhood cluster (PNC).
 - Currently, four cluster development options exist. The PNC has been used throughout the City but doesn't require establishing any additional open space. The other three cluster options require additional open space but include no incentives for proposing the option.
- Accessory Dwelling Units (ADUs) would be available as an option for homeowners through an overlay district. ADUs are smaller dwelling units separate from the principal dwelling on the parcel. They are located in interior apartments or in accessory structures like garages. Allowing ADUs in a neighborhood through the proposed overlay district approach would require a zoning map amendment that includes property-owner notification, right to protest and public hearings before the Planning Board and the City Council.
 - Currently, no provision for ADUs exists even though many ADUs are currently in place throughout the city.

CREATING PLACES TO WORK, SHOP, PLAY, ...AND LIVE:

- Incentives to do more mixed use in commercial districts.
 - Currently commercial districts allow a range of commercial uses and uses of less-intensity, including residential. This can result in unplanned mixed use, residential development where it is not intended and loss of available commercial land for commercial uses.
- Some zoning districts are combined.
 - Currently, several zoning districts exist with very few differences between them.
 - Over time the current code has become a collection of exhaustive list of districts that make understanding the difference between districts cumbersome.
- The Central Business District (CBD) will include no maximum residential density.
 - Currently density in the CBD is capped at 16 dwelling units per acre by right. Proposals for additional density require conditional use approval.
- A placeholder will be included for a new Downtown Overlay. It will be coordinated with the Downtown Master Plan process.
- Home occupation standards would be made explicit in the Code to avoid the need for staff interpretation. A maximum of one employee in addition to the homeowner would be allowed. A maximum of three customers at any one time would be permitted.
 - There are currently no standards for the maximum number of employees or customers.
- Residential Support Services (e.g. neighborhood grocery) are proposed as a component of the multi-dwelling residential districts. The support service is limited in use and must be part of a residential building. Use specific standards are established to limit the parameters for when the use could occur.
 - Currently only the RH zone mentions limited residential support services. Any other effort to provide commercial support in residential districts would have to occur through a rezoning process.

RESERVING PLACES FOR INDUSTRY:

- The *Concepts and Directions Report* originally recommended that the city's industrial zoning districts be revised to prohibit or severely restrict non-industrial uses. Because of widespread community concerns that efforts to prohibit residential development in the "D" zoning district might further reduce the city's already short supply of land zoned to accommodate higher density multi-unit housing, the new proposed ordinance continues to allow residential (and other forms of non-industrial) development in the "D" district, which has been renamed "M1R-2" denoting its low-intensity manufacturing and residential emphasis. No other major substantive modifications have been proposed to the city's existing industrial and manufacturing (M) districts.

FOCUSING ON DESIGN:

- New Neighborhood Character overlay will be available for neighborhoods wishing to develop zoning standards unique to their neighborhood. The Overlay includes criteria to create consistency among various future neighborhood character overlays.
 - Currently no tool exists for promoting neighborhood character through design standards.
- A placeholder is proposed for the ongoing effort toward developing a Historic District Ordinance. Overlays for historic districts continue to be a possibility and enabling regulations continue to exist. The description of the Historic Preservation Commission (HPC) is moved to the Administration chapter.
 - Currently the HPC is described in the Historic Districts chapter.
 - The only historic district overlay that is currently applied is the Fort Missoula Historic District. This overlay is not changed.
 - Additional language describing a potential "Historic Environs" overlay exists but was never applied so is proposed to be deleted.
- Permitted building height and the approach to measuring height are modified and simplified to provide for consistency and avoid the need for staff interpretation. Currently the maximum height in each district is not an absolute. The existing code provides for a modified height measurement at the mid point of a sloped roof and an exception for steep pitched roofs allowing for a maximum 20% increase in height. Depending on the pitch of the roof, buildings often exceed the maximum height allowed by the zoning district. Building height is also currently measured from finished grade, leading to the use of retaining walls and fill to increase building heights beyond the maximum for the district. The proposal is to:
 - Retain 30 foot maximum building height for primary roof pitches of less than 8 in 12 in most residential zoning districts;
 - Allow for 35 feet for a primary roof pitch of greater than 8 in 12 in most residential districts (shown on Table 20.05-3 Residential Districts Parcel and Building Standards as 30/35[3]);
 - Reduce the maximum height in the existing A zoning districts (proposed R5.4) from 40 feet to 30/35 feet, with the same reference 30/35[3] on Table 20.05-3;
 - Eliminate the numerous ways of applying exceptions to the maximum height; and
 - Measure height from the lowest point on grade (existing or finished, whichever is lower) to the highest point of the roof.
- Additional diagrams are added to help describe setback measurement standards.
- Buffering step back standards are proposed for commercial development adjacent to residential districts. The proposed standards require additional step back in development as it goes up in height.
 - Currently minimal standards exist for buffering between dissimilar adjacent zoning districts.
- The landscaping chapter is expanded to include other existing landscape standards from other existing chapters, thereby reducing redundancies and inconsistencies in the current ordinance. Definitions have also been expanded. Standards for requiring activity areas for certain multi-dwelling developments are included.

- The existing landscape chapter was recently updated, so very little substantive change is proposed to the chapter.
- The signs chapter is reorganized to fit with the changes in district references. New standards and definitions are included to address new technology (e.g., electronic signs).
 - Currently, minimal direction is provided for regulating electronic message centers and other emerging technologies.
- The roles of the Design Review Board and the Board of Adjustment have been clarified. A different avenue for review of Conditional Uses is being contemplated so that the focus of Design Review Board is on design interpretations and not use. Additional review criteria are added for conditional uses.
 - Currently, the Design Review Board reviews conditional uses with a minimal amount of criteria to guide them.

GROWING GREENER:

- New proposal for Cluster and Conservation Development options. A Conservation Development Option is proposed for larger lot residential zoning districts R20, R40, R80, and R200 (existing RLD2, RLD1, LSR, SRR respectively). The option creates an incentive to conserve open space by including the ability to increase density by 20% while requiring a commitment of 60% of a development to open space and includes a minimum land area requirement. A Cluster Development Option is proposed for the same larger lot residential zoning districts as above, plus R10 (existing RLD4). A 30% commitment to open space is required.
 - Currently many existing large lot zoning districts suggest clustering and allow flexible lot size with no change in density. However, there are not requirements for community benefits such as additional open space in exchange for the added flexibility.
- The Riparian Resource overlay is modified to align with the County and City riparian resource standards found in the subdivision regulations. Clarifications are also made to communicate original intent that development should be discouraged in these areas.
- Small-scale agriculture is encouraged in a few ways through the ordinance. Community gardens and agriculture uses are addressed as a use category for the residential districts. On-site community gardens are allowed to count toward the general site landscaping requirements in the landscaping chapter. Preservation of agricultural opportunities is one of the intents of the Conservation Development Option. A placeholder for developing "agricultural land preservation" regulations is established.
 - Currently the code is silent regarding small-scale agriculture.
- Hillside and ridgeline protection regulations are updated.
 - Current hillside regulations are vague and contain conflicting information.
- Development of additional natural resource protections are proposed with placeholders for future regulations. See Chapter 20.50 Natural Resource Protection.

CONNECTING PEOPLE AND PLACES:

- A new Pedestrian District overlay is proposed and could be applied to help preserve and enhance the character of pedestrian-oriented streets. The standards that are a part of the overlay create consistency when applying the overlay in various future locations.
 - Currently no specific pedestrian and streetscape oriented standards exist.

- A new small-lot residential zoning district is included as an option for future development. As a zoning district, the only way it could be applied is through a map amendment that would include public hearings at the Planning Board and City Council (with the right for property owners to protest the zone change).
- The parking chapter contains some updates and refinement. It eliminates some of the references to engineering design standards and defers those standards to the City Public Works department. It also contains some revisions to parking calculations and provides some additional flexibility for alternative parking plans, and consideration of transportation demand management. A placeholder for a future Transit Overlay is also included.
 - Currently the parking chapter provides minimal guidance for alternative design and flexibility to meet the changing multi-modal transportation concepts.

ENCOURAGING REHAB, REUSE, AND REINVESTMENT:

- Mixed use is encouraged in the commercial districts by eliminating maximum density limits for mixed-use buildings. A minimum amount of commercial space is also required in some zones in order to ensure that more than token amounts of commercial floor space are provided merely to develop residential projects.
 - Currently many obstacles and few incentives exist to encouraging mixed use. The most extensive (and unintended) mixed use zone now in place is the D (industrial) zone which permits almost any use. Additionally, the named "mixed use" zone is not intended for mixing uses but instead was created to limit future commercial uses.

REDUCING RELIANCE ON SPECIAL ZONING DISTRICTS:

- Additional development standards are provided for planned unit development (PUD), including provisions specifying the extent to which base zoning district regulations may be modified through the PUD approval process.
- The description and use of overlays are clarified. Overlays can only be applied through a map amendment rezoning process. Some existing overlays are proposed to be eliminated and new ones are proposed to be established.
- The existing CLB, CG, and EC overlays would be eliminated. Standards for these uses are established in a separate chapter for use-specific standards. Use-specific standards that address concerns over proximity of CLB or CG to other uses would be applied at the time a building is being proposed. The standards associated with EC overlays are (for the most part) relocated to the chapter on Use Specific Standards.
 - Addressing these uses through an overlay zone district is a fairly unique application of overlays in the United States. It creates numerous spot zones that remain in place even when the use in question at the time of zoning no longer exists.