



ORDINANCE 2111

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA TO CREATE 38.320.070, DEPARTURES FOR HOUSING CREATION, ESTABLISHING A NEW METHOD OF DEPARTURES TO AUTHORIZE ADDITIONAL FLEXIBILITY IN THE ADMINISTRATION OF SPECIFIED RESIDENTIAL STANDARDS, AMENDING 38.700.100, I DEFINITIONS, AMENDING 38.700.120, M DEFINITIONS, AND PROVIDING AN EFFECTIVE DATE, APPLICATION 22133.

WHEREAS, the City of Bozeman (the “City”) has adopted land development and use standards to protect public health, safety and welfare and otherwise execute the purposes of Montana Code Annotated §§ 76-1-102, 76-2-304, 76-3-102, and 76-3-501; and

WHEREAS, after proper notice, the Community Development Board in their capacity as Bozeman Zoning Commission held a public hearing on May 16, 2022 to receive and review all written and oral testimony on the proposed amendments; and

WHEREAS, the Community Development Board acting in their capacity as the Bozeman Zoning Commission recommended to the Bozeman City Commission that application No. 22133, be approved as proposed; and

WHEREAS, after proper notice, the City Commission held its public hearing on June 7, 2022, to receive and review all written and oral testimony on the proposed amendment to the subdivision regulations; and

WHEREAS, the City Commission has reviewed and considered the applicable amendment criteria established in Montana Code Annotated § 76-2-304, and found that the proposed amendments are in compliance with the criteria.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA:

Section 1

Legislative Findings

The City Commission hereby makes the following findings in support of adoption of this Ordinance:

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1. The City has adopted land development and use standards to protect public health, safety and welfare and otherwise execute the purposes of Montana Code Annotated §§ 76-1-102, 76-2-304, 76-3-102, and 76-3-501.

2. The City adopted a growth policy, the Bozeman Community Plan 2020 (BCP 2020), by Resolution 5133 to establish policies for development of the community which policies include support for infill and redevelopment, increased density of homes, and housing diversity.

3. Zoning and subdivision regulations must be in accordance with the adopted growth policy; and the growth policy encourages development of standards to encourage infill development and incremental increases in residential density in existing developed areas.

4. The City accepted as a basis for housing implementation actions an amended Community Housing Action Plan by Resolution 5143.

5. The City undertook a public process to review and consider possible revisions to the City zoning regulations with the intent to remove potential barriers and to encourage creation of additional housing and especially housing which accomplishes community aspirations identified in the growth policy and the Community Housing Action Plan.

6. The City Commission conducted a work session on March 1, 2022 to receive public comment, consider alternative options, and provide direction to staff during which work session they directed preparation of amendments in the form of those included with this ordinance.

7. A staff report analyzing the required criteria for an amendment to the City's regulations for zoning review, including the amendment's accordance with the BCP 2020, and has found that the required criteria of Montana Code Annotated § 76-1-304 are satisfied.

8. The necessary public hearings were advertised as required in state law and municipal code and all persons have had opportunity to review the applicable materials and provide comment.

9. The City Commission considered the application materials, staff analysis and report, recommendation of the Community Development Board acting in their capacity as the municipal Zoning Commission, all submitted public comment, and all other relevant information.

10. The City Commission determines that, as set forth in the staff report and incorporating the staff findings as part of the decision, the required criteria for approval of this ordinance are satisfied.

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11. The City Commission determines that the ordinance provides a proper balance of interests, rights, and responsibilities of all parties affected by the ordinance.

Section 2

That Section 38.320.070, Departures for Housing Creation, of the Bozeman Municipal Code be created to read as follows:

38.320.070, Departures for Housing Creation

- A. Intent. The intent of this provision is to allow minor departures from existing residential development standards when the review authority determines that the departure will reduce the cost of production of and an increase production of housing while maintaining consistency with the City's adopted growth policy and purposes of this chapter. These departures are especially applicable to infill sites as defined in 38.700.100 and missing middle housing as defined in 38.700.120.
- B. Applicability. The review authority may approve departures from residential development standards as identified in Table 38.320.070 if the review authority determines that the criteria in Subsection C below have been met. Approval of a departure authorizes development with a different standard than is otherwise required by this chapter.

Table 38.320.070

Ordinance Standard	Amount of Departure Permitted from Standard
All Types of Residential Dwellings	
Maximum or minimum building setbacks	10% Reduction from minimum setback requirements of Division 38.320, (which may be limited by other standards or may have impacts on construction costs); Does not apply to watercourse or floodplain setbacks.
Maximum building height	5 feet above the maximum applicable limit in Division 38.320
Maximum lot coverage	10% above the maximum applicable limit in Division 38.320
Parking requirements for single or multi-household dwellings with 2 or more bedrooms	2 parking spaces per dwelling, without regard to number of bedrooms in each dwelling for, not less than one and up to 5 dwellings or 20% of dwellings, in a development whichever is more.
Parking requirements for multi-household dwellings with one or fewer bedrooms	1 parking space per dwelling for any efficiency or one-bedroom unit for, not less than one and up to 5 dwellings or 20% of dwellings, in a development whichever is more.
Townhouse or Rowhouse Dwellings	
Useable open space (38.360.220)	Reduction of up to 20% in required dimension, or area, or both of per-unit useable open space.

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Multi-household Residential (5+ units)	
Useable open space (38.520.060)	20% reduction for any new development within one-quarter mile pedestrian travel distance of an existing park.
Accessory Dwelling Units (ADU)	
Lot size	ADUs may be permitted on any lot in a district where ADUs are an allowed use that meets the lot size requirement for the principal structure and all other standards in the zone district in which the lot is located (except for lots under 3,000 sq. ft. in area or lots containing attached townhomes), without the requirement for 1,000 square feet of additional lot area.
Minimum Lot Width	A reduction of not more than 10 feet to the numerically specified minimum residential lot width in Division 38.320.
Number permitted	Up to 1 internal and 1 detached ADU per lot
ADU size	Minimum size is allowed to be above 600 feet up to a maximum size of 60% of gross floor area of primary dwelling unit; or If the ADU is above a garage: Equal to footprint of main floor of garage; or If the ADU is in an attic or basement: Equal to footprint of main floor of the primary dwelling.

- C. Criteria. To approve departures 2, the review authority must determine that criteria 1 and 2; and at least one of criteria 3-5 are met:
1. The departure will result in at least one more home than would otherwise be possible; and
 2. The purpose of the standard can still be accomplished if the departure is granted; and
 3. The departure will not impose negative impacts on surrounding property; or
 4. The departure is applicable to missing middle housing; or
 5. The departure is applicable to an infill site.
- D. Procedure. The request for a departure must be submitted with the initial application for any development. Review times and processes are coordinated with the development application. These departures are not applicable to subdivision reviews.
- E. Appeals. A decision by the review authority to approve or deny a departure may not be appealed independently, but the decision regarding an application as a whole that includes a departure may be appealed pursuant to Division 38.250.

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Section 3

That Section 38.700.100, I Definitions, of the Bozeman Municipal Code be amended to include a new definition with the remainder of the section to remain as written:

Infill. The development or redevelopment of vacant, abandoned, or underutilized properties within or wholly surrounded by the City, and where water, sewer, streets, and fire protection have already been developed and are provided. Infill is development proposed or located within land that has been subdivided for at least 35 years.

Section 4

That Section 38.700.120, M Definitions, of the Bozeman Municipal Code be amended to include a new definition with the remainder of the section to remain as written:

Missing middle housing. A residential building containing two, three, or four dwellings in any configuration, as well as townhomes and cottage housing.

Section 5

Repealer.

All provisions of the ordinances of the City of Bozeman in conflict with the provisions of this ordinance are hereby repealed and all other provisions of the ordinances of the City of Bozeman not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 6

Savings Provision.

This ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this ordinance. All other provisions of the Bozeman Municipal Code not amended by this Ordinance shall remain in full force and effect.

Section 7

Severability.

That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Bozeman Municipal Code as a whole.

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Section 8

Codification.

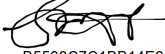
This Ordinance shall be codified as appropriate in Section 2 – 4.

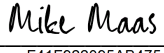
Section 9


Effective Date.

This ordinance shall be in full force and effect thirty (30) days after final adoption.

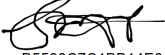
PROVISIONALLY ADOPTED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 7th day of June, 2022.

DocuSigned by:

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CYNTHIA L. ANDRUS
Mayor

ATTEST:
DocuSigned by:

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MIKE MAAS
City Clerk

DocuSigned by:


FINALLY PASSED, ADOPTED AND APPROVED by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the ²⁸ of June _____, 2022. The effective date of this ordinance is ^{July} _____, ²⁸ _____, 2022.

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CYNTHIA L. ANDRUS
Mayor

ATTEST:

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DocuSigned by:

Mike Maas

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MIKE MAAS

City Clerk



DocuSigned by:

DocuSigned by:

Greg Sullivan

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GREG SULLIVAN

City Attorney