



ORDINANCE 2105

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA TO REPEAL AND REPLACE DIVISION 38.380 AFFORDABLE HOUSING, AMEND SECTION 38.200.010 REVIEW AUTHORITY TO ASSIGN RESPONSIBILITY FOR AFFORDABLE HOUSING ADMINISTRATION, AMEND TABLE 38.310.030.A PERMITTED GENERAL AND GROUND RESIDENTIAL USES IN RESIDENTIAL ZONING DISTRICTS TO REMOVE REFERENCES TO HOUSING ALLOWED BY 38.380, AMEND TABLE 38.320.030.A MINIMUM AND MAXIMUM LOT AREA, AMEND TABLE 38.320.030.B MINIMUM LOT WIDTH TO REMOVE REFERENCES TO HOUSING ALLOWED BY 38.380, AMEND 38.360.060 ZONE EDGE TRANSITIONS TO ESTABLISH TRANSITION STANDARDS FOR DEVELOPMENT USING HEIGHT INCENTIVES CREATED IN 38.380, AMEND 38.340.040 CERTIFICATE OF APPROPRIATENESS TO REMOVE EXCEPTIONS FOR PROJECTS SUBJECT TO 38.380, AMEND TABLE 38.360.040 ADU USE TABLE IN RESIDENTIAL ZONING DISTRICTS TO REMOVE RESTRICTIONS AND REDUNDANT LANGUAGE, AMEND 38.360.100 CONDOMINIUMS TO REMOVE LANGUAGE NO LONGER APPLICABLE DUE TO CHANGES TO 38.380, AMEND 38.360.120 COTTAGE HOUSING TO REMOVE LANGUAGE NO LONGER APPLICABLE DUE TO CHANGES TO 38.380 AND TO REMOVE AFFORDABILITY REQUIREMENTS, AMEND 38.410.030.G TO REMOVE REFERENCES TO 38.380 NO LONGER APPLICABLE, AMEND 38.420.020.A TO REMOVE REFERENCES TO 38.380 IN PARK DEDICATION REQUIREMENTS, AMEND 38.700.020 A DEFINITIONS TO ADD OR REVISE DEFINITIONS FOR AFFORDABLE HOME, AFFORDABLE HOUSING, AND AREA MEDIAN INCOME, AMEND 38.700.050 D DEFINITIONS TO ADD DEFINITION OF DEVELOPER, TO AMEND 38.700.090 H DEFINITIONS TO REVISE THE DEFINITION OF HOUSEHOLD, AMEND 38.700.150 S DEFINITIONS TO ADD DEFINITION OF YIELD STREET TO STREET TYPES.

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

WHEREAS, after proper notice, the Community Development Board acting in their capacity as the Bozeman Zoning Commission held a public hearing on August 1, 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 element of application No. 21338 related to Ordinance 2105, be not approved; and

WHEREAS, the Economic Vitality Board recommended to the Bozeman City Commission that Ordinance 2105 be approved; and

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

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

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

Section 1

Legislative Findings

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

1. The City adopted a growth policy, the Bozeman Community Plan 2020, by Resolution 5133 to establish policies for development of the community including zoning.
2. The Bozeman Community Plan 2020 establishes goals to increase the supply of affordable housing in the city. To fulfill these goals, the community plan establishes numerous objectives to promote housing affordability and diversity through increased supply of certain types of housing.
3. The city commission identifies affordable housing as one of its main strategic goals: “Housing and Transportation Choices - Vigorously encourage, through a wide variety of actions, the development of sustainable and lasting housing options for under-served individuals and families and improve mobility options that accommodate all travel modes.”
4. The Community Housing Needs Assessment (February 2019) was completed to help the city identify, understand and address the housing challenges and problems faced by local residents and employees in the city.
5. The Bozeman Community Housing Action Plan was approved by city commission on November 18th, 2019, and amended on January 13, 2020. The Action Plan outlines a

partnership framework to address affordable housing (also called community housing) in Bozeman over a five-year period and recommends edits to this chapter.

6. The city's first inclusionary zoning policy was adopted in 2007. In April, 2021, the Montana State Legislature adopted House Bill 259, which prohibits local governments from requiring housing fees or the dedication of real property for the purposes of providing housing for specified income levels or sale prices and which prohibits zoning regulations that require housing fees or the dedication of real property for the purposes of providing housing for specified income levels or sale prices.
7. Following the passage of House Bill 259, the city commission desires to replace the city's current Affordable Housing Ordinance with this ordinance, which does not require any of the actions prohibited by House Bill 259, but instead offers incentives to property owners and developers willing to construct housing at levels of affordability consistent with the housing needs and goals identified in the community plan, the community housing needs assessment, and the community housing action plan.
8. Limited housing opportunities within the city negatively impacts economic development, transportation networks, and sustainability. Affordable housing needs must be addressed to maintain a sufficient resident workforce in all fields of employment, and to ensure the public safety and general welfare of the residents of the city, affordable housing needs must be addressed.
9. The incentives codified in this ordinance will advance the city's legitimate interest in assuring that additional housing is built in the city.
10. This ordinance is adopted pursuant to the city's self-governing powers, the city's zoning authority, and the police power to protect public health, safety, and general welfare.
11. The Bozeman Community Plan 2020, Chapter 5, sets forth the policies by which the City reviews and applies the criteria for amendment of zoning established in 76-3-304, MCA.
12. Zoning, including amendments to the text, must be in accordance with an adopted growth policy.
13. House Bill 259 being passed into law by the 2021 Montana Legislature, the City must revise its regulations to conform to revised authority for zoning and subdivision.
14. A staff report analyzing the required criteria for a text amendment, including accordance to the Bozeman Community Plan 2020, found that the required criteria are satisfied and the criteria for consideration have been evaluated and after balancing community and legal priorities the benefits of Ordinance 2105 outweigh the disadvantages.
15. The two required public hearings were advertised as required in state law and municipal code and all persons had the opportunity to review the materials applicable to the application and provide comment prior to a decision.
16. The Bozeman Zoning Commission has been established as required in state law and conducted their required public hearing and transmitted their recommendation to the City Commission prior to the City Commission consideration of the ordinance.

17. The City Commission conducted a public hearing to provide all interested parties the opportunity to provide evidence and testimony regarding the proposed amendment prior to the City Commission acting on the application.
18. The City Commission considered the application materials, staff analysis and report, Zoning Commission recommendation, all submitted public comment, and all other relevant information.

Section 2

That 38.200.010, Review authority, of the Bozeman Municipal Code be amended as follows with all other elements to remain as presently adopted:

H. The director of economic development must oversee, review, and as needed approve, approve with conditions or deny, and manage after approval the following development elements and processes:

1. Division 38.380 Affordable Housing.

I-H. 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.

J-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.

K-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 3

That Table 38.310.030.A. Permitted general and group residential uses in residential zoning districts is amended as follows:

Table 38.310.030.A

Permitted general and group residential uses in residential 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 specific to the subject use 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.

Uses	Zoning Districts							
	R-S	R-1	R-2	R-3	R-4	R-5	R-O ¹	RMH
General residential								
Accessory dwelling units* - attached <u>or</u> detached (38.360.040)	P	P	P	P	P	P	P	—
Accessory dwelling units*—detached (38.360.040)	P	P	P	P	P	P	P	—
Apartments/apartment building*	—	—	—	—	P	P	P	—
Apartment building, limited ^{4 3}	—	—	—	P	P	P	P	—
Cottage housing (38.360.120)*	P	P	P	P	P	P	P	P
Manufactured homes on permanent foundations(38.360.170)*	P	P	P	P	P	P	P	P
Manufactured home communities*	—	—	—	—	—	—	—	P
Single-household dwelling (38.360.220)	P	P	P	P	P	P	P	P
Two-household dwelling (38.360.220)	—	—	P	P	P	P	P	—
Three household dwelling or four-household dwelling (38.360.220)	—	—	—	P	P	P	P	—
Townhouses* & rowhouses* (two	P ² —	P ² —	P	P	P	P	P	P ³ —

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attached units)(38.360.250)								
Townhouses* & rowhouses* (five attached units or less) (38.360.250)	—	—	—	P ³	P	P	P	—
Townhouses* & rowhouses* (more than five attached units) (38.360.250)	—	—	—	—	P	P	P	—
Group residential								
Community residential facilities* with eight or fewer residents	P	P	P	P	P	P	P	P
Community residential facilities* serving nine or more residents	—	—	—	S	P	P	P	—
Cooperative household*	S	S	S	P	P	P	P	S
Family day care home*	P	P	P	P	P	P	P	P
Group day care home*	P	P	P	P	P	P	P	P
Group living (38.360.135)*	P	P	P	P	P	P	P	P
Lodging houses*	—	—	—	S	P	P	P	—
Transitional and emergency housing (38.360.140)* and related services	S	S	S	S	S	S	S	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. ~~In the R S, R 1, and RMH district townhomes are only allowed when utilized to satisfy the requirements of division 38.380, Affordable Housing. May only be utilized in developments subject to division 38.380 of this article.~~

23. In the R-3 district, townhouse groups must not exceed 120 feet in total width.

34. Supplemental use criteria for apartment building, limited are in section 38.360.070.

Section 4

That Table 38.320.030.A. be amended as follows:

**Table 38.320.030.A
Minimum and maximum lot area**

Table clarification:								
1. Where a code reference or link appears after the form and intensity topic, the use is subject to standards set forth in that section or chapter.								
2. If a number appears in the box, refer to the development condition with the corresponding number immediately following the table. If there are multiple numbers, then all development conditions apply.								

Use Type/Standard	Zoning District							
	R-S	R-1	R-2	R-3	R-4	R-5	R-O	RMH
Minimum lot area in a lot per dwelling (square feet)¹(38.320.030.A)								
Single-household dwelling	4,000 ¹	4,000 ¹	4,000 ¹	4,000 ¹	4,000 ¹	3,000 ¹	4,000 ¹	3,000 ¹
Single-household dwelling (only for dwellings to satisfy minimum requirements of division 38.380 of this chapter)	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700
Two-household dwellings	—	—	2,500 ¹	2,500 ¹	2,500 ¹	2,500	3,000	—
Two household dwellings (only for dwellings to satisfy minimum requirements of division 38.380 of this chapter)	—	—	2,500	2,500	2,500	2,500	2,500	—

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Lot area per dwelling in three- or four-household dwelling configurations	—	—	—	3,000	3,000	None	3,000	—
Lot area per dwelling in three- or four-household dwelling configurations (only for dwellings to satisfy minimum requirements of division 38.380 of this chapter)	—	—	—	2,500	2,500	None	2,500	—
Townhouses & rowhouses per dwelling	—	—	3,000 ²	3,000 ³²	3,000 ³²	None	3,000 ³²	—
Townhouses & rowhouses (only for dwellings to satisfy minimum requirements of division 38.380 of this chapter)	2,500 ³	2,500 ³	2,500 ³	2,500 ³	2,500 ³	None	2,500 ³	2,500
<u>Apartments – First Dwelling</u>	—	—	—	—	3,000	None	3,000	—
<u>Apartments – Each dwelling after the first</u>	—	—	—	—	1,200	None	1,200	—
Apartments and Apartment Building, Limited—First dwelling	—	—	—	—	5,000	None	5,000	—

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Apartments and Apartment Building, Limited—Each dwelling after the first	—	—	—	—	1,200	None	1,200	—
Apartment Building, Limited—Each dwelling	—	—	—	3,000	—	—	—	—
Apartment—Each dwelling after the first (only for dwellings to satisfy minimum requirements of division 38.380 of this chapter)	—	—	—	—	900	None	900	—
Additional area required for an accessory dwelling unit	1,000 ⁻⁴	1,000	1,000	1,000	1,000	None	1,000	—
All other uses	5,000 [†]	5,000 [†]	5,000 [†]	5,000 [†]	5,000 [†]	None	5,000 [†]	5,000 [†]
Maximum lot area (net acres) (38.320.020.A)								
Residential use	—	—	—	2.5 ^{3 5}	2.5 ^{3 5}	2.5 ^{3 5}	2.5 ^{3 5}	—

Notes:

1. In order to comply with the standards contained in this chapter, lot area in excess of the required minimum may be needed (for corner lots, parking, landscaping or large residential structures, for example), and may be necessary for property adjacent to watercourses, ridgelines, or other environmental features in order to provide an appropriate buildable area on the lot.
- ~~2. Per townhouse lot or rowhouse dwelling.~~
- ~~2-3.~~ For townhouse or rowhouse clusters, the lot area per dwelling may be averaged within the cluster.
- ~~4. Extra lot size requirement does not apply when R-S lots are larger than 6,000 square feet.~~

35.—Departures ~~from~~ from the maximum lot size requirements may be allowed where the planned development fits into the context of the neighborhood and proposed pedestrian and vehicular circulation measures meet community objectives.

Section 5

That Table 38.320.030.B, be amended as follows:

**Table 38.320.030.B
Minimum lot width (feet)**

Table clarification:

1. Where a code reference or link appears after the form and intensity topic, the use is subject to standards set forth in that section or chapter.
2. If a number appears in the box, refer to the development condition with the corresponding number immediately following the table. If there are multiple numbers, then all development conditions apply.

Use Type/Standard	Zoning District							
	R-S	R-1	R-2	R-3	R-4	R-5	R-O	RMH
Single-household dwelling	50	50/40 ¹	50/40 ¹	50/40 ¹	50/35 ¹	35/25 ^{1,2}	50/40 ¹	50/40 ¹
Single-household dwelling (only for dwellings to satisfy requirements of division 38.380 of this chapter)	30	30	30	30	30	30	30	30
Two household dwelling	—	—	60/50 ¹	60/40 ¹	50/40 ¹	50/40 ¹	50/50 ¹	—
Accessory dwelling unit ³	50	40	40	40	40	None ⁴	40	—
Accessory dwelling unit ³ on lots with Townhouses	30	30	30	Width of interior units ²	Width of interior units ²	Width of interior units ²	Width of interior units ²	—
Dwellings in three- or four-	-	-	—	60	60	None ^{2,4}	60	—

household dwelling configurations								
Townhouses	30	30	30	Width of interior units ²	Width of interior units ²	Width of interior units ²	Width of interior units ²	—
All other uses	50	50	50	50	50	None ^{2,4}	50	50

Notes:

1. When the lot is adjacent to an alley and vehicle access is taken only from that alley.
2. Lot width is subject to section 38.400.090. Lot widths of 25 feet or less may jeopardize compliance with standards for legal and physical access, street trees, on-street parking, garage design, drive access width and placement, and utilities. Home design and size will be restricted as a result. Mitigation measures may be required for placement and separation of public and private utilities.
3. Second dwellings in accessory buildings are subject to all restrictions in this chapter relating to accessory buildings. Lot area and width must be provided as if the dwelling were attached to the principal use. Dwellings to be developed under this option are subject to section 38.360.040.
4. Lot widths may be variable provided they are sized and shaped sufficient to accommodate permitted uses and conform to applicable design and density standards.

Section 6

That 38.320.060, Zone edge transitions, be amended as follows:

Sec. 38.320.060. Zone edge transitions.

- A. *Intent.* To provide measures that help to provide a compatible transition between certain higher and lower intensity zoning districts.
- B. *Zone edge transition standards.* The following standards are intended to supersede other form and intensity standards in this division.
 1. *Setback adjustments.*
 - a. Minimum side and rear setbacks for development within BP, M-1, and M-2 districts where adjacent to a residential district: 15 feet. No additional setbacks required adjacent to alleys and streets.
 - b. Minimum side and rear setbacks for development within B-3 and UMU districts adjacent to a residential district: five feet. No additional setbacks are required adjacent to alleys and streets

2. *Height/setback adjustments.*

- a. For development on sites in the B-3, B-2M, UMU, and R-5 districts that are adjacent to the RS, R-1, or R-2 district. From a height of 38 feet at a ten foot setback from the property line adjacent to ~~from the~~ applicable residential districts, buildings must step back at a 45 degree angle away from the applicable property line as shown in figure 38.320.060. No such 45 degree angle setback is required if separated by a street.
- b. For development on sites in the B-3 district that border R-3 and R-4 districts. From a height of 38 feet at a five foot setback from the property line adjacent to ~~from the~~ applicable residential districts, buildings must step back at a 45 degree angle away from the applicable property line.
- c. For buildings located at the edge of a zoning district and which use the height incentives of 38.380.030. At the required setback from property line for the district in which the site is located; and from the maximum building height allowed in the district without the height incentive; buildings must step back at a 45 degree angle away from property lines. This requirement does not apply to interior common walls within the same development, such as between townhomes.
- d. Permitted 45 degree angle step back encroachments in a-c of this paragraph:
 - (1) Permitted horizontal encroachments include those elements and standards set forth in section 38.350.050.A.
 - (2) Permitted vertical encroachments include those elements and standards set forth in section 38.350.050.D.

Section 7

That 38.340.040. Certificate of appropriateness, be amended as follows:

Sec. 38.340.040. Certificate of appropriateness.

- A. A certificate of appropriateness is required before any and all alteration(s) other than those specifically exempted in subsection 1 of this section, or repair(s) as defined in section 38.700.160, are undertaken upon any structure in the conservation district. The review authority for certificates of appropriateness is established in division 38.200.010 of this chapter. Compliance with the terms of the final decision is required. The Montana Historical and Architectural Inventory Form must be reviewed and, if necessary, updated to reflect current conditions on the site, prior to the review of the proposal. Application procedures are as follows:
 1. No building, demolition, conditional use, sign or moving permit may be issued within the conservation district until a certificate of appropriateness has been issued by the appropriate review authority, and until final action on the proposal has been taken.
 - a. Limited exceptions. The following construction located within the neighborhood conservation overlay district, within an established historic district, or at a site

which is individually listed on the National Register of Historic Preservation, does not require a certificate of appropriateness if the project satisfies the following standards:

- (1) Fences meeting all other provisions of this chapter (e.g. height limitations, street vision triangle, finished side out, etc. per section 38.350.060) which are built of wood, wrought-iron, or any other non-synthetic material and whose construction allows "transparency" as set forth in Chapter 3, Section F of the design guidelines referenced in section 38.340.050.D. Chain link fencing is not included in this exception.
 - (2) Basement egress windows whose window material and configuration is present elsewhere in the structure, and whose window wells are not on the front or corner-side setback elevation of the structure, and which do not establish or provide egress from an illegal dwelling unit.
 - (3) Accessory structures under 120 square feet as measured from the outer edge of the exterior walls, which meet the setback requirements, are not more than 14 feet to their highest point and which do not require a building permit.
 - (4) Alterations in roofing material, if installing wood shingle, slate, tile, or asphalt shingle material, and no changes are made to the roof shape, pitch or slope.
 - (5) Photovoltaic panels which are flush mounted to a roof.
2. Application, review and public notice procedures for proposals located within the conservation district are set forth in division 38.230, Plan Review, and division 38.220, Applications and Noticing, of this chapter. If demolition or movement of structures or sites subject to the conservation district requirements is proposed, the procedures in section 38.340.080 apply.
- ~~3. The architectural designs of individual affordable housing units used to satisfy the requirements of section 38.380.030 and are exempt from the review requirements of this part 1. This exemption does not extend to removal or alterations of existing structures.~~

Section 8

That Table 38.360.040. ADU use table in residential zoning districts, of the Bozeman Municipal Code be amended as follows:

Table 38.360.040
ADU use table in residential zoning districts

Table clarification:

1. Uses: P = Principal; S = Special uses; — = Uses which are not permitted.
2. If a * appears after the use, then the use is defined in article 7.

3. 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.

	Zoning districts							
	R-S	R-1	R-2	R-3	R-4	R-5	RMH	REMU
Detached ADU ^{2&3}	P	P	P	P	P	P	—	P
Attached ADU ^{2,3&4}	P	P	P	P	P	P	—	P
Owner occupied	Yes ⁺ Not required	Yes ⁺ Not required	Not required	Not required	Not required	Not required	—	Not required

The following ADU standards and 38.320.070 apply to all zoning districts:

Occupancy limit	2 persons
Deviations	No
# of ADU per lot	One
Location	ADU's are permitted above accessory buildings and on the ground floor. Ground floor ADUs require alley access or pedestrian connection to a sidewalk or the adjacent right-of-way.
Parking requirement	ADUs are not subject to minimum parking requirements. If parking is provided it must conform to all applicable standards.
Unit size	In no case may an ADU be larger than 600 square feet or have more than a single bedroom. The method of calculating the maximum ADU square footage will be "living area" defined as "all floor area exclusive of areas with a sloped ceiling less than three feet in height, stairwells, and exterior decks." Bedrooms, living rooms, kitchens, casework, interior walls, hallways, closets, bathrooms, and any other living space must be included in the maximum square footage calculation.
Design requirements	Detached ADUs, including second story additions on detached garages may be approved only if found compatible and consistent with the existing character and fabric of the neighborhood. The review authority must consider placement and size of windows, decks, balconies, fencing, landscape

	screening, and height and massing of the structure to minimize impacts to adjacent properties.
Height limit	Notwithstanding the limitations in section 38.360.030.G, a detached ADU may exceed the height of the principal building but may not exceed 22 feet in height.
Garage conversions	Garages may not be converted for use as ADUs unless all required parking for all uses on the lot is otherwise provided prior to conversion. However, ADUs may be placed above garages except where otherwise noted.
Minimum standards or "no guarantee"	A permit for an ADU will not be granted unless the lot has been configured to accept an ADU with adequate lot area, utility services, and compliance with setbacks and height standards.

Notes:

1. ~~R-S and R-1 occupancy. At least one owner of record who possesses at least an estate for life or a 50 percent fee simple ownership interest must reside on site as their primary residence. No more than one of the dwellings, either the principal dwelling or the accessory dwelling, may be rented by non-owners at the same time. The city may require a guarantee of compliance with the requirements of this section, including but not limited to a binding deed restriction or covenant enforcing the single rental restriction as allowed in section 38.270.080.B, as a condition of approval.~~
2. ~~Any ADU created within an accessory building is subject to the limitations of 38.360.030.~~
3. ~~An accessory dwelling unit may not be approved on a reduced size lot created to meet the minimum affordable housing requirements of chapter 38, division 380.~~
4. Location. The ADU may be a part of the principal dwelling unit, provided the ADU is clearly incidental to the principal dwelling unit and meets all of the following criteria:
 - a. Lot area per Table 38.320.030 is provided.
 - b. The ADU does not exceed one-third of the total area of the principal structure.
 - c. If the entrance for the ADU is separate from the entrance of the principal structure, the entrance must be on a façade different than that of the main entry.

Section 9

That 38.360.100, Condominiums, of the Bozeman Municipal Code be amended as follows:

Sec. 38.360.100. Condominiums.

- A. *Unit ownership act.* Condominium developments must comply with all provisions of the Unit Ownership Act, MCA 70-23-101 et seq., and all regulations adopted to implement to Act.
- B. *Condominium association.* A condominium association must be established for each condominium development. The developer must prepare bylaws for the condominium association, as well as covenants, conditions and restrictions for the condominium development, in compliance with division 38.220 of this chapter. The bylaws, covenants, conditions and restrictions must be submitted to the city for review and approval prior to the granting of plan approval or approval for condominiumization of existing development.
- C. Internal circulation in a condominium development must be designed in accordance with division 38.540 of this chapter, and must, when deemed necessary by the city engineer, comply with section 38.400.020.
- ~~D. Condominiums may be subject to chapter 38, division 380.~~

Section 10

That 38.360.120.A of the Bozeman Municipal Code be amended as follows:

- A. *Purpose and intent.*
 - 1. The purpose of this section is to achieve the goals and objectives of the land use and housing chapters of Bozeman's growth policy and the goals of ~~the Inclusionary Housing Ordinance~~, division 38.380 Affordable Housing. Cottage housing enables higher density development by allowing smaller lots, smaller home sizes, and clustered home sites, which are subject to design standards. This housing development option encourages more efficient use of land and energy.
 - 2. Cottage housing development regulations are designed to:
 - a. Provide opportunities for creative, diverse and high quality infill and greenfield development compatible with existing neighborhoods;
 - b. Support development of diverse housing in accordance with the growth policy;
 - c. Increase the variety of housing types available within the community;
 - d. Support the creation of neighborhoods with a mix of housing opportunities for mixed incomes; and
 - e. Provide opportunities for small, detached cottages within existing neighborhoods.

Section 11

That 38.360.120.C of the Bozeman Municipal Code be deleted and the remainder of the section renumbered.

~~C. Affordable housing applicability. The requirements of division 38.380, unless specifically modified in this article, apply to all cottage housing subdivisions regardless of the number of cottages proposed to be included in the development. Notwithstanding the provisions of division 38.380, a cottage housing subdivision must provide at least one lower priced home, or three moderate priced homes. A cottage housing subdivision may have more affordable homes than the required minimum.~~

Section 12

Division 38.380. - Affordable Housing is repealed in its entirety and replaced to read as follows:

Division 38.380 Affordable Housing

38.380.10 Purpose

- A. The purpose of this division is to promote the public health, safety, and welfare by incentivizing increased production of affordable rental and for sale housing to meet the needs of city residents and the goals of the adopted growth policy and the community housing action plan.
- B. In addition, the purpose of this division is to offer incentives tailored to the levels of housing affordability in new development and redevelopment, with greater incentives being offered to those producing or preserving housing affordable to households earning lower percentages of the Bozeman Area Median Income (AMI).
- C. In addition, this division alleviates the reduction in the land supply available to accommodate future affordable housing development that would result if most or all of the available residential land is used solely for the benefit of households that are able to afford market-rate housing.

38.380.020 Applicability

- A. Generally. The following types of development are eligible to use the incentives described in this division. Affordable home incentives, described in section 38.380.030, may be approved in conjunction with an annexation, subdivision, or site plan that:
 - 1. Contains or will contain dwellings; and
 - 2. That commits to providing at least the minimum percentages of dwellings in the development at rental rates or sales prices affordable at no more than the maximum percentages of AMI established in Table 38.380.020-1 or Table 38.380.020-2 and consistent with all requirements of 38.380.

Table 38.380.020-1

Affordable Homes Required for Deep Incentives				
	Minimum Percentage of Homes	Maximum Percentage of AMI		Duration
		Rental Dwellings	For-Sale Dwellings (includes condominiums)	
Type of Housing				
Single-Household Detached Dwelling	=>50%	80% of AMI	120% of AMI	=>30 years
Single-Household Attached Dwelling	=>50%	80% of AMI	120% of AMI	=>30 years
Multi-Household Dwelling	=>50%	80% of AMI	120% or AMI	=>30 years

Table 38.380.020-2

Affordable Homes Required Shallow Incentives				
	Minimum Percentage of Homes	Maximum Percentage of AMI		Duration
		Rental Dwellings	For-Sale Dwellings (includes condominiums)	
Type of Housing				
Single-Household Detached Dwelling	=>5%	80% of AMI	120% of AMI	=>30 years
Single-Household Attached Dwelling	=>5%	80% of AMI	120% of AMI	=>30 years
Multi-Household Dwelling	=>5%	80% of AMI	120% or AMI	=>30 years

- B. The City and a landowner may agree by contract to future development on a property producing the housing identified above in exchange for the incentives in this division.
- C. Previously Approved Development
 - 1. A previously annexed but undeveloped parcel of land, subdivision, or site plan that has received final approval before the effective date of this division, and that has not previously received an incentive in return for commitments to include affordable housing in the development, may apply for affordability incentives listed in section 38.380.030. The property owner or applicant for the previously undeveloped parcel must make a written commitment to meet the affordability standards for rental rates or sales prices in this section consistent with 38.380.040. The affordable housing plan must be submitted and approved prior to use of any incentive.

2. Only that portion of the amended preliminary plat or site plan, including associated code standards and conditions of approval, pertaining to the request for approval of one or more procedural adjustments and subsidies will be subject to additional preliminary plat or site plan review.

D. Assumptions and Calculations

1. All references to AMI are to the most recent Area Median Income established by the U.S Department of Housing and Urban Development (HUD). As HUD publishes updated AMI values they are immediately effective without further action by the City. The city may establish administrative procedures for application and implementation of AMI in calculating dwelling costs in accordance with 38.380.070.
2. To determine the maximum sales prices of affordable homes with different numbers of bedrooms, the city will base its calculation on AMIs for households of different sizes, as follows, with the review authority determining which rooms qualify as bedrooms:
 - a. Studio dwelling: AMI for a one-person household;
 - b. One bedroom dwelling: AMI for a two-person household;
 - c. Two bedroom dwelling: AMI for a three-person household; and
 - d. Three bedroom unit or larger: AMI for a four-person household.
3. If the calculation of the required number of affordable homes results in a fraction of a home, fractions equal to or less than 0.5 shall be ignored, and fractions greater than 0.5 shall be rounded up to require the construction of one affordable home, which may be a studio unit.

38.380.030 Incentives Available. Applications for development of affordable homes that comply with the requirements of this division qualify for and must be awarded the incentives applicable to the type and tenancy of affordable housing being provided and requested by the developer.

A. Incentives may be applied to:

1. Dwellings in single use residential or mixed-use residential/nonresidential development.
2. If a single building contains a mix of residential and nonresidential primary uses, these incentives are only available if 50 percent or more of the gross floor area of the building contains residential uses.

The incentives below supersede the standards otherwise applicable in this chapter. The city retains the authority to approve, approve with conditions, or deny the project as a whole based on compliance with other portions of this title or other city regulations, but shall not attach conditions to an approval that have the effect of removing the incentives awarded in this section.

- B. *Incentives for Table 38.380.020-1 Deep Incentives.* If the developer proposes to construct affordable homes that meet the standards in Table 38.380.020-1 in the same geographically contiguous development as market rate homes, the developer may apply the following

incentives to all primary buildings in the development in which 50 percent or more of the gross floor area contains residential uses:

1. For single-household detached dwellings:
 - a. Minimum lot size of 2,000 square feet; or 1,600 square feet if the applicant demonstrates that all applicable city regulations related to lot development, access and utilities can be met.
 - b. No minimum lot width requirement above that necessary for access and utilities if the applicant demonstrates that all applicable city regulations related to lot development, access and utilities can be met.
 - c. Off-street parking requirement of one space per dwelling.
 - e. Concurrent construction of infrastructure and dwellings per 38.270.030 is allowed.
2. For single-household attached dwellings (townhouses and rowhouses):
 - a. Minimum lot size of 1,600 square feet; or 1,400 square feet if the applicant demonstrates that all applicable city regulations related to lot development, access and utilities can be met.
 - b. No minimum lot width requirement if the applicant demonstrates that all applicable city regulations related to lot development, access and utilities can be met.
 - c. Off-street parking reduction to one space per dwelling.
 - d. Concurrent construction of infrastructure and housing per 38.270.030 is allowed.
3. For multi-household dwellings and mixed-use buildings:
 - a. One additional story of height (maximum 15 feet per story) beyond that allowed in the RS, R-1, R-2, R-3, or RMH zoning districts.
 - b. Two additional stories of height (maximum 15 feet per story) beyond that allowed in the R-4, R-5, R-O, NEHMU, and B-1 zoning districts.
 - b. Four additional stories of height (maximum 15 feet per story) beyond that allowed in the UMU, REMU, B-2, B-2M, and B-3 zoning districts.
 - c. No minimum onsite vehicle parking requirement, but bicycle parking standards and requirements of 38.540.050 still apply.
 - d. Townhouses* & rowhouses* (two attached units) in the R-1, RS, and RMH zoning districts.
 - e. Exemption from each of the following for buildings containing dwellings, unless an alternative standard is provided in this division:
 - i. Minimum lot size, lot area per dwelling units, and lot width requirement in all zoning districts.
 - ii. Section 38.510.030.E-J block frontage standards, provided that vehicle parking is prohibited between the front or side of a principal building and a public or private street;
 - iii. Section 38.530.040.E maximum façade width standards;
 - iv. Section 38.530.040.F roofline modulation standards

- v. Section 38.530.050 building detail standards; and
- vi. Section 38.530.060 building material standards.
- f. Concurrent construction of infrastructure and housing per 38.270.030.
- 4. Developments subject to 38.380 may use yield streets without requirement for additional zoning review requirements beyond that for the development within which the yield street will be used. A yield street has the following characteristics:
 - a. 40-foot right-of-way with two-way dedicated travel in a 16-foot advisory yield zone for motor vehicles and 5-foot walkways outside on either side.
 - b. Staggered 7-foot wide parallel parking spaces which may include chicane style streetscape for varying width of paved area.
 - c. No parking in front of private property that blocks access to property adjacent to the street.
 - d. Passing areas every 100 feet minimum for sight line assurance and yielding capabilities. Passing pullout areas to be not less than 25 feet long. Driveway accesses may serve as passing areas.
 - e. Snow management plan, including enforcement provisions, must be provided during initial development review.
 - 1) No snow storage in passing areas;
 - 2) Adequate storage areas or removal methods must be provided to address two 25 year storms.
 - f. Stormwater must be managed within the right of way unless an alternate method compliant with municipal standards is provided.
 - g. A comprehensive street signage plan must be included with initial submittal and executed with infrastructure plans and construction including but advisory signage for yielding to pedestrians/bikes/PTDs and other vehicle travelers..
 - h. The proposed design must be consistent with accessibility requirements established by any governmental agency.
 - i. Design shall address inclusion of any proposed street furnishings, amenities, plantings, etc.
 - j. Yield streets are exempt from the requirements of 38.550.070 for installation of street trees adjacent to individual lots.
 - k. The City may limit speeds to less than standard for a local street.
 - l. Maintenance – Must be maintained by landowners in the development unless the City explicitly assumes responsibility. A funding mechanism equal to that for private streets in 38.400.020 is required for private maintenance.
 - m. Length may not exceed 400 feet without intersecting with a street. Ends must terminate at a street or be provided a fire code compliant turn around. A total length may exceed 400 feet if there are crossing streets with a yield street.

- n. Adjacent buildings must not exceed three stories unless setup space for fire department ladder trucks is provided adequate to access all buildings in excess of three stories.
- C. *Incentives for Table 38.380.020-2 Shallow Incentives.* If the developer proposes to construct affordable homes that meet the standards in Table 38.380.020-2 in the same geographically contiguous development as market rate homes, the developer may apply the following incentives to all primary buildings in the development in which 50 percent or more of the gross floor area contains residential uses:
- 1. For each single-household detached dwelling a minimum lot size of 3,000 square feet, or 2,500 square feet, if the applicant demonstrates that all applicable city regulations related to lot development, access and utilities can be met.
 - 2. For each single-household attached dwelling (townhouse or rowhouse) a minimum lot size of 2,200 square feet, or 1,800 square feet, if the applicant demonstrates that all applicable city regulations related to lot development, access and utilities can be met.
 - 3. For multi-household dwellings and mixed-use buildings:
 - a. Ten percent reduction in lot area for applicable dwelling type in Table 38.320.030.A.
 - b. One additional story of height (maximum 15 feet per story) beyond that allowed in the RS, R-1, R-2, R-3, RMH, R-4, R-5, R-O, NEHMU, and B-1 zoning districts.
 - c. Two additional stories of height (maximum 15 feet per story) beyond that allowed in the UMU, REMU, B-2, B-2M, and B-3 zoning districts.
 - d. Minimum vehicle parking requirement of one stall per dwelling for all districts other than B-3 and bicycle parking standards and requirements of 38.540.050 still apply.
 - e. Minimum vehicle parking requirement of 0.75 stall per dwelling for B-3 district; bicycle parking standards and requirements of 38.540.050 still apply.
 - e. Townhouses & rowhouses (two attached units) are principal uses in the R-1, RS, and RMH zoning districts.

38.380.40 Affordable Housing Plan Required

- A. To qualify for low income affordable home incentives, the developer must submit to the City an affordable housing plan that includes the information and complies with the standards in this section:
- 1. Information Required
 - a. The total number of affordable homes, and market rate homes in the proposed development;
 - b. The table in 38.380.020 to be applied to the affordable housing plan.
 - c. The number of bedrooms in each proposed low income affordable home, and market rate home in the development.
 - d. Whether each affordable home will be offered for rental or for sale;

- e. The location of affordable lots or units in the development;
 - f. The applicable AMI and maximum rental or sales price applicable to each low income affordable home;
 - g. A description of the requested incentives from section 38.380.040.
 - h. Any other information that is reasonably necessary to evaluate the compliance of the affordable housing plan with the requirements of this division, as determined by the review authority.
 - i. If the development is to be constructed in phases:
 - 1) The required information may include specific commitments for the first phase of development and estimates for later phases of development, provided the combination of committed and estimated low income affordable homes in the development equals or exceeds the minimum required to qualify for the incentives requested.
 - 2) As the number of low income affordable homes for each later phase is finalized, the developer must submit an update to the affordable housing plan including or updating the information required in this section. The review authority shall review and approve, approve with conditions, or deny the update using the criteria in this section.
2. Development Standards for Affordable Homes
- a. The number of affordable homes must meet or exceed the minimum standards needed to qualify for the applicable incentive in section 38.380.030.
 - b. The mix of bedrooms per unit in affordable homes must be as similar as possible to the mix of bedrooms per unit of the market-rate homes in the development.
 - c. Access to shared amenities and services by residents of the affordable homes must be the same as to those in market rate homes in the development.
 - d. If the development is to be constructed in phases, and the developer has requested affordable housing incentives, at least 75 percent of the dwelling units in each phase must be affordable homes, unless the city has received adequate legal or financial assurance that any shortfall during earlier phases will be constructed before approval of the final phase of development.
- B. The review authority may approve the affordable housing plan if the review authority finds that it includes the information required for the city to confirm compliance with the standards and criteria in this division, including but not limited to the standards in Section 38.380.030.A, and any administrative procedures related to this division adopted pursuant to section 38.380.070.
- C. No annexation, preliminary subdivision, or site plan that contains any residential dwelling units and that requests affordable housing incentives may receive final approval until the affordable housing plan has been approved by the review authority.

- D. After approval by the review authority, the affordable housing plan must be incorporated by reference in the recorded annexation, final subdivision plat, or site plan documents.
- E. An approved affordable housing plan is a binding contract between the developer and the developer's successors in interest to the lot or dwelling, and must be included in a separate recorded written agreement between the developer and the city, or incorporated into another recorded document in which the developer is required to implement the affordable housing plan.

38.380.50 Land Donation Alternative

- A. As an alternative to constructing some or all of the affordable homes required by section 38.380.020, the developer may qualify for the incentives listed in section 38.380.040 by donating one or more parcels of land within the city limits. The land donation must meet the standards in this section and be approved by the director as providing equal or greater affordable housing benefit to the city.
- B. The developer may donate undeveloped parcels of land or ready-to-build house lots, provided the land is subject to a document recorded in the records of the Gallatin County Clerk and Recorder requiring the land be used only for the construction of affordable homes;
- C. The value of the land donated must equal or exceed the remaining cost of designing, obtaining land use and building approvals for, installing or upgrading infrastructure for, and constructing the number of affordable homes the annexer, subdivider, or developer would otherwise be required to provide in return for the requested incentives listed in subsection 38.380.030, as established by an independent valuation and economic study commissioned by and acceptable to the city and paid for by the developer.

38.380.60 Qualification of Renters and Buyers

- A. Developer must provide to the city written assurance acceptable to the city that each renter or purchaser of an affordable home must meet the following standards for a period of at least 30 years from initial occupancy of the home.
- B. Each renter or purchaser of an affordable home:
 - 1. Must occupy the affordable home as their primary residence, as determined by the review authority;
 - 2. Must meet the definition of a Household in section 38.700.090;
 - 3. Must comply with the income restrictions applicable to that type of home and tenancy according to 38.380.020:
 - a. Income verification for rental units must be performed every two years, and income verification for owner occupied units must be performed at the time of purchase, based on standards and methods approved by the U.S. Department of Housing and Urban Development.
 - b. If the project is subject to income restrictions different from those in section 38.380.020 as a condition of participation in a state or federal housing program or

receipt of state or federal financial assistance, the renter or purchaser must comply with those alternative income restrictions, as verified by standards and methods used by the applicable state or federal program.

4. Must not, if the Affordable Home is purchased, sell the home for a price higher than the original sales price of the home plus a compounded increase of 2.5% for each year the purchaser owns the home.
- C. The developer may satisfy the requirements of this section by contracting with a third party to monitor and enforce the conditions in this section through a written agreement approved as to form by the City Attorney. The developer may change the third party contractor with written approval by the City.
- D. The developer, or the city or its agent if the city is involved in the rental or sale of an affordable home, must record in the offices of the Gallatin County Clerk and Recorder, simultaneously with the recording of the deed of conveyance, a restrictive covenant, deed of trust or other legal instrument, approved as to form by the City Attorney, that obligates all owners or renters of the property to comply with the provisions of this section.

38.380.70 Administration

- A. The review authority shall have authority to promulgate and enforce all reasonable rules and regulations and take all actions necessary to the effective operation and enforcement of this division, unless such authority is expressly reserved to the city commission or another city official, including but not limited to:
 1. Reviewing affordable housing plans for compliance with this division;
 2. Adopting application, monitoring, and reporting forms, and other forms and information required from developers for implementation of this division;
 3. Monitoring compliance with this division, notifying the subdivider or developer of noncompliance, and ordering compliance;
 4. Imposing any and all sanctions permitted by this division; and
 5. Calculating and making available through the city website or otherwise the AMI needed to qualify for the various incentives listed in this division, and updating that information as needed to reflect any adjustments approved by the city commission.
 6. Adopting standards and policies to qualify eligible purchasers and renters for Affordable Homes created under this division.
- B. The city may publish administrative rules and instructions consistent with and necessary for the implementation of this division, including but not limited to instructions for completing the affordable housing plan, valuations required by this division, and the distribution of the required number of affordable homes and bedrooms within a project requesting the incentives in this division.
- C. The review authority may create standards for documentation the city will use to verify the rental rates or sale prices of affordable homes created pursuant to this division. For the initial sale of an affordable home, the seller must provide the city with a copy of the HUD-1 form

prepared by an attorney or title company indicating the sale price. The final sale price on the HUD-1 form may not exceed the maximum price for a specific affordable home as described in section 38.380.030, plus an allowed maximum established by rule as authorized in this section in buyer selected upgrades, if allowed by the first mortgage lender underwriters. In addition, the city shall require certification satisfactory to the city of homebuyer income qualification.

- D. Upon receipt of a settlement statement for the sale of an affordable home, the city will determine if the completed affordable home sale complies with the approved affordable housing plan and the requirements of this division and if not, will notify the seller of the noncompliance.

38.380.80 Noncompliance and Sanctions

- A. If the city determines that a developer has failed to comply with any terms or conditions of the affordable housing plan or this division, the review authority shall notify the developer of the noncompliance in writing and order compliance by the most reasonable and expeditious means as determined by the city. Notification shall describe the date by which the developer must be in full compliance and shall describe the nature of the noncompliance and the possible sanctions for noncompliance.
- B. A developer that sells an affordable home for a price not in compliance with the approved affordable housing plan, this division, or any other recorded document obligating the developer to comply with this division shall pay a penalty to the city. The penalty shall be equal to 125 percent of the difference between the actual sale price and the maximum sale price of the affordable home as set out in the approved affordable housing plan.
- C. In addition to other remedies available to the city pursuant to this division, if the developer remains in noncompliance on the date by which compliance was required, the city shall have the authority to impose one or more sanctions, including but not limited to the following, that the city deems most effective and appropriate considering the nature of the noncompliance:
 - 1. Withholding or revoking building permits;
 - 2. Issuing stop-work orders; and/or
 - 3. Withholding or revoking certificates of occupancy.

Section 13

That 38.410.030.G, of the Bozeman Municipal Code be amended as follows:

- G. Depth. Except for individual lots for individual townhomes; lots used to meet the requirements of ~~chapter 38,~~ division 38.380; lots serviced by an alley; or when necessitated by physical features of the land, no lot may have an average depth greater than three times its average width.

Section 14

That 38.420.020.A of the Bozeman Municipal Code be amended as follows:

- A. The area required by this subsection must be provided as a land dedication unless an alternate method of compliance is approved by the review authority.
 - 1. When the net residential density of development is known, 0.03 acre per dwelling unit of land must be provided.
 - a. When the net residential density of development is known at the time of preliminary plat and net residential density is in excess of eight dwellings per acre, the requirement for dedication for that density above eight dwellings per acre must be met with a cash donation in-lieu of the additional land unless specifically determined otherwise by the review authority.
 - b. If net residential density is in excess of eight dwellings per acre, the requirement for dedication for that density above eight dwellings per acre must be met with a cash donation in-lieu.
 - c. When developed as group quarters, such as group living or community residential facilities, rather than individual dwelling units, in lieu of 0.03 acres per dwelling unit, an area of 575 square feet per resident must be provided.
 - d. Land dedication or its equivalent must not be required for any dwelling units or group quarters occupancy in excess of the following:
 - (1) For development within the R-1, R-2, and R-MH zoning districts, the maximum net residential density must be ten dwelling units or 22.5 persons in group quarters per acre.
 - (2) For development within the R-3, R-4, R-5, R-O, and REMU zoning districts, the maximum net residential density must be 12 dwelling units or 27 persons in group quarters per acre.
 - (3) For development within other zoning districts not previously specified and developed for residential uses, the maximum net residential density must be 12 dwelling units or 27 persons in group quarters per acre.
 - 2. If net residential density of development is unknown, 0.03 acres per dwelling unit must be provided as follows:
 - a. For initial subdivision or other development:
 - (1) Within the R-1, R-2, and R-MH zoning districts: an area equal to that required for six dwelling units or 13.5 persons in group quarters per net acre.
 - (2) Within the R-3, R-4, R-5, REMU, and unless legally restricted from residential uses the R-O zoning districts: an area equal to that required for eight dwelling units or 13.5 persons in group quarters per net acre.

- (3) Within other zoning districts which are intended for residential development: the equivalent to an area dedication for six dwelling units or 13.5 persons in group quarters per net acre must be provided as cash-in-lieu.
- b. For subsequent development when net residential density becomes known, the net residential density per acre above the minimum established above must be rounded to the nearest whole number and applied as shown in the following table. All prior provision of parkland for the project site must count towards the maximum required dedication.

**Table 38.420.020.A
Parkland Dedication Provisions**

Zoning District	Required Dedication per Dwelling	Maximum Required Dedication per Acre	Cash-in-Lieu Required
R-1, R-2, R-MH	.03 acres or equivalent	10 dwellings	Yes
R-3, R-4, R-5, R-O, and REMU	.03 acres or equivalent	12 dwellings	Yes
All other districts	.03 acres or equivalent	12 dwellings	Yes
	Required area per person	Maximum required dedication per net acre	
Group quarters	575 square feet or equivalent	27 persons	Yes

~~3. Special case. The city has established chapter 38, division 380, to encourage the provision and development of affordable housing. Reductions in required parkland dedication are established in section 38.380.300. The reductions in parkland dedication to conform to division 38.380, may not reduce the development's parkland requirements below the minimum established by MCA 76-3-621.~~

Section 15

That 38.540.050.A.1 of the Bozeman Municipal Code be amended as follows:

- A. The following minimum number of off-street, paved parking spaces for motor vehicles and bicycles must be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth. When calculation of the required parking results in a fraction of a parking space being required, the fractional space is not required to be provided.
 - 1. Residential uses.

- a. Minimum requirements. The number of spaces shown in Table 38.540.050-1 must be provided subject to the adjustments allowed in this subsection 1. Parking stalls required pursuant to the Americans with Disabilities Act or other similar federal or state law may be provided from the minimum number of required parking stalls. All site plans submitted for permit purposes must identify parking space allocations. Fees may be charged by the landowner for the use of required parking spaces.
- (1) For projects submitted through a site plan or special use permit review process, one ~~One~~ parking space for each 24 uninterrupted linear feet of available street frontage usable for on-street parking directly adjacent to a lot may be deducted from the total parking spaces required for a development. The number of on-street spaces calculated may not exceed the number of dwellings on the lot. The width of drive accesses, designated non-parking areas, vision triangles, and similar circumstances may not be considered to be available for the purpose of on-street parking space.

Table 38.540.050-1

Dwelling Types	Parking Spaces Required per Dwelling
Lodging house	0.75 spaces per person of approved capacity
Efficiency unit	1.25 (1.0 in R-5)
One-bedroom	1.5 (1.25 in R-5)
Two-bedroom <u>or more</u>	2 (1.75 in R-5)
Three bedroom	3 (2.5 in R-5)
Dwellings with more than three bedrooms	4 (3 in R-5)
Group homes and community residential facilities	0.75 spaces per person of approved capacity ⁺
Bed and breakfast	1 space/rental unit
Manufactured home	2
All types of dwellings within the B-3 district	1
Group living /cooperative household/fraternity/sorority	1 space per resident ⁺
Transitional and emergency housing	0.25 spaces per person of approved capacity ⁺ ² <u>Additional services and facilities to serve non-residents must provide parking in accordance with Table 38.540.050-3.</u>

⁺ A transitional and emergency housing facility, group home, group living, cooperative household, or community residential facility may request to provide fewer parking spaces if the applicant provides evidence that some or all residents are prohibited from operating motor vehicles. Under no condition may less than two parking spaces be provided. If the use of the facility is altered to serve a different population who may

operate motor vehicles, then the additional required parking must be provided before the change in use may occur.

~~²Additional services and facilities to serve non-residents must provide parking in accordance with this Table 38.540.050-3.~~

b. Adjustments to minimum requirements.

- (1) Affordable housing. When calculating the amount of required parking for affordable housing, as defined in section 38.700.020 of this chapter, if the project is guaranteed for use as affordable housing for a minimum period of ~~20~~ 30 years and the use as affordable housing is subject to long term monitoring to ensure compliance and continued use as affordable housing, required parking spaces must be calculated based on number of bedrooms outlined in Table 38.540.050-1, but may not exceed ~~1.5~~two spaces per unit.
- (2) Residential uses in mixed-use projects. In order to utilize this section, the long term availability of the non-residential parking spaces upon which the use of this section was based must be ensured to the residents of the project. For the purpose of this section a building is considered mixed-use if the non-residential portion of the building is at least one-quarter of the gross square feet not used for parking. Residences in mixed-use buildings may count on-street parking per subsection 1.a.(1) of this section even if the area is subject to occupancy time limits. The use of this section does not preclude the use of other sections of this chapter which may have the effect of reducing the required amount of parking. When calculating the amount of required parking for residential uses within a mixed-use project the amount of parking may be reduced subject to Table 38.540.050-2.

Table 38.540.050-2

Reduction Allowed	Ratio of Required Non-residential to Required Residential Parking Spaces
50%	Greater than 1:1 but less than 3:1
100%	Equal to or greater than 3:1

- (3) A car-sharing agreement meeting the criteria established by the community development director may be used to meet the required number of parking spaces. To use this option the development must have more than five dwelling units. Each vehicle provided through a car sharing agreement counts as required parking at a ratio of one dedicated car-share space to five standard spaces, up to a maximum of 50 percent of the total required residential parking.
- (4) Transit availability. A residential development subject to site plan review may take a ten percent reduction in required parking spaces where the development is within 800 feet of a developed and serviced transit stop. For the purpose of this subsection a transit stop is eligible when it has a shelter

installed which meets the standards of and is approved by the transit provider, and service is provided on not less than an hourly schedule a minimum of five days per week.

Section 16

That 38.700.020, A definitions, of the Bozeman Municipal Code be amended to include terms as follows with all other elements remaining as presently written:

Affordable Home. A residential dwelling unit for rent or purchase that a subdivider or developer has committed to making affordable as an affordable home at the AMI levels to qualify for the incentives in 38.380.

~~Affordable housing. Housing for persons earning less than 65 percent of the area's annual median income for rental housing and 100 percent of the area's annual median income for purchased housing. Further, a Affordable housing does not require greater than 33 percent of the household gross annual median income for housing. Annual median income is defined by the Department of Housing and Urban Development.~~

Section 17

That 38.700.050, D definitions, of the Bozeman Municipal Code be amended to include terms as follows:

Developer. For purposes of division 38.380, a developer is the person or legal entity, or their successor(s) in interest who: (a) submits an affordable housing plan for a subject property along with other submissions required for land use approvals, annexation, zoning, or permit reviews by the city, or (b) is the owner of property subject to this division during the development phase or a successor in title, such as a builder or subsequent property owner, obligated to implement the affordable housing plan with respect to one or more lots or parcels of land or (c) receives incentives for the production of low income affordable housing.

Section 18

That 38.700.090, H Definitions, of the Bozeman Municipal Code be amended as follows with all other elements to remain as presently written:

Household.

- A. A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

Ordinance No. 2105, Affordable Housing Ordinance

1. Any number of people related by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship;
2. Not more than four unrelated people; or
3. Two unrelated people and any children related to either of them.
4. Any group of persons authorized by the federal fair housing act to occupy an individual dwelling as a single housekeeping unit.
5. Persons or groups granted a request for a reasonable accommodation to reside as a single housekeeping unit pursuant to section 38.35.090.
- ~~6-5.~~ "Household" does not include:
 - a. Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, cooperative housing or like organization;
 - b. Any group of individuals whose association is temporary or seasonal in nature;
 - c. Any group of individuals who are in a group living arrangement as a result of criminal offenses; or
 - d. Any group of individuals living in a structure permitted as transitional or emergency housing pursuant to this chapter.

Section 19

That 38.700.170, S Definitions, of the Bozeman Municipal Code be amended as follows with all other elements to remain as presently written:

Street types. For the purposes of these regulations, street types are defined as follows:

1. Alley. A street used primarily for vehicular access to the rear of properties which abut and are served by public or private streets.
2. Arterial. A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing limited access to adjacent land. Arterial streets are generally designated in the city transportation plan, however, streets not depicted in the city transportation plan may be designated as arterials by the review authority specified in section 38.200.010.
 - a. Principal arterial. Serves the major centers of activity, the highest traffic volume corridors, and the longest trip distances in an urbanized area. This group of streets carries the highest proportion of the total traffic within the urban area with typical loads of 10,000 to 35,000 vehicles per day. Most of the vehicles entering and leaving

the urban area, as well as most through traffic bypassing the central business district, utilize principal arterials. Significant intra-area travel, such as between central business districts and outlying residential areas, and between major suburban centers, are served by major arterials.

- b. Minor arterial. Interconnects with and augments the urban principal arterial system. It accommodates trips of moderate length and at a somewhat lower level of travel mobility than principal arterials, and it distributes travel to smaller geographic areas. With an emphasis on traffic mobility, this street network includes all arterials not classified as principal arterials while providing access to adjacent lands. Minor arterials typically carry 5,000 to 15,000 vehicles per day.
3. Collector. A street or road that provides equal priority to the movement of traffic, and to the access of residential, business and industrial areas. This type of roadway differs from those of the arterial system in that the facilities on the collector system may traverse residential neighborhoods. The system distributes trips from the arterials to ultimate destinations. The collector streets also collect traffic from local streets in the residential neighborhoods, channeling it into the arterial system. Collectors typically carry 2,000 to 10,000 vehicles per day. Collector streets are typically designated in the city transportation plan, however, additional streets may be designated as collectors by the review authority specified in section 38.200.010.
4. Cul-de-sac. A street having only one outlet for vehicular traffic and terminating in a turnaround area.
5. Dead-end street. A street having only one outlet for vehicular traffic.
6. Half-street. A portion of the width of a street, usually along the outside perimeter of a subdivision, where the remaining portion of the street must be located on adjacent property.
7. Local streets. A street having the primary purpose of permitting access to abutting lands and connections to higher systems. Generally, service to higher speed traffic movements are intentionally discouraged. They typically carry 1,000 to 3,000 vehicles per day but can carry in excess of 6,000.
8. Loop. A local street which begins and ends on the same street, generally used for access to properties and to control traffic access to arterials or collectors.

9. Yield Street. A local street with reduced right of way and unique design features to address close proximity of motor vehicle and other forms of travel.

Section 20

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 21

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. Nothing in this Ordinance negates or absolves any obligation or requirement imposed on any person by any previous version of the Bozeman Municipal Code regarding affordable housing, which remain in full force and effect. All other provisions of the Bozeman Municipal Code not amended by this Ordinance shall remain in full force and effect.

Section 22

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 23

Codification. This Ordinance shall be codified as appropriate in Sections 2 – 19.

Section 24

Ordinance No. 2105, Affordable Housing Ordinance

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

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