

	
MISSOULA DEVELOPMENT SERVICES	
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EXECUTIVE SUMMARY	
Agenda item:	Title 20 Update, 2020
Report Date:	8/11/2020
Project Lead:	Jen Gress, Associate Planner
Public Meetings & Hearings	
Planning Board (PB) hearing:	8/11/2020
Planning Board public hearing legal ad:	Published in the Missoulian on July 26 and August 2, 2020
Applicant:	This is a City Council initiated request.
Notification:	<ul style="list-style-type: none"> • Sent agency interested party memo (Attachment B) via email to interested parties, neighborhood contacts, and City agencies for review • Posted on the city website • Posted on Engage Missoula website • Published a legal ad in the Missoulian
RECOMMENDED MOTION	
Recommend the Missoula City Council approve an ordinance to amend Title 20 City Zoning: Proposed 2020 Zoning update amendments.	

I. PROPOSAL SUMMARY

The proposed 2020 Title 20 Update Amendments are intended to address language in the ordinance that is unclear, in error, requires further refinement, and keeps current with policy and best practices. (Attachment A) This annual update process will keep the code up to date and in step with current conditions.

II. BACKGROUND

The City Zoning Ordinance (Title 20) includes a mandate to maintain and update the Ordinance on a regular basis. This process of regular review and updates allows staff to collect potential limited amendments and propose changes in an efficient way while also complying with all the amendment procedures set forth in Chapter 20.85 of the zoning code.

Part of updating the regulations includes keeping current with City guiding policy and best practices. This project supports the City's strategic framework by continuing to refine and clarify land-use regulations that provide predictability for developers who share our goals and vision as well as implementing recommendations from the Housing Policy and collaborating between divisions to create clear regulatory alignments.

This year's package proposes 41 amendments and include changes that will:

Help implement the recently adopted Missoula Housing Policy by:

- Defining Affordable Housing for its limited use in parking and Planned Unit Development standards, by using terms from the Housing policy; and,

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- Removing barriers to creating accessory dwelling units which include: removing the requirement for owner occupancy, removing required parking, allowing existing accessory structures to expand along existing building lines, and raising the maximum height of an ADU to 25'.

Coordinate interagency regulations by:

- Removing duplicate regulations within the zoning code (Title 20) to align with the engineering code (Title 12);
- Coordinating terminology being used between Title 20 and Title 12; and,
- Referencing the Building Division instead of the Engineering Division for Accessibility requirements, and coordinating with Title 12 potential amendments.

Update the Conditional Use process to focus more specifically on the proposed use, rather than specific design details, by:

- Removing the necessity of submitting very specific elevation and landscape plans;
- Clarifying projects will continue to be subject to all of Title 20 and any imposed conditions at the time of building/zoning compliance review;
- Adjusting the review criteria to include most of the factors to be considered and focus on use and general site plan development; and,
- Reorganizing the Factors to be Considered to clarify their use in the review process.

Update the Sign Chapter by:

- Clarifying where dynamic display signs are permitted by addressing a gap in the reference to existing zones; and,
- Clarifying building graphics only need to be reviewed by one decision-making body.

Update Title 20 noticing procedures to enhance coordination, create consistency and help improve the effectiveness of the process, by:

- Consolidating all notice requirements into one location in the code;
- Amend the timeline for final action of an administrative adjustment application to be consistent with other time lines;
- Address the inefficiencies of the current notice requirements by clarifying the intent of notification, removing the requirement to mail notification to physical address within 150 feet of a zoning amendment (while still maintaining state requirements for notice to vicinity property owners), increasing notification through other means;
- Remove the early notification for tourist home and accessory dwelling unit applications (while still maintaining staff notice after approval); and,
- Remove the certified mail requirement for public hearings (while maintaining first class mailings).

Additional amendments include miscellaneous amendments that will:

- Clarify Enterprise Commercial projects, Design Excellence regulations for material calculations, and applicability for Hillside Protection regulations;
- Include additional guidance for garden areas in multi-dwelling projects; and,
- Allow members of the Design Review Board to reside in either the city or the unincorporated county.

On June 10, 2020, staff described the general list of amendments to the Land Use and Planning Committee and collected comments. Committee members generally supported the list of amendments and focused their discussion on

II. BACKGROUND

the merits of the ADU amendments. On June 15, 2020, City Council passed a motion to direct Development Services staff to distribute draft amendments to Title 20 for comment, conduct a Planning Board public hearing, and then return to City Council for final consideration.

Following this public hearing, staff will return to City Council for final consideration (adoption). Staff anticipates returning to City Council in the fall.

III. AGENCY AND PUBLIC COMMENT

On June 19, 2020, Development Services requested City agency, neighborhood, and interested party review and comment on the proposed Title 20 Update amendments by distribution of email, and posted the project on the city's new Engage Missoula web site June 23rd, also requesting comment. A total of 22 comments have been received as of July 17, 2020 (linked below.) Eighteen comments were received through the new Engage Missoula website, with the remainder being received by email.

Of the 22 responses from citizens received to-date, the majority (17) include comments on the ADU amendments. All comments received regarding the entire package of amendments are grouped by topic and summarized below.

Comments received regarding ADUs are about half in support and half against one or more proposed ADU amendment. Those against express concerns ranging from a disagreement with every ADU amendment to individual sections of the amendments. Specific concerns include the removal of parking that may increase already congested on-street parking or may create more work for our law enforcement. One suggestion was to review the parking by project. Other objections to ADU amendments included the removal of owner occupancy, removal of the annual permit program, and a concern that ADUs may become Tourist Homes. Additionally, doubt was expressed whether these amendments would help with affordability concerns.

Most comments received in support of the ADU amendments supported all of the proposed amendments and referred to the need to provide new and affordable housing opportunities throughout the city. Other comments received were only in support of specific amendments. Those individual sections that received support include simplifying and increasing the maximum height, removing the minimum square footage, and removing the parking requirement. Additional comments pointed out the difficulty of incorporating a second story ADU within the 22' maximum height. Given the small footprint of an ADU, the limitation on height restricts the ability to establish a roof pitch that is typically in keeping with residential characteristics. Comments included recommending that the maximum height for detached ADUs should be higher than 22', and possibly as high as the maximum building height for the primary structure.

Staff received support from the Missoula Parking Services Director regarding removal of the required parking space for new ADUs.

Comments regarding Conditional Use amendments included concern that elimination of a required elevation plan may affect other city services and process that would require elevation drawings, and that changes to this section don't help to promote additional or affordable housing.

Comments regarding Notice amendments included concerns over removing the required applicant notice to surrounding parcels for ADUs and Tourist Homes, because neighbors would be notified after the fact. Other comments included the suggestion that notice should be consistent at 20 days instead of 15 and all neighborhood changes should be noticed by newspaper, posting and mail to those within 150'.

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Staff received comments regarding the garden area requirements in the Landscaping Chapter from both the public and the Parks and Recreation Department. An additional comment was made to retain all DRB membership as city residents.

Two comments were received that didn't pertain to the amendments; the first expressed support for affordable and high density housing in general as well as support for encouraging small high density units. The second expressed support for the removal of single-family residential districts, and parking maximums instead of minimums. These are comments that deal with the larger context of addressing affordable housing needs in Missoula but are not part of the scope for these limited amendments.

Based on comments received, staff incorporated several amendments into the Title 20 Planning Board Review Amendments. The amendments increased the proposed height of ADUs from 22' to 25' to support a more usable space on top of an accessory structure like a garage. A clarification of AMI was included in the definition of Affordable Housing, and the requirement for the applicant to notice surrounding parcels of a proposed ADU was removed to match the proposed notice of a Tourist Home.

Other comments were evaluated and did not result in any proposed changes. The following paragraphs provide additional information.

Upon further investigation of national trends, the draft ordinance continues to include the removal of the parking requirement and does not restrict the ADU as a tourist home. Additionally, staff received comments from the Parking Services Director related to removal of the parking requirement for ADUs. The Parking Services Director felt the impact would be minimal and noted that the increase in housing in places where existing transportation services and infrastructure exist support the mode split goal outlined in the Long Range Transportation Plan.

Documents discussing how owners use accessory dwellings have shown that ADUs appeal to land owners because of the variety of ways they can be used. Many ADUs go through various types of use in their lifetime from a unit a family member or occasional guest will stay in full-time or part-time to a home office, to a fulltime rental (ADU), and even a temporary rental (tourist home) depending on the time of life and needs of the land owner. Owners may need to leave the area for an extended amount of time to deal with aging parents, the military, or may need to move because neither one of the homes is capable of supporting their changing family situation. Applicants generally look at the opportunities these units provide in deciding whether to build or not. Several of these situations would require an owner to sell a parcel they may want to return to at a later time. If an owner wishes to retain the parcel after moving out only one of the units could be rented and a unit may be lost from the housing stock. Not every owner will use every option, but they like knowing the option is available. Additionally, the current owner occupancy requirement for an ADU creates financing challenges and difficulty for resale.

Accessory dwelling units are required to comply with existing design standards making the unit similar in nature to the existing home. These regulations will help maintain the character of the neighborhood where it is located. Additionally, the proposed ADU will need to comply with any unique standards that may be in place in a particular area, like the University District– Neighborhood Character Overlay (UD-NC).

ADA requirements on a private parcel will be addressed by the Building Division through the adopted Building Code, and will address those issues local jurisdictions are allowed by the Federal Government to review. Any ADA requirement Missoula has authority to review will be addressed appropriately through the City Building Division.

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Amendments to the activity area requirements in the General Site Landscaping section only include amendments to address changes proposed by the Parks and Recreation Department. The size/dimension of an activity area and a change to the number of units required to implement specific landscaping changes are outside the scope of this set of amendments and cannot be addressed in this review cycle.

IV. REVIEW CRITERIA

1. Whether the proposed zoning amendment is consistent with §76-2-304(2) MCA.

MCA 76-2-304(2) requires that governing bodies, in adopting zoning regulations, must be made in accordance with a growth policy and be designed to secure safety from fire and other danger, promote public health, safety, and general welfare and facilitate the adequate provision of transportation, water, sewerage, and schools, parks and other public requirements. In addition, the governing body shall consider the reasonable provision of adequate light and air; the effect on motorized and non- motorized transportation systems; the promotion of compatible urban growth, the character of the district and its peculiar suitability for particular uses, and conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The proposed amendments are in accordance with the Our Missoula: City Growth Policy and the City Council adopted Housing Policy – A Place to Call Home: Meeting Missoula’s Housing Needs (City Housing Policy).

The proposed amendments further many City Growth Policy goals and objectives including the following policy statements:

- Encourage opportunities to develop a variety of well-designed affordable housing for all Missoulians.
- Prioritize policies that incentivize development of affordable housing such as density bonus, accessory dwelling unit (ADUs), land trusts, land use patterns, building types and inclusionary zoning.
- Develop and provide incentives for energy efficient green building and development to reduce developer and owner/tenant costs.
- Provide for diverse housing needs while protecting the strong sense of place in the community and neighborhoods through compatible residential development.
- Meet the needs of a growing and diverse population in regard to age, income, physical abilities and household size by having a sufficient supply of housing and developing a variety of housing types.
- Increase the overall supply of decent, safe and affordable homes for renters and home buyers through new construction and improved maintenance of the existing affordable housing stock.
- Develop new parking standards that reduce parking ratios, incentivize reduced parking supply and demand, support compact development, and recognize future land use needs.
- Ensure an open and fair development review process by continuing to maintain a fair, thorough and open community process for the residents to express ideas to the City.

The City Housing Policy was developed through an extensive process of technical assistance, research of issues, input from technical working groups, and public engagement. The proposed amendments implement the City Housing Policy and will help to reduce barriers to new housing supply and promote access to affordable home. (See Missoula Housing Policy beginning on page 43)

The proposed changes to regulations for accessory dwelling units will support the development of new housing supply. According to the Director of Housing and Community Development the wider adoption of ADU development will open up more diverse home options all over the city by providing some flexibility in the type of ADU that can be constructed, while maintaining existing design guidelines to ensure accessory structures still fit within existing neighborhood character. Additionally, these changes will help promote urban growth while conserving buildings; and will encourage the use of existing infrastructure and land within the city limits. It will also support efforts to provide an opportunity for the elder population to age in place, for the city to become more compact, and will encourage opportunities to develop a variety of well-designed affordable housing, while reflecting current building trends and best practices. Encouraging infill will help meet the goals of the Our Missoula City Growth Policy, and will help encourage non-motorized transportation choices.

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The proposed amendments also continue to ensure a transparent and fair review process by establishing the intent for notice of projects; modifying submittal requirements for conditions use projects; clarifying the conditions use process; consolidating and creating consistent notice requirements; establishing awareness at appropriate times in the process; aligning the type of review with the appropriate type of information; and focusing on efficient types of notice procedures.

The proposed amendments in combination with other adopted city regulations are designed to secure safety from fire and other danger, promote public health, safety, and general welfare and facilitate the adequate provision of transportation, water, sewerage, and schools, parks and other public requirements. In addition, the governing body shall consider the reasonable provision of adequate light and air; the effect on motorized and non-motorized transportation systems.

Development of an ADU supports compact development and makes good use of existing infrastructure, public services and facilities. They can reduce the need for automotive transportation by utilizing existing infrastructure and supporting alternative transportation modes.

Clarifying when the Hillside Protection Regulations apply provides for the safety of the public, and continues to provide for adequate light and air.

The proposed amendments in combination with other adopted city regulations, will promote preservation of compatible urban growth, the character of the district and its peculiar suitability for particular uses, and encourage the most appropriate use of land throughout the jurisdictional area. The amendments help to address policy recommendations that retain consideration of character while also promoting additional housing choices.

2. Whether the proposed zoning amendment corrects an error or inconsistency in the zoning ordinance or meets the challenge of a changing condition. (20.25.072)

The proposed zoning amendments address the challenge of a changing condition by helping to create affordable housing and implement the Missoula Housing Policy. Amendments to Title 20 will define affordable housing uniquely, thereby more appropriately addressing the Missoula housing market. Other amendments will remove barriers to creating accessory dwelling units, providing an opportunity for additional affordable housing units.

Amendments also help to clarify existing rules, remove out-of-date language, implement zoning officer opinions (additionally researched and reviewed), address inconsistencies, and correct errors.

In addition, amendments will create consistency between City agencies by providing common terminology across those agencies.

3. Whether the proposed zoning ordinance amendments are in the best interests of the city as a whole. (20.25.072)

The proposed zoning ordinance amendments are in the best interests of the city as a whole by helping implement the recently adopted Missoula Housing Policy, coordinating inter-agency regulations, and updating the noticing procedures to help improve the effectiveness of the process.

V. ATTACHMENTS:

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| A. Title 20 Planning Board Review Amendments |
| B. Agency memo |
| C. Public comment |
| D. Public comment from Engage Missoula |