

BOZEMAN^{MT}

THE TRANSPORTATION BOARD OF BOZEMAN, MONTANA

TB AGENDA

Wednesday, September 27, 2023

General information about the Transportation Board can be found in our [Laserfiche repository](#).

If you are interested in commenting in writing on items on the agenda please send an email to agenda@bozeman.net or by visiting the [Public Comment Page](#) prior to 12:00pm on the day of the meeting.

Public comments will also be accepted in-person and through Video Conference during the appropriate agenda items.

As always, the meeting will be streamed through the [Commission's video page](#) and available in the City on cable channel 190.

For more information please contact Nick Ross, nross@bozeman.net

A. Call to Order - 6:00 PM

This meeting will be held both in-person and also using an online videoconferencing system. You can join this meeting:

Via Video Conference:

Click the Register link, enter the required information, and click submit.

Click Join Now to enter the meeting.

Via Phone: *This is for listening only if you cannot watch the stream, channel 190, or attend in-person*

United States Toll

+1 346 248 7799

Access code: 982 5865 6090

B. Disclosures

C. Changes to the Agenda

D. Approval of Minutes

D.1 [I move to approve the August 23, 2023 Transportation Board Meeting](#) (Ross)

E. Public Comments

This is the time to comment on any matter falling within the scope of the Transportation Board. There will also be time in conjunction with each agenda item for public comment relating to that item but you may only speak once per topic. Please note, the Board cannot take action on any item which does not appear on the agenda. All persons addressing the Board shall speak in a civil and courteous manner and members of the audience shall be respectful of others. Please state your name and place of residence in an audible tone of voice for the record and limit your comments to three minutes.

General public comments to the Board can be found on their [Laserfiche repository page](#).

F. Action Items

- F.1 [Continuation of Unified Development Code Public Review and Transportation Related Amendments for Recommendation to the Community Development Board and City Commission, Application 21381.](#)(Ross)
- F.2 [Resolution 2023-02, a Resolution of the Transportation Advisory Board Acting as the Parking Commission of the City of Bozeman, Montana, to set Transient and Monthly Permit Fees for the Bridger Park Garage Located in Downtown Bozeman](#)(Veselik)

G. FYI/Discussion

- G.1 [Transportation Demand Management Work Plan Update](#) (Mastel)

H. Adjournment

This board generally meets the fourth Wednesday of the month from 6:00 pm to 8:00 pm.

Citizen Advisory Board meetings are open to all members of the public. If you have a disability and require assistance, please contact the City for ADA coordination, at 406.582.2306 (TDD 406.582.2301).

Memorandum

REPORT TO: Transportation Board

FROM: Nicholas Ross, Director of Transportation and Engineering

SUBJECT: I move to approve the August 23, 2023 Transportation Board Meeting

MEETING DATE: September 27, 2023

AGENDA ITEM TYPE: Minutes

RECOMMENDATION: I move to approve the August 23, 2023 Transportation Board Meeting Minutes.

STRATEGIC PLAN: 1.1 Outreach: Continue to strengthen and innovate in how we deliver information to the community and our partners.

BACKGROUND: Minutes from the August 23, 2023 Transportation Advisory Board.

UNRESOLVED ISSUES: None

ALTERNATIVES: As recommended by the board.

FISCAL EFFECTS: None

Attachments:

[082323 Transportation Board Meeting Minutes.pdf](#)

Report compiled on: August 30, 2023



THE TRANSPORTATION BOARD MEETING OF BOZEMAN, MONTANA

MINUTES

August 23, 2023

A) 00:06:15 Call to Order - 6:00 PM

Present: Bryce Gordon, Christine Roberts, Shannon Mahoney, Kelly Pohl, Paul Reichert, Rio Roland

Absent: Courtney Oyler, Cyndy Andrus

B) 00:06:25 Disclosures

C) 00:06:32 Changes to the Agenda

Chair Pohl asked the board to make a motion to excuse board member Courtney Oyler from tonight's meeting.

00:06:55 Motion to approve to excuse board member Courtney Oyler from tonight's meeting.

Christine Roberts: Motion

Paul Reichert: 2nd

00:07:06 Vote on the Motion to approve to excuse board member Courtney Oyler from tonight's meeting. **The Motion carried 6 - 0.**

Approve:

Bryce Gordon

Christine Roberts

Shannon Mahoney

Kelly Pohl

Paul Reichert

Rio Roland

Disapprove:

None

The board missed the approval of the June meeting minutes so the Chair asked to add the approval to tonight's meeting.

D) 00:07:44 Public Service Announcements

Director of Transportation Nicholas Ross gave an FYI to the board.

E) 00:11:23 Approval of Minutes

The board will approve June and July meeting minutes due to missing the approval at the July 26th meeting.

- E.1 I move to approve the June 28, 2023 and July 26, 2023 Transportation Board Meeting Minutes
072623 Transportation Board Meeting Minutes

00:11:41 Motion to approve the June 28, 2023 and July 26, 2023 Transportation Board Meeting Minutes

Christine Roberts: Motion

Bryce Gordon: 2nd

00:11:54 Vote on the Motion to approve the June 28, 2023 and July 26, 2023 Transportation Board Meeting Minutes The Motion carried 6 - 0.

Approve:

Bryce Gordon

Christine Roberts

Shannon Mahoney

Kelly Pohl

Paul Reichert

Rio Roland

Disapprove:

None

F) 00:12:03 Public Comments

There was no public comment.

G) 00:13:00 Action Items

- G.1 00:13:07 Ordinance 2147 Provisional Adoption of Regulations for Camping on City Right-of-way
2023 City of Bozeman Street Clean Up Project Highlights.pdf
Regulations for Camping on City Right of Way Ordinance 2147.pdf

00:13:13 Staff Presentation

City Manager Jeff Mihelich presented the Ordinance 2147 Provisional Adoption of Regulations for camping on City Right-of-Way.

00:17:39 Assistant City Manager Kira Peters presented more on the Ordinance 2147 Provisional Adoption of Regulations for Camping on City Right-of-Way.

00:32:32 Questions of Staff

01:09:46 Public Comment
There was no public comment.

01:10:45 Motion to support the Draft Ordinance 2147, Regulations for Camping on City Right-of-Way.

Christine Roberts: Motion
Paul Reichert: 2nd

01:11:04 Discussion

01:24:50 Vote on the Motion to support the Draft Ordinance 2147, Regulations for Camping on City Right-of-Way. **The Motion carried 5 - 1.**

Approve:
Bryce Gordon
Christine Roberts
Shannon Mahoney
Kelly Pohl
Paul Reichert

Disapprove:
Rio Roland

G.2 01:25:18 Unified Development Code Public Review and Transportation Related Amendments for Recommendation to the Community Development Board and City Commission, Application 21381.

CC Work Sessions List.pdf
Key Dates List - CDB 8-7-2023.pdf
SB382 City Commission summary July 25, 2023.pdf
SB0382 - Montana Land Use Planning Act.pdf

01:28:04 Staff Presentation

Director of Transportation and Engineering Nicholas Ross presented the Unified Development Code Public Review and Transportation Related Amendments for Recommendation to the Community Development Board and City Commission, Application 21381.

01:55:55 Questions of Staff

02:16:52 Public Comment

There was no public comment.

H) FYI/Discussion

H.1 Transportation Demand Management Work Plan Update

Postpone Item H.1 Transportation Demand Management Work Plan Update until the September meeting.

[2023 Work Plan.pdf](#)

H.2 02:17:12 [Discussion and Reconsideration of Resolution 2010-01 A Resolution of the Bozeman Parking Commission of the City of Bozeman, Montana, Creating a Policy for Loss of Public Parking](#)
[Parking Commission Resolution 2010-01 Policy for Loss of Public Parking.pdf](#)

02:17:31 Staff Presentation

Parking Manager Mike Veselik presented the Reconsideration of Resolution 2010-01 A Resolution of the Bozeman Parking Commission of the City of Bozeman, Montana, Creating a Policy for Loss of Public Parking.

02:27:40 Questions of Staff

02:40:06 Public Comment

There was no public comment.

I) 02:40:22 Adjournment

This board generally meets the fourth Wednesday of the month from 6:00 pm to 8:00 pm.

Memorandum

REPORT TO: Transportation Board

FROM: Nick Ross, Transportation and Engineering Director
Chris Saunders, Community Development Manager
Erin George, Community Development Deputy Director
Anna Bentley, Community Development Director

SUBJECT: Continuation of Unified Development Code Public Review and Transportation Related Amendments for Recommendation to the Community Development Board and City Commission, Application 21381.

MEETING DATE: September 27, 2023

AGENDA ITEM TYPE: Citizen Advisory Board/Commission

RECOMMENDATION: "Having reviewed and considered the draft replacement development code, public comment, and all information presented, I move to recommend approval of the proposed text in Application 21381 to replace existing transportation requirements and standards."

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: This item will be a continuation of the conversation started during the August Transportation Advisory Board meeting.

The Bozeman Community Plan 2020 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 established priorities for municipal actions over the next two years. Priorities include replacing the Unified Development Code to "facilitate increased housing density, housing affordability, climate action plan objectives, sustainable building practices, and a transparent, predictable and understandable development review process." The City Commission budgeted funds for the work and a contract with Code Studio was made 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 beginning.

Bozeman implements land use planning, subdivision, and zoning as authorized by the State of Montana. Over the years the City has revised, replaced, and adopted the existing development 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 is attached.

Bozeman already uses many of the required practices as part of its daily activities, but some changes are needed to fully implement the bill. A more detailed summary and the full text of the Act are attached. Key elements of change from the Act include:

1. What state enabling legislation applies for updated and future regulations.
2. Changing processes and manners 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 worksessions are attached.

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.
- Consolidation of residential districts.
- 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.
- Revisions to requirements for transportation studies and standards.

The City has conducted continuous and varied outreach to the public on the code update. As the work moves into the formal public review and decision process the City continues engaging with the public. A series of public hearings, public meetings, and other outreach events are scheduled. See the attached meetings list. Interested persons can also review the recordings and minutes of previous meetings also attached to this item. The primary input for the UDC update and replacement came from the adopted growth policy, community housing action plan, and sustainability plan; each of which had their own substantial public outreach and inclusion efforts. A listing of the City Commission work sessions with links to minutes or recordings and upcoming key meetings is attached. The Commission discussed parking on February 28, 2023 and transportation on April 11, 2023.

Areas of relevance to the Transportation Board can be found in several places in the draft including:

- 38.400.060.B.3 (pages 4-7 to 4-9) which sets the standards for mitigation of transportation impacts. This includes a change to level of service from C to D, change in design year of traffic analysis, and establishes standards for local streets and flow for the first time.
- 38.400.100 (page 4-14) replacing the standards and graphics for street vision triangles which provide for adequate site distance to avoid crashes.
- 38.530.040 (pages 5-39 to 5-44) consolidates non-residential parking types, simplifies calculation with consistent baseline, reduces the number of parking spaces required with new development. Non-residential parking is substantially changed with some areas not required to provide parking at all, parking standards being simplified and generally reduced and alternative compliance means removed. Residential parking was modified in fall of 2022, so it has little change at this time.
- 38.530.050 and 060 (pages 5-44 to 5-45) additional flexibility of off-site location and sharing of parking spaces increased.
- 38.530.070 (pages 5-45 to 5-48) bicycle parking is elevated to a full section, revised to address both short and long-term storage, no longer dependent on vehicle parking to establish the number required, and standards updated.
- 38.710.050.A.11 (pages 7-23 to 7-27) which replaces the information required to be provided by a developer regarding transportation capacity, impacts, and mitigation of development.

Input from the Board is requested on the above subjects. A recommendation prior to October is requested so it may be included in consideration by the Community Development Board. A schedule of anticipated public meetings for consideration of the new regulations is attached.

The draft code, zoning map, and a summary of key elements of the materials

were published on August 14, 2023. Links to the materials are:

- [Summary document](#) [External link PDF] - This is a two page document that identifies key elements in four areas: Formatting and organization, processes, standards, and the zoning map.
- [Draft Text](#) [External link PDF] - The initial table of contents identifies those areas showing the extent of changes from the current regulations. The table of contents also hyperlinks to each division and the table of contents for each article hyperlinks to the sections.
- [Zoning Map](#) [External link] - Allows for a comparison between new and old maps by use of a vertical slider that changes the map area displayed. The viewer can pan and zoom as well. Clicking on an area will bring up a label of the applicable zone.

Two subject areas relevant to the Transportation Board are not addressed in this code replacement. The Park, Recreation, and Active Transportation (PRAT) plan has not completed adoption in time for inclusion in the UDC. It was originally hoped to be able to integrate implementation of that plan into this work. However, due to schedule slip, implementation of the PRAT will be a future project. The Engineering Division is currently working on updating the City's Design and Specifications Manual. Once that is completed some code changes will be needed to avoid duplication of regulations and coordinate between those two documents.

Creating code requires balancing of many priorities. Code development is an ongoing process as new issues are identified, new Issue Plans are adopted, and community needs change. Code work occurring separate from this UDC replacement include:

1. Revisions to water conservation standards,
2. Revisions to wetland protection standards, and
3. Updating of standards relating to parks and active transportation following completion of the Parks Recreation and Active Transportation plan expected to conclude this summer.
4. Short Term Rentals

UNRESOLVED ISSUES: The code was released for public review on August 14th through engage.bozeman.net/udc. Public input is sought on the draft and may identify unresolved issues. None related to transportation are known at this time.

ALTERNATIVES: The board may recommend alternative language for consideration by the Community Development Board and City Commission.

FISCAL EFFECTS: Funds for the UDC update have been budgeted.

Attachments:

[CC Work Sessions List.pdf](#)

[Key Dates List - CDB 8-7-2023.pdf](#)

[SB382 City Commission summary July 25, 2023.pdf](#)

Report compiled on: September 13, 2023

Work Sessions Information

9/13/2022 City Commission Work Session #1

[Meeting minutes](#) [External Link PDF], [meeting video](#) beginning at 1:49:24 [External Link Video] – Formatting and layout recommendations and direction

10/18/2022 City Commission Work Session #2

[Meeting minutes](#) [External Link PDF], [meeting video](#) beginning at 2:30:23 [External Link Video] – Residential districts recommendations and direction

11/15/2022 City Commission Work Session #3

[Meeting minutes](#) [External Link PDF], [meeting video](#) beginning at 3:11:40 [External Link Video] – Sustainability recommendations and direction

2/14/2023 City Commission Work Session #4

[Meeting video](#) beginning at 3:31:30 [External Link Video] – Commercial district and transitions

2/28/2023 City Commission Work Session #5

[Meeting video](#) beginning at 2:09:50 [External Link Video] – Discussion and direction on non-residential parking amendments

4/11/2023 City Commission Work Session #6

[Meeting video](#) beginning at 40:29 [External Link Video] – Discussion and direction on transportation amendments

Anticipated Key Dates in Bozeman Unified Development Code Replacement Public Review

Aug 14th – Public Review draft document posted for public access to Engage.Bozeman.net/udc

Aug 23rd -24th – Two in-person open houses for public overview of the draft and questions/answers

23rd – Fire Station 3 Community Room – 1705 Vaquero Parkway, 5:30-7

24th – City Hall, City Commission Room – 121 N. Rouse Avenue, 11:30-1:30

August 28th – Code Connect on-line through Engage.Bozeman.net/udc for remote overview and questions/answers

Advisory Boards Other Than Community Development Board

Sustainability Board – project overview August 9th

Sustainability Board – Recommendation September 13th

Historic Preservation Advisory Board – project overview August 16th

Historic Preservation Advisory Board – Recommendation September 21st (tentative)

Transportation Advisory Board – project overview August 23rd

Transportation Advisory Board – Recommendation September 27th

Economic Vitality Board – project overview September 6th

Economic Vitality Board – Recommendation October 4th

InterNeighborhood Council – project overview/Q&A September 14th (No recommendation to be requested due to the nature of the board)

Community Development Board

Public hearings as currently scheduled

- Sept 11th Community Development Board – Overview presentation and hearings start
- Sept 18th Community Development Board public hearing
- Oct 2nd Community Development Board public hearing
- Oct 16th Community Development Board vote and recommendation on both map and text

City Commission

Public meetings/hearings as currently scheduled

- Oct 24th City Commission – Overview presentation
- Nov 14th City Commission public hearing

- Nov 21st City Commission public hearing
- Nov 28th City Commission public hearing - provisional adoption text and map
- Dec 19th City Commission final adoption – text and map

Summary of Senate Bill 382, Montana Land Use Planning Act, and Impacts on Unified Development Code Replacement

Bozeman implements land use planning, subdivision, and zoning as authorized by the State of Montana. The City adopted zoning in 1934 and adopted its first community master plan in 1958. The City has entirely replaced zoning and subdivision regulations 20 times since initial adoption. The City again is repealing and readopting the entire zoning regulations and map as well as its subdivision regulations.

The 2023 Legislature adopted Senate Bill 382, the Montana Land Use Planning Act (the Act) which took effect immediately upon signing on May 17, 2023. The Act has not yet been codified so we cannot yet refer to standard statutory citations. Some communities within large counties must follow the Act and others may choose to. Bozeman is required to follow the Act in its planning, subdivision, and zoning activities. This agenda item is an overview of the bill and impacts that will affect the replacement of the Unified Development Code. This will create many implications for development review practices. Bozeman already uses many of the required practices as part of its daily activities, but some changes are needed to fully implement the bill.

1. Per Section 5, paragraph 4, of the Act, Bozeman is no longer subject to Title 76, chapters 1, 2, 3, or 8 MCA once we have adopted regulations in compliance with the Act. This means the Act has replaced all the governing laws Bozeman has used in the past to establish the composition, roles, and characteristics of the planning board and growth policy. Such as the Montana Subdivision and Platting Act and zoning enabling acts. These older statutes have been in place for at least 50 years, were not well coordinated at the state level, and created a lot of overlapping review and work for all participants. The intention of the Act is to coordinate planning and development review actions to prevent duplicative processes and provide a more seamless review process.

The Act changes the duties of the Community Development Board, removes requirements for the Community Development Board to consider any subdivision reviews, limits governing body reviews to only final subdivision plats, removes the existing criteria and protest provisions for zoning adoption and amendments, changes notice and public engagement requirements, and other changes.

An additional consequence is various bills in the 2023 Legislature that amend Title 76, chapters 1, 2, 3, or 8 MCA subdivision and planning enabling legislation do not apply to Bozeman once SB 382 implementing regulations are adopted. Some elements of those bills have been included in Senate Bill 382. As the City is required to implement SB 382 there is some overlap between the different legislation but only to the extent that SB 382 governs.

2. Public participation. Bozeman has a strong culture of public engagement. The City has established the Engage Bozeman website as an overall engagement portal for large City projects. Section 6 describes the requirements for public engagement. The methods and timing of outreach needs to be identified in a public participation plan at the beginning of a process and can vary by community and subject. This is a much more extensive requirement than is in the prior enabling acts.

The Act places substantial emphasis on the public engaging early and often during the planning process and creation of regulations. Public outreach needs to be an on-going process during development of plans and regulations. Not all activities require the same degree of outreach. The exact nature of outreach needs to be the subject of a public participation plan at the beginning of a process and can vary by community and subject.

The Act requires early identification and evaluation of the impacts of development and public engagement at the beginning of a review or plan development. Once an issue has been raised and evaluated then the issue considered settled. Any subsequent application relying on those findings and conclusions are not subject to further public comment but are subject to any regulations based on those earlier findings and conclusions.

If an application has impacts greater than expected with the land use and issue plans, notice is limited to only those impacts and public comment is only received in writing; there are not public hearings for subdivisions or zoning projects. Sections 22 and 29 describe the limitations.

3. Land Use and Issue Plans. The Act requires preparation of a Land Use Plan. This replaces the term growth policy. There are many similarities between the two types of documents. A Land Use Plan has more detailed content to be addressed. See Section 7, 9-14, and 17 of the Act for the detailed contents. Section 15 authorizes area plans. These are the same as neighborhood plans like the Downtown plan and allows more localized analysis. Bozeman's planning practice has followed the more detailed approach required in the new statute.

Section 16 authorizes a community to adopt Issue Plans. An issue plan is a separate document that analyzes a specific subject within the scope of a Land Use Plan and can provide the needed information for statutory compliance. The City has many of these types of plans now such as the transportation and sewer facility plans. Those plans continue forward as currently established. See page 19 of the Bozeman Community Plan 2020 for a list of these plans and other documents.

As the existing growth policy and facility plans are updated, they will be reviewed and adopted consistent with the requirements of the Act. One change in this process by the Act is that the Planning Commission (Community Development Board) has a responsibility to review all Issue Plans and make a recommendation to the City Commission regarding their adoption and consistency with the Land Use Plan. The Community Development Board recently performed this function for the PRAT plan.

4. Encourage development of housing. Housing availability and cost is a nationwide challenge. Bozeman has been active for many years in working to support construction of all housing and especially housing at lower cost ranges. Some communities have not materially updated their development standards for many decades. Section 19 of the Act requires a local government subject to the Act to include at least five strategies applicable to a

Summary of Senate Bill 382, Montana Land Use Planning Act, and Impacts on Unified Development Code Replacement

majority of the jurisdictional area where residential development is permitted. Staff will provide an analysis with the UDC update identifying which of the strategies have been selected and to which percentage of the area they apply. Many of the alternatives, like accessory dwellings, are things that Bozeman has been doing for years. Some options are issues actively under development as part of the UDC update prior to passage of SB 382.

5. Amendment process changes. The former enabling acts had specific criteria for amendments to zoning and subdivision regulations that the public and decision makers have seen many times in staff reports. The zoning criteria were referred to as the Lowe criteria after a notable court case. None of those criteria carried forward into the Act. New criteria have been established for zoning and subdivision regulations. These criteria will be the standards against which the UDC replacement will be evaluated for all future amendments as well to regulations or zoning map. Sections 21 and 27 contain these requirements. The law also changes who may initiate amendments.

One key change in the zoning amendment process is that there is no protest provision. The prior protest provisions gave some members of the community more influence on land use decisions than others. With removal of the protest provision all input carries the same weight and must be considered solely on the merits of the information presented. All decisions to approve or deny any amendment will be a simple majority of the City Commission.

Public notice and comment during the amendment process is limited only to those areas not previously settled with adoption of a Land Use Plan or Issue Plan. If the amendment is consistent with the analysis and conclusions of the earlier documents it is not a proper subject for public notice or comment per the Act.

6. Development review processes. SB 382 changes development processes so that both subdivision and zoning site specific reviews are required to be administrative decisions with no advisory board participation. The planning commission's role will be limited to the initial adoption and amendments to the land use plan and development regulations with final decision by city commission. As noted in item 2 above, public notice for both subdivision and zoning applications are restricted by the bill. Sections 22 and 29 describe the limitations.

The City Commission will still be the body that approves final plats. The City Commission recently approved amendments to Chapter 2, BMC that allows the City Manager to accept and grant easements. This has simplified review processes.

The Act requires that a Land Use Plan include a future land use map for areas where growth outside of the City is expected. The Bozeman Community Plan 2020 already has this map. Zoning to implement the future land use map is required even though it may not be in effect until annexation is completed. The draft regulations are expected to include designated districts that will be applicable upon annexation without further action to

Summary of Senate Bill 382, Montana Land Use Planning Act, and Impacts on Unified Development Code Replacement

amend the zoning map. This action will substantially speed up the process of annexing property and will provide greater predictability to all. If an applicant wishes a different zoning district they can apply for a different district in conjunction with the annexation application.

7. Variances. The required criteria and process for variances, both subdivision and zoning, have been completely replaced and are now the same for both processes. Floodplains continue to have some criteria unique to them. A board of adjustment is no longer allowed to consider variances. All variances are now administrative reviews subject to the standard appeal processes. Variances do not require public hearings and may or may not require public notices depending on whether it is determined that the variance is within the impacts identified with prior planning work.

Variances are still subject to high scrutiny and criteria to ensure they are only used appropriately. The standards and procedures for variances in the Act do not affect the deviation and departure processes that are uniquely Bozeman creations and are adopted for different reasons than variances.

8. Appeals. State law now provides a more complete process description for review of appeals. The board of adjustment is abandoned and no longer hears appeals. Appeals now have two administrative steps from the planning administrator (Director of Community Development) to the Planning Commission, and from the Planning Commission to the City Commission. As with current law, appeals from the City Commission go to District Court.



AN ACT CREATING THE MONTANA LAND USE PLANNING ACT; REQUIRING CITIES THAT MEET CERTAIN POPULATION THRESHOLDS TO UTILIZE THE LAND USE PLAN, MAP, ZONING REGULATIONS, AND SUBDIVISION REGULATIONS PROVIDED IN THE ACT; ALLOWING OTHER LOCAL GOVERNMENTS THE OPTION TO UTILIZE THE PROVISIONS OF THE ACT; REQUIRING PUBLIC PARTICIPATION DURING THE DEVELOPMENT, ADOPTION, OR AMENDMENT OF A LAND USE PLAN, MAP, ZONING REGULATION, OR SUBDIVISION REGULATION; PROVIDING STRATEGIES TO MEET POPULATION PROJECTIONS; PROVIDING FOR CONSIDERATION OF FACTORS SUCH AS HOUSING, LOCAL FACILITIES, ECONOMIC DEVELOPMENT, NATURAL RESOURCES, ENVIRONMENT, AND NATURAL HAZARDS WHEN DEVELOPING A LAND USE PLAN, MAP, AND ZONING REGULATION; PROVIDING FOR A PROCEDURE TO REVIEW SUBDIVISIONS AND APPROVE FINAL PLATS; PROVIDING FOR A LOCAL GOVERNING BODY TO COLLECT FEES; PROVIDING AN APPEALS PROCESS, ENFORCEMENT MECHANISMS, AND PENALTIES; PROVIDING DEFINITIONS; REPEALING SECTIONS 7-21-1001, 7-21-1002, AND 7-21-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short Title. [Sections 1 through 38] may be cited as the "Montana Land Use Planning Act".

Section 2. Legislative purpose, findings, and intent. (1) It is the purpose of [sections 1 through 38] to promote the health, safety, and welfare of the people of Montana through a system of comprehensive planning that balances private property rights and values, public services and infrastructure, the human environment, natural resources, and recreation, and a diversified and sustainable economy.

- (2) The legislature finds that coordinated and planned growth will encourage and support:
- (a) sufficient housing units for the state's growing population that are attainable for citizens of all income levels;
 - (b) the provision of adequate public services and infrastructure in the most cost-effective manner possible, shared equitably among all residents, businesses, and industries;
 - (c) the natural environment, including wildlife and wildlife habitat, sufficient and clean water, and healthy air quality;
 - (d) agricultural, forestry, and mining lands for the production of food, fiber, and minerals and their economic benefits;
 - (e) the state's economy and tax base through job creation, business development, and the revitalization of established communities;
 - (f) persons, property, infrastructure, and the economy against natural hazards, such as flooding, earthquake, wildfire, and drought; and
 - (g) local consideration, participation, and review of plans for projected population changes and impacts resulting from those plans.
- (3) It is the legislature's intent that the comprehensive planning authorized in [sections 1 through 38]:
- (a) provides the broadest and most comprehensive level of collecting data, identifying and analyzing existing conditions and future opportunities and constraints, acknowledging and addressing the impacts of development on each jurisdiction, and providing for broad public participation;
 - (b) serves as the basis for implementing specific land use regulations that are in substantial compliance with the local land use plan;
 - (c) provides for local government approval of development proposals in substantial compliance with the land use plan, based on information, analysis, and public participation provided during the development and adoption of the land use plan and implementing regulations; and
 - (d) allows for streamlined administrative review decisionmaking for site-specific development applications.

Section 3. Definitions. As used in [sections 1 through 38], unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Aggrieved party" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

(2) "Applicant" means a person who seeks a land use permit or other approval of a development proposal.

(3) "Built environment" means man-made or modified structures that provide people with living, working, and recreational spaces.

(4) "Cash-in-lieu donation" is the amount equal to the fair market value of unsubdivided, unimproved land.

(5) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(6) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(7) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to [sections 1 through 38]. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(8) "Dwelling " means a building designed for residential living purposes, including single-unit, two-unit, and multi-unit dwellings.

(9) "Dwelling unit" means one or more rooms designed for or occupied exclusively by one household.

(10) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(11) "Final plat" means the final drawing of the subdivision and dedication required by [sections 1

through 38] to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in [sections 1 through 38] and in regulations adopted pursuant to [sections 1 through 38].

(12) "Four-unit dwelling" or "fourplex" means a building designed for four attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways.

(13) "Immediate family" means a spouse, children by blood or adoption, and parents.

(14) "Irrigation district" means a district established pursuant to Title 85, chapter 7.

(15) "Jurisdictional area" or "jurisdiction" means the area within the boundaries of the local government. For municipalities, the term includes those areas the local government anticipates may be annexed into the municipality over the next 20 years.

(16) "Land use permit" means an authorization to complete development in conformance with an application approved by the local government.

(17) "Land use plan" means the land use plan and future land use map adopted in accordance with [sections 1 through 38].

(18) "Land use regulations" means zoning, zoning map, subdivision, or other land use regulations authorized by state law.

(19) "Local governing body" or "governing body" means the elected body responsible for the administration of a local government.

(20) "Local government" means a county, consolidated city-county, or an incorporated municipality to which the provisions of [sections 1 through 38] apply as provided in [section 5].

(21) "Manufactured housing" means a dwelling for a single household, built offsite in a factory that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in 15-1-101.

(22) "Ministerial permit" means a permit granted upon a determination that a proposed project complies with the zoning map and the established standards set forth in the zoning regulations. The determination must be based on objective standards, involving little or no personal judgment, and must be

issued by the planning administrator.

(23) "Multi-unit dwelling" means a building designed for five or more attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways.

(24) "Permitted use" means a use that may be approved by issuance of a ministerial permit.

(25) "Planning administrator" means the person designated by the local governing body to review, analyze, provide recommendations, or make final decisions on any or all zoning, subdivision, and other development applications as required in [sections 1 through 38].

(26) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(27) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(28) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of [sections 1 through 38], the term includes a county water or sewer district as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

(29) "Single-room occupancy development" means a development with dwelling units in which residents rent a private bedroom with a shared kitchen and bathroom facilities.

(30) "Single-unit dwelling" means a building designed for one dwelling unit that is detached from any other dwelling unit.

(31) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

(32) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or

mobile homes will be placed.

(33) "Subdivision guarantee" means a form of guarantee that is approved by the commissioner of insurance and is specifically designed to disclose the information required in [section 34].

(34) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(35) "Three-unit dwelling" or "triplex" means a building designed for three attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways.

(36) "Two-unit dwelling" or "duplex" means a building designed for two attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway.

Section 4. Planning commission. (1) (a) Each local government shall establish, by ordinance or resolution, a planning commission.

(b) Any combination of local governments may create a multi-jurisdiction planning commission or join an existing commission pursuant to an interlocal agreement.

(c) (i) Any combination of legally authorized planning boards, zoning commissions, planning and zoning commissions, or boards of adjustment existing prior to [the effective date of this act] may be considered duly constituted under [sections 1 through 38] as a planning commission by agreement of the governing bodies of each jurisdiction represented on the planning commission.

(ii) If more than one legally authorized planning board, zoning commission, or planning and zoning commission exists within a jurisdiction, the governing bodies of each jurisdiction may agree to:

(A) designate, combine, consolidate, or modify one or more of the authorized boards or commissions as the planning commission; or

(B) create a new planning commission pursuant to this section and disband the existing boards and commissions.

(2) (a) (i) Each planning commission must consist of an odd number of no fewer than three voting

members who are confirmed by majority vote of each local governing body.

(ii) Each jurisdiction must be equally represented in the membership of a multi-jurisdiction planning commission.

(b) The planning commission shall meet at least once every 6 months.

(c) Minutes must be kept of all meetings of the planning commission and all meetings and records must be open to the public.

(d) A majority of currently appointed voting members of the planning commission constitutes a quorum. A quorum must be present for the planning commission to take official action. A favorable vote of at least a majority of the quorum is required to authorize an action at a regular or properly called special meeting.

(e) The ordinance, resolution, or interlocal agreement creating the planning commission must set forth the requirements for appointments, terms, qualifications, removal, vacancies, meetings, notice of meetings, officers, reimbursement of costs, bylaws, or any other requirement determined necessary by the local governing body.

(3) (a) Except as set forth in subsection (3)(b), the planning commission shall review and make recommendations to the local governing body regarding the development, adoption, amendment, review, and approval or denial of the following documents:

- (i) the land use plan and future land use map as provided in [section 7];
- (ii) zoning regulations and map as provided in [sections 18 through 24];
- (iii) subdivision regulations as provided in [sections 25 through 34]; and
- (iv) any other legislative land use planning document the local governing body designates.

(b) In accordance with [section 37], the planning commission shall hear and decide appeals from any site-specific land use decisions made by the planning administrator pursuant to the adopted regulations described in subsection (3)(a). Decisions of the planning commission may be appealed to the local governing body as provided in [section 37].

(4) The planning commission may be funded pursuant to 76-1-403 and 76-1-404.

Section 5. Applicability and compliance. (1) A municipality with a population at or exceeding 5,000 located within a county with a population at or exceeding 70,000 in the most recent decennial census shall

comply with the provisions of [sections 1 through 38].

(2) (a) Except as provided in subsection (2)(b), any municipality that meets the population thresholds of subsection (1) on [the effective date of this act] shall comply with the provisions of [sections 1 through 38] within 3 years of [the effective date of this act].

(b) A municipality that has adopted a growth policy within 5 years prior to [the effective date of this act] shall comply with the provisions of [sections 1 through 38] within 5 years of the date that the growth policy was adopted or within the deadline established in subsection (2)(a), whichever occurs later.

(c) A municipality that meets the population thresholds of subsection (1) on any decennial census completed after [the effective date of this act] shall comply with the provisions of [sections 1 through 38] by December 31 of the third year after the date of the decennial census.

(3) (a) A local government that is not required to comply with the provisions of [sections 1 through 38] may decide to comply with the provisions of [sections 1 through 38] by an affirmative vote of the local governing body. After an affirmative vote, the governing body shall comply with the provisions of [sections 1 through 38] by December 31 of the fifth year after the date of the vote.

(b) A local government that votes pursuant to subsection (3)(a) to comply with the provisions of [sections 1 through 38] may subsequently decide to not comply with the provisions of [sections 1 through 38] by an affirmative vote.

(4) A local government that complies with [sections 1 through 38] is not subject to any provision of Title 76, chapters 1, 2, 3, or 8.

Section 6. Public participation. (1) (a) A local government shall provide continuous public participation when adopting, amending, or updating a land use plan or regulations pursuant to [sections 1 through 38].

(b) Public participation in the adoption, amendment, or update of a land use plan or implementing regulations must provide for, at a minimum:

- (i) dissemination of draft documents;
- (ii) an opportunity for written and verbal comments;
- (iii) public meetings after effective notice;

(iv) electronic communication regarding the process, including online access to documents, updates, and comments; and

(v) an analysis of and response to public comments.

(2) A local government shall document and retain all public outreach and participation performed as part of the administrative record in accordance with the retention schedule published by the secretary of state.

(3) (a) A local government may decide the method for providing:

(i) general public notice and participation in the adoption, amendment, or update of a land use plan or regulation; and

(ii) notice of written comment on applications for land use permits pursuant to [sections 1 through 38].

(b) All notices must clearly specify the nature of the land use plan or regulation under consideration, what type of comments the local government is seeking from the public, and how the public may participate.

(c) The local government shall document what methods it used to provide continuous participation in the development, adoption, or update of a land use plan or regulation and shall document all comments received.

(d) The department of commerce established in 2-15-1801 and functioning pursuant to 90-1-103 shall develop a list of public participation methods and best practices for use by local governments in developing, adopting, or updating a land use plan or regulations.

(4) Throughout the adoption, amendment, or update of the land use plan or regulation processes, a local government shall emphasize that:

(a) the land use plan is intended to identify the opportunities for development of land within the planning area for housing, businesses, agriculture, and the extraction of natural resources, while acknowledging and addressing the impacts of that development on adjacent properties, the community, the natural environment, public services and facilities, and natural hazards;

(b) the process provides for continuous and extensive public notice, review, comment, and participation in the development of the land use plan or regulation;

(c) the final adopted land use plan, including amendments or updates to the final adopted land use plan, comprises the basis for implementing land use regulations in substantial compliance with the land use plan; and

(d) the scope of and opportunity for public participation and comment on site-specific development in substantial compliance with the land use plan must be limited only to those impacts or significantly increased impacts that were not previously identified and considered in the adoption, amendment, or update of the land use plan, zoning regulations, or subdivision regulations.

(5) The local governing body shall adopt a public participation plan detailing how the local government will meet the requirements of this section.

Section 7. Adoption or amendment of land use plan and future land use map. (1) The local governing body shall adopt or amend by resolution a land use plan and future land use map in accordance with [sections 7 through 17] only after consideration by and on the recommendation of the planning commission.

(2) Prior to making a recommendation to the governing body to adopt or amend a land use plan and future land use map, the planning commission shall:

- (a) provide public notice and participation in accordance with [section 6]; and
- (b) accept, consider, and respond to public comment on the proposed land use plan and future land use map. All public comment must be part of the administrative record transmitted to the governing body.

(3) After meeting the requirements of subsection (2), the planning commission shall make a final recommendation to the governing body to adopt, modify, or reject the proposed land use plan and future land use map or any amendment to the proposed land use plan and future land use map.

(4) The governing body shall incorporate any existing neighborhood, area, or plans adopted pursuant to Title 76, chapter 1, that meet the requirements of [sections 1 through 38] into the land use plan and future land use map.

(5) (a) The governing body shall consider the recommendation of the planning commission to adopt, modify, or reject the proposed land use plan and future land use map or any amendment to the proposed land use plan and future land use map.

(b) After providing public notice and participation in accordance with [section 6], the governing

body may adopt, with any revisions the local governing body considers appropriate, or reject the land use plan and future land use map or any amendment to the proposed land use plan and future land use map proposed by the planning commission.

(6) An amendment to a land use plan or future land use map may be initiated:

(a) by majority vote of the governing body;

(b) on petition of at least 15% of the electors of the local government jurisdiction to which the plan applies, as registered at the last general election; or

(c) by a property owner applying for a zoning, subdivision, or other land use permit.

(7) (a) After the initiation of an amendment to a land use plan or future land use map allowed in subsection (6), the planning commission shall make a preliminary determination of whether the proposed land use plan or future land use map amendment results in new or increased impacts to or from local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessment conducted in the development of the land use plan.

(b) If the planning commission finds new or increased impacts from the proposed land use plan or future land use map amendment, the local government shall collect additional data and conduct additional analysis necessary to provide the planning commission with the opportunity to consider all potential impacts resulting from the amendment before proceeding under subsection (2).

(8) The governing body may not amend the land use plan or future land use map unless:

(a) the amendment is found in substantial compliance with the land use plan; and

(b) the potential impacts resulting from development in substantial compliance with the proposed amendment have been made available for public review and comment and have been fully considered by the governing body.

Section 8. Update of land use plan or future land use map. (1) After a local government adopts a land use plan and future land use map in accordance with [section 7], the land use plan and future land use map must be reviewed by the planning commission every fifth year after adoption to determine whether an update to the land use plan and future land use map must be performed. The planning commission shall:

(a) make a preliminary determination regarding the existence of new or increased impacts to or

from local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed when the land use plan and future land use map were previously adopted;

(b) provide public notice and participation in accordance with [section 6]; and

(c) accept, consider, and respond to public comment on the review of the land use plan and future land use map. All public comment must be part of the administrative record transmitted to the governing body.

(2) (a) If the planning commission finds new or increased impacts under subsection (1), the planning commission shall recommend an update to the land use plan, future land use map, or both.

(b) If the planning commission finds no new or increased impacts under subsection (1), the planning commission shall make a recommendation to the governing body that no update to the land use plan or future land use map is necessary.

(3) After receiving the recommendation of the planning commission, the governing body may direct that an update of the land use plan, future land use map, or both be completed or may readopt the current land use plan, future land use map, or both.

(4) (a) In developing, drafting, and considering an update to the land use plan or future land use map, the planning commission shall follow the process set forth in [section 7] with respect to the changes proposed to the land use plan or future land use map.

(b) If the planning commission finds new or increased impacts resulting from the land use plan or future land use map, the local government shall collect additional data and conduct additional analysis necessary to provide the governing body and the public with the opportunity to comment on and consider all potential impacts resulting from an update to the land use plan or future land use map.

(5) At any time before an update is required after a review under subsection (1), the local governing body may direct that an update to the land use plan or future land use map be prepared for consideration by the planning commission and for recommendation to the governing body.

(6) Once an update to the land use plan or future land use map is adopted or the land use plan or future land use map is readopted, the information and analysis contained within the land use plan and future land use map must be considered accurate for the purposes of making site-specific development decisions in substantial compliance with the land use plan and future land use map.

Section 9. Existing conditions and population projections. (1) The land use plan must include, at a minimum, inventories and descriptions of existing conditions of housing, local services and facilities, economic development, natural resources, environment, and hazards, and land use within the jurisdictional boundaries of the land use plan.

(2) As set forth in [sections 10 through 17], the land use plan must include, at minimum, a description, map, and analysis of how the jurisdiction will accommodate its projected population over the next 20 years and the expected impacts of the development in the areas of housing, local services and facilities, economic development, natural resources, environment, and hazards.

(3) The inventories and descriptions in the plan must be based on up-to-date surveys, maps, diagrams, charts, descriptive material, studies, and reports necessary to explain and supplement the analysis of each section of the land use plan.

(4) (a) A jurisdiction shall use demographics provided by:

- (i) the most recent decennial census or census estimate of the United States census bureau; and
- (ii) population projections for a 20-year period based on permanent and seasonal population estimates:

- (A) provided by demographics published by the department of commerce;
- (B) generated by the local government; or
- (C) produced by a professional firm specializing in projections.

(b) When a population projection is not available, population projections for the jurisdiction must be reflective of the area's proportional share of the total county population and the total county population growth.

Section 10. Housing. (1) A local governing body shall identify and analyze existing and projected housing needs for the projected population of the jurisdiction and provide regulations that allow for the rehabilitation, improvement, or development of the number of housing units needed, as identified in the land use plan and future land use map, including:

(a) a quantification of the jurisdiction's existing and projected needed housing types, including location, age, condition, and occupancy required to accommodate existing and estimated population projections;

- (b) an inventory of sites, including zoned, unzoned, vacant, underutilized, and potential redevelopment sites, available to meet the jurisdiction's needed housing types;
 - (c) an analysis of any constraints to housing development, such as zoning, development standards, and infrastructure needs and capacity, and the identification of market-based incentives that may affect or encourage the development of needed housing types; and
 - (d) a detailed description of what actions the jurisdiction may take to accommodate the projected needed housing types identified in subsection (1)(a).
- (2) The housing section of the land use plan and future land use map may incorporate by reference any information or policies identified in other housing needs assessments adopted by the governing body.
- (3) If, after performing the analysis required in subsection (1), the local government determines that the total needed housing types may not be met due to lack of resources, development sites, infrastructure capacity, or other documented constraints, the local government shall establish the minimum number of housing units that may be rehabilitated, improved, or developed within the jurisdiction over the 20-year planning period and the actions the local government may take to remove constraints to the development of those units over that period.
- (4) Progress toward the construction of the housing units identified as needed to meet projected housing needs during the 20-year planning period of the land use plan must be documented at each fifth year review of the land use plan as required in [section 8].
- (5) The amount of detail provided in the analysis beyond the minimum criteria established in this section is at the discretion of the local governing body.

Section 11. Local services and facilities. (1) The land use plan must:

- (a) determine the existing and anticipated levels of public safety and emergency services necessary to serve the projected population of the jurisdiction, including law enforcement, fire protection, emergency management system agencies, and local health care organizations;
- (b) contain an inventory and map of existing fire protection, law enforcement, and emergency service jurisdictional areas and anticipated response times, a description of mutual aid or cooperative service

agreements, and the location of hospitals or clinics in the jurisdiction;

(c) identify capital and service improvements for fire, law enforcement, emergency services, and health services for the jurisdictional area necessary to meet the projected population;

(d) determine the existing capacity, existing deficiencies, planned expansion, and anticipated levels of utility services necessary to serve the projected population in the jurisdiction, including water, wastewater, and storm water systems, solid waste disposal, and other utility services, as identified by the local government;

(e) contain an inventory and map of all utility service areas, system networks, and facilities;

(f) identify local utility capital and service improvements for the jurisdictional area necessary to meet the projected population;

(g) determine the existing capacity, existing deficiencies, planned expansion, and anticipated improvements to the transportation network serving the jurisdictional area necessary to serve the projected population in the jurisdiction;

(h) contain an inventory and classification map of all existing and planned roads within the jurisdictional area, including major highways, secondary highways, and local routes, all non-motorized routes, including bike lanes and pedestrian thoroughfares, and all public transit systems and facilities; and

(i) identify planned capital and service transportation improvements necessary to serve the projected population.

(2) The local government shall:

(a) coordinate with school districts within the jurisdiction to determine the existing capacity of, planned expansion of, and anticipated improvements necessary for the local K-12 school system to serve the projected population in the jurisdiction; and

(b) request that the local school district provide any inventory and maps of existing K-12 educational facilities within the jurisdictional area and identify any capital and service improvements necessary to meet the projected population.

(3) The local government may include an analysis of existing capacity and service levels, planned expansions of, and anticipated improvements necessary to provide other services to the projected population in the jurisdiction.

(4) The local government may incorporate by reference any information or policies identified in other relevant local services or facilities assessments adopted by the local governing body, such as a capital improvements plan or an impact fee study.

(5) The amount of detail provided in the analysis beyond the minimum criteria established in this section is at the discretion of the local governing body.

Section 12. Economic development. (1) The land use plan must:

(a) assess existing and potential commercial, industrial, small business, and institutional enterprises in the jurisdiction, including the types of sites and supporting services needed by the enterprises;

(b) summarize job composition and trends by industry sector, including existing labor force characteristics and future labor force requirements, for existing and potential enterprises in the jurisdiction;

(c) assess the extent to which local characteristics, assets, and resources support or constrain existing and potential enterprises, including access to transportation to market goods and services, and assess historic, cultural, and scenic resources and their relationship to private sector success in the jurisdiction;

(d) inventory sites within the jurisdiction, including zoned, unzoned, vacant, underutilized, and potentially redeveloped sites, available to meet the jurisdiction's economic development needs;

(e) assess the adequacy of existing and projected local facilities and services, schools, housing stock, and other land uses necessary to support existing and potential commercial, industrial, and institutional enterprises; and

(f) assess the financial feasibility of supporting anticipated economic growth in the jurisdiction.

(2) The local government may incorporate by reference any information or policies identified in other relevant economic development assessments.

(3) The amount of detail provided in the analysis beyond the minimum criteria established in this section is at the discretion of the local governing body.

Section 13. Natural resources, environment, and hazards. (1) The land use plan must:

(a) include inventories and maps of natural resources within the jurisdiction, including but not limited to agricultural lands, agricultural water user facilities, minerals, sand and gravel resources, forestry

lands, and other natural resources identified by the local government;

(b) describe the natural resource characteristics of the jurisdictional area, including a summary of historical natural resource utilization, data on existing utilization, and projected future trends;

(c) include an inventory, maps, and description of the natural environment of the jurisdictional area, including a summary of important natural features and the conditions of and real and potential threats to soils, geology, topography, vegetation, surface water, groundwater, aquifers, floodplains, scenic resources, wildlife, wildlife habitat, wildlife corridors, and wildlife nesting sites within the jurisdiction; and

(d) include maps of, identify factors related to, and describe natural hazards within the jurisdictional area, including flooding, fire, earthquakes, steep slopes and other known geologic hazards and other natural hazards identified by the jurisdiction, with a summary of past significant events resulting from natural hazards that includes:

(i) a description of land use constraints resulting from natural hazards;

(ii) a description of the efforts that have been taken within the local jurisdiction to mitigate the impact of natural hazards; and

(iii) a description of the role that natural resources and the environment play in the local economy.

(2) The local government may incorporate by reference any information or policies identified in other relevant assessments of natural resources, environment, or hazards.

(3) The amount of detail provided in the analysis beyond the minimum criteria established in this section is at the discretion of the local governing body.

Section 14. Land use and future land use map. (1) A land use plan must include a future land use map and a written description of the proposed general distribution, location, and extent of residential, commercial, mixed, industrial, agricultural, recreational, and conservation uses of land and other categories of public and private uses, as determined by the local government.

(2) The future land use map must reflect the anticipated and preferred pattern and intensities of development for the jurisdiction over the next 20 years, based on the information, analysis, and public input collected, considered, and relevant to the population projections for and economic development of the jurisdiction and the housing and local services needed to accommodate those projections, while acknowledging

and addressing the natural resource, environment, and natural hazards of the jurisdiction.

(3) The future land use map may not confer any authority to regulate what is not otherwise specifically authorized in [sections 1 through 38].

(4) The future land use map and the written description must include:

(a) a statement of intent describing the jurisdiction's applicable zoning, subdivision, and other land use regulations;

(b) descriptions of existing and future land uses, including:

(i) categories of public and private use;

(ii) general descriptions of use types and densities of those uses;

(iii) general descriptions of population; and

(iv) other aspects of the built environment;

(c) geographic distribution of future land uses in the jurisdiction, anticipated over a 20-year planning period that specifically demonstrate:

(i) adequate land to support the projected population in all land use types in areas where local services can be adequately and cost-effectively provided for that population;

(ii) adequate sites to accommodate the type and supply of housing needed for the projected population; and

(iii) areas of the jurisdiction that are not generally suitable for development and the reason, based on the constraints identified through the land use plan analysis;

(d) a statement acknowledging areas within the jurisdiction known to be subject to covenants, codes, and restrictions that may limit the type, density, or intensity of housing development projected in the future land use map; and

(e) areas of or adjacent to the jurisdiction subject to increased growth pressures, higher development densities, or other urban development influences.

(5) To the greatest extent possible, local governments shall create compatibility in the land use plans and future land use map in those areas identified in subsection (4)(e).

(6) The land use plan may:

(a) provide information required by a federal land management agency for the local governing

body to establish or maintain coordination or cooperating agency status; and

(b) incorporate by reference any information or policies identified in other relevant assessments adopted by the local governing body, such as a pre-disaster mitigation plan or wildfire protection plan.

(7) The amount of detail provided in the analysis beyond the minimum criteria established in this section is at the discretion of the local governing body.

Section 15. Area plans. (1) A local governing body may adopt area plans for a portion of the jurisdiction to provide a more localized analysis of all or any part of a land use plan. An area plan may include but is not limited to a neighborhood plan, a corridor plan, or a subarea plan.

(2) The adoption, amendment, or update of an area plan must follow the same process as a land use plan provided for in [sections 7 through 17] and may be adopted as an amendment to the land use plan.

(3) The area plan must be in substantial compliance with the land use plan. To the extent an area plan is inconsistent with the land use plan, the land use plan controls.

Section 16. Issue plans. (1) A local governing body may adopt issue plans for all or part of a jurisdiction that provide a more detailed or thorough analysis for any component of the land use plan.

(2) The adoption, amendment, or update of an issue plan must follow the same process as a land use plan provided for in [sections 7 through 17].

(3) If an issue plan covers the jurisdictional area of the land use plan, the issue plan may serve as the detailed analysis required in the land use plan.

Section 17. Implementation. (1) The land use plan and future land use map is not a regulatory document and must include an implementation section that:

(a) establishes meaningful and predictable implementation measures for the use and development of land within the jurisdiction based on the contents of the land use plan and future land use map;

(b) provides meaningful direction for the content of more detailed land use regulations and future land use maps; and

(c) requires identification of those programs, activities, actions, or land use regulations that may be

part of the overall strategy of the jurisdiction for implementing the land use plan.

(2) The implementation section of the land use plan must include:

(a) if the local jurisdiction does not have current zoning regulations, a schedule by which zoning regulations and a zoning map will be adopted in accordance with the deadlines set forth in [section 5];

(b) if the local jurisdiction has current zoning regulations, an analysis of whether any inconsistencies exist between current zoning regulations and the land use plan and future land use map, including a map of the inconsistencies. If inconsistencies exist, the local government shall identify:

(i) specific implementation actions necessary to amend the zoning regulations and the zoning map to bring the zoning regulations and zoning map into substantial compliance with the land use plan and future land use map;

(ii) a schedule for amending the zoning regulations and zoning map to be in substantial compliance with the land use plan and future land use map, in accordance with the deadlines set forth in [section 5];

(iii) a schedule for adopting a capital improvements program or for amending an existing capital improvements program to be in substantial compliance with the land use plan and future land use map;

(iv) a schedule for expanding or replacing public facilities and the anticipated costs and revenue sources proposed to meet those costs, which must be reflected in a jurisdiction's capital improvement program;

(v) if applicable, a schedule for updating the plan for extension of services required in 7-2-4732 to be in substantial compliance with the land use plan; and

(vi) a schedule for implementing any other specific actions necessary to achieve the components of the land use plan, including a timeframe or prioritization of each specific public action; and

(c) procedures for monitoring and evaluating the local government's progress toward meeting the implementation schedule.

Section 18. Authority to adopt local zoning regulations. (1) (a) A local government subject to [sections 1 through 38], within its respective jurisdiction, has the authority to and shall regulate the use of land in substantial compliance with its adopted land use plan by adopting zoning regulations.

(b) The governing body of a county or city has the authority to adopt zoning regulations in

accordance with [sections 18 through 24] by an ordinance that substantially complies with 7-5-103 through 7-5-107.

(c) A municipality shall adopt zoning regulations for the portions of the jurisdictional area outside of the boundaries of the municipality that the governing body anticipates may be annexed into the municipality over the next 20 years. Unless otherwise agreed to by the applicable jurisdictions, zoning regulations on property outside the municipal boundaries may not apply or be enforced until those areas are annexed or are being annexed into the municipality.

(2) Local zoning regulations authorized in subsection (1) include but are not limited to ordinances prescribing the:

- (a) uses of land;
- (b) density of uses;
- (c) types of uses;
- (d) size, character, number, form, and mass of structures; and
- (e) development standards mitigating the impacts of development, as identified and analyzed during the land use planning process and review and adoption of zoning regulations pursuant to [sections 1 through 38].

(3) The local government shall incorporate any existing zoning regulations adopted pursuant to Title 76, chapter 2, into the zoning regulations meeting the requirements of [sections 1 through 38].

(4) The local government shall adopt a zoning map for the jurisdiction in substantial compliance with the land use plan and future land use map and the zoning regulations adopted pursuant to this section, graphically illustrating the zone or zones that a property within the jurisdiction is subject to.

(5) The local government may provide for the issuance of permits as may be necessary for the implementation of [sections 1 through 38].

(6) (a) The zoning regulations and map must identify areas that may necessitate the denial of a development or a specific type of development, such as unmitigable natural hazards, insufficient water supply, inadequate drainage, lack of access, inadequate public services, or the excessive expenditure of public funds for the supply of the services.

(b) The regulations must prohibit development in the areas identified in subsection (6)(a) unless

the hazards or impacts may be eliminated or overcome by approved construction techniques or other mitigation measures identified in the zoning regulations.

(c) Approved construction techniques or other mitigation measures described in subsection (6)(b) may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(7) The zoning regulations and map must mitigate the hazards created by development in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body. If the hazards cannot be mitigated, the zoning regulations and map must identify those areas where future development is limited or prohibited.

(8) The zoning regulations must allow for the continued use of land or buildings legal at the time that any zoning regulation, map, or amendment thereto is adopted, but the local government may provide grounds for discontinuing nonconforming uses based on changes to or abandonment of the use of the land or buildings after the adoption of a zoning regulation, map, or amendment.

Section 19. Encouragement of development of housing. (1) The zoning regulations authorized in [section 18] must include a minimum of five of the following housing strategies, applicable to the majority of the area, where residential development is permitted in the jurisdictional area:

- (a) allow, as a permitted use, for at least a duplex where a single-unit dwelling is permitted;
- (b) zone for higher density housing near transit stations, places of employment, higher education facilities, and other appropriate population centers, as determined by the local government;
- (c) eliminate or reduce off-street parking requirements to require no more than one parking space per dwelling unit;
- (d) eliminate impact fees for accessory dwelling units or developments that include multi-unit dwellings or reduce the fees by at least 25%;
- (e) allow, as a permitted use, for at least one internal or detached accessory dwelling unit on a lot with a single-unit dwelling occupied as a primary residence;
- (f) allow for single-room occupancy developments;
- (g) allow, as a permitted use, a triplex or fourplex where a single-unit dwelling is permitted;

- (h) eliminate minimum lot sizes or reduce the existing minimum lot size required by at least 25%;
 - (i) eliminate aesthetic, material, shape, bulk, size, floor area, and other massing requirements for multi-unit dwellings or mixed-use developments or remove at least half of those requirements;
 - (j) provide for zoning that specifically allows or encourages the development of tiny houses, as defined in Appendix Q of the International Residential Code as it was printed on January 1, 2023;
 - (k) eliminate setback requirements or reduce existing setback requirements by at least 25%;
 - (l) increase building height limits for dwelling units by at least 25%;
 - (m) allow multi-unit dwellings or mixed-use development as a permitted use on all lots where office, retail, or commercial are primary permitted uses; or
 - (n) allow multi-unit dwellings as a permitted use on all lots where triplexes or fourplexes are permitted uses.
- (2) If a local government's existing zoning ordinance adopted pursuant to Title 76, chapter 2, before [the effective date of this act] does not contain a zoning regulation that is listed as a regulation to be eliminated or reduced in subsection (1), that strategy is considered adopted by the local government.
- (3) If the adoption of a housing strategy allowed in subsection (1) subsumes another housing strategy allowed in subsection (1), only one strategy may be considered to have been adopted by the local government.

Section 20. Limitations on zoning authority. (1) A local government acting pursuant to [sections 18 through 24] may not:

- (a) treat manufactured housing units differently from any other residential units;
- (b) include in a zoning regulation any requirement to:
 - (i) pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or
 - (ii) dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices, including a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices;
- (c) prevent the erection of an amateur radio antenna at heights and dimensions sufficient to

accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(d) establish a maximum height limit for an amateur radio antenna of less than 100 feet above the ground;

(e) subject to subsection (2) and outside of incorporated municipalities, prevent the complete use, development, or recovery of any mineral, forest, or agricultural resources identified in the land use plan, except that the use, development, or recovery may be reasonably conditioned or prohibited within residential zones;

(f) except as provided in subsection (3), treat the following differently from any other residential use of property:

(i) a foster home, kinship foster home, youth shelter care facility, or youth group home operated under the provisions of 52-2-621 through 52-2-623, if the home or facility provides care on a 24-hour-a-day basis;

(ii) a community residential facility serving eight or fewer persons, if the facility provides care on a 24-hour-a-day basis; or

(iii) a family day-care home or a group day-care home registered by the department of public health and human services under Title 52, chapter 2, part 7;

(g) except as provided in subsection (3), apply any safety or sanitary regulation of the department of public health and human services or any other agency of the state or a political subdivision of the state that is not applicable to residential occupancies in general to a community residential facility serving 8 or fewer persons or to a day-care home serving 12 or fewer children; or

(h) prohibit any existing agricultural activities or force the termination of any existing agricultural activities outside the boundaries of an incorporated city, including agricultural activities that were established outside the corporate limits of a municipality and thereafter annexed into the municipality.

(2) Regulations that condition or prohibit uses pursuant to subsection (1)(e) must be in effect prior to the filing of a permit application or at the time a written request is received for a preapplication meeting pursuant to 82-4-432.

(3) Except for a day-care home registered by the department of public health and human services,

a local government may impose zoning standards and conditions on any type of home or facility identified in subsections (1)(f) and (1)(g) if those zoning standards and conditions do not conflict with the requirements of subsections (1)(f) and (1)(g).

Section 21. Adoption and amendment of zoning regulations. (1) (a) The governing body shall adopt or amend a zoning regulation or map only after consideration by and on the recommendation of the planning commission.

(b) An amendment to an adopted zoning regulation or map may be initiated:

- (i) by majority vote of the governing body;
- (ii) on petition of at least 15% of the electors of the local government jurisdiction to which the regulations apply, as registered at the last general election; or
- (iii) by a property owner, as related to an application for any zoning, subdivision, or other land use permit or approval.

(2) Prior to making a recommendation to the governing body to adopt or amend a zoning regulation or map, the planning commission shall:

- (a) provide public notice and participation in accordance with [section 6];
- (b) accept, consider, and respond to public comment on the proposed zoning regulation, map, or amendment. All public comment must be part of the administrative record transmitted to the governing body.
- (c) make a preliminary determination as to whether the zoning regulation and map as proposed or as amended would be in substantial compliance with the land use plan, including whether the zoning regulation or map:
 - (i) accommodates the projected needed housing types identified in [section 10];
 - (ii) contains five or more specific strategies from [section 19] to encourage the development of housing within the jurisdiction;
 - (iii) reflects allowable uses and densities in areas that may be adequately served by public safety, emergency, utility, transportation, education, and any other local facilities or services identified by the local government in [section 11];
 - (iv) allows sufficient area for existing, new, or expanding commercial, industrial, and institutional

enterprises the local government has identified in [section 12] for targeted economic growth in the jurisdiction;

(v) protects and maximizes the potential use of natural resources within the area, as identified in [section 13];

(vi) minimizes or avoids impacts to the natural environment within the area, as identified in [section 13]; and

(vii) avoids or minimizes dangers associated with natural hazards in the jurisdiction, as identified in [section 13]; and

(d) preliminarily determine whether the proposed zoning regulation, map, or amendment results in new or increased impacts to or from local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessment conducted for the land use plan.

(3) If the planning commission finds new or increased impacts from the proposed regulation, map, or amendment, as provided in subsection (2)(d), the local government shall collect additional data and conduct additional analysis necessary to provide the planning commission and the public with the opportunity to comment on and consider all potential impacts resulting from adoption of the zoning regulation, map, or amendment.

(4) After meeting the requirements of subsections (2) and (3), the planning commission shall make a final recommendation to the governing body to approve, modify, or reject the proposed zoning regulation, map, or amendment.

(5) (a) The governing body shall consider each zoning regulation, map, or amendment that the planning commission recommends to the governing body.

(b) After providing public notice and participation in accordance with [section 6], the governing body may adopt, adopt with revisions the governing body considers appropriate, or reject the zoning regulation, map, or amendment as proposed by the planning commission.

(c) The governing body may not condition an amendment to a zoning regulation or map.

(d) The governing body may not adopt or amend a zoning regulation or map unless the governing body finds that:

(i) the regulation, map, or amendment is in substantial compliance with the land use plan; and

(ii) the impacts resulting from development in substantial compliance with the proposed zoning

regulation, map, or amendment have been made available for public review and comment and have been fully considered by the governing body.

(6) After the zoning regulation, map, or amendment has been adopted by the governing body, there is a presumption that:

(a) all permitting in substantial compliance with the zoning regulation, map, or amendment is in substantial compliance with the land use plan; and

(b) the public has been provided a meaningful opportunity to participate.

Section 22. Effect on zoning regulations and map. (1) After the adoption of a zoning regulation, map, or amendment pursuant to [section 21], any application proposing development of a site is subject to the process set forth in this section.

(2) (a) When a proposed development lies entirely within an incorporated city, or is proposed for annexation into the city, the application must be submitted to and approved by the city.

(b) Except as provided in subsections (2)(a) or (2)(c), when a proposed development lies entirely in an unincorporated area, the application must be submitted to and approved by the county.

(c) If a proposed development lies within an area subject to increased growth pressures, higher development densities, or other urban development influences identified by either jurisdiction in [section 14], the jurisdiction shall provide other impacted jurisdictions the opportunity to review and comment on the application.

(d) If the proposed development lies partly within an incorporated city, the application and materials must be submitted to and approved by both the city and the county governing bodies.

(3) Zoning compliance permits and other ministerial permits may be issued by the planning administrator or the planning administrator's designee without any further review or analysis by the governing body, except as provided in [section 37].

(4) If a proposed development, with or without variances or deviations from adopted standards, is in substantial compliance with the zoning regulations or map and all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulation, map, or amendment thereto, the application must be approved, approved with conditions, or denied by the planning administrator and is not subject to any further public review or comment,

except as provided in [section 37].

(5) (a) If a proposed development, with or without variances or deviations from adopted standards, is in substantial compliance with the zoning regulations and map but may result in new or significantly increased potential impacts that have not been previously identified and considered in the adoption of the land use plan or zoning regulations, the planning administrator shall proceed as follows:

(b) request that the applicant collect any additional data and perform any additional analysis necessary to provide the planning administrator and the public with the opportunity to comment on and consider the impacts identified in subsection (5)(a);

(c) collect any additional data or perform additional analysis the planning administrator determines is necessary to provide the local government and the public with the opportunity to comment on and consider the impacts identified in subsection (5)(a); and

(d) provide notice of a 15-business day written comment period during which the public has the reasonable opportunity to participate in the consideration of the impacts identified in subsection (5)(a).

(6) (a) Any additional analysis or public comment on a proposed development described in subsection (5) must be limited to only any new or significantly increased impacts potentially resulting from the proposed development, to the extent the impact was not previously identified or considered in the adoption or amendment of the land use plan or zoning regulations.

(b) The planning administrator shall approve, approve with conditions, or deny the application. The planning administrator's decision is final and no further action may be taken except as provided in [section 37].

(7) If an applicant proposes to develop a site in a manner or to an extent that the development is not in substantial compliance with the zoning regulations or map, the applicant shall propose an amendment to the regulations or map and follow the process provided for in [section 21].

Section 23. Zoning and annexation. (1) A municipality shall review and consider a proposed annexation in conjunction with the zoning regulations for the property to be annexed adopted pursuant to [section 18(1)(c)] following the procedures set forth in [section 22].

(2) The joint public process authorized in subsection (1) fulfills the notice and public hearing requirements for a proposed annexation required in Title 7, chapter 2, parts 42 through 47.

Section 24. Interim zoning ordinances. (1) A local government, to protect the public safety, health, and welfare and without following the procedures otherwise required prior to adopting a zoning regulation, may adopt an interim zoning ordinance as an urgency measure to regulate or prohibit uses that may conflict with a zoning proposal that the governing body is considering or studying or intends to study within a reasonable time.

(2) Before adopting an interim zoning ordinance, the governing body shall first hold a public hearing upon notice reasonably designed to inform all affected parties. A notice must be published in a newspaper of general circulation at least 7 days before the public hearing.

(3) An interim zoning ordinance takes effect immediately on passage and approval after first reading

and may be in effect no longer than 1 year from the date of its adoption.

(4) A local government may not act under the authority provided for in this section until the local government has adopted a land use plan and zoning regulations pursuant to [sections 1 through 38].

Section 25. Authority to adopt local subdivision regulations -- limitations. (1) Within its respective jurisdiction, a local government shall regulate the creation of lots in substantial compliance with its adopted land use plan and zoning regulations by adopting subdivision regulations.

(b) The governing body of a county or city has the authority to adopt subdivision regulations in accordance with [sections 25 through 34] by an ordinance that substantially complies with 7-5-103 through 7-5-107.

(c) A municipality shall adopt subdivision regulations for those portions of the jurisdictional area outside the boundaries of the municipality that the governing body anticipates may be annexed into the municipality over the next 20 years. Unless otherwise agreed to by the applicable jurisdictions, subdivision regulations on property outside the municipal boundaries may not apply or be enforced until the areas are annexed or being annexed into the municipality.

(2) The subdivision regulations must provide a process for the application and consideration of subdivision exemptions, certificates of survey, preliminary plats, and final plats as necessary for the implementation of [sections 1 through 38].

(3) (a) A local governing body may not require, as a condition for approval of a subdivision under this [sections 25 through 34]:

(i) the payment of a fee for the purpose of providing housing for specified income levels or at specified sale prices; or

(ii) the dedication of real property for the purpose of providing housing for specified income levels or at specified sale prices.

(b) A dedication of real property prohibited in subsection (3)(a)(ii) includes a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices.

(4) The local governing body may not change, in the subdivision regulations or in the process for subdividing, any timelines or procedural requirements for an application to subdivide other than provided for in [sections 25 through 34].

Section 26. Exemptions to subdivision review. (1) The following divisions of land, if made in substantial compliance with zoning regulations adopted pursuant to [sections 18 through 24], are not subject to the requirements of [sections 1 through 38]:

(a) subject to subsection (2), the creation of four or fewer new lots or parcels from an original lot or parcel:

(i) by order of a court of record in this state;

(ii) by operation of law; or

(iii) that, in the absence of agreement between the parties to a sale, could be created by court order in this state pursuant to the law of eminent domain, Title 70, chapter 30;

(b) subject to subsection (3), the creation of a lot to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing, if the land that is divided is not conveyed to any entity other than the financial or lending institution to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture;

(c) the creation of an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;

- (d) the creation of cemetery lots;
 - (e) the reservation of a life estate on a portion of a tract of record;
 - (f) the lease or rental of a portion of a tract of record for farming and agricultural purposes;
 - (g) the division of property over which the state does not have jurisdiction;
 - (h) the creation of rights-of-way or utility sites;
 - (i) the creation of condominiums, townhomes, townhouses, or conversions, as those terms are defined in 70-23-102, when any applicable park dedication requirements as set forth in [sections 18 through 24] are complied with;
 - (j) the lease or rental of contiguous airport-related land owned by a city, a county, the state, or a municipal or regional airport authority;
 - (k) subject to subsection (4), a division of state-owned land, unless the division creates a second or subsequent residential parcel from a single tract for sale, rent, or lease after July 1, 1974;
 - (l) the creation of lots by deed, contract, lease, or other conveyance executed prior to July 1, 1974;
 - (m) the relocation of common boundary lines between or aggregations of adjoining properties that does not result in an increase in the number of lots;
 - (n) a single gift or sale in each county to each member of the landowner's immediate family; or
 - (o) subject to subsection (5), the creation of lots by deed, contract, lease, or other conveyance in which the landowner enters into a covenant with the governing body that runs with the land that provides that the divided land must be used exclusively for agricultural purposes.
- (2) Before a court of record orders a division of land under subsection (1)(a), the court shall notify the governing body of the pending division and allow the governing body to present written comment on the division.
- (3) A transfer of divided land by the owner of the property at the time that the land was divided to any party other than those identified in subsection (1)(b) subjects the division of land to the requirements of [sections 1 through 38].
- (4) Instruments of transfer of land that is acquired for state highways may refer by parcel and project number to state highway plans that have been recorded in compliance with 60-2-209 and are exempted

from the surveying and platting requirements of [sections 1 through 38]. If the parcels are not shown on highway plans of record, instruments of transfer of the parcels must be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.

(5) The governing body, in its discretion, may revoke the covenant provided for in subsection (1)(o) without subdivision review if the original lot lines are restored through aggregation of the covenanted land prior to or in conjunction with the revoking of the covenant.

Section 27. Adoption and amendment of subdivision regulations. (1) (a) The governing body shall adopt or amend subdivision regulations only after consideration by and on the recommendation of the planning commission.

(b) An amendment to adopted subdivision regulations may be initiated:

- (i) by majority vote of the governing body;
- (ii) on petition of at least 15% of the electors of the local government jurisdiction to which the regulations apply, as registered at the last general election; or
- (iii) by a property owner, as related to an application for any zoning, subdivision, or other land use permit or approval.

(2) Prior to making a recommendation to the governing body to adopt or amend subdivision regulations, the planning commission shall:

(a) provide public notice and participation in accordance with [section 6];

(b) accept, consider, and respond to public comment on the proposed subdivision regulation or amendment to a subdivision regulation. All public comment must be part of the administrative record transmitted to the governing body.

(c) make a preliminary determination as to whether the subdivision regulation or amendment to a subdivision regulation is in substantial compliance with the land use plan and zoning regulations, including whether the regulation or amendment:

(i) enables the development of projected needed housing types identified in the land use plan and zoning regulations;

(ii) reflects applicable strategies from the land use plan and zoning regulations to encourage the

development of housing within the jurisdiction;

(iii) facilitates the adequate provision of public safety, emergency, utility, transportation, education, and any other local facilities or services for proposed development, as identified in the land use plan and zoning regulations;

(iv) reflects standards that provide for existing, new, or expanding commercial, industrial, and institutional enterprises identified in the land use plan and zoning regulations for economic growth;

(v) protects and maximizes the potential use of natural resources within the area, as identified in the land use plan and zoning regulations;

(vi) contains standards that minimize or avoid impacts to the natural environment within the area, as identified in the land use plan and zoning regulations; and

(vii) contains standards that avoid or minimize dangers associated with natural hazards in the jurisdiction, as identified in the land use plan and zoning regulations; and

(d) preliminarily determine whether the proposed subdivision regulation or amendment to a subdivision regulation results in new or increased potential impacts to or from local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessments conducted for the land use plan and zoning regulations.

(3) If the planning commission finds new or increased potential impacts from the proposed regulation or amendment to a regulation pursuant to subsection (2)(d), the local government shall collect additional data and conduct additional analysis necessary to provide the planning commission and the public with the opportunity, pursuant to [section 6], to comment on and consider all potential impacts resulting from adoption of the subdivision regulation or amendment to a subdivision regulation.

(4) After meeting the requirements of subsection (2), the planning commission shall make a final recommendation to the governing body to approve, modify, or reject the proposed subdivision regulation or amendment to a subdivision regulation.

(5) (a) The governing body shall consider each subdivision regulation or amendment to a subdivision regulation that the planning commission recommends to the governing body.

(b) After providing public notice and participation in accordance with [section 6], the governing body may adopt, adopt with revisions that the governing body considers appropriate, or reject the subdivision

regulation or amendment to a subdivision regulation as proposed by the planning commission.

(c) The governing body may not adopt or amend a subdivision regulation unless the governing body finds:

(i) the subdivision regulation or amendment to a subdivision regulation is in substantial compliance with the land use plan and zoning regulations; and

(ii) the impacts resulting from development in substantial compliance with the proposed subdivision regulation or amendment to a subdivision regulation have been made available for public review and comment, which have been fully considered by the governing body.

(6) After the subdivision regulation or amendment to a subdivision regulation has been adopted by the governing body, there is a presumption that:

(a) all subdivisions in substantial compliance with the adopted regulation or amendment are in substantial compliance with the land use plan and zoning regulations; and

(b) the public has been provided a meaningful opportunity to participate.

Section 28. Contents of local subdivision regulations. (1) The subdivision regulations adopted under [sections 25 through 34] are limited to the following requirements:

(a) the date the regulations initially become effective under [sections 1 through 38] and the effective dates and the ordinance numbers for all subsequent amendments;

(b) design standards for all subdivisions in the jurisdiction, which may be incorporated by reference or may be based on the information and analysis contained in the land use plan and zoning regulations, including:

(i) standards for grading and erosion control;

(ii) standards for the design and arrangement of lots, streets, and roads;

(iii) standards for the location and installation of public utilities, including water supply and sewage and solid waste disposal;

(iv) standards for the provision of other public improvements; and

(v) legal and physical access to all lots;

(c) when a subdivision creates parcels with lot sizes averaging less than 5 acres, a requirement

that the subdivider:

- (i) reserve all or a portion of the appropriation water rights owned by the owner of the subject property, transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water, and reserve and sever any remaining surface water rights from the land;
- (ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement that is administered through a single entity and that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

- (iii) reserve and sever all surface water rights from the land;

- (d) except as provided in subsection (2), a requirement that the subdivider establish ditch easements that:

- (i) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

- (ii) unless otherwise provided for under a separate written agreement or filed easement, provide for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

- (iii) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

- (iv) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner;

- (e) criteria that the planning administrator must use to determine whether a proposed method of disposition using the exemptions provided in [sections 1 through 38] is an attempt to evade the requirements of [sections 1 through 38];

- (f) a list of the materials that must be included in order for the application to be determined

complete;

(g) subject to subsection (4), identification of circumstances or conditions that may necessitate the denial of any or specific types of development, such as unmitigable natural hazards, insufficient water supply, inadequate drainage, lack of access, inadequate public services, or the excessive expenditure of public funds for the supply of the services;

(h) subject to subsection (5), a list of public utilities and agencies of local, state, and federal government that the local government must seek input from during review of an application and for what information or analysis; or

(i) subject to subsection (6), requirements for the dedication of land, cash-in-lieu thereof, or a combination of both for parks and recreation purposes, not to exceed 0.03 acres per dwelling unit.

(2) A land donation under this section may be inside or outside of the subdivision.

(3) The regulations may not require ditch easements if:

(a) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land that the lots may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(b) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(4) (a) The regulations must prohibit development in circumstances or conditions identified in subsection (1)(g) unless the hazards or impacts may be eliminated or overcome by approved construction techniques or other mitigation measures identified in the subdivision regulations.

(b) Approved construction techniques or other mitigation measures described in subsection (4)(a) may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(5) If a proposed subdivision is situated within a rural school district, as described in 20-9-615, the

local government shall provide a copy of the application and preliminary plat to the school district.

- (6) (a) A park dedication may not be required for:
 - (i) land proposed for subdivision into parcels larger than 5 acres;
 - (ii) subdivision into parcels that are all nonresidential;
 - (iii) a subdivision in which parcels are not created, except when that subdivision provides multiple permanent spaces for recreational camping vehicles, mobile homes, or condominiums; or
 - (iv) a subdivision in which only one additional parcel is created.
- (b) Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (6)(a) to a school district to be used for school facilities or buildings.

Section 29. Local review procedure for divisions of land. (1) An applicant may request a preapplication submittal and response from the planning administrator prior to submitting a subdivision application. The preapplication review must take place no more than 30 business days from the date that the planning administrator receives a written request for a preapplication review from the subdivider.

(2) On receipt of an application for an exemption from subdivision review under [section 26] that contains all materials and information required by the governing body under subsection (5), the local government:

- (a) shall approve or deny the application within 20 business days;
- (b) may not impose conditions on the approval of an exemption from subdivision review except for conditions necessary to ensure compliance with the survey requirements of [section 33(1)]; and
- (c) may require the certificate of survey to be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before filing with the county clerk and recorder. The examining land surveyor shall certify compliance in a printed or stamped certificate signed by the surveyor on the certificate of survey. A professional land surveyor may not act as an examining land surveyor in regard to a certificate of survey in which the surveyor has a financial or personal interest.

(3) (a) When a proposed subdivision lies entirely within an incorporated city or is proposed for annexation into the city, the application and preliminary plat must be submitted to and approved by the city.

(b) Except as provided in subsection (3)(c), when a proposed subdivision lies entirely in an unincorporated area, the application and preliminary plat must be submitted to and approved by the county.

(c) If the proposed subdivision lies within an area subject to increased growth pressures, higher development densities, or other urban development influences identified by either jurisdiction in [section 14], the jurisdiction shall provide other impacted jurisdictions the opportunity to review and comment on the application.

(d) If the proposed subdivision lies partly within an incorporated city, the application and preliminary plat must be submitted to and approved by both the city and the county governing bodies.

(4) A subdivision application is considered received on the date the application is delivered to the reviewing agent or agency if accompanied by the review fee.

(5) (a) The planning administrator has 20 business days to determine whether the application contains all information and materials necessary to complete the review of the application as set forth in the local subdivision regulations.

(b) The planning administrator may review subsequent submissions of the application only for information found to be deficient during the original review of the application under subsection (5)(a).

(c) A determination that an application contains sufficient information for review as provided in subsection (5)(a) does not ensure approval or conditional approval of the proposed subdivision and does not limit the ability of the planning administrator to request additional information during the review process.

(6) A subdivider may propose a phasing plan for approval with a preliminary plat. The phasing plan must include a phasing plan and map that demonstrates what lots will be included with each phase, what public facilities will be completed with each phase, and the timeline for the proposed phases.

(7) (a) If an application proposes a subdivision of a site that, with or without variances or deviations from adopted standards, is in substantial compliance with the zoning and subdivision regulations and all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations, or any amendment thereto, the planning administrator shall issue a written decision to approve, approve with conditions, or deny the preliminary plat.

(b) The application is not subject to any further public review or comment, except as provided in [section 37].

(c) The decision by the planning administrator must be made no later than 15 business days from the date the application is considered complete.

(8) (a) If an application proposes subdivision of a site that, with or without variances or deviations from adopted standards, is in substantial compliance with the zoning and subdivision regulations but may result in new or significantly increased potential impacts that have not been previously identified and considered in the adoption of the land use plan, zoning regulations, or subdivision regulations, or any amendments thereto, the planning administrator shall proceed as follows:

(i) request the applicant to collect additional data and perform additional analysis necessary to provide the planning administrator and the public with the opportunity to comment on and consider the impacts identified in this subsection (8)(a);

(ii) collect additional data or perform additional analysis that the planning administrator determines is necessary to provide the local government and the public with the opportunity to comment on and consider the impacts identified in this subsection (8)(a); and

(iii) provide notice of a written comment period of 15 business days during which the public must have a reasonable opportunity to participate in the consideration of the impacts identified in this subsection (8)(a).

(b) Any additional analysis or public comment on the proposed development is limited to only new or significantly increased potential impacts resulting from the proposed development to the extent that the impact was not previously identified in the consideration and adoption of the land use plan, zoning regulations, subdivision regulations, or any amendments thereto.

(9) Within 30 business days of the end of the written comment period provided in subsection (8)(a)(iii), the planning administrator shall issue a written decision to approve, conditionally approve, or deny a proposed subdivision application.

(10) The basis of the decision to approve, conditionally approve, or deny a proposed preliminary plat is based on the administrative record as a whole and a finding that the proposed subdivision:

(a) meets the requirements and standards of [sections 1 through 38];

(b) meets the survey requirements provided in [section 33(1)];

(c) provides the necessary easements within and to the proposed subdivision for the location and

installation of any planned utilities; and

(d) provides the necessary legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

(11) (a) The written decision must identify each finding required in subsection (10) that supports the decision to approve, conditionally approve, or deny a proposed preliminary plat, including any conditions placed on the approval that must be satisfied before a final plat may be approved.

(b) The written decision must identify all facts that support the basis for each finding and each condition and identify the regulations and statutes used in reaching each finding and each condition.

(c) When requiring mitigation as a condition of approval, a local government may not unreasonably restrict a landowner's ability to develop land. However, in some instances, the local government may determine that the impacts of a proposed development are unmitigable and preclude approval of the subdivision.

(12) The written decision to approve, conditionally approve, or deny a proposed subdivision must:

- (a) be provided to the applicant;
- (b) be made available to the public;
- (c) include information regarding the appeal process; and
- (d) state the timeframe the approval is in effect.

(13) The planning administrator's decision is final, and no further action may be taken except as provided in [section 37].

(14) Any changes to an approved preliminary plat that increases the number of lots or redesigns or rearranges six or more lots must undergo consideration and approval of an amended plat following the requirements of this section.

Section 30. Effect of preliminary plat approval. (1) (a) An approved or conditionally approved preliminary plat must be in effect for not more than 5 calendar years and not less than 1 calendar year.

(b) At the end of the period, the planning administrator may, at the request of the subdivider, extend the approval once by written agreement.

(c) On receipt of a request for an extension, the planning administrator shall determine whether

the preliminary plat remains in substantial compliance with the zoning and subdivision regulations. If the preliminary plat is no longer in substantial compliance with the zoning or subdivision regulations, the extension may not be granted.

(d) After a preliminary plat is approved, the local government may not impose any additional conditions as a prerequisite to final plat approval if the approval is obtained within the original or extended approval period.

(e) Any subsequent requests by the subdivider for extension of the approval must be reviewed and approved by the governing body.

(2) An approved or conditionally approved phased preliminary plat must be in effect for 20 calendar years.

Section 31. Local review procedure for final plats. (1) The following must be submitted with a final plat application:

(a) information demonstrating the final plat conforms to the written decision and all conditions of approval set forth on the preliminary plat;

(b) a plat that meets the survey requirements provided in [section 33(1)]; and

(c) confirmation the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

(2) The final plat may be required to be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before filing with the county clerk and recorder. The examining land surveyor shall certify compliance in a printed or stamped certificate signed by the surveyor on the final plat. A professional land surveyor may not act as an examining land surveyor in regard to a plat in which the surveyor has a financial or personal interest.

(3) A final plat application is considered received on the date the application is delivered to the governing body or the agent or agency designated by the governing body if accompanied by the review fee.

(4) (a) Within 10 business days of receipt of a final plat, the planning administrator shall determine whether the final plat contains the information required under subsection (1) and shall notify the subdivider in writing.

(b) If the planning administrator determines that the final plat does not contain the information required under subsection (1), the planning administrator shall identify the final plat's defects in the notification.

(c) The planning administrator may review subsequent submissions of the final plat only for information found to be deficient during the original review of the final plat under subsection (4)(a).

(d) A determination that the application for a final plat contains sufficient information for review as provided in subsection (4)(a) does not ensure approval of the final plat and does not limit the ability of the planning administrator to request additional information during the review process.

(5) Once a determination is made under subsection (4) that the final plat contains the information required under subsection (1), the governing body shall review and approve or deny the final plat within 20 business days.

(6) The subdivider or the subdivider's agent and the governing body or its reviewing agent or agency may mutually agree to extend the review periods provided for in this section.

(7) (a) For a period of 5 years after approval of a phased preliminary plat, the subdivider may apply for final plat of any one or more phases following the process set forth in subsections (1) through (6).

(b) After 5 years have elapsed since approval of a phased preliminary plat, the planning administrator shall review each remaining phase to determine if a phase may result in new or significantly increased potential impacts that have not been previously identified and considered in the adoption of the land use plan, zoning or subdivision regulations, or review and approval of the phased preliminary plat. If the planning administrator identifies any new or significantly increased potential impacts not previously identified and considered, the planning administrator shall proceed as set forth in [section 29(8)].

(c) If necessary to mitigate impacts identified in subsection (7)(b), the planning administrator may impose conditions on any phase before final plat approval is sought.

Section 32. Filing and recordation of plats and certificates of survey. (1) (a) Except as provided in subsection (1)(b), every final plat or certificate of survey must be filed for record with the county clerk and recorder before title to the land may be sold or transferred in any manner. The clerk and recorder of the county may not accept any final plat or certificate of survey for record that has not been approved in accordance with [sections 25 through 34] unless the final plat or certificate of survey is located in an area over which the state

does not have jurisdiction.

(b) After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following contract conditions are imposed and met:

(i) the purchasers of lots in the proposed subdivision make payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the state of Montana;

(ii) the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder;

(iii) if the final plat of the proposed subdivision is not filed with the county clerk and recorder within the approval period of the preliminary plat, the escrow agent shall immediately refund to each purchaser any payments the purchaser has made under the contract;

(iv) the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and

(v) the following language is conspicuously set out in each contract: "The real property that is the subject of this contract has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property may not be transferred in any manner".

(2) (a) Subject to subsection (2)(b), no division of land may be made unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

(b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made.

(ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (2)(b) as a partial payment of the total tax that is due.

(3) (a) The county clerk and recorder shall maintain an index of all recorded and filed subdivision

plats and certificates of survey.

(b) The index must list plats and certificates of survey by the quarter section, section, township, and range in which the platted or surveyed land lies and must list the recording or filing numbers of all plats or certificates of survey depicting lands lying within each quarter section. Each quarter section list must be definitive to the exclusion of all other quarter sections. The index must also list the names of all subdivision plats in alphabetical order and the place where filed.

(4) The recording of any plat made in compliance with the provisions of [sections 1 through 38] must serve to establish the identity of all lands shown on and being part of the plat. When lands are conveyed by reference to a plat, the plat itself or any copy of the plat properly certified by the county clerk and recorder as being a true copy thereof must be regarded as incorporated into the instrument of conveyance and must be received in evidence in all courts of this state.

(5) (a) Any plat prepared and recorded as provided in [sections 25 through 34] may be vacated either in whole or in part as provided by 7-5-2501, 7-5-2502, 7-14-2616(1) and (2), 7-14-2617, 7-14-4114(1) and (2), and 7-14-4115. Upon vacation, the governing body or the district court, as provided in 7-5-2502, shall determine to which properties the title to the streets and alleys of the vacated portions must revert. The governing body or the district court, as provided in 7-5-2502, shall take into consideration:

- (i) the previous platting;
- (ii) the manner in which the right-of-way was originally dedicated, granted, or conveyed;
- (iii) the reasons stated in the petition requesting the vacation;
- (iv) the parties requesting the vacation; and
- (v) any agreements between the adjacent property owners regarding the use of the vacated area.

The title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions.

(b) Notwithstanding the provisions of subsection (5)(a), when any poleline, pipeline, or any other public or private facility is located in a vacated street or alley at the time of the reversion of the title to the vacated street or alley, the owner of the public or private utility facility has an easement over the vacated land to continue the operation and maintenance of the public utility facility.

Section 33. Survey requirements. (1) Divisions of land under [sections 1 through 38] must follow the uniform standards governing monumentation, certificates of survey, and subdivision plats prescribed and adopted by the board of professional engineers and professional land surveyors.

(2) All division of sections into aliquot parts and retracement of lines must conform to United States bureau of land management instructions, and all public land survey corners must be filed in accordance with Title 70, chapter 22, part 1. Engineering plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared and filed by a registered engineer or a registered land surveyor, as their respective licensing laws allow, in accordance with [sections 25 through 34] and regulations adopted pursuant to [sections 25 through 34].

(3) All divisions of land for sale other than a subdivision created after July 1, 1974, divided into parcels that cannot be described as 1/32 or larger aliquot parts of a United States government section or a United States government lot must be surveyed by or under the supervision of a registered land surveyor. Surveys required under this section must comply with the requirements of subsection (8).

(4) Except as provided in 70-22-105, within 180 days of the completion of a survey, the professional land surveyor responsible for the survey, whether the surveyor is privately or publicly employed, shall prepare and submit for filing a certificate of survey in the county in which the survey was made if the survey:

- (a) provides material evidence not appearing on any map filed with the county clerk and recorder or contained in the records of the United States bureau of land management;
- (b) reveals a material discrepancy in the map;
- (c) discloses evidence to suggest alternate locations of lines or points; or
- (d) establishes one or more lines not shown on a recorded map, the positions of which are not ascertainable from an inspection of the map without trigonometric calculations.

(5) A certificate of survey is not required for any survey that is made by the United States bureau of land management, that is preliminary, or that will become part of a subdivision plat being prepared for recording under the provisions of [sections 1 through 38].

(6) It is the responsibility of the governing body to require the replacement of all monuments removed in the course of construction.

- (7) (a) A registered land surveyor may administer and certify oaths when:
 - (i) it becomes necessary to take testimony for the identification of old corners or reestablishment of lost or obliterated corners;
 - (ii) a corner or monument is found in a deteriorating condition and it is desirable that evidence concerning it be perpetuated; or
 - (iii) the importance of the survey makes it desirable to administer an oath to the surveyor's assistants for the faithful performance of their duty.
- (b) A record of oaths must be preserved as part of the field notes of the survey and noted on the certificate of survey filed under subsection (4).
- (8) (a) (i) A surveyor who completes a survey identified in subsection (8)(b) that establishes or defines a section line and creates a parcel that crosses the established or defined section line so that an irrigation district assessment boundary is included in more than one section shall note on the survey the acreage of the farm unit or created parcel in each section.
- (ii) The surveyor shall notify the appropriate irrigation district of the existence of the survey and the purpose of the survey.
- (b) The requirements of subsection (8)(a) apply only to surveys for which the surveyor determines that, based on available public records, the survey involves land:
 - (i) traversed by a canal or ditch owned by an irrigation district; or
 - (ii) included in an irrigation district.

Section 34. Public improvements and extension of capital facilities. (1) Except as provided in subsections (1)(a) and (1)(c), the governing body shall require the subdivider to complete required improvements within the proposed subdivision prior to the approval of the final plat.

(a) (i) In lieu of the completion of the construction of any public improvements prior to the approval of a final plat, the governing body shall, at the subdivider's option, allow the subdivider to provide or cause to be provided a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the governing body, providing for and securing the construction and installation of the improvements within a period specified by the governing body and expressed in the bonds or other security. The governing body shall reduce

bond or security requirements commensurate with the completion of improvements. Failure of the local government to require the renewal of a bond does not waive the subdivider's responsibility to complete the required improvements prior to the approval of the final plat.

(ii) In lieu of requiring a bond or other means of security for the construction or installation of all the required public improvements under subsection (2)(a)(i), the governing body may enter into a subdivision improvements agreement with the subdivider that provides for an incremental payment, guarantee plan, or other method of completing the necessary improvements to serve the development as set forth in the preliminary plat approval.

(b) Approval by the governing body of a final plat prior to the completion of required improvements and without the provision of the security required under subsection (1)(a) is not an act of a legislative body for the purposes of 2-9-111.

(c) The governing body may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding, other reasonable security, or entering into a subdivision improvements agreement for purposes of filing a final plat. The requirement is applicable to approved preliminary plats.

(2) (a) A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

(b) All fees, costs, or other money paid by a subdivider under this subsection (2) must be expended on the capital facilities for which the payments were required.

Section 35. Variances. (1) All land use regulations must include a process for the submission and review of variances.

(2) The application for a variance must be for relief from land or building form design standards or subdivision design and improvement standards.

- (3) Variance applications must be considered and approved or approved with conditions before application or in conjunction with application for a zoning permit or subdivision approval.
- (4) The granting of a variance must meet all of the following criteria:
- (a) the variance is not detrimental to public health, safety or general welfare;
 - (b) the variance is due to conditions peculiar to the property, such as physical surroundings, shape, or topographical conditions;
 - (c) strict application of the regulations to the property results in an unnecessary hardship to the owner as compared to others subject to the same regulations and that is not self-imposed;
 - (d) the variance may not cause a substantial increase in public costs; and
 - (e) the variance may not place the property in nonconformance with any other regulations.
- (5) Additional criteria may apply if the variance is associated with a floodplain or floodway pursuant to the requirements of Title 76, chapter 5.
- (6) Variance requests must be reviewed and determined by the planning administrator. The planning administrator's decision is final and no further action may be taken except as provided in [section 37].

Section 36. Fees. The governing body may establish reasonable fees to be paid by an applicant for a zoning permit, subdivision application, appeals, or any other review performed by the local government pursuant to [sections 1 through 38] to defray the expense of performing the review.

Section 37. Appeals. (1) Appeals of any final decisions made pursuant to [sections 1 through 38] must be made in accordance with this section.

(2) For a challenge to the adoption of or amendment to a land use plan, zoning regulation, zoning map, or subdivision regulation, a petition setting forth the basis for the challenge must be presented to the district court within 30 days of the date of the resolution or ordinance adopted by the governing body.

(3) (a) Any final administrative land use decision, including but not limited to approval or denial of a zoning permit, preliminary plat or final plat, imposition of a condition on a zoning permit or plat, approval or denial of a variance from a zoning or subdivision regulation, or interpretation of land use regulations or map may be appealed by the applicant or any aggrieved person to the planning commission.

(b) An appeal under subsection (3)(a) must be submitted in writing within 15 business days of the challenged decision, stating the facts and raising all grounds for appeal that the party may raise in district court.

(c) The planning commission shall hear the appeal de novo. The planning commission is not bound by the decision that has been appealed, but the appeal must be limited to the issues raised on appeal. The appellant has the burden of proving that the appealed decision was made in error.

(e) A decision of the planning commission on appeal takes effect on the date when the planning commission issues a written decision.

(4) (a) Any final land use decision by the planning commission may be appealed by the applicant, planning administrator, or any aggrieved person to the governing body.

(b) An appeal under subsection (4)(a) must be submitted in writing within 15 business days of the challenged decision, stating the facts and raising all grounds for appeal that the party may raise in district court.

(c) The governing body shall hear the appeal de novo. The governing body is not bound by the decision that has been appealed, but the appeal must be limited to the issues raised on appeal. The appellant has the burden of proving that the appealed decision was made in error.

(d) A decision of the governing body on appeal takes effect on the date when the governing body issues a written decision.

(5) (a) No person may challenge in district court a land use decision until that person has exhausted the person's administrative appeal process as provided in this section.

(b) Any final land use decision of the governing body may be challenged by presenting a petition setting forth the grounds for review of a final land use decision with the district court within 30 calendar days after the written decision is issued.

(c) A challenge in district court to a final land use decision of the governing body is limited to the issues raised by the challenger on administrative appeal.

(6) Every final land use decision made pursuant to this section must be based on the administrative record as a whole and must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

(7) Nothing in [sections 1 through 38] is subject to any provision of Title 2, chapter 4.

Section 38. Enforcement and penalties. (1) A local government may, by ordinance, establish civil penalties for violations of any of the provisions of [sections 1 through 38] or of any ordinances adopted under the authority of [sections 1 through 38].

(2) Prior to seeking civil penalties against a property owner, a local government shall provide:

(a) written notice, by mail or hand delivery, of each ordinance violation to the address of the owner of record on file in the office of the county recorder;

(b) a reasonable opportunity to cure a noticed violation; and

(c) a schedule of the civil penalties that may be imposed on the owner for failure to cure the violation before expiration of a time certain.

(3) A local government may, in addition to other remedies provided by law, seek:

(a) an injunction, mandamus, abatement, or any other appropriate action provided for in law;

(b) proceedings to prevent, enjoin, abate, or remove an unlawful building, use, occupancy, or act;

or

(c) criminal prosecution for violation of any of the provisions of [sections 1 through 38] or of any ordinances adopted under the authority of [sections 1 through 38] as a misdemeanor punishable by a fine not to exceed \$500 per day for each violation.

(4) In any enforcement action taken under this section or remedy sought thereunder, the parties shall pay their own costs and attorney fees.

Section 39. Repealer. The following sections of the Montana Code Annotated are repealed:

7-21-1001. Legislative findings and purpose.

7-21-1002. Definitions.

7-21-1003. Local government regulations -- restrictions.

Section 40. Codification instruction. [Sections 1 through 38] are intended to be codified as an integral part of Title 76, and the provisions of Title 76 apply to [sections 1 through 38].

Section 41. Effective date. [This act] is effective on passage and approval.

Section 42. Applicability. [This act] applies to local governments that currently meet the population thresholds in [section 5].

- END -

I hereby certify that the within bill,
SB 382, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 382

INTRODUCED BY F. MANDEVILLE, D. FERN, S. VINTON, M. BERTOGLIO, L. BREWSTER, M. HOPKINS, E.
BOLDMAN, G. HERTZ, C. FRIEDEL, J. KARLEN

AN ACT CREATING THE MONTANA LAND USE PLANNING ACT; REQUIRING CITIES THAT MEET CERTAIN POPULATION THRESHOLDS TO UTILIZE THE LAND USE PLAN, MAP, ZONING REGULATIONS, AND SUBDIVISION REGULATIONS PROVIDED IN THE ACT; ALLOWING OTHER LOCAL GOVERNMENTS THE OPTION TO UTILIZE THE PROVISIONS OF THE ACT; REQUIRING PUBLIC PARTICIPATION DURING THE DEVELOPMENT, ADOPTION, OR AMENDMENT OF A LAND USE PLAN, MAP, ZONING REGULATION, OR SUBDIVISION REGULATION; PROVIDING STRATEGIES TO MEET POPULATION PROJECTIONS; PROVIDING FOR CONSIDERATION OF FACTORS SUCH AS HOUSING, LOCAL FACILITIES, ECONOMIC DEVELOPMENT, NATURAL RESOURCES, ENVIRONMENT, AND NATURAL HAZARDS WHEN DEVELOPING A LAND USE PLAN, MAP, AND ZONING REGULATION; PROVIDING FOR A PROCEDURE TO REVIEW SUBDIVISIONS AND APPROVE FINAL PLATS; PROVIDING FOR A LOCAL GOVERNING BODY TO COLLECT FEES; PROVIDING AN APPEALS PROCESS, ENFORCEMENT MECHANISMS, AND PENALTIES; PROVIDING DEFINITIONS; REPEALING SECTIONS 7-21-1001, 7-21-1002, AND 7-21-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Memorandum

REPORT TO: Transportation Board

FROM: Mike Veselik, Economic Development Program Manager
Nick Ross, Transportation and Engineering Director

SUBJECT: Resolution 2023-02, a Resolution of the Transportation Advisory Board Acting as the Parking Commission of the City of Bozeman, Montana, to set Transient and Monthly Permit Fees for the Bridger Park Garage Located in Downtown Bozeman

MEETING DATE: September 27, 2023

AGENDA ITEM TYPE: Resolution

RECOMMENDATION: I move to approve Resolution 2023-02, a Resolution of the Transportation Advisory Board Acting as the Parking Commission of the City of Bozeman, Montana, to set Transient and Monthly Permit Fees for the Bridger Park Garage Located in Downtown Bozeman

STRATEGIC PLAN: 7.5. Funding and Delivery of City Services: Use equitable and sustainable sources of funding for appropriate City services, and deliver them in a lean and efficient manner.

BACKGROUND: In June, the Transportation Advisory Board held a work session to discuss monthly and annual rates for permits in the parking garage. Staff shared garage financials with the board and discussed long term goals of the program. The proposed increases are in line with Board discussion as well as prior resolutions indicating a potential fee increase in the coming years.

UNRESOLVED ISSUES: No Unresolved Issues

ALTERNATIVES: Alternatives as proposed by the board

FISCAL EFFECTS: An increase in revenue collected to cover garage operations

Attachments:

[Transportation Advisory Board Resolution 2023-02 To Set Transient and Monthly Permit Fees for the Bridger Park Garage Located in Downtown Bozeman.docx](#)

Report compiled on: September 20, 2023

Transportation Advisory Board

RESOLUTION 2023-02

A RESOLUTION OF THE TRANSPORTATION ADVISORY BOARD ACTING AS THE PARKING COMMISSION OF THE CITY OF BOZEMAN, MONTANA, TO SET TRANSIENT AND MONTHLY PERMIT FEES FOR THE BRIDGER PARK GARAGE LOCATED IN DOWNTOWN BOZEMAN

WHEREAS, the City of Bozeman has granted the Transportation Advisory Board acting as the Parking Commission authority to set parking rates in the garage and all other city facilities (MCA7-14-4634); and,

WHEREAS, Bozeman Parking Services and the Transportation Advisory Board acting as the Parking Commission has the stated goal of aiming to improve the parking experience and fully funding garage operations; and,

WHEREAS, in Resolution 2021-04, the Parking Commission indicated its intent to increase UDC permit prices by \$5 per year for 2023, 2024, and 2025 to align transient and permit prices and to sufficiently pay for operations and maintenance on the Bridger Parking Garage; and,

WHEREAS, in 2022, the Bozeman Transportation Advisory Board did not raise rates in the garage; and,

WHEREAS, during the June 2023 meeting of the Transportation Advisory Board, board members discussed a desire to support the long-term financial health and sustainable operation of the garage;

WHEREAS, the Transportation Advisory Board has determined guests and visitor parking should be prioritized; and,

WHEREAS, the Transportation Advisory Board acting as the Parking Commission may decide to adjust transient rates for 2024 at a later time should occupancy data in the garage indicate a need to increase rates; and,

NOW THEREFORE, BE IT RESOLVED that the Transportation Advisory Board acting as the Parking Commission sets the following rates for the Bridger Park Garage permitted and transient parking;

- Garage Monthly Permits both revocable and non-revocable UDC permits increase by \$10 to \$95 per month with a \$2.75 service fee charged by the software provider.
- Garage Basement Permits increase by \$13 per month to \$110 with a \$2.75 service fee charged by the software provider.

Resolution 2023-02 TO SET TRANSIENT AND MONTHLY PERMIT FEES FOR THE BRIDGER PARK GARAGE
LOCATED IN DOWNTOWN BOZEMAN

- Any permits purchased on an annual basis will receive a 10% discount on the total cost of the permit and only pay one service fee of \$1.75.
- Transient parking fees will remain the same.

Passed and adopted by the Transportation Advisory Board acting as the Parking Commission for the City of Bozeman, Montana, at a session held on the 27th day of September 2023.

Kelly Pohl, Chair
Transportation Advisory Board

ATTEST:

Nick Ross, Transportation and Engineering Director
City of Bozeman

Memorandum

REPORT TO: Transportation Board

FROM: Candace Mastel, TDM Coordinator

SUBJECT: Transportation Demand Management Work Plan Update

MEETING DATE: September 27, 2023

AGENDA ITEM TYPE: Citizen Advisory Board/Commission

RECOMMENDATION: No Action Necessary

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: In 2021 the City of Bozeman brought on a Transportation Demand Management (TDM) Coordinator. With that the TDM program was initiated and on an annual basis a work plan is drafted to align the TDM efforts with other priorities and projects in the city that serve to advance TDM initiatives.

The TDM work plan includes Goals and Objectives and approaches to achieving those in areas of physical improvements, programming, and policy. Status updates will be provided for individual approaches. The work plan is presented to the Transportation Board with updates on these initiatives and as guidance on how the entire community can work together for transportation demand management issues, active transportation and mobility.

UNRESOLVED ISSUES: None

ALTERNATIVES: None

FISCAL EFFECTS: None

Attachments:
[2023 Work Plan.pdf](#)

Report compiled on: August 15, 2023

TRANSPORTATION DEMAND MANAGEMENT

Annual Report
July 2023



BOZEMAN^{MT}

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Introduction

In August 2021 the City of Bozeman hired a Transportation Demand Management Coordinator to join the newly formed Transportation and Engineering team. With this new position, the City prioritized both staff and resources into advancing transportation demand management strategies and projects.

The TDM Coordinator quickly started working collaboratively across the city system and with community partners to establish the TDM program in addition to creating relationships that would enable others to do their own TDM work in the community.

The TDM Coordinator role is multi-faceted as it focuses on transportation demand management strategies in addition to offering expertise in active transportation planning, development of community resources for transportation projects and programs, and creating platforms for outreach and engagement.

At the inception of the kickoff of the TDM program there was a commitment to focusing on four key elements for the City’s TDM program:

- Understanding the various user categories, including resident vs. visitor, or commuter vs. recreation, or comfortable vs. hesitant user
- Types of initiatives that can address both the demands on the transportation system and infrastructure as well as those for parking
- Bringing to the table a combination of physical improvements, programmatic initiatives, and policy change
- Collaboration with community partners to achieve goals and objectives

In 2021 the TDM Coordinator established three Guiding Principles for the TDM program: People First, Climate and Sustainability, and Equity.

In addition to these Guiding Principles, four main goals of the program were established. Objectives and Approaches further defined how to focus efforts during these humble beginnings of the TDM program. This annual report provides an update on the progress since the inaugural *Draft Work Plan and Annual Report* was finalized in March 2022. Future annual reporting will take place in mid-summer following the fiscal year budget approvals by the Bozeman City Commission.

Annual Report - Goals and Objectives Check-In

In addition to the Guiding Principles of the TDM program, staff created four goals with associated objectives and approaches that would assist in guiding limited staff and funding resources where it would be able to pair with other partners and opportunities in the first year and a half of the program.

Below the goals and objectives are stated and the associated approaches will be provided with an update as a means of providing a performance measure for the effort.

Goal 1: Efficient Use of Resources

Objective 1.1: Collaborate with Partners

Approach: Develop working relationships that benefit both parties, focusing on partners such as Gallatin Valley Land Trust, the Western Transportation Institute, Montana State University, the Downtown Business Partnership, the Montana Department of Transportation, and others that share a focus on transportation issues, programs and projects. Development of relationships with the private sector is important for support and potential incentives/programming of future programs and projects.

Status: These working relationships have been established and are marked by regular meetings with these partners in order to provide regular updates or collaborations on current and future projects. Continued development with the Montana Department of Transportation and Montana State University is a priority in the coming year.

Approach: Support and collaborate on the maintenance and funding of the GoGallatin platform. This platform allows the city and partners to run challenges, implement incentive programs and track data of commuters.

Status: The City of Bozeman has contributed to the funding of the GoGallatin platform again this fiscal year. It is also supported by other community partners.

Approach: Prepare and submit the Bicycle Friendly Community application in spring of 2022. This application process provides a review of the city’s facilities and programs and also provides potential award of standing on a national level.

Status: The Bicycle Friendly Community Application was submitted to the League of American Bicyclists in August of 2022 and the City received its Silver ranking in winter 2023. The City will continue to take into consideration recommendations provided as part of the submittal review and reapply at the appropriate time.

Approach: Join the Association for Commuter Transportation (ACT) professional organization. This organization provides support nationally to TDM professionals and offers advice and direction on programs and improvements as industry best practices.

Status: Two members of the City Transportation and Engineering staff are now members of ACT.

Objective 1.2: Enhanced Regulatory Review

Approach: Adopt NACTO or other FHWA recognized design guidance for infrastructure that prioritizes moving people over moving cars.

Status: Two members of the City’s Transportation and Engineering staff attended the NACTO Designing Cities conference in Denver, Colorado in May 2023. FHWA and MUTCD policy was discussed in-depth during the conference. Transportation professionals are eagerly awaiting the release of the updated Manual on Uniform Traffic Control Devices for Streets and Highways.

Approach: Regular review of the Capital Improvement Plan.

Status: The Capital Improvement Plan (CIP) is regularly discussed in regard to larger projects or where there are opportunities to link together larger projects with smaller infrastructure improvements by virtue of proximity or project type. The CIP is also discussed with the Transportation Advisory Board on an annual basis as a distinct agenda item. The CIP includes annual funding for \$100,000 bicycle path improvement and \$100,000 for pedestrian (ADA) ramps. There are currently two \$300,000 appropriations for bicycle/ped stand-alone projects for the next two years.

Approach: Complete the Parks, Recreation and Active Transportation Plan (PRAT).

Status: The PRAT Plan is in the final stages of development and has included a significant amount of public input, staff attention and an addendum to address wayfinding and signage

for parks and transportation.

Approach: Update the Transportation Master Plan (TMP).

Status: The Transportation and Engineering staff is currently focusing on updates to the Unified Development Code (UDC) and the Engineering Standards and Specifications. Following completion of these updates staff will pursue an update to the TMP. It is anticipated the process of selecting a consultant will begin in late 2023. Funding has been set aside for this effort in this year’s fiscal budget.

Approach: Update and align TDM, mobility, and active transportation in the UDC and other regulatory documents.

Status: A comprehensive review of the UDC is underway and has involved input from staff to simplify and clarify many code provisions. In addition, the planned unit development process was revised into the planned development zoning process and Transportation and Engineering staff is in the process of refining an administrative manual to achieve the new requirements for this type of development review process.

Objective 1.3: Provide Outreach and Education to the Community

Approach: Focus on social media presence, including collaboration with other partners in social media posts and information sharing.

Status: The City of Bozeman TDM program works with other city staff on social media outreach as well as engaging with the GoGallatin platform admins to disseminate information. This effort will be further used in the coming year during challenges and programming efforts, specifically for expansion of the Safe Routes to Schools program.

Approach: Develop a City of Bozeman web page for Transportation and related topics. Develop consistent messaging and a clearinghouse for information.

Status: The TDM Coordinator has created a Transportation and Engineering web page and associated sub-pages. In addition, a page has been created for the “Streets are for Everyone (SAFE)” program. Web pages are routinely scanned by IT staff for accessibility and are updated by staff. Staff is working together currently to also create an informative and user friendly web page for engineering infrastructure review, which will hopefully make the application and review process better for all parties.

Approach: Actively participate in “Engage Bozeman” for special projects.

Status: The “Engage Bozeman” page has been heavily used for the Parks, Recreation and Active Transportation plan outreach and engagement with the public. The intent is to use this newer

engagement tool for other projects where public input is needed.

Approach: Work collaboratively with the School District and other partners in developing a Safe Routes to School program, Drivers Ed instruction for active modes, other programs at the K-12 levels, and with MSU academic courses, as needed.

Status: Transportation and Engineering staff has been working collaboratively with Parks and Recreation staff and WTI to bring back a Safe Routes to Schools program, including walking school buses, in class education, summer lunch outreach, and bike rodeos in the fall.

Goal 2: Healthy and Safe Community

Objective 2.1: Reduce the level of stress for active modes

Approach: Re-institute a local or regional Safe Routes to Schools program that promotes walking and bicycling to school through infrastructure improvements, enforcement, education, safety awareness, incentives, and prioritizing access for the youth in the community and those with mobility challenges.

Status: Transportation and Engineering staff has been working collaboratively with Parks and Recreation staff and WTI to bring back a Safe Routes to Schools program, including walking school buses, in class education, summer lunch outreach, and bike rodeos in the fall.

Approach: Install, replace and maintain facilities on a regular basis to ensure that the existing network is functioning as intended.

Status: With all new development best practice (and Complete Streets) infrastructure will be installed as has been the trend for some time. As best practices change, so will the way the City addresses expansion of the active transportation system. In addition, the revisions to the UDC and the Engineering Standards and Specifications will focus on active transportation infrastructure for future development review.

Approach: Develop accurate crash data to evaluate areas for improvement.

Status: The Bozeman Police Department tracks crashes that are reported. The League of American Bicyclists has advised us to refine this

process to assist in showing the true nature of bicycle and pedestrian encounters of all types that involve motorized vehicles. Over the last year or so, the data has been inserted into the state data base at the Montana Department of Transportation. Moving into the future, it is desired to have more updated information locally as there is a lag in statistic reporting that affects the knowledge base.

Objective 2.2: Create Walkable and Bikeable Neighborhoods

Approach: Identify gaps and opportunities to improve connectivity between neighborhoods, residential and commercial areas, and parks and recreation facilities.

Status: The PRAT plan is utilizing mapping to identify gaps and connections for access to essential service nodes, parks, and other community destinations. In addition, Transportation Alternatives (TA) funding has been applied for in order to fill gaps on existing separated shared use paths. Awards for that funding will be made public in late 2023.

Approach: Install, replace, and maintain facilities on a regular basis to ensure that the existing network is functioning as intended.

Status: Collaboration between City crews and the Montana Department of Transportation has been ongoing in an effort to coordinate projects and optimize opportunities for collaboration. City specific projects have included a city TA application with a MDT mitigation project to provide separated facilities along Griffin Drive.

Approach: Improve winter maintenance to expand seasonal nature of facilities in our climate.

Status: The PRAT plan calls for improved winter maintenance and year-round accessibility of Anchor Routes identified in the plan. In general improved winter maintenance will require a larger funding commitment to increase staffing and equipment.

Objective 2.3: Ensure access to parks and open space

Approach: Identify where better connectivity can improve accessibility instead of just focusing on distance-based proximity to residential areas.

Status: The PRAT plan identifies these interstitial connections that can be achieved with a variety of on and off road facilities. The mapping and wayfinding efforts as part of this plan will identify ways to link up current facilities with a best practice approach with the idea that future approaches may slightly modify the route to incorporate even more preferred facilities.

Approach: Provide adequate, intentional, and well-designed wayfinding.

Status: As part of the PRAT plan an addendum has been added to address wayfinding within parks and along transportation corridors. This wayfinding addition will provide a blueprint for appropriate sign types in both situations and help establish use provisions.

Approach: Improve winter maintenance of facilities to provide better year-round access.

Status: The PRAT plan calls for improved winter

maintenance and year-round accessibility of Anchor Routes identified in the plan. In general improved winter maintenance will require a larger funding commitment to increase staffing and equipment.

Approach: Investigate shared programs that promote transportation options in Parks and Recreation such as pop-up projects and “Bike Your Park” events.

Status: Transportation and Engineering staff and WTI staff have partnered with Parks and Recreation staff to implement the Walking School Bus portion of the Safe Routes to Schools initiative.

Goal 3: Provide Transportation Options

Objective 3.1: Support local transit service and programs

Approach: Promote implementation of Transit Oriented Developments (TOD’s). These focus on providing easy access to public transport and reduce walking or biking times to transit stops or destinations.

Status: The development that is mixed use (REMU and B2-M) best supports transit and has been a predominant zoning type for new development in the city boundaries. The current UDC revisions are encouraging infill development, no parking minimums and expanded facilities for transit shelters. In addition, the City’s Transportation Engineer has regular meetings with Streamline, the provider of public transportation.

Approach: Support employee trip reduction by collaboration with Streamline.

Status: To be pursued in the next year and as UTD process proceeds.

Approach: Support expansion of transit routes and stops.

Status: The development of the UTD and MPO will hopefully provide a regional look at under-served areas where there is a demand for more routes and stops to improve overall transit service in the community. The City was a partner in the process of communicating with the community in education and outreach for the formation of the UTD.

Objective: 3.2: Fund multi-modal programs and projects

Approach: Pursue grants and other funding sources as they apply or will benefit the city.

Status: The City of Bozeman has applied for two grants that would further the ability of the city to address active transportation issues. The Transportation Alternatives grant, if awarded, would provide funding to infill missing pieces of the separated shared use path network and also provide maintenance funds for existing separated shared use paths.

- A breakdown of the funding matches:*
- Path infill on North 19th Avenue (west side) and East Valley Center Road - \$662,734 total (\$573,795 federal, \$88,938 local)*
 - Path on Flanders Mill Road - \$211,695 total (\$183,285 federal, \$28,409 local)*
 - Pavement Preservation – path maintenance on North 19th Avenue, Oak Street, and Huffine Lane - \$307,204 total (\$265,978 federal, \$41,226 local)*

In addition to facility and maintenance funds, the Safe Streets for All grant, applied for in July, would provide federal funding for development of a safety focused plan. The Safe Streets for All grant would potentially provide \$200,000 in federal funding with a City match of \$50,000 (which would come from the TMP revision funding source) that would be used to develop a Safety Action Plan that will be incorporated into TMP update. This award would include funding for improved technology for four signals to collect data on red light running, speeding, and near misses.

An additional grant is being sought to assist with the Kagy Boulevard reconstruction project, which has been in planning for at least ten years. The Rural Surface Transportation Program is a category of the Multimodal Project Discretionary Grant Program (MPDG). If awarded this grant will free up some of the City's Federal Urban Funds and Impact Fee funds for other projects.

Approach: Prioritize projects on the Capital Improvement Plan that align with elements of this document as well as other plans. Utilize the strategy of aligning more than one project to achieve a larger goal for TDM or active transportation.

Status: The Capital Improvement Plan (CIP) is regularly discussed in regard to larger projects or where there are opportunities to link together larger projects with smaller infrastructure improvements by virtue of proximity or project type. Infill projects that are shovel ready are in the works for instance on North 19th Avenue to help complete a disconnected separated shared use path system.

Approach: Parking system cash back for TDM and active transportation. Incentivize employees for not driving to work in a single occupancy vehicle and not impacting the parking supply.

Status: The City Commission voted against the implementation of a paid parking system downtown. A solution for downtown parking that takes into consideration demand and funding mechanisms is still pending.

Approach: Provide partial funding for the GoGallatin platform for 2023.

Status: The City of Bozeman has contributed \$10,000 to the GoGallatin platform as part of an MOU with WTI. This contribution will continue until at such time that WTI does not have funding to run the program through their staff or the City assumes responsibility for the platform.

Objective 3.3: Increase Active Mode Share

Approach: Plan and implement pop-up projects in places where there is the need for improved infrastructure, but no plans are in place for permanent improvements. Pop-up projects help staff ascertain effectiveness of improvements without the planning and funding that more permanent improvements require.

Status: Staff time and resources are limited at this time despite the need or desire to have an increased amount of pop-up projects in the community. Future goals should include increased funding and staff dedication to this effort.

Approach Develop a traffic calming program that provides solutions on-demand or in a planned manner.

Status: The current traffic calming efforts have mainly focused on the City collaborating with WTI to install past calming projects on an annual/seasonal basis. Traffic calming project requests come in throughout the year for new areas of town where interested citizens or neighborhood groups request mitigation for traffic issues. However, aforementioned, the funding resources and staffing are not in line with the number of new requests.

Approach: Provide enhanced mapping and digital wayfinding for users.

Status: As an expanded scope of the PRAT plan wayfinding addendum, the City is planning on incorporating a web-based route finding or wayfinding system where users can access information about facility characteristics and assist them with planning their transportation or recreation trip.

Approach: Collaborate on GoGallatin challenges and provide adequate outreach and engagement with community partners.

Status: The City and WTI has collaborated on the two largest challenges that involve Bozeman commuters: 12 Days of Bikemas and the Spring Commuter Challenge/Bike to Work Day/Festival of Bikes. The challenges have been a success despite many weather-related obstacles and have attracted many new active commuters over the last two years of challenges.

Approach: Enhance the bicycle parking and facility requirements in regulatory documents.

Status: The Unified Development Code is currently under revision and the parking requirements and end of trip facility requirements have been modified to complement the new vehicle parking requirements and other code provisions that make active transportation facilities even more critical in the transportation system.

Approach: Require end-of-trip facilities in regulatory documents.

Status: The Unified Development Code is currently under revision and the parking requirements

and end of trip facility requirements have been modified to complement the new vehicle parking requirements and other code provisions that make active transportation facilities even more critical in the transportation system.

Approach: Re-evaluate the Complete Streets resolution and implement protocols.

Status: The City has been in contact with the American Heart Association, which provides an evaluation and recommendations on how communities can align themselves with Complete Streets policies. The City has a Complete Streets resolution but it is not entirely codified in its entirety except in best practices for active transportation. The goal is to establish industry best practice or beyond, for facilities through code documents.

Goal 4: Promote Economic Opportunity

Objective 4.1: Prioritize Regional Collaboration

Approach: Establish digital infrastructure to share and collaborate in programs and projects.

Status: In addition to the existing Engage Bozeman website the Transportation and Engineering division has created a web page specifically for the SAFE program to disseminate information about progress made on initiatives. A near-term addition to these resources will be a web page within the Transportation and Engineering page that will deal specifically with current projects that affect the community.

Approach: Collaborate on grant applications with other agencies where they promote shared needs in TDM and active transportation.

Status: With the Transportation Alternatives grant application, the City discussed its needs with the County in order to coordinate requests and be a partner in adding to the larger transportation system for the whole community.

Approach: Provide planning and engineering assistance in the establishment of the Metropolitan Planning Organization (MPO).

Status: The City is a major partner in the formation and support of the MPO to complete the designation and organization in the next year.

Approach: Coordinate urban and suburban land planning with other agencies and organizations through regular communication.

Status: The City regularly meets with MDT during a monthly coordination meeting.

Objective 4.2: Provide support to the Parking Services division as parking is a key component to the demand side of TDM

Approach: Implement the most appropriate and beneficial paid parking program for the downtown area.

Status: To be discussed with the Parking Services Manager and other partners in the coming year.

Approach: Develop Transit Oriented Developments (TOD's). Mixed-use neighborhoods add value to the community and to people's lives where they are complemented by public transit at key areas, providing quick and easy access to stops.

Status: To be pursued in the coming year.

Approach: Educate workplaces about the need to promote more remote parking for employees, particularly where that business serves a customer base and those customers would appreciate proximate parking spaces.

Status: To be pursued in the coming year.

Approach: Establish an enhanced site plan review process in relation to parking minimums or requirements.

Status: The Unified Development Code is currently in revision and there will be changes to the code that simplifies policy and processes for Engineering review and for Planned Development Zoning projects.

Approach: Collaborate with other community partners in establishing secure park-and-ride throughout town.

Status: To be discussed with the Parking Services Manager and other partners in the coming year.

Approach: Create incentive programs to cash-out for parking diversion.

Status: To be discussed with the Parking Services Manager and other partners in the coming year.

Approach: Support vanpool and carpool opportunities for the most parked regions of town, including but not limited to downtown and campus.

Status: To be pursued in the next year in collaboration with WTI and other community partners.

Objective 4.3: Work collaboratively with developers and consultants in educating about best practices

Approach: Provide outreach and education for sharing information on best practices and innovative ideas that support existing plans.

Status: Status: The Unified Development Code is currently in revision and there will be changes to the code that simplifies policy and processes for Engineering review and for Planned Development Zoning projects.

Approach: Create incentive programs through the design review process to prioritize TDM or active transportation initiatives.

Status: The Unified Development Code is currently in revision and there will be changes to the code that simplifies policy and processes for Engineering review and for Planned Development Zoning projects.

Objective 4.4: Work collaboratively with workplaces in educating about best practices

Approach: Provide outreach and education for sharing information on creating workplaces that are TDM and active transportation friendly, supporting both staff and customers.

Status: Status: To be pursued in the next year. The City would like to team with a few dedicated workplaces already offering these types of work environments and even encourage these workplaces/businesses to be evaluated by the League of American Bicyclists for the Bicycle Friendly Business component of their program.

Approach: Promote work from home, flex work, remote work, alternative work schedules, etc. in order to offset the demand for prime parking spaces and to reduce the impact to roads and services in the community.

Status: To be pursued in the next year. The City would like to team with a few dedicated workplaces already offering these types of work environments and even encourage these workplaces/businesses to be evaluated by the League of American Bicyclists for the Bicycle Friendly Business component of their program.

Approach: Establish an evaluation program for workplaces for friendliness towards active modes and TDM and spotlight bicycle friendly businesses or those that promote active modes.

Status: To be pursued in the next year.

Approach: Establish a city-wide Guaranteed Ride Home Program (GRH).

Status: The GRH program was established and is currently available for use by City of Bozeman residents.

Next Steps

In August 2021 the City of Bozeman hired a Transportation Management Coordinator to join the newly formed Transportation and Engineering team. With this new position, the City placed both staff and monetary resources into advancing transportation demand management strategies and projects.

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- Collaboration with community partners to achieve goals and objectives