

ORDINANCE NO. 1710

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA, PROVIDING THAT THE BOZEMAN MUNICIPAL CODE BE AMENDED BY REVISING TITLE 17 AND ADDING A NEW CHAPTER TO BE NUMBERED CHAPTER 17.02; PROVIDING FOR A NEW TITLE FOR HOUSING AND A NEW CHAPTER FOR WORKFORCE HOUSING.

WHEREAS, Bozeman has had a shortage of affordable housing for very low to moderate income households for some time; and,

WHEREAS, Bozeman is the only major community in the State of Montana without a Housing Authority; and,

WHEREAS, start up funding for Housing Authorities has not been available for many years making innovative program and regulatory approaches, with public and private cooperation, necessary to address the shortage of affordable housing; and,

WHEREAS, Bozeman has attempted innovative approaches to address this shortage over the years, including:

- 1979-1982 - a VISTA project to organize low income tenants of Legion Housing;
- 1985-1986 - establishment of the City's first Low-Income Housing committee and employment of a part-time housing consultant to staff it;
- 1985-1986 - establishment of the first rental rehabilitation Community Development Block Grant program in Montana;
- 1993-1994 - establishment of an Affordable Housing Task Force;
- 1993-1994 - implementation of two Affordable Housing Task Force recommendations - committing \$200,000 from the General fund to establish an Affordable Housing Fund and adopting an Accessory Dwelling Unit Ordinance; played a role in the Human Resources Development Council Land Trust from support letters to grant applications to commitment of City funds through loans or grants;
- 1994 on - adoption of regulatory and process reforms including the allowance of accessory dwelling units, restricted size lot requirements, reduced size street standards, reduced setbacks, reduction in minimum apartment size, reduction in affordable housing parking requirement, and other process streamlining measures designed to reduce the cost of supplying affordable housing;
- 2000 on - used a portion of Big Box economic impact mitigation fees for assistance with the provision of affordable housing;
- 2002 - authorized the Community Affordable Housing Advisory board to work with a housing consultant and the MSU marketing department to document housing needs and recommend strategies for meeting those needs on an ongoing basis;
- 2003 - adopted broad affordable housing strategies recommended by CAHAB and

- community panels.
- 2005 - committed a mill to the Affordable Housing Fund;
- 2006 - committed two mills to the Affordable Housing fund; and,

Whereas, these efforts have not succeeded in providing an adequate amount of affordable housing in the community; and,

Whereas, this shortage of affordable housing impacts households making from 80% to 120% of the Area Median Income.

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

Section 1

That Title 17 of the Bozeman Municipal Code be amended so that Title 17 reads:

“Title 17 (~~Reserved~~)

HOUSING”

Section 2

That the Bozeman Municipal Code be amended by adding a chapter to be numbered 17.02, to read:

“Chapter 17.02

WORKFORCE HOUSING

17.02.010. Purpose

The purpose of this chapter is to enhance the public welfare by ensuring that the workforce housing needs of the city of Bozeman are addressed. The City Commission finds that there is a critical shortage of workforce housing, making home acquisition by many city of Bozeman resident workers extremely difficult. The resident workforce is leaving the city in search of housing, and new employees are being deterred by the high cost of for-purchase housing. To maintain a sufficient resident workforce in all fields of employment, and to ensure the public safety and general welfare of the residents of the city of Bozeman, resident workforce housing needs must be addressed. It is the intent of this chapter to require the provision, for purchase, of workforce housing units to meet the needs of income-qualified households in the workforce and other households within the specified income range.

171.02.020 Definition of Terms

Actively Marketed – Active marketing includes, but is not limited to, City of Bozeman website listing and available print advertisement, including, but not limited to, local newspapers and other available print media. Active marketing includes continuous promotion of property concurrent with market rate homes.

Affordable Housing – Housing for persons earning less than 65 percent of the area’s median income for rental housing and less than 100 percent of the area’s annual median income for purchased housing. Further, affordable housing does not require greater than 30 percent of the household gross annual median income for housing. Annual median income is defined by the Department of Housing and Urban Development. Affordable housing is subject to the City’s affordable housing policy.

Area Median Income (AMI) – Defined by the Department of Housing and Urban Development, AMI is the median income for a family of four within a specific geographical area, such as Gallatin County.

Attached Single Family Home (ASFH) – A dwelling attached by one or more common walls with another dwelling. Multiple homes on a single lot can be deeded separately, such as condominiums.

Banking Units – Workforce Housing Units (WHU)s can be pre-built and/or lots can be set aside for future construction of WHUs, which will count towards the required number of WHUs for a future subdivision and/or development by a particular developer and/or builder.

Detached Single Household Home ((DSHH) – A freestanding dwelling built without any shared walls.

Dwelling – A building or portion thereof, meeting the requirements of the City’s adopted International Building Code and used by one household, as defined by Chapter 18.80 of the Unified Development Ordinance, BMC, for residential purposes. Dwelling occupancy duration is typically longer than thirty continuous days. Dwellings may exist in many configurations, including single-household, two-household, multiple household dwellings, and group homes. Dwellings do not include hotels, motels, extended stay lodgings, or tourist homes.

Household – A person living alone or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities. Any number of people related by blood, marriage, adoption, guardianship, or other duly-authorized custodial relationship;

- A. Not more than four unrelated people, including persons enrolled in an institution of higher learning. Two unrelated people and any children related to either of them; or
- B. Not more than four people who are:
 - 1. Residents of a “Community Residential Facility” as defined in § 76-411

et. Seq., MCA and this title; or

2. Handicapped” as defined in the Fair Housing Act, 42 USC § 3602 (h). This definition does not include those persons currently illegally using or addicted to a “controlled substance” as defined in the Controlled Substances Act, 21 USC §802 (6).

C. “Household” does not include:

1. Any Society, club, fraternity, sorority, association, lodge, combine, federation, coterie, cooperative housing, or like organization;

2. Any group of individuals whose association is temporary or seasonal in nature; or

3. Any group of individuals who are in a group living arrangement as a result of criminal offenses.

Housing & Urban Development (HUD) – The federal agency responsible for setting Area Median Income limits.

Unified Development Ordinance (UDO) – City of Bozeman’s code providing rules and regulations for city development.

Workforce – Households earning less than 120% of AMI for the City of Bozeman or, for households larger than four, households with a current average income at or less than 120% AMI for a household of that size.

Workforce Housing Plan – each development meeting the applicability criteria defined in 17.02.030 shall have a workforce housing plan under this ordinance. The workforce housing plan shall be consistent with the provisions set forth in the Workforce Housing Ordinance.

Workforce Housing Program – This program is established under the Workforce Housing Ordinance. The Workforce Housing Program is administered by the City of Bozeman, the Commission and/or agency directed by the Commission.

Workforce Housing Unit (WHU) – Housing for persons earning less than 120 percent of the area’s median income for purchased housing. Further, workforce housing does not require greater than 30 percent of the household gross annual median income for housing. Annual median income is defined by the Department of Housing and Urban Development.

17.02.030. Applicability

A. _____

1. A developer of a subdivision that includes residential lots, for which preliminary plat is submitted on or after August 15, 2007 and which will result in development of ten or more residential lots shall provide a lot or lots for the construction of 0.4 dwelling units per net acre of development for the workforce housing program. Multiple developments or projects by the same

applicant or responsible party within any consecutive 12-month period on parcels held in contiguous ownership at the time of the initial development that in the aggregate equal or exceed ten residential lots shall be subject to this section.

2. Any site plan including residential condominiums on lots created or annexed on or after August 15, 2007, with a gross project area of more than 5 acres shall provide, or shall cause to be provided 0.4 dwelling units per net acre of development for the workforce housing program. Multiple site plans by the same applicant or responsible party within any consecutive 12-month period that in the aggregate exceed a gross project area of 5 acres shall be subject to this section.

B. Project Size:

1. Subdivisions with fewer than ten lots, or condominium site plans with a gross project area of 5 acres or less: No workforce housing requirements.
2. Subdivisions with ten or more lots, or condominium site plans on lots created or annexed on or after August 15, 2007, with a gross project area of more than 5 acres: 0.4 dwelling units per net acre of development in the subdivision must be dedicated to workforce housing requirements (excluding any additional dwelling units approved through a density bonus), subject to the provisions of Section 17.02.040.

17.02.030. Workforce Housing Plan Required

The developer of a project meeting the applicability criteria defined in 17.02.030 shall submit, prior to or concurrently with their application for preliminary plat or condominium site plan approval, an application describing their workforce housing plan in accordance with this and other applicable ordinances. The developer's workforce housing plan must, in addition to items listed above, include a marketing plan and estimated project timeline.

17.02.040. Compliance

A development meeting the applicability criteria defined in 17.02.030 is required to provide lots and/or building areas for construction of Workforce Housing Units (WHUs) for homeownership according to this chapter and may meet its obligations according to one or a combination of the methods established below.

Workforce Housing Detached Single Household Home (DSHH) lots and Workforce Housing Attached Single Housing Unit (ASHU) lots shall be sized according to the matrix found in 17.02.050 and shall be priced at \$12/sf in 2007 and increase annually at the lesser of 4% or the increase in the AMI for that year. Periodic review of the annual increase shall be completed by the City and shall not be greater than the lesser of 4%

annually or the increase in the AMI over that time period.

A. Density Calculations

1. The required number of for sale WHUs is calculated at 0.4 units per net lot area of development in acres.
2. Where the fractional calculated required WHU lots are greater than one-half, the developer shall be required to provide the next full lot.

B. Specified Use Calculations

1. A minimum of 30% of the required WHUs must be DSFHs.
2. The remaining required WHUs may be either DSFHs or ASFUs
3. Rounding of units will be in favor of DSFH.

C. Deed Restriction

1. The WHUs shall be deed-restricted to meet UDO and Workforce Housing Unit program requirements.
2. If the actively marketed DSF lot is not sold within one year of final plat approval, the deed restriction shall be removed.
3. If the actively marketed DSFH or ASFU is not sold within 6 months of receiving an occupancy permit from the City Building Department, the deed restriction will be removed.

D. Marketing

1. All lots and WHUs shall be actively marketed by the developer and/or builder in the appropriate print media and on the City of Bozeman's website.
2. WHU lots shall be actively marketed concurrently with the market rate lots.

E. Methods of Compliance

1. The developer shall provide the required number of lots for construction of DSFH and ASFU. The lots shall be actively marketed at the same time as the other lots are marketed and not later than commencing at final plat approval.
2. Off-site workforce dwelling unit lots
 - a. The developer of a subdivision may provide WHU lots off-site for the production of the same number and type of WHUs units required for the

development of his/her subdivision. The land must be suitable for construction, without abnormalities and with complete environmental review accepted by the City of Bozeman. It must be economically feasible to develop the required number of units on the site. The site must be appropriately zoned and improved with infrastructure (including curbs, gutters, water, sewer, and storm drainage) to City of Bozeman standards. Excessive aggregation of WHUs shall be discouraged.

b. The developer may opt to build WHUs in another location within the City of Bozeman. When developed in excess of required WHUs or in advance of the development for which the WHUs will be required, such WHUs will be accepted as credit toward required units in a future application(s). This process is known as “banking units”. The banked units must be pre-approved by the workforce housing program administrator.

c. Existing housing may be used to fulfill the requirements defined in Option #1 above. Such housing must be located within the City, be zoned for residential use, have clear title, be in good repair and available for immediate habitation. The conversion to condominiums of existing rental multifamily housing will not be considered for compliance with the requirements of Option #1, unless such conversions were completed on or before December 31, 2006.

d. “Bonus lots” gained from reduced parkland may not be sold until WHU construction commences.

e. 80% of the WHUs in any phase of a multiphase development must be built before the next phase may be commenced excepting infrastructure installation common to both phases.

3. Individualized Program

A developer may opt for an individualized program which must provide, at a minimum, the same number of units required under option number 1. An individualized program will be subject to standard review by city staff, boards, the Commission, and the public. There will be one additional public meeting with the City Affordable Housing Advisory Board (CAHAB). This meeting will review:

a. project feasibility

b. overall benefits and drawbacks of the project

c. compliance with the affordable housing policy priority needs

The CAHAB will make a recommendation to the City Commission on each individualized program. The Commission will make the final decision in conjunction with preliminary plat review.

4. Cash in Lieu

The developer may pay a fee to the City of three times the value per lot of the lots required to be provided at reduced prices in option #1 above. Money received through the Cash in Lieu option shall be used to provide down payment assistance and dwelling units for the priority populations identified in the City's periodic housing needs assessment and to cover administrative costs. 25% of any cash in lieu collected through this ordinance will be set aside for parkland acquisition; maintenance and enforcement of parkland development requirements after adequate administrative costs are withdrawn.

F. Waiver.

A developer may request a waiver from the requirements of this chapter. A waiver request must be submitted to the Community Affordable Housing Advisory Board simultaneously with application for preliminary plat subdivision review. The CAHAB will make a recommendation to the City Commission on each waiver request, which will make a final decision.

17.02.050. Cost of Housing

Determining the price of a unit:

The maximum sales price of a for-purchase Workforce Housing Unit will be determined annually by the Workforce Housing Administrator using the assumptions listed below. The maximum price of a house built on a workforce housing lot will be provided to the developer of the subdivision at final plat.

The price of each WHU is the total price, and will include all taxes, fees, SIDs and commissions accrued in bringing the house to the point of sale. The purchaser of the WHU is responsible for payment of closing costs to secure their financing and is also responsible for payment of any SIDs created after point of sale.

Pricing assumptions:

In setting the maximum price of a WHU, the plan administrator will use the following assumptions:

- 1) The Area Median Income (AMI), as of January 1st of each year, as set annually by HUD will be used to define annual income for households of 2, 3, and 4 earning 80% and 100% of AMI.
- 2) Gross monthly income will be calculated as annual income divided by 12.
- 3) The household's monthly payment will not exceed 30% of their gross monthly income for payment of Principal, Interest, Taxes, Insurance, and Homeowner's Association Dues.
- 4) 27% of the household's monthly housing payment will be allocated toward payment of escrows for taxes, insurance, and homeowner's association dues.
- 5) The interest rate will be calculated using the rate of the Montana Board of Housing's regular bond program plus ¼% as of January 1st of each year.
- 6) The loan will be a 30 year, fixed rate loan.
- 7) Loan to value is 97%.

The following table depicts the mix of dwelling unit types and the associated maximum price for units used to comply with the provisions of this chapter. Houses must be built to minimum construction standards specified by the workforce housing program administrator. Developments using condominium housing to meet the requirements of this section shall take the necessary steps during construction and shall provide the necessary covenants concerning owner occupancy requirements to assure that condominium purchases will be eligible for Fannie Mae or FHA financing.

Mix and Price of Dwelling Units

Total units req'd	1	2	3	4	5	6	7	8	9	10
Detached units required	.3 = 1	.6 = 1	.9 = 1	1.2 = 2	1.5 = 2	1.8 = 2	2.1 = 3	2.4 = 3	2.7 = 3	3 = 3
Unit #	D, HH4	D, HH4	D, HH4	D, HH4	D, HH4	D, HH4	D, HH4	D, HH4	D, HH4	D, HH4
1										
2		A, HH4	A, HH4	D, HH3	D, HH3	D, HH3	D, HH3	D, HH3	D, HH3	D, HH3
3		*when only two units are required	A, HH3	A, HH4	A, HH4	A, HH4	D, HH2	D, HH2	D, HH2	D, HH2
4				A, HH3	A, HH3	A, HH3	A, HH4	A, HH4	A, HH4	A, HH4
5					A, HH2	A, HH3	A, HH3	A, HH3	A, HH4	A, HH4

6	d, the developer may opt to create the two units above, or may choose, as an alternative, to create two (2)	A, HH2	A, HH3	A, HH3	A, HH3	A, HH3
7			A, HH2	A, HH2	A, HH3	A, HH3
8				A, HH2	A, HH2	A, HH3
9	A, HH4 units				A, HH2	A, HH2
10						A, HH2

Key:

Unit Code	Unit Type	AMI	HH pricing size	Minimum # bedrooms	Minimum of baths	Garage req'd	Min. Lot size (sq. ft)	max price
D, HH4	Detached	100%	4	3	1+.5	1 stall	2700	Set annually by WFH administrator using the assumptions listed in Section 17.02.050
D, HH3	Detached	100%	3	3	1+.5	1 stall	2700	
D, HH2	Detached	100%	2	2	1+.5	1 stall	2700	
A, HH4	Attached	80%	4	3	1+.5	1 stall	2500	
A, HH3	Attached	80%	3	3	1+.5	1 stall	2500	
A, HH2	Attached	80%	2	2	.75+.5	1 stall	2500	

Units required in excess of 10 will be determined using the above chart. For example, 15 units will be determined by combining the requirements for 10 and 5 units. Thirty five (35) units will be calculated using three times the ten unit requirement plus the five unit requirement.

17.02.060. Cost Offsets

A one-to-one density bonus will be provided for each dwelling unit meeting the workforce housing requirements, whether on-site or through land dedication. Density of development must be such that the density bonus does not cause the individual lots to have dimensions or constructed dwellings to have characteristics which are less than minimum standards established by Title 18, BMC.

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A. Developers and builders may choose to take advantage of as many of the following cost offsets as are appropriate for their project, subject to any limitations listed with specific offsets:

1. The reduction of parkland for WHU shall be a 1:1 ratio based on the minimum required square footage of the lot area of the minimum required number of lots. For example, if 50,000 square feet of WHU lots are required then there shall be a reduction in the required parkland area of 50,000 square feet. If the developer chooses to develop more than the required WHU lots the additional lot area square footage, above the minimum required, shall not reduce the parkland area below the statutory minimum required. If the developer chooses to develop the required WHU lots on lots larger than the minimum required lot area, the additional lot area square footage, above the minimum required, shall not reduce the parkland area below the statutory minimum required. The reduction of parkland shall be allowed for WHUs and/or lots provided offsite but only to the extent of the minimum required WHU lot area for the development applying for this parkland offset and only applied on the site of the development applying for the parkland offset. The work force housing park dedication reductions can not cause a subdivision to provide less than the minimum amount of parkland required by Section 76-3-621 of state law.

2. Significantly smaller minimum lot sizes are allowed for workforce dwelling _____ units (WHUs), both detached and attached.

3. A one-to-one density bonus is available for each lot meeting the requirements of this ordinance, whether onsite or through offsite land dedication. Additional parkland does not have to be provided for housing created through this density bonus provision.

4. Builders paying WHU impact fees qualify for deferral of payment until certificate of occupancy.

5. A sliding scale of fully waived, reduced and deferred impact fees will be used for WHUs. WHUs priced for sale to households making 70% or less of AMI qualify for 100% waived impact fee. Units priced for sale to households making 71–80% AMI qualify for 50% waived impact fee and 50% impact fee payment deferred until certificate of occupancy. Units priced for sale to households making 81% to 90% AMI qualify for 25% waived impact fee and 75% impact fee payment deferred until certificate of occupancy. Units priced for sale to households at 91–100% AMI qualify for 100% impact fee payment deferred until certificate of occupancy.
6. Reduction or waiver of other City fees may be available for housing projects that are 100% affordable, according to the city definition of affordability and that are approved through the individualized program.
7. Fast-track site plan review is allowed through use of contract planners.
8. Expedited review by all departments (planning, engineering, building, etc.) will be arranged upon request for site plans with 100% affordable or workforce housing.
9. Simultaneous infrastructure and housing construction will be permitted upon request for projects building on-site workforce housing units as specified by this ordinance, in line with UDO requirements.
10. Projects will be rewarded with optimal review time if project submittals are complete and fully meet code standards so planners/engineers/building department do not have to send the project back to applicant for more work
11. Low-interest construction loans possible for construction of workforce housing units on an as-available basis through the City’s Economic Development and Housing Revolving Loan Funds and/or through participating private lenders.
12. Zero lot line is allowed in all residential zoning districts for creation of paired town homes on two lots. This permits combination of two workforce housing units or one workforce unit and one market-rate unit. In R-1 zoning, duplexes must be comparable in size to market-rate single family homes in the subdivision and designed to look like single-family homes in regard to placement of doors, garages, and driveway.
13. WHU architectural plans available through the City will be exempt from Design Review.

17.02.070 Requirements for Workforce Housing Units (for the Builder/Developer)

- A. Mix. Workforce housing units (WHU) shall be a mix of two and three bedrooms, both detached and attached. There shall be a minimum of 30% detached units, with the remainder as attached units. The units shall be located throughout the subdivision. All homes must have at least one bath and a single car garage at minimum. One bedroom units and four bedroom units will be considered as WHUs as part of an individualized project. (See section in Methods of Compliance).

B. **Unit type** The units must be similar (compatible, consistent) in exterior finish and design to other market rate units within the subdivision. (Concept is that WHUs should not be easily identifiable by someone driving through the area).

C. **Livability** WHUs should be functionally equivalent to other market rate units, i.e. closets, patios or decks or porches, kitchens. The materials used on the interior finish may be of different quality, e.g. laminate countertops instead of tile, linoleum entry instead of tile, but durable.

D. **Location** The location of the WHU must be identified on the preliminary and final plats. The units must be located throughout the subdivision, either individually or in small clusters. (Concept is that units may be in small clusters, but not located in one corner/area of the subdivision).

E. **Timing**

Regarding Lots:

- 1) Workforce Housing Lots must be actively marketed (refer to Section 17.02.040.D) during the same period as market rate lots in the subdivision.
- 2) Workforce Housing Lots must provide the City of Bozeman with First Right of Refusal to purchase in the event that an actively marketed lot is not sold within 12 months of availability.
- 3) In the event that a lot has been actively marketed (as determined by the Workforce Housing Administrative Authority) for a period of not less than 1 year and remains unsold the City will do the following:
 - a) Determine if the City will elect to exercise their First Right of Refusal to purchase the lot at its workforce housing program price;
 - b) If the City chooses not to purchase the property, the developer may sell the lot as a market rate lot. The difference between the lot's sales price and the workforce housing program price plus interest paid on the lot will be paid to the City's Affordable Housing Fund when the lot closes by the title company. The deed restriction on the lot will be removed at closing as well.
- 4) Lots that are not actively marketed and for which building permits are not drawn within 4 years of commencement of construction of market rate units will be subject to purchase by the City at ½ the workforce housing lot price in the year final plat was received.

Regarding Building on the Lots:

- 1) Workforce Housing Lots purchased must draw building permits within 3 years of the initial sale of the lot.
- 2) Workforce Housing Lots not drawing a building permit within 3 years of the initial transfer of the lot will be subject to purchase by the City of Bozeman for ½ the workforce housing lot price in the year final plat for the subdivision was received.

- 3) Owners of a Workforce Housing Lot unable to draw a building permit in the prescribed time may appeal to Workforce Housing Administrative Authority for a waiver to prevent sale of the lot to the City and allow for additional time to construct a Workforce Housing Unit. The request will be reviewed by the Workforce Housing Administrative Authority, who will make a recommendation to the City Commission. Final decision will be that of the City Commission. Requests for waivers must include:
- a) Reason for the request
 - b) Lot owner's proposal to build workforce housing unit and timeline

F. **Disclosure** In addition to being designated on the plat, the location and type of WHU in a development must be disclosed in writing by each seller of a WHU to each subsequent purchaser.

17.02.080 Occupancy Requirements:

A. Owner Occupancy: WHUs must be the primary residence of the owner. A property may not be vacant for more than 30 days.

B. Proof of Primary Residency: Homeowners are required to supply proof of full-time residence on an annual basis to the City. Proof must consist of bills from utility companies or any personal government mailings. If it is determined that the WHU is not being used as a primary residence, the lender will be notified. The Mortgage Lender and or its assigns, will handle this conflict according to a Rider that is attached to the Mortgage Note, which is signed by the mortgagor (applicant) at settlement of the loan.

C. Allowance for Periodic Absences: Absences are allowed for sabbaticals, yearlong job transfers, military responsibilities, etc. Periodic absences are not to exceed one year or as established by Federal law. Proof of valid absence shall be required

D. Renting During Periodic Absences: WHUs may be rented by the owner during an acceptable periodic absence. The homeowner may rent their home for one full _____ year for every five years of residency. If the WHU homeowner rents their home for more than one consecutive year, this is not considered owner occupancy and _____ the loan will be called due in full within 30 days. The homeowner must notify the city when such rentals are commenced and terminated.

E. Purchase of Another Property During Residency: A homeowner is allowed to _____ purchase other property while living in their WHU but must notify the city.

F. Sustained affordability: The following measures will be applied to ensure that _____ sustained affordability is achieved in the workforce housing:

1. Appreciation on the unit will be capped at 4.5% per year, maximum. A person purchasing a WHU will only be eligible to receive a maximum of 4.5% appreciation each year. This is the maximum appreciation allowed, not the guaranteed rate of appreciation. Purchasers will receive a maximum appreciation schedule at closing.

2. In the case of foreclosure or sale, the City of Bozeman will be granted a First Right of Refusal on

the property. Any net income the City earns from the resale of the property will be dedicated to down payment assistance. Should the City not exercise this right, the lender may liquidate the property at market rate.

3. The maximum rate of appreciation will apply for the first 10 years of ownership. After 10 years of ownership, any workforce housing deed restriction on the property will be removed. If the house is sold before 10 years, the new buyer will be subject to the workforce housing eligibility requirements and a new 10 year affordability period will commence.

4. In the event of the sale of the property before ten years, appreciation of the property is calculated. If the actual appreciation of the property is less than the maximum appreciation, the owner receives the actual appreciation (less costs). If the maximum rate of appreciation is equal to the rate of appreciation, the owner receives the maximum rate (less costs). If the actual appreciation of the property is greater than the maximum rate (4.5%), the owner receives the maximum rate (4.5%) and the difference will be allocated to the City's Workforce Housing fund

17.02.090 Buyer Qualification:

Before a household may register in the lottery for the opportunity to purchase a WHU, they must meet the following requirements:

A. Buyer Loan Pre-Qualification: All Program applicants must be pre-qualified upon credit evaluation (credit scores from all three credit bureaus or acceptable non-traditional scores) by a City approved lender. The applicant(s) must obtain a letter of pre-qualification from the City approved lender that is no more than 90 days old. Once the applicant is pre-approved by the Workforce Housing Program Authority and a City approved lender, they will be placed into the lottery. The applicant(s) will remain pre-qualified until selected in the lottery. Once selected, if the applicant's pre-qualification letter is older than 90 days, the applicant will be given one week to obtain pre-qualification again. After one week, the selection lapses and new buyers are selected. If the applicant(s) letter is less than 90 days old at time of selection, the applicant(s) do not have to obtain re-qualification from a City approved lender. The city shall cooperate with the Road To Home program and local lenders to assist in maintaining the prequalified list.

B. Household Income: The current total household income for the household may not exceed 120% of Area Median Income for a household or 4. For households larger than four, the income cap will be 120% for the size of that household.

C. Asset Limits: The applicant must verify that they have sufficient liquidity to bridge the gap between the loan amount and the home's purchase price; however, total liquid household assets are limited to \$100,000 and non-liquid assets are limited to \$150,000. Applicants are not allowed to own any other homes or residential property anywhere. This provision eliminates any applicants who own rental or investment property.

D. Household Size: There will be no minimum or maximum household size limits for the Program except as defined by Local, State or Federal law.

E. Residency Requirement: All applicants must be residents of or employees working in Gallatin County or demonstrate that they are moving to the area for a specific job when they apply for the Program.

F. Homebuyer's Education: Applicants must complete a homebuyer's education program of the city's choice.

17.02.100 Buyer Selection Process (the Lottery):

A lottery system will be established by the City and/or Workforce Housing Program agency to determine a homebuyer whenever multiple qualified applicants wish to purchase the same workforce lot or home.

17.02.110 Program Review

The Workforce Housing Program established herein shall be reviewed two years after its inception and annually thereafter to determine its effectiveness and to determine if the mechanics of the program are found to impose an unreasonable burden on either the parties producing the housing or the on the parties purchasing it. “

Section 3

Repealer. All resolutions, ordinances and sections of the Bozeman Municipal Code and parts thereof in conflict herewith are hereby repealed.

Section 4

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.

Section 5

Severability. If any portion of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of this ordinance which may be given effect without the invalid provisions or application and, to this end, the provisions of this ordinance are declared to be severable.

Section 6

Effective Date. This ordinance shall be in full force and effect on August 15, 2007.

PASSED AND ADOPTED by the City Commission of the City of Bozeman, Montana, at a regular session thereof held on the ____ day of _____, 2007

JEFF KRAUSS, Mayor

ATTEST:

BRIT FONTENOT
City Clerk

PASSED, ADOPTED AND FINALLY APPROVED by the City Commission of the City of Bozeman, Montana, at a regular session thereof held on the _____ day of _____, 2007.

JEFF KRAUSS, Mayor

ATTEST:

BRIT FONTENOT
City Clerk

APPROVED AS TO FORM:

PAUL J. LUWE
City Attorney