



ORDINANCE 2155

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA GENERALLY REVISING CHAPTER 38 AND CHAPTER 40 OF THE BOZEMAN MUNICIPAL CODE TO INCLUDE REQUIRED WATER EFFICIENT LANDSCAPE AND IRRIGATION PERFORMANCE AND DESIGN STANDARDS AND PROVIDING AN EFFECTIVE DATE

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 of Bozeman (“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. Pursuant to the Bozeman City Charter, the City of Bozeman has adopted and is hereby relying upon its self-government powers recognizing pursuant to Montana law such self-government powers must be liberally construed in favor of such power.
3. The Bozeman City Commission is authorized, pursuant to [Mont. Code Ann. § 7-13-4402 \(2021\)](#), to adopt, enter into, and carry out means for securing a supply of water for the use of the City and its present and future inhabitants.
4. The City of Bozeman has the authority to regulate the use of water for outdoor use pursuant to Chapter 40 of the Bozeman Municipal Code.
5. The existing municipal water supply of the City of Bozeman is an essential resource that sustains public health, safety and welfare and is highly susceptible to the impacts of drought therefore necessitating efficient use and conservation of the limited water resource; and

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6. The City of Bozeman is responsible for providing current and future customers with a reliable, sustainable, and cost-effective supply of high-quality drinking water at all times and is committed to making the highest and best use of our local water resources.
 7. Bozeman is a semi-arid, headwaters community dependent on limited water supplies that are subject to impacts from drought.
 8. Drought events, population growth, and impacts of climate change on water supply yields, make Bozeman increasingly susceptible to water supply reliability challenges.
 9. The City of Bozeman has the authority to establish general regulatory structures and procedures as intended to be implemented in conjunction with the Landscape and Irrigation Performance and Design Standards Manual adopted pursuant to Resolution 5586.
 10. The Landscape and Irrigation Performance and Design Standards Manual includes required water conservation standards be implemented in new development projects to ensure the efficient use of water for outdoor uses.
 11. The City of Bozeman 'Engage Bozeman' framework was utilized to provide community groups with an opportunity to contribute to decision making processes to inform the contents of the Landscape and Irrigation Performance and Design Standards Manual.
 12. The City of Bozeman adopted the [2013 Integrated Water Resources Plan](#) which calls for water conservation to reduce the future water supply demand gap by fifty percent.
 13. The City adopted a growth policy, the Bozeman Community Plan 2020 (BCP 2020), by Resolution 5133 to establish policies for development of the community.
 14. The adopted [2020 Bozeman Community Plan](#) includes objectives to strengthen and develop resilience as a community, support water conservation and the use of native plants in landscaping, review and update landscape and open space standards for public and private open spaces to reduce water use, and update land development standards to implement the Integrated Water Resources Plan.
 15. The adopted [2020 Bozeman Climate Plan](#) includes objectives to build on the success of water conservation education, evaluate additional water conservation code adjustments, and maintain and expand the urban forest.
 16. On December 21, 2021, the City Commission adopted [Resolution 5368](#), adopting the Bozeman City Commission Priorities for 2022 and 2023, which includes policies to reduce water consumption related to drought tolerant landscaping and watering restrictions.
 17. On February 15, 2022 the City Commission held a work session to provide direction to staff on the development of 'tier 3' water efficient landscape and irrigation standards for new development projects.
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18. On October 24, 2023, the City Commission adopted Resolution 5547, adopting the [2023 Water Conservation and Efficiency Plan](#) which recommends the implementation and adoption of a ‘tier 3’ water efficient landscape ordinance for new development projects.
 19. The [2023 Parks, Recreation and Active Transportation Plan](#) includes a goal to create standards for efficient irrigation infrastructure in City Parks.
 20. After proper notice, the Community Development Board in their capacity as Bozeman Zoning Commission/Planning Board held a public hearing on April 1, 2024, to receive and review all written and oral testimony on the proposed amendments.
 21. The Community Development Board acting in their capacity as the Bozeman Zoning Commission/Planning Board recommended to the Bozeman City Commission that Ordinance 2155, be approved as proposed.
 22. After proper notice, the City Commission held its public hearing on April, 23 2024 to receive and review all written and oral testimony on the proposed amendment to the land development regulations.
 23. The City Commission has reviewed and considered the applicable amendment criteria established in Mont. Code Ann. § 76-2-304 and the Montana Subdivision and Platting Act and finds that the proposed amendments are in compliance with the criteria.

Section 2

That Section 38.200.010.D. – 38.200.010.E. Review authority of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.200.010. Review authority.

...

- D. The city engineer must review and upon recommendation from the applicable advisory bodies when needed approve, approve with conditions or deny the following site elements and processes:

...

14. Protection of landscape areas per paragraph 38.550.050.GH;

...

- E. The director of utilities must review and upon recommendation from the applicable advisory bodies as needed approve, approve with conditions or deny the following development elements and processes:

...

5. The maximum length of service lines per section 38.410.070; ~~and~~
6. Provision of water rights as authorized in section 38.410.130; and

7. Landscape and irrigation plans per section 38.550.060.

... all other subsections of this section remain unchanged

Section 3

That Section 38.220.030.A.3. Subdivision pre-application submittal requirements of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.220.030. Subdivision pre-application submittal materials.

A. The pre-application plan may be a freehand sketch, legibly drawn, showing approximate boundaries, dimensions, areas and distances. The plan may be drawn directly on a print of a topographic survey required for the preliminary plat and must include:

...

3. Utilities. The existing and proposed utilities located on and adjacent to the proposed subdivision including:

...

c. Water source for irrigation and general areas to be landscaped and irrigated, including but not limited to collector and arterial street rights-of-way and open space.

... all other subsections of this section remain unchanged

Section 4

That Section 38.220.040.B. Subdivision preliminary plat of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.220.040. Subdivision preliminary plat.

...

B. The following information must be submitted along with the preliminary plat.

...

6. Landscaping and Irrigation.

a. Proof of compliance with water conservation standards outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual and 38.550.050.D. and 38.550.070.

~~6.~~ 7. Application and fee. Completed preliminary plat application form, with the original signatures of all owners of record or their authorized representatives, and the required review fee. If an authorized representative signs on behalf of an owner of record, a copy of the authorization must be provided.

Section 5

That Section 38.220.060.A.14. Documentation of compliance with adopted standards of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.220.060. Documentation of compliance with adopted standards.

- A. The following information must be provided with all subdivision preliminary plat applications in order to document compliance with adopted development standards unless waived by the development review committee during the pre-application process per section 38.240.110. The developer must include documentation of any waivers granted by the city after the pre-application review. Additional relevant and reasonable information may be required to adequately assess whether the proposed subdivision complies with this chapter, the Montana Subdivision and Platting Act, and other applicable standards.

...

14. Parks and recreation facilities. The following information must be provided for all land used to meet parkland dedication requirements:

- a. Park plan. A park plan, including:

...

- (6) Park conceptual landscaping plan, prepared by a qualified landscape professional in accordance with section 38.220.100 unless the parks department has adopted an alternate plan standard, showing the location and specific types and species of plants, shrubs, trees as well as grass seed mixes and the irrigation system including but not limited to identification of water source, points of connection, mains, laterals, valves, zones, and sprinkler heads;

...

- b. Irrigation information.

- (1) ~~An irrigation system map generally showing the locations and types of lines, including depth, water source, heads, electric valves, quick couplers, drains and control box~~ Irrigation system design compliant with requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual; and
- (2) If an existing well will be used for irrigation, a certified well log must be submitted showing depth of well, gpm, pump type and size, voltage, water rights, etc.

... all other subsections of this section remain unchanged

Section 6

That Section 38.220.070. Final plat of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.220.070. Final plat.

A. The following materials must be provided with each application for final plat approval. Materials must be provided in the number of copies and form established by the director of community development.

...

4. Final park plan. For all land used to meet parkland dedication requirements, a final park plan must be submitted to the city for review and approval prior to final plat. The final park plan must include all of the information listed in section 38.220.060.A.145 and must include evidence of compliance with the installation requirements of division 38.270. The final park plan irrigation system must comply with requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

5. Landscape and irrigation plans.

a. Rights of way. For all collector and arterial rights-of-way land to be landscaped and irrigated, a detailed landscape and irrigation plan must be submitted for review and approval prior to final plat- or installation, whichever occurs first. The detailed landscape and irrigation plan must comply with water conservation standards outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual and 38.550.050.D and 38.550.070 and must comply with the installation requirements of division 38.270.

b. Open space. For all open space land expected to be landscaped and irrigated, a final landscape and irrigation plan must be submitted for review and approval prior to final plat or installation, whichever occurs first. The detailed landscape and irrigation plan must comply with water conservation standards outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual, 38.550.070, and must comply with the installation requirements of division 38.270.

65. Irrigation system record drawings as-builts. The developer must provide irrigation system as-builts, for all irrigation installed in public rights-of-way and/or land used to meet parkland dedication requirements, once the irrigation system is installed. The record drawings as-builts must, at a minimum, include the exact locations and type of lines, including accurate depth, water source, heads, electric valves, quick couplers, drains and control box.

76. Affordable housing. If the plat has used the provisions of division 38.380, the developer must provide a description of how the subdivision has complied with division 38.380. The description must be of adequate detail to clearly identify those lots designated as subject to division 38.380 compliance requirements and to make the obligations placed on the affected lots readily understandable.

87. Conditions of approval. A sheet(s) of the plat depicting conformance with subdivision application approval must be submitted as set forth in 24.183.1107 ARM as may be amended and as required by the county clerk and recorder, and must:

...

j. Include a notation stating that topsoil depth and quality requirements must be met on all future subdivided lots prior to installation of landscaping and irrigation, as outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

98. Documents. The following documents must accompany the final plat:

...

109. For non-public improvements, the developer must provide certification by the architect, landscape architect, engineer or other applicable professional that all improvements, including, but not limited to, landscaping, irrigation, ADA accessibility requirements, private infrastructure, and other required elements were installed in accordance with the approved plans and specifications, or plat as applicable, unless a waiver of certification in whole or part is explicitly approved by the DRC.

Section 7

That Section 38.220.080. Site plan submittal requirements of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.220.080. Site plan submittal requirements.

A. Applications for all site plan approvals must be submitted to the community development department on forms provided by the community development director.

1. General information.

a. Complete, signed application including the following:

...

(4) Name and mailing address of engineer/architect, landscape architect, irrigation designer, and/or planner;

...

2. Site plan information. The following information is required whenever the requested information pertains to zoning or other regulatory requirements of this chapter, existing conditions on-site or conditions on-site which would result from the proposed development:

...

g. Location, identification and dimension of the following existing and proposed data, on-site and to a distance of 100 feet (200 feet for PUDs) outside site plan boundary, exclusive of public rights-of-way, unless otherwise stated:

...

(18) Landscaping and irrigation (detailed plan showing plantings, irrigation layout, equipment, and other relevant appropriate information as required in section 38.220.100);

...

k. Description and mapping of soils existing on the site, accompanied by analysis as to the suitability of such soils for the intended construction ~~and proposed landscaping~~; Soil in proposed landscaping areas must comply with requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

... all other subsections of this section remain unchanged

Section 8

That Section 38.220.100. Submittal requirements for landscape and irrigation plans of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.220.100. Submittal requirements for landscape and irrigation plans.

- A. ~~These L~~andscape and irrigation requirements regulations apply to a lot or site subject to plan review and approval outlined in division 38.230 of this chapter. A separate landscape and irrigation plan must be submitted as part of the site plan application. The landscape and irrigation plan must comply with requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual, unless the required landscape information can be included in a site plan that meets formatting requirements as determined by the city and the standards listed below.
- B. Preparation of landscape plan. Landscape plans must be signed by one of the following qualified landscape professionals:
- ...
- C. Preparation of an irrigation plan. Irrigation plans must be signed by one of the following qualified irrigation professionals:
1. A state-registered landscape architect with irrigation credentials;
 2. A certified irrigation designer;
 3. A licensed or certified irrigation contractor;
 4. An individual with the requisite skills and experience to design an irrigation system. The director may establish standards for the types of skills and experience required to qualify under this subsection.

C.D. Contents of landscape plan. A landscape plan required pursuant to this chapter must contain the following information:

1. Property and project information:

- a. 1. Date, scale, north arrow, and the names, addresses, and telephone numbers of both the property owner and the person preparing the plan;
- b. 2. Location of existing boundary lines and dimensions of the lot;
- c. 3. Approximate centerlines of existing watercourses, required watercourse setbacks, and the location of any 100-year floodplain; the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, utility easements, utility lines, drive aisles and sidewalks on the lot and/or adjacent to the lot;
- d. 4. Project name, street address, and lot and block description;
- e. 5. Location, height and material of proposed screening and fencing (with berms to be delineated by one foot contours);
- f. 6. Locations and dimensions of proposed landscape buffer strips, including watercourse buffer strips;
- ~~7. Complete landscape legend providing a description of plant materials shown on the plan, including typical symbols, names (common and botanical name), locations, quantities, container or caliper sizes at installation, heights, spread and spacing. The location and type of all existing trees on the lot over six inches in caliper must be specifically indicated;~~
- g. 8. Complete illustration of landscaping and screening to be provided in or near off-street parking and loading areas, including information as to the amount (in square feet) of landscape area to be provided internal to parking areas and the number and location of required off-street parking and loading spaces;
- ~~9. An indication of how existing healthy trees (if any) are to be retained and protected from damage during construction;~~
- h. 10. Size, height, location and material of proposed seating, lighting, planters, sculptures, and water features;
- ~~11. A description of proposed watering methods;~~
- i. 12. Location of street vision triangles on the lot (if applicable);
- j. 13. Designated snow removal storage areas;
- k. 14. Location of pavement, curbs, sidewalks and gutters;
- l. 15. Show location of existing and/or proposed drainage facilities which are to be used for drainage control;
- m. 16. Existing and proposed grade;
- ~~17. Size of plantings at the time of installation and at maturity;~~

~~18.~~— Areas to be irrigated;

- ~~n.~~ 19. Planting plan for watercourse buffers, per section 38.410.100, if not previously provided through subdivision review; and
- ~~o.~~ 20. Front and side elevations of buildings, fences and walls with height dimensions if not otherwise provided by the application. Show open stairways and other projections from exterior building walls.

2. Plant material and soil information:

a. A landscape plan required pursuant to this chapter must include plant material and soil information requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

Section 9

That Section 38.220.110. Sketch plan submittal requirements of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.220.110. Sketch plan submittal requirements.

A sketch plan must be drawn to scale and in sufficient detail to demonstrate compliance with the requirements of this chapter. Sketch plans must be oriented with north at the top of the page and must also show site boundaries, street and alley frontages with names, street trees, water and sewer service locations, sidewalks, parking location and size, and location of all structures with distances to the nearest inch or nearest tenth of foot between buildings and from buildings to property lines.

The landscape and irrigation for a lot or site subject to sketch plan submittal requirements must comply with applicable requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

A Sketch Plan Landscape & Irrigation Checklist Self-Certification Form, as outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual, is required, unless a waiver of certification in whole or part is explicitly approved by the review authority.

Section 10

That Section 38.220.130.A.3.a.(7) Submittal materials for regulated activities in wetlands of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.220.130. Submittal materials for regulated activities in wetlands.

A. All parties applying for activity permits proposing action affecting federal, state or city regulated wetlands, watercourses and/or buffers within the city limits must submit the following information:

...

-
3. If in the preparation or review of the required submittal materials it is determined that there are unavoidable impacts to wetlands and/or watercourses that will require a Federal Clean Water Act permit, then the following information must be submitted to the city for all federal jurisdictional and city-regulated wetlands (see section 38.700.210 for definition) in a compensatory mitigation report:

- a. The descriptive narrative must include, at a minimum:

...

- (7) A planting schedule by proposed community type and hydrologic regime, size and type of plant material to be installed, spacing of plants, "typical" clustering patterns, total number of each species by community type, timing of installation, nutrient requirements, watering schedule, weed control, and where appropriate measures to protect plants from destruction. Native species must comprise 80 percent of the plants installed or seeded within the mitigation site. Any irrigation installed in these areas must comply with requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

... all other subsections of this section remain unchanged

Section 11

That Section 38.220.320. Covenants of the Bozeman Municipal Code be created to read as follows:

Sec. 38.220.320. Covenants.

...

- B. Landscaping and irrigation requirements included in covenants must comply with this code and the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

Section 12

That Section 38.230.070.A.2. Sketch plan review of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.230.070. Sketch plan review.

- A. Sketch plan submittal requirements.

...

2. Separate construction plans and compliance with landscaping and irrigation requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards manual are required ~~necessary~~ for building permits when the proposal requires such permits. Additional information is

also necessary when the proposal requires the issuance of a certificate of appropriateness (see sections 38.230.080 and 38.220.090).

... all other subsections of this section remain unchanged

Section 13

That Section 38.230.140.A. Final plan of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.230.140. Final plan.

- A. If the review authority is the city commission, no later than six months after the date of the commission's approval of the plan, the applicant must submit to the community development department a final plan. The number of copies of the final plan to be submitted is established by the director of community development. The final plan must contain the materials required in sections 38.220.080, ~~and 38.220.090,~~ 38.220.100, and whatever revisions to the preliminary site plan or master site plan are required to comply with any conditions of approval. Prior to the passage of six months, the applicant may seek an extension of not more than an additional six months from the director of community development.

... all other subsections of this section remain unchanged

Section 14

That Section 38.230.170. Improvements to existing developed sites independent of site plan review of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.230.170. Improvements to existing developed sites independent of site plan review.

The continued improvement of existing developed sites is desired to increase the level of compliance with the provisions of this chapter and to encourage maintenance and viability of the site. An applicant may propose improvements, not in association with a plan review, to increase conformity with the standards of this chapter for landscaping, irrigation, lighting, parking or similar components of a site to occur over a defined period of time, not to exceed three years. Such improvements must be depicted on a site plan drawn to scale and which must be sufficiently detailed to clearly depict the current conditions, the intended end result of the proposed improvements and any phasing of work. Such improvements must be reviewed by and approved at the discretion of the review authority which may require surety in accordance with the terms of division 38.270 of this chapter for work performed. A certificate of appropriateness may be required if the site is located within the neighborhood conservation overlay district.

Section 15

That Section 38.270.010.A. Purpose and applicability of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.270.010. Purpose and applicability.

- A. This division provides standards and procedures relating to the installation of physical improvements and compliance with requirements related to development. As these improvements are necessary to meet requirements of the law and to protect public health, safety and general welfare and other purposes of this chapter it is also necessary to provide means by which their installation can be ensured. Such improvements may include, but are not limited to, design elements such as landscaping or architectural features; and infrastructure, such as parking facilities, storm drainage facilities, pedestrian walkways, irrigation, and public utilities. Furthermore, in some situations it is in the best interest of the person conducting development to be able to provide security for the completion of certain work and be able to begin utilization of a development sooner than would otherwise be possible if all improvements had to be physically installed before use could begin. This article therefore protects the public health, safety, and welfare and sources of public funding by:

... all other subsections of this section remain unchanged

Section 16

That Section 38.270.020.A.2. and 38.270.020.B. Standards for improvements of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.270.020. Standards for improvements.

- A. *General.* The developer must comply with the following procedures and standards for the installation of development improvements, including parks.

...

2. *Protection of existing improvements.* The developer, and the developer's contractors and suppliers are jointly and severally responsible to ensure that existing improvements are not damaged or rendered less useful by the operation of the developer, and the developer's contractors or suppliers. Such protection of improvements may include requirements for cleaning of vehicles leaving a construction site. This provision is intended to preclude damage to existing roads, streets, water, landscape, irrigation, sewer and drainage systems. The city may instruct the developer as to the streets or roads to be used for access by construction equipment, and the developer must require the same from the developer's contractors and their suppliers. The city may require the developer to post a security to guarantee repair of damages.

- B. *Improvements to be dedicated to the public.*

1. *Plans and specifications.* Engineering and survey plans, specifications and reports required in connection with public improvements and other elements of the subdivision, or other development required by the city, must be prepared by a registered engineer or a registered land surveyor as applicable, licensed in the state of Montana, as their respective licensing laws allow. The plans and specifications must be prepared in compliance with the city's design standards and specifications policy, park

design standards, the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual, and other regulations and policies, as applicable. Plans and specifications for non-engineering improvements must be prepared by a person whose qualifications are acceptable to the city department with responsibility for that type of improvements. Plans and specifications for non-engineering improvements must be prepared in compliance with any applicable adopted design standards and specifications policy.

...

4. *Improvement procedure.*

- a. Approval of the improvement plans and specifications must be completed before installation of improvements or entering into an agreement where security is to be provided for the completion of the improvements.
- b. The procedure for submittal, review, and approval of improvement plans and specifications is contained in the city's design standards and specifications policy, and must be followed by the developer and the developer's contractors. All plans and specifications related to park and public trail improvements must be submitted to the parks division for review and approval. All plans and specifications related to landscaping and irrigation must conform to requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

... all other subsections of this section remain unchanged

Section 17

That Section 38.270.030.A. and 38.270.030.B.1.b.(2). Completion of improvements of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.270.030. Completion of improvements.

- A. *General.* The applicant must provide certification by the architect, landscape architect, engineer or other applicable professional that all improvements to be dedicated to the public were installed in accordance with the approved site plan, plans and specifications, or plat as applicable. For required private improvements, the applicant must provide certification by the architect, landscape architect, engineer or other applicable professional that all improvements, including, but not limited to, landscaping, irrigation, ADA accessibility requirements, private infrastructure, and other required elements were installed in accordance with the approved site plan, plans and specifications, or plat as applicable, unless a waiver of certification in whole or part is explicitly approved by the DRC.
1. *Improvements to be dedicated to the public.* Improvements to be dedicated to the public, such as water mains, sewer mains, parkland and related improvements, landscape, irrigation, and public streets, must be:

-
- a. Installed by the developer in accordance with the approved plans and specifications;
 - b. Certified by a registered professional civil engineer, licensed in the State of Montana, or other appropriate professional acceptable to the city;
 - c. Accepted by the city prior to the approval of the final plat, building permit, issuance of a certificate of occupancy or other identified benchmark as appropriate.

...

B. *Completion time for subdivisions.*

- 1. *Improvements.* All subdivision improvements, including parks, must be constructed and completed as approved by the city.

...

- b. The subdivider must meet the requirements of either subsection (1) or (2) for completion of street improvements. The option must be specified in the preliminary plat submittal. Should the applicant not identify which option is desired, the option presented in subsection B.1.b.(1) of this section must be required. Altering the choice of option after approval of the development constitutes a material modification to the project and requires re-review of the project for modification to the approval subject to the provisions of section 38.100.070.

...

- (2) The subdivider must enter into an improvements agreement guaranteeing the completion of the paving, curb, gutter, storm drainage, street lighting, sidewalks, required boulevard landscape and irrigation, or other street infrastructure improvements not yet completed. The improvements agreement must provide security, as explained in this division. However, at a minimum, the plans and specifications for the street improvements must be approved by the review authority prior to final plat approval. Building permits will not be issued until the street improvements are completed and accepted by the city, except when concurrent construction is an identified purpose of the initial project review and approved pursuant to the criteria established in subsection D of this section.

... all other subsections of this section remain unchanged

Section 18

That Section 38.270.050.A.2. Acceptance of improvements of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.270.050. Acceptance of improvements.

A. *Improvements dedicated to the public.*

...

2. *Acceptance of park, water, sewer, ~~and~~ storm drainage, landscape and irrigation improvements.* Before any public park, water, sewer, ~~or~~ storm drainage, and landscape and irrigation improvement, whether new or existing, can be accepted into the city system by the city, it must be built to meet or exceed the required standards. Any improvement must meet or exceed standards set by the city, Montana Department of Environmental Quality, and county road office, as appropriate. Improvements must be reviewed and approved by the city and other agency, as applicable.

... all other subsections of this section remain unchanged

Section 19

That Section 38.270.090.A.2. and 38.270.090.B.1. Development or maintenance of common areas and facilities by developer or property owners' association of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.270.090. Development or maintenance of common areas and facilities by developer or property owners' association.

A. *General.* For the purposes of this section, "common areas and facilities" include:

...

2. *Boulevard strips or street medians in public rights-of-way along external subdivision streets and adjacent to parks or open space;*

...

B. *Development.* If common areas or facilities will be developed by a developer or a property owners' association, a development plan for the common area or facilities must be submitted with the preliminary plat application or zoning application for review and approval. The development plan must be reviewed and approved by the city prior to the installation of improvements in common areas or the installation of common facilities. An approved park master plan satisfies this requirement.

1. *Landscaping and irrigation.* When landscaping or irrigation systems will be installed in ~~parkland, boulevard strips or common open space,~~ common areas or facilities the development plan must be accompanied by a landscaping and irrigation plan that was prepared by a qualified landscaping professional and complies with the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual. When landscaping or irrigation in common areas or facilities is installed by the subdivider, the subdivider must warrant these improvements against any and all defects for a period of two years from the date of installation of the landscaping and irrigation. When landscaping or irrigation in a park is installed by the subdivider, the subdivider must comply with the parks design standards and warrant

these improvements against any and all defects for a period of two years from the date of installation of the landscaping and irrigation.

... all other subsections of this section remain unchanged

Section 20

That Section 38.410.060. Easements of the Bozeman Municipal Code be amended to read as follows:

Sec. 38.410.060. Easements.

...

E. Easements for City-owned Irrigation Systems. Easements in favor of the city must be provided for irrigation systems and components owned and maintained by the city for use in public rights-of-way and parks that are located on private land pursuant to this section and 38.550.070.

~~E.F.~~ *Other easements.* Public access easements for streets and trails must be provided in accordance with the provisions of divisions 38.400 and 38.420 of this chapter.

Section 21

That Section 38.410.080.G. Grading and drainage of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.410.080. Grading and drainage.

...

G. All finish grades in landscaped areas must comply with the provisions set forth in section 38.550.050.~~J.L.~~

... all other subsections of this section remain unchanged

Section 22

That Section 38.410.100.A.2. Watercourse setback of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.410.100. Watercourse setback.

- A. Where a development is crossed by or is adjacent to a watercourse, the developer must mitigate the impacts of the development on the watercourse. This mitigation may not be less restrictive than the requirements of the city floodplain regulations or any other applicable regulation of this chapter. The purpose of this mitigation is bank stabilization; sediment, nutrient and pollution removal; and flood control.

...

-
2. Setbacks for developments granted preliminary plan or plat approval on or after July 10, 2002. These provisions apply to all developments granted preliminary plat or plan approval on or after July 10, 2002:

...

g. If irrigation is to be installed in the setback area, an irrigation plan must be provided per 38.220.100 and the irrigation system must comply with requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual

g.h. Except as otherwise allowed in subsections 2.e and f of this section, no disturbance of soils and existing vegetation shall occur in any zones.

... all other subsections of this section remain unchanged

Section 23

That Section 38.410.130.D.2. Water adequacy of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.410.130. Water adequacy.

...

- D. The city will determine the estimated increase in annual municipal water demand attributable to the development. The applicant must offset the estimated increase in annual municipal water demand attributable to the development through one or more of the following means:

...

2. Implementation of onsite and/or offsite water efficiency and conservation measures that reduce the estimated annual municipal water demand attributable to the development by one or more of the following methods:

...

- b. Installation of unirrigated, or minimally irrigated, drought resistant or drought tolerant landscaping that is more water conserving than exceeds the minimum requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual and Chapter 40. of division 38.550 of this chapter.
- c. Installation of high efficiency or water conserving irrigation componentry that exceeds the minimum requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual and Chapter 40. of division 38.550 of this chapter.

... all other subsections of this section remain unchanged

Section 24

That Section 38.430.070.B and 38.430.070.D. Phased development of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.430.070. Phased 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, landscape, irrigation, or site features.

...

D. If the nature, design, or location of required parks, open space, infrastructure, amenities, landscape, irrigation, 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.

Section 25

That Section 38.430.110.A.1. Amendments to approved planned development zones and general development plans of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 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:

...

- j. A ten percent increase or less for landscape irrigation water requirement (IWR). If a reduction in water consumption was relied upon as a public benefit to sustain approval of the PDZ, any proposed increase in landscape irrigation water use must remain within the eligibility criteria for a sustainable/resilient design PDZ, 38.460.050.C.

... all other subsections of this section remain unchanged

Section 26

That Section 38.440.030.A.2. Amendments to approved planned development zones and general development plans of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 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:

...

2. Minor changes are defined as follows:

...

h. A ten percent increase or less for landscape irrigation water requirement (IWR).

... all other subsections of this section remain unchanged

Section 27

That Section 38.500.020.B.2. Applicability and compliance of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.500.020. Applicability and compliance.

...

B. For building additions and remodels, three different thresholds have been established to gauge how the project design standards in this article are applied to such projects. See figure 38.500.020 below for examples of site development and the respective types of improvements required under each of the three levels of improvements.

...

2. Level II Improvements include all improvements commenced within a three-year period (based on the date of permit issuance) that increase the building's area by more than 20 percent, but not greater than 50 percent. All standards that do not involve repositioning the building or reconfiguring site development apply to Level II Improvements. For example, if a property owner of an existing home in the B-2 zoning district wants to convert the home to an office and build an addition equaling 45 percent of the current building's area, then the following requirements apply:

...

- d. Compliance with the off-street parking, ~~landscaping~~, signage, and lighting provisions of divisions 38.550-580 that relate to proposed improvements.
- e. Compliance with the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

... all other subsections of this section remain unchanged

Section 28

That Section 38.510.030.F.2. and 38.510.030.H.1. Block frontage standards of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.510.030. Block frontage standards.

...

F. *Internal roadway storefront block frontages.*

...

- 2. *Standards.* Development as set forth in section 38.510.010.B on sites containing the internal roadway storefront block frontage designation must comply with the storefront block frontage standards as set forth above, with the following modifications:

**Table 38.510.030.F
Internal roadway storefront block frontage standards**

Element	Standards (↻refers to departure opportunities, see subsection 38.510.030 below)
Façade transparency	At least 50% of ground floor between 30" and 10' above the sidewalk. ↻
Landscaping	A planting strip with a tree must be integrated along the sidewalk every 50' of lineal frontage on average; <u>and must meet requirements outlined in section 38.550.060.</u>
Sidewalk width	12' minimum walking surface (landscape planter areas may not be counted in the sidewalk width calculations). ↻

...

- H. Block frontages in the industrial zones are subject to the standards for "Other" streets as set forth in subsection G above except:
 - 1. Planting areas between the sidewalk and the building, outdoor storage, or parking areas must be at least ten feet in depth and are ~~encouraged~~ required to meet the landscaping standards of division 38.550. ~~Departure: Reductions in the landscaping frontage may~~

~~be considered for low volume and low visibility streets entirely within the industrial zone. Land uses with a higher density of employees warrant standard landscaping and pedestrian access provision~~

- a. Departure: Reductions in the landscaping frontage may be considered for low volume and low visibility streets entirely within the industrial zone. Land uses with a higher density of employees warrant standard landscaping and pedestrian access provisions.

... all other subsections of this section remain unchanged

Section 29

That Section 38.520.040.D.4.c. Non-motorized circulation and design of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.520.040. Non-motorized circulation and design.

...

D. Pathway design.

...

- 4. Pathway design where multi-tenant commercial or mixed-use buildings 100 feet or more in length abut parking lots. Such pathways must feature a 12-foot wide sidewalk with:

...

- c. Planting strips may be used between any vehicle access or parking area and the pathway, provided that the trees required above are included and the pathway meets the applicable width standards herein, and the combined pathway and planting strip is at least 12 feet wide. Landscaping and irrigation in planting strips are required to follow standards outlined in section 38.550.

... all other subsections of this section remain unchanged

Section 30

That Section 38.520.050.D. Vehicular circulation and parking of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.520.050. Vehicular circulation and parking.

The standards herein supplement the provisions of divisions 38.400 and 540. Where there is a conflict, these provisions apply.

...

D. Internal roadway design.

...

2. In some instances where traffic speed and volume are low, the review authority may approve a street where vehicle, bicycle and pedestrian movement are mixed such as in a "woonerf" or "shared street." Woonerf streets must feature traffic calming and safety measures as well as landscape, irrigation, and amenity features as determined by the review authority.
3. Drive-through facilities. Where allowed, drive through facilities (e.g., drive-up windows) must comply with the following.
 - a. Drive-through lanes, including waiting and holding lanes, must be separated from public view and internal sidewalks by a planting strip (at least five feet wide with continuous plantings of evergreen shrubs and/or trees that will provide continuous evergreen screen at least four feet tall at maturity) and/or a masonry wall at least three feet high. Alternative landscaping schemes may be approved provided they include the masonry wall and a substantial vegetative screen. The landscaping must comply with division 38.5560

... all other subsections of this section remain unchanged

Section 31

That Section 38.520.060.B.1. On-site residential and commercial open space of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.520.060. On-site residential and commercial open space.

...

B. Usable residential open space.

1. All multi-household development, including multi-household portions of mixed-use development, must provide minimum usable open space equal to 100 square feet per dwelling unit for studio and one bedroom dwellings and 150 square feet per dwelling unit for dwellings with two or more bedrooms. All group living developments must provide minimum usable open space equal to 37 square feet per person. The required open space may be provided in a combination of ways:

...

- f. All landscaped areas in the above uses must meet the requirements in division 38.550.

... all other subsections of this section remain unchanged

Section 32

That Section 38.540.010.A.3. General provisions of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.540.010. General provisions.

- A. Parking is one part of the overall multimodal transportation system. Individual choice of travel mode and development characteristics influence the need for parking. The purpose of this division 38.540 in requiring parking spaces is to ensure provision of off-street motor vehicle parking, bicycle parking, and other transportation access facilities in rough proportion to the generalized parking and transportation demands of different land uses which locate at a site. Some sites, such as those that are located in close proximity to transit, have good access to pedestrian facilities or have off-set peak uses may require less on-site parking. The purpose of these standards is to provide functional parking areas adequate to the needs of users, create shaded areas within parking lots, reduce glare and heat build-up, reduce stormwater surges, provide visual relief within paved parking areas, emphasize circulation patterns, avoid the negative impacts associated with spillover parking into adjacent neighborhoods (while at the same time avoiding the negative environmental and urban design impacts that can result from excessive parking lots and other vehicular use areas) and enhance the visual environment. The provisions of this division are also intended to help protect the public health, safety, and general welfare by: helping avoid and mitigate traffic congestion; encouraging multimodal transportation options and enhanced pedestrian safety; providing methods to reduce the amount of impervious surfaces in parking areas and adequate drainage structures in order to reduce the environmental impacts of stormwater runoff; encouraging paving or alternate means of surfacing of parking areas in order to address dust abatement and improve air quality; and providing flexible methods of responding to the transportation and access demands of various land uses in different areas of the city. In achieving these purposes this division interacts with the requirements of division 38.550 of this chapter. The design of off-street parking is the responsibility of the developer and must consider traffic circulation, intended landscaping, pedestrian access and circulation, and other purposes of this chapter.

...

3. *Improvement schedule.* All parking area improvements to include surfacing, drainage, walkways, lighting, landscaping, irrigation, screening, traffic control, etc., must be installed according to the provisions of division 38.270 of this chapter.

... all other subsections of this section remain unchanged

Section 33

That Section 38.540.040.A. Maintenance of parking areas of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.540.040. Maintenance of parking areas.

- A. It is the joint and separate responsibility of the lessee and owner of the principal use, uses or building to maintain in a neat and adequate manner the parking space, accessways, striping, landscaping, irrigation, and required fences or screening.

... all other subsections of this section remain unchanged

Section 34

That Section 38.550.010.A. Purpose and intent of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.010. Purpose and intent.

A. The process of development, with its alteration of the natural topography and vegetation, and creation of impervious cover can have a negative effect on the ecological balance of an area by causing or accelerating the processes of runoff, erosion and sedimentation. The economic base of the city can and should be protected through the preservation and enhancement of the area's unique natural beauty and environment. Recognizing that the general objectives of this division are to promote and protect the health, safety and welfare of the public, these ~~landscaping~~ regulations are adopted as part of this chapter for the following specific purposes:

...

10. To ~~encourage~~ achieve the conservation of water by ~~rewarding~~ requiring the use of low water demand landscaping and efficient irrigation.

Section 35

That Section 38.550.020. Interpretation and scope of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.020. Applicability~~Interpretation, implementation, and scope.~~

- A. The provisions of this division apply to a lot or site when an application is being made for:
1. Site development approval pursuant to division 38.230 of this chapter;
 2. ~~Signs pursuant to division 38.560 of this chapter where landscaping is required~~ Subdivision development approval pursuant to division 38.240 of this chapter;
 3. Planned development zone approval pursuant to division 38.430 of this chapter; or
 4. ~~3.~~ Restoration of a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy or accident of any kind. For purposes of this subsection A, "restoration" means the act of putting back into a former or original state, only.
- B. The following are subject to the provisions of this division as noted below: ~~Notwithstanding the application of subsection A of this section, the provisions of this division 38.550 do not apply to the following:~~
1. Lots containing residential uses subject to sketch plan review, ~~except when such lots are subject to sections 38.550.050.A and ED, 38.550.060, 38.550.070 and 38.550.100;~~

-
2. Lots or sites within a planned unit development ~~which has been approved with its own landscape plan. However, these provisions must be used as the basis for determining the landscaping plans for future planned unit developments and such planned unit development landscaping plans must meet or exceed the standards of these landscape regulations;~~ or
 3. Lots or sites which are designed, reviewed and approved according to ~~the deviation provisions specified in~~ section 38.550.080.
- C. The provisions of this division apply to all projects subject to subsection A and B of this section 38.550.020 regardless of the water source proposed for irrigation. This includes but is not limited to City of Bozeman potable water, groundwater wells, and other non-potable water systems. The application of this division for projects with irrigation systems connected to groundwater wells does not interfere with applicable groundwater permit exceptions in MCA 85-2-306(3).
- D. The commission may adopt standards and guidelines implementing this division pursuant to resolution. The resolution may include but not be limited to: application requirements, review processes, submittal requirements, departures, exemptions, methods of calculating landscape water budgets, design plan requirements, enforcement, compliance requirements, required forms, irrigation system performance and design requirements, landscape performance and design requirements, plant materials, irrigation watering schedules, decision making authority, and other standards and guidelines to implement this division. Any such resolution has the same force and effect as if adopted herein.

Section 36

That Section 38.550.030.A. General landscape provisions of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.030. General landscaping and irrigation provisions.

- A. Landscape and irrigation plans must include the information required by section 38.220.100.

... all other subsections of this section remain unchanged

Section 37

That Section 38.550.040. Landscape plan review of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.040. Landscape and irrigation plan review.

- A. The review authority established in division 38.200 must review each landscape and irrigation plan to determine whether or not it complies with the requirements of this divisionsection.

B. All landscape plans must comply with the mandatory landscape provisions in section 38.550.050

Section 38

That Section 38.550.050. Mandatory landscape provisions of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.050. Mandatory landscaping and irrigation provisions.

A. ~~Setback~~ Landscaping required. For all uses in all districts, unless otherwise provided by specific approval, ~~through design review procedures, all front, side and rear setbacks, and those areas subject to section 38.550.050.E, exclusive of permitted access drives, parking areas and accessory structures, the site~~ must be landscaped as ~~required~~ defined in this chapter. ~~All~~ Landscaped areas and irrigation systems must be perpetually maintained in a healthy and operable condition.

1. ~~For purposes of defining setback landscaping requirements, the terms "setback," "front setback," "side setback" and "rear setback" mean the space between the actual building, parking lot, or other structure (not the building setback line) and the adjacent lot line, which is open and unoccupied from the ground upward or from the ground downward other than by steps, walks, terraces, drive aisles, lamp posts and similar structures, and unobstructed by structures, except as otherwise provided in this chapter.~~

~~B. Drought tolerant species required~~ A landscape plan must provide 75 percent or greater of the proposed trees and shrubs as drought tolerant species as defined in the latest edition of the Montana Nursery and Landscape Association's Drought Tolerant Plants for the Montana Landscape or on a list adopted by the city of drought tolerant species for purposes of this section.

~~C.B.~~ Parking lot landscaping.

...

2. All surface parking lots on the building site must be landscaped in accordance with this subsection C.2.

...

e. Additionally, any parking lot providing 15 or more parking spaces must have a minimum of 20 square feet of landscape area within the parking lot for each off-street parking space in the lot provided as follows:

...

(6) Internal parking lot landscaped areas are subject to restrictions on the use of overhead spray irrigation.

~~D.C.~~ Screening of off-street loading spaces.

...

~~E.D.~~ *Street frontage landscaping required.*

...

5. Landscaping and irrigation must comply with boulevard and street median requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

~~F.E.~~ *Street median island landscaping.* All street median islands ~~approved through a plan review process must be landscaped according to requirements determined through the plan review process.~~ comply with requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

~~G.F.~~ *Acceptable landscape materials.*

1. Acceptable plant materials are those identified as hardy in Zones 1 through ~~5a4~~ based on the United States Department of Agriculture (USDA) Plant Hardiness Zones. ~~The characteristics of the zones are described in The Western Garden Book, Sunset Publishing Corporation as amended.~~ Acceptable plant materials are also outlined in the City of Bozeman Plant List located on the City of Bozeman website, which includes USDA zone hardiness information. Alternatives may be considered upon a case-by-case basis. However, in the case of street frontage landscaping as required in subsection E of this section, acceptable tree species are limited to those approved by the city forestry division.
2. Landscape materials must not exceed water use requirements outlined in the prescriptive and performance-based landscape design approval pathways included in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.
3. Adequate soil depth and quality must be installed as outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.
- ~~2.4.~~ No artificial plant materials may be used to satisfy the requirements of this division 38.550.
- ~~3.5.~~ Plant materials used to satisfy the requirements of this division 38.550 must comply with the following minimum size requirements at the time of installation (depending on the standard measuring technique for the species):

...
- ~~4.6.~~ For purposes of subsection ~~G.3~~ H.5. of this section, height is measured from the top of the root ball or, if the plant is in a container, from the top soil level in the container.

~~H.G.~~ *Protection of landscape areas.*

...

~~I.H.~~ *Irrigation standards.*

-
1. Irrigation is required to~~Permanent irrigation systems must~~ be provided to all landscaped areas.
 - a. The review authority may allow areas planted with drought-adapted vegetation that only require irrigation for germination and plant establishment purposes to be irrigated with a temporary irrigation system that meets requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.
 - b. The use of hose bibs on the exterior of existing or proposed structures may be used for irrigating ~~is not an acceptable method of landscape irrigation unless the landscaped area~~ is adjacent to the existing or proposed structure.
 - c. All other landscaped areas, that do not fall within a or b above, must include a permanent irrigation system that meets requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.
 2. All irrigation systems and landscaped areas must be designed, constructed, operated and maintained in accordance with requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

~~J.K.~~ *Required use of trees with residential adjacency.* All landscape plans must include, for each setback with a residential adjacency, at least one canopy or non-canopy tree for each 50 lineal feet of the adjacent area.

~~K.L.~~ *Coordination with utilities.* In order to prevent damage to both vegetation and public utility lines, all trees and other large vegetation may planted no closer than the minimum distance specified in the city design standards and specifications policy. When the city verifies it is not possible to meet minimum separation distance from utilities and no other arrangement can be approved, such tree or large vegetation is not required.

~~L.M.~~ *Maximum allowable slope or grade.*

...

4. All landscaped ~~installed on slopes areas to be finished in grass~~ that meet or exceed a maximum allowable slope of 25 percent grade must include adequate erosion control measures to ensure the slope is stabilized. ~~be installed as turf sod, or hydro-seed.~~ If hydro-seed, groundcovers, or bunchgrasses ~~are~~ utilized, additional erosion control fabric (i.e., matting or blanket or equivalent thereof) must be provided to ensure a stable slope for a minimum of one calendar year while the vegetation becomes established.

~~M.N.~~ *Legacy planned unit development open spaces.* Legacy 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.

... all other subsections of this section remain unchanged

Section 39

That Section 38.550.060. Reserved of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.060. Reserved. Landscape and Irrigation Performance and Design Standards.

Editor's note(s) — Ord. No. 2029 , § 6, adopted Dec. 18, 2019, repealed § 38.550.060, which pertained to landscape performance standards and derived from Ord. No. 1978 , § 2(Exh. A), adopted Jan. 4, 2018.

Compliance with the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual is required pursuant to this division and chapter 40, article 2 of this code. The City of Bozeman Landscape and Irrigation Performance and Design Standards Manual and associated resources are available with the Water Conservation Division.

Section 40

That Section 38.550.070.A. – 38.550.070.B. Landscaping of public lands of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.070. Landscaping and irrigation of public lands.

A. *City rights-of-way, open space and parks.*

1. *General.*

...

b. ~~Drought tolerant landscaping must be planted in open space, parks and city rights-of way, unless otherwise approved by the city.~~ Compliance with the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual is required.

2. *Streets, open space, and parks.* The developer must at the time of initial development install ~~drought tolerant~~ landscaping, boulevard trees and an irrigation system ~~when required~~ in city rights-of-way boulevard strips and medians along all collector or arterial streets and all streets adjacent to parks or open space areas.

a. Prior to installing landscaping in these areas, the developer must submit a landscaping and irrigation plan to the city for review and approval. The

landscaping and irrigation plan must be prepared by a qualified landscaping professional meeting the requirements of this division 38.550.

...

- d. The developer must transfer to the city legal ownership of any water rights used for the irrigation these areas.
 - e. Irrigation systems owned and maintained by the city for use in public rights-of-way and parks must be discrete and separate systems from those used to irrigate open space areas and privately owned lots.
 - (1) Easements must be provided for irrigation systems and components owned and maintained by the city that are located on private land pursuant to this section and Sec. 38.410.060.
 - f. Landscaping and irrigation must comply with boulevard and street median requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.
3. *Adjacent to individual lots.*
- a. When individual parcels are developed, the individual property owners' must install landscaping and street trees within the city rights-of-way boulevard strips adjacent to their property and provide irrigation in compliance with section 38.550.050.E.D.1.
 - b. Landscaping and irrigation must comply with boulevard and street median requirements outlined in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

B. *Maintenance responsibility.*

... all other subsections of this section remain unchanged

Section 41

That Section 38.550.080. Departure from landscaping requirements of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.080. Departure from landscaping and irrigation requirements.

...

- C. Departure criteria that support city water use efficiency goals are outlined in detail in the most recent version of the City of Bozeman Landscape and Irrigation Performance and Design Standards Manual.

Section 42

That Section 38.550.090. Landscaping completion of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.090. Landscaping and irrigation completion.

All Landscaping and irrigation must be completed or secured in accordance with the provisions of division 38.270 of this chapter. The applicant must demonstrate satisfactory establishment of all seeded areas or guarantee establishment for a minimum two year period following occupancy.

Section 43

That Section 38.550.100.B. General maintenance of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.550.100. General maintenance.

...

- B. Any damage to utility lines, resulting from the negligence of the property owner or the owner's agents or employees in the installation and maintenance of required landscaping or irrigation in a utility easement, is the responsibility of the property owner. If a public utility disturbs a landscaped area in a utility easement, it must make every reasonable effort to preserve the landscaping materials and irrigation system and return them to their prior locations and operations after the utility work. If, nonetheless, some plant materials die, or irrigation system components are irrevocably damaged, it is the obligation of the property owner to replace the plant materials and irrigation system components.

Section 44

That Section 38.700.080. G definitions of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.700.080. G definitions.

...

Groundcover. Low growing, perennial species that create a mat of continuous cover over the ground, which makes it difficult for weeds to establish in the landscape. ~~Natural mulch or plants of species which normally reach a height of less than two feet upon maturity, installed in such a manner so as to form a continuous cover over the ground.~~

...

Section 45

That Section 38.700.100. I definitions of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.700.100. I definitions.

...

Irrigation. Supplemental water that is artificially applied to an area for the purpose of fostering plant growth and health.

Section 46

That Section 38.700.110. L definitions of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.700.110. L definitions.

...

Landscaped area. The area of a lot where landscaping has been or is proposed to be installed. It also includes landscape design elements such as rock mulch and wood mulch. It does not include footprints of buildings or structures, sidewalks, driveways, walkways, or other hardscaped areas, such as decks or pervious pavers.

Landscaping. ~~At least 75 percent coverage of a~~An area with vegetative plantings, such as shrubs, perennials, and turfgrass, creeping or rooting groundcovers, seed mixes, or other living plants, ~~natural grass, vegetative groundcover or other natural living plant materials, the remainder of which is covered with non-vegetative decorative landscape design elements such as washed rock, lava rock, bark chips and ornamental features such as pools, fountains, benches, etc. For purposes of this chapter, the term landscaping is considered to have the same meaning as the terms "landscape," "landscaped" and "landscaped area."~~

...

Section 47

That Section 38.700.180. T definitions of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 38.700.180. T definitions.

Temporary irrigation. A temporary watering system designed to transport and distribute water to landscape plants for a limited period, primarily used during the establishment period, after which time the irrigation is terminated or abandoned.

...

Turfgrass or turf. A relatively high water use ground cover surface of grass and the surface layer of earth held together by its roots, including but not limited to cool season lawn grasses.

Section 48

That Section 40.02.300.B. Provisions adopted; regulations a part of service contracts of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 40.02.300. Provisions adopted; regulations a part of service contracts.

...

- B. These rules and regulations of the city pertaining to its waterworks system, including landscaping and irrigation, as required by chapter 38 article 5 division 550, and as provided for in this article, outdoor water use restrictions, and drought contingency response, are made a part of the contract with every individual, firm or corporation who takes water, and every such individual, firm or corporation agrees, in making application for water, to be bound thereby. The following rules and regulations set out in this division are adopted by the city.

Section 49

That Section 40.02.890. Maintenance; customer responsibility; wasting water prohibited of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 40.02.890. Maintenance; customer responsibility; wasting water prohibited.

Waste of water is prohibited, and customers must keep their fixtures ~~and~~ interior pipes, and irrigation system in good order at their own expense, ~~and all waterways closed when not in use.~~ Leaky fixtures, interior pipes, and irrigation systems must be repaired at once without waiting for notice from the city, and if not repaired within five days after written notice is given, water service may be discontinued until such time as the leak is repaired.

Section 50

That Section 40.02.950. Violation of irrigation or sprinkling rules; penalty of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 40.02.950. Violation of irrigation or sprinkling rules; penalty.

At such time when the utility, through its agents, employees or representatives, determines that a customer is in violation of the ~~utility's city's~~ regulations in regard to ~~sprinkling or irrigation or landscaping~~, the ~~utility city~~ shall deliver to such customer a copy of the notice of the ~~violation~~ ~~hours and days of sprinkling and irrigating~~, and shall advise the customer that such customer is in violation of the ~~rule city's~~ regulations. If the customer is found in violation of the ~~rule regulation~~ ~~on more than one occasion in any one irrigation or sprinkling season~~, the customer will be notified ~~by certified mail, with return receipt~~, that another violation will result in discontinuance of service or the installation of a meter.

Section 51

That Section 40.02.960. Violation of division provisions; disconnection of service required when of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 40.02.960. Violation of division provisions; disconnection of service required when.

For violation of any of these regulations, ~~including landscaping and irrigation~~, as required by chapter 38 article 5 division 550, and as ~~provided for in this article~~, outdoor water use ~~restrictions, and drought contingency response~~, or for nonpayment of water charges, as provided in the ~~utility's city's~~ schedule of rates and charges currently on file with the city, the ~~utility city~~ has the right to disconnect water service following ten days' written notice to the customer. After service has been discontinued, the same shall not be reinstated until all delinquent charges are paid. Costs of all disconnects and/or subsequent reconnects shall be borne by the customer.

Section 52

That Section 40.02.1100.B. - 40.02.1100.C. Rules and regulations adopted; part of contract with customer of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 40.02.1100. Rules and regulations adopted; part of contract with customer.

...

- B. These rules and regulations of the city, pertaining to its waterworks system are made a part of the contract with every individual, firm or corporation who takes water. The following rules and regulations are adopted by the city:

...

3. Waste of water is prohibited, and consumers must keep their fixtures ~~and~~, service pipes, ~~and irrigation system~~ in good order at their own expense, ~~and all waterways closed when not in use~~. Leaky fixtures, ~~service pipes, and irrigation systems~~ must be repaired at once without waiting for notice from the city and if not repaired after reasonable notice is given, the water will be shut off by the city.

...

~~9. Permits for lawn sprinkling during each current year must be secured at the office of the city clerk, and payment made at the time of securing such permit, as the supply to any premises, using a hose without a permit, will be shut off without warning. Lawn sprinklers will only be permitted where water is carried into the house also.~~

~~10.9.~~ The city's officers or other authorized person shall have access at reasonable hours to enter any premises where water is used, for the purpose of making inspection or investigation.

~~11.10.~~ For violation of any of these rules or for nonpayment of water rent, for either domestic, ~~sprinkling~~ irrigation or other purposes, the city has the right to turn off the water without further notice, and after it has been turned off from any service pipe on account of nonpayment or violation of rules, the same shall not be turned on again until back rents are paid, together with the cost incurred thereby, amounting to \$1.00.

~~12.11.~~ Applicability of flat rate and meter rate rules.

...

C. Flat-rate service.

1. The flat-rate will cover the use of water for domestic use, irrigation ~~lawn sprinkling~~, and any other purposes enumerated on the rate sheet covering flat-rate services. The city agrees to furnish water for certain specified uses for a certain specified sum. If, therefore, a consumer furnishes other people with water without permission from the city, or uses it for other purposes than those the customer is paying for, it is a violation of the consumer's contract and the consumer offending, after reasonable notice, may have the consumer's water shut off and service discontinued until such time as the additional service furnished has been paid for, together with the actual additional expense incurred in shutting off and turning on water, not to exceed \$1.00.

...

5. Should it be desired to discontinue the use of water for any special purpose, whether for bathtubs, closets, irrigation ~~lawn sprinklers~~, hose connections, or other fixtures, the faucet must be removed, the branch pipe plugged, and notice given the city at the city clerk's office before any reduction of rates will be made.

Section 53

That Section 40.02.1250. Findings of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 40.02.1250. Findings.

...

E. Landscaping of real property within the city is the most consumptive use of water of the city's municipal water supply. The city has adopted regulations applicable to development to ensure the efficient use of water for landscape irrigation. To this end, the city has adopted

a Landscape and Irrigation Performance and Design Standards Manual and compliance with said Manual is critical to maintaining a reliable water supply during periods of water supply shortages.

Section 54

That Section 40.02.1280. Application of division of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 40.02.1280. Application of division.

...

C. This division must be interpreted in coordination with chapter 38, article 5, division 550.

Section 55

That Section 40.02.1340. Enforcement of the Bozeman Municipal Code shall be amended to read as follows:

Sec. 40.02.1340. Enforcement.

A. *Police officers to enforce.* Every police officer or code enforcement officer of the city shall, in connection with the duties imposed by law, diligently enforce the provisions of this division.

...all other subsections of this section remain unchanged

Section 56

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 57

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 58

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 59

Codification.

This Ordinance shall be codified as indicated in Section 2 – 55.

Section 60

Effective Date.

This ordinance shall be in full force and effect June 15th, 2024.

PROVISIONALLY ADOPTED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 23 day of April, 2024.

TERRY CUNNINGHAM
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 14th of May, 2024. The effective date of this ordinance is June, 15th, 2024.

TERRY CUNNINGHAM
Mayor

ATTEST:

MIKE MAAS
City Clerk

APPROVED AS TO FORM:

GREG SULLIVAN
City Attorney

DRAFT