

# CITY OF BILLINGS

## CITY OF BILLINGS VISION STATEMENT:

**“THE MAGIC CITY: A DIVERSE, WELCOMING COMMUNITY WHERE PEOPLE PROSPER AND BUSINESS SUCCEEDS.”**

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### WORK SESSION AGENDA

COUNCIL CHAMBERS

January 21, 2020

5:30 P.M.

**CALL TO ORDER:** Mayor Cole

#### COUNCIL DISCUSSION:

1. **Project Re:Code - Update and Draft Code Section Review**  
- Public Comment

**PUBLIC COMMENT on “NON-AGENDA ITEMS”.** **Speaker Sign-in required.** *(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)*

#### ADJOURN:

#### Note:

- This meeting is an “informal” meeting of the City Council. The content of the Agenda is subject to change at the meeting.
- In the event there is a Closed Executive Session at the end of a Work Session, the sole purpose is to discuss litigation strategy. The other parties to the case(s) discussed are not public bodies or associations as described in Section 2-3-203(1) and (2), MCA. The meeting is closed, as allowed by Section 2-3-203(4)(a), MCA, “to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position” of the City of Billings.
- **Please exit the chambers as quickly as possible.** (Chamber doors will be **CLOSED** 10 minutes after adjournment of the meeting.)
- Council meetings may be viewed at any time by accessing Community 7 Television online at [www.comm7tv.com](http://www.comm7tv.com) and clicking on archived programs.

## Council Work Session

1. 1.

**Meeting Date:** 01/21/2020

**TITLE:** Project Re:Code - Update and Draft Code Section Review

**Department:** Planning & Community Services

**Presentation:** Yes

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### PROBLEM/ISSUE STATEMENT

In June 2017, the City and County working through the Planning Board, initiated a major update to the existing Zoning Regulations. The process has been a collective effort of over 32 volunteers serving on the project Steering Committee or Working Groups, or both, logging more than 6,300 hours of review and work on the draft code. Three VISTA members also have put in over 6,100 hours since January 2018.

Staff provide the City Council an update at the January 6, 2020 Work Session. Council reviewed the Focus of the New Code, Accessory Dwelling Units, the N (Neighborhood) Districts, Planned Neighborhood Developments and Short Term Rental Unit regulations. Staff also shared a collection of Frequently Asked Questions from the Re: Code process so far.

Tonight, staff will provide a review the following topics:

- **Regulation of Alcohol and Gambling** - The new proposed code will:
  - Create three new Commercial Zoning Districts to replace the wide-open Community Commercial District – the current zone district where most of the existing bars and casinos are located.
  - Three new CC replacement districts – CMU1, CMU2 and CX - will allow a large casino by special review approval only. Hard separation distance requirements from schools, churches, parks with playgrounds and residential areas will apply in these districts (See further discussion of hard separations below) that will limit areas of these three new districts to where large casinos are allowed.
  - Special reviews will not continue as an allowed use in the new code. A special review use will be an exception to the “by-right” uses for those districts where it applies under the new code.
  - Define terms that are not defined in the current zoning code, including:
    - Casino
    - Bars, taverns and cocktail lounges
    - Cidery
    - Gambling Device
    - Gambling
    - Microbrewery
    - Microdistillery
- Set hard separation distances between casinos, bars and taverns, from residential uses, churches, schools, and parks with playgrounds. The separations proposed for large casinos are 600 feet from churches, schools, and parks with playgrounds and 150 feet from residential zones. No waivers, variances or exceptions to the separations will be allowed.
- Set a reasonable and predictable method to measure the required separation distances – from the casino/bar building exterior to the closest property boundary with the use requiring

separation (church property, school ground, park boundary, residential zone).

- Make distinct use categories for alcohol service and gaming uses to replace the current combined use. Example: - A restaurant that serves alcohol but does not have gambling will not be regulated the same as a restaurant that serves alcohol and has gambling. Restaurants with very few gaming machines (less than 10) will not be subject to the same rules as a casino.
- No separation requirements for microbreweries, microdistilleries, winery or cidery when it is a primary use of property (on its own).
- “Casinos” will have a size designation based on the number of gambling machines and where live gambling takes place. What is designated as “Large” casinos having 10 or more machines will always be a second primary use of property:
  - They will always require a special review approval
  - They have to meet the hard separation distances – 600 ft from a church property, school ground, park boundary; and 350 ft to a residential zone (except in the exempt zones)
- **Sign Regulation** - The proposed new code includes:
  - New measuring standards for sign area, setbacks, and sign height.
  - Insures the new code meets all legal tests to be constitutionally compliant and conforms to recent US Supreme Court decisions.
  - Restricts use of electronic signs in residential and neighborhood office districts.
  - Maximum sign height reduced 20% from current limit.
  - CMU1 zone districts will have maximum freestanding sign area for single tenant property reduced by 70% and CMU2 reduced by 54% from current code allowance. Current code allows 175 sf of freestanding sign area for most property in the Neighborhood Commercial (NC) and CC zone districts. The new standards for single tenant property will be 50 sf in CMU1 and 80 sf in CMU2. Multi-tenant property can add 10 sf per additional tenant up to a maximum of 110 sf in CMU1 or 20 sf per tenant up to a maximum of 200 sf in CMU2. Sign area is also flexible adjusted based on the length of street frontage.
  - Will regulate “window” signs as permitted signs when place on a window, or hung from a window frame. Current code does not regulate signs in or on windows.
- **Commercial District Changes** – There are seven proposed commercial zoning districts, two industrial districts, and three public districts (See attached information on some of the commercial districts). Each Public district will have a primary focus: P1 is for Open Space, Parks and Recreation, P2 is for Institutions with 2 or fewer main buildings for schools, religious organizations, city or county facilities and P3 is for Institutional Campuses (3 or more buildings) for education, health/medical and civic uses.

The most significant change in the commercial districts is to break the CC zone district up and create districts that are more predictable and have a suite of uses tailored to be compatible with the adjacent zones and uses. Site design and form standards are a critical part of these new districts. These new standards will bring buildings closer to the street and require front entrances along the street frontage without long blank walls. The CMU1 and CMU2 zone districts will also require most parking to be to the side or back of the businesses. These adjustments can make retail and service areas develop or redevelop at a human scale and encourage walkability as places change over time. Streets framed by buildings, street trees and pedestrian activity tend to slow traffic to posted speed limits, making streets safer for everyone.

- **Landscaping and Parking -**

- The proposed landscaping code's most significant achievement is to provide for a more consistent landscaping requirement across all commercial zoning districts in the City. The code is going from four sets of landscaping regulations across the current code to one set of landscaping regulations for all commercial districts. The new code addresses the dry climate of Billings and Yellowstone County by encouraging drought tolerant plants, less use of sod and more use of sustainable trees, shrubs, and ornamental grasses. Street trees are required along property frontages to improve the look and feel of neighborhoods and make walking and shopping a more comfortable experience.
- The proposed parking code introduces a variety of options to better match parking requirements with actual parking use. City Engineering played a critical role in helping craft the new off-street parking standards.

- **Next Steps**

- The Urban Issues and County Issues Working Groups, staff and consultants are completing draft reviews of Parking, Alcohol and Gambling Uses, Planned Neighborhood Developments (for the urban/rural interface), and Procedures. The Sign Working Group and Landscape Working Groups have completed meetings and final drafts of Sign and Landscape codes are being prepared for the review and adoption process.
- Public hearings with the Zoning Commissions are planned for February & March with recommendations to the City Council and Board of County Commissioners for hearings in April/May. Staff intends to make each hearing with the Zoning Commission topic focused - for example, a hearing focused on the map and new zone districts, another for signs and site development standards, another for alcohol and gambling uses, and one for general comments and testimony.

## **RECOMMENDATION**

No formal action is needed at this time, but staff will present the topics and seek comments and questions from the City Council on the proposed code items summarized in this memo in preparation for the public drafts being completed for public hearings.

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## **Attachments**

Progress Report  
Project Re: Code FAQs  
Project ReCode Guiding Principles  
Commercial Districts Information

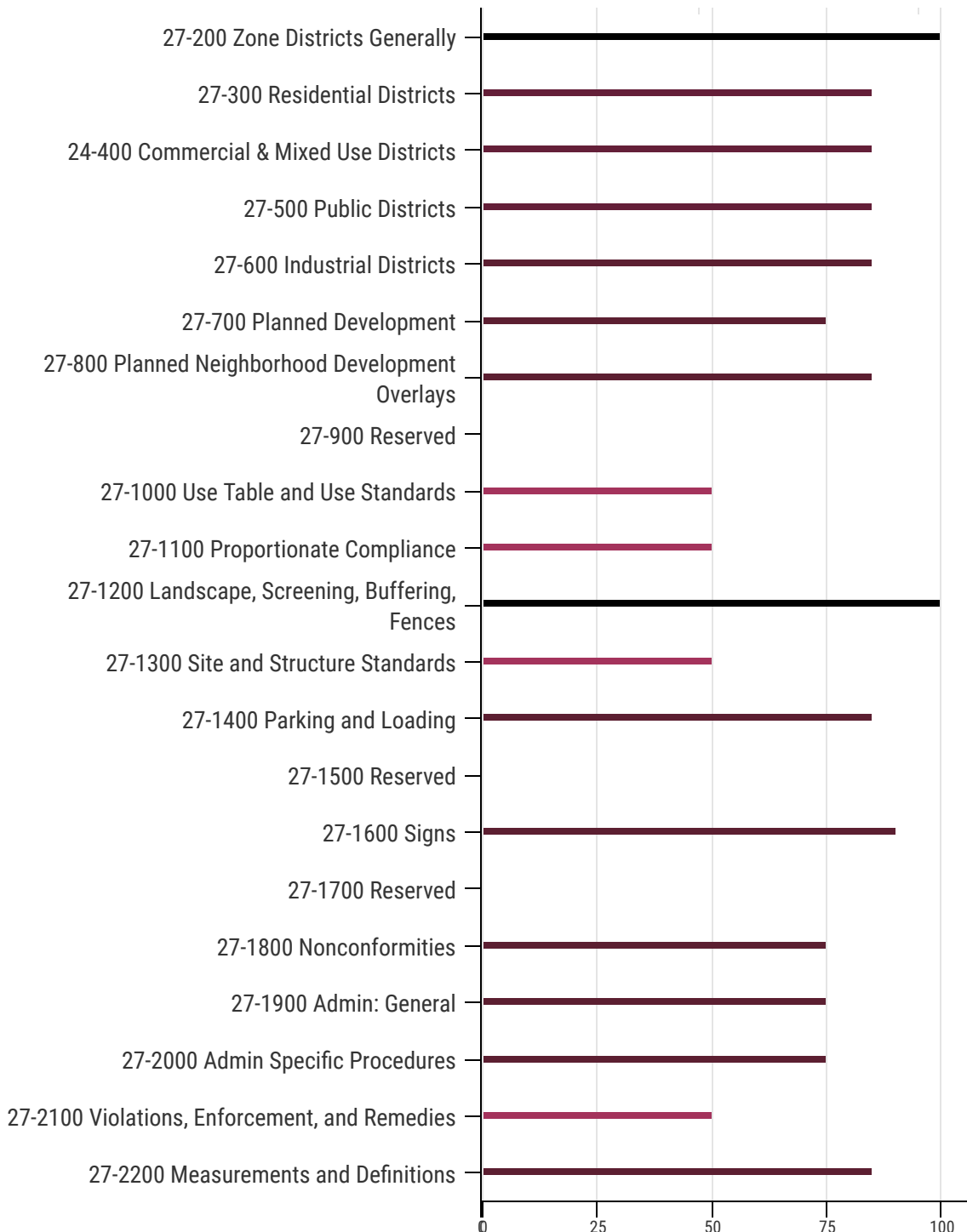
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# PROJECT RE:CODE PROGRESS REPORT

[WWW.PROJECT-RECODE.COM](http://WWW.PROJECT-RECODE.COM)

## CODE PROGRESS JANUARY 2020



**32 Volunteer** Steering Committee/Working Group Members



Over 2 years of effort with over **90 working group and public meetings**



**6,300+** volunteer hours since August 2017

## **PROJECT RECODE FAQs**

**Frequently Asked Questions (FAQs) from the Process** – As staff and the consultant team has heard from the community and developed the Project Re:Code website, questions and answers about the process were provided for the public <https://project-recode.com/faq-page>. In addition to the FAQs on the website, multiple presentations at neighborhood task force meetings and other public presentations also brought up other question. These questions and answers are all provided here for information and reference:

### **What is a zoning code?**

A zoning code is the set of that rules and standards that establish the basic, common requirements for property development on an individual lot. Zoning regulations establish the different types of development districts – called zone districts – such as neighborhood, mixed-use, commercial, or industrial, and identify appropriate standards for lot width, building placement, height of structures, and uses in those districts. Zoning codes can also include standards for the design and development of features such as parking lots, landscaping, and signs. You can review the City's [current zoning code](#) and the [County's current zoning code](#) at these links.

### **Why should Project Re:Code be important to me?**

Project Re:Code is our first chance in nearly a half-century to adopt modern regulations that meet the communities' stated goals and aspirations. From downtown to the rims and from the Yellowstone River to the small farms and ranches surrounding Billings, life is moving and changing. The City, County, and Lockwood have worked hard over the last few years to update the goals and objectives of their Growth Policies. Now it is time to give those new aspirations the right tools to achieve success.

Project Re:Code is a community-led project to modernize the local zoning standards for future development in the City and County. The current zoning regulations are becoming outdated in sections and can no longer stretch to guide development in many parts of the City and County. The current zone districts can be improved to better address infill and new development patterns. The current landscape regulations can be updated to require consistent planting of street trees. And the City's multiple sign codes can be consolidated to make them easier to understand and use. This project gives Billings and Yellowstone County residents an opportunity to provide their input into the standards that will guide the next twenty plus years of growth.

### **What Billings and Yellowstone County plans and policies guide this project?**

Both Billings and Yellowstone County did a great deal of planning work in preparation for Project Re:Code. You can find links to our plans and the general project background information at the City's Project ReCode website - <https://ci.billings.mt.us/2362/Background-Information>

### **How will Project Re:Code affect my property?**

The City and County are updating their zoning maps to apply the new zone districts. The current zoning is based upon use (mainly residential, commercial, or industrial) and

lot size. The proposed new zoning districts have been created to better reflect the existing character of Billings and Yellowstone County neighborhoods and the desired character for commercial areas, with more area-specific details like those included in the Shiloh Corridor Overlay District. Because the new zone districts are designed to provide better guidance about how development fits into the community, the translation between the old and new zoning districts may not be one to one and areas that are currently zoned in a single district may be rezoned into more than one district. You can look at any proposed changes to [your zone district](#).

Explore the fact sheet describing the [new neighborhood zone](#) districts or the fact sheet for [new mixed-use and commercial](#) districts.

### **How will Project Re:Code affect development projects in progress?**

There will be specific instructions in both the City and County zoning codes that address the transition between the old and new regulations. This section will identify how to proceed with pending applications, recent approvals, and properties with outstanding violations when the new regulations take effect.

### **What if my property becomes non-conforming?**

The new code is designed to address significant existing property non-conformities across the community. These existing legal nonconformities have made reinvestments in property, financing, sale or acquisition difficult for many years. Staff also has worked with property owners and through analysis of the current zoning map of the community to try to insure most properties will not be non-conforming with the new code. However, there are some changes in use allowances in some zoning districts, like gambling and alcohol sales, that will result in non-conformity. This is an effort to gradually shift where certain uses are allowed in neighborhoods. In addition, the code will have “settling in” period where errors in mapping or zone district placement can be reviewed and adjusted.

### **What are the names and regulations for zone codes, both for neighborhoods and businesses?**

- A Agricultural (County Only)
- N1 First Neighborhood Residential
- N2 Mid-Century Neighborhood
- N3 Suburban Neighborhood
- N4 Suburban Rural Neighborhood (County Only)
- RR Rural Residential (County Only)
- NX1 First Neighborhood Mixed Residential (usually 1 to 4 family homes)
- NX2 Neighborhood Mix, more intense than NX1 (duplexes up to 8 unit apartments)
- NX3 Neighborhood Mix, apartment blocks (larger (>8 units) apartment buildings and complexes)
- RMH Residential Manufactured Home
- NO Neighborhood Office
- NMU Neighborhood Mixed-use
- CMU1 Corridor Mixed-Use

|          |   |
|----------|---|
| CMU2     | Corridor Mixed-Use                      |
| CX       | Heavy Commercial                        |
| C3       | Heavy Commercial (County only)          |
| DX       | Downtown Support                        |
| CBD      | Downtown Core                           |
| I1       | Controlled Industrial                   |
| I2       | Heavy Industrial                        |
| P1       | Parks & Open Space                      |
| P2       | Civic Buildings (includes airport)      |
| P3       | Institutions & Campuses                 |
| EB-RSV   | Rail Spur Village District              |
| EB-MSRSV | Rail Spur Village Main Streets District |
| EB-CW    | Central Works District.                 |
| EB-13    | North 13th Street Main Street District  |
| EB-IS    | Industrial Sanctuary District           |

Here is a link to the [draft zoning code](#) on line. Planning can provide a limited number of copies of the new Use Table and District Descriptions.

**What is the reasoning behind getting rid of uniform zoning neighborhoods to have a variety of zoning in one neighborhood?**

The 2016 City of Billings Growth Policy update adopted several goals and objectives for new neighborhoods. The growth policy has seven major focus areas: Community Fabric, Essential Investments, Prosperity, Strong Neighborhoods, Home Base and Mobility & Access. Here is a link to the [Growth Policy](#) on line. Project Recode is not “getting rid of uniform zoning” in neighborhoods. We are following the growth goals of the city by making certain there is a reasonable selection of housing choices in all parts of the city (Home Base), ensuring everyday services are close to where people live (Strong Neighborhoods, Mobility and Access & Prosperity) and not creating barriers to affordable and fair housing through zoning rules (Strong Neighborhoods & Home Base). This requires a better balance of zone districts and a closer attention to detail when new neighborhoods are planned and built. There will still be neighborhoods where a majority of the new area has the same zoning designation but we hope to build stronger neighborhoods with choices available for all types of housing.

**Have any changes been made to how roads are improved in the development process?**

Zoning rules determine how private property is used and not necessarily on building infrastructure to serve new development. Part of the development process also involves subdivision of the land and construction of new or improved roads. The subdivision process is separate and distinct from zoning. We are considering a new zoning requirement called a Planned Neighborhood Development zone (PND). This would apply to land within the limits of annexation and will require improved street layouts and finer details on zoning. The challenge on Billings West End – and other parts of the community that are growing outward – is the checkerboard nature of authority over existing roads. In a perfect world, the city would only annex property by increments that

are directly adjacent to existing city limits. This is not the case on Billings West End where the city “leaped” well past the city limits in the early 2000s. Since that time, the increased urban traffic on county road sections has exacerbated the deterioration of these roads. The city has no authority to repair or improve these county roads but many city residents rely on them for their daily commutes into work, school, shopping trips or appointments. Until property owners petition to annex to the city, these road will remain the responsibility of the county.

### **What are the regulations for casinos in the new zoning?**

Staff and the consultant team are finalizing a draft of the new regulations on where alcohol licenses and gaming can be allowed in the new zone districts. The stakeholders – the task forces and the business owners - will be receiving a copy of this draft in the near future. Staff believes the draft is responsive to the needs of residents and business owners.

### **What is the status of special reviews? When are they allowed if at all?**

Special Reviews will still be part of the zoning rules for Billings and Yellowstone County. Many of the same uses that require special review will continue to require a special review. For example, churches or large day care facilities will require special review in the Neighborhood zones. Special review will also continue to be required for some alcohol and gaming locations as well.

### **What are the rules for notifications and separations?**

Staff and the consultants are still finalizing a draft of the general and special procedures for zoning applications. Separation distances will be included for the alcohol and gaming uses.

### **How will the county and city work together in regards to zone changes that are planning on annexing?**

The PND zone district – still being finalized – will be the primary way new neighborhoods are planned and zoned within the 5-year limits of annexation. The zone district will allow an owner to choose one (or more if the property is large enough) PND type – Mixed Use, Mixed Residential or Neighborhood. We also are writing a Town Center PND type primarily for use in Lockwood. The PND zone will require a Site Plan to be approved showing the new zone districts (see the list above) and the basic street layout. The PND zone would be required in the 5-year limits of annexation area if the new development will be requesting annexation. It would be a zone change on the property and would go a similar process to a standard zone change.

# Project Re:Code

## Billings | Yellowstone County

**Mission Statement – To create a zoning code that allows for efficient and intelligent growth while meeting the goals of the community today and into tomorrow. As the Steering Committee, working groups, City & County staff review, revise and draft new zoning regulations, we will adhere to the following Guiding Principles:**

- **CLARIFY AND SIMPLIFY** - All new regulations will be written in Plain English to maximize readers' ability to find what they need, understand what they find, and use what they find to meet their needs.
- **REGULATE WHAT MATTERS** - The regulations will have a clear alignment with community goals today while allowing for changing goals in the future.
- **PRESERVE AND PROTECT THE RIGHTS OF OWNERS AND RESIDENTS** - The regulations will recognize and incorporate clear and well defined processes that uphold property rights and access to housing choices.
- **PREVENT CONFLICTS** - The regulations will be internally consistent and will not create direct or un-reconcilable conflicts.
- **OPTIONS AND CONTEXT** - The regulations will provide a range of site development options with clear criteria and guidelines for allowing alternatives to future development as well as changes to existing neighborhoods as the community's goals change.
- **MAINTAIN WHAT WE CARE ABOUT** - The regulations will encourage stability of existing neighborhoods while allowing for changes over time.
- **FILL THE VOID** – The regulations will consider and include land uses and combinations of land uses that have been overlooked or not considered in the current code and methods for accommodating new use options.
- **PROSPERITY** – The regulations will serve to support the community's need and desire to remain regionally competitive in the recruitment of businesses, expansion of existing business, and private investment in the economy, all to promote job creation.

# Mixed-Use Zoning

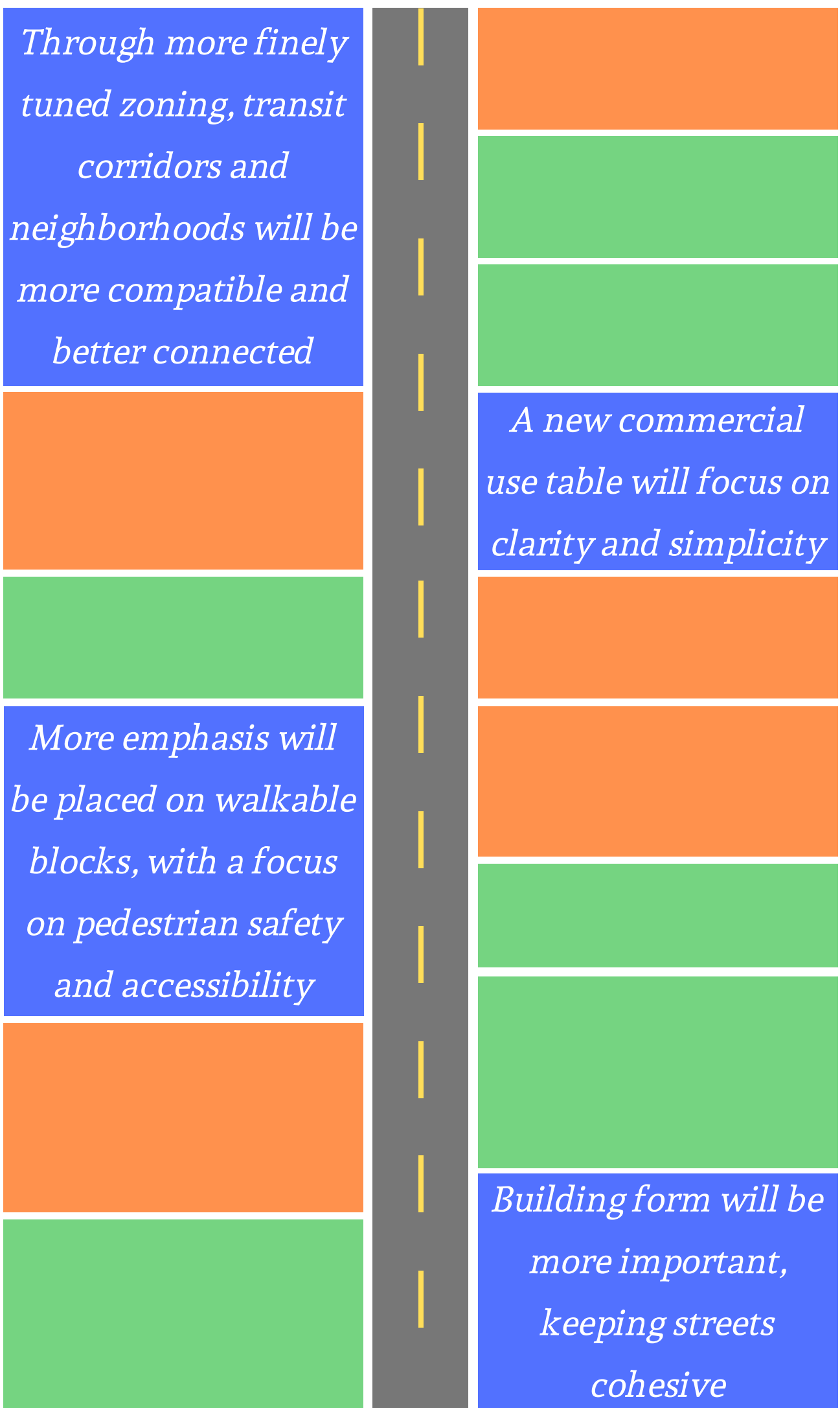
## More Than Just Commercial Uses

### DOWNTOWN ZONES

**CBD - Central Business District**  
*Mix of uses with walkable corridors; storefronts on ground story and upper story residential, lodging, and office uses*

**DX - Downtown Support**  
*Acts as a support zone to the CBD, with higher intensity office and residential uses surrounding the CBD*

### STRONG CORRIDORS



### NEIGHBORHOOD ZONES

**NMU - Neighborhood Mixed Use**  
*Accommodates a mix of commercial, residential, and office uses at a neighborhood scale while remaining highly walkable and accessible to pedestrians*

**NO - Neighborhood Office**  
*Accommodates office and office/residential uses along neighborhood corridors where other commercial uses would be inappropriate; walkable and at a neighborhood scale*

### COMMERCIAL ZONES

**CX - Heavy Commercial**  
*Allows heavy commercial, wholesale, warehouse-distribution facilities, and contractor commercial uses; intended to be separate from residential and walkable mixed-use areas*

**C3 - General Commercial**  
*Allows a wide mix of commercial uses directed at consumers and along transportation corridors with basic requirements; zone is intended for mainly county use*

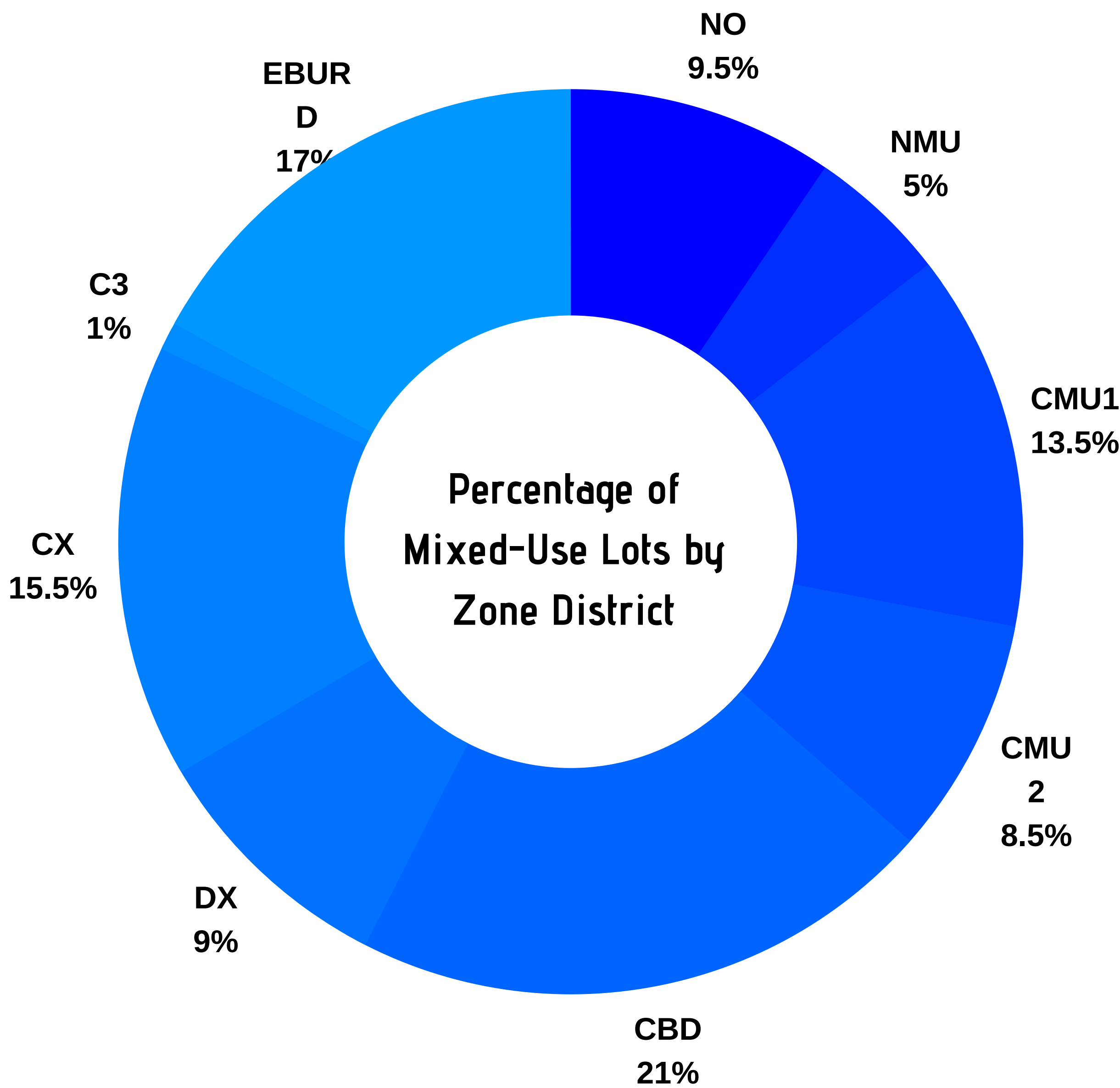
### CORRIDOR ZONES

**CMU1 - Corridor Mixed-Use 1**  
*Appears on shallower lots along major transportation corridors with accessibility via all modes of transportation; ground stories for commercial uses while upper stories can be mixed*

**CMU2 - Corridor Mixed-Use 2**  
*Similar to CMU1 except on larger lots meant to accommodate multiple buildings and larger-scale commercial buildings*

### EXPANDED ZONES

- **CBD** remains as is
- **DX** = CC surrounding CBD
- **CMU1** = shallow lot CC
- **CMU2** = deep lot CC
- **NMU** = NC
- **NO** = RP
- **CX** = heavier commercial CC
- **EBURD** remains as is



### BEYOND "N" DISTRICTS

- New mixed-use zones will make it easier to allow both housing and commercial uses
- Dwelling units above or behind commercial uses of mixed-use zones can increase housing stock closer to where people work and shop