

Memorandum

REPORT TO: Community Development Board

FROM: Chris Saunders, Community Development Manager
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SUBJECT: Chapter 38, Unified Development Code, Bozeman Municipal Code to Repeal and Replace the Entire Chapter with New Zoning and Subdivision Regulations Consistent with the Montana Land Use Planning Act, Application 21381

MEETING DATE: September 18, 2023

AGENDA ITEM TYPE: Community Development - Legislative

RECOMMENDATION: Conduct public hearing prior to making a recommendation to the City Commission on the complete repeal and replacement of Chapter 38, Unified Development Code.

STRATEGIC PLAN: 4.2 High Quality Urban Approach: Continue to support high-quality planning, ranging from building design to neighborhood layouts, while pursuing urban approaches to issues such as multimodal transportation, infill, density, connected trails and parks, and walkable neighborhoods.

BACKGROUND: **General Background.** The [Bozeman Community Plan 2020](#) [External PDF] (BCP) was adopted in November 2020. It is the City's plan for land use and development. On December 21, 2021, the City Commission adopted [Resolution 5368](#) [External Link PDF]. The resolution set priorities for municipal actions over the next two years. Priorities include replacing Chapter 38, Unified Development Code, BMC to “facilitate increased housing density, housing affordability, climate action plan objectives, sustainable building practices, and a transparent, predictable and understandable development review process.” This directive provides for implementation of the BCP as called for in Chapter 4 of the BCP.

The City Commission budgeted funds for the work and a contract with Code Studio was completed in June 2022 to support the City in changing regulations. Substantial progress has been made on the project and the formal public review process is underway. Recommendations from advisory boards culminating with formal Community Development Board public hearings will occur in September and October.

Bozeman implements land use planning, subdivision, and zoning as authorized by the State of Montana and adopted existing regulations under the laws in effect at the time. The Governor signed Senate Bill 382, the Montana Land Use Planning Act (the Act) on May 17, 2023. The Act changes the legal framework for land use planning, subdivision, and municipal zoning. Bozeman must follow the Act in its planning, subdivision, and zoning activities. A copy of the Act was provided to the Board and a presentation of its requirements given on July 17th. The recording for that meeting is not available as of the writing of this material due to a technology problem. The same materials are linked below.

Bozeman already uses many of the required practices of the Montana Land Use Planning Act as part of its daily activities, but some changes are needed to fully implement the state requirements. A more detailed summary and the full text of the Act are available through the July 25th City Commission agenda packet and are attached. Key elements of change from the Act include:

1. Which state enabling legislation applies for updated and future regulations.
2. Changing processes, extent, and methods of public participation.
3. Required content and extent of planning information to be prepared.
4. Process changes for amendments to zoning map, regulations text, and land use plan.
5. Changes to development review processes and approval authority for subdivisions and zoning projects.
6. Changes to review processes for variances and appeals.

The City completed several land use related planning documents in 2020. Implementation of those plans has been ongoing ever since. The City Commission approved a contract with Code Studio to assist the City in code drafting in 2022. The development code process has been adjusted to account for the new requirements of the Act. A [website](#) [External Link] was created on August 11, 2022, to provide continuous information to the public, accept public comment, and support interaction and discussion on ideas. The City Commission conducted six work sessions to evaluate issues and give direction. Links to those work sessions are available through the attached file.

Major areas of changes with the UDC replacement include:

- Compliance with revised and new state law - These are primarily process changes and are discussed in the attachment regarding SB 382.
- Layout and usability enhancements including changed organization, layout, and increased graphics.
- Sustainability including facilitation of electric vehicle charging, urban agriculture allowances, support for recycling and composting, clarification of provisions for solar energy, support for density, local service commercial, walkability, and bicycle facilities.
- Revisions and simplification for non-residential parking including some

- removal of parking requirements.
 - Consolidation of residential zoning districts, removal of two non-residential zoning districts, and creation of one zoning district.
 - Revisions to requirements for transportation studies and standards.
- See the attached notice for additional details.

The subject of this public hearing as a complete repeal and replacement of Chapter 38, Unified Development Code. What a complete repeal and replacement means is that all existing elements of the City's UDC including but not limited to the following are proposed for repeal and subject to change if the UDC replacement ordinance is adopted by the Bozeman City Commission:

- The uses allowed or prohibited in any zoning district and the associated review process for approval.
- The number, names and purposes of the City's zoning districts including residential, commercial, mixed use, and industrial districts.
- Standards of land and building development in all zoning districts and for all uses including without limitation building heights and setbacks as well as other regulations controlling building placement and construction.
- Regulations addressing under what circumstances a landowner must provide public or private infrastructure and the standards for construction of new infrastructure.
- Definitions of all terms used throughout the UDC including those applicable to land uses, application procedures, and others.
- Creation, deletion, consolidation, or other modifications to the nature and location of zoning districts as shown on the City's official zoning map.
- Standards for how City officials will interpret the text of subdivision and zoning regulations and the boundaries of zoning districts.
- Which person or entity of the City has the authority to make recommendations or decisions on land development applications.
- The process for review and decision making for amendments to the zoning text, zoning map, subdivision regulations, site development, interpretation of standards, the method of making appeals from decisions, and other procedures of the UDC.
- Organization, layout, and formatting of the UDC.
- Coordination with State law.
- Location of zoning districts on the zoning map including revisions to boundaries, application of changes in the zoning text such as consolidation, deletion, or creation of zoning districts and revisions to improve consistency with the future land use map of the Bozeman Community Plan 2020.

The City conducted extended public engagement and outreach throughout the development of the draft regulations using many different methods to reach as much as possible of the community. Community input helped to shape the draft. A [report on public engagement](#) [External PDF] conducted before the draft was released to the public has been prepared. Engagement continues and public comment is encouraged.

Public Hearing Process. Before new codes can be adopted, a formal public review and comment process must happen. For zoning and subdivision regulations this is a two step process. First, the Community Development Board (assigned the state law responsibilities for advising on zoning and subdivision regulation) must conduct public hearings, consider what the public says, consider the criteria in state law to adopt zoning and subdivision regulations, and review the draft regulations. After doing all this work the Community Development Board must make a recommendation to the City Commission regarding the proposed regulations. They are not required to approve of the proposed regulations but must make a recommendation to approve, approve with revisions, or to not approve. Once this process is completed, the City Commission must also conduct public hearings and consider all the same issues and material as the Community Development Board plus the recommendation of the Board. Input from the public can come in throughout this process. People can comment multiple times and in different forms.

The draft of the proposed regulations and the zoning map were released to the public on August 14, 2023. The draft was released well in advance of the public hearings to provide the public opportunity to review and consider the proposal and prepare to participate in the public hearings. The anticipated schedule for the Community Development Board hearings is:

- Sept 11th Community Development Board public meeting – Overview presentation of draft document and map and outline of formal public hearings process to come (completed)
- Sept 18th Community Development Board public hearing begins
- Oct 10th Community Development Board public hearing
- Oct 16th Community Development Board public hearing - vote and recommendation on both map and text

At the September 11th meeting, Staff and Code Studio provided an overview of the code and zoning map following a general outline of:

- Staff - project purpose
- Code Studio - layout and formatting, zoning districts, and revised standards
- Staff - changes to processes for subdivision and site development
- Staff - zoning map
- Staff - upcoming public process, how the public may participate

The staff report analyzing compliance with required state law criteria for adoption of zoning and subdivision regulations is attached with this packet for the September 18th public hearing. A summary of the most significant changes to the map and regulations is included in the attached public notice. The public is encouraged to review the entire text and draft map. Additional information on the process of developing the proposed regulations is available on the project website, engage.bozeman.net/udc. [External link].

Public Hearing Materials. The Community Development Board will consider the entire replacement of both the text and the zoning map linked below. Both are available through [Engage.Bozeman.net/udc](https://engage.bozeman.net/udc) [External Link], the project website. Additional materials on frequently asked questions, public engagement and input, and previous meetings have been added throughout the course of the project and made available to anyone on demand at the same website. Due to the large file sizes and graphical formatting, it is easier to review the materials on a larger screen. Links to the two parts follow:

- [Proposed Chapter 38, Unified Development Code](#) [External PDF].
- [Proposed zoning map](#) [External link].

A copy of the notice published in the Bozeman Daily Chronicle and on the City's website for this item is attached.

UNRESOLVED ISSUES: The public hearing process may identify needed revisions to the text or map.

ALTERNATIVES: After the public hearing closes, the Board will consider the public comment, consider the draft text and map, and consider the criteria established in state law for adoption of zoning and subdivision regulations. At that point, the Board may:

1. Do not recommend adoption of the ordinance based on findings of non-compliance with the applicable criteria contained within the staff report;
2. Recommend amendments to the text and/or map; or
3. Recommend approval of the draft as presented.

FISCAL EFFECTS: Funding for the code replacement has been budgeted.

Attachments:

[21381 Staff Report UDC Replacement - 9-14-2023.pdf](#)

[Attachment 1 Key Dates for Public Review](#)

[Attachment 2 Copy of Revised Public Notice](#)

[Attachment 3 MLUPA Compliance Key](#)

[Attachment 4 SB382 Summary](#)

Report compiled on: September 14, 2023