



## ORDINANCE 2149

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA TO GENERALLY REVISE BOZEMAN MUNICIPAL CODE RELATED TO SHORT TERM RENTALS INCLUDING GENERALLY REVISING SECTION 38.360.260 – SHORT TERM RENTALS INCLUDING: DISCONTINUING AND PROHIBITING TYPE 3 SHORT TERM RENTALS AS AN AUTHORIZED USE IN ANY ZONING DISTRICT; CREATING DEFINITIONS OF “HOST” AND “PRIMARY RESIDENCE,” WHICH REQUIRES A PERSON TO OCCUPY A DWELLING UNIT FOR SEVENTY PERCENT OF THE CALENDAR YEAR; CREATING NEW CATEGORIES AND REGULATIONS FOR TYPE 2 SHORT TERM RENTALS; AMENDING LAND USE TABLES 38.310.030.B AND 38.310.040.B TO IDENTIFY SHORT TERM RENTALS AS AN ACCESSORY USE; AND AMENDING THE DEFINITIONS OF “DWELLING” AND “SHORT TERM RENTAL” IN BOZEMAN MUNICIPAL CODE DIVISION 38.700.**

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

**WHEREAS**, pursuant to the Bozeman City Charter, in addition to authority to regulate short term rental conferred upon it by the State of Montana, the City of Bozeman hereby relies upon its self-government powers; and

**WHEREAS**, after proper notice, the Community Development Board in their capacity as Bozeman Zoning Commission held a public hearing on October 2, 2023 to receive and review all written and oral testimony on this proposed ordinance; and

**WHEREAS**, the Community Development Board acting in their capacity as the Bozeman Zoning Commission recommended to the Bozeman City Commission that Ordinance 2149 be approved with amendments and

**WHEREAS**, after proper notice, the City Commission held its public hearing on October

17, 2023 to receive and review all written and oral testimony on the proposed amendment to the City's short term rental regulations. The City Commission recommended an amendment to the proposal and voted to provisionally adopt the Ordinance as amended; and

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

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

### **Section 1**

#### **Legislative Findings**

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

1. The Montana Constitution, Article XI, § 4(2), states the powers of incorporated cities, which shall be liberally construed, and Article XI, § 6 of the Montana Constitution expressly authorizes a local government with self-government powers to exercise any power not prohibited by the constitution, law, or charter.
2. 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 and 76-2-304.
3. The City Commission approved The Bozeman Community Housing Action Plan on November 18, 2019, which was amended on January 13, 2020. The Action Plan recommends on-going evaluation of regulatory policies including: prohibiting or limiting the use of homes for short-term rentals in specified neighborhoods or zones; placing resident-occupancy requirements on units that are rented short-term; requiring a host to obtain approval from the City prior to using property as a short-term rental and authorizing the city to charge fees, and other options.
4. On August 9, 2022, the Bozeman City Commission held a work session to discuss short term rentals and their influence on the local housing market and home affordability. The City Commission directed staff to draft an ordinance regulating short term rental online booking platforms as one measure to increase compliance with existing regulations, and to require regular reporting to obtain more information about short term rentals in Bozeman. Ordinance 2131 was adopted in response and became effective on August 11, 2023.

5. On August 8, 2023, the Bozeman City Commission held another work session to discuss short term rentals and their influence on the local housing market and home affordability. The City desires to preserve its available housing stock and the quality of life in its residential neighborhoods and to alleviate the impacts to residential neighborhoods caused by the operation of short term rentals. The short term rental of a person's primary residence does not displace the primary resident from the dwelling unit and does not cause as significant a removal of existing housing stock from the market or as negative an impact to the available housing stock. Therefore, the City Commission directed staff to draft an ordinance restricting the types of short term rentals allowed within the City of Bozeman, increasing the amount of time a person must occupy their primary residence to be allowed to offer the residence as a short term rental, and regulate the short term rental of accessory dwelling units on the same lot or dwellings in the same building as a host's primary residence (e.g. duplex, triplex, fourplex, and apartment buildings).

6. City staff prepared a report with this Ordinance analyzing the required criteria for an amendment to the City's regulations for zoning review, including the amendment's accordance with the Bozeman Community Plan 2020, and found that the required criteria of Montana Code Annotated § 76-1-304 are satisfied.

7. The City Commission determines this Ordinance provides a proper balance of interests, rights, and responsibilities of all parties affected by the ordinance and substantially complies with the Bozeman Community Plan 2020 and complies with all applicable State criteria for adoption of zoning regulations.

## Section 2

That Section 38.360.260 of the Bozeman Municipal Code be amended as follows:

### **Sec. 38.360.260. Short term rentals.**

- A. *Purpose and intent.* The purpose of this section is to provide for the regulation of short term rentals in certain zoning districts within the city ~~in order~~ to preserve neighborhood character and promote a supply of long term rental housing stock, while encouraging economic activity and diversity, and to promote public health, safety, and welfare.
- B. *Applicability.*
  - 1. The provisions of this section apply to transient occupancy of a short term rental as defined herein.
  - 2. This section does not apply to any rental of a dwelling unit which is governed ~~and defined~~ by The Montana Residential Landlord and Tenant Act of 1977 (Landlord Tenant Act).
  - 3. A lower-priced or moderate-priced home subject to and defined by chapter 38, article 380, or a dwelling that received financial support from the city, including but not limited

to down payment assistance, impact fee payment, or other consideration including affordable units developed using regulatory incentives, infrastructure prioritization or assistance or a financial subsidy, may not be used as a short term rental until such time as either the lien instrument against the property in favor of the city securing the amount of such subsidy has been released and the release recorded with the Gallatin County Clerk and Recorder's Office or the expiration of an applicable affordability covenant. The prohibition on use as a short term rental under this subsection will continue until the later of a lien release or expiration of an affordability covenant.

C. *Definitions.* For purposes of this article, the following definitions apply:

1. "Booking transaction" means any reservation or payment service provided by a hosting platform that facilitates a short term rental transaction between an owner and a transient occupant.
2. "Host" means a natural person who occupies a dwelling unit as the person's primary residence and has the legal right to offer the dwelling unit for use as a short term rental.
32. "Hosting platform" means a person or entity that participates in the short term rental business by collecting or receiving a fee directly or indirectly for any booking transaction through which an owner may offer a dwelling unit or portion thereof for transient occupancy. Hosting platform includes but is not limited to an online service and an individual using any other means to collect or receive a fee on behalf of an owner for a transient occupancy of a short term rental.
3. ~~"Owner" includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, or lessee with exclusive possession under a valid long term lease or rental agreement.~~
4. ~~"Owner occupied" means the owner provides the city evidence the owner occupies the dwelling as his or her principal residence for more than 50 percent of the calendar year.~~
45. "Operate, operation of," or "operating a short term rental" means the short term rental has been rented by or on behalf of the host owner to the general public for compensation for transient occupancy. "Operate" "operation of" or "operating" a short term rental does not include mere advertisement of or offering to rent short term rental(s).
5. "Primary residence" means the dwelling unit a natural person occupies for a minimum of seventy percent of the calendar year. A natural person can have only one primary residence.
6. "Responsible person" means the person responsible for addressing all maintenance, nuisance, and safety concerns related to a short term rental, as designated by the host.
7. "Short term rental is defined in article 7 of this chapter."
8. "Transient occupancy" of a short term rental means occupancy which has the following characteristics:
  - a. The period of occupancy is less than 28 consecutive days, and
  - b. The person(s) occupying the short term rental renter has a primary principal residence other than the short term rental.

D. *Short term rental classifications.* Short terms rentals are classified as:

1. Type-1: A short term rental of one or more bedrooms in ~~an owner-occupied dwelling~~ a host's primary residence while the host owner is occupying the same dwelling unit for the entire short term rental period.
2. Type-2: A Type-2 short term rental is the short term rental of a dwelling unit if the host is not occupying the dwelling unit during the entire short term rental period. Type 2 short term rentals include:
  - a. Type-2A: A short term rental of an owner-occupied a dwelling unit if the host owner is not occupying the dwelling unit during the entire short term rental period. The dwelling unit offered as a short term rental must be the host's primary residence, as defined herein.
  - b. Type-2B: A short term rental of an permitted accessory dwelling unit (ADU) on the same lot as the host's primary residence, or a short term rental of no more than one additional dwelling unit in the same building as the host's primary residence regardless of whether or not the ADU's owner host is present in the primary dwelling unit host's primary residence during the short term rental period.
  - e. ~~A short term rental of one dwelling unit within a duplex whether or not the duplex's owner is present in the duplex's other dwelling unit during the rental period.~~
3. ~~Type 3: A short term rental that is not owner-occupied.~~

E. *Where allowed.* ~~An owner-host~~ may operate a short term rental in all zoning districts where such use is authorized in chapter 38 subject to the requirements of this chapter and pursuant to a valid and current short term rental hosting permit.

F. *Compliance with laws.*

1. In addition to the provisions of this chapter, ~~the short term rental owner~~ a host must comply with all other applicable local, state and federal laws, including but not limited to city parking regulations, including time limitations and ADA parking restrictions; lodging facility use tax and accommodations sales tax regulations; health department permitting requirements; the Americans with Disabilities Act; fair housing laws; building codes and fire codes, and the non-discrimination provisions in chapter 24, article 10. Loss of any required permit or license will result in revocation of the short term rental ~~registration~~ hosting permit in accordance with subsection J. of this section.
2. Compliance with all applicable laws and regulations is the sole responsibility of the host owner. City approval of an application for a short term rental hosting permit registration in no way waives or transfers to the city such responsibility. In addition, the ~~owner-host~~ is solely responsible for verifying the use of a property as a short term rental is compatible with insurance and mortgage contracts, home owners' association covenants, rental agreements and any other contracts which govern the use of the property.

G. *Administration.* The director will collect all permit fees and will issue permits and renewals thereof in the name of the city to all persons qualified under the provisions of this chapter and has the power to:

1. *Make rules.* The director will promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this section, including, but not limited to, providing alternative means to comply with hosting platform reporting requirements of 38.360.260.J.2. by maintaining an online tool accessible to the city that includes all required data. All rules are subject to city commission review and modification.
  2. *Adopt forms.* The director will adopt all forms and prescribe the information to be given therein.
  3. *Obtain approvals.* The director will submit all applications to interested city officials for their approval as to compliance by the applicant with all city regulations which they have the duty of enforcing.
  4. *Investigate.* The director will investigate and determine the eligibility of any applicant for a short term rental permit as prescribed herein.
  5. *Examine records.* The director may examine the books and records of any host applicant when reasonably necessary to the administration and enforcement of this section. The city may issue administrative subpoenas as necessary to obtain information regarding a short term rental or booking transaction.
  6. *Give notice.* The director shall notify any applicant of the acceptance or rejection of the application and will, upon the director's refusal of any permit and at the applicant's request, state in writing the reasons for the denial and deliver it to the applicant.
  7. *Record keeping.* The director will maintain at all times a record of permitted short term rentals, including the full name of each host permittee, the address at which such short term rental is operated, the date of issuance, the fee paid therefor, the telephone and address of the host applicant, and the time such permit will continue in effect.
- H. *Hosting Permits.* The following requirements apply to all short term rentals hosting permits unless otherwise noted.
1. *General.* It is unlawful for any person to operate within the city a short term rental without having first obtained approval for a short term rental hosting permit with the department of community development. A separate permit shall be required for each short term rental. Approval of a short term rental application results in the city issuing a permit for the short term rental.
  2. *Application; submittal materials.* The applicant must complete and submit an application for a short term rental hosting permit to the department of community development using a form provided by the city. The form will include an acknowledgement and agreement the short term rental meets and will continue to meet the definition of short term rental classification (Type-1, Type-2A, or Type-2B3) during the permit term. Before the application will be accepted by the director, the applicant must provide:
    - a. The name, telephone number, address, and email address of all property owners and of the responsible person, if different. If the property owner is a business, the name(s) and contact information of all business owners must be provided.
    - b. The Montana Department of Revenue tax registration number for the short term rental.

- c. A sketch plan with a description of the short term rental, including street address, number of bedrooms, and number of off-street parking spaces available for guests' use.
  - d. Certification the short term rental meets and will continue to meet the definition of short term rental classification (Type-1, Type-2A, or Type-~~2B3~~) during the registration term.
  - e. ~~For Type 2 and Type 3 short term rentals, e~~ Certification the applicant has read, ~~and understood~~ understands, and acknowledges the standards ~~in subsection I.~~ of this section, and the property applied for meets the standards is the applicant's primary residence, and the applicant has the legal right to offer the dwelling unit for use as a short term rental.
  - ~~f. For Type 2 short term rentals in residential zoning districts, certification that residents adjacent to the proposed short term rental have been provided written notice in accordance with subsection 6. of this subsection.~~
  - ~~fg.~~ All hosting platforms on which the short term rental is listed.
  - ~~gh.~~ The permit fee and fire inspection fee.
3. *Safety inspections.*
- a. *Initial inspection.* Prior to issuance of the first short term rental hosting permit for any property, an inspection by the city fire department must be completed and signed off by a city fire inspector, or by an NFPA or ICC-certified fire inspector using an inspection form approved by the city fire marshal. A fire inspection checklist form will be provided to the applicant with the application materials. If a short term rental hosting permit lapses for any period of time, upon reapplication for a permit an inspection must be completed and signed off as described in this subsection before the short term rental hosting permit will be issued.
  - b. *Re-inspection.* If re-inspection or multiple visits by a fire inspector are required before the inspection form may be signed, an additional inspection fee will apply for each inspection after the initial inspection.
  - c. *Subsequent inspections; self-certification.* A short term rental must be inspected by the city fire department every three years. The ~~host applicant~~ must self-certify continued compliance with each item on a fire inspection checklist upon annual renewal of a permit for each year that an inspection is not required. The city fire marshal may require a repeat inspection at any time upon complaint or evidence of noncompliance.
4. *Safety hazards.* The ~~host short term rental owner~~ acknowledges that the city, or any authorized representative thereof, have the right to suspend operation of any short term rental when the city determines the short term rental is causing or contributing to an imminent public health or safety hazard.
5. *Fees.* Short term rental hosting permit and inspection fees shall be established by resolution of the city commission.

6. *Issuance of permit.* Once the applicant submits the completed application form, all required submittal materials, and registration and inspection fees, the director will review the application form and submittal materials and determine whether the short term rental meets all city requirements for permit. The director may issue the short term rental hosting permit when:
    - a. The director determines the short term rental meets all city requirements for a permit; and
    - b. The applicant has provided either a signed pre-operational inspection report from the health department indicating the short term rental may operate as a public accommodation or a valid and current public accommodation license issued by the state of Montana department of health and human services pursuant to MCA Title 50, Chapter 51.
  7. *Display of short term rental hosting permit registration number.* The ~~host owner~~ must include the short term rental hosting permit number issued by the city in all listings and advertisements; of the ~~host's owner's~~ short term rental on any hosting platform and print advertising.
  8. *Change in status of host ownership.* A short term rental hosting permit does not run with the land, and a change in ~~ownership primary residence status~~ of the short term rental host terminates the permit. In order for the dwelling unit to remain eligible for use as a short term rental after a host no longer uses the dwelling unit as their primary residence, a new application identifying a new host as primary resident must be submitted to the city.
  9. *Expiration.* Permits issued pursuant to this section are valid for one year from the month in which such permit is issued and will expire automatically unless renewed in accordance with this section.
  10. *Renewal.* The ~~host registrant~~ may apply to renew the permit annually using a form provided by the city. Renewals must comply with the requirements of this Code which are in place at the time of renewal. Failure of ~~an applicant host~~ to renew a permit results in the termination of the lawful use of a property as a short term rental. It is the ~~host's permittee's~~ responsibility to renew the short term rental hosting permit prior to the expiration of the permit. Failure of ~~an applicant a host~~ to renew a short term rental hosting permit prior to the expiration of the current permit period requires the host applicant to file a new permit application for a short term rental hosting permit and is subject to the initial inspection and fee.
- I. *Short term rental standards.* The following requirements apply only to Type-2 ~~and Type-3~~ short term rentals unless otherwise noted.
1. *Short term rental agreement; written rules for guests.* The short term rental owner must enter into a written rental agreement with the guest for each stay in the short term rental.
    - a. The guest must be provided with a written list of rules applicable to the short term rental with the rental agreement, and the rental agreement must include a written acknowledgement by the ~~guests renters~~ of their agreement to comply with such rules.
    - b. The list of rules must include those rules required by this section to be included.



- c. The list of rules must be prominently displayed within the short term rental.
  2. *Responsible person.* The ~~host short term rental owner~~ must designate a person responsible for addressing all maintenance, nuisance, and safety concerns related to a short term rental. The responsible person must be available to take and respond to reports of concerns and complaints 24 hours per day, seven days per week during the ~~registration term of the short term rental hosting permit~~. The name and contact information for the responsible person must be included in the list of rules.
  3. *Maximum occupancy for Type-2 ~~and Type-3~~ short term rentals.* The maximum occupancy of a Type-2 ~~or Type-3~~ short term rental is two persons per bedroom plus two additional persons, except that this number may be reduced by the city based on available parking spaces. The maximum occupancy will be noted on the short term rental hosting permit registration and must be included in the list of short term rental rules.
  4. *Maximum number of bedrooms that may be rented in a Type-1 short term rental; maximum occupancy.* The owner of a Type-1 short term rental may rent or offer for rent up to two bedrooms in the dwelling, except that in a two-bedroom dwelling, only one bedroom may be rented or offered for rent. No other area of the dwelling may be rented or offered for rent. The maximum occupancy of a Type-1 short term rental is two persons per bedroom.
  5. *Trash removal.* The responsible person must ensure proper disposal of solid waste pursuant to local and state rules, regulations and laws. The schedule for trash and recycling collection and instructions for proper disposal must be included within the short term rental rules.
  6. *Signage.* Exterior signs identifying the unit as a short term rental are prohibited. During a rental period, there must be a sign posted inside the front door of the short term rental showing the locations of all fire extinguishers in the unit, the gas shut-off valve, and fire exits.
  7. *Noise and nuisance.*
    - a. The ~~host owner of the short term rental~~ must ensure that use of the short term rental by guests is in compliance with the noise provisions of chapter 16, article 6 and all nuisance provisions of this Code.
    - b. A prohibition against making loud noise in such a manner as to disturb the quiet, comfort or repose of a reasonable person of normal sensitivity must be included in the short term rental rules.
    - c. All outdoor activities producing noise discernible from a neighboring property shall cease by 10:00 p.m. This requirement must be included in the short term rental rules.
- J. *Hosting platforms obligations.*
1. *Compliance with laws.* In addition to the provisions of this section, a hosting platform must comply with all other applicable local, state and federal laws.
  2. *Reporting requirements.* A hosting platform must provide a report to the city on a quarterly basis that includes, but is not limited to the following:

- a. The address of each short term rental located in the city for which it conducts a booking transaction;
  - b. The name of any host owner or responsible person for each transient occupancy for which the hosting platform conducted a booking transaction.
3. *Required information for booking transaction.* A hosting platform must include the city permit number in all hosting platforms' publicly available listings prior to performing a booking transaction for each short term rental within the city.
4. *Obligation to remove listings.* If the hosting platform has reason to believe a short term rental is in violation of any provision of this Code, including but not limited to notice from the city of a violation or ~~an owner's~~ a host's failure to supply to the hosting platform the city permit number for the short term rental, the hosting platform must remove the listing from its hosting platform within ten business days.

K. *Violations; enforcement.*

1. *Registration suspension or revocation.* The director may suspend or revoke a short term rental hosting permit, impose administrative remedies as provided herein, or enforce a suspension or revocation through a civil action when the host ~~permittee~~ commits one or more of the following acts or omissions:
  - a. Failure to comply with any provision of this Code;
  - b. Operating or allowing the operation of the short term rental in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals, or interfere with the rights of abutting property owners;
  - c. Cancellation of the health department's public accommodation license, tax authority registration, or any other required permit; or
  - d. The securing of the permit by fraud or misrepresentation, including but not limited to supplying false or incorrect information on the permit application.
2. *Procedure.* Should the director decide to suspend or revoke a hosting permit, the host ~~permittee~~ will be given notice and an opportunity to respond following the procedures in this subsection, except that should the director determine the short term rental or its operation present a safety hazard or require immediate remedy, the director may order operation of the short term rental to cease immediately.
  - a. The host ~~permittee~~ will be notified in writing by the director at least seven days prior to the action contemplated and the reasons therefore.
  - b. Upon receipt of the notice, the host ~~permittee~~ may request a meeting with the director. Such request must be in writing and must be received by the director within seven days of the host's ~~permittee's~~ receipt of the notice. Failure on the part of the permittee to request in writing a meeting and within the specified time period shall be a waiver of the host's ~~permittee's~~ right to a meeting.
  - c. If a meeting is requested by the host ~~permittee~~, the director will set a time, date and place and will so notify the host ~~permittee~~, in writing.

- d. When a meeting is conducted, the city will present the evidence supporting the contemplated action. The director may request evidence be presented by other parties. The host permittee may present evidence. The director will take all evidence admitted under advisement and once a decision has been made the director will notify the host permittee of the findings and decision in writing.
- 3. *Civil penalty.* The director may recover the following civil penalties for any violation of this section. Each day a violation continues constitutes a separate violation.
  - a. For any violation by a host ~~an owner~~, the director may recover a civil penalty of not more than \$500.00.
  - b. For any violation by a hosting platform, the director may recover a civil penalty of not more than \$500.00.
- 4. *Appeal.* An aggrieved person may file an application to appeal the matter to the city commission according to the procedures in section 38.250.030.
- 5. *Unpaid fee constitutes debt.* The amount of any unpaid fee, the payment of which is required hereunder, constitutes a debt due the city.
- 6. *Violation constitutes a misdemeanor.* In addition to suspension or revocation under subsection A. of this section, or the imposition of a civil penalty as provided herein, a knowing violation of this article constitutes a misdemeanor punishable as described in section 38.200.160 except a person may not be imprisoned for a violation of this section.

**Section 3**

That section 38.310.030. Authorized uses—Residential zoning districts be amended as follows:

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

<b>Table clarifications:</b>								
1. Uses: P = Principal uses; S = Special uses; A = Accessory uses; — = Uses which are not permitted.								
2. If a * appears after the use, then the use is defined in article 7.								
3. Where a code section is referenced after the use, then the use is subject to the additional standards specific to the subject use in that code section.								
4. If a number appears in the box, then the use may be allowed subject to development condition(s) described in the footnotes immediately following the table.								

Uses	Zoning Districts							
	R-S	R-1	R-2	R-3	R-4	R-5	R-O <sup>1</sup>	RMH
<b>Accessory uses</b>								
Essential services Type I*	A	A	A	A	A	A	A	A
Guest house*	A	A	A	A	A	A	A	—

Home-based businesses (38.360.150)*	A/S	A/S	A/S	A/S	A/S	A/S	A/S	A/S
Other buildings and structures typically accessory to authorized uses	A	A	A	A	A	A	A	A
Private or jointly owned recreational facilities	A	A	A	A	A	A	A	A
Signs*, subject to article 5 of this chapter	A	A	A	A	A	A	A	A
Temporary buildings and yards incidental to construction work	A	A	A	A	A	A	A	A
Temporary sales and office buildings	A	A	A	A	A	A	A	A
<b>Non-residential uses</b>								
Agricultural uses* on 2.5 acres or more (38.360.270)	P	—	—	—	—	—	—	—
Agricultural uses* on less than 2.5 acres (38.360.270)	S	—	—	—	—	—	—	—
Bed and breakfast*	S	S	S	S	P	P	P	—
Commercial stable (38.360.230)	S	—	—	—	—	—	—	—
Community centers*	S	S	S	S	S	S	P	S
Day care centers*	S	S	S	P	P	P	P	S
Essential services Type II*	P	P	P	P	P	P	P	P
Essential services Type III* <sup>2</sup>	S	S	S	S	S	S	S	S
Short Term Rental (Type 1)*	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	—
Short Term Rental (Type 2)*	—	—	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	—
<del>Short Term Rental (Type 3)*</del>	—	—	—	—	—	—	—	—
General service establishment*	—	—	—	—	—	—	P <sup>5</sup>	—
Golf courses	S	S	—	—	—	—	—	—
Offices*	—	—	—	—	S <sup>3</sup>	S <sup>3</sup>	P	—
Public and private parks	P	P	P	P	P	P	P	P

Medical offices, clinics, and centers*	—	—	—	—	S	S <sup>3</sup>	P	—
Recreational vehicle parks (38.360.210)*	S	—	—	—	—	—	—	P
Restaurant*	—	—	—	—	—	P <sup>4</sup>	P <sup>5,6</sup>	—
Retail*	—	—	—	—	—	P <sup>4</sup>	P <sup>5,6</sup>	—
Veterinary uses	S	—	—	—	—	—	—	—

**Notes:**

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

**Section 4**

That section 38.310.040 be amended as follows:

**Table 38.310.040.B**

**Permitted services and temporary lodging uses in commercial, mixed-use, and industrial zoning districts**

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

Uses	Zoning Districts										
	Commercial				Mixed Use			Industrial			PLI
	B	B-2	B-2M	B-3	UMU (38.310.050)	REMU (38.310.060)	NEHMu <sup>2</sup>	BP	M-1	M-2	
	1 <sup>1</sup>										

<b>Personal and general service</b>											
Animal shelters	—	—	—	—	—	—	S	—	S	S	—
Automobile washing establishment*	—	P	P	P	S	S	P	—	P	P	—
Daycare— Family, group, or center*	P	P	P	P <sup>3</sup>	P	P	P/A <sup>4</sup>	P/A <sup>4</sup>	S/A <sup>4</sup>	S/A <sup>4</sup>	P
General service establishment*	P	P	P	P	P	P	P	P	P	S	—
Health and exercise establishments *	P	P	P	P	P	P	P	S/A <sup>4</sup>	P	P	—
Heavy service establishment*	—	P	P	S	P	S	P	—	P	P	—
Medical and dental offices, clinics and centers*	P	P	P	P <sup>3</sup>	P	P	P	P	P	P	—
Mortuary	—	S	S	S	S	—	—	—	—	—	—
Offices*	P	P	P	P <sup>3</sup>	P	P	P	P <sup>5</sup>	P	P	—
Personal and convenience services*	P	P	P	P	P	P	A	A	A	A	—
Truck repair, washing, and fueling services	—	—	—	—	—	—	S	—	S	P	—
<b>Temporary lodging</b>											
Bed and breakfast*	—	—	—	—	—	P	S	—	—	—	—
Short Term Rental (Type 1)*	—	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	—	—	—	—
Short Term Rental (Type 2)*	—	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	<del>P</del> <u>A</u>	—	—	—	—
Short Term Rental (Type 3)*	—	P	P	P	P	P	—	—	—	—	—

Hotel or motel*	—	P	P	P	P	P	P	—	P	P	—
						40,000sf					

**Notes:**

1. In the B-1 district, the footprint of individual buildings must not exceed 5,000 square feet.
2. Authorized uses in the NEHMU district include those uses allowed in the R-2 district (see table 38.310.030 for those not listed in this table).
3. Use not allowed on the ground floor of buildings in the downtown core (those properties along Main Street from Grand Avenue to Rouse Avenue and from the alley one-half block north of Main Street to the alley one-half block south of Main Street) unless visitor access is available from an alley and another use not subject to this footnote is present to a minimum depth of 20 feet from the front building façade adjacent to a street.
4. If primarily offering services to a single business or group of businesses within the same building or building complex.
5. Professional and business offices only.

**Section 5**

That section 38.700.050. – D definitions be amended as follows:

*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 this article, for residential purposes. Dwellings may exist in many configurations, including single-household, two-household, multiple-household dwellings and group homes. Dwellings do not include hotels, or motels, ~~Type 3 short term rentals as defined in section 38.360.260.~~

**Section 6**

That section 38.700.170. – S definitions be amended as follows:

*Short Term Rental.* A vacation home, tourist home as defined in MCA 50-51-102, a dwelling as defined in [section 38.700.050](#), accessory dwelling unit, or room within a vacation home or dwelling, which is rented ~~by or on behalf of the owner~~ to the general public for compensation for transient occupancy as provided for in [section 38.360.260](#).

**Section 7**

**Legacy Type 3 Short Term Rentals.**

- A. Requirements to continue a Type 3 short term rental. A Type 3 short term rental with an active permit operating lawfully prior to the effective date of this Ordinance, and where a Type 3 is prohibited after the effective date of this Ordinance, is eligible, subject to the requirements of this section, to receive an annual permit after the effective date of this Ordinance to operate a compliant “Legacy Type 3” short term rental.

To qualify a short term rental as a Legacy Type 3, a host must comply with the following:

1. Prior to the expiration of a current Type 3 permit and on an annual basis

thereafter, a host must apply to renew the annual permit, pay all applicable application fees, and be fully in compliance with the requirements of 38.360.260.A – C and 38.360.260.E – I, BMC, as amended by this Ordinance and any subsequent amendments to this chapter.

2. To continue to remain eligible to qualify for a Legacy Type 3 permit for every subsequent year, a short term rental permit cannot expire. If in any permit year the host of a Legacy Type 3 short term rental fails to renew the annual permit prior to the permit's expiration, then, upon the expiration of the permit, the property is no longer eligible to be used as a Type 3 short term rental.
  3. A person who seeks to qualify for a Legacy Type 3 short term rental who submits a complete application, pursuant to the requirements of section 38.360.260.H.2, for a Type 3 short term rental prior to the effective date of this Ordinance is eligible to be considered a Legacy Type 3 short term rental if the permit is approved, notwithstanding that the permit may be issued no longer than 180 days after the effective date of this Ordinance to allow completion of final issuance of the state tax registration number, completion of safety inspections, and approval of a health department public accommodations license.
  4. If the review authority determines a current Legacy Type 3 short term rental permit is forfeited for any reason including but not limited to a change in the status of the host pursuant to 38.360.260.H.8, the property is no longer eligible to be used as a Type 3 short term rental and will forfeit its status as a Legacy Type 3 short term rental.
  5. If the review authority revokes a Legacy Type 3 permit pursuant to 38.360.260.K, the property is no longer eligible to be used as a Type 3 short term rental and will no longer be considered a Legacy Type 3 short term rental.
  6. Legacy Type 3 short term rental hosts are subject to all violation and enforcement provisions in 38.360.260.K, BMC.
- B. Conversion of a Type 3 short term rental. A Legacy Type 3 short term rental may convert to any other type of short term rental authorized by and in compliance with section 38.360.260, BMC, subject to approval of a new short term rental permit. The conversion of a Type 3 short term rental to another permissible type of short term rental extinguishes the ability for the property to ever revert to a Legacy Type 3 short term rental.
- C. Unlawful Type 3 short term rentals must cease operation. Type 3 short term rentals operating unlawfully after the effective date of this Ordinance are not eligible to receive an annual permit or continue operating a Type 3 short term rental and will not be eligible to operate a Legacy Type 3 short term rental. The host of any unlawfully operating short term rental is subject to the violation and enforcement provisions of 38.360.260.K.



## **Section 8**

### **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 9**

### **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 10**

### **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 11**

### **Codification.**

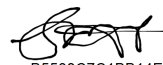
This Ordinance shall be codified as indicated in Sections 2 through 6.

## **Section 12**

### **Effective Date.**


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

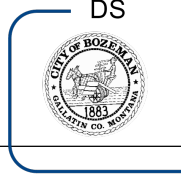
**PROVISIONALLY ADOPTED** by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 17<sup>th</sup> day of October, 2023.

DocuSigned by:  
  
B5588C7C1BB14E6...

**CYNTHIA L. ANDRUS**  
Mayor

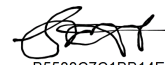
ATTEST:

DocuSigned by:  
  
74547B3D4A2E490...




**MIKE MAAS**  
City Clerk

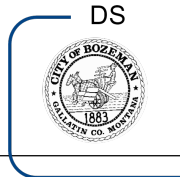
**FINALLY PASSED, ADOPTED AND APPROVED** by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the of 14<sup>th</sup> of November, 2023. The effective date of this ordinance is December 13<sup>th</sup>, 2023.

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**CYNTHIA L. ANDRUS**  
Mayor

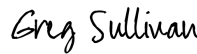
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**MIKE MAAS**  
City Clerk

APPROVED AS TO FORM:

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**GREG SULLIVAN**  
City Attorney