



Legislation Text

---

File #: ID-348-19, Version: 1

---

*Department of Community Development*

Reference: Land Use and Development Code Update

**To: Members of City Council**

**Through: Marv Falconburg, AICP, Acting City Manager**  
**Holly Prather, AICP, Community Development Director**

**Prepared By: Aja Tibbs, Long Range Planner**

**Date Prepared: November 6, 2019**

**PURPOSE**

To amend the Land Use and Development Code in order to better implement the *Be Brighton Comprehensive Plan* adopted in April of 2016.

**STRATEGIC FOCUS AREA**

Recognizable and Well-Planned Community

**BACKGROUND**

The overall approach of the regulation update is to:

- Clarify regulations that may be confusing or conflicting with other provisions;
- Simplify where development processes and regulations have become unnecessarily cumbersome or have become barriers to more effective plan implementation; and
- Improve where dated or routine regulatory techniques no longer match with the City's official policies and plans.

To assist staff in completing this major update to the code, the City has contracted with Gould Evans and their sub-consultant, Ayers Associates. The code update process began in the fall of 2017, and aspiring for completion by the end of 2019. The code amendment process consisted of three phases:

1. Diagnose: Identify conflicts and omissions with the current regulations, as well as connections needed between the Comprehensive Plan and other master plans of the city.
2. Align: A time to work through the issues identified during the diagnose phase by research and case study of each topic. A code framework will be completed to address where new provisions will be created, which items will remain in their current form, and the standards that will be revised.
3. Launch: New codes and updates to the existing code will be drafted according to the developed framework. Drafts will go before the public, Planning Commission, and City Council for final approval.

**DIAGNOSE PHASE:**

The Diagnose Phase of the project included the consultant teams review of the City's Comprehensive Plan and other plans and policies, and a comparison of those documents with the current regulations. The Plan Conformance Report provides a summary of those findings. It is organized around the following major themes and sub-topics of the Comprehensive Plan that most affect development regulations.

- Active & Multi-Modal Transportation

- Connectivity
- Streetscapes
- Transit and Bicycle Networks
- Heritage & Identity
  - Vibrant Downtown
  - Productive Agriculture Lands
  - Historic Preservation
  - Gateways and Focal Points
- Sustainability
  - Resilient Infrastructure
  - Mixed-use Employment and Retail Centers
  - Housing Options and Walkable Neighborhoods
  - Open Space and Natural Environment

The findings of the Plan Conformance Report identifies strengths and weaknesses of the current regulations and begins to frame where code changes were needed to best implement the plan. This was discussed with the Advisory Committee and Technical Committee in February of 2019.

#### **ALIGN PHASE:**

The next step in the scope of work to be completed was the “Align” phase. While the Plan Conformance Report completed and diagnosed what may need to be changed in the code, the align phase was set up to engage stakeholders and the broader community to discuss strategies and options prior to creating an initial draft. This process allowed staff to begin translating some of the policies and strategies of the Comprehensive Plan into design and procedure strategies for the draft code.

The “Align” phase included several internal and external facing events and meetings. A public open house, also known as the Development Collaborative, was held on June 4, 2019, which invited all known developers, applicants, and the general public to study the key topics and gather feedback. Additionally, seven case studies were developed, which evaluated how places most similar to Brighton’s vision are using unique street patterns, building forms and open space systems. A Metro Innovation Tour was attended by members of the Technical Committee and the Planning Commission on June 10, 2018 which studied three model neighborhoods. The tour allowed participants to experience three of the model projects in person and discuss topics as a group. Additionally, the studies were posted online for the public and other interested individuals.

Engagement activities such as the open house, metro tour, and case studies focused on the following key topics:

- Public Realm Design
  - Connectivity - Large Scale (Transportation Master Plan and Parks and Trails Master Plan implementation)
  - Connectivity - Area / Project Scale (Local Street Networks and Open Space Systems)
  - Streetscape Design / Types
  - Open Space Design / Types
- Housing & Neighborhoods
  - “Missing Middle” Housing (small scale, multi-unit, and higher density building types)
  - Accessory Dwelling Units
  - Neighborhood Design
  - Density Strategies (Where?, How?, Why?)
- Downtown
  - Sub-districts - Core, Edges, and Neighborhood Transitions
  - Public Realm Framework - Local Street Network, Street Types and Open Spaces
  - Building Form and Scale
  - Uses

The results of this engagement included a greater understanding of appropriate and preferred regulatory approaches to the above major themes, which were then framed in a Draft Framework of the new development code - an annotated table of contents that allowed us to begin to draft regulations.

### **LAUNCH PHASE:**

The last and final phase of the code update is the Launch Phase. In this phase, the team worked through several rough and initial drafts of each article. Meetings were held with legal counsel and the Advisory and Technical Committees as policies and procedures were ironed out. The final internal draft included a month-long review by both the Technical and Advisory Committee members of all new eleven articles.

Using comments from internal staff and committee members, the consultant then prepared a Public Draft which was posted on the website and advertised for review from August 15 to September 15, 2019. The draft was additionally sent for review to all external review agencies such as surrounding jurisdictions, transportation agencies, districts, and other interested development stakeholders. Additionally, the public draft was presented to the Planning Commission and City Council at a joint Study Session on August 13, and at the public open house on August 14. Finally, staff encouraged as many people as possible to participate through social media, email, and the city website. Below is synopsis of the comments received during the public comment period and how those specific items have been addressed in the final Adoption Draft.

### **Joint Study Session Comments on the Public Draft:**

#### **Scope of the Land Use and Development Code:**

The *Land Use and Development Code* is one of the tools used to implement the *Be Brighton Comprehensive Plan*. It does so by setting specific standards for land use and the built environment which aim to meet the goals and policies of the plan. Land use codes are adopted as a part of the Municipal Code, and therefore become local law upon approval. The standards need to be thorough and detailed enough for enforcement and application review, but overly technical aspects such as sizing of infrastructure and planting details are better served in a separate document. Specifics that easily or quickly change special programs or city services are also better left out of the regulations so that they can be adjusted when funded/needed. With the exception of the new affordable housing regulations, the draft code does not propose to modify the scope beyond the subject matter regulated in the current code.

#### **Subdivision and Phasing of Improvements:**

Under the proposed code all phasing and improvements will be determined through a Subdivision Plan. At that application, the applicant will provide the city with studies of the impacts of the proposed development so that staff may review those impacts and require the improvements be constructed by a certain time. The extent of the improvements and the timeline of those improvements would be included in the Subdivision Plan that will be reviewed at a public hearing by the Planning Commission and accepted by the City Council.

#### **Accessory Dwelling Units (ADU's):**

Accessory dwellings will be allowed as an accessory use to a primary residence. Standards for this use have been drafted to limit the number, location, size/scale, and impacts to the new use within existing neighborhoods.

#### **Affordable Housing:**

Affordable housing is a broad issue that can't be entirely addressed with the draft code. However, there are two areas where the proposed code most impacts the matter. First, the code was drafted to encourage a broader spectrum of housing styles and types. Generally, diversifying housing and allowing more options to convert existing residences help increase the number of units available to varying incomes. Second, the neighborhood design standards allow the Planning Commission and City Council to incentivize projects which contain a minimum of 15% affordable units. The standards provide examples of possible incentives, however the details outlining the level of affordability, and the manner in which the units will be constructed and/or restricted would require a separate agreement to address market conditions

and needs at the time of development.

Impacts to Local Business:

Brighton businesses are most directly impacted by the *Land Use and Development Code* if constructing a new location, or retrofitting/moving to an existing one. In these instances, the proposed regulations seek to eliminate confusion and create requirements where they are most important - in the public realm. Land use and development regulations will always have impacts and costs to local business, but the proposed code aims to simplify processes, take less time, and clarify the needs of the community. The development requirements seek a balance between the interests of both those whom work *and* live in Brighton.

Public Notice Procedures:

The draft code requires public hearings for annexation, subdivision plan, zoning, planned development, conditional use, variance, code amendment, and appeal applications. The procedure for public notice for all of these applications is now the same (special applications such as oil and gas are excepted). The public draft has been modified to make a few minor adjustments based on the comments received. First, published notice may include notice in the newspaper or the city website. Second, provisions have been added to the notice mailings to extend notice from 300' to 1000' if the projects is surrounded by large properties or include a large area which may impact a larger number of surrounding properties.

Public Open House:

An open house was held for the community on August 14, 2019. Staff and the consultant team focused on five main themes to demonstrate how the draft code was aligning with the vision and goals of the *Be Brighton Comprehensive Plan*. Discussions held with attendees in response to the information displayed covered the following topics:

- What the *Land Use and Development Code* is and what it does
- How the new standards would impact a specific development project
- Desire to see options for more dense single family development by allowing smaller lot sizes and reduced setbacks beyond the reductions already proposed
- Code enforcement of land use code violations
- Transportation topics that are independent of the *Land Use and Development Code*
  - Desire to see Bus Rapid Transit (BRT) to Boulder, and road improvements without adjacent or related development

All attendees were encouraged to view the draft code and submit formal comments in response to the discussion and information provided at the open house.

Public Comment Form Submittals:

Staff received public comments from nine individuals during the public draft review comment period. Two of the comments were from adjacent jurisdictions and required minor corrections or notes to the proposed drafts. One was a special interest comment suggesting that we broaden the accessible housing regulations to consider visitable or universal design options. The remaining six were submitted from residential development interests. Generally, the comments discussed and received were regarding the following topics:

- Compact city lots for detached homes should be more compact: lots should be smaller than 3,000 SF and setbacks should be reduced more than proposed.
- Front forward garages should be allowed on all size lots (including compact lots), and driveway limitations should be removed on smaller compact lots (more auto-focused design rather than pedestrian focused design).
- The affordable housing requirement for projects with more than 200 units should be removed. It is too vague and needs additional information.
- Information regarding the transition of existing applications and approved application types which are going to be removed from the code should be clarified and outlined.

- A market study needs to be completed so that the code can be modified to fit the current housing market and pricing needs of development costs.
- Miniature goats should be permitted in single family detached residential lots.

A summary of these issues was presented and discussed with the Planning Commission and City Council at a joint study session held on September 24, 2019. Some of the comments were resolved with revisions or by pulling the issue from the proposed draft. Other requests were found to be contradictory to the comprehensive plan goals, and intent of the Land Use and Development Code, and were not revised or removed from the draft. In addition to meeting with the Planning Commission and City Council, staff and the consultant met with the development parties to walk through the issues and discuss possible ways to address their concerns. A detailed summary of the issues and responses/action items has been drafted to document the conversations, and has been attached for reference. The attached document also summarizes what comments effected change between the public and public hearing drafts.

### **SUMMARY OF PROPOSED CODE:**

Resulting from the three-phased approach, a Public Hearing Draft of the *Land Use and Development Code* has now been formulated and is prepared for consideration. The reorganization of the document does not practically allow for staff to provide a redlined draft between the existing and proposed codes. Therefore, a general summary of the public hearing draft has been provided for reference. A link to the full copy of the public hearing draft has additionally been provided for your review. Lastly, a section map has been attached which tracks where the current code sections have been moved into the proposed draft.

#### Article 1. General Provisions:

- Consolidated purposes and intent from all other sections of the code. Simplified and reduced redundancies.
- Clarified interpretation and calculations. Added provisions where clarity was needed.
- Defined boards and commissions related to land use decisions. Referenced and clarified according to Municipal Code Chapter 2. Minor amendment may go before the City Council to coordinate format. No change in general powers or duties of any board or commission is proposed with this amendment.
- Clarified and coordinated land use code enforcement procedures with the Municipal Code. No changes proposed.
- Clarified nonconforming regulations. Added regulations regarding non-conforming site conditions, and moved non-conforming sign regulations. Added provisions regarding benign non-conformances.

#### Article 2. Applications & Procedures:

- Consolidated and clarified all procedures.
- Modified subdivision process to eliminate a preliminary plat, create a subdivision plan, and alter the requirements and procedure for a final plat.
- Shifted authority of conditional uses to the Planning Commission instead of the City Council. Council has authority to appeal decision of the Planning Commission.
- Replace PUD provisions with Planned Development procedures.
- Removed procedures for special use applications which are no longer used.
- Clarified vesting procedures to be more consistent with rights vested by state statute. Removed vesting rights for conceptual level plans and added approval periods.
- Consolidated and clarified site plan review procedures. Clarified existing procedures for site improvement permits.

#### Article 3. Subdivision Standards:

- Consolidated provisions from previous subdivision and residential design standards.
- Expanded upon street section and street design requirements.
- Added the active transportation guide in response to the goals and policies adopted in the Transportation Master Plan and the Be Brighton Comprehensive Plan.
- Added provisions on traffic calming and street network requirements.
- Clarified open space requirements and created a weighted dedication table to place higher value on more

valuable open spaces.

- Created types of open spaces to provide criteria, design styles, and broaden the types of open spaces that are acceptable.
- Scaled lot open space to remove impediment for more dense and missing middle housing products.
- Clarified and added provisions on the layout of blocks and lots. Specified connectivity needs and integrations with street standards.
- Added provisions regarding required improvements for development and reservations and dedications of land. Strengthened provisions to reduce the need for a subdivision development agreement. All improvements are now required by code, and agreements will only be necessary in cases of reimbursement, oversized improvements, and/or community benefit incentives. Improvements and phasing of improvements will now be reviewed and determined by a subdivision plan.
- Added a provision for the reservation of land and allowance of a contingency subdivision plan for the area if the land is not transferred or negotiated for the public use.

#### Article 4. Zoning Districts & Uses:

- Reorganized and converted performance standards into use specific standards. Added or clarified some use specific standards to update current practices and policies.
- Removed special uses to be consistent with revised procedures.
- Moved special purpose and overlay districts for consolidation purposes. Reformatted only as necessary for new layout.
- Moved and clarified nuisance/performance standards.
- Edited list of uses and adjusted to scale, uses more appropriately to the zone districts in which they are permitted. Consolidated some uses as appropriate for scale and use type.

#### Article 5. Neighborhood Design Standards:

- Modified building design standards for emphasis on public realm. Removed restrictions on floor plan variation.
- Expanded building type and building form to provide variation for market styles and preferences. Added missing middle building types and forms.
- Graphics added to clarify the intent and preference of design items in the public realm.
- Driveway and garage orientation expanded upon. Options clarified, but also limited to require better mixing of shared drives and detached or alley-loaded product.
- Conservation pattern added to further goals of the district plan and other areas ideal for land preservation.
- Manufactured and small-format housing district regulations were added and expanded upon new market housing types (single family detached residential units for lease - such as Avilla).
- Community benefits incentives section has been added to provide more opportunity for affordable, attainable and accessible housing.

#### Article 6. Non-Residential Design Standards:

- Combined Commercial and Industrial Design Standards into Non-Residential Design Standards.
- Developed buildings types to clarify regulations, folded in mixed-use regulations where applicable.
- Added on-site open space design criteria and requirements.
- Shifted design requirements to focus on the public realm.
- Added a section to address downtown and outline frontages within the district.
- Simplified the South 4<sup>th</sup> Ave Overlay District (a majority of these regulations have been incorporated throughout the draft code).

#### Article 7. Access & Parking Standards:

- Reformatted and clarified access and driveway requirements.
- Aligned automobile parking requirements with the use table adjustments.
- Automobile parking requirements were updated to more current practices and needs (reduced for medium- and high-density residential uses).
- Added maximum parking requirements and parking mitigation requirements.
- Added parking reductions.

- Added bicycle parking requirements.
- Reformatted parking design standards to align with Articles 6 & 7.
- Added an allowance for an Alternate Parking & Access Plan.

Article 8. Landscape & Site Design Standards:

- Reformatted landscape design standards to align with Articles 6 & 7.
- Further defined buffer types, requirements, and design standards.
- Requiring xeric and water conservation methods in all landscape plans.
- Reformatted fencing/wall and lighting requirements.

Article 9. Sign Standards:

- Reformatted to fit new code style. Non-conforming sign regulations moved to Article 1.
- Clarified and made minor corrections to recently adopted provisions (under previous amendment).

Article 10. Supplemental Standards:

- Oil & Gas Facilities - Reformatted to fit new code style. Minor corrections and edits made.
- FC - Flood Control Overview - Minor edits made and section updated to reflect current practices and state regulations.
- Historic Preservation - Reformatted to fit new code style. No other revisions made.
- Wireless Communications Facilities - Reformatted to fit new code style. No other revisions made.

Article 11. Definitions:

- Definition divided into Description of Uses, Glossary of Architecture & Design Terms, and Definitions.

Appendices (may be modified with Director approval):

- Appendix A - Resources, Guides & Industry Standards
- Appendix B - Official Interpretations
- Appendix C - Code Amendments Log

**CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM**

The *Be Brighton Comprehensive Plan* provides guidance and direction regarding the needs and purpose of the *Land Use and Development Code*. As previously reported, the proposed code amendments are rooted and grown from the Comprehensive Plan through the Plan Conformation Report; a process that not only ensures compliance with the plan, but results in significant progress in accomplishing the goals and policies of the plan. Overall, the adoption of the proposed draft will either complete or further twenty-six of the seventy-one Comprehensive Plan “Key Strategies” of Chapter 4 as listed below;

Principle 1: Key Strategies for Managing Growth; 1.1, 1.2, 1.5, and 1.6

Principle 2: Key Strategies for The Freestanding City; 2.3, 2.6, and 2.7

Principle 3: Key Strategies for Open Space & Natural Environment; 3.3, 3.4, 3.5, 3.8, and 3.9

Principle 4: Key Strategies for Multimodal Development; 4.3, 4.4, and 4.7

Principle 6: Key Strategies for Distinctive Neighborhoods; 6.1, 6.2, 6.5, 6.8, and 6.9

Principle 7: Key Strategies for Community Design; 7.1, 7.2, 7.4, 7.5, and 7.6

Principle 8: Key Strategies for Redevelopment; 8.1

Additionally, the proposed draft opens up many of the mixed-use and infill needs identified in opportunity areas throughout Chapter 3 of the plan.

In summary, staff finds the proposed code draft to be necessary in order to fulfill the goals and policies of the *Be Brighton Comprehensive Plan*, and will assist staff if guiding future development to better meet their vision for the community.

### **PUBLIC NOTICE AND INQUIRY**

Public notice of the City Council public hearing was published in the *Brighton Standard Blade* for not less than 15 days before the City Council meeting (published October 23, 2019).

### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission held a public hearing and reviewed the request on October 10, 2019. Following the public hearing, the Planning Commission made a recommendation of approval to the City Council via Resolution 19-08.

### **STAFF RECOMMENDATION**

Staff finds the proposed draft to be necessary in order to fulfill the goals and policies of the Be Brighton Comprehensive Plan, and as such, recommends that the City Council approve the draft as proposed.

A draft ordinance has been provided to the Council should it decide to proceed with the code amendment as presented.

### **OPTIONS FOR COUNCIL CONSIDERATION**

The City Council has four options when reviewing this amendment. City Council may:

1. Approve the Ordinance on first reading as drafted;
2. Approve the Ordinance on first reading with specific changes;
3. Deny the Ordinance as drafted with specific findings to justify the denial; or
4. Continue the item to be heard at a later, specified date.

### **ATTACHMENTS**

- Link to the Land Use and Development Code Public Hearing Draft
- Ordinance (Draft w/out Exhibit)
- Presentation Slides
- Planning Commission Resolution (w/out Exhibit)
- Plan Conformance Report
- Section Map
- Summary of Public Comment Changes