

# Memorandum: Updated Staff-Recommended Amendments to the UDC

January 5<sup>th</sup>, 2025

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## Overview

The Public Review draft of the Unified Development Code (UDC) was published on October 29, 2025. Based on public comment received, that draft was updated to an Adoption Draft that was shared out to the Planning Commission on November 13th, 2025, ahead of a public hearing opening on November 18th. The Public Hearing was continued during the November 20th, December 2nd, December 4th, and December 9th Planning Commission meetings.

City staff presented a set of staff-recommended amendments to the Commission (received on the meeting held on December 2nd), which were recommended by the Commission to be adopted. Most of these amendments were in response to public comment. Some amendments are in response to identified errors, formatting updates, or necessary clarifications.

This document is an update to the staff-recommended amendments from December 2nd. It includes all amendments presented in the December 2nd document as well as new amendments. Some of the new amendments are in response to amendments proposed by

the Planning Commission, either showing staff support or proposing an alternative to Planning Commission amendments. Other new amendments are additional improvements identified by staff following the Planning Commission hearings.

Recommended amendments are numbered, allowing City Council to choose to vote on items separately, in groups, or as a package.

## Chapter 1: Introduction

### 1. Extend Transition Period and Improve Clarity

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** Section 1.1.01-B Effective Date and Section 1.1.04-B under Transitional Provisions

**Revised Code:**

#### Section 1.1.01-B. Effective Date

The provisions of this UDC became effective and must be complied with beginning [effective date], ~~except as otherwise expressly stated in Division 1.1.04.~~ Development review applications ~~such as zoning compliance permits, building permits, and Design Excellence applications~~ submitted on or before [12060 days from effective date] may be reviewed under either this UDC or under the applicable zoning, ~~subdivision,~~ engineering, and any other City standards and regulations in effect immediately prior to adoption of this UDC. All development review applications submitted after [12060 days from effective date] are subject to the provisions of this UDC, ~~except as otherwise expressly stated in a prior development review application approval or Division 1.1.04. Applications for subdivision must comply with the regulations in effect at the time the subdivision application is deemed sufficient.~~

#### Section 1.1.04-B. Applications Submitted Before [Effective Date of Ordinance]

1. Development applications that were submitted in complete form and are pending approval on [effective date] must be reviewed wholly under the terms of all applicable zoning, ~~subdivision,~~ engineering, and any other City standards and regulations in effect immediately before the effective date of this UDC. To be subject to review under this UDC, a development application must be resubmitted after [effective date], ~~or a request must be sent in writing to the Planning Administrator to request review under this UDC by [60 days after effective date].~~

**Explanation:** The amendment to increase the transition period from 60 days to 120 days was proposed by Planning Commission (see Motion #10 in the *Planning Commission Public Hearing Summary Memo*). The amendment would allow applications to be submitted under the old code for 120 days from the effective date of the UDC. The design process is lengthy, and the extra time creates more flexibility for developers completing

projects at the time of code adoption. Staff also recommend clarifying that subdivision submittals function differently than other application types due to state law.

For applications submitted before the effective date, the code states the applicant can resubmit or request review under the new code if they do not wish to continue under the old code. Section 1.1.04-B must be amended as a result of the increased transition period. Rather than simply updating to state “120 days” instead of “60 days”, staff recommend an amendment to remove the option for requesting review under the new code without resubmittal of an application because the language is misleading. Applications contain information showing compliance with specific code sections. Applications will need to be revised and resubmitted in order to show compliance with the new UDC if the permit was submitted and designed to the previous regulations. For example, a building permit submitted under Title 20 would contain density calculations but would not show compliance with floor area ratio. Additionally, allowing old permits to be reviewed under the new code without resubmission of an application would require complex coordination between all reviewing departments to update the permitting system correctly, increasing the possibility of delays, confusion, and errors. The staff recommended amendment sets clear expectations for this option and promotes efficiency.

## Article 4.2 Residential Districts

### 2. Exempt Building Conversions from Number of Units per Building and Floor Area Ratio

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** Section 4.2.03-C Number of Dwelling Units Per Building and Section 4.2.03-D Floor Area Ratio (FAR) and Density

**Revised Code:** Section 4.2.03-C

#### 3. **Exceptions**

##### (a) **Building Conversions**

1. Legally established existing buildings containing non-residential use(s) may be wholly or partially converted to residential use.
2. Buildings converted from non-residential use to residential use may exceed the maximum number of dwelling units per building specified in Table 4.2.03-2. Building conversions where floor area is added may not exceed the maximum number of units per building specified in Table 4.2.03-2.

## Section 4.2.03-D:

### 4. **Exceptions ~~to~~ FAR**

- (a) One-unit house and duplex building types are exempt from floor area ratio FAR requirements on parcels lots with an area of 3,250-3,000 square feet or less.
- (b) Building Conversions
  - 1. Legally established existing buildings containing non-residential use(s) may be wholly or partially converted to residential use.
  - 2. Buildings converted from non-residential use to residential use are exempt from floor area ratio requirements if no additional floor area is added. Building conversions where floor area is added must meet the floor area ratio requirements in Table 4.2.03-3.

**Explanation:** Planning Commission recommended exceptions to maximum number of dwelling units per building and floor-area-ratio for building conversions to residential (see Motion #14 in the *Planning Commission Public Hearing Summary Memo*). This amendment allows the full floor area of an existing building to be converted to residential, regardless of the size of the structure. Considering the non-residential building already exists, there would be no new impacts from the scale of the building. Staff recommend a sideboard on the exception that does not allow for building additions when the structure already exceeds the number of units per building and floor area ratio allowed in the district.

A guiding principle of code reform promotes reuse of existing structures, which reduces construction waste and can allow for more affordable housing construction. Without these exceptions, existing structures that have outlived their original use may not be able to be fully converted to residential.

### 3. FAR Requirements for Neighborhood Commercial

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** Section 4.2.03-D Floor Area Ratio (FAR) and Density

**Revised Code:**

## 2. Applicability

The floor area ratio and density standards provided below apply to all development in residential zoning districts as indicated in Table 4.2.03-3. [See Section 4.7.02-G for FAR requirements specific to Neighborhood Commercial.](#)

### Commentary: Example Residential Calculation

A property owner intends to construct six dwelling units on a 6,000 square foot parcel in the U-R2 zoning district. Per Table 4.2.03-3, the maximum FAR for 6 dwelling units in U-R2 is 0.9. To find the allowable gross floor area, the maximum FAR is multiplied by the parcel area:

$0.9 \text{ FAR} \times 6,000 \text{ square feet of parcel area} = 5,400 \text{ square feet of gross floor area.}$

The property owner can distribute the maximum gross floor area of 5,400 square feet between the six dwelling units at their discretion. If all units were planned to be the same size, each of the six dwelling units would be 900 square feet:  $5,400 \text{ square feet divided by } 6 \text{ dwelling units} = 900 \text{ square feet.}$

### Commentary: Example Residential and Neighborhood Commercial Calculation

[A property owner intends to construct a Neighborhood Commercial use and five dwelling units on a 10,000 square foot parcel in the U-R3 zoning district. Per Table 4.2.03-3, the maximum FAR for 5 dwelling units in U-R3 is 0.8. To find the allowable gross floor area for the entire development, the maximum FAR is multiplied by the parcel area:](#)

[0.8 FAR x 10,000 square feet of parcel area = 8,000 square feet of gross floor area.](#)

[Per Table 4.7.02-6, the maximum FAR for Neighborhood Commercial is 0.5, with a maximum size of 3,500:](#)

[0.5 FAR x 10,000 square feet of parcel area = 5,000, which exceeds 3,500 square feet, therefore the Neighborhood Commercial size can be 3,500 square feet.](#)

[If the property owner chose to build the allowed 3,500 square feet of Neighborhood Commercial, the remaining gross floor area \(4,500 square feet\) can be used for the 5 dwelling units. For example, 4,500 square feet divided by 5 dwelling units = 900 square feet.](#)

## Explanation:

Planning Commission recommended that staff investigate a mechanism, like FAR, to scale the maximum neighborhood commercial building size relative to the parcel size and so that there is a compatible relationship between building development and the parcel size. See Motion #20 in the *Planning Board Public Hearing Summary Memo*. The proposed amendments to this section include neighborhood commercial in FAR applicability. See Amendment #20 for the staff recommended FAR for neighborhood commercial structures.

## 4. Small Lot Exception to Floor Area Ratio – Increase Qualifying Lot Area

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments + New Organization Update

**Code Section:** Section 4.2.03-D Floor Area Ratio (FAR) and Density

**Revised Code:**

**4. Exceptions ~~to FAR~~**

- (a) One-unit house and duplex building types are exempt from floor area ratio FAR requirements on parcelslots with an area of 3,2503,000 square feet or less.

**Explanation:** The original 3,000 square foot proposals accounted for lots created under Title 20, which often required a 3,000 square foot minimum lot area. However, this number did not account for historic lots in Missoula that are typically 3,250 square feet. These narrow historic lots are very common across different neighborhoods. The amendment to the exception accounts for the reality of small lots in Missoula.

Note – with this memo, staff recommend moving the exception down in the code to be located with other FAR exceptions to improve organization.

## 5. Exempt Indoor Bike Storage from Floor Area Ratio

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 4.2.03-D.4 Floor Area Ratio (FAR) and Density, Exceptions

**Revised Code:**

~~(b)~~(c) \_\_\_\_\_ The following are exempt from maximum allowed gross floor area when calculating Ffloor Aarea Rratio:

- ~~(e)~~1. \_\_\_\_\_ Accessory structures;
- ~~(d)~~2. \_\_\_\_\_ Basements;
- ~~(e)~~3. \_\_\_\_\_ Vertical circulation including stairwells and elevators;
- ~~(f)~~4. \_\_\_\_\_ Garages and parking structures;
- 5. \_\_\_\_\_ Indoor activity area within principal buildings (See Article 4.9);
- ~~(g)~~6. \_\_\_\_\_ Indoor bicycle storage areas (See Article 4.9);
- ~~(h)~~7. \_\_\_\_\_ Storage units intended to serve individual dwelling units. In order to be exempt from Floor Area Ratio, the storage unit cannot be accessed from within the dwelling unit; and
- ~~(i)~~8. \_\_\_\_\_ Floor area containing non-residential use(s) in a Neighborhood Commercial building.

**Explanation:** Planning Commission recommends eliminating long-term bike storage requirements entirely. Staff do not support the amendment to eliminate bike storage. However, staff do recommend exempting bicycle storage inside of buildings from floor area ratio requirements in order to provide more flexibility in how the requirement is met.

Large apartment buildings sometimes utilize a shared bike room to meet the storage requirements. Exempting the space from floor area ratio will ensure this option is feasible without reducing the number or size of dwelling units.

## 6. Amend Floor Area Ratio

**Amendment Origin:** Staff Recommended Alternative to Planning Commission Recommendation

**Code Section:** Table 4.2.03-3 FAR and Density

**Revised Code:**

FAR & Density	RURAL	LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4
<b>Maximum FAR</b>	<b>Number of Dwelling Units</b>						
.5	-	1-2	1-2	<del>1-2</del>	1	1	1
.6	-	3+	3	<del>2-3</del>	<del>2-3</del>	<del>2-3</del>	<del>2-3</del>
.8	-	-	4+	<del>3</del>	<del>3-4-5</del>	<del>4-5-3</del>	<del>4-5-3</del>
.9	-	-	-	<del>4+</del>	6+	<del>4-6</del>	<del>6-</del>
1.0	-	-	-	-	-	7+	<del>4-6</del>
<del>1.22-0</del>	-	-	-	-	-	-	7+
<b>Density</b>							
<b>Maximum Density</b> (Any parcel is permitted two dwelling units by right, regardless of parcel area)	1 du / 15,000 sf	1 du / 3,500 sf	1 du / 2,600 sf	-	-	-	-

**Explanation:** The Planning Commission recommendation amends the maximum floor area ratio in U-R4 from 2 to 1.2 (see Motion #11 in the *Planning Commission Public Hearing Summary Memo*). Staff reviewed the calculations for this maximum and agree it better complies with the densities recommended for the Urban Residential High Place Type in the Land Use Plan.

Staff reviewed the maximum FAR for all districts against the Land Use Plan Place Types. Staff recommend adjusting the maximum FAR in U-R1 from .9 to .6. The staff recommended amendment would bring U-R1 into closer alignment with the low end of the densities described for the Place Type in the Land Use Plan.

Staff tested FAR calculations across different parcel sizes and found FAR allowances were slightly too high in the smaller unit ranges to adequately control for context sensitive scale. These unit ranges will often take the form of smaller apartment buildings. Staff recommend slight adjustments to FAR to ensure the policy goal of context sensitive infill in the Land Use Plan is implemented.

## 7. Remove and Reduce Minimum Lot Width

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Sections:** Section 4.2.03-E Lot Standards; specifically amending 4.2.03-E.1 Purpose and Table 4.2.03-4, and creating 4.2.03-E.3 Driveway Access Restriction on Narrow Lots

**Revised Code:**

### Section 4.2.03-E. Lot Standards

1. **Purpose**

The purpose of prescribing minimum lot width standards is to support the Land Use Plan’s goals of providing compatible development by adding buildings to existing neighborhoods that fit within the established context in terms of lot and block structure. ~~Minimum widths also ensure lots are platted to accommodate the densities and building types permitted in each district.~~

3. **Driveway Access Restriction on Narrow Lots**

(a) ~~Driveways accessed from the street are not permitted on lots with a street frontage less than 40 feet in width.~~

**Table 4.2.03-4** Lot Standards

Lot Standards	RURAL	LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4
Minimum Lot Width <span style="color: green;">A</span>	80 ft	<del>650</del> ft	<del>540</del> ft	<del>40-ft No Minimum</del>			
<del>When lot is adjacent to an alley</del>	<del>80-ft</del>	<del>60-ft</del>	<del>50-ft</del>	<del>30-ft</del>			

**Explanation:** Staff recommend an amendment to remove the minimum lot width for urban residential zoning districts and to reduce the minimum lot width in limited urban districts. Per numerous public comments, removing the minimum lot width in urban residential districts and reducing minimum lot width in limited urban residential districts allows for more flexibility in constructing small dwelling units and increases home ownership opportunities.

Staff recommend retaining a reduced minimum lot width in limited urban residential districts because these areas rarely have alley access, historically have larger lots, and are mapped to areas with environmental constraints.

Staff recommend including a provision prohibiting driveway access from the street on narrow lots as part of the lot width amendment. When narrow lots have driveways accessed from the street, installation of street trees becomes infeasible. Additionally, when multiple narrow lots on a block have driveway access from the street there are frequent curb cuts which negatively impacts walkability and accessibility along a block. In these cases, parking can be accessed from an alley. Residential uses do not require parking. The neighborhood commercial building type is exempt from parking requirements in urban residential zoning districts. Creating walkable neighborhoods aligns with the Land Use Plan policy objectives.

The purpose statement is amended for consistency. Without minimum lot width requirements in urban residential districts, it is inaccurate to say that the code ensures lots are platted to accommodate the densities and uses allowed in the districts.

## 8. Exception to Minimum Lot Width for Cottage Courts

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.2.03-E.3 (becomes 4.2.03-E.4 if recommended amendment #6 is implemented)

**Revised Code:**

### **3.4. Exception for Lots Intended for Duplex, Rowhouse, and Cottage Court Development**

Duplexes, ~~and~~ rowhouses, and cottage courts may be sited with all dwelling units under common ownership or sited with each dwelling unit on a separate lot. When lots are created with the intent of constructing a duplex, ~~or~~ rowhouse, or cottage court with each dwelling unit on a separate lot, the following exceptions to minimum lot width apply:

(a) Duplex;

1. Lots must be platted as a series of two abutting lots.
2. Lots are permitted a minimum lot width of 23 feet.

(b) Rowhouse;

1. Lots must be platted as a series of three or more abutting lots.
2. Lots intended to contain rowhouse dwelling units attached to other units on both sides are permitted a minimum lot width of 18 feet.
3. Lots intended to contain rowhouse dwelling units at the ends of the building (i.e. attached to another unit on one side) are permitted a minimum lot width of 23 feet.

(c) Cottage Court;

1. Minimum lot width does not apply to lots intended for cottage court development.
2. Cottage court lots must be platted as a series of three or more lots.
3. All lots must abut or contain the easement intended to contain the shared walkway (court).

**Explanation:** Cottage court developments function similarly to duplexes and rowhouses, except that dwelling units are not attached. Dwelling unit sizes are typically small and lots within the development are oriented with a relationship to each other and the shared court area. Similar to duplex and rowhouse building types, the cottage court development type is common in Townhome Exemption Developments (TEDs), which do not require minimum TED Ownership Unit (TOU) sizes. This amendment better accommodates this specific small unit development type while increasing opportunities for home ownership.

## 9. Clarify Side Setbacks for Attached Dwelling Units

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.2.03-F.1 Building Placement Applicability

**Revised Code:**

## **Section 4.2.03-F. Building Placement**

### **1. Applicability**

The building placement standards provided below apply to all development in residential zoning districts. See Article 4.10 for setback measurement rules and additional exceptions.

- (a) The side interior setback is not applicable to parcel lines coinciding with a shared wall between dwelling units in rowhouse and duplex building types. In other words, side interior setbacks only apply to the exterior walls of the full rowhouse or duplex structure.

**Explanation:** Rowhouses and duplexes may be sited so that all dwelling units are located on one lot, or with each dwelling unit on a separate lot. Note a “parcel” may contain multiple underlying lots.

For rowhouse and duplex building types with each dwelling unit on a separate lot, the standards in the UDC are applied to the full “parcel” containing the entire building. This means that side interior setbacks do not apply to lot lines where the shared wall between dwelling units is located. This was not made clear in the UDC and required a complicated understanding of “lot” versus “parcel”. Staff recommend an amendment to make the applicability of side setbacks clear for these building types.

## **Article 4.3 Mixed-Use Districts**

### **10. Exempt Single Purpose Residential Development from Build-to-Zone and Build-to-Width in Urban Mixed-Use Districts**

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.3.03-D.2.b

**Revised Code:**

**(b) Applicability**

1. All new buildings must be placed in the build-to zone and must meet the build-to-width requirements in Table 4.3.03-3, except as allowed by Section 4.3.03-D.2(d).
2. The build-to-zone and build-to-width requirements do not apply to one-unit house and duplex building types.
- 2.3. In urban mixed-use zoning districts, the build-to-zone maximum and build-to-width requirements are only applicable to mixed-use, general, and civic building types. Residential building types must still comply with the build-to-zone minimum distance from the property line.

**Explanation:** The recommended amendment supports housing in urban mixed-use zones without requiring single-purpose residential structures to follow a commercial corridor form. Parking is already prohibited between the building and the street in these districts to promote walkability. The amendment allows purely residential development to be set back further from the street which can provide more privacy for ground floor units. The option to create additional space between the residential building and street would also allow for front yards or plaza spaces. In keeping with this intent, single-purpose residential buildings still must comply with the minimum build-to-zone, which acts as a small setback to ensure residential buildings are not closer to the street than commercial buildings.

## 11. Remove Build-to-Zone and Width Restrictions for Non-Conforming Buildings

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.3.03-D.2.c

**Revised Code:**

(c) **Additions to Legal Existing-Non-Conforming Buildings Setback Further than the Build-to-Zone Maximum**

1. Front a Additions are allowed outside of the build-to-zone when the addition is to a legal existing building that does not comply with the build-to-zone and width requirements of this section.
- 1.2. This exception does not apply to legal existing structures approved after the effective date of this UDC that utilized the small building exception in Section 4.3.03-D.2.d.2 below.

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2. ~~Side additions no greater than 20% cumulatively of the existing building footprint are allowed outside of the build-to-zone. Once the required build-to-width percentage for the parcel has been met, side additions of any size are allowed.~~
3. ~~Rear additions no greater than 20% cumulatively of the existing building footprint are allowed outside of the build-to-zone. Once the required build-to-width percentage for the parcel has been met, rear additions of any size are allowed.~~

**Explanation:** One of the guiding principles of code reform is to promote reuse of existing buildings. Staff recommend an amendment that would exempt additions from build-to-zone and width requirements on legal existing buildings (non-conforming). The adoption draft contained restrictions intended to move existing development towards walkability goals, however these limitations are at odds with City goals that promote climate sustainability by supporting the continued use of existing building stock.

## 12. Allow Larger Build-to-Zone for Planned Street Expansions

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** Section 4.4.03-D.2.d Exceptions to Build-to-Zone and Build-to-Width

**Revised Code:**

**(d) Exceptions**

1. When a build to zone is fully occupied by an easement, the building shall be placed as close to the build to zone as feasible.
- ~~1-2. The Planning Administrator and City Engineer may allow for a larger build-to-zone maximum when necessary to accommodate plans for future street expansions. The build-to-zone must be measured from the approximate edge of the future expanded right-of-way.~~

**Explanation:** Planning Commission made a recommendation for staff to investigate how conflicts will be prevented between new structures and planned future right-of-way expansions, like along Brooks Street. See Motion #15 in the *Planning Commission Public Hearing Summary Memo*). Staff recommend an amendment that would allow the build-to-zone to be measured from the approximate edge of the future planned right-of-way in these cases.

### 13. Eliminate Side Street Build-to-Width Requirement

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments + New Update

**Code Sections:** Section 4.3.03-D.2.b Applicability and Table 4.3.03-3

**Revised Code:**

- ~~4. The build-to-zone and build-to-width requirements apply to the property line abutting a street.~~
- ~~3.5. Once the minimum build-to-width requirement has been met, portions of the building, or additional buildings on the site, may be placed outside the build-to zone. No new building shall be placed between the build-to-zone minimum and the street.~~
- ~~4. For parcels with a single street frontage, the build-to-zone and width apply to that frontage.~~
- ~~5. On corner lots, the building must be sited so that the build-to-zone and width requirements for both the front and side-street property lines are met.~~
6. On ~~through~~ lots with multiple street frontages, the build-to-zone and width requirements apply to the property line adjacent to the facade containing the primary entrance (See Table 4.3.03-5 Building Components).
- ~~7. On parcels with three or more street frontages, (such as a "half-block" or "full-block" parcel), the build-to-zone and width requirements are only applied to two frontages that create a corner.~~

**Table 4.3.03-3** Building Placement

Building Placement	URBAN				DOWNTOWN		LIMITED URBAN	
	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU	
<b>Build-to</b>								
<b>Build-to zone (min/max)</b>	<b>A</b>	5 / 15 ft	5 / 15 ft	0 / 15 ft	0 / 15 ft	0 / 15 ft	0 / 10 ft	n/a
<b>Build-to width: Front (min)</b>	<b>B</b>	50%	50%	55%	55%	65%	80%	n/a
<b>Build-to width: Side Street (min)</b>	<b>C</b>	25%	30%	25%	35%	50%	60%	n/a

**Explanation:** Staff recommend removing the build-to-width requirements for the side street property line in response to public comment requesting more flexibility. We have heard that the side build-to-width can create a barrier to making projects work on the ground, especially on small, irregular, or shallow lots. By focusing our build-to expectations on one street frontage instead, we can still prioritize an active, pedestrian-oriented public realm while giving projects more flexibility while solving site specific challenges.

This amendment was updated slightly from the language shown to Planning Commission. The code shown to Planning Commission required the build to zone to be met on the “front” property line of corner lots. The amendment has been revised to respond to the siting challenges of corner lots. This allows the requirements to be met on corridors like Higgins, where the main street is on the “side street” property line while providing flexibility.

#### 14. Increase Maximum Build-to-Zone to 20 feet in Urban Mixed-Use Districts

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Table 4.3.03-3 Building Placement

**Revised Code:**

Building Placement	URBAN				DOWNTOWN		LIMITED URBAN
	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU
<b>Build-to</b>							
<b>Build-to zone (min/max)</b>	<b>A</b> 5 / <del>15</del> 20 ft	5 / <del>15</del> 20 ft	0 / <del>15</del> 20 ft	0 / <del>15</del> 20 ft	0 / 15 ft	0 / 10 ft	n/a

**Explanation:** Staff recommend increasing the maximum build-to-zone to up to 20 feet in the Urban Mixed-Use zones to keep buildings oriented to the street while giving projects enough room to work on real-world sites. Stakeholders told us that a very tight build-to line can be hard to meet on constrained corridors and irregular lots and can limit space for wider sidewalks, trees, outdoor seating, stoops or courtyards that make mixed use development feel welcoming. Allowing buildings anywhere within a 0/5 ft to 20 ft zone still keeps them engaged with the sidewalk but provides flexibility.

**15. Clarify Clark Fork River Setback**

**Amendment Origin:** New Staff Recommendation

**Code Section:** Table 4.3.03-3 Building Placement

**Revised Code:**

Setback from Clark Fork River Top of Bank			
Applicability by Zoning District	n/a		50 ft
Standard	This minimum floodplain setback area may contain pedestrian plazas, walkways, bikeways, and other pedestrian-oriented facilities, but it may not be used for <b>buildings</b> , parking lots, driveways, or other vehicular uses.		

**Explanation:** Staff recommend a minor amendment to clarify the setback from the river in the Downtown zoning districts applies to buildings.

**16. Remove Separation of Entrance Sidewalk from Vehicular Use Areas**

**Amendment Origin:** New Staff Recommendation

**Code Section:** Table 4.3.03-5 Building Components

**Revised Code:**

Street Adjacent Entrance		
Zoning District	Required in all Urban and Downtown Mixed-Use Districts	n/a
Standards	At least one entrance qualifying as a street-facing entrance must meet the following standards: Provide both ingress and egress access to the first floor of a building (not the basement). Must be intended to allow access for residents or customers. Must be facing the public sidewalk. May not be used to provide access to parking, utility areas, or fire stairs. Must connect to the public sidewalk with a direct pedestrian connection <del>that is physically separated from vehicular use areas at least five feet wide.</del>	

**Explanation:** Staff recommend removing the requirement to separate the sidewalk connecting the primary entrance to the public sidewalk from vehicular use areas. This amendment is in response to public comment requesting more flexibility. When a parking lot is situated to the side of a building, the street facing entrance may be located at the corner near the parking lot so that it serves both parking and the pedestrian realm. On-site sidewalks along the edges of parking lots are common. This amendment allows a shared walkway from the public sidewalk to both the parking lot edge and the entrance, reducing the amount of impervious surface while still meeting the intent of the regulation.

## Article 4.6 Historic Preservation and Historic Overlays

### 17. Revise Definition of Historic Resource

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Division 4.6.02 Definitions – 28. Historic Resource

**Revised Code:**

28. **Historic Resource** means any prehistoric or historic building, structure, object, or site (1) individually listed in the National Register of Historic Places, (2) listed in the Missoula Inventory of Historic Resources or (3) included in a Historic Resource Overlay under Division 4.6.08.

**Explanation:** The historic resource definition was not intended to expand the applicability of Article 4.6 to all contributing and non-contributing resources within all of Missoula's historic districts. The clarification that historic resources are those that are individually listed on the national register or local inventory was inadvertently excluded. Public

comment identified this issue and staff recommend an amendment to correct and clarify the definition of historic resource so that the regulations apply as intended.

## Article 4.7 Building Standards

### 18. Reduce Setback for Cottage Courts

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Table 4.7.02-3 Cottage Court Building Standards

**Revised Code:**

Building Standards	
<b>Number of Units per Building</b>	3 min / 8 max See Zoning District
<b>Building Placement</b>	See Zoning District <u>A 2.5 ft side interior setback is permitted from lot lines located between cottage court dwelling units. The side interior setback of the zoning district only applies to lot lines at the boundary of the cottage court development.</u>

**Explanation:** Cottage courts may be sited so that all dwelling units are located on one lot, or with each dwelling unit on a separate lot. Note a “parcel” may contain multiple underlying lots.

Staff recommend reducing interior side setbacks to 2.5 feet between cottage court dwelling units to promote ownership opportunities by increasing flexibility. The building type in Article 4.7 only requires a 5-foot separation between structures. For cottage court developments with each dwelling unit on a lot, staff recommend this amendment to setbacks in order to create alignment with cottage courts that have all units located on one parcel.

## 19. Reduce Minimum Court Width for Cottage Courts

**Amendment Origin:** Staff Recommended Alternative to Planning Commission Recommendation

**Code Section:** Table 4.7.02-3 Cottage Court Building Standards

**Revised Code:**

Building Form and Components		See Zoning District
Separation between dwelling units (min)		5 ft
Shared Court Width	A (min)	<del>20</del> 5 ft
Shared Court Depth	B (min)	30 ft

**Explanation:** Planning Commission recommended that the minimum shared court width for cottage courts be reduced to 15 feet. See Motion #16 in the *Planning Commission Public Hearing Summary Memo*. Staff alternatively recommend reducing the minimum court width for a cottage court to 20 feet. A 20-foot width court would allow a 5-foot sidewalk, and 7.5-foot-wide yard area in front of each unit. The shared court is the defining feature of this development type. The minimum width and depth ensure a small, but quality shared space in between clustered units.

## 20. Include FAR and Increase Size Limit for Neighborhood Commercial

**Amendment Origin:** Staff Recommended Alternative to Planning Commission

**Code Section:** Table 4.7.02-6 Neighborhood Commercial Building Standards

**Revised Code:**

**Table 4.7.02-6** Neighborhood Commercial Building Standards

Building Standards	
<b>Number of Units per Building</b>	See Zoning District
<b>Building Placement</b>	See Zoning District
<b>Setback Exemption</b>	Exempt from Front and Side Street setbacks in the U-R4 and LU-R2 Districts
<b>Building Form and Components</b>	See Zoning District
<b>Building Specific Standards:</b>	
Size: New Structure	<u>New structures in Urban Residential Zoning Districts are limited to a maximum floor-area-ratio of 0.5 and the size shall not exceed <del>2,000</del> 3,500 sf</u>
	<u>New structures in Limited Urban and Rural Zoning Districts are limited to a maximum floor-area-ratio of 0.5 and shall not exceed <del>3,500</del> 5,000 sf</u>
Size: Conversion of Existing Structure	When an existing structure that was built prior to 2026 is converted to a neighborhood commercial building, there is no limit to the allowed floor area. If the conversion adds to the floor area of the existing structure, the maximum size cannot exceed the square footage limits stated for new structures.
Entrance	In Urban Residential Zoning Districts, the primary entrance must be provided on the facade adjacent to the street or right-of-way (other than an alley).
Parking Access	Urban Residential Zoning Districts are exempt from minimum parking requirements.
	In Limited Urban and Rural Zoning Districts, minimum off-street parking requirements apply.

**Explanation:** The Planning Commission recommended increasing the maximum size of neighborhood commercial in all zones to 5,000 square feet. In the interest of keeping neighborhood commercial small in scale and compatible with the different types of residential neighborhoods, staff propose an alternative size limit that retains two different maximum square footages – one for the Limited Urban and Rural residential zones and another for the Urban residential zones.

Staff recommend lowering the maximum square footage for new neighborhood commercial in urban residential zoning districts to 3,500 square feet and agree with the Planning Commission recommendation of 5,000 square feet for the limited urban residential and rural residential zoning districts.

Planning Commission also recommended that staff investigate a mechanism, like FAR, to scale the maximum neighborhood commercial building size relative to the parcel size and so that there is a compatible relationship between building development and the parcel size. Staff agree and recommend a maximum FAR of 0.5 for all new neighborhood

commercial structures. This aligns with the FAR ratio for a single or two-unit dwelling in more residential districts and represents a comparable form for standalone neighborhood commercial structures. See Motion #19 and #20 in the *Planning Commission Public Hearing Summary Memo* for additional context.

## 21. Remove Requirement to Demolish Accessory Structures at Subdivision and Subdivision Exemption

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.7.02-H Accessory Structure

**Revised Code:**

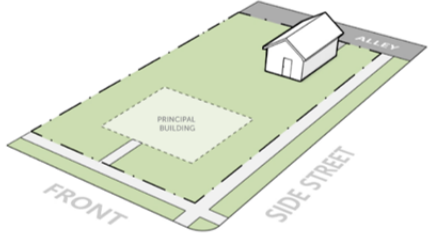
**Section 4.7.02-H. Accessory Structure**

1. **Applicability:**

The building standards provided in the table below apply to development of accessory structures. All new development must comply with these standards.
2. **Description**

An Accessory Structure is subordinate to the principal building on a parcel and serves the occupants of the principal building. Examples include detached garages, sheds and other, standalone buildings on a parcel that do not contain a dwelling unit.
3. **Interpretation of "Subordinate"**
  - (a) New accessory structures must be built after or in conjunction with a principal building or use.
  - (b) There is no requirement to demolish or remove existing accessory structures when the following occurs:
    1. The principal structure is demolished;
    2. The principal use is abandoned;
    - 1.3. The accessory structure is located on a different parcel than the principal structure or use following approval of a subdivision or subdivision exemption. In order to remain, the accessory structure must meet setback requirements from all new parcel boundaries created with the subdivision or subdivision exemption.

**Figure 4.7.02-7** Accessory Structure



**Explanation:** Based on the definition of accessory structure in the current Title 20 zoning code and the adoption draft of the UDC, there is a requirement that accessory structures be demolished as a result of certain development actions. This requirement unnecessarily demolishes structures that are still in good condition and creates unnecessary construction waste. Additionally, the requirement slows down approval of subdivision exemption applications. Staff recommend including the revised language above to clarify

that “subordinate” is not interpreted to require removal of accessory structures as a result of other development actions.

## 22. Remove Maximum Building Coverage for Accessory Structures

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Table 4.7.02-8 Accessory Structure Building Standards

**Revised Code:**

<b>Building Standards</b>	
<b>Number of Units per Building</b>	None
<b>Building Placement</b>	
Setbacks	See Zoning District for front and side street setbacks. Interior Side: 3 ft. Rear: 3 ft. no alley / 0 ft. abutting an alley.
Location	Accessory structures are prohibited in front and side street yards, and they may not be closer to the street than the principal building.
<del>Building Coverage (Max)</del>	<del>50% of rear yard for all combined detached accessory structures</del>
Standards for accessory structures for livestock or fowl	Must be located: 100 feet from any dwelling unit under separate ownership from the accessory structure; 100 feet from any waterway; 50 feet from all property lines (This provision does not apply to accessory structures for the keeping of up to six chickens, in accordance with Title 6 of Missoula Municipal Code.)
Exceptions	Through lots are exempt from the Location standard above. Greenhouses are exempt from the Location <del>and Building Coverage</del> standards above.

**Explanation:** The unified development code promotes compact development and allows for the creation of small lots. The maximum building coverage was brought over from Title 20 zoning code but can be difficult to meet under the new Unified Development Code zoning framework. Staff recommend removing the maximum building requirement for

accessory structures in order to accommodate detached garages that are accessed from the alley on small lots.

## Article 4.8 Uses

### 23. Add Missing Headers

**Amendment Origin:** New Staff Recommendation

**Code Section:** Article 4.8 Uses

**Explanation:** The article headers at the tops of pages are missing from Article 4.8. Staff recommend an amendment to add in the headers for the final adopted document for consistent code design.

### 24. Format Use Tables by Zoning District Categories

**Amendment Origin:** New Staff Recommendation

**Code Section:** Table 4.8.02-1 Allowed Uses

**Explanation:** The allowed uses table is currently not formatted to aesthetically match the code. The table has not yet been formatted in order to allow for smooth editing through amendments. The table is difficult to edit once formatted into the code. Staff recommend an amendment to format the table by district contexts and to properly imbed the table into code for the final adopted draft. The amendment would include renumbering tables as necessary and updating any references to the table(s) throughout the code.

### 25. Allow Wineries as a Permitted Use in OP2 and Remove from OP1

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Table 4.8.02-1 Allowed Uses

**Explanation:** Wineries include vineyards which are an agricultural use. For the adoption draft, wineries were added as a permitted use in the R-R1 Rural zoning district due to their agricultural nature. The OP2 Open and Resource zoning district is mapped to the Open and Resource Place Type. Per the Land Use Plan, the Open and Resource Place Type lists agriculture as a primary use. Staff recommend an amendment to change wineries from a

prohibited use to a permitted use in the OP2 zoning district due to the agricultural nature of the use.

The OP1 zoning district is mapped to the Parks and Conservations Land Place Type. This Place Type does not describe agricultural uses and is focused on preserving natural resources and public parks. The Place Type is also mapped to environmentally constrained areas. Staff recommend removing wineries as a permitted use in OP1 to better align with the Land Use Plan.

## 26. Eliminate parking requirement for Preschool Center (13+)

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Table 4.8.02-1 Allowed Uses - Motor Vehicle Parking Column

**Revised Code:** ~~1 space per 1,000 SF~~ none

**Explanation:** House Bill 492 was passed by the Montana State Legislature. This bill restricts the City’s ability to regulate parking through zoning. The bill states that “zoning regulations may not include provisions that require: ... (b) any minimum parking requirement for: ... (ii) child-care facilities licensed or registered by the department of public health and human services”.

Staff interpret preschools as a form of childcare facility and recommend an amendment to remove the parking requirement from the Preschool Center (13+) use. Note “13+” indicates the number of children at the facility. There is already no parking requirement in the Unified Development Code for Preschool (1-12), Day Care: Residential Day Care, and Day Care: Day Care Center.

## 27. Correct Short Term Bike Storage Error for Residential

**Amendment Origin:** New Staff Recommendation

**Code Section:** Table 4.8.02-1 Allowed Uses – Short Term Bicycle Storage Column

**Revised Code:**

Household Living: Short Term Bicycle Storage Column

~~none~~ For 3 or more DU:

1 space per 8 DU

Minimum 2 Spaces

**Explanation:** Staff recommend an amendment to apply a short-term bicycle storage requirement to projects with three or more dwelling units. The amendment requires 1 space per 8 dwelling units, with a minimum requirement of two spaces (1 bike rack). The code currently says no short-term bicycle storage is required for household living. This was a mistake resulting from table formatting/editing. Staff’s intention was to include the proposed short term bike storage requirement to residential. Short term bike storage is intended to serve visitors. In order to make bicycles a feasible mode of transportation to the homes of family and friends, bike racks are necessary to prevent theft. When no bike racks exist, people often lock bikes to things like street trees and utility poles. This can cause damage to public infrastructure, including the death of street trees.

## 28. Improve Winery State Law Reference

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 4.8.06-M Winery

**Revised Code:**

### **Section 4.8.06-M. Winery**

A winery licensed in accordance with MCA § 16-4-107 and 16-3-411.

**Explanation:** Per public comment, staff recommend an amendment to more comprehensively capture the state law regulations for wineries. The added citation references language describing what wineries are permitted to do. This allows both staff and the public to better understand the use description for wineries in Montana.

## Article 4.9 Site Development Standards

### 29. Fix Landscaping Typos

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** Section 4.9.02-A.3.b General Standards and Section 4.9.02-F.3.b.1.a Standards

**Revised Code:**

**3. General Standards**

- (a) All areas of a parcel that are not covered by structures, driveways, parking areas, or other paved surfaces shall be landscaped.
- (b) When five or more trees are planted on a parcel to meet the requirements of this division, a mix of species shall be provided so that no one species may comprise more than 20% of the total trees.

**1. Landscape Bed:**

- a. One Class 2 tree is required for every 30 linear feet of perimeter parking lot landscape area. The tree substitution allowance in General Site Landscaping applies.

**Explanation:** Planning Commission recommends all changes within a red-lined copy of the landscaping division submitted by a member of the public (see Motion #26 in the *Planning Commission Public Hearing Summary Memo*). Staff support the recommended amendment to correct the two typos identified in the letter where words had been inadvertently omitted.

### 30. Clarify Activity Area Counts Toward General Site Landscaping

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** Section 4.9.02-B General Site Landscaping Standards

**Revised Code:**

- (d) All landscape areas and plant material provided to meet any requirement in the Landscaping Division, including activity area, count toward satisfying the general site landscaping requirements of this section.

**Explanation:** Planning Commission recommends all changes within a redlined copy of the landscaping division submitted by a member of the public (see Motion #26 in the *Planning Commission Public Hearing Summary Memo*). Staff support the recommended amendment clarifying that activity areas count towards general site landscaping. Staff's recommended amendment makes this clarification in a different location than the public commenter's draft. The code is intended to read this way, but specifically calling out activity area provides clarity.

### 31. Allow Plazas to Count as Landscaping in Mixed-Use Districts

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 4.9.02-B.2 General Site Landscaping Standards

**Revised Code:**

- (f) In mixed-use districts, plazas may count towards general site landscape area. In order to be counted as general site landscaping the plaza must contain at least:
1. One Class 2 tree per 800 square feet of plaza area. The substitutions noted in 4.9.02-B.2.b are permitted;
  2. Six shrubs per 1,000 square feet of plaza area. The substitutions noted in 4.9.02-B.2.c are permitted;
  3. Trees and shrubs may be placed in planter boxes;
  - (e)4. Seating such as benches or tables and chairs.

**Explanation:** As a result of public comment, staff recommend allowing urban plaza spaces to count towards general site landscaping in mixed-use zoning districts. The amendment allows greater flexibility in designing urban outdoor spaces. Specifically, this type of landscaping may be necessary when subgrade parking structures prevent regular landscaping installation. The option to provide a plaza still requires trees to be provided in order to shade the pavement from the plaza and reduce urban heat. Shrubs and seating are required to ensure the area functions as a plaza rather than an empty paved area that provides no value to the climate or residents.

### 32. Update the Number of Units Activity Area is Required For

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 4.9.02-D.2 Activity Area Applicability

**Revised Code:**

2. **Applicability**
- (a) Activity area is required for the following:
1. New residential and mixed-use developments of ~~seven-ten~~ or more dwelling units;
  2. Townhome Exemption Developments of ~~seven-ten~~ or more dwelling units;
  3. Existing residential development that is expanded to ~~seven-ten~~ or more dwelling units on a parcel.

**Explanation:** Staff recommend an amendment to adjust the number of units where activity area is required from 7 dwelling units or more to 10 dwelling units or more. This change is intended to encourage smaller “missing middle” infill housing projects. This recommendation is in line with the current Title 20 requirements where 10 or more dwelling units are required to provide activity area.

### 33. Exempt Subdivisions Approved in Last 20 Years from Activity Area

**Amendment Origin:** Updated Staff Recommended Amendment from December 2<sup>nd</sup> Memo

**Code Section:** Section 4.9.02-D Activity Area Applicability

**Revised Code:**

- (b) The activity area requirements of this section do not apply to the following:
1. Development on parcels in subdivisions approved after January 1<sup>st</sup>, 2005 that were subject to ~~the~~ parkland dedication requirements and meet the following standards: in effect on or after the effective date of this UDC (Article 1.1):
    - a. The parkland dedication (common area, open space, city park, and/or cash-in-lieu) shall have been met for the parcel proposed for development and in the case of land dedication, improvements are complete or an improvements agreement, cost estimate, and financial security is approved for the improvements. In order for parkland dedication to have been met for a proposed development on a parcel, the parcel shall have been included in a filed final plat for the subdivision or the parcel is in a phased subdivision and earlier platted phases of the subdivision dedicated more parkland than was required for the final platted phases and the excess equals or exceeds the amount of parkland dedication for the proposed development parcel.
    - ~~1-b.~~ The parkland dedication (common area, open space, and/or city park) intended to serve the parcel must be legally and physically accessible to the occupants of the parcel proposed for development.

**Explanation:** Staff recommend an amendment exempting development located in subdivisions that provided parkland dedication within the last twenty years from compliance with activity area standards. This exception honors the fact that recent development has provided sufficient parkland per modern regulations.

The language has been amended since Planning Commission as a result of discussions with developers and the City Attorney’s Office. The new added language provides clarity on when the exception applies. Specifically, the parkland must have already been provided. This ensures that when a subdivision plat is not filed and the parkland is not actually created, that development on remainder tracts is not exempt from activity areas.

### 34. Exempt Development in Downtown-Transition district from Activity Area

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 4.9.02-D.2 Activity Area Applicability

**Revised Code:**

(b) The activity area requirements of this section do not apply to the following:

2. Development on parcels in the D-C Downtown Core and the D-T Downtown Transition districts.

**Explanation:** Staff recommend exempting developments located in the D-T Downtown Transition zoning district from Activity Area Requirements in addition to the D-C Downtown Core. This change would help incentivize incorporating housing into development in the Downtown Transition zoning district,

### 35. Reduce Activity Area Requirement to 100 SF per Dwelling Unit

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.9.02-D 3. General Standards

**Revised Code:**

#### 3. General Standards

- (a) Activity area must be provided at a rate of ~~150~~100 square feet per dwelling unit, up to a maximum square footage equal to 20% of the parcel area.
- (b) All activity areas must have a minimum dimension of 105 feet unless otherwise stated.
- (c) Activity areas may be dispersed across multiple locations but shall be located as to be accessible and convenient to the residential units the activity area serves.
- (d) Outdoor activity areas must be separated from ~~buildings,~~ vehicular use areas, ~~and rights-of-way~~ using one of the following options:
  1. A minimum 35-foot-wide landscaped buffer ~~containing at least one tree for every 30 linear feet of buffer length. Shrub beds or other planting systems may be used but are not required;~~
  2. ~~On-site~~ Sidewalks (on-site or within the right-of-way);
  3. Fencing complying with the requirements of Article 6.4 Fences.

**Explanation:** In response to public comment, staff recommend reducing the activity area requirement from 150 square feet per dwelling unit to 100 square feet per dwelling unit. The 100 square foot per dwelling unit activity area is large enough to meet the intent of the requirement, which is to provide close to home spaces for outdoor recreation, relaxation, and community gathering. The reduction reduces barriers and cost to housing development.

### 36. Remove Minimum Activity Area Playground Size

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.9.02-D.4.b Playground

**Revised Code:**

- (b) **Playground.** Playgrounds installed to meet the requirements of this section shall:
- ~~1.—Be a minimum area of 550 square feet. On-site sidewalks are not counted towards the minimum area;~~
  - 2.1. Contain elements to support active play for children ages two to twelve such as slides, balance features, swings, and climbing features. Natural elements such as logs and boulders meet this requirement if arranged in such a manner as to create a play space for enjoyment by children. Equipment shall meet Consumer Product Safety Commission (CPSC) Public Playground and ASTM standards for playground safety.

**Explanation:** Staff recommend removing the minimum area for playground activity areas. The size of playgrounds is protected by the standard requiring play equipment. The space naturally must be large enough to accommodate the selected equipment. A minimum area requirement in square feet is overly prescriptive.

### 37. Update Requirements for Common Area Courtyards

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 4.9.02-D.4(c) Common Area Courtyards

**Revised Code:**

- (c) **Common Area Courtyard.** Courtyards installed to meet the requirements of this section shall:
1. Be surfaced with ~~ADA~~-accessible hardscape;
  2. Have seasonal shade on ~~at least 30% portion~~ of the courtyard provided by trees or by structure (e.g. pergolas, shade sale);
  3. Include seating. Areas containing grills, tables, outdoor games, and additional landscaping count towards the courtyard space.

**Explanation:** Staff recommend an amendment based on feedback from developers and Planning Commission to increase design flexibility for courtyards. ADA requirements are covered in building code. Requiring shade to a portion of the courtyard rather than prescribing it to be 30% of the space adds flexibility while maintaining the intent.

### 38. Update Allowed Slope for Active Recreation Lawns

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 4.9.02-D.4(d) Active Recreation Lawn

**Revised Code:**

- (d) **Active Recreation Lawn.** Active recreation lawns installed to meet the requirements of this section shall:
1. Have a minimum length and width of 40 feet;
  2. Have a slope of ~~23%~~ or less;
  3. Be irrigated and planted with turf grass;
  4. Have topsoil with a minimum six-inch depth;
  5. Not contain above ground utilities and sidewalks.

**Explanation:** Staff recommend an amendment based on feedback from developers and Planning Commission to allow for more variation in the slope of active recreation lawn areas that meet activity area requirements. Staff recommend adjusting this to 3% max slope based on industry best practices for active lawn areas. This adds flexibility, while still ensuring the lawn area is flat enough to be used as active recreation space.

### 39. Update Requirements for Shared Rooftop Decks

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 4.9.02-D.4(h) Shared Rooftop Deck

**Revised Code:**

- (h) **Shared Rooftop Deck.** Rooftop decks installed to meet the requirements of this section shall:
1. Be open accessible to all residents of the project;
  2. Contain seating;
  3. Incorporate landscaping elements such as planters or green roof areas. ~~A minimum of 10% of the deck area shall be occupied by planters or green roof planting areas. Planters shall include 24 in. soil depth and may be grouped to allow design flexibility.~~

**Explanation:** Staff recommend an amendment based on feedback from developers and Planning Commission to allow for more flexibility in rooftop deck design. Landscaping elements are still required to be incorporated into the design without being overly prescriptive, and the intent that the decks are open and accessible to all residents of the project is clarified.

#### 40. Create “Other” Activity Area Option

**Amendment Origin:** New Staff Recommendation

**Code Section:** New Code Section 4.9.02-D.4(j) Other Activity Areas

**Revised Code:**

- (j) **Other Activity Areas.** ~~Other outdoor activity areas may be used to meet the activity area requirements if they meet the following requirements:~~
1. Substantially comply with the intent of purpose statement of section 4.9.02-D.1
  - 3-2. Meet industry best practices for the amenity type being created

**Explanation:** Staff recommend an amendment to allow for an “other” option that meets the intent of activity area requirements. This will allow for more flexibility for a variety of activity area types that are not directly mentioned in the code, for example: pools or dog off leash areas are not listed as activity area types but meet the intent of providing close-to-home outdoor recreation and community gathering.

#### 41. Clarify Raised Planters are Allowed in Garden Activity Areas

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** Sections 4.9.02-D.4.a and 4.f

**Revised Code:**

**4. Types of Activity Areas**

The activity area requirements must be satisfied using one or more of the following activity area types:

(a) **Fruit and/or Vegetable Garden.** Gardens installed to meet the requirements of this section shall:

1. Provide tool storage areas for common use by residents;
2. Be enclosed with a six-foot-tall fence to exclude deer and pets. The fence may be four feet tall when required by Article 6.4 Fences. The fence must be high transparency, such as wood-framed hog panel;
3. Provide access to water, such as a hose bib, in a location accessible to all garden beds;
4. Provide topsoil at a minimum depth of one foot;
- 4.5. Raised garden beds or planters meeting the minimum one-foot topsoil depth are permitted;

(f) **Ornamental Garden.** Gardens installed to meet the requirements of this section shall:

1. Contain internal pathways;
2. Contain automated irrigation;
3. Have a minimum soil depth of one foot;
- 3.4. Raised garden beds or planters meeting the minimum one-foot soil depth are permitted;
- 4.5. Include ornamental plantings, trees, and other amenities such as benches, hammocks, and gazebos to support resident use of the space;
- 5.6. Provide a plan for continuous maintenance at the time of permitting.

**Explanation:** Planning Commission recommends all changes within a red-lined copy of the landscaping division submitted by a member of the public (see Motion #26 in the *Planning Commission Public Hearing Summary Memo*). Staff support the recommended amendment clarifying that ornamental gardens and vegetable gardens can use raised planters as long as the soil depth is met. The staff recommended language is slightly more robust than the red-lined copy from the public commenter.

**42. Reduce Parking Lot Landscape Trigger from 3,000 SF to 3,300 SF**

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** Section 4.9.03-E.2 Interior Parking Lot Landscaping Applicability

**Revised Code:**

## 2. **Applicability**

The interior parking lot landscaping standards apply to the following:

- (a) Any new parking lot or vehicular use area containing ten or more parking spaces or more than 3,300 square feet of paved area;
- (b) The expansion of any existing parking lot or vehicular use if the expansion would create ten or more new parking spaces or more than 3,300 square feet of additional paved area. The requirements of this section apply only to the expanded area;
- (c) The excavation and reconstruction of existing parking lots or vehicular use areas containing ten or more parking spaces or more than 3,300 square feet of paved area if such excavation and reconstruction involve the removal of more than 25% of the paved surface. The requirements of this section apply only to the portion of the parking lot or vehicular use area that is excavated and reconstructed.
- (d) Interior parking lot landscaping does not apply to parking structures or drive-throughs.

**Explanation:** Planning Commission recommends all changes within a red-lined copy of the landscaping division submitted by a member of the public (see Motion #26 in the *Planning Commission Public Hearing Summary Memo*). Staff support the recommended amendment from the red-lined copy revising the threshold for requiring interior parking lot landscaping. The amendment revised the code to align with the current Title 20 requirement.

## 43. Reduce Parking Lot Landscape Island Requirement (15 spaces)

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Sections:** Section 4.9.02-E.3.b.1 and Figure 4.9.02-2

**Revised Code (graphic update for figure not shown):**

### (b) **Location and Design**

1. Parking lot landscaped islands are required. No linear grouping of parking spaces shall exceed 150 spaces in a row without a landscaped island.

**Explanation:** Staff recommend reducing the parking lot landscaping requirement to align with the current Title 20 requirement in response to comment.

## 44. Perimeter Parking Lot Landscaping – Clarify Building Can Screen Parking from Street

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.9.02-F Perimeter Parking Lot Landscaping Applicability

**Revised Code:**

**Section 4.9.02-F. Perimeter Parking Lot Landscaping**

1. **Purpose**

The purpose of perimeter parking lot landscaping is to minimize the impact of automobile-dominated areas on the public right-of-way and to promote a comfortable, safe, engaging, and attractive streetscape.

2. **Applicability**

The perimeter parking lot landscaping requirements apply to the following:

- (a) Installation or expansion of surface parking lots, drive-throughs, or vehicular use areas within 30 feet of a street or trail. The perimeter parking lot landscaping requirements do not apply to vehicular use areas behind a building that are not visible from the street.

**Explanation:** The purpose of perimeter parking lot landscaping is to screen parking lots from the public street. The current draft doesn't clearly exempt parking lots that are behind buildings which are screened from the street by the building. Staff recommend an amendment to clarify that perimeter parking lot landscaping does not apply to parking lots behind buildings.

#### 45. Align Zoning Landscaping Standards with Definition of Driveway

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Sections:** Sections 4.9.02-F.2.c Perimeter Parking Lot Landscaping and Section 4.9.02-G.2.a.2 Buffers

**Revised Code:**

(c) The requirements of this section do not apply to driveways servicing one-unit house, duplex, and rowhouse building types.

2. The buffer requirement does not apply to driveways servicing one-unit house, duplex, and rowhouse building types.

**Explanation:** The driveway definition in Chapter 8 includes driveways that serve houses, rowhouses, and duplexes, as well as accesses to surface parking lots for larger development types. This definition as written is necessary to the functionality of regulations in Chapter 6 Infrastructure Improvements. The exceptions to landscaping requirements were intended to apply to driveways serving certain building types. They were

not intended to exempt surface parking lots. For example, the buffer requirements are intended to screen adjacent development from parking lot headlights. Staff recommend an amendment to align the intent of the landscaping exceptions with the definition of driveway. The amendment will reduce confusion over how the regulations are applied.

#### 46. Clarify Perimeter Parking Lot Landscaping Must be on Street Side

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** Section 4.9.02-F.3.b.2 Landscape Wall or Fence option for Perimeter Parking Lot Landscaping

**Revised Code:**

##### 2. Landscape Wall or Fence:

- a. One Class 2 tree is required for every 30 linear feet of perimeter parking lot landscape area. The tree substitution allowance in General Site Landscaping applies.
- b. A minimum three-foot-tall fence or wall is required for the length of the perimeter parking lot landscape area.
- c. When the fence or wall has a transparency of 25% or greater, perennials must be planted along the fence on the street adjacent side at a spacing of three feet for the length of the required fence.

**Explanation:** Planning Commission recommends all changes within a red-lined copy of the landscaping division submitted by a member of the public (see Motion #26 in the *Planning Commission Public Hearing Summary Memo*). Staff support the recommended amendment from the red-lined copy clarifying that the landscaping intended to screen parking from the public right-of-way must be provided on the street facing side of the fence between the parking lot and street.

#### 47. Simplify Landscape Buffer Widths and Reduce Fence Height

**Amendment Origin:** Partial Planning Commission Recommendation + Staff Support

**Code Section:** Section 4.9.02-G.3

**Revised Code:**

**3. Standards**

(a) Minimum buffer widths ~~are based on the zoning district. Buffers~~ shall be a minimum width of six feet:

- ~~1. Six feet in D-T, UR-4, and Urban Mixed-Use zoning districts;~~
- ~~2. Eight feet in T-MU, CD-2, U-R1, U-R2, U-R3, Rural Residential, and Limited Urban Residential zoning districts; and~~
- ~~3. Ten feet in LU-MU, I-1, I-2, OP-1, OP-2, and CD-1 zoning districts;~~

(b) Landscape buffers ~~for vehicular use areas and drive through facilities~~ shall provide a landscaped area with a minimum ~~four~~six-foot-tall opaque fence.

(c) ~~Landscape buffers for industrial uses shall provide a landscape area with a minimum six-foot-tall opaque fence.~~ The fence may be four feet tall where a six-foot fence is prohibited by Article 6.4 Fences. One tree and six shrubs are required per 30 linear feet of fence or wall.

~~4.(d) In Limited Urban Mixed Use and Special Use zoning districts, the buffer requirement may be met with a landscape berm instead of a landscape area with fence. The height of the berm must be between 4 and 6 feet. The berm shall have a maximum slope of 3:1.~~

**Explanation:** Planning Commission recommends all changes within a red-lined copy of the landscaping division submitted by a member of the public (see Motion #26 in the *Planning Commission Public Hearing Summary Memo*). Staff support the recommended amendment from the red-lined copy simplifying buffer widths to six feet in all zoning districts. This meets the guiding principle of creating a simple, clear, easy to use code.

However, the Planning Commission recommended allowing four-foot-tall fences as buffers instead of six-foot-tall fences. Staff recommend making this amendment for fences that buffer parking and drive-throughs from abutting properties.

#### 48. Reduce Organic Mulch Width for Shrubs and Perennials

**Amendment Origin:** Planning Commission Recommendation

**Code Section:** Section 4.9.02-I.6 Mulch

**Revised Code:**

**6. Mulch**

When the landscaping requirements of this division are applicable to a parcel, all mulch shall meet the following requirements:

- (a) Mulch shall be applied at a minimum depth of three inches.
- (b) Weed barrier material shall not be visible in mulched areas.
- (c) All mulch within two feet of trees or within six inches of shrubs and perennials shall be organic, such as bark, shredded wood, wood chips, or other organic matter.
- (d) At least 50% of the total mulch area on a parcel must be comprised of organic mulch such as bark, shredded wood, wood chips, or other organic matter. The remaining mulch area may be comprised of mineral mulch such as decorative stone, river stone, or decomposed granite.

**Explanation:** Planning Commission recommends all changes within a red-lined copy of the landscaping division submitted by a member of the public (see Motion #26 in the *Planning Commission Public Hearing Summary Memo*). Staff support the recommended amendment to reduce the radius of organic mulch required around shrubs and perennials from 2 feet to 6 inches. This code section is primarily intended to prevent hot rock mulch damaging the bark of trees. A smaller radius of organic mulch is adequate to protect shrubs and perennials.

Note: The Planning Commission recommendation included specifying the smaller radius also applies to ground covers and bunch grasses. However, these are considered perennials by the code and are covered by the amendment.

#### 49. Correct “Weekday” Error in Transit-Served Location Parking Incentive

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.9.03-A.5.b.1

**Revised Code:**

**(b) Transit-Served Location**

- 1. The transit-served location parking reduction applies to parcels within 500 feet of a transit stop served at intervals of 30 minutes or less between 7:00 a.m. and 6:00 p.m. on weekdays.
- 2. The maximum parking reduction is 25%.

**Explanation:** The transit served location parking reduction is intended to apply to sites that have reliable bus access. The service intervals listed in the incentive are only typically

available on weekdays. The word “weekdays” was inadvertently excluded from the incentive. The amendment corrects an error, making the incentive feasible.

## 50. Clarify Drive-Through Setback Measurement

**Amendment Origin:** Updated Staff Recommendation from December 2<sup>nd</sup> Memo

**Code Section:** Section 4.9.03-B.7.d

**Revised Code:**

- (d) Service areas and stacking lanes must be set back at least 20 feet from all streets measured from the back of the sidewalk. When no sidewalk exists and a sidewalk is not proposed with the drive through facility, the service area and stacking lanes must be set back at least 20 feet from the right of way.

**Explanation:** Staff recommend an amendment clarifying where the drive-through setback from streets is measured. The current language in the adoption draft is vague. In order to meet the intent of the requirement the drive through needs to be setback from the street facilities. This measurement is more flexible than the current Title 20 requirement to set the drive through back 20 feet from the right-of-way. Some rights-of-way have more width than is necessary to contain all street facilities, which results in a larger than necessary setback area. The amendment clarifies the setback is measured from the edge of street facilities, as opposed to the right-of-way line (i.e. property line).

Update for this memo: The previous amendment said to measure from edge of pavement when no sidewalk exists. Staff determined that this could lead to an insufficient space between a future sidewalk and drive through to meet the intent of mitigating impacts of drive throughs on the public realm. The update requires drive-through facilities to be setback 20 feet from the right-of-way where no sidewalk exists nor is proposed with the drive-through facility.

## 51. Allow Short Term Bicycle Storage in the Right-of-Way in All Mixed-Use Districts

**Amendment Origin:** Planning Commission Recommendation + Staff Support

**Code Section:** 4.9.04-E.2.d Short-Term Bicycle Storage

**Revised Code:**

(d) Required bicycle storage must be located on site. However, short-term bicycle spaces may be located in right-of-way in Urban Mixed-Use U-MU3, U-MU4, and Downtown zoning districts if approved by the City Engineer.

**Explanation:** Planning Commission recommended an amendment to allow short term bicycle racks to be located in the right of way in all mixed-use districts when the City Engineer determines the design is adequate. Staff recommend the amendment to add U-MU1 and U-MU2 to the list of districts that allow bicycle storage in the right-of-way. See Motion #23 in the *Planning Commission Public Hearing Summary Memo*.

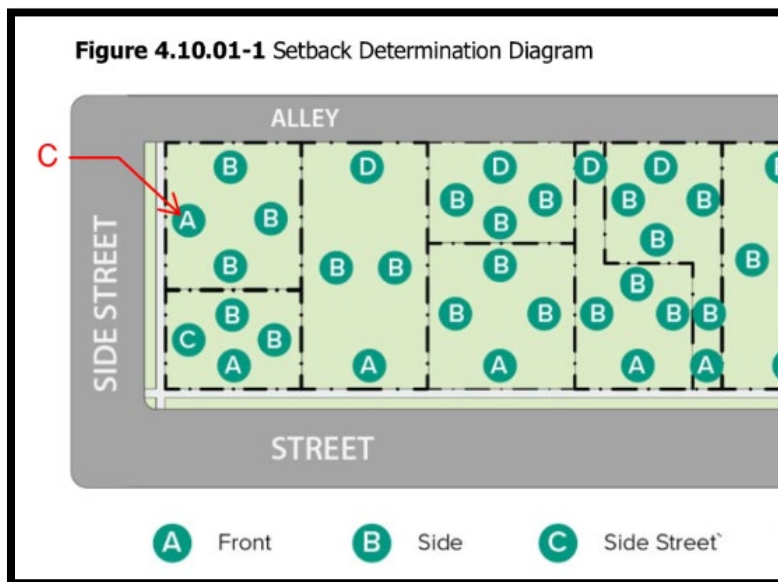
**Article 4.10 Measurements and Exceptions**

52. Fix Side Street Error on Setback Diagram

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Figure 4.10.01-1 Setback Determination Diagram

**Revised Code:** Swap “A” for “C” where shown:



**Explanation:** The intent of the diagram is to create a consistent setback along the block face, and to provide clarity on which setback applies to each property line on different lot configurations. The recommended amendment corrects an error in the diagram. The

relatable diagram in Title 20 has been successful in providing clarity to staff and applicants across various common lot configurations. The UDC diagram is intended to copy the Title 20 diagram. The “split-corner lot” should have a side street setback rather than a front setback. In the Title 20 diagram, the setback for this lot was labeled as a “half front”. In Title 20, half of a front setback is equal to side street setback.

## Article 4.11 Natural Resource and Protection and Division 5.2.11 Riparian Resource Areas

### 53. Allow Stormwater Facilities in Special Grant Creek Buffer

**Amendment Origin:** New Staff Recommendation

**Code Sections:** Section 4.11.02-D.2 Special Grant Creek Buffer (Zoning) and Section 5.2.11-D.2 Special Grant Creek Buffer (subdivision)

**Revised Code:**

#### 2. Special Grant Creek Buffer

Any development adjacent to the stretch of Grant Creek depicted in Figure 4.11.02-1 must maintain a 200-foot buffer measured from the centerline of the floodway of relocated Grant Creek. Development within this buffer shall be limited to trails, bridges, irrigation infrastructure, stormwater facilities and those improvements necessary for life safety or emergency purposes, or improvements for airport operations.

#### 2. Special Grant Creek Buffer

The stretch of Grant Creek depicted in Figure 5.2.11-1 must maintain a 200-foot buffer measured from the centerline of the floodway of relocated Grant Creek. Development within this buffer shall be limited to trails, bridges, irrigation infrastructure, stormwater facilities, and those improvements necessary for life safety or emergency purposes, or improvements for airport operations.

**Explanation:** Public Works and Mobility Stormwater staff recommend an amendment to allow stormwater facilities in the 400-foot-wide Grant Creek buffer associated with the Grant Creek relocation project. Stormwater staff are leading the project and have been coordinating with a potential developer on design. Staff currently believe it will be necessary to place stormwater facilities in the buffer and it will not result in negative impacts to the creek or riparian area.

## 54. Align Riparian Regulations with 310 Permit Law

**Amendment Origin:** Planning Commission + Staff Support

**Code Sections:** Section 4.11.02-B and 5.2.11-B Applicability, Section 4.11.02-D Riparian Buffers and Section 5.2.11-D Riparian Buffer Width

**Revised Code Zoning:**

2. Areas of riparian resource are typed by site-specific soil, habitat and community types. To determine whether vegetation qualifies as a riparian resource area, consultation with a qualified professional, ~~the Missoula Conservation District~~, or the Planning Administrator is recommended prior to submitting for a building permit or zoning compliance permit.

2.3. For any vegetation clearing, construction of structures, or other development occurring outside of the City of Missoula's 1946 boundary and within 50 feet of a riparian resource, a Natural Streambed and Land Preservation Act (310) permit application must be submitted to the Missoula Conservation District prior to commencement of any development activity. For areas inside the City of Missoula's 1946 boundary, a 310 permit application must be submitted to the Missoula County Planning, Development, and Sustainability office.

1.2. The buffer width, measured from the edge of the riparian resource, shall comply with the minimum widths in Table 4.11.02-1. A larger buffer width may be required as a result of 310 permit requirements. For properties located outside the City of Missoula's 1946 boundary, the required buffer width shall be determined through submission of a 310 permit application to the Missoula Conservation District. For areas inside the City of Missoula's 1946 boundary, a 310 permit application must be submitted to the Missoula County Planning, Development, and Sustainability office.

**Revised Code Subdivision:**

### **Section 5.2.11-B. Applicability**

1. The requirements of this Division apply when a subdivision is proposed on property containing or abutting a riparian resource.
2. Areas of riparian resource are typed by site-specific soil, habitat and community types. To determine whether vegetation qualifies as a riparian resource area, consultation with a qualified professional, the Missoula Conservation District, or the Planning Administrator is recommended prior to submitting a subdivision application.
- 2.3. For any vegetation clearing, construction of structures or infrastructure, or other development occurring outside of the Missoula's 1946 boundary and within 50 feet of a riparian resource, a Natural Streambed and Land Preservation Act (310) permit application must be submitted to the Missoula Conservation District prior to commencement of any development activity. For areas inside the City of Missoula's 1946 boundary, a 310 permit application must be submitted to the Missoula County Planning, Development, and Sustainability office.

### **Section 5.2.11-D. Riparian Buffer Width**

1. The riparian buffer extends landward or upland from the edge of the delineated riparian resource. The minimum riparian buffer widths specified in Table 5.2.11-1 shall be delineated on the vegetation map in riparian resource management plan. A larger buffer width may be required as a result of 310 permit requirements. For properties located outside the City of Missoula's 1946 boundary, the required buffer width shall be determined through submission of a 310 permit application to the Missoula Conservation District. For areas inside the City of Missoula's 1946 boundary, a 310 permit application must be submitted to the Missoula County Planning, Development, and Sustainability office.

**Explanation:** Planning Commission recommended amendments to the riparian buffer width requirements based on a letter received from the Missoula Conservation District (see Motion #28 in the *Planning Commission Public Hearing Summary* Memo). Staff support two of the recommended amendments, which align the zoning riparian regulations with the 310 permitting processes, which can require a larger buffer. The amendments notify developers that 310 permits are required for certain activities near waterways and that a larger buffer may apply. The amendment recommended by Planning Commission only applied to zoning. However, staff recommend applying the same language to the riparian subdivision regulations.

## **Article 4.12 Multiple Buildings on One Parcel**

### **55. Allow Neighborhood Commercial in Townhome Exemption Developments**

**Amendment Origin:** Planning Commission + Staff Support

**Code Sections:** Section 4.12.04-B Applicability, Section 4.12.04-C General Standards, Section 4.12.04-E Procedures, and Chapter 8 Definitions

**Revised Code:**

#### **Section 4.12.04-B. Applicability**

1. This division applies to all new and amended Townhome Exemption Developments (TED).
- ~~2. The TED process shall not be used for nonresidential developments.~~
- ~~3-2.~~ A TED cannot be filed on land that is already included in a filed TED Declaration. An existing TED may be amended to include additional TED Ownership Units (TOUs).

2. TEDs in Rural, Limited Urban Residential, and OP2 zoning districts shall not exceed 10 TED Ownership Units (TOUs) dwelling units.
3. TEDs in Urban Residential, Mixed-Use, T-MU, and CD-2 zoning districts shall not exceed 20 TED Ownership Units (TOUs) dwelling units.
4. The only permitted building types that can be included in a TED are one-unit houses, duplexes with side-by-side units (i.e. not stacked), rowhouses, neighborhood commercial, and accessory structures, as allowed in the applicable zoning district.
  - (a) Legal-nonconforming TEDs containing apartment buildings may be amended if the degree of non-conformity with this division is not increased, and if all new structures comply with the permitted building types listed in this section.
5. Only one dwelling unit or neighborhood commercial structure is permitted on each TED Ownership Unit (TOU).
6. Only one neighborhood commercial structure is permitted per TED declaration. New neighborhood commercial structures must be located on a corner TOU. All neighborhood commercial structures must comply with the requirements of Article 4.7.02-G.

(c) The zoning compliance permit must include a site plan showing the following information:

1. Property lines;
2. Abutting rights-of-way and required improvements, including street trees;
3. The boundaries and dimensions of TED Ownership Units (TOUs);
4. Common areas and/or limited common areas, when proposed;
5. Building envelopes for each structure dwelling unit;
6. The building type of each structure dwelling unit;

### **Townhome Exemption Development (TED)**

A ~~residential~~-development containing ~~one or more~~ dwelling units, accessory structures, and/or neighborhood commercial buildings that are owned subject to an arrangement under which persons own their own ~~dwelling~~-units and hold separate title to the land beneath their ~~dwelling~~-units but under which they may jointly own the common area and facilities. See Articles 4.12 and 5.5.

### **TED Ownership Unit**

A parcel created through Townhome Exemption in Division 5.5.04 that includes the land beneath each dwelling unit or neighborhood commercial structure and can include land adjacent to each dwelling unit or neighborhood commercial structure as shown in the approved Townhome Declaration Site Plan. Only one dwelling unit or neighborhood commercial structure can be associated with each TED ownership unit. TED Ownership Units (TOUs) are not lots.

**Explanation:** Planning Commission recommends allowing neighborhood commercial structures in townhome exemption developments (TEDs). See Motion #29 in the *Planning Commission Public Hearing Summary Memo*). Staff support this amendment because it will create ownership opportunities for neighborhood commercial businesses, as supported by the Land Use Plan. Staff included an additional sideboard which only allows one neighborhood commercial structure per TED project. Without this sideboard, it would

be possible to create 20 ownership units in certain districts which could each be used for a neighborhood commercial building which does not meet the intent of residential zones. Additionally, new neighborhood commercial structures must be located on a corner TED Ownership Unit in order to reflect the requirements for neighborhood commercial buildings outside of TEDs.

## 56. Improve TED Efficiency – Allow C of O Prior to Declaration Filing

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 4.12.04-E.2.d Procedures (for Townhome Exemption Developments)

**Revised Code:**

### 2. Review and Decision by Planning Administrator

- (a) The Planning Administrator shall approve or deny a zoning compliance permit for a TED within 20 working days of receipt of a complete application. Approval or denial shall be based on compliance with all applicable regulations.
- (b) Approval of a zoning compliance permit for a TED shall not be conditioned.
- (c) A subsequent building permit is required for each structure.
- (d) Final zoning compliance approval, as described in Division 4.15.02, is required for all structures in TEDs. ~~Final zoning compliance approval shall not be issued for any structure in the TED until the declaration is filed with the County Clerk and Recorder.~~

**Explanation:** Under current Title 20 zoning code, the applicable requirements for a development are different depending on whether the TED declaration is filed or not. For this reason, the TED declaration must be filed with the County Clerk and Recorder prior to granting of final zoning compliance approval or certificates of occupancy, or a temporary use restriction agreement must be obtained. The current process adds time, process, and confusion to development review.

Staff reviewed the applicability of standards across the code and recommend an amendment to remove this requirement. The Unified Development Code requirements, specifically 4.7 Building Standards and 4.9 Site Development Standards, are drafted so that zoning code standards do not change between TED and non-TED developments. The only exception to this is Section 4.12.04-E.2 which is required for preliminary zoning compliance permit approval of a TED and filing of the TED declaration. However, if the TED declaration is never filed by the developer the project will not be out of compliance with applicable UDC standards. In summary, the City does not need to withhold occupancy of structures until the declaration is filed.

Specifically, the changes between Title 20 and the new UDC that allow this change include:

- The definitions of rowhouse (townhouse) and duplex have been decoupled from ownership which means building types and related standards do not change based on the presence of a filed TED declaration.
- The standards in 4.9 Development Standards remain consistent between TED and non-TED projects.
- Building separations and setbacks do not vary between TED and non-TED projects. These standards are dictated by building type and zoning district.

If City Council proposes amendments that are contrary to the bullet points above, then staff withdraw recommendation of this amendment. In those cases, removal of this requirement can lead to compliance issues because regulations are incorrectly applied to developments that do not file the TED declaration. This includes the Planning Commission recommended amendment to exempt TEDs from landscaping requirements.

## 57. Improve Language for FAR and Density on TEDs

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** 4.12.04-C.1 General Standards (Townhome Exemption Developments)

**Revised Code:**

### **Section 4.12.04-C. General Standards**

1. The ~~number of dwelling units permitted~~ **maximum density and/or floor area ratio (FAR)** in a TED is determined based on the area of the original/parent parcel and must comply with the ~~density maximum and/or floor area ratio requirements~~ of the zoning district.

**Explanation:** Staff recommend an amendment to streamline and clarify the description of density and FAR application on TED projects. The amendment improves legibility.

## Article 4.13 Nonconformities / “Legal Existing”

### 58. Change Commentary to Code Requirement

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 4.13.03-D Replacement (of non-conforming structures)

**Revised Code:**

**Section 4.13.03-D. Replacement**

1. Nonconforming structures may be replaced or reconstructed with the same encroachments as the existing nonconforming structure, without the loss of nonconforming status, provided that no new nonconformities are created and that the existing degree of nonconformity is not increased.
2. Replacement or reconstruction of a nonconforming structure requires a building permit be obtained within twenty-four (24) months of the date the structure is removed or demolished.
3. ~~Commentary:~~ It is the responsibility of the property owner to ensure there are means to construct and maintain the nonconforming structure without trespassing on adjacent properties.

**Explanation:** Staff recommend an amendment to change a statement from commentary to code. Commentaries provide guidance, not requirements. This statement should be a legal requirement. The code section is intended to tell property owners that structures that do not meet setbacks may require permission or an easement from the neighbor to construct and maintain the structure. This requirement resulted from a lawsuit.

## 59. Change the term “Nonconforming” to “Legal Existing”

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Sections:**

- Chapter 1 and Chapter 4 Table of Contents – rename Article 4.13
- Section 4.3.03-D Building Placement
- Section 4.3.03-E. Building Form and Components
- Section 4.8.05-O.5 Short Term Rentals
- Section 4.8.09-E. Wireless Communication Facility
- Section 4.9.03-B. Parking and Drive-Through Location
- Section 4.12.04-C General Standards (for TEDs)
- Article 4.13 Nonconformities
- Article 4.14 Signs
- Section 6.2.05-E.3.b Approaches
- Chapter 8 Definitions Amend:
  - Nonconforming Parcel
  - Nonconforming Structure
  - Nonconforming Use
  - Sign, Heritage

- Signs, Nonconforming
- Chapter 8 Definitions: Create definition for Legal Existing

**Explanation:** Staff recommend changing the term “legal non-conforming” to “legal existing” throughout the Unified Development Code. This is in response to public comment that lenders show concern when the term “non-conforming” appears in zoning verification letters. In reality, non-conformities are provided a lot of flexibility throughout the UDC and have a lot of development potential. The terminology change is intended to reflect the new approach to development that no longer meets the requirements of current regulations.

## Article 4.15 Zoning Procedures

### 60. Correct Annexation Procedures per State Law

**Amendment Origin:** New Staff Recommendation

**Code Section:** Division 4.15.05 Annexation

**Revised Code:**

2. ~~The applicant must submit a~~A petition for annexation. ~~City Council must adopt a resolution of intent to annex the parcel to consider the annexation request. When deciding to adopt, adopt with conditions, or deny a resolution to annex a property, City Council shall consider~~ will occur simultaneously with a proposed zoning map amendment, and will follow the procedures in Section 4.15.03. ~~In addition to the review criteria stated in Section 4.15.03-C, the Planning Administrator will also evaluate the request by~~ the following criteria:
- (a) Compliance with the City’s adopted Annexation Policy;
  - (b) Compliance with the place type designation of the subject property as shown in the adopted Land Use Plan, and the relatable UDC zoning district designations;
  - (c) Any applicable additional criteria deemed necessary by the Planning Administrator in relation to the Annexation Policy, UDC requirements, or application of zoning.

**Explanation:** Staff recommend an amendment to the annexation procedure. After re-reviewing state law citations, staff determined annexations do not need to follow the rezoning procedures. Instead, zoning can be applied upon annexation using the comparable districts to the Place Types. Staff recommend an amendment to correct the process, and to clarify the steps necessary to request approval from City Council.

## Chapter 5 Subdivision

### 61. Allow Trails to Overlap with Easements

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 5.2.02-E.2.b Standards (for Trails in Subdivisions)

**Revised Code:**

**2. Standards**

- (a) Trails must be constructed concurrently with other required transportation infrastructure in accordance with the standards of Chapter 6 Infrastructure Improvements and the Manual and the design must be approved by Parks and Recreation.
- (b) Trails must be located within a public pedestrian access easement. Trail easements may be combined with municipal utility easements (sewer, water, and/or drainage) but ~~and~~ shall not be combined or overlaid with a utility easement, unless allowed by a design deviation in the Manual. Trails adjacent to streets shall be within a street right-of-way parcel, a street right-of-way easement, or a public pedestrian access easement.

**Explanation:** If properly designed so that facilities for trails can be provided without causing negative impacts to the trail or utilities in an easement, trail easements could be combined with utility easements. Staff recommend an amendment that allows easements to be overlaid when a deviation per the Manual is granted. This process allows assessment of impacts related to overlaying the easements.

### 62. Exception to Parkland Dedication to Reduce Tracking Needs

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments + New Staff Edit

**Code Section:** Section 5.2.08-C.4 Requirements for Parkland Dedication (Subdivision)

**Revised Code:**

- 4. At the time of building permit, cash-in-lieu is required for any additional dwelling units on a lot in excess of what was delineated in the application packet at preliminary plat approval. This requirement applies to the first building permit or zoning compliance permit on a lot. The requirement also applies to subsequent building permits that add additional dwelling units to a lot within ten years of the date the final plat was filed. After 10 years from the date the plat was filed, building permits adding dwelling units are not required to pay cash-in-lieu.

**Explanation:** Tracking and finding data for the number of units constructed on a lot and the amount of cash-in-lieu provided can become onerous and difficult for staff after a

significant amount of time has passed. This slows down permitting time for applicants. Staff recommend an amendment that places a time limit on the requirement to dedicate parkland in subdivisions when more units are constructed than were estimated at the time of preliminary plat approval through subsequent building permits.

Note: This amendment has been revised since the December 2<sup>nd</sup> Staff Recommended Amendments Memo to fix a grammatical error.

### 63. Clarification of Timing of Preapplication Meeting

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 5.3.01-B Preapplication Meeting Process

**Revised Code:**

**Section 5.3.01-B. Preapplication Meeting Process:**

1. If requested, a pre-application meeting must occur within 30 business days after the subdivider submits a written request to CPDI, Development Services.

**Explanation:** Staff recommend an amendment to add “business” to add clarity to the time requirement for when a preapplication meeting must occur.

### 64. Remove DEQ Approval Requirement from Subdivision Preliminary Plat Approval

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 5.3.01-C.4

**Revised Code:**

### **Section 5.3.01-C. Subdivision Application and Preliminary Plat Submittal**

One paper copy and a digital copy of the following information and documents, and the appropriate subdivision review fee, must be supplied by the subdivider to CPDI, Development Services:

1. The completed subdivision application.
2. The preliminary plat of the proposed subdivision that contains the information and supplements required by Article 5.4 and that conforms to the design and improvement standards established in Article 5.2, including compliance with Chapter 6 Infrastructure Improvements and the Manual.
3. A phasing plan if the subdivision is proposed for phased final plat submittals, meeting Section 5.3.03.B. The phasing plan must include the preliminary plat as a phasing plan map that demonstrates what lots will be included with each phase, what public improvements will be completed with each phase, and the final plat submittal deadlines for each phase.
- ~~4. For a proposed subdivision that will create one or more parcels containing fewer than 20 acres, the subdivider must provide evidence of approval from the Department of Environmental Quality (DEQ) / Missoula City County Public Health Department (MCCPH) prior to the Planning Administrator determining the application is complete.~~
- ~~5.4.~~ For a proposed subdivision that will create one or more parcels containing 20 acres or more, the subdivider must certify on the application whether the regulations associated with MCA 76-4-101, et seq. apply. If so the subdivider must comply with 5.3.01-C.4.

**Explanation:** Approval from other agencies typically do not grant approval for a subdivision prior to preliminary plat approval from the City. Staff recommend removing the requirement to provide evidence of approval from DEQ and MCCPH prior to preliminary plat approval. These agencies are contacted during sufficiency review for preliminary plat approval and must approve prior to filing of final plat.

## **Chapter 6 Infrastructure Improvements**

### **65. Clarify Purpose of Infrastructure to be Proportionate to Development**

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 6.1.01-A.2 Purpose

**Revised Code:**

## Division 6.1.01 General

### Section 6.1.01-A. Purpose

1. The Infrastructure Improvements Chapter establishes the design, construction, and permitting requirements for infrastructure improvements required during development. Infrastructure improvements are necessary to promote public safety, create facilities and systems for private and public use, allow efficient and effective movement of people and goods, and to improve quality of life, mobility and access.
- ~~1-2. The intent of this chapter is to require infrastructure improvements proportionate to the scale of the development impacts, while balancing affordability and community needs in support of applicable goals and policies of the Land Use Plan, facility plans, and community planning documents. Infrastructure improvement requirements may be waived for small infill projects when doing so will not substantially increase the overall impact of the development. Additional flexibility is provided through the design exception process, as outlined below and in the City of Missoula Standards and Specifications Manual (the "Manual").~~

**Explanation:** Staff recommend an amendment clarifying the purpose of Chapter 6 Infrastructure Improvements. The recommended language clarifies that requirements for infrastructure improvements are intended to be proportionate to the scale of development. Purpose language that was included in Section 6.2.01-B Connectivity were moved up to the overall purpose language proposed in the amendment.

## 66. Eliminate Requirement for Infrastructure Improvements for Five or More Parking Spaces

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 6.2.01.A.2.b

**Revised Code:**

2. Right-of-way infrastructure shall be installed directly adjacent to new development in accordance with the Manual where existing infrastructure is incomplete, missing, or otherwise inadequate to mitigate the impacts of the development for the following conditions:
  - (a) New construction that results in a total of seven or more combined new or existing dwelling units, including mixed-use construction;
  - ~~(b) New construction that results in a total of five or more new on-site parking spaces;~~
  - (c) New construction of a driveway approach onto a public or private street;
  - (d) Non-residential construction which requires additional new on-site parking;

**Explanation:** Based on input received at the Frequent Code User and Missoula Organization of Realtors engagement events, staff recommend eliminating the requirement to install right-of-way infrastructure when five or more parking spaces are installed. Improvements will still be required for construction of 7 or more dwelling units,

when driveways/approaches are installed onto street, and when installation of parking lots serving non-residential uses occurs. The requirement proposed to be eliminated is not necessary given the combination of other requirements in code. The recommended amendment simplifies this code section.

## 67. Include Requirement for Infrastructure Improvements for Missing Links in the Sidewalk Network

**Amendment Origin:** New Staff Recommendation

**Code Section:** Section 6.2.01.A.2.e

**Revised Code:**

(f)(e) New construction directly adjacent to a parcel with existing sidewalk, where installation of right-of-way infrastructure will extend or complete a missing link in the sidewalk network.

**Explanation:** Staff recommend this alternative to provide a new ROW trigger that will help the City build out the missing components of sidewalks and improve the overall connectivity of the City's sidewalk system.

## 68. Include Clear Requirement to Provide Engineering Reports

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 6.2.01-A.9

**Revised Code:**

8-9. The City Engineer may require development to submit engineering reports and studies, such as Traffic Impact Studies, Water Design Reports, Sewer Design Reports, ~~or~~ Stormwater Design Reports, or Geotechnical Studies, to evaluate the proposed development's impact on existing public transportation and utility infrastructure, in accordance with the Manual. Based on the results of these studies, the City Engineer may require the developer to fund and/or install improvements that mitigate the impacts of the development.

**Explanation:** Staff recommend an amendment to Chapter 6 Infrastructure Improvements that requires development to submit engineering reports and studies, such as Traffic Impact Studies, and Sewer Design Reports. Details for report requirements are in the Manual but having this language in code, and the ability to require expensive improvements based on the impact demonstrated in these reports, could very well be important when negotiating future mitigation measures.

## 69. Correct Minor Numbering Error in Chapter 6

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 6.2.01-A.2.e

**Revised Code:**

(e) Exception for street trees:

**a.1.** Street trees shall be installed in accordance with the Manual where none currently exist for the following:

**i.a.** Residential projects that create 1 or more new dwelling units with a maximum of 1 tree required per dwelling unit;

**ii.b.** All new non-residential projects.

**Explanation:** Staff recommend correcting a numbering error in the draft for consistency with the document template. A subsection was incidentally tabbed too far.

## 70. Clarify Connectivity Requirements in Chapter 6 Infrastructure Improvements

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 6.2.01-B Connectivity

**Revised Code:**

### **Section 6.2.01-B. Connectivity**

1. Developments shall be reviewed to ensure appropriate infrastructure connectivity with off-site infrastructure in proximity to the development.
2. Reviews shall consider the safety and well-being of the public, access to reliable infrastructure, and opportunities for future development to connect to and benefit from existing infrastructure.
- ~~3. Infrastructure connectivity shall be consistent with applicable goals and policies of the Land Use Plan, facility plans, and community planning documents.~~
- ~~4. Connectivity and required infrastructure improvements shall consider proportionate measures to mitigate the impacts of the development.~~
- 5.3. The City Engineer may require:
  - (a) Utility connections and corresponding easements that extend existing or planned utility networks or that are necessary for proper utility system operation.
  - (b) Transportation connections and corresponding easements that extend existing or planned multimodal transportation circulation networks in proximity adjacent to the development, adjacent land uses, nearby destinations such as schools, parks, transit stops, trails, employment centers, and commercial areas as well as community and regional transportation corridors, non-motorized transportation corridors, and future phases of development, or to connect internal streets and parking areas to adjacent external streets and parking areas.

**Explanation:** Staff recommend an amendment clarifying that the connectivity requirements are for off-site infrastructure in proximity to the development. Two statements in this section describe purpose. Staff recommend moving these statements up to the section describing the purpose of Chapter 6.

## **71. Move Chapter 6 Driveway Requirements to the Manual and Eliminate Conflict with Health Department Rules**

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Section 6.3.02-A General (Driveways)

**Revised Code:**

## Division 6.3.02 Driveways

### Section 6.3.02-A. General

1. Right-of-way infrastructure improvements, including but not limited to curb and gutter, curb cuts, approaches, driveways, sidewalk, etc., shall be installed and maintained in accordance with the Manual.
- 2.—~~Driveway paving/surfacing requirements shall be permeet the requirements of the Missoula City-County Air Pollution Control Program (Rule 8.204) and the adopted Fire Code for all driveways. The use of self-draining solid surface materials, such as interlocking block pavers, may be allowed by the City Engineer.~~
2. —
- 3.—~~Driveways shall be paved a minimum distance of 20 feet directly behind the abutting sidewalk, or back of curb/edge of asphalt or curb if a sidewalk is not present, when intersecting a paved street or alley.~~
- 4.3. ~~Driveways~~ shall be removed and landscaped if the existing adjacent parking space(s) are removed
4. ~~Driveways providing fire apparatus access to the property shall meet the design and construction requirements of the adopted Fire Code and Appendix D, International Fire Code (IFC).~~
5. All driveway width, grade, and turnaround requirements shall be in accordance with the Manual.
- 6.—~~Driveway minimum width shall be:~~
  - (a)—~~8.5 feet if the driveway is less than or equal to 150 feet in length; or~~
  - (b)—~~12 feet if the driveway exceeds 150 feet in length.~~

- 7.—~~Where any portion of an exterior wall of the first story of a building is located more than 150 feet from a fire apparatus access road, driveways used as emergency access shall provide:~~
  - (a)—~~A minimum unobstructed width of 12 feet and a minimum vertical clearance of 13 feet 6 inches.~~
  - (b)—~~An approved all-weather driving surface capable of supporting the imposed loads of fire apparatus.~~
  - (c)—~~An approved turnaround when the driveway exceeds 150 feet in length.~~
  - (d)—~~A gradient not to exceed 10 percent unless approved by the fire code official.~~
- 8.—~~If not a fire apparatus access road, driveways shall have a maximum grade of 15% within 15 feet of a sidewalk or property line, if sidewalk is not present, and a maximum grade of 20% elsewhere.~~

**Explanation:** Based on public comments, staff recommend an amendment to move technical requirements for driveway width from Chapter 6 of the UDC to the Manual. These requirements describe dimensional information, which is “how” driveways are built. Moving these requirements to the manual is consistent with the organization of other requirements. Staff also recommend eliminating language related to driveway paving (#3) because it is more restrictive than the Missoula City-County Air Quality Program requirements and will provide more options for surface material types in the future.

## Chapter 8 Definitions

### 72. Clarification to Building Width Definition

**Amendment Origin:** December 2<sup>nd</sup> Staff Recommended Amendments

**Code Section:** Chapter 8 Definitions – Building Width

**Revised Code:**

#### **Building Width**

The width of a building measured ~~parallel to the street~~ from exterior wall to exterior wall along the street facing facade.

**Explanation:** Buildings are not always sited exactly parallel to the street. The definition is too rigid to provide clarity on measurement of building width for varying building footprints. See definition of facade.