



ORDINANCE 2104

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA TO REPEAL AND REPLACE DIVISION 38.430 PLANNED UNIT DEVELOPMENT, WITH ASSOCIATED CHANGES TO AUTHORIZED USES IN DIVISION 38.310 PERMITTED USES, AMEND 2.05.3000 ESTABLISHED – POWERS AND DUTIES, AMEND 38.200.010 REVIEW AUTHORITY, AMEND 38.200.100 BUILDING PERMIT REQUIREMENTS, TO REPEAL AND REPLACE 38.220.120 PLANNED UNIT DEVELOPMENT SUBMITTAL REQUIREMENTS, AMEND 38.220.420 NOTICE REQUIREMENTS FOR APPLICATION PROCESSING, AMEND 38.230.030 SPECIAL DEVELOPMENT PROPOSALS, AMEND 38.250.050 DEVIATIONS, AMEND 38.250.070 ZONING VARIANCES, AMEND 38.250.080 SUBDIVISION VARIANCES, AMEND 38.270.030 COMPLETION OF IMPROVEMENTS, AMEND 38.300.020 USE DISTRICTS DESIGNATED, ZONING MAP ADOPTED, AMEND 38.300.100.A RESIDENTIAL ZONING DISTRICTS, AMEND TABLE 38.310.030.B PERMITTED ACCESSORY AND NON-RESIDENTIAL USES IN RESIDENTIAL ZONING DISTRICTS, AMEND TABLE 38.310.040.E PERMITTED PUBLIC, REGIONAL, RECREATIONAL, CULTURAL AND ACCESSORY USES IN COMMERCIAL, MIXED-USE, AND INDUSTRIAL ZONING DISTRICTS, AMEND 38.350.030.D USE OF LANDS; BUILDINGS AND STRUCTURES, AMEND 38.350.050.D SETBACK AND HEIGHT ENCROACHMENTS, LIMITATIONS, AND EXCEPTIONS, AMEND TABLE 38.370.030 USES WITHIN DISTRICTS AND REQUIRED REVIEW PROCEDURES, AMEND 38.400.020 STREET AND ROAD DEDICATION, CREATE NEW DIVISION 38.440 LEGACY PLANNED UNIT DEVELOPMENTS, AMEND 38.550.050.M PLANNED UNIT DEVELOPMENT OPEN SPACES, AMEND 38.560.060.B SIGNS PERMITTED UPON THE ISSUANCE OF A SIGN PERMIT, AMEND 38.700.050 D DEFINITIONS, AMEND 38.700.080 G DEFINITIONS, AMEND 38.700.150 P DEFINITIONS, AMEND 38.310.060. SUPPLEMENTAL USE PROVISIONS FOR THE RESIDENTIAL EMPHASIS MIXED-USE ZONING DISTRICT, AMEND 38.330.020. REMU DISTRICT—SPECIAL STANDARDS AND ESTABLISH 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 Bozeman Zoning Commission held a public hearing on June 27, 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 those elements of application No. 22133 related to Planned Unit Developments, be approved with amendments addressing public benefits; and

WHEREAS, after proper notice, the City Commission held its public hearing on July 12, 2022, to receive and review all written and oral testimony on the proposed amendments; and

WHEREAS, the City Commission has reviewed and considered the applicable amendment criteria established in Montana Code Annotated §§ 76-2-304, 76-3-102 and 76-3-501 and found that the proposed amendments would be in compliance with the criteria; and

WHEREAS, the City Commission identified that an amendment to expand the scope of public benefits is appropriate and consistent with the initial intent of the ordinance and 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:

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.
3. Zoning and subdivision regulations must be in accordance with the adopted growth policy.

Ordinance No. 2104, Planned Unit Development Repeal and Replace

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.

7. A staff report analyzing the required criteria for an amendment to the City's regulations for zoning review, including accordance to the Bozeman Community Plan 2020, and required criteria for zoning regulations 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 their decision, the required criteria for approval of this ordinance have been satisfied.

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

12. The City Commission determines that the new approach for planned unit developments provides a superior outcome compared to the existing planned unit development regulations.

13. The City Commission determines that the proposed ordinance conforms to all Montana laws.

14. The City Commission determines that establishing planned unit developments as independent zoning districts provides flexibility for individual projects without jeopardizing predictability and uniformity to other zoning districts.

15. The City Commission determines that the public benefits required with a planned unit development as revised in the amendments provide a superior outcome for the public health, safety, and welfare compared to the prior alternatives for a planned unit development to demonstrate public benefit.

16. The City Commission determines that the flexibility offered with the planned development zone is proportionate to the public benefits required.

Section 2

That 2.05.3000 Established –Powers and duties, of the Bozeman Municipal Code be amended as follows:

Sec. 2.05.3000. Established—Powers and duties.

- A. The community development board established pursuant to Resolution No. 5330 shall act as the design review board for all purposes under this Code. The design review board (DRB) is established to evaluate aesthetic considerations of larger and more complex proposals which are likely to produce significant community impact and to provide recommendations regarding such proposals to the review authority, subject to the provisions of chapter 38.
- B. The DRB shall act as an advisory body to the review authority for:
 - 1. Development applications meeting one or more of the thresholds of section 38.230.040.C.;
 - 2. ~~Planned unit developments; and~~
 - 3. Appeals from ADR decisions.
- C. The DRB may ~~develop, and after adoption by the city commission,~~ apply specific guidelines adopted by the city commission related to such concerns as architectural appearance, landscape design and signage for the construction and/or alteration of structures, sites or areas;
- D. When proposals for reuse, change in use or further development of a site are located in the neighborhood conservation overlay district, review by the DRB may be required to determine whether resubmittal as a new application is necessary in accordance with section 38.230.160.;
- E. The DRB may be requested to review the following development projects within the neighborhood conservation overlay district: new construction, alterations to existing structures, movement of structures into or out of the neighborhood conservation overlay district, or demolition of structures by any means or process in accordance with 38.340.A.
- F. The DRB must review any tax abatement or other incentive programs being considered by the city commission that are designed to stimulate preservation and rehabilitation of structures and properties with the neighborhood conservation district, and to review any proposed action

or development utilizing these abatement or incentive programs in accordance with section 38.340.020.

Section 3

That 38.200.010, Review authority, of the Bozeman Municipal Code be amended as follows:

Sec. 38.200.010. Review authority.

- A. The city commission has the authority to review and require revisions to all development proposals subject to this chapter, and delegates that authority in certain circumstances as set forth below. The purpose of this review is to prevent demonstrable adverse impacts of the development upon public safety, health or general welfare, or to provide for its mitigation; to protect public investments in roads, drainage facilities, sewage facilities, water facilities, and other facilities; to conserve the value of adjoining buildings and/or property; to protect the character of the city; to protect the right of use of property; advance the purposes and standards of this chapter and the adopted growth policy; and to ensure that the applicable regulations of the city are upheld.
1. The city commission retains to itself under all circumstances the review of the following:
 - a. Subdivisions which do not qualify as a subdivision exemption per article 2 of this chapter;
 - b. Amendments to the text of this chapter or amendment to the zoning map including planned development zones per 38.430.090;
 - c. Requests for cash-in-lieu of parkland dedications, except:
 - (1) In the B-3 zone district; or
 - (2) When by resolution the city commission delegates decisions on cash-in-lieu for development for which it would not otherwise be the review authority.
 - d. Extensions of subdivision preliminary plat approvals for periods greater than two years;
 - ~~e. Planned unit development preliminary plans and major amendments to planned unit developments;~~
 - e.f. Appeals from administrative interpretations and final project review decisions;
 - f.g. Approval of preliminary park master plans when associated with a development for which the city commission is the review authority;
 - g.h. Large scale retail per section 38.360.160;
 - h.i. More than two deviations or where deviation is for more than 20 percent of standard.
 - i. Conditional use permits when no board of adjustment is established;

Ordinance No. 2104, Planned Unit Development Repeal and Replace

- ~~j. More than two deviations or where deviation is for more than 20 percent of standard.~~
2. The city commission conducts a public hearing for applications under 76-2-402, MCA.
- B. The community development director must, upon recommendation from the applicable advisory bodies approve, approve with conditions or deny all applications subject to this chapter except those listed below. ~~Decisions of the community development director are subject to the appeal provisions of division 38.250 of this chapter.~~
1. Projects excluded from community development director review:
 - a. Those applications specifically reserved to another approval authority as stated in this section;
 - b. Development of city property which does not conform to all standards of this chapter;
 - c. Any application involving variances from this chapter;
 2. Exception. The city commission may, by an affirmative, simple majority vote of its members at a regularly scheduled meeting reclaim to itself the final approval of a development application normally subject to the approval of the community development director. The vote must occur prior to the action of the community development director.
- C. When a board of adjustment has been appointed per section 2.05.2800, the board of adjustment must, upon recommendation from the applicable advisory bodies approve, approve with conditions or deny those applications specifically delegated to it by the city commission. Decisions of the BOA are subject to the appeal provisions of division 38.250 of this chapter.
1. Exception. The city commission may, by an affirmative vote of three of its members at a regularly scheduled meeting reclaim to itself the final approval of a development normally subject to the approval of the board of adjustment. The vote must occur prior to the action of the board of adjustment.
- D. The city engineer must review and upon recommendation from the applicable advisory bodies when as-needed approve, approve with conditions or deny the following site elements and processes:
1. The placement of private utility easements within public rights-of-way owned or controlled by the city;
 2. Specifications and modifications therefrom for paving of streets and parking areas;
 3. The waiver of required information per subparagraph 38.220.080.A.2.i(3);
 4. Requirement for a traffic impact analysis and determination of its contents per subparagraph 38.220.120.A.2.c(5);
 5. Site access and storm water for reuse and further development per section 38.230.160.B;

Ordinance No. 2104, Planned Unit Development Repeal and Replace

6. Modifications in required completion time for subdivision improvements per subparagraph 38.270.030.B.1;
7. The use of a financial guarantee for paving of streets per paragraph 38.270.060.C;
- ~~2. Location of storm water facilities within neighborhood centers per section 38.410.020;~~
- ~~3. The placement of private utility easements within public rights of way owned or controlled by the city;~~
- ~~4. The maximum length of dead end water mains per section 38.410.070;~~
- ~~5. The maximum length of service lines per section 38.410.070;~~
- ~~6. Exceptions to storm water controls per section 38.410.080;~~
- ~~7. All modifications or proposed standards in section 38.400.010 except subparagraph 38.400.010.A.1, Relation to undeveloped areas;~~
8. Plans and specifications for public infrastructure and infrastructure to be granted to the public per 38.400.060, Street improvement standards paragraphs A and B.1-3;
9. Alternate curb return radii per subparagraph 38.400.090.C.3;
- ~~10. Locations and modifications to drive accesses to public streets per paragraphs 38.400.090.G and H;~~
- ~~11. Street improvement standards and modifications therefrom per section 38.400.060;~~
1012. Departures for street vision triangles per section 38.400.100;
11. Exceptions to storm water controls per section 38.410.080;
12. Exceptions or modifications to installation of bikeways and boulevard trails per section 38.400.110.E;
13. Backing into alleys, parking stall aisle and driveway design for surfacing and curbing per paragraphs 38.540.020.D, F and J;
14. Protection of landscape areas per paragraph 38.550.050.H;
15. All actions required of the flood plain administrator per article 6 of this chapter;
- ~~16. Modifications in required completion time for subdivision improvements per subparagraph 38.270.030.B.1;~~
- ~~17. The use of a financial guarantee for paving of streets per paragraph 38.270.060.C;~~
- ~~18. The waiver of required information per subparagraph 38.220.080.A.2.i(3);~~
- ~~19. Requirement for a traffic impact analysis and determination of its contents per subparagraph 38.220.120.A.2.c(5);~~
- ~~20. Specifications and modifications therefrom for paving of streets and parking areas;~~
- ~~21. Designation of street classifications for collectors and arterials not shown in the long range transportation plan; and~~

Ordinance No. 2104, Planned Unit Development Repeal and Replace

- ~~22. Alternate parking angles for surface and structured parking stall configurations listed in Table 38.540.020. All other numeric standards apply.~~
- ~~23. Exceptions or modifications to installation of bikeways and boulevard trails per section 38.400.110.E;~~
- E. The director of utilities ~~public works~~ must review and upon recommendation from the applicable advisory bodies as needed approve, approve with conditions or deny the following development elements and processes:
1. Payment of cash in-lieu of capital facilities for utilities per section 38.270.070.C;
 2. Location of storm water facilities within neighborhood centers per section 38.410.020;
 34. Waiver of the requirement to extend water, sewer, and streets to the perimeter of property being developed per section 38.410.070;
 4. The maximum length of dead end water mains per section 38.410.070;
 5. The maximum length of service lines per section 38.410.070; and
 - ~~62. Provision of water rights as authorized in section 38.410.130;~~
 - ~~3. Subject to section 38.400.060, exceptions to the level of service standards established in section 38.400.060.B.4;~~
 - ~~4. Payment of cash in-lieu of capital facilities established in section 38.270.070.C; and~~
 - ~~5. Acceptable alternative sidewalk design or materials per section 38.400.080.~~
- F. The director of transportation and engineering must review and upon recommendation from the applicable advisory bodies as needed approve, approve with conditions or deny the following development elements and processes:
1. Payment of cash in-lieu of capital facilities for streets and transportation per 38.270.070.C.
 2. All modifications or proposed standards in section 38.400.010;
 3. Departure for street cross section in section 38.400.020.
 4. Subject to section 38.400.060, exceptions to the level of service standards established in section 38.400.060.B.4;
 5. Street improvement standards and modifications therefrom per section 38.400.060;
 6. Acceptable alternative sidewalk design or materials per section 38.400.080;
 7. Locations and modifications to drive accesses to public streets per paragraphs 38.400.090.G and H;
 8. Alternate parking angles for surface and structured parking stall configurations listed in Table 38.540.020. All other numeric standards apply; and
 9. Designation of street classifications for collectors and arterials not shown in the long range transportation plan;

G.F. The director of parks and recreation must review, and as needed approve, approve with conditions or deny the following development elements and processes:

1. Determine the classification of recreation pathways per section 38.420.110.D.
2. Approve final park plans.
3. Approve preliminary park plans when a development is subject to approval by the director of community development.
4. Approval of calculations of cash-in-lieu of parkland amounts for development of property when:
 - a. The initial dedication of land per section 38.420.020 has been provided;
 - b. Money to be paid is to address mitigation of recreation impacts above the minimum land dedication; and
 - c. A park master plan has been approved for the park servicing the land to be developed.

H.G. As detailed in division 38.200 of this chapter, the city commission authorizes the applicable advisory bodies to review and to make recommendations to the review authority regarding development proposals. Under this section, when advisory boards review and make recommendations to the review authority they act in a quasi-judicial capacity. Recommendations do not constitute votes of approval or denial.

I.H. The city commission or its designated representatives may require the applicant to design the proposed development to reasonably minimize potentially significant adverse impacts identified through the review required by these regulations. The city commission or its designated representatives may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the development as submitted. Recognizing that the standards of this chapter are minimum requirements and the public health, safety, and general welfare may be best served by exceeding those minimums, the city commission or community development director may require as a condition of approval mitigation exceeding the minimums of this chapter.

I Decisions of the community development director and other review authorities are subject to the appeal provisions of division 38.250 of this chapter.

Section 4

That 38.200.100, Building permit requirements, of the Bozeman Municipal Code be amended as follows:

Sec. 38.200.100. Building permit requirements.

- A. No building or other structure may be erected, moved, added to or structurally altered and no land use may be changed without valid permits as prescribed in this division.

1. Only minor site surface preparation and normal maintenance is allowed prior to conditional approval by the appropriate review authority and the issuance of a building permit, provided such activity does not include excavation for foundations or the removal of mature, healthy vegetation. Minor site surface preparation means disturbing less than one-half acre, movement of 30 cubic yards or less of material, or a cut or fill of less than cumulative one foot whichever is less. Any excavation and site disturbance must be in conformance with an approved stormwater control plan. No excavation of foundations or setting of forms can commence until final site or sketch plan approval has been granted and until building permits have been issued. Proceeding prior to building permit issuance is at the hazard of the landowner.
 - a. Exception: ~~When construction and funding of public streets are occurring under the provisions of division 38.430 of this chapter, Planned unit development (PUD),~~ ¶The issuance of building permits may be allowed prior to completion of infrastructure improvements, pursuant to ~~the provisions established in division 38.270 of this chapter.~~
2. Building permit. Within the limits of the city, building permits must be obtained as provided by section 10.02.020.
3. Based upon an approved sketch, site plan, certificate of appropriateness, or conditional use permit ~~or planned unit development~~ (hereinafter referred to as "plan"), and after any appeals have been resolved, a building permit for the site may be requested and may be granted, provided such building permit is granted within one year of plan approval. Prior to lapse of one year, the applicant may seek an extension as allowed in divisions 38.230 and 38.430.

Section 5

That 38.220.120, Planned unit development submittal requirements, of the Bozeman Municipal Code be deleted in its entirety and replaced as follows:

38.220.120 Planned development zone general plan and final plan submittal requirements

The following information must be presented in a PDZ general development plan for the entire property in an application for a PDZ rezoning, unless the review authority determines that one or more of the items is not necessary in light of the size, location, availability of existing services, or information already available to the city related to the proposed development:

- A. An application form and required application fee.
- B. One or more map or drawings showing (1) the existing conditions on-site and within 200 feet of the project boundary, and (2) the proposed final conditions for each of the following at a concept level of detail. Final plans, studies, and engineering detail will be required with applications for Final Development Plans.

Ordinance No. 2104, Planned Unit Development Repeal and Replace

1. Site boundaries (with dimensions and legal description);
 2. Site topography (including existing features to be retained);
 3. Watercourses, wetlands, agricultural water user facilities, irrigation facilities, and floodplain boundaries;
 3. General land uses, including maximum number and unit type of dwelling units and maximum gross floor area of non-residential land uses for each portion of the property;
 4. General lot and street network and access points to arterial and collector streets and current transit facilities and routes;
 5. General locations of trails, bicycle paths, and pedestrian ways;
 6. General location of parks and open space network;
 7. General landscaping plan for public areas, property boundaries, and proposed street frontages;
 8. General storm drainage retention/detention areas, and stormwater design plan; and
 9. General locations of major water and sewer line locations and utility easements.
 10. General phasing sequence and boundaries.
- C. A map identifying a reference base district for each portion of the PDZ property, and a narrative explanation of any standards in each respective reference base district requested by the applicant that are to be adjusted or waived in that area, the extent of adjustment or waiver requested, and any non-standard uses proposed to be included;
- D. Acknowledgement that any reference base district standards or other standard not explicitly modified by the PDZ is subject to change if the reference base district is amended.
- E. If phasing of development is proposed, a separate phasing plan with phases clearly identified;
- F. An explanation of the proposed land use and development density or intensity for each portion of the site and a calculation of each proposed land use as a percent of total site area; and-
- G. Any additional information needed to confirm that the application meets the eligibility requirements in 38.430.050.A through E for the type of PDZ being requested, as determined by the review authority.
- F. The general or final plan must include revised documents necessary to demonstrate how the general and final plan addresses previous review comments and conditions of approval of the general plan and a written narrative stating how each of the conditions of approval and noted code provisions or other demonstrations of compliance with standards have been satisfactorily addressed. This narrative must be in sufficient detail to direct the reviewer to the appropriate plat, plan, sheet, note, covenant, etc. in the submittal.

- G. The final plan must clearly identify the standards established through the PDZ that differ from the reference base district. The final plan must acknowledge in writing that any reference base district standard not explicitly established through the PDZ is subject to amendment and revision as the reference base district is amended. If the base district is later removed from the municipal code the city will apply the district which by the city’s determination is the most similar district.

Section 6

That Table 38.220.040 of 38.220.420, Notice requirements for application process, of the Bozeman Municipal Code be amended as follows with all other elements of the section remaining as presently written:

Table 38.220.420

Minimum standards for timing, location of noticing area and type of notice.

<i>Application</i>	<i>Distance</i>	<i>Notice Type</i>
Text amendment	NA	Newspaper
Zone Map Amendment - rezoning, or with annexation, or as planned development zone	200	Newspaper, post on-site, mail 1st class
Zone Map Amendment - Resulting from ordinance changes	None	Newspaper
Variance - Floodplain and zoning	200	Newspaper, post on-site, mail 1st class
Noticing for 76-2-402, MCA claims	None	Newspaper, post on-site
Deviation	200	Newspaper, post on-site, mail 1st class
Appeals of Administrative Project Decisions	200	Newspaper, post on-site, mail 1st class
Appeals of Administrative Interpretations	None	Newspaper
Sketch plan/reuse/change in use/further development	None	None
Sketch plans for adding dwellings in the neighborhood conservation overlay district, demolition of historic structures as defined in article 7 of this chapter, or modification of wetlands.	None	Post on-site

Informal/concept plan	None	None
Preliminary site plan and master site plan	200	Post on-site, mail 1st class
Preliminary Planned Unit Development	200	Newspaper, post on-site, mail 1st class
Conditional Use Permit / Special Use Permit	200	Newspaper, post on-site, mail 1st class
Floodplain permit	200	Newspaper, mail 1st class
Certificate Of Appropriateness	None	None
Subdivision exemption	None	None
Subdivision subject to 76-3-616 MCA including subdivision or other variances	200	Post on-site, mail 1st class
Subdivision subject to 76-3-623 MCA	200	Newspaper, post on-site, certified mail to adjacent owners, mail 1st class all others
Notice of violation per 38.200.160	None	Certified mail to landowner

Section 7

That 38.230.030, Special development proposals—Additional application requirements, review procedures and review criteria, of the Bozeman Municipal Code be amended as follows:

Sec. 38.230.030. Special development proposals—Additional application requirements, review procedures and review criteria.

- A. Application requirements. Applications for special development proposals (e.g. ~~PUD~~, CUP, flood plain development permits, variances, etc.) must include:
1. The required information for plans described in section 38.220.080;
 2. Any additional application information required for specific reviews as listed in the following divisions of this chapter:
 - ~~a.~~ ~~Division 38.430, Planned Unit Development;~~
 - ~~b.~~a. Division 38.360, Standards for Specific Uses;
 - ~~e.~~b. Division 38.370, Telecommunications;
 - ~~d.~~c. Division 38.600, Bozeman Floodplain Regulations; and
 - ~~e.~~d. Division 38.250, Appeals, Deviations and Variance Procedures.

- B. Review procedures and review criteria. Additional review procedures and review criteria for specific development proposals are defined in the following sections and divisions of this chapter:
1. Section 38.230.080, Certificate of appropriateness;
 2. Section 38.230.110, Conditional use;
 3. Section 38.230.120, Special use permit;
 4. ~~Division 38.430, Planned Unit Development;~~
 5. Division 38.360, Standards for Specific Uses;
 - 6.5. Division 38.370, Telecommunications;
 - 7.6. Division 38.600, Floodplain Regulations; and
 - 8.7. Division 38.250, Appeals, Deviations and Variance Procedures.

Section 8

That 38.250.050, Deviations, of the Bozeman Municipal Code be amended as follows:

Sec. 38.250.050. Deviations.

All requests for deviations in the neighborhood conservation overlay district ~~or through the PUD process~~ must be heard by the review authority established in section 38.200.010. Deviations may only be applied for in conjunction with submittal of a development proposal of a type authorized by divisions 38.230 and 430 of this chapter. Standards and criteria for award of deviations are contained in divisions 38.340 and 430 of this chapter. The granting of a deviation is an exercise of administrative power that can effect no change in the chapter. A deviation may be granted only in a specific instance permitting a nonconformity in order to accomplish the specific objectives of sections 38.340.070 and 38.430.030.D, and provided the standards and criteria imposed are met. Deviations must not be granted for relief from procedural requirements, or to waive or vary the application of an ordinance provision imposing specific safety requirements, or to waive or vary the application of other ordinances or statutes.

Section 9

That Paragraph A of 38.250.070, Zoning variances, of the Bozeman Municipal Code be amended and Paragraph G of 38.250.070 be created as follows with all other elements of the section remaining as presently written:

- D. Authorization and limitations on approval.
1. The review authority may, after public notice, opportunity for public comment, and consideration of the application, deny, approve or conditionally approve all requests for variances meeting all the criteria of this section, including:
 - a. Requests to modify dimensional or other numerical requirements of this chapter;

- b. Requests for multiple variances;
 - c. Requests to modify flood hazard district requirements subject to the provisions of article 6 of this chapter, except that no variance may be granted to allow construction of buildings within the floodway of a 100-year frequency flood as defined in title 76, chapter 5, Montana Code Annotated (MCA 76-5-101 et seq.); and
 - d. Requests for variances in conjunction with conditional use permits. Approvals of all such variances must be conditioned upon review authority approval of the conditional use permit.
- 2. The scope and extent of the variance must be limited to the minimum relief necessary to provide reasonable use of the property.
 - 3. In no case may the review authority grant variances to allow uses not already permitted pursuant to this chapter or alter administrative requirements of this chapter. Permission to change uses allowed on a parcel may be sought through a zone map amendment, or an amendment to the text of the applicable zoning district, ~~or through a planned unit development subject to division 38.430.~~
 - 4. Notifications of approval for variances related to flood hazard requirements of article 6 of this chapter must notify the applicant that:
 - a. The issuance of a variance to construct a building below the 100-year floodplain elevation will result in increased premium rates; and
 - b. Such construction below the 100-year flood elevation increases risks to life and property.

...

G. Planned development zone. Where the standards and requirements of this chapter are proposed to be modified through a planned development zone, the applicable process is a review of a planned development zone rather than a variance.

Section 10

That Paragraph F of 38.250.080, Subdivision variances, of the Bozeman Municipal Code be amended as follows with all other elements of the section remaining as presently written:

- F. Planned development zone~~unit development~~. Where the standards and requirements of this chapter are proposed to be modified through a planned development zone~~unit development~~, the applicable process is a ~~deviation~~ review of a planned development zone rather than a variance.

Section 11

That Paragraph D of 38.270.030, Completion of improvements, of the Bozeman Municipal Code be amended as follows with all other elements of the section remaining as presently written:

- D. Exception for concurrent construction. In certain circumstances, the issuance of a building permit may be allowed prior to completion of the public infrastructure, provided that the following criteria are met:
1. The city will have an opportunity to review and approve future proposed development through a site plan review or ~~planned unit development~~ development is using the incentives of 38.380.030;
 2. The property owner must enter into an improvements agreement to ensure the installation of required infrastructure and other applicable improvements, to be secured by any security or securities found in section 38.270.080. If a financial security is used, the amount will be determined by the city and in an amount not less than 150 percent of the cost of the improvements verified against city publicly bid unit prices, where such are available. If no publicly bid unit prices are available, any cost estimate acceptable to the city may be used. The security must be in the name of the city and must be at least six months longer than the time of performance required by the improvements agreement;
 3. Improvements must be complete within two years of the date of the improvements agreement;
 4. Approval of the final engineering design, including location and grade, for any public infrastructure must be obtained from the engineering department, and the Montana Department of Environmental Quality when applicable, prior to issuance of any building permit for the development;
 5. Building permits may be issued incrementally, dependent upon the status of installation of the infrastructure improvements. All building construction within the development must cease until required phases of infrastructure improvements as described in the improvements agreement have been completed, and inspected and accepted by the city;
 6. The developer must provide and maintain hazard and commercial general liability insurance. Insurance policies must not be cancelled without at least 45 days prior notice to the city. The commercial general liability policy must name the city as an additional insured. The developer must furnish evidence, satisfactory to the city, of all such policies and the effective dates thereof;
 7. The developer must recognize, acknowledge and assume the increased risk of loss because certain public services do not exist at the site;
 8. If public funds or other third party funding will be used to fund all or part of the installation of infrastructure, the improvements agreement between the developer and the city must identify the type or types of predetermined infrastructure funding. Public

- or third party funding may include, but is not limited to reimbursement, payment up front, creation of a special improvements district, or grants;
9. No occupancy of any structures or commencement of any use constructed or proposed within the boundaries of the development will be allowed until required infrastructure improvements have been completed, inspected, and accepted by the city, and a certificate of occupancy has been issued;
 - a. No occupancy of structures or commencement of any use is allowed when such action would constitute a safety hazard in the opinion of the city;
 10. The developer must enter into an agreement with the city to address the provision of any services on an interim basis during construction, if deemed appropriate;
 11. The developer must execute a hold harmless and indemnification agreement indemnifying, defending and holding harmless the city, its employees, agents and assigns from and against any and all liabilities, loss, claims, causes of action, judgments and damages resulting from or arising out of the issuance of a building permit under this section;
 12. The developer must pay for any extraordinary costs associated with the project which the city may identify, including, but not limited to, additional staff hours to oversee the planning, engineering and construction of the project and infrastructure improvements, inspection of the infrastructure improvements and any extraordinary administrative costs;
 13. The development must be under the control of a single developer and all work must be under the supervision of a single general contractor. The developer and general contractor must agree that there must be no third-party builders until required infrastructure improvements have been completed, and inspected and accepted by the city; and
 14. Subsequent to preliminary plat or plan approval, a concurrent construction plan, addressing all requirements of this section, must be submitted for review and approval of the community development director in consultation with the city engineer and with a recommendation from the development review committee.

Section 12

That Paragraph A of 38.300.100, Residential zoning districts – intent and purpose, of the Bozeman Municipal Code be amended as follows with all other elements of the section to remain as presently written:

- A. *Residential suburban district (R-S)*. This district is not available for newly created subdivisions, undeveloped land, or any land annexed into the city on or after January 1, 2018.

Ordinance No. 2104, Planned Unit Development Repeal and Replace

The intent and purpose of the R-S residential suburban district is to commemorate and preserve existing RS zoning only. These purposes are accomplished by:

- ~~1. Subdivision and site plan developments in this district are subject to the provisions of division 38.430 of this chapter, pertaining to planned unit development, and shall be developed in compliance with the adopted city growth policy.~~
- ~~1-2.~~ Allowing permitted uses in circumstances where environmental constraints limit the desirable density.
- ~~2 3.~~ Providing for a minimum lot size in developed areas consistent with the established development patterns while providing greater flexibility for clustering lots and housing types in newly developed areas.
- ~~4. This district is not available for newly created subdivisions, undeveloped land, or any land annexed into the city on or after January 1, 2018.~~

Section 13

That 38.300.020, Use districts designated, zoning map adopted, of the Bozeman Municipal Code be amended as follows:

Sec. 38.300.020. Use districts designated, zoning map adopted.

- A. The city is divided into zones, or districts, as shown on the official zoning map which, together with all explanatory matter thereon, is adopted by this reference and declared to be a part of this chapter.
- B. The purpose statements for each zone and map designation set forth in part 2 of this division shall be used to guide the application of the zones and designations to all lands in the city. The purpose statements also shall guide interpretation and application of land use regulations within the zones and designations, and any changes to the range of permitted uses within each zone through amendments to this title. For the purpose of this chapter, the city is divided and classified into the following use districts:

R-S	Residential Suburban District
R-1	Residential Low Density District
R-2	Residential Moderate Density District
R-3	Residential Medium Density District
R-4	Residential High Density District
R-5	Residential Mixed-Use High Density District
R-O	Residential-Office District
RMH	Residential Manufactured Home Community District
B-1	Neighborhood Business District

B-2	Community Business District
B-2M	Community Business District - Mixed
B-3	Downtown Business District
UMU	Urban Mixed-Use District
M-1	Light Manufacturing District
M-2	Manufacturing and Industrial District
B-P	Business Park District
PLI	Public Lands and Institutions District
NEHMU	Northeast Historic Mixed-Use District
NC	Neighborhood Conservation Overlay District
REMU	Residential Emphasis Mixed-use District
<u>PDZ</u>	<u>Planned Development Zone</u>

- C. Placement of any given zoning district on an area depicted on the zoning map indicates a judgment on the part of the city that the range of uses allowed within that district are generally acceptable in that location. It is not a guarantee of approval for any given use prior to the completion of the appropriate review procedure and compliance with all of the applicable requirements and development standards of this chapter and other applicable policies, laws and ordinances. It is also not a guarantee of immediate infrastructure availability or a commitment on the part of the city to bear the cost of extending services.

Section 14

That Table 38.310.030.B, Permitted accessory and non-residential uses in residential zoning districts, of the Bozeman Municipal Code be amended as follows with all other elements of the section to remain as presently written:

Table 38.310.030.B
Permitted accessory and non-residential uses in residential zoning districts

--

Uses	Zoning Districts
-------------	-------------------------

Ordinance No. 2104, Planned Unit Development Repeal and Replace

	R-S	R-1	R-2	R-3	R-4	R-5	R-O ¹	RMH
Accessory uses								
Essential services Type I*	A	A	A	A	A	A	A	A
Guest house*	A	A	A	A	A	A	A	—
Home-based businesses (38.360.150)*	A/S	A/S	A/S	A/S	A/S	A/S	A/S	A/S
Other buildings and structures typically accessory to authorized uses	A	A	A	A	A	A	A	A
Private or jointly owned recreational facilities	A	A	A	A	A	A	A	A
Signs*, subject to article 5 of this chapter	A	A	A	A	A	A	A	A
Temporary buildings and yards incidental to construction work	A	A	A	A	A	A	A	A
Temporary sales and office buildings	A	A	A	A	A	A	A	A
Non-residential uses								
Agricultural uses* on 2.5 acres or more (38.360.270)	P	—	—	—	—	—	—	—
Agricultural uses* on less than 2.5 acres (38.360.270)	C	—	—	—	—	—	—	—
Bed and breakfast*	C	C	C	C	P	P	P	—
Commercial stable (38.360.230)	C	—	—	—	—	—	—	—
Community centers*	C	C	C	C	C	C	P	C
Day care centers*	S	S	S	P	P	P	P	S
Essential services Type II*	P	P	P	P	P	P	P	P
Essential services Type III* ²	C	C	C	C	C	C	C	C
Short Term Rental (Type 1)*	P	P	P	P	P	P	P	—

Ordinance No. 2104, Planned Unit Development Repeal and Replace

Short Term Rental (Type 2)*	—	—	P	P	P	P	P	—
Short Term Rental (Type 3)*	—	—	—	—	—	—	—	—
General service establishment*	—	—	—	—	—	—	P ⁵	—
Golf courses	C	C	—	—	—	—	—	—
Offices*	—	—	—	—	S ³	S ³	P	—
Public and private parks	P	P	P	P	P	P	P	P
Medical offices, clinics, and centers*	—	—	—	—	C	C ³	P	—
Recreational vehicle parks (38.360.210)*	C	—	—	—	—	—	—	P
Restaurant*	—	—	—	—	—	P ⁴	P ^{5, 6}	—
Retail*	—	—	—	—	—	P ⁴	P ^{5, 6}	—
Uses approved as part of a PUD per division 38.380 of this article	€	€	€	€	€	€	€	€
Veterinary uses	S	—	—	—	—	—	—	—

Notes:

1. The primary use of a lot, as measured by building area, permitted in the R-O district is determined by the underlying growth policy land use designation. Where the district lies over a residential growth policy designation the primary use shall be non-office uses; where the district lies over a non-residential designation the primary use shall be office and other non-residential uses. Primary use shall be measured by percentage of building floor area.
2. Only allowed when service may not be provided from an alternative site or a less intensive installation or set of installations.
3. Only when in conjunction with dwellings.
4. Subject uses are limited to 2,500 square feet of gross floor area and only allowed on street corner sites within a mixed-use building featuring residential units next to and/or above subject uses.
5. Subject uses are limited to 1,500 square feet of gross floor area per individual tenant.
6. These uses may not include drive-through facilities.

Section 15

That Table 38.310.040.E, Permitted public, regional, recreational, cultural and accessory uses in commercial, mixed-use, and industrial zoning districts, of the Bozeman Municipal Code be amended as follows with all other elements of the section to remain as presently written:

Table 38.310.040.E

Permitted public, regional, recreational, cultural and accessory uses in commercial, mixed-use, and industrial zoning districts

Table clarifications:											
1. Uses: P = Principal uses; C = Conditional uses; S = Special uses; A = Accessory uses; — = Uses which are not permitted.											
2. If a * appears after the use, then the use is defined in article 7.											
3. Where a code section is referenced after the use, then the use is subject to the additional standards in that code section.											
4. If a number appears in the box, then the use may be allowed subject to development condition(s) described in the footnotes immediately following the table. If there are multiple numbers, then the use is subject to all applicable development conditions.											
5. Where a number with a "sf" reference appears below a P or C in the box, it means that the use is permitted or conditionally permitted up to the (maximum) listed square footage in gross building area.											

Uses	Zoning Districts										
	Commercial				Mixed Use			Industrial			PLI
	B-1 ¹	B-2	B-2M	B-3	UMU (38.310.050)	REMU (38.310.060)	NEHM U ²	B P	M -1	M -2	
Public, educational, government and regional											
Business, trade, technical or vocational school	—	P	P	P ³	P	P	P	P	P	P	—
Cemeteries*	—	—	—	—	—	—	—	—	—	—	P
Essential services (38.360.130)											
• Type I	A	A	A	A	A	A	A	A	A	A	A
• Type II	P	P	P	P ³	P	P	P	P	P	P	P
• Type III	C ⁴	P	P	C ³ , ⁴	C	C ⁴	P C	P	P	P	P
Meeting hall	—	P	P	P	P	P	—	—	—	—	—
Production manufacturing and generation facilities (electric and gas)	—	—	—	—	—	—	—	—	—	S	—

Ordinance No. 2104, Planned Unit Development Repeal and Replace

Public and nonprofit, quasi-public institutions, e.g. universities, elementary junior and senior high schools and hospitals	—	—	—	—	—	—	—	—	—	—	P
Public buildings and publicly owned land used for parks, playgrounds and open space	P	P	P	P	P	P	P	P	P	P	P
Solid waste transfer station	—	—	—	—	—	—	—	—	—	C	P
Solid waste landfill	—	—	—	—	—	—	—	—	—	—	C
Truck, bus and rail terminal facilities	—	—	—	—	—	—	P	—	P	P	—
Recreational, cultural and entertainment											
Adult business (38.360.050)*	—	—	—	—	—	—	—	—	P	P	—
Amusement and recreational facilities	—	P	P	—	P	—	P	—	P	C	—
Arts and entertainment center*	P	P	P	P	P	P	—	—	—	—	—
Casinos	—	—	—	—	—	—	—	—	C	C	—
Community centers (38.360.090)*	P	P	P	P	P	P	P	P	P	P	P
Accessory and/or other uses											
Agricultural uses*	—	—	—	—	—	—	—	—	—	P	—
Home-based businesses (38.360.150)*	A	A	A	A	A	A	A	A	A	A	—

Ordinance No. 2104, Planned Unit Development Repeal and Replace

Other buildings and structures (typically accessory to permitted uses)	A	A	A	A	A	A	A	A	A	A	A
Temporary buildings and yards incidental to ongoing construction work	—	—	—	—	—	—	A	A	A	A	—
Any use, except adult businesses and casinos, approved as part of a planned unit development subject to the provisions of division 38.430	C	C	C	C	C	C	C	C ⁵	C ⁵	C ⁵	—

Notes:

1. In the B-1 district, the footprint of individual buildings must not exceed 5,000 square feet.
2. Authorized uses in the NEHMU district include those uses allowed in the R-2 district (some of which aren't addressed in this table).
3. Use not allowed on the ground floor of buildings in the downtown core (those properties along Main Street from Grand Avenue to Rouse Avenue and from the alley one-half block north of Main Street to the alley one-half block south of Main Street) unless visitor access is available from an alley and another use not subject to this footnote is present to a minimum depth of 20 feet from the front building façade adjacent to a street.
4. Only allowed when service may not be provided from an alternative site or a less intensive installation or set of installations.
5. Also excludes retail, large scale uses.

Section 16

That Paragraph D of 38.350.030, Use of lands; buildings and structures, of the Bozeman Municipal Code be amended as follows with all other elements of the section remaining as presently written:

D. Municipal infrastructure requirements.

1. Whenever any building lots and/or building sites are created inside the city limits or existing lots are annexed, and prior to the issuance of any building permits on such lots or sites, municipal water distribution, municipal sanitary sewer collection, and streets must be provided to the site. Each building site must utilize and be connected to both the municipal water distribution and municipal sanitary sewer collection systems. Installation of improvements is subject to division 38.270 of this chapter.

Ordinance No. 2104, Planned Unit Development Repeal and Replace

- a. Alternative. When, in the city's sole determination, it is in the city's long term best interests to allow a building lot or site to be created or developed without immediate access to either municipal water or municipal sewer the city may, at its sole discretion, make such allowance when all of the following have been met:
- (1) The non-municipal system to service the lot or site must be designed, reviewed and constructed to meet city standards. Systems serving more than one lot or user must be central systems;
 - (2) The non-municipal system must be designed and constructed in a manner to allow connection to the municipal system components shown in applicable facility plans to serve the property at such time as it becomes available;
 - (3) The landowner must provide waivers of right to protest creation of special improvement districts or other financing methods to extend municipal water and sewer services. Such extensions or connections may require construction of system components that are not immediately adjacent to the building lot or site;
 - (4) The landowner must agree to connect to municipal water and sewer services and abandon and remove non-municipal services when so instructed by the city. Such agreement must be binding on all successors and run with the land;
 - (5) If the city takes responsibility to operate the non-municipal system it may impose a surcharge to cover extra operational expenses. City operation of the system is at the city's discretion;
 - (6) The requirement for future connection to the municipal water and/or sewer system, waivers and agreements, and other applicable materials must be either noted on the plat or final plan or a separate notice be recorded at the county clerk and recorder's office so that such notice will appear on a title report or abstract of the property;
 - (7) No non-municipal water or sewer systems must be constructed until all necessary approvals from the state department of environmental quality, City of Bozeman, county health department, and any other relevant agency have been received; and
 - (8) The use of municipal water or sewer systems is considered to be the best means to protect the public interest and welfare. The alternative for the use of non-municipal systems is intended to be used sparingly and in extraordinary circumstances. In order to protect the public interest, in approving a non-municipal system the city may impose such conditions of approval as it deems necessary.

2. These improvements must be designed, constructed and installed according to the standards and criteria as adopted and approved by the city prior to the issuance of any building permits.
3. ~~When municipal water distribution and municipal sanitary sewer collection systems are being provided to serve a development proposal occurring under the provisions of division 38.430, planned unit development (PUD),~~ The issuance of a building permit may be allowed prior to completion of the public infrastructure, provided the criteria, standards, and limitations of section 38.270.030 are met.
4. ~~Notwithstanding the provisions of subsection D.3 of this section, the city may limit the scope, type and number of projects eligible for simultaneous construction consideration.~~

Section 17

That Paragraph D of 38.350.050, Height limitation exceptions, of the Bozeman Municipal Code be amended as follows with all other elements of the section remaining as presently written:

D. Height limitation exceptions.

1. Non-specific exemptions. No building, or part thereof, or structure must be erected, reconstructed or structurally altered to exceed in height the limit herein designated for the district in which such building is located, except as is specified in division 38.250 of this chapter., ~~or as specifically authorized as an approved condition of a planned unit development. Such approved conditions must include the recommendations of the city fire marshal.~~
2. Specific exemptions.
 - a. Height limitations do not apply to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flag poles; public and private utility facilities; parapet walls extending no more than four feet above the limiting height of the building except as hereinafter provided: amateur radio antennae; solar energy collectors and equipment used for the mounting or operation of such collectors; and building mounted horizontal and vertical axis wind energy collectors under 15 feet in height from the building mounting surface, and equipment used for the mounting or operation of such collectors.
 - b. Places of public assembly in churches, schools and other permitted public and semi-public buildings may exceed height limitations otherwise established by this chapter, provided that:
 - (1) The portion of the building that exceeds the height limit must be limited to 10 percent of the total building footprint; and
 - (2) That for each one foot by which the height of such building exceeds the maximum height otherwise permitted in the district, its side and rear setbacks

must be increased in width or depth by an additional one foot over the side and rear setbacks required in the district.

- c. Elevator and stair penthouses, water tanks, monitors and scenery lofts are exempt from height limitations otherwise established in this chapter, provided that no linear dimension of any such structure exceed 50 percent of the corresponding street frontage line.
- d. Towers and monuments, cooling towers, gas holders or other structures, where the manufacturing process requires a greater height, and grain elevators and silos are exempt from this chapter, provided that any structure above the height otherwise permitted in the district must occupy no more than 25 percent of the area of the lot and must be at least 25 feet from every lot line.
- e. Height restrictions for wireless facilities are governed by division 38.370 of this chapter.

Section 18

That 38.370.030, Uses within districts and required review procedures, of the Bozeman Municipal Code be amended as follows:

Sec. 38.370.030. Uses within districts and required review procedures.

- A. Purpose. ~~This purpose of this section authorizes is to describe the procedures under which certain telecommunication uses may be permitted as principal or conditional uses in specific districts. Unless specifically exempted by this division 38.370, all other standards and procedures of this chapter must apply.~~
 - 1. The Montana Subdivision and Platting Act (MCA 76-3-101 et seq.) may require subdivision review when land interests are created by rent or lease. Depending on how the ownership and use of land for a facility subject to this division 38.370 is established, subdivision review may be required in addition to site plan review.
- B. No wireless facility may be permitted except in accordance with the development review processes indicated in Table 38.370.030 in subsection B.1 of this section, based on the applicable zoning district and scope of the proposed facility. ~~Principal uses are indicated with a "P", conditional uses are indicated with a "C", accessory uses are indicated with an "A", planned unit development is indicated with a "PUD", and uses which are not permitted within the district are indicated by a "-". All applications are subject to the review processes, submittal requirements and other requirements of articles 38.230, 38.430 and 38.220 of this chapter as may be applicable.~~
 - 1. Review procedures. **Uses: P = Principal uses; C = Conditional uses; S = Special uses; A = Accessory uses; — = Uses which are not permitted.**

Table 38.370.030

Zoning District	Large scale	Small scale	Micro scale	Non-broadcast
-----------------	-------------	-------------	-------------	---------------

Ordinance No. 2104, Planned Unit Development Repeal and Replace

PLI	P	P	A	P
M-2	P	P	A	P
M-1	P	P	A	P
B-P	C	P/C ¹	A	P
B-3	C	P/C ¹	A	P
B-2	C	P/C ¹	A	P
B-2M	C	P/C ¹	A	P
B-1	C	P/C ¹	A	P
UMU	C	P/C ¹	A	P
REMU	PUD-S⁹	P/C ¹	A	C
NEHMU	P	P	A	P
R-O	PUD-S⁹	C	P	C
R-5	PUD-S⁹	C	P	C
R-4	PUD-S⁹	C	P	C
R-3	PUD-S⁹	C	P	C
R-2	PUD-S⁹	C	P	-
R-1	PUD-S⁹	C	P	-
R-S	PUD-S⁹	C	P	C

Note:

1. Conditional use review is required when the proposed facility exceeds the height limitation of the district.
2. Collocation upon a previously approved wireless facility, when such additional facilities were contemplated as part of the original review, must be reviewed as a sketch plan in all zones.
3. A wireless facility may be permitted as an accessory use in any non-residential district when:
 - a. It is for the exclusive use of a single on-site business when the business has otherwise been approved under division 38.230 or 38.430 of this chapter, rather than offered to additional parties;
 - b. It is in compliance with the maximum building height limitations of the zoning district;
 - c. It complies with all setback and other zoning requirements; and
 - d. Has eight or less square feet of total antenna surface area.
4. Installations located within the neighborhood conservation overlay district must be reviewed against the criteria of division 38.340 of this chapter as applicable, and a certificate of appropriateness is required before issuance of a building permit.
5. Prior to submitting an application for a large scale or small scale wireless facility, the applicant must request in writing a pre-application conference with the community development department. The purpose of the pre-application conference is to acquaint the participants with the applicable requirements of this division 38.370, as well as with any preliminary concerns the department may have.
6. The applicant's written request for a preapplication conference must include the following information with regard to the proposed facility:
 - a. Location;
 - b. Overall height;
 - c. Number of antennas proposed, including those of other providers to be collocated;
 - d. Type of wireless communication services to be provided; and
 - e. Coordination of ground equipment shelters.

Ordinance No. 2104, Planned Unit Development Repeal and Replace

7. Adequate review of applications may require the city to retain consultants or other third party assistance to review an application. In such event the applicant must reimburse the city for the actual costs incurred prior to issuance of a building permit.
8. The provisions of division 38.280 of this chapter must apply for all nonconforming facilities subject to this division 38.370.
9. When demonstrated to be necessary to meet federal requirements for continuity of service in an area.

Section 19

That 38.400.020, Street and road dedication, of the Bozeman Municipal Code be amended as follows:

Sec. 38.400.020. Street and road dedication.

- A. General. All streets or alleys within, or providing access to, the proposed development must comply with 38.400.050, be dedicated to the public, or be privately maintained streets to be owned by the city and maintained by an approved non-city maintenance provider. property owners' association, or, if the criteria of this section are met, be a public street easement.
 1. Public street easements. Public street easements must:
 - a. Be in the city's standard form or be approved by the city attorney's office;
 - b. Be recorded in the county clerk and recorder's office; and
 - c. Clearly grant to the public an unrestricted right of ingress and egress from a public street to the property to be subdivided.
 2. Privately maintained public streets.
 - a. Privately maintained streets may be required to must have a public access easement, if deemed necessary by the city.
 - b. If a privately maintained local street is proposed, the following standards must be met: project must be reviewed as a planned unit development. However, development proposals containing private streets are exempt from the PUD review requirement if :
 - (1) ~~A local private street is proposed and~~ The street right of way complies would comply with the city standard of way requirement of 60 feet, and the standard back-of-curb to back-of-curb width is of 31, 33 or 35 feet; or
 - (2) ~~A local private street is proposed and~~ The street right of way complies would comply with the city standard right of way requirement of 60 feet. The back-of-curb to back-of-curb width may vary from city standards, provided that: the review authority approves a departure for the back-of-curb to back-of-curb width when:
 - (a) An alternate street cross section is provided which provides the functional equivalent for pedestrian and vehicle travel, snow and stormwater management, and parking of motor and other vehicles.

- (b) A report certified by a professional engineer addressing site conditions including zoning and expected intensity of development over time, ability to accommodate unexpected intensity of development, connectivity to other streets, expected traffic volumes, site distances, spacing of accesses, turning movements, and proposed alternative means of addressing standards including but not limited to stormwater.
 - (c) Based upon the above data, the review authority will determine whether a modification from the required standards is justified. The alternative design must protect the public's health, safety and welfare, the intent of this chapter, and the intent of the city's growth policy.
 - ~~(d a)~~ A permanent funding source, such as the levying of assessments against all properties within the development, for street maintenance is established and the funding levels will be adequate for all future ~~private~~ street maintenance; and
 - ~~(e b)~~ The developer signs a ~~waiver of right to protest the creation of SIDs, or other~~ perpetual legal instrument, acknowledging that the city will not assume dedication and/or maintenance of the streets unless the street is brought up to city standards, or the property owners' have agreed to an assessment to fund improvements required to bring the street up to city standards. The developer must record the ~~waiver, or other~~ legal instrument, at the time of final plat recordation, or prior to issuance of building permits if no final plat recordation is required.
 - (f) The developer must execute a hold harmless and indemnification agreement indemnifying, defending and holding harmless the city, its employees, agents and assigns from and against any and all liabilities, loss, claims, causes of action, judgments and damages resulting from or arising from approval of an alternative street cross section under this section.
- c. Privately maintained collector or arterial streets are not allowed.
- ~~e~~ d. Documented proof of adequate funding and scheduling for maintenance of all privately maintained public streets, must be provided, subject to section 38.270.090.

Section 20

That 38.430, Planned Unit Development, of the Bozeman Municipal Code be deleted in its entirety and replaced with a new section as follows with some elements of the former 38.430 amended and moved to a new division 38.440:

Division 38.430 Planned Development Zone Districts

38.430.010 Purpose

The purpose of the planned development zone (PDZ) district is to provide a general structure and plan for specific properties to encourage flexibility and innovation that:

- A. Create distinct neighborhoods with quality urban design and mutually supportive uses; and
- B. Support implementation of community plans and goals, including but not limited to the city's adopted growth policy; and
- C. Provide community benefits through the creation of affordable housing, inclusion of environmentally sustainable design features, and retention of historic structures; and
- D. Protect and promote the health, safety, and general welfare of the community.

38.430.020 Planned Unit Developments (PUD)s Approved or Adequate Prior to [Effective Date]

- A. Individual PUDs approved by the city prior to [Effective Date], and PUD applications received by the city prior to [Effective Date] that have completed the adequacy review process prior to [Effective Date] must after [Effective Date] be referred to as Legacy Planned Unit Developments.
- B. Individual Legacy Planned Unit Developments shall be governed by, and may be amended pursuant to, the rules regarding PUDs in effect prior to [Effective Date]. The PUD regulations in effect prior to [Effective Date] are renamed legacy planned unit developments and are in division 38.440.

38.430.030 PDZs Approved After [Effective Date]

- A. PDZ applications approved by the city after [Effective Date], and submitted PUD applications that have not completed the adequacy review process prior to [Effective Date] shall be subject to the regulations in this division.
- B. A PDZ application must identify a standard base zoning district, from those listed in division 38.300 (the "reference base district") for each portion of the PDZ area. Different reference base districts may be designated for different portions of the property. The project must be designed in conformance with the standards in this chapter applicable in the reference base district unless an alternative standard or allowance is approved with the PDZ. If a PDZ has more than one reference district the boundaries of the different areas should generally follow the boundary guidance of 38.300.050.A.
- C. PDZ districts adopted pursuant to this division must be implemented through the creation of new zoning districts through zoning map amendments as described in division 38.260, Part 2 and shall be labeled on the base zone district layer of the city's official zoning map as "PDZ." Individual PDZ are not added to or listed in 38.300.020.

38.430.040 Eligibility for Rezoning to PDZ District

- A. An application for rezoning to a PDZ district may only be accepted for review by the city if the review authority determines that the application complies with the following general

criterion along with the PDZ type-specific criteria in Sec. 38.430.050, as determined by the director:

1. All property included in the proposed PDZ must be under common ownership or control or must be the subject of an application filed jointly by the property owners of all the property to be included.
- B. Compliance with the eligibility criteria allows the applicant to begin negotiations with the City regarding the specific uses, structures, layout, and design that will be used to satisfy the eligibility criteria.
- C. Compliance with the eligibility criteria does not indicate that the PDZ will be approved by the city. Approval by the city requires a city commission finding that the criteria for approval in section 38.430.090 are met.

38.430.050 Specific PDZ Eligibility Requirements

The proposed PDZ district must, as determined by the review authority, comply with the eligibility criteria of at least one of the following five types of PDZ.

A. Affordable Housing PDZ

1. Eligibility. An affordable housing PDZ application must predominantly include residential dwelling units and must propose:
 - a. That all parcels on which single-household detached dwelling units will be constructed are permitted to construct an accessory dwelling unit either within the primary building or in a freestanding accessory building in compliance with the provisions of 38.360.040; and
 - b. The following amounts and levels of affordable housing:
 - (1) Between [Effective Date] and that date on which the city commission adopts an ordinance or resolution establishing a different required amount of affordable housing or a different required level of income-restriction or both, the PDZ must propose to provide:

Table 38.430.050: Affordable Homes Required				
	Minimum Percentage of Homes	Maximum Percentage of AMI		Duration
		Rental Dwellings	For-Sale Dwellings (includes condominiums)	
Type of Housing				
Single-Household Detached Dwelling	=>10%	80% of AMI	120% of AMI	=>30 years
Single-Household Attached Dwelling	=>10%	80% of AMI	120% of AMI	=>30 years
Multi-Household Dwelling	=>10%	80% of AMI	120% or AMI	=>30 years

- (2) After the date on which the city commission adopts an ordinance or resolution establishing a different required amount of affordable housing or a different required level of income-restriction, the PDZ must provide:
 - (a) The amounts of housing and the levels of income-restriction required by those ordinances or restrictions, for a period of at least 30 years; or
 - (b) At least an equivalent level of affordable housing benefit to the city, to be determined during the PDZ review and approval process, for a period of at least 30 years.
 2. Flexibility Allowed. Eligible affordable housing PDZs may request an adjustment or waiver of any non-procedural provision in this chapter if that adjustment or waiver will contribute to achieving the preservation or production of housing at a lower cost than would otherwise be possible under the reference base district. The city may not adjust or waive any provision imposed by state or federal law or regulation.
- B. Historic Structure/Site PDZ
 1. Eligibility. A historic structure/site PDZ application must propose:
 - a. Inclusion of an existing structure or site that is currently designated or is documented as eligible for designation on a city or state list of historic structures; or on the National Register of Historic Places within a contiguous area included in the PDZ application, and must either:
 - (1) In the case of an existing designated historic structure or site, the PDZ application must include a written commitment to preserve the structure or site in compliance with all applicable historic preservation standards for a period of at least 20 years; or
 - (2) In the case of an undesignated historic structure or site, the PDZ application must include a written commitment to complete the designation of the structure or site as historic prior to development of any portion of the PDZ, and to preserve the designated structure or site in compliance with all applicable historic preservation standards for a period of at least 20 years.
 - b. The PDZ application may include additional lands contiguous with the lot or parcel containing the historic structure.
 2. Flexibility Allowed. Eligible PDZ applications for consideration as an historic structure/site PDZ may include a request to:
 - a. Calculate any unused development potential from the lot or parcel containing the historic structure or site under the property's current zoning,
 - b. Apply any unused development potential on other portions of the same lot or parcel, or on contiguous lands included in the PDZ application, and
 - c. To request adjustment or waiver of any non-procedural provision in this chapter if the adjustments or waivers will contribute to achieving the preservation the

historic structure. The city may not adjust or waive any provision imposed by state or federal law or regulation.

C. Sustainable/Resilient Design PDZ

1. Eligibility. A sustainable/resilient design PDZ application must propose project, site, or building design features demonstrated to achieve two or more of the following reductions in resource consumption or trip generation when compared to those levels anticipated for developments of a similar type under the reference base district:
 - a. A reduction in water consumption of at least 25 percent; or
 - b. A reduction in non-renewable energy use of at least 25 percent; or
 - c. A reduction in average daily motor vehicle trip generation of at least 25 percent; or
 - d. A combination of reductions in water consumption, non-renewable energy use, or average daily motor vehicle trip generation providing at least an equivalent sustainable/resilient development benefit to the city.
2. Flexibility Allowed. Eligible application for a sustainable/resilient design PDZ may request an adjustment or waiver of any non-procedural city development standard in this chapter if that adjustment or waiver will contribute to reductions in water consumption, non-renewable energy consumption, or traffic generation when compared to development of a similar type under the reference base district standards. The city may not adjust or waive any provision imposed by state or federal law or regulation.

D. Large Development PDZ

1. Eligibility. A Large development PDZ review must propose all of the following:
 - a. The PDZ must contain at least 10 acres of contiguous land that is proposed for annexation and development pursuant to a master plan approved by the city or proposed for approval by the city along with the PDZ application;
 - b. If the application includes dwelling units then the affordable housing requirements of Table 38.430.050 apply; and
 - c. The PDZ must include public amenities or public infrastructure investments or both beyond what would otherwise be required under this code and the reference base district(s) which are proportionate or greater to the adjustments or waivers to requested development standards.
2. Flexibility Allowed. Eligible applications for a Large Development PDZ may request an adjustment or waiver of any non-procedural city development standard in this chapter if:
 - a. That adjustment or waiver will contribute to achieving the preservation or production of housing at a lower cost than would otherwise be possible under the reference base district if the PDZ includes housing;

- b. The PDZ includes public amenities or public infrastructure investments or both beyond what would otherwise be required under this code and the reference base district(s) which are proportionate or greater to the adjustments or waivers to requested development standards; and
- c. The PDZ demonstrates implementation of five adopted community goals and objectives as documented in an adopted and in effect growth policy, facility plan, or similar document to a greater degree than is required under the minimum standards of the reference base district.

The city may not adjust or waive any provision imposed by state or federal law or regulation.

E. Combined Benefits PDZ

- 1. Eligibility. To be considered for a PDZ that provides a combination of a percentage of the affordable housing benefits identified in 38.430.050.A and benefits identified in Sections 38.430.040.B, C, or D or any combination thereof, the application must:
 - a. Provide at least one-half of the amounts of affordable housing, at the levels of income-restriction, required by 38.430.050.A.1.b, for a period of at least 30 years; and
 - b. Provide benefits listed as necessary to meet 38.430.090 in any one or a combination of:
 - (1) 38.430.050.B.1 for consideration of a historic structure/site PDZ;
 - (2) 38.430.050.C.1 for consideration of a sustainable/resilient design PDZ; or
 - (3) 38.430.050.D.1.a and c above for consideration of a Large Development PDZ.
- 2. Flexibility Allowed. PDZ applications eligible for consideration as a combined benefits PDZ may request an adjustment or waiver of any city non-procedural provision in this chapter if that adjustment or waiver will contribute to achieving the types of flexibility listed in 38.430.050.A.2 or B.2 or C.2 or D.2. The city may not adjust or waive any provision imposed by state or federal law or regulation.

F. Novel Public Benefits PDZ

- 1. Eligibility. A novel public benefits PDZ application must propose mutually supportive and integrated project, site, or building design features outside of the parameters of A-E that:
 - a. As determined in the discretion of the review authority materially advances at least 6 objectives of the growth policy and at least two priorities each from two other adopted plans of the City which produce public benefits.
 - b. The novel public benefits option is subject to a heightened level of scrutiny as the City has established options A-E as its preferred benefit options.

2. Flexibility Allowed. PDZ applications eligible for consideration as a novel public benefits PDZ may request an adjustment or waiver of any city non-procedural provision in this chapter if that adjustment or waiver will contribute to materially advancing the objectives and priorities identified in F.1.a when compared to development of a similar type under the reference base district standards and which produce public benefits. The city may not adjust or waive any provision imposed by state or federal law or regulation.
- G. The flexibility allowed for adjustment or waiver of standard applies uniformly to the PDZ unless specified otherwise in the approval.

38.430.060 Permitted uses in a planned development zone

- A. Proposed land uses in a PDZ must be consistent with the land use descriptions in the city's adopted growth policy.
- B. A PDZ application may include any land use listed in division 38.310 and must identify proposed uses by the same names used in that Section.
- C. Proposed uses must comply with all applicable use-specific standards for the use(s), as described in division 38.360, unless a waiver or adjustment to applicable standards is proposed and approved as part of the PDZ application review process.
- D. A PDZ must address allowance for telecommunications and utilities as part of proposed land uses. The proposed allowance may not have the effect of restricting service availability of telecommunications or utilities.

38.430.070 Phased Development

- A. PDZ applications may propose development to occur in phases. If phased development is proposed, the application must include a projected timetable for phased development and a general development plan that includes all of the land to be included in all phases of development.
- B. In connection with any phased PDZ development, the city may require the applicant execute a development agreement, improvements agreement, or other documentation acceptable to the city ensuring dedication of required parks, open space, or both, and construction of required infrastructure, amenities, or site features.
- C. The city may authorize phased construction of infrastructure or site amenities pursuant to 38.270.060.C.
- D. If the nature, design, or location of required parks, open space, infrastructure, amenities, or site features makes it necessary to construct them in a sequence other than in rough proportion to approvals for construction of residential or non-residential structures, the city may require the applicant to construct them in the order and extent necessary to protect the public and ensure practical function.

38.430.080 General Review Procedures for PDZ Applications

Ordinance No. 2104, Planned Unit Development Repeal and Replace

- A. **Applicability.** A request to develop land in any of the five types of PDZ zoning districts must be submitted and reviewed as a combined zoning map and text amendment under division 38.260.
- B. **Procedure**
 - 1. **General.**
 - a. A PDZ zoning application requires review and approval of a general development plan as described in this section concurrent with review of an application for a zoning map amendment, as described in division 38.260.
 - b. A PDZ does not give authority for construction but a final development plan must be approved by the review authority prior to issuance of building permits or initiation of construction. Subdivision, site plan, or other review processes may also be required prior to initiation of construction.
 - c. An application for a final development plan may be filed prior to final action on an application for a PDZ zone map amendment and a related general development plan provided that:
 - (1) No action by the review to approve, approve with conditions, or deny the final development plan is effective until the zone map amendment and related general development plan is approved or approved with conditions.
 - (2) The review authority may waive specific requirements for information the applicant must include in a final development plan if the review authority determines that information has been included in the application for a general development plan.
 - d. If applicant proposes a PDZ in conjunction with a subdivision, applicant may file an application for preliminary plat concurrently with the application for a general development plan. Applicant may be required to waive required subdivision review periods for subdivision review to enable coordination of review. The review authority may waive specific requirements for information the applicant must include in a final development plan if the review authority determines that information has been included in the preliminary plat application.
 - e. The city will coordinate processing of the PDZ and subdivision applications to allow for consolidated consideration of both applications together if feasible. Review of the subdivision must follow 76-3-616, MCA as implemented in 38.240. Final development plan review and approval is still required, as described in this section, and compliance with phased development requirements in 38.430.070 is also required, if applicable.

Table 38.430.080.B: PDZ Review and Decision-Making Authority Summary
Table abbreviations R = Review, D = Decision-making authority, N/A = Requirement does not apply

Ordinance No. 2104, Planned Unit Development Repeal and Replace

	Director	Community Development Board [1]	City Commission
PDZ Zoning			
Zoning Map Amendment and general development plan for all PDZ Property	R	R	D
Final development plan	D		
Subdivision (if Required for PDZ)			
Preliminary Subdivision Plat [2]	R	R	D
Final Subdivision Plat [2]	R		D
Notes			
[1] Pursuant to MCA Sections 76-1-107 and 76-2-307, the Community Development Board will act in its capacity as a Zoning Commission or Planning Board, as necessary.			
[2] An applicant may request that the city concurrently process applications for a general development plan and Preliminary Subdivision Plat. An applicant may request that the city concurrently process applications for a final development plan and Final Subdivision Plat. Such requests may be limited by 76-3-604(9) MCA.			

C. PDZ Zoning and General Development Plan Review

1. Applicant may submit the PDZ zoning and general development plan review application upon completion of concept or informal,
2. The PDZ application must include, at a minimum the materials required in 38.220.120:
3. If the project requires approval of a subdivision plat, the applicant may submit an application for a preliminary plat at the same time as a PDZ zoning application, and the two may be consolidated for joint consideration by the city commission. Section 76-3-604(9) MCA restricts applicability of changing zoning standards and may limit the ability of the city to consolidate review.

D. Concept/Informal Review. A concept review or informal application is required for all PDZs as specified in 38.230.090. If the PDZ is proposed in association with a subdivision, the city may review subdivision pre-application and concept review or informal application for PDZ zoning concurrently. If an application for PDZ zoning and general development plan are not filed with the city within one year after the concept review or informal review, the review authority may require another concept review or informal review meeting before the application is filed.

E. Noticing and Public Hearings

1. After the community development department determines the PDZ zoning and general development plan applications contain all necessary information, the department will set review dates before the community development board and before the city commission.

Ordinance No. 2104, Planned Unit Development Repeal and Replace

2. If the application also includes a complete application for a preliminary plat, the department will set a date for review of the plat in accordance with 38.240.
3. Notice shall be provided in accordance with division 38.220.

F. Review and Action

1. The community development department may refer a complete PDZ zoning application and associated general development plan application to other city or governmental departments, agencies, or districts whose jurisdiction involves some or all of the land included in the application, for their comments or recommendations.
2. After conducting its public meeting, the community development board must recommend to the city commission approval or denial of the PDZ zoning application; and recommend approval, approval with conditions, or denial of the associated general development plan application. If the applicant submitted an application for a preliminary plat, the community development board must recommend approval, approval with conditions, or denial of the preliminary plat.
3. After conducting its public hearing, the city commission may approve or deny the PDZ zoning application; and may approve, approve with conditions, or deny the associated general development plan application. The city commission may not approve a PDZ zoning application before a general development plan for all of the property included in the PDZ zoning application is approved or approved with conditions.
4. If the applicant submitted an application for a preliminary plat, the city commission may concurrently consider the PDZ zoning and subdivision applications and approve, approve with conditions, or deny the preliminary plat concurrently pursuant to 38.240.150, if permitted by state law.
5. The review authority must indicate approval or denial of the final development plan pursuant to this section based on the PDZ zoning application and staff report, but the review authority's decision shall not become final unless and until the city commission approves the PDZ zoning and approves the general development plan in a form that is consistent with the final development plan.

G. Final Development Plan Review and Approval

1. After approval of a PDZ zoning application and approval or conditional approval of a general development plan, the review authority must approve a final development plan before applicant may initiate construction, or initiate any use based on the PDZ approval. A final development plan must be approved prior to approval of any site plan, final plat, building permit, or other final development review decision.
2. Each final development plan must be consistent with the terms of the approved PDZ zoning and general development plan and may not include adjustments or waivers to any reference base district standard inconsistent with the PDZ zoning or general development plan.

3. The review authority may approve one final development plan for the entire PDZ property or may approve multiple final development plans for different portions of the property if the city has approved phased development pursuant to 38.430.070. The city may not issue any building permit, and no individual or entity may initiate any infrastructure or other construction; or any use on any portion of the property for which the review authority has not approved a final development plan.
4. If the city commission has approved both a PDZ zoning application and a related application for a preliminary plat, the final plat must be filed with the Gallatin County Clerk and Recorder before the city may issue any building permit or before applicant may initiate any building construction or use based on the PDZ approval.
5. A final PDZ zoning approval is not an approval to begin building construction. It provides the general plan and pattern for the applicant to submit associated subdivision plats and site plans for approval.

38.430.090 Criteria for Approval

The community development board may recommend approval of an application for PDZ zoning, and the city commission may approve an application for PDZ zoning, if it determines the PDZ application complies with the criteria in subsection A applicable to all PDZ applications and also complies with one or more of the criteria in subsection 2 applicable to specific types of PDZ applications. The applicant has the burden of proof that the proposed PDZ and general development plan meet the criteria for approval.

A. Criteria Applicable to All PDZ Applications

1. Complies with applicable Montana state law criteria for approval of a zoning map and text amendment, 76-2-304;
2. Complies with general eligibility criteria in 38.430.040;
3. Complies with the specific eligibility criteria for the type of PDZ requested, as listed in 38.430.050, as applicable;
4. Is in accordance with the growth policy currently in effect, including the future land use map; and
5. Identifies one or more of the base zoning districts listed in article 3 of this chapter, as the reference base district for each portion of the PDZ; and
6. Mitigates known adverse impacts on surrounding properties to the extent practicable consistent with 38.100.050 and 38.100.070.

B. Criteria Applicable to Specific Types of PDZ Applications

1. Affordable Housing PDZ. The applicant has submitted a general development plan or other documentation acceptable to the city ensuring the development provides the amounts of affordable housing required by this section. If the PDZ proposes to provide an equivalent affordable housing benefit for a period of at least 30 years, the city may consider the size, type, or location of the dwelling units, site or sustainable design

features to be included in the development that would reduce operating or maintenance of the dwelling units, the proposed initial sale prices or rental rates of dwelling units, or other factors.

2. Historic Structure/Site PDZ
 - a. The general development plan or other documentation acceptable to the review authority includes an adaptive reuse plan for the listed historic structure(s) included in the PDZ; and
 - b. The general development plan or other documentation acceptable to the review authority ensures that the design of any new structures to be constructed on portions of the PDZ property that do not contain the historic structure will meet the criteria of the latest edition of the Secretary of the Interior standards for Related New Construction.
3. Sustainable/Resilient Design PDZ. The general development plan or other documentation acceptable to the review authority ensures that the level of combined water consumption, non-renewable energy consumption, average daily motor vehicle trip generation, or a combination thereof from all structures and uses included in the PDZ shall be at least 25 percent lower than levels commonly experienced by development meeting current established standards in each of the reference base districts listed in the PDZ.
4. Large Development PDZ
 - a. If the PDZ includes housing, the applicant must submit a general development plan or other documentation acceptable to the review authority ensuring the development provides the amounts of affordable housing required by this section. If the PDZ proposes to provide an equivalent affordable housing benefit for a period of at least 30 years, the review authority may consider the size, type, or location of the dwelling units, site or sustainable design features to be included in the development that would reduce operating or maintenance of the dwelling units, the proposed initial sale prices or rental rates of dwelling units, or other factors; and
 - b. The general development plan or other documentation acceptable to the review authority ensures the PDZ will include physical investments public amenities or public infrastructure investments or both beyond what would otherwise be required under this chapter open to the public that significantly exceed those that would otherwise be required under this chapter for property located in the reference base district listed in the PDZ and that are proportionate to or greater than the adjustments or waivers to requested development standards.
 - c. The applicant has submitted documentation acceptable to the review authority sufficient to identify the five chosen plan objectives, identify specific actions to be taken to materially advance the objectives, and provides an implementation plan

for actions to be carried out within 5 years and suitable to complete implementation actions. If the implementation plan is phased to coordinate with subdivision or other development, then implementation of each objective within each phase must be able to be completed within 5 years of beginning of construction within each phase.

- d. The city may, in its sole discretion, require security for performance or completion of actions as part of the general plan using the methods and procedures of division 38.270 in conjunction with subdivision or site development.
 - e. The implementation plan must include for each action proposed:
 - 1) A timeline addressing any phasing and completing action within five years;
 - 2) A description of any additional review procedures required before execution can begin;
 - 3) The responsible party to complete additional review procedures and
 - 4) Intended funding source if applicable.
5. Combined Benefit PDZs
- a. The applicant has submitted a development agreement or other documentation acceptable to the review authority ensuring the development provides at least one-half of the amounts of affordable housing required by this division. If the PDZ proposes to provide an equivalent affordable housing benefit for a period of at least 30 years, the city may consider the size, type, or location of the dwelling units, site or sustainable design features to be included in the development that would reduce operating or maintenance of the dwelling units, the proposed initial sale prices or rental rates of dwelling units, or other factors; and
 - b. The benefits to the city through the proposed combination of historic preservation, sustainable/resilient development, novel public benefit, and large development exceed the affordable housing benefits that the city would have received if the PDZ had included the full amounts of affordable housing required by this division.
6. Novel Public Benefit PDZs
- a. The applicant has submitted documentation acceptable to the review authority sufficient to identify the chosen plan objectives, identify specific actions to be taken to materially advance the objectives, and provides an implementation plan for actions to be carried out within 5 years and suitable to complete implementation actions. If the implementation plan is phased to coordinate with

subdivision or other development, then implementation of each objective within each phase must be able to be completed within 5 years of beginning of construction within each phase.

- b. The city may, in its sole discretion, require security for performance or completion of actions as part of the general plan using the methods and procedures of division 38.270 in conjunction with subdivision or site development.
- c. The implementation plan must include for each action proposed:
 - 1) A timeline addressing any phasing and completing action within five years;
 - 2) A description of any additional review procedures required before execution can begin;
 - 3) The responsible party to complete additional review procedures; and
 - 4) Intended funding source, if applicable.

38.430.100 Duration of PDZ Approval

A. Zoning Map Amendment.

1. Initial approval. After preliminary approval of a PDZ the ordinance implementing the PDZ district is required. Final adoption of the implementing ordinance does not occur until after a final development plan meeting all conditions of approval has been reviewed and is ready for approval.
2. An approved PDZ zoning does not expire after final adoption of the implementing ordinance, but rezoning of the PDZ may be initiated by the city pursuant to division 38.260 if:
 - a. The city has not received an application for a building permit before the expiration of an approved final development plan pursuant to this section; or
 - b. The applicant does not proceed with development pursuant to one or more approved final development plans according to provisions for phased development approved by the city.

B. General Development Plan Duration

1. An approved general development plan is valid for a period of one year unless the approved general development plan provides for a longer time or for phased development, or the city commission approves an extension of such time. A final development plan for at least part of the PDZ property must be approved not later than within one year after the approval of a general development plan. The applicant may submit a written request for one extension of up to one additional year to submit the final development plan, and the director may approve such requests for good cause shown.

2. If a general development plan expires, the right to proceed with the development pursuant to the approved general development plan is terminated, and the provisions of the reference base district(s) applicable to each portion of the land included in the general development plan shall apply, unless and until the city commission approves a new general development plan pursuant to this section.

C. Final Development Plan Duration

1. A final development plan is valid for a period of at least one year one year and not more than 3 years unless the city approves a building permit and applicant begins construction of at least one primary structure within one year of the approval of a final development plan. This may require completion of work and recording of a final plat prior to issuance of a building permit.
2. The applicant may submit to the director a written request for extension of time of up to 2 years to obtain the required building permit, and the director may approve such requests pursuant to section 38.230.140.F.
3. If a final development plan expires, the applicant must apply for and obtain approval of a new final development plan pursuant to this section.

38.430.110 Amendments to Approved Planned Development Zones and General Development Plans

- A. Amendments to Approved General Development Plan. After approval of a general development plan, the applicant may request and the director may approve, minor amendments to the general development plan, as described below.
1. Minor Amendments. The review authority may approve the following minor amendments to an approved general development plan if the review authority determines that they do not change the character of the neighborhood and do not contain any changes that would increase the amount of deviation/relaxation of the requirements of the reference base zoning districts beyond those in the approved general development plan. Minor amendments must be consistent with the initial approval and may include but are not limited to:
 - a. A change in the location of any internal street that does not affect points of access to or from the PDZ property;
 - b. A change in the location of any internal park, open space, or storm drainage detention/retention facility that is not located along the periphery of the PDZ property; and
 - c. A change of location or orientation of any primary building on a lot or parcel;
 - d. An increase of less than five percent in the amount of permitted residential or non-residential lot coverage;
 - e. A change of less than five percent in the minimum or maximum number of parking spaces required or permitted;

- f. A change of less than five percent in the maximum permitted height of any building; and
 - g. A change in any numerical building design standard by up to five percent.
 - h. An increase or decrease of less than five percent in the number of dwelling units in an approved PDZ, provided that the revised number of dwelling units still include the amounts and levels of affordable housing required by this division.
 - i. Revisions to phasing sequence or boundaries that do not conflict with conditions of approval or conflict with standards.
2. Major Amendments
- a. A major amendment is any change to an approved general development plan not listed as a minor amendment in this section.
 - b. A major amendment to an approved general development plan requires approval through the same process used to approve the original PDZ zoning and general development plan.
 - c. Any major amendment that proposes to increase the number of dwelling units in an approved PDZ, or to add residential dwelling units to an approved PDZ, shall include the proportionate amounts of affordable housing required by this division.
- B. Amendments to Approved Final Development Plan
- 1. After approval of a final development plan, the applicant may request, and the review authority may approve, amendments to the final development plan if the review authority determines the proposed amendments are consistent with the approved general development plan and the provisions of this chapter. Amendments are subject to the minor and major amendment limits in paragraph A of this section.
 - 2. The review authority may authorize the applicant to submit only those portions of final development plan application materials necessary to document the proposed change, rather than submitting a new final development plan application.
 - 3. If the review authority determines the revised final development plan requires a minor amendment to a general development plan, the review authority may approve both at the same time.

38.430.120 Removal of Property from a Planned Development Zone

- A. A property owner may apply for a zoning map amendment to remove a parcel from an approved PDZ and any related general development plan or final development plan.
- B. The application for a zoning map amendment must indicate the zoning district to be applied to the removed properties, which may be different from the reference base district identified for such property in the approved PDZ.
- C. The city shall consider any such application pursuant to division 38.260 and may require the applicant provide assurances that any unfulfilled obligations related to construction or

maintenance of infrastructure or amenities, provision of open spaces, preservation of access, or other matters addressed in the PDZ, general development plan, or final development plan will be satisfied without imposing additional costs or burdens on properties that are to remain included in the PDZ or on any organization or entity responsible for providing or maintaining improvements or services to the remaining PDZ properties.

38.430.130 Administrative Procedures Authorized

The city manager may adopt, and from time to time amend, administrative procedures to implement this section. The administrative procedures may at a minimum include the following items:

- A. Standards to evaluate equivalent levels of housing affordability;
- B. Standards related to required levels of maintenance of historic structure;
- C. Standards to measure reductions in water consumption, reductions in non-renewable energy use, and reductions in average daily motor vehicle trip generation;
- D. Standards to measure or evaluate equivalence of benefits to the city; and
- E. Procedures for application requirements, processing, and review of a PDZ.

Section 21

That 38.440, Legacy planned unit developments, of the Bozeman Municipal Code be created as follows:

DIVISION 38.440. LEGACY PLANNED UNIT DEVELOPMENTS

Sec. 38.440.010. Intent.

- A. This division is created to provide for the continued regulation of legacy planned unit development (PUD) approved or deemed adequate prior to [effective date]. Prior to [effective date] a PUD was a use approved within an existing zoning district and did not modify the zoning map. This division cannot be applied to property not already within a legacy PUD.

38.440.020. Final plan review and approval.

- A. The final PUD plan must be in compliance with the approved preliminary plan and/or development guidelines except as provided for in subsection A.2 of this section, and must be reviewed by DRC and ADR staff and approved by the review authority.
 - 1. Application process. Upon approval or conditional approval of a preliminary plan and the completion of any conditions imposed in connection with that approval, an application for final plan approval may be submitted.

2. Review criteria; compliance with preliminary plan. For approval to be granted, the final plan must comply with the approved preliminary plan. This means that all conditions imposed by the city commission as part of its approval of the preliminary plan have been met and:
 - (a) The final plan does not change the general use or character of the development;
 - (b) The final plan does not increase the amount of improved gross leasable non-residential floor space by more than five percent, does not increase the number of residential dwelling units by more than five percent and does not exceed the amount of any density bonus approved with the preliminary plan;
 - (c) The final plan does not decrease the open space and/or affordable housing provided;
 - (d) The final plan does not contain changes that do not conform to the requirements of this chapter, excluding properly granted deviations, the applicable objectives and criteria of section 38.430.100, or other objectives or criteria of this chapter. The final plan must not contain any changes which would allow increased deviation/relaxation of the requirements of this chapter; and
 - (e) The final plat, if applicable, does not create any additional lots which were not reviewed as part of the preliminary plan submittal.
- B. Final plan approval. The final plan may be approved if it conforms to the approved preliminary plan in the manner described above. Prior to final plan approval, the review authority may request a recommendation from the DRB, DRC, ADR staff, or other entity regarding any part of a proposed final plan. If a final plat is part of the final plan submittal, the review authority per section 38.200.010 is responsible for approval of the final plat.
 1. Final plats associated with a PUD must comply with the requirements of sections 38.240.150 and 38.220.070.

38.440.030 Amendments to final plan.

- A. Issuance of building permits and other development approvals are based on the approved final plan and any conditions of approval. No city administrative personnel are permitted to issue permits for improvements which are not indicated on the approved final plan with the exception of the following:
 1. Minor changes to a planned unit development may be approved administratively and in writing, whereupon a permit may be issued. Such changes may be authorized without additional public notice at the discretion of the review authority. This provision does

not prohibit the review authority from requesting a recommendation from the DRB, DRC, ADR staff or other entity.

2. Minor changes are defined as follows:
 - (a) Those developments that do not change the character of the development;
 - (b) An increase of less than five percent in the approved number of residential dwelling units;
 - (c) An increase of less than five percent in the approved gross leasable floor areas of retail, service, office and/or industrial buildings;
 - (d) A change in building location or placement less than 20 percent of the building width without compromising requirements of the UDO;
 - (e) An increase in the number of lots less than two percent without increasing the density by more than five percent. This is applicable only to zoning PUD plans, not subdivision PUD plats;
 - (f) A final plan which does not contain any changes which would allow increased deviation/relaxation of the requirements of this chapter; and/or
 - (g) A final plat, if applicable, which does not create any additional lots which were not reviewed as part of the preliminary plan submittal.
- B. Changes greater than minor changes must be processed as a PDZ subject to 38.430.

Sec. 38.440.040. Duration of planned unit development approval.

- A. *Duration of preliminary plan approval.* The provisions of this subsection A do not apply to subdivision elements of a PUD.
 1. Within a maximum of one year following the approval of a preliminary plan, the applicant must file with the community development department a final plan in detailed form covering the entirety, or one or more phases, of the development.
 2. Upon application and in accordance with the standards of section 38.230.140.F, the community development director may administratively extend the period for filing a final plan for six-month periods. The granting of administrative extensions under this section may, at the discretion of the community development director, be referred to the city commission.
 3. If no final plan is filed covering all or any portion of the preliminary plan within the above time limits, the right to proceed under the preliminary plan will expire for any portion of the preliminary plan for which a final plan has not been timely filed.
- B. *Duration of final plan approval.*
 1. The applicant must undertake and complete the development of an approved final plan within two years from the time of final plan approval. For the purposes of this section,

a development is substantially complete once all engineering improvements (water, sewer, streets, curbs, gutter, streetlights, fire hydrants and storm drainage) are installed and completed in accordance with city rules and regulations. Extensions for periods of not more than one year may be administratively granted by the community development director in accordance with the standards of section 38.230.140.F. The granting of administrative extensions under this section may, at the discretion of the community development director, be referred to the city commission.

2. A request for extension of final approval under this section must be submitted to the community development director in writing by the applicant at least 30 days prior to the date of expiration. Failure to submit a written request within the specified time period will cause forfeiture of the right to extension of final approval. Failure to construct the development and implement improvement requirements within the specified time limit will cause a forfeiture of the right to proceed under the final plan and require resubmission of all materials and re-approval of the same through the preliminary plan procedures.
3. The timing of all extensions of final plan approval must be coordinated with the approval period established for any subdivision plat approval that is part of the PUD so that any expiration dates are consistent.
4. Final plan approval may occur multiple times under the provisions for phased PUDs described in section 38.430.070.

Sec. 38.440.050. Enforcement of approval requirements and conditions.

The failure to comply with any of the terms, conditions of approval or limitations contained on the site plan, landscape plan, building elevations, other approved documents, or other element pertaining to a planned unit development which has received final approval from the city may subject the applicant or current landowner to the enforcement remedies contained in section 38.200.160.

38.440.060 Removal of property from an approved legacy planned unit development

- A. A property owner may request removal of one or more parcels from a legacy PUD.
- B. Such a request for removal must be in writing to the director of community development, must clearly identify the PUD by the city's assigned application number under which the PUD was approved, and must clearly state that the landowner is abandoning all associated rights and privileges due to the PUD. The property owner is not relieved from participating in ongoing maintenance of any facilities from which they benefit. The director of community development may establish standards for the content, form, and supporting materials to be included in a request to abandon an approval.
- C. The city will review any such application pursuant to division 38.230.150 and may require the applicant to provide assurances that any unfulfilled obligations related to construction or maintenance of infrastructure or amenities, provision of open spaces, preservation of access,

or other matters addressed in the PUD, will be satisfied without imposing additional costs or burdens on properties that are to remain included in the PUD or on any organization or entity responsible for providing or maintaining improvements or services to the properties remaining in the PUD.

- D. City must determine the abandonment of the PUD does not negatively impact public benefit created by the PUD.
- E. Removal from a PUD does not rescind other final approvals such as subdivisions or site plans.

Section 22

That Paragraph M of 38.550.050, Planned unit development open spaces, of the Bozeman Municipal Code be amended as follows with all other elements of the section to remain as presently written:

- M. ~~Legacy P~~planned unit development open spaces. ~~Legacy P~~planned unit development non-site-specific open space plans must meet or exceed the standards of these landscaping regulations. For each 5,000 square feet of total landscape open space area between 5,000 and 25,000 square feet and for each 10,000 square feet of total landscape areas in excess of 25,000 square feet a landscape plan must include three of the elements in table 38.550.050-1 from each column A and B unless the review authority grants a relaxation. When the preceding calculation results in a fraction the amount of landscaping required is rounded up to the next whole number.

Table 38.550.050-1

Column A	Column B
1 large canopy tree	3 evergreen shrubs and 3 deciduous shrubs
1 large non-canopy tree	2 small ornamental trees
2 small ornamental trees	2 large evergreen trees
	6 evergreen shrubs
	6 deciduous shrubs

Section 23

That Paragraph B of 38.560.060, Signs permitted upon the issuance of a sign permit, of the Bozeman Municipal Code be amended as follows with all other elements of the section to remain as presently written:

- B. Residential zones (R-S, R-1, R-2, R-3, R-4, R-5, RMH, R-O, REMU). The following on-premises signs may be permitted in the indicated zones with an approved sign permit:
1. Subdivision and residential complex signs. For residential subdivisions consisting of more than four residential lots and for residential complexes with more than four dwellings and more than one building, one low profile, freestanding, sign per development entrance may be permitted. No sign may exceed 16 square feet in area or five feet in height from the finished grade. The sign must be set back at least five feet from the property line.
 2. Residential building signs. For properties used for multi-household residential, one wall sign per street frontage may be permitted. No sign may exceed eight square feet in area.
 3. Signs appurtenant to residential principal, special and conditional uses, and home occupations.
 - a. Signs not to exceed four square feet in total area may be permitted for principal residential uses and permitted home occupations; however, such signs may not be located in any required setback area. In addition, home occupations may be permitted a single one-square foot sign on a mailbox or lamppost or one and one-half square feet of freestanding signage located a minimum of five feet from the property line.
 - b. Principal residential uses may be permitted non-commercial signs if such signs do not exceed 32 square feet in total area nor five feet in height. Such signs must be set back at least five feet from the property line.
 - c. Permitted non-residential type uses, such as churches, community centers, veterinary uses, golf courses, day care centers and schools may be permitted signage as if the underlying zoning were B-1.
 - d. Permitted conditional and special residential type uses such as homes used as bed and breakfasts and fraternity and sorority houses may be permitted signage as if the underlying zoning were R-O. Such signs may be illuminated only during the hours of operation.
 4. Legacy Pplanned unit developments. Commercial establishments within planned unit developments where the underlying zoning is residential may be permitted signage as if the lot were in a B-1 zone.

Section 24

That 38.700.050, D definitions, of the Bozeman Municipal Code be amended as follows with all other elements of the section to remain as presently written:

Deviation. A modification of physical standards of this chapter as applied to a specific piece of property located within the neighborhood conservation overlay district ~~or anywhere within the city through a planned unit development.~~

Section 25

That 38.700.080, G definitions, of the Bozeman Municipal Code be amended to include a new definition as follows with all other elements of the section to remain as presently written:

General Development Plan. A scale drawing(s) or other documents showing the general location of structures, uses, rights of way, parks, natural features, and utilities, existing and proposed, on subject property or any other information as may be required by this chapter in association with a zone map amendment to establish a general pattern and plan of development for the area within a planned development zone.

Section 26

That 38.700.150, P definitions, of the Bozeman Municipal Code be amended as follows with all other elements of the section to remain as presently written:

Planned unit development (*PUD*). A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks or any combination thereof that compose a planned mixture of land uses built in a prearranged relationship to each other, ~~and having open space and community facilities in a common ownership or use, and/or public parkland.~~

Section 27

That 38.310.060, Supplemental use provisions for the residential emphasis mixed-use zoning district, of the Bozeman Municipal Code be amended as follows:

Sec. 38.310.060. Supplemental use provisions for the residential emphasis mixed-use zoning district.

A. *Uses required and limited.*

1. REMU districts are intended to be developed with a mix of uses that encourage a range of building types, scales, densities, and site configurations.
2. Developments are encouraged to include non-residential uses, especially commercial and neighborhood support services, mixed horizontally and/or vertically, to promote compact, walkable and sustainable neighborhoods.
3. Non-residential uses must not exceed 30 percent of the total gross building square footage of all uses within the master planned area unless otherwise allowed in this section, through a master site plan ~~or planned unit development (PUD)~~ review.
4. For the purposes of calculating the percentage of a use within the master planned area, the gross square foot floor area of building for each use must be utilized.
5. The specific method of tracking will be determined during the master site plan, ~~PUD~~, or site plan review.
6. Home-based businesses are not considered non-residential uses and must not be limited by the provisions of the section.
7. Non-residential uses intended for public benefit and shared public amenities must not be limited by the provisions of this section. These uses include, but are not limited to, schools, parks, community centers, city operated services and structured parking facilities.

B. *Development review applications.*

1. To accomplish the intent of the district, the REMU district is anticipated to be located on sites five acres or larger. Development review applications for sites in the REMU district greater than, or equal to, five acres will first be subject to review as a master site plan per article 2 of this chapter; ~~or as a PUD per division 38.430 of this chapter, as determined by the applicant.~~
2. Project applications for subsequent project phases in compliance with an approved master site plan ~~or PUD~~ may be reviewed as a site plan review or sketch plan review in accordance with division 38.230 of this chapter.
3. All development review applications for property in the REMU district smaller than five acres are subject to the standards in this article and may be subject to review as a master site plan per division 38.230 of this chapter upon a finding by the city that:
 - a. The development application is for a site considered a major infill site, having a significant impact on an existing neighborhood; or may create a center within an existing neighborhood;
 - b. The proposed development is located at an intersection deemed to have special significance;

- c. The proposed development may have a significant impact on existing transportation and open space network, pedestrian and bicycle travel; and/or
- d. The proposed development requires a multi-year approval and multiple phases for completion.

Section 28

That 38.330.020, REMU district—Special standards, of the Bozeman Municipal Code be amended as follows:

Sec. 38.330.020. REMU district—Special standards.

- A. The special standards set forth in this section are minimum standards for a development review application. Standards not specifically addressed by this section are subject to the standards set forth in this chapter.
- B. *Street and circulation standards.*
 - 1. The policies and standards of the city's long-range transportation plan apply to REMU districts. New streets within REMU districts must be complete streets that accommodate pedestrians, bicycles, buses, automobiles and wintertime snow storage, and work in concert with internal property accesses and adjacent development to create a connected and vibrant public realm. REMU street standards also include the following stipulations:
 - a. Natural storm drainage systems are allowed within street rights-of-way.
 - b. Boulevard strips and medians may incorporate natural drainage technologies.
 - c. Buildings must be oriented with front facades facing the street as specified in the block frontage standards of division 38.510 of this chapter.
 - d. Shared drive accesses must be used to reduce the need for additional curb cuts, when feasible.
 - e. On-street parking should be maximized wherever feasible.
 - 2. Front-loaded local streets. To ensure that front-loaded streets are community-oriented and pedestrian-friendly, adjacent buildings, garages and drive aisles must comply with the following specific standards of this chapter.
 - a. Section 38.350.070, parking and garages (for single to four-household dwellings).
 - b. Section 38.400.090.C.2.a, drive access requirements—Residential.
 - c. Division 38.510, block frontage standards (for all development except single to four-household dwellings)
 - d. Section 38.540.010.A.4, stacking of off-street parking spaces.
 - e. Section 38.540.010.A.5, no parking permitted in required front or side setbacks.

Ordinance No. 2104, Planned Unit Development Repeal and Replace

- f. Section 38.540.010.A.6, parking permitted in rear setbacks.
- 3. Woonerfs. Woonerfs, or streets where pedestrians and cyclists have priority over motorists, are encouraged on private drive accesses or properties in the REMU district. Woonerfs may be permitted on public local streets or alleys through the subdivision variance ~~or PUD process~~.
- 4. Alleys. Alleys are encouraged, but not required, in the REMU district.
 - a. Apply standards of section 38.400.060.B (street improvement standards—alleys) where applicable.
- C. *Site planning and design element standards.* See division 38.520 for applicable standards for all development types, except single to four-household dwellings. See section 38.360.220 for applicable standards for single to four-household dwellings.
- D. *Open space standards.* The REMU district is urban in nature. Public parks and recreational areas and publicly accessible private open spaces are likewise expected to be urban in nature. This may include elements such as plazas or other hardscaping, or landscaping with planters and furniture. Such areas may be more concentrated in size and development than anticipated in a less urban setting. Public spaces must be designed to facilitate distinct types of activities to encourage consistent human presence and activity.
 - 1. Public parks and recreational areas. The requirements of this section must give direction in the development of park plans and the application of the standards of division 38.420 of this chapter.
 - 2. Publicly accessible private open space in commercial developments. See section 38.520.060 of this chapter for the minimum amount and design of pedestrian-oriented open space.
 - 3. Private residential open space. See section 38.520.060 of this chapter for the minimum amount and design of usable residential open space.
- E. *Building standards.*
 - 1. See division 38.520 for applicable standards for all development types, except single to four-household dwellings.
 - 2. Parking structures must not have more than one two-way vehicle entrance or two one-way vehicle entrances facing any public way. Fifty percent of a parking structure's ground floor linear frontage along the primary street must be retail, commercial, office, civic, residential, or live/work.
 - 3. Building encroachments are permitted in accordance with section 38.350.050, subject to any and all applicable International Building Codes.
 - 4. All projects in the REMU district are exempt from the rear setback lot coverage requirements of section 38.360.030.I.
- F. *Landscape and planting standards.* Developments are subject to the landscaping standards in division 38.550 of this chapter and the provisions herein. ~~Table 38.330.020-1 lists the~~

minimum number of points needed for landscape plan approval for development types within REMU districts.

**Table 38.330.020-1
Special Landscape and Planting Standards**

Development type	Lot with residential adjacency	Lot without residential adjacency
Residential: Small lot single household	N/A per section 38.550.020.B	N/A per section 38.550.020.B
Residential: Single household	N/A per section 38.550.020.B	N/A per section 38.550.020.B
Residential: Townhouse 2 to 4 attached units	N/A per section 38.550.020.B	N/A per section 38.550.020.B
Residential: Townhouse or townhouse cluster 5 or more attached units	23	23
Residential: Two to four household dwellings	N/A per section 38.550.020.B	N/A per section 38.550.020.B
Residential: Apartments 5 or more units	23	23
Mixed use with residential	15	15
Non residential projects	23	15
PUD	23	23

G. *Lighting standards.* See division 38.580 for applicable standards.

Section 29

Repealer.

All provisions of the ordinances of the City of Bozeman in conflict with the provisions of this ordinance are, and the same 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 30

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 31

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.

Section 32

Codification.

This Ordinance shall be codified as appropriate in Section 2 – 28.

Section 33

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 ____ day of _____, 2022.

CYNTHIA L. ANDRUS
Mayor

Ordinance No. 2104, Planned Unit Development Repeal and Replace

ATTEST:

MIKE MAAS
City Clerk

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 ___ of _____, 2022. The effective date of this ordinance is _____, _____, 2022.

CYNTHIA L. ANDRUS
Mayor

ATTEST:

MIKE MAAS
City Clerk

APPROVED AS TO FORM:

GREG SULLIVAN
City Attorney