



ORDINANCE 2025-001

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA TO REPEAL AND REPLACE DIVISION 38.380 OF THE BOZEMAN MUNICIPAL CODE FOR AFFORDABLE HOUSING; ESTABLISH A 50 YEAR AFFORDABILITY PERIOD; AMEND SECTION 38.540.050.A.1.B.(1) FOR PARKING STANDARDS; AMEND 38.700.170 DEFINITIONS TO AMEND THE DEFINITION OF AFFORDABLE HOME, REPEAL THE DEFINITION OF AFFORDABLE HOUSING, AND REPEAL THE DEFINITION OF YIELD STREET.

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, and 76-3-102; and

WHEREAS, the Economic Vitality Board held a public meeting on December 4, 2024, and, by a unanimous vote of 6 to 0, recommended to the Bozeman City Commission that the policy modifications included in the staff memorandum for the proposed amendments to the affordable housing ordinance be approved with the provisions that: (a) Incentive Types B and C have minimum parking requirements; and (b) that the 60 percent Area Median Income (AMI) affordable rental rates be reviewed every three years and be established based on the current AMI and other relevant metrics and housing needs data; and

WHEREAS, after proper notice, the Community Development Board, acting in their role as the City’s zoning commission, held a public hearing on January 13, 2025, to consider the proposed amendments and made a recommendation to the City Commission that the amendments included in this ordinance be approved; and

WHEREAS, after proper notice, the City Commission held its public hearing on January 28, 2025, to receive and review all written and oral testimony on the proposed amendment to the zoning regulations; and

WHEREAS, the City Commission has reviewed and considered the recommendations of advisory bodies, including the zoning commission, public comment, the staff report, all information presented, and all applicable zoning text amendment criteria established in Montana Code

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Annotated § 76-2-304 and finds the proposed amendments are consistent 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's 2018 Strategic Plan affirms that affordable housing is one of the city's main strategic goals, stating in Goal 4.5: "Housing and Transportation Choices – Vigorously encourage, through a wide variety of actions, the development of sustainable and lasting housing options for underserved individuals and families and improve mobility options that accommodate all travel modes."
2. The City's 2019 Community Housing Needs Assessment finds additional housing, and more diversity in housing, is needed at prices residents can afford. The Needs Assessment also determined the city needs housing that provides choices, supports the ability to move to new locations as life circumstances change, and the ability for employers to fill jobs, recruit and retain employees.
3. The Bozeman Community Plan 2020 acknowledges that zoning and land use regulations are processes that influence the cost of housing. The Community Plan supports housing regulations that allow for a range of housing types intermixed in a given neighborhood, denser development, and efficiencies of various types that can help reduce housing costs.
4. The Bozeman Community Plan 2020 establishes goals, objectives and policies to increase the supply of affordable housing in the city including: Goal N-3, Policy N-3.3, which encourages the "distribution of affordable housing units throughout the city with priority given to locations near commercial, recreational and transit assets;" Policy N-3.8, which encourages the City to "promote the development of "Missing Middle" (side by side or stacked duplex, triplex, live-work, cottage housing, group living, rowhouses/townhouses, etc.) as one of the most critical components of affordable housing;" Policy M-1.12, which seeks to "eliminate parking minimum requirements in commercial districts and affordable housing areas and reduce parking minimums elsewhere, acknowledging that demand for parking will still result in new

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supply being built;" and Policy EE-1.4, which seeks to "support employee retention and attraction efforts by encouraging continued development of affordable housing in close proximity to large employers."

5. The Bozeman Community Plan 2020 encourages compact, contiguous development and infill development to achieve efficient use of land and infrastructure and reduce urban sprawl.
6. The 2020 Community Housing Action Plan defines community housing as: "homes those who live and work in Bozeman can afford to purchase or rent. This includes apartments, townhomes, condominiums, emergency shelters, accessory dwelling units, mobile homes and single dwelling homes – all dwelling types – serving the entire spectrum of housing needs."
7. The 2024-2028 Community Development Block Grant (CDBG) Consolidated Housing Plan reinforced the issues identified in the 2019 Community Housing Needs Assessment, including increasing and preserving affordable rental opportunities as a top need in the community.
8. The Consolidated Housing Plan found that, in 2020, the rental vacancy rate was two percentage points below what is considered healthy for a market with adequate supply, underscoring the tightness in Bozeman's rental market. Nearly 5,300 renters in Bozeman are cost-burdened and 1,880 homeowners are cost-burdened.
9. The City of Bozeman 2024-2028 Fair Housing Plan found that land development regulations that increase development costs make residential development overly expensive and can limit the supply of affordable housing. In some communities, this has a direct impact on racial and ethnic minorities, larger households and families with children, and persons living with disabilities because these groups are disproportionately represented among those residing in lower cost housing. Limits or prohibitions on multifamily housing or restrictions on household occupancy are examples of how land development codes can negatively affect the groups protected under the Fair Housing Act.
10. According to the 2024 Point-in-Time (PIT) Count, 409 individuals are experiencing homeless in Bozeman, which equals 20% of all residents experiencing homelessness in the State of Montana. Homelessness is increasingly related to rapidly rising rental housing costs relative to incomes, limited and low production of affordable housing units, and limited resources to serve low-income households.

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11. The City has, through multiple iterations of its land use regulations spanning decades, made revisions to its development standards to support production of housing including: reducing land area per dwelling requirements, authorizing accessory dwellings in all residential zoning districts, authorizing mixed-use buildings and apartment buildings in the majority of non- residential districts, reducing parking requirements, capping dedication of parkland, zoning the majority of residential areas for multiple dwelling buildings, limiting short term rentals to prevent diversion of units from the housing stock, increasing building heights in all residential districts, simplifying review processes, providing for concurrent construction of infrastructure and housing, and creating by-right approvals for regulatory compliant developments, among other actions.
12. The City facilitates housing development by undertaking comprehensive planning for land use, facilities, and services necessary to support housing development, and by establishing a capital improvement program to support timely installation of infrastructure which reduces delays in the ability to plat subdivisions and complete other development.
13. In 2021, the Montana State Legislature prohibited the City from adopting regulations that require housing fees or the dedication of real property for the purposes of providing housing for specified income levels or sale prices. As a result of the passage of HB 259, in 2022, the City adopted Ordinance 2105 to replace prior affordable housing requirements by offering 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.
14. According to the 2023 Bozeman Economic and Market Update, the increase in housing prices has significant implications for affordability, workforce attraction and retention, and quality of life.
15. Insufficient affordable housing supply within the city negatively impacts economic vitality, transportation networks, and sustainability. Affordable housing needs must be addressed to maintain a sufficient resident workforce in all fields of employment, and to ensure public safety and general welfare of city residents. According to the 2023 Bozeman Economic and Market Update, 7,400 households are at or below 60% of the area median income yet Bozeman only currently has 1,517 units of income restricted housing.
16. This Ordinance aims to create more housing options across the spectrum of need, more innovative and diverse development projects, dynamic and resilient neighborhoods, and to

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improve land use and public infrastructure efficiency.

17. This Ordinance is adopted pursuant to City's self-governing powers, the city's zoning authority, and the City's police power to protect public health, safety, and general welfare. The incentives codified in this Ordinance will advance the City's efforts to provide more housing diversity at prices that residents can afford.
18. The staff report accompanying this Ordinance found the required criteria for a zoning code text amendment are satisfied, including that the Ordinance substantially complies with the 2020 Community Plan.
19. The City Commission determines the incentives provided in this Ordinance are compatible and consistent with all other provisions of Chapter 38 of the Bozeman Municipal Code.
20. The City Commission further determines the housing developed through the use of the incentives of this Ordinance will be compatible with existing and future uses and development in the city.
21. The required public hearings were advertised more extensively than required in state law and municipal code by publication in the Bozeman Daily Chronicle and the City of Bozeman's Engage Bozeman website, and all persons had the opportunity to review the applicable materials and provide comment prior to a final decision.
22. The Bozeman Community Development Board acting as the City's zoning commission conducted its public hearing according to state law and, after considering application materials, staff report, Economic Vitality Board comments, and all submitted public comments, recommended to the City Commission that this ordinance be approved as presented, as documented in the recording of their January 13, 2025, public hearing.
23. The City Commission conducted a public hearing to provide all interested parties the opportunity to provide comment regarding this ordinance prior to the City Commission acting on the application.
24. The City Commission considered the application materials, staff analysis and report, zoning commission recommendation, all submitted public comment, and all other relevant information.

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Section 2

That Division 38.380 (Affordable Housing) of the Bozeman Municipal Code is repealed in its entirety and replaced to read as follows:

“Division 38.380. - Affordable Rental Housing Sec. 38.380.010. - Purpose

- A. The purpose of this division is to promote the public health, safety, and welfare by incentivizing increased production of affordable rental housing to meet the needs of city residents and businesses and the goals of the adopted growth policy and the community housing action plan and to maintain the affordability of housing.
- B. The purpose of this division is also to provide regulatory incentives to ensure housing affordability in new development and redevelopment. The incentives in this division require affordable rental rates and provide for an increase in the amount of affordable housing provided as a landowner increases the use of the incentives. The greater the incentives being requested the greater the affordability required.

Sec. 38.380.020. - Applicability and Affordability Requirements

- A. The incentives in this division take the place of and supersede the applicable regulations of this chapter where a regulation of this chapter directly addresses the same subject. All other regulations of this chapter 38 remain applicable including without limitation all processes, development standards, and definitions. The city retains the authority to approve, approve with conditions, or deny an application based on compliance with other regulations of this code but may not attach conditions to an approval that have the effect of negating the incentives provided in this division. The incentives in this division are in addition to the departures for housing creation provided in 38.320.070.
- B. The incentives in 38.380.040 may be approved in conjunction with a preliminary plat, master site plan, or site plan, or sketch plan, that:
 - 1. Contains or will contain dwellings that will be offered for rent or lease; and
 - 2. Provides at least the minimum percentages of affordable dwellings in the development at rental rates affordable at no more than the maximum percentages of the area median income (AMI) established in Tables 38.380.020-1, 2, and 3 of this division.

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- C. Tables 38.380.020-1, 2, and 3 provide the required percentage of affordable dwellings, the affordability thresholds, and the duration of the affordability period for the types of housing to be constructed in a development in reliance on incentives:

Table 38.380.020-1

Affordable Dwellings Required with Type A Incentives			
Type of Housing	Minimum Percentage of Dwellings	Maximum AMI Percentage for Rentals	Duration of Affordability Period
Single-Household Detached Dwelling	≥ 5% of Dwellings	80% of AMI	≥ 50 Years
Single-Household Attached Dwelling (Rowhouses and Townhouses)	≥ 5% of Dwellings	80% of AMI	≥ 50 Years
Multi-Household Dwelling	≥ 5% of Dwellings at or ≥ 8% of Dwellings at	60% of AMI or 80% of AMI	≥ 50 Years

Table 38.380.020-2

Affordable Dwellings Required with Type B or C Incentives			
Type of Housing	Minimum Percentage of Dwellings	Maximum AMI Percentage for Rentals	Duration of Affordability Period
Single-Household Detached Dwelling	≥ 50% of Dwellings	80% of AMI	≥ 50 Years
Single-Household Attached Dwelling (Rowhouses and Townhouses)	≥ 50% of Dwellings	80% of AMI	≥ 50 Years
Multi-Household Dwelling	≥ 50% of Dwellings	60% of AMI	≥ 50 Years

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- D. Each affordable dwelling must be maintained as affordable pursuant to the adopted affordable housing plan and the compliance document required pursuant to 38.380.030 for no less than fifty (50) years. The affordability period begins to run at the issuance of a certificate of occupancy for each building wherein affordable dwellings are provided. For subdivisions that rely on an incentive, the affordability period does not begin at the time final plat is recorded; rather, the affordability period for each affordable dwelling begins at the time each affordable dwelling in the subdivision receives a certificate of occupancy.
- E. For the entire affordability period, except for adjustments as may be authorized pursuant to 38.380.070.A, an affordable dwelling must be rented only to persons whose household income is verified to not exceed the applicable AMI thresholds.
- F. An applicant may provide all or a portion of the required affordable dwellings on a site other than the site or parcel where the incentives are applied only if the affordable dwellings will be provided in the same development.
- G. Accessory Dwelling Units (ADU), short term rentals, and group living are not eligible to be used as affordable dwellings and cannot be considered as qualifying affordable dwellings.
- H. The following applies to previously approved annexations, subdivisions, or site plans that request to provide affordable dwellings in exchange for incentives as provided in this division:
 - 1. A previously annexed but undeveloped parcel of land, a subdivision that has received final plat, or an approved site plan that received final approval prior to March 13, 2025, and that has not previously received an incentive in return for commitments to provide affordable housing, may apply for the incentives in this division. The application for the previously undeveloped parcel must comply with the standards and procedures of this division.
 - 2. Only the portion of the amended plat or site plan application, including associated code standards and conditions of approval, pertaining to the request for approval of one or more incentives will be subject to amended plat or site plan review.
- I. Assumptions and Calculations.
 - 1. All references to area median income (AMI) are to the most recent AMI values for the city established by the U.S. Department of Housing and Urban Development (HUD). As HUD publishes updated AMI values, the values are immediately

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effective without further action by the city. The city may establish administrative rules and procedures for application and implementation of AMI in calculating maximum rental rates.

2. The maximum rental rates of an affordable dwelling are based on the AMI of a household and corresponding number of bedrooms within each affordable dwelling. The following establishes the maximum rental rate of each bedroom type based on the correlation between the number of bedrooms with the corresponding area median household income:
 - a. Efficiency unit: 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 dwellings results in a fraction of an affordable dwelling, the developer must construct affordable dwellings equal to the next lower integer and either provide a cash-in-lieu payment for the additional fractional amount or construct an additional affordable dwelling.
4. Income averaging of the rental rates for affordable dwellings is allowed. Income averaging allows an applicant to establish affordable dwelling rental rates so the average rental rate for all affordable dwellings in a development meets the required AMI level. The city may establish administrative rules and procedures to implement income averaging. As an alternative, the applicant may use an income averaging procedure adopted by the Montana Board of Housing or the U.S. Department of Housing and Urban Development (HUD).

Sec. 38.380.030. - Affordable Housing Plan Required; Pre-Application Meeting

- A. For a development authorized pursuant to 38.380.020.B to request incentives under this division the applicant must submit an affordable housing plan at the time of submittal of the application for preliminary plat, master site plan, or site plan. The affordable housing plan, upon approval of the development, controls the rental rates and occupancy by income verified persons of all affordable dwellings within the development for the entire affordability period.
- B. A subdivision preliminary plat, master site plan, or site plan that requests incentives may not receive approval for the development until the affordable housing plan has been approved.

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- C. The affordable housing plan shall be approved if the plan is in compliance with the standards and criteria in this division, including but not limited to the standards in 38.380.020 and any administrative procedures related to this division.
- D. An approved affordable housing plan binds the applicant and the applicant's successors in interest to comply with the plan for the duration of the affordability period. The approved affordable housing plan must be incorporated into a recorded restrictive covenant, deed restriction, or other document (referred to as the compliance document) acceptable to the city attorney, which implements the affordable housing plan. The compliance document must be recorded in the records of the Gallatin County Clerk and Recorder as follows:
1. For subdivisions where the incentives were requested and approved as part of the preliminary plat, the compliance document must be recorded with the final plat; and
 2. For site plans, unless a compliance document was recorded with the subdivision, the compliance document must be recorded prior to the issuance of a building permit. The affordability period begins on the date of issuance of a certificate of occupancy.
- E. Contents of an Affordable Housing Plan.
1. A description of the requested incentives in 38.380.040.
 2. The applicable AMI and maximum rental rates applicable to each affordable dwelling.
 3. The total number of affordable dwellings, and market-rate dwellings in the development.
 4. A narrative describing how the applicant will ensure the rental of the affordable dwellings is only to income verified people for the duration of the affordability period. In addition, the narrative must describe the management system the applicant will use to meet the above requirement.
 5. A description of how each affordable dwelling will comply with the development standards of this division.
 6. A description of common amenities or facilities the applicant will provide and how the applicant will ensure the occupants of the affordable dwellings will have the same access to such amenities or facilities.
 7. A description of how each incentive will apply to each building within the

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development, regardless of whether the building contains affordable dwellings or market rate dwellings or both.

8. The number of bedrooms in each dwelling in the development.
9. Clearly identify on the preliminary site plan or preliminary plat the specific location of each affordable dwelling.
10. Information sufficient to determine the timing of construction and distribution of affordable dwellings and market-rate dwellings throughout the development.
11. If the development is to be constructed in phases, provide a description of how the affordable dwellings will be distributed among the phases including whether the applicant proposes to have any subsequent phase of market rate dwellings rely on affordable dwellings provided with earlier phases.
12. Any other information the review authority determines necessary to evaluate the compliance of the affordable housing plan with the requirements of this division.

F. Preapplication Community Meeting.

1. Prior to the submittal of a site plan application pursuant to 38.230.090, an applicant for an affordable housing development proposing to use Type A, B, or C incentives must hold a community meeting to inform residents and property owners of the proposed development and to solicit feedback from the community.
2. At least 20 business days prior to the community meeting, the developer must mail by first class mail written notice of the community meeting to the owners of all property and all mailing addresses within a 200-foot radius of the proposed development site.
3. In addition to the above, if the proposed development is located within the boundaries of a city recognized neighborhood association pursuant to chapter 2, article 5, written notice of the community meeting must be provided at least 20 business days prior to the meeting to the presiding officer of the applicable neighborhood association, to the city neighborhood liaison, and to the chair of the InterNeighborhood council.
4. The meeting must be conducted in a location within city limits.
5. The notice must include:
 - a. The date, time, and location of the community meeting;
 - b. At a minimum, the notice must include the location of the proposed development, a description of the proposed development, a description of the incentives the applicant proposes to use, and the number and location

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- of market rate and affordable units;
 - c. A statement inviting the community to attend the meeting and informing the community that the purpose of the meeting is to seek community input on the proposed development and the use of incentives; and
 - d. Contact information for the developer and any other project representatives, including the mailing and email addresses and telephone number of the person who may be contacted for further information.
6. The community meeting and required notice does not supplant or otherwise take the place of notice required by this chapter for the development application.
7. At the community meeting:
- a. The developer must discuss the proposed development, including key project details, incentives proposed, design elements, transportation and parking, and how the project intends to address affordable housing needs in the community.
 - b. The developer must allow adequate time for the public to ask questions and provide comments. The developer must accept written comments for 10 business days after the community meeting.
 - c. A representative from the City may attend.
8. A site plan application that proposes to use Type A, B, or C incentives must contain the following:
- a. A copy of the mailed notice of the community meeting;
 - b. A detailed summary of all comments and suggestions made at or after the meeting;
 - c. A copy of all written comments received at or after the community meeting;
 - d. A copy of any materials distributed at the community meeting; and
 - e. Whether and if so how the developer has addressed comments made by the community. If the developer has not incorporated community comments into the site plan application, the developer must explain why community comments were not addressed in the application.
9. A site plan application is not complete unless the application includes the required documentation of the community meeting.

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Sec. 38.380.040. - Incentives.

- A. The number of affordable dwellings must meet or exceed the minimum standards set forth in section 38.380.020 needed to qualify for the applicable incentive. Any incentive not requested in the affordable housing plan in 38.380.030 is waived.

- B. Incentives may be applied to dwellings:
 - 1. In a residential-only development; or
 - 2. In a mixed-use development. If the mixed-use development contains a mix of residential and nonresidential primary uses, the incentives in this section are only available if 50 percent or more of the gross floor area of the development contains residential uses.

- C. Type A Incentives (Table 38.380.020-1). The applicant may apply the incentives in this subsection as follows:
 - 1. For single-household detached dwellings, a minimum lot size of 3,000 square feet. Alternatively, if the applicant demonstrates that all other applicable city regulations related to lot development, access, and utilities can be met, a minimum lot size of 2,500 square feet is allowed.
 - 2. For single-household attached dwellings (townhouse or rowhouse):
 - a. A minimum lot size of 2,200 square feet. Alternatively, if the applicant demonstrates that all other applicable city regulations related to lot development, access, and utilities can be met, a minimum lot size of 1,800 square feet is allowable.
 - b. No minimum lot width, maximum lot coverage, or maximum floor area ratio requirement if the applicant demonstrates that all other applicable city regulations related to lot development, access, and utilities can be met.
 - c. A townhouse or rowhouse development that includes only dwellings of 1,200 square feet or less of livable square footage is exempt from a minimum on-site parking requirement but may provide one parking space located within a driveway area in the required front setback, provided that the building in which the dwellings are located is three or fewer stories in height.
 - d. In addition to the above incentives, a townhouse or rowhouse cluster with four or fewer attached homes that includes only dwellings of 1,200 livable

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square feet or less in size is exempt from the following:

- (1) Minimum lot size;
- (2) Lot coverage;
- (3) Floor area ratio;
- (4) Lot area per dwelling unit density standard;
- (5) Lot width; and
- (6) Minimum parking requirement.

- e. For affordable housing developments in R-3, nine (9) additional feet of height, provided that if the development is adjacent to a lower intensity residential zoning district, the transition height setback provisions of 38.320.060.B apply.
- f. For affordable housing developments in R-4, five (5) additional feet of height, provided that if the development is adjacent to a lower intensity residential zoning district, the transition height setback provisions of 38.320.060.B apply.

3. For multi-household dwellings and mixed-use buildings:

- a. In all zoning districts:
 - (1) The residential off-site parking standards of 38.540.070.A may be expanded up to 1,000 linear feet from the commonly used entrance to the residential building. Notwithstanding the above, all required ADA spaces must be located on the same site as the dwellings.
 - (2) Up to 80% of the residential open space requirements of 38.520.060 may be met by providing private balconies provided every affordable dwelling is provided a balcony and access to a ground floor common open space is provided for all residents.
- b. For affordable housing developments in the R-3, R- 4, R-5, R-O, NEHMu, and B-1 districts, one additional story of height (maximum 15 feet per story) is allowed.
- c. For affordable housing developments in the R-3 district, the incentive of one additional story of height (maximum 15 feet per story) is only allowed if the proposed buildings have four or fewer total dwellings.
- d. For all zoning districts, if a multihousehold or mixed use development is adjacent to a lower intensity residential district, the transition height setback provisions of 38.320.060.B apply.
- e. For affordable housing developments in the UMU, REMU, B-2, B-2M, B-3, and M-1 districts, two additional stories of height (maximum 15 feet per

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story), provided that if the development is adjacent to a lower intensity residential zoning district, the transition height setback provisions of 38.320.060.B apply.

- f. Minimum motor vehicle parking requirement of one space per dwelling for all districts other than B-3; however, the bicycle parking standards and requirements of 38.540.050 remain applicable.
- g. Minimum motor vehicle parking requirement of 0.75 space per dwelling for B-3 district; however, the bicycle parking standards and requirements of 38.540.050 remain applicable.
- h. For affordable housing developments in R-3, R-4, R-5, R-O and RMH, the minimum area per dwelling standards in Table 38.320.030.A do not apply.
- i. For the M-1 zoning district:
 - (1) An apartment building in an M-1 zoning district is a principal use and the prohibition on locating residential uses on the ground floor of an apartment building in M-1 zone in Table 38.310.040.C does not apply.
 - (2) In determining the maximum allowable residential square footage of a development in M-1, Table 38.310.040.C fn6 is calculated for the development as a whole rather than per individual buildings.

D. Type B Incentives (Table 38.380.020-2). If the applicant proposes to construct affordable dwellings that meet the standards in Table 38.380.020-2 in the same development as market-rate dwellings, the applicant may apply all of the following incentives to all buildings in the development in which 50 percent or more of the livable floor area contains residential uses:

- 1. For single-household detached dwellings:
 - a. A minimum lot size of 2,000 square feet. Alternatively, if the applicant demonstrates that all other applicable city regulations related to lot development, access, and utilities can be met, a minimum lot size of 1,600 square feet is allowed.
 - b. Off-street parking requirement of one space per dwelling.
- 2. For single-household attached dwellings (townhouses and rowhouses):
 - a. A minimum lot size of 1,600 square feet. Alternatively, if the applicant demonstrates that all other applicable city regulations related to lot development, access, and utilities can be met, a minimum lot size of 1,400 square feet is allowed.
 - b. No minimum lot width requirement if the applicant demonstrates that all

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- applicable city regulations related to lot development, access, and utilities can be met.
- c. Off-street parking requirement of one space per dwelling. A townhouse or rowhouse development that includes only dwellings of 1,200 livable square feet or less of livable square footage is exempt from a minimum on-site parking requirement, but may provide one parking space located within a driveway area in the required front setback, provided that the building in which the dwellings are located is three or fewer stories in height.
 - d. For affordable housing developments in R-3, nine (9) additional feet of height, provided that if the development is adjacent to a lower intensity residential zoning district, the transition height setback provisions of 38.320.060.B apply.
 - e. For affordable housing developments in R-4, five (5) additional feet of height, provided that if the development is adjacent to a lower intensity residential zoning district, the transition height setback provisions of 38.320.060.B apply.
3. For multi-household dwellings and mixed-use buildings:
- a. When incentives are requested, the building height of any building in the development is limited to that permitted in the zoning district or four stories, whichever is less and the maximum number of dwellings in a single building is limited to that permitted in the zoning district or 36 dwellings, whichever is less.
 - b. ADA parking spaces must be provided in accordance with applicable building codes. Notwithstanding the provisions of 38.540.070, all required ADA spaces must be located on the same site as the dwellings.
 - c. In addition to the ADA parking required, a minimum of .25 vehicle parking spaces per dwelling are required. One short-term parking space located at the main building entrance must be provided and identified as a loading zone.
 - d. Bicycle parking standards and requirements of 38.540.050 apply. The number of secure bicycle racks provided must exceed or be equal to 50 percent of the number of dwellings within the development.
 - e. For multi-household dwellings and mixed-use buildings in all zoning districts the minimum lot area per dwelling does not apply.
 - f. For the M-1 zoning district:
 - g. An apartment building in an M-1 zoning district is a principal use and the

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prohibition on locating residential uses on the ground floor of an apartment building in M-1 zone in Table 38.310.040.C does not apply.

- (1) In determining the maximum allowable residential square footage of a development in M-1, Table 38.310.040.C, footnote 6, is calculated for the development as a whole rather than per individual buildings.

E. Type C Incentives (Table 38.380.020-2). If the applicant proposes to construct affordable dwellings that meet the standards in Table 38.380.020-2 in the same development as market-rate dwellings, the applicant may apply the following incentives to all buildings in the development in which 50 percent or more of the livable floor area contains residential uses:

1. For single-household detached dwellings:
 - a. A minimum lot size of 2,000 square feet. Alternatively, if the applicant demonstrates that all other applicable city regulations related to lot development, access, and utilities can be met, a minimum lot size of 1,600 square feet is allowed.
 - b. Off-street parking requirement of one space per dwelling.
2. For single-household attached dwellings (townhouses and rowhouses):
 - a. A development that proposes a single grouping of two townhouses or rowhouses is a principal use in the R-1, RS, and RMH zoning districts.
 - b. A minimum lot size of 1,600 square feet. Alternatively, if the applicant demonstrates that all other applicable city regulations related to lot development, access, and utilities can be met, a minimum lot size of 1,400 square feet is allowed.
 - c. No minimum lot width requirement if the applicant demonstrates that all applicable city regulations related to lot development, access, and utilities can be met.
 - d. Off-street parking requirement of one space per dwelling. A townhouse or rowhouse development that includes only dwellings of 1,200 square feet or less of livable square footage is exempt from minimum on-site parking requirements, but may provide one parking space located within a driveway area in the required front setback, provided that the building in which the dwellings are located is three or fewer stories in height.
3. For multi-household dwellings other than those in paragraph 2 above and mixed-use buildings:
 - a. One additional story of height (maximum 15 feet per story) beyond that

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allowed in the R-3 and R-4 zoning districts. For affordable housing developments in the R-3 district, the incentive of one additional story of height (maximum 15 feet per story) is only allowed if the proposed buildings have four or fewer total dwellings.

- b. Two additional stories of height (maximum 15 feet per story) beyond that allowed in the R-5, R-O, REMU, B-1, B-2, B-2M, B-3, M-1, and UMU zoning districts, provided that where any building in the development which utilizes building height incentives is adjacent to a lower intensity residential zoning district, the transition height setback provisions of 38.320.060.B apply.
- c. ADA parking spaces must be provided in accordance with applicable building codes. Notwithstanding the provisions of 38.540.070, all required ADA spaces must be located on the same site as the dwellings.
- d. In addition to ADA parking spaces, a minimum vehicle parking requirement of 0.75 space per dwelling is required. One short-term parking space located at the building entrance must be provided and identified as a loading zone.
- e. Bicycle parking standards and requirements of 38.540.050 apply. The number of bicycle racks provided must exceed or be equal to 50 percent of the number of dwellings within the development.
- f. For multi-household dwellings and mixed-use buildings in all zoning districts the minimum lot area per dwelling does not apply.
- g. For the M-1 zoning district:
 - (1) An apartment building in an M-1 zoning district is a principal use and the prohibition on locating residential uses on the ground floor of an apartment building in M-1 zone in Table 38.310.040.C does not apply.
 - (2) In determining the maximum allowable residential square footage of a development in M-1, Table 38.310.040.C, footnote 6, is calculated for the development as a whole rather than per individual buildings.

Sec. 38.380.050. - Development Standards for Affordable Dwellings

- A. The affordable dwellings must be constructed with the same features, such as appliances, as market-rate dwellings within the same development but the quality of the features may vary between market rate and the affordable dwellings.

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- B. The mix of bedrooms per unit in affordable dwellings must be as similar as possible to the mix of bedrooms per unit of the market-rate dwellings in the development.
- C. A one-bedroom dwelling must include a bedroom separated from other living areas of the dwelling by a solid door. For the purposes of this division, a one-bedroom dwelling must be greater than or equal to 450 square feet of floor area.
- D. Access to shared amenities, including parking, by residents of the affordable dwellings must be the same as those in market-rate dwellings in the development. For amenities other than parking, the cost of any such amenity must be included in the required affordable rental rate.
- E. All the affordable dwellings to be developed pursuant to this division must be completed and a certificate of occupancy issued prior to or at the same time as the market- rate dwellings. The timing of construction and distribution of affordable dwellings throughout a development must be approved in the affordable housing plan.
- F. For multiple-phase developments or developments with more than one building:
 - 1. In addition to 38.380.050.E, an applicant may be issued a certificate of occupancy for market rate dwellings in buildings that do not contain affordable dwellings only if the market rate dwellings are issued a certificate of occupancy at the same time or after certificates of occupancy are issued for affordable dwellings and only for market rate dwellings in proportion to the number of affordable dwellings.
 - 2. An applicant may use the incentives provided by affordable dwellings in a previous phase of a development in a subsequent phase that consists of market-rate dwellings.

Sec. 38.380.060. - Alternatives for Land Donation and Cash-in-Lieu

As an alternative to constructing the affordable dwellings required by 38.380.020, the applicant may qualify for the incentives listed in 38.380.040 by:

- A. An applicant may donate one or more parcels of land within the city limits to the city for the purpose of building affordable dwellings, subject to the following:
 - 1. The donated land may be one or more undeveloped parcels or ready-to-build lots but must be capable of being used as the site of residential dwellings that meet

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the standards of this division. All donated land will be used only to support the creation or preservation of affordable dwellings.

2. The value of the donated land must be equal to or exceed the cost of designing, obtaining land use and building approvals for, installing or upgrading Infrastructure for, and constructing the number of affordable dwellings the applicant would otherwise be required to provide in return for the requested incentives in 38.380.040, as established by an independent valuation and economic report dated no less than one year prior to transfer of the ownership of the land to the city and produced by one or more independent firms selected by the city and paid for by the applicant.
 3. The city commission must approve the donation of land pursuant to 2.08.100.
- B. An applicant may provide a cash-in-lieu payment to the city's community housing fund. The review authority may establish administrative rules and procedures for the calculation and implementation of a cash-in-lieu program. The city must use all cash-in-lieu funds to support the creation or preservation of affordable dwellings. The following apply to payment of cash-in-lieu:
1. For each affordable dwelling required by 38.380.020, but not provided, the cash-in-lieu amount will be established based on a per dwelling price adopted by resolution of the commission.
 2. The per dwelling amount must be based on the difference between the average new construction rental rate for apartments in the city and the established affordable rental rate calculated over the course of 20 years.
 3. The cash-in-lieu amount must be determined on the number, type of dwellings, and mix of bedrooms identified as affordable in the affordable housing plan and proposed to be constructed.
 4. Cash-in-lieu payments must be paid prior to issuance of a building permit for any dwelling in the development.

Sec. 38.380.070. – Administration

- A. The applicable review authority shall enforce all rules and regulations, and take all actions necessary for 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. Promulgate any rule or regulation necessary to the operation and enforcement of

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- this division, including but not limited to maintenance of the affordable dwellings, periodic reporting, and notice and tenant protections in the event of foreclosure.
2. Adopting application, monitoring, reporting forms, compliance documents, and obtaining any other information required from applicants for implementation of this division. Establishing standards for determining AMI requirements, including income- averaging, and calculating and making available to the public the AMI required to qualify for the various incentives listed in this division.
 3. Establishing standards for the qualification of renters, ongoing income verification and eligibility, primary occupancy requirements, and reporting and performance of property management entities.
 4. Establishing standards that will allow the review authority to approve an upward adjustment of the AMI standards for renter qualification if an affordable dwelling remains vacant for more than 30 calendar days and no person qualifying within the required AMI applies for the affordable dwelling.
 5. Monitoring compliance with this division, notifying the subdivider, applicant, or current owner of the property of noncompliance, and ordering compliance, including imposing sanctions permitted by this division.
- B. All rules and regulations established by the applicable review authority are subject to city commission review and modification.

Sec. 38.380.080. - Noncompliance and Sanctions

- A. If the city determines an applicant, its successor, or the current owner of a property fails to comply with any requirements of the affordable housing plan, or the requirements of this division, or with the provisions of a compliance document, the applicable review authority must notify the applicant, its successor, or the current owner of the property of the noncompliance in writing and order compliance. Notification must describe the date by which the person or entity must be in full compliance and must describe the nature of the noncompliance and the sanctions for noncompliance.
- B. In addition to other remedies available to the city pursuant to this chapter, if the person or entity remains in noncompliance on the date by which compliance was required, the city may impose one or more sanctions, including but not limited to the following:
1. Issuing a civil penalty pursuant to 24.02.040;
 2. Enforcing the requirements of the compliance documents;

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3. Withholding or revoking building permits;
4. Issuing stop-work orders;
5. Withholding or revoking certificates of occupancy; and
6. Any other sanction available under local, state, or federal law.”

Section 3

That Section 38.540.050.A.1.b(1) of the Bozeman Municipal Code be amended as follows:

“Affordable ~~dwelling~~ housing. When calculating the amount of required parking for affordable ~~dwelling~~ 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 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 spaces per unit. if the project is subject to an approved affordable housing plan, then required parking spaces must be provided pursuant to division 38.380.”

Section 4

That Division 38.700 of the Bozeman Municipal Code be amended as follows:

1. That the definition of “affordable home” in 38.700.020. – A definitions be amended as follows: “Affordable ~~dwelling~~ 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~~ pursuant to 38.380.
2. That the definition of “affordable housing” in 38.700.020. – A definitions be repealed.
3. That the definition of “yield street” in 38.700.170. - S definitions (subsection 9 within the definition of "Street Types") is hereby repealed.

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Section 5

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 6

Savings Provision.

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

Section 7

Severability.

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

Section 8

Codification.

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

Section 9

Effective Date.

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

Ordinance 2025-001 Affordable Housing Ordinance

PROVISIONALLY ADOPTED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 22nd day of January, 2025.

DocuSigned by:

Terry Cunningham

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TERENCE CUNNINGHAM

Mayor

ATTEST:

DocuSigned by:

Mike Maas

F41F922095AB475...

MIKE MAAS

City Clerk

Signed by:



FINALLY PASSED, ADOPTED AND APPROVED by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the 11th of February, 2025. The effective date of this ordinance is March 13, 2025.

DocuSigned by:

Terry Cunningham

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TERENCE CUNNINGHAM

Mayor

ATTEST:

DocuSigned by:

Mike Maas

F41F922095AB475...

MIKE MAAS

City Clerk

Signed by:



APPROVED AS TO FORM:

Signed by:

Greg Sullivan

876992AC9ACA44B...

GREG SULLIVAN

City Attorney