



## Commission Memorandum

**REPORT TO:** Honorable Mayor and City Commission  
**FROM:** Chuck Winn, Assistant City Manager  
Karen Stambaugh, Assistant City Attorney  
**SUBJECT:** Final adoption of Ordinance 1974 Regulating Short Term Rentals  
**MEETING DATE:** September 11, 2017  
**AGENDA ITEM TYPE:** Consent (Items Acted on Without Prior Unanimous Approval)

**RECOMMENDATION:** Approve on second reading Ordinance 1974 amending Chapter 12 of the BMC to exempt STRs from the requirement to obtain a business license and amending Chapter 38 of the Bozeman Municipal Code (BMC) to add short term rental (STR) regulations, amend authorized use tables, establish registration requirements, establish standards, provide for enforcement and penalties and provide an effective date of December 1, 2017.

**RECOMMENDED MOTION:** Having considered public comment and having provisionally adopted Ordinance 1974 on August 14, 2017, I hereby move to finally adopt Ordinance 1974 amending the Bozeman Municipal Code to add short term rental regulations.

**BACKGROUND:** The City Commission held a public hearing on August 14, 2017 and provisionally adopted Ordinance 1974 by a 3:2 vote, after approving an amendment to the “grandfathering” provision of the draft ordinance to require proof of operation prior to January 1, 2017 of STRs not authorized under Ordinance 1974. The City Attorney indicated staff would work to revise the language of the Section 8 of the Ordinance describing grandfathering requirements.

The grandfathering provision, Section 8 of the Ordinance, applies only to STRs that will not be authorized under Ordinance 1974. The January 1, 2017 cutoff date described above may not be applied to STRs in R-3, R-4, R-5, and R-O, because they are currently an authorized use in those zoning districts. Instead, they will be required to submit proof of operation prior to the effective date of Ordinance 1974. The January 1, 2017 cutoff date described above would apply only to those STRs in R-1, R-2, R-S, and NEHMU which will not be authorized under Ordinance 1974 and which do not hold a valid conditional use permit (CUP). These STRs are not currently

authorized in those zoning districts because they are subject to Interim Zoning Ordinance 1958, which removed extended stay lodging as an authorized use in those zoning districts.

Therefore, in order to be “grandfathered” in and be allowed to continue operating as a legal nonconforming use, Type 2 and Type 3 STRs in R-1 and R-S, and Type-3 STRs in R-2 and NEHMU will be required to submit proof of operation prior to January 1, 2017. Type 3 STRs in R-3, R-4, R-5, and R-O will be required to submit proof of operation prior to the effective date of Ordinance 1974.

Staff also made other amendments to the Ordinance language based on the Commission’s direction during the August 14 public hearing:

1. The definition of **Owner** in 38.22.250.C.2 is amended to clarify it does not include “agents” of the property owner such as property managers.
2. Section 8 is amended to clarify that an administrative CUP issued pursuant to that section does not run with the land, and will expire with a change of ownership.

Finally, because of safety and privacy concerns raised by two members of the public, section 38.22.250.H.8 was revised to remove the specific items of information that would necessarily be included in the online listing of registered STRs. Staff recommends that STR owners with such concerns be allowed to opt out of providing certain information in the online listing, and that City contact information be provided for that STR instead.

Additional public comment: The City received eight public comments after the hearing on August 14, 2017. These comments have been provided to the Commission in hard copy and by email, and are summarized below:

- Five comments are form letters that are generally in support of the proposed regulations.
- One commenter states the proposed fees are prohibitively high, and points out Missoula’s fee for STRs is \$50 for initial registration and \$25 for renewals.
- One commenter questions why the proposed renewal fee is the same as the initial fee.
- One commenter thanks Commissioners Krauss and Pomeroy for voting against the proposed Ordinance, and asserts the ordinance is a regulatory taking and draconian.

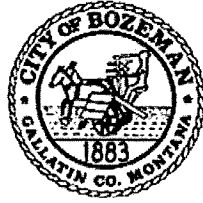
Effective date: Because staff strongly recommends the use of an STR compliance software tool to assist with tracking and enforcement, and because the implementation schedule for such software will be approximately 8-12 weeks, staff suggests a December 1, 2017 effective date for Ordinance 1974.

**UNRESOLVED ISSUES:** None identified.

**ALTERNATIVES:** As suggested by the Commission.

**FISCAL EFFECTS:** Staff time will be required for code enforcement and fire inspection activities should the Ordinance be finally adopted. A resolution setting STR registration and inspection fees is on this meeting's agenda for consideration by the Commission. The fee resolution would be effective at the same time Ordinance 1974 becomes effective. An STR compliance software license will be on a future meeting agenda for approval which will assist the City with enforcement of the new regulations should Ordinance 1974 be finally approved by the Commission. Staff considered the annual license fees for such compliance software in setting the recommended registration fees.

**Attachment:** Ordinance 1974



**ORDINANCE NO. 1974**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA AMENDING CHAPTER 12 OF THE BOZEMAN MUNICIPAL CODE TO EXEMPT SHORT TERM RENTALS FROM THE BUSINESS LICENSE REQUIREMENT; AMENDING CHAPTER 38, UNIFIED DEVELOPMENT CODE, TO ADD SHORT TERM RENTAL REGULATIONS, AMEND AUTHORIZED USE TABLES, ESTABLISH REGISTRATION REQUIREMENTS AND FEES, ESTABLISH STANDARDS, AND PROVIDE FOR ENFORCEMENT AND PENALTIES; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City is authorized by its Charter and Montana law to adopt zoning regulations and provide for the enforcement and administration of zoning regulations pursuant to 76-2-304, MCA; and

**WHEREAS**, the Director of Community Development is authorized to determine the appropriate classification of a particular use within zoning districts pursuant to 38.07.050, BMC; and

**WHEREAS**, “extended stay lodging” has been authorized as a conditional use in R-1, R-2, R-S, and NEHMU zoning districts and as a principal use in R-3, R-4, R-5, R-O, B-2, B-2M, B-3, REMU and UMU zoning districts; and

**WHEREAS**, Interim Zoning Ordinance 1958 (as extended by Ordinance 1970) repealed and suspended extended stay lodging as a conditional use in R-1, R-2, R-S and NEHMU until August 8, 2017 and directed the City Manager to research, seek public input on, and develop recommendations for the regulation of short term rentals; and

**WHEREAS**, it is in the interests of the city to establish regulations and standards for short term rental operations to ensure the public health, safety and welfare of city residents and visitors.

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

**Section 1**

**Legislative findings:**

1. Short term rentals provide economic opportunities to short term rental owners and other city businesses by attracting visitors to engage in economic and social activities within the city.
2. Short term rentals add to a vibrant, diverse and welcoming community by providing accommodations for a wide variety of visitors, including tourists and travelers, friends and family of residents, and temporary workers.
3. The intent and purpose of all residential zoning districts is to establish areas that are primarily residential in character.
4. The primary intent and purpose of R-S, R-1, and R-2 residential zoning districts is to provide for primarily low and moderate density residential development and related uses within the city, and to provide for community facilities that serve such development while respecting the residential quality and nature of the area.
5. The primary intent and purpose of R-3, R-4, R-5, and R-O residential zoning districts is to provide for the development of medium and high density residential development with a variety of housing types along with secondary nonresidential uses, and to provide for community facilities that serve such development.
6. The short term rental of sleeping rooms in an owner-occupied dwelling unit while the owner is present on the property, and rental of an owner-occupied dwelling unit for part of the year are primarily residential uses.

7. The short term rental of a dwelling unit by an owner who does not occupy the home as their primary residence is not a primarily residential use.
8. Restrictions on noise and maximum occupancy, and requirements providing for life safety inspections and easy reporting of concerns and complaints are necessary to help protect city residents' peaceful enjoyment of their residences and neighborhoods.
9. Reasonable, narrowly tailored regulation of short term rentals is necessary to protect the health, safety and welfare of city residents and visitors.

## Section 2

That Chapter 12, Article 1 of the Bozeman Municipal Code, Business Licensing, be amended as follows:

Sec. 12.01.010. - Definitions.

...

4. "~~Home-occupation~~Home-based business" ~~means the use of a portion of a dwelling as an office, studio or workroom for occupations at home by one or more persons residing in the dwelling unit. No home-occupation shall occupy more than 20 percent of the gross floor area nor more than 400 square feet of gross floor area. The activity must be clearly incidental to the use of the dwelling for dwelling purposes, and shall not change the character or appearance thereof~~ has the meaning ascribed to it in 38.42.1380.

## Section 3

That Chapter 12, Article 2 of the Bozeman Municipal Code, Business Licensing, be amended as follows:

**Sec. 12.02.040. - Exemptions.**

- A. No license shall be required of any person or entity for any mere delivery in the city of any property purchased or acquired in good faith from such person or entity as the person or

entity's regular place of business outside the city where no intent by such person is shown to exist to evade the provisions this chapter.

- B. No license shall be required of any nonprofit organization as defined by this chapter.
- C. No license shall be required of any person under 18 years of age.
- D. No license shall be required for any property manager managing or renting less than three ~~rental dwelling units as defined in 38.42.940.~~
- E. No license shall be required for short term rentals as defined in 38.42.2835.

~~E~~F. The exemptions listed in subsections A, B, C, ~~and D~~ and E of this section do not apply to a transaction, use, or business involving marijuana.

**Section 4**

That Chapter 38, Articles 8 (Residential Zoning Districts), 9 (Residential Emphasis Mixed-Use Zoning District), 10 (Commercial Zoning Districts), and 11 (Urban Mixed-Use Zoning District) of the Bozeman Municipal Code be amended to remove the term “extended stay lodging” as a type of authorized use, and to add “short term rental” as an authorized use in certain zoning districts, as follows:

Table 38.08.020								
Table of Residential Uses	Authorized Uses							
	R-S	R-1	R-2	R-3	R-4	R-5	R-O	RMH
<del>Extended stay lodgings</del>	€	€	€	P	P	P	P	—
<u>Short term rentals (Type 1)</u>	P	P	P	P	P	P	P	=
<u>Short term rentals (Type 2)</u>	=	=	P	P	P	P	P	=
<u>Short term rentals (Type 3)</u>	=	=	=	=	=	=	=	=

Table 38.09.020 Table of Uses		
Table of Uses	Maximum Gross Building Area	Authorized Uses
<del>Extended stay lodgings</del> <u>Short term rentals (all types)</u>	40,000 square feet	<u>P</u>

Table 38.10.020				
Table of Commercial Uses	Authorized Uses			
	B-1	B-2	B-2M	B-3
<del>Extended stay lodgings</del> <u>Short term rentals (all types)</u>	<u>---</u>	<u>P</u>	<u>P</u>	<u>P</u>

Table 38.11.020	
Table of Uses	Authorized Uses
<del>Extended stay lodgings</del> <u>Short term rentals (all types)</u>	<u>P</u>

**Section 5**

That Chapter 38, Article 42 of the Bozeman Municipal Code be amended as follows:

Sec. 38.42.390. - Bed and breakfast ~~home~~.

A single-household dwelling which remains owner-occupied at all times providing one or more guest rooms for compensation, and where food service is limited to breakfast which may be served to overnight guests only.

Sec. 38.42.940. - 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. ~~Dwelling occupancy duration is typically longer than 30 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~~ Type-3 short term rentals as defined in article 22.

Sec. 38.42.1040. - ~~Extended stay lodgings~~ Reserved.

~~Guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation, including, but not limited to, such facilities as refrigerators, stoves and ovens. Generally an individual guest will not exceed 30 days stay. This definition includes dwelling units used, rented or hired out for vacation homes.~~

Sec. 38.42.1410. - Hotel or motel.

A building or a group of buildings in which lodging is provided and offered to transient guests for compensation; the term "hotel or motel" shall not include a boardinghouse, ~~extended stay lodgings~~ short term rental, lodginghouse or roominghouse.

Sec. 38.42.2835. – Short term rental.

A vacation home, tourist home as defined in MCA 50-51-102, a dwelling as defined in 38.42.940, 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 article 22.

## **Section 6**

That the Bozeman Municipal Code be amended by adding a new section 250, Short term rentals, to Chapter 38, Article 22, Unified Development Code – Standards for Specific Uses, as follows:

**Sec. 38.22.250. – Short term rentals.**

*A. Purpose and intent.*

The purpose of this article is to provide for the regulation of short term rentals in certain zoning districts within the city in order to preserve neighborhood character while encouraging economic activity and diversity, and to promote public health, safety, and welfare.

*B. Applicability.*

1. The provisions of this article apply only to short term rentals as defined herein.
2. This article 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). This article applies only to transient occupancy of a short term rental as defined herein.
3. A lower-priced or moderate-priced home subject to and defined by chapter 38, article 43, or a dwelling that received financial support from the city, including but not limited to down payment assistance, impact fee payment, or other financial subsidy, may not be used as a short term rental until such time as 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.

*C. Definitions.*

For purposes of this article, the following definitions apply:

1. **Hosting platform** means a person or entity that provides a means through which an owner may advertise and offer for rent a short term rental to the general public.
2. **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.
3. **Owner-occupied** means the owner occupies the dwelling as his or her principal residence for more than 50% of the calendar year.

4. **Operation of or operating** a short term rental means the short term rental has been rented by or on behalf of the owner to the general public for compensation for transient occupancy. “Operation of” or “operating” a short term rental does not include mere advertisement of or offering to rent short term rental(s).
5. **Responsible person** means the person responsible for addressing all maintenance, nuisance, and safety concerns related to a short term rental.
6. **Short term rental** is defined in article 42 of this chapter.
7. **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 renter has a principal residence other than the short term rental, and
  - c. The short term rental is furnished with personal property necessary to make the unit ready for immediate occupancy by the renter.

A. *Short term rental classifications.*

Short terms rentals are classified as:

- a. **Type-1:** A short term rental of one or more bedrooms in an owner-occupied dwelling while the owner is occupying the same dwelling unit for the entire rental period.
- b. **Type-2:**
  - (1) A short term rental of an owner-occupied dwelling if the owner is not occupying the dwelling during the entire rental period.
  - (2) A short term rental of a permitted accessory dwelling unit (ADU) whether or not the ADU’s owner is present in the primary dwelling unit during the rental period.
  - (3) 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.

c. **Type-3:** A short term rental that is not owner-occupied.

E. *Where allowed.* An owner may operate a short term rental in all zoning districts where such use is authorized in Chapter 38, articles 8-11 and 14 subject to the requirements of this article.

F. *Compliance with laws.*

1. In addition to the provisions of this article, the short term rental owner 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 nondiscrimination provisions in chapter 24, article 10. Loss of any required permit or license will result in revocation of the short term rental registration in accordance with subsection J of this section.

2. Compliance with all applicable laws and regulations is the sole responsibility of the owner and city approval of an application for short term rental registration in no way waives or transfers to the city such responsibility. In addition, the owner 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 registration fees and will issue registrations and renewals thereof in the name of the city to all persons qualified under the provisions of this article 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 article. 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 registration as prescribed herein.
  5. **Examine records.** The director may examine the books and records of any applicant when reasonably necessary to the administration and enforcement of this article.
  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 registration, at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.
  7. **Record keeping.** The director will maintain at all times a record of registered short term rentals, including the full name of each registrant, the address at which such short term rental is operated, the date of issuance, the fee paid therefor, the telephone and address of the applicant, and the time such registration will continue in force.
- H. *Registration.* The following requirements apply to all short term rentals unless otherwise noted.
1. **General.** It is unlawful for any person to operate within the city a short term rental without having first registered the short term rental with the Department of Community Development. A separate registration shall be required for each short term rental.
  2. **Application; submittal materials.** The applicant must complete and submit an application for a short term rental registration 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-2, or Type-3) during the registration 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-2, or Type-3) during the registration term.
- e. For Type-2 and Type-3 short term rentals, certification the applicant has read and understood the standards in subsection I of this section and the property applied for meets the standards.
- 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 section.
- g. The registration fee and fire inspection fee.

### **3. Safety inspections.**

- a. Initial inspection. Prior to issuance of a short term rental registration, an inspection by the city fire department must be completed and signed off by a city fire inspector, or by an NFPA-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 registration lapses for any period of time, upon reapplication for registration an inspection must be completed and signed off as described in this subsection before the short term rental registration will issue.
- b. Re-inspection. If re-inspection or multiple visits by a fire inspector are required before the inspection form may be signed, additional inspection fees will apply.

- c. Subsequent inspections; self-certification. The city fire marshal may require a repeat inspection on a periodic basis, and at any time upon complaint or evidence of non-compliance. Applications for annual renewal of registration will include a self-certification by the applicant that they continue to comply with the fire inspection checklist. By applying for renewal of registration, the applicant will acknowledge and agree that the city may randomly select a certain percentage, not to exceed 10%, of the renewal applications for a full inspection as described in subsection (a). If selected, the registration renewal will be conditioned on completion of the fire inspection and payment of the fire inspection fee. The owner of a short term rental selected for a full inspection will be allowed to continue to operate the short term rental pending completion of the inspection, provided all other renewal requirements have been met.
4. **Safety hazards.** The 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 rental is causing or contributing to an imminent public health or safety hazard.
5. **Fees.** Short term rental registration and inspection fees shall be established by resolution of the city commission.
6. **Additional notice requirements for registrations and registration renewals of Type-2 short term rentals in residential zoning districts.** The applicant for a Type-2 short term rental registration in a residential zoning district included in Table 38.08.020 must give notice on a form provided by the city to each residence adjacent, including those residences adjacent across a public right-of-way and properties connected to the applicant's property by property corners. The notice must include a description of the proposed use and the name, address, telephone number and email address (if any) of the responsible person.
7. **Issuance of registration.** 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 registration. The city will issue the short term rental registration when:

- a. The director determines the short term rental meets all city requirements for registration; 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 Title 50, Chapter 51, MCA.
8. **Listing of registration.** The short term rental registration form will require the applicant to agree to inclusion in an online listing of short term rentals registered with the city.
9. **Display of short term rental registration number.** The owner must include the short term rental registration number in all listings of the short term rental on any hosting platform and print advertising.
10. **Change in ownership.** A short term rental registration does not run with the land, and a change in ownership of the short term rental terminates the registration. The new owner wishing to continue operation of the property as a short term rental must apply for registration following the process described in this section.
11. **Expiration.** Registrations issued pursuant to this article are valid for one year from the month in which such registration is issued and will expire automatically unless renewed in accordance with this section.
12. **Renewal.** The registrant may apply to renew the registration annually using a form provided by the city. It is the registrant's responsibility to renew the registration on time even if a courtesy reminder is not received by the registrant.



- 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 renters of their agreement to comply with such rules.
    - b. The list of rules must include those rules required by this article to be included.
    - c. The list of rules must be prominently displayed within the short term rental.
  2. **Responsible person.** The applicant 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, 7 days per week during the registration term. 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 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 on short term rentals. 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 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 the Bozeman Municipal 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. *Violations; enforcement.*

1. **Registration suspension or revocation.** The director may suspend or revoke a short term rental registration when the registrant commits one or more of the following acts or omissions:
  - a. Failure to comply with any provision of this article;
  - 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 registration by fraud or misrepresentation, to specifically include false or incorrect information on the registration application.
2. **Procedure.** Should the director decide to suspend or revoke a registration, the registrant 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 registrant 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 registrant 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 registrant's receipt of the notice. Failure on the part of the registrant to request in writing a meeting and within the specified time period shall be a waiver of the registrant's right to a meeting.
  - c. If a meeting is requested by the registrant, the director will set a time, date and place and will so notify the registrant, 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 registrant may present evidence. The director will take all evidence admitted under advisement and once a decision has been made the director will notify the registrant of the findings and decision in writing.
3. **Appeal.** Any person aggrieved by a decision of the director will have the right to appeal to the city commission by following the procedures in 38.35.030.
4. **Unpaid fee constitutes debt.** The amount of any unpaid fee, the payment of which is required hereunder, constitutes a debt due the city.

5. **Violation constitutes a misdemeanor.** In addition to suspension or revocation under subsection A of this section, a knowing violation of this article constitutes a misdemeanor punishable as described in 38.34.160.

### **Section 7**

#### **Grace period for registration of short term rentals authorized by this Ordinance.**

A short term rental as defined in this Ordinance operating as of the effective date of this Ordinance in a zoning district that, after the effective date of this Ordinance, will authorize such use as a principal use must submit a complete application and appropriate fees within 60 days after the effective date, or prior to expiration of a current business license for the short term rental, whichever occurs last. Operation of a short term rental absent submitting a complete application and applicable fees within such time period establishes such use as unlawful, constitutes a misdemeanor punishable as described in 38.34.160 and may result in an enforcement action for non-compliance with the requirements of this Ordinance. Applicants who submit a complete application and applicable fees within such time period may continue to operate pending completion of the fire inspection required in 38.22.250.G.4 by submitting a signed self-certification on a form provided by the city that the short term rental meets applicable safety requirements.

### **Section 8**

#### **“Grandfathering” grace period for registration as a legal nonconforming use.**

- A. Extended Stay Lodgings/Short Term Rentals Operating Lawfully Prior to the Effective Date But As of Effective Date No Longer An Authorized Use: A property owner operating an extended stay lodging/short term rental lawfully prior to the effective date of this Ordinance (including permitted and conditionally permitted uses) but after the effective date of this Ordinance the use will be prohibited must comply with the following. The property owner must, no later than 60 days after the effective date of this Ordinance or prior to the expiration of the current business license, whichever is later, submit an application for registration of the short term rental, pay all applicable application fees, and

bring the use into compliance with all requirements of Sections 2 – 6 of this Ordinance. Applicants who submit a complete application and applicable fees within such time period may continue to operate pending completion of the fire inspection required in 38.22.250.G.4 by submitting a signed self-certification on a form provided by the city that the short term rental meets applicable safety requirements.

B. Extended Stay Lodgings/Short Term Rentals Operating Unlawfully Prior to the Effective Date and As of Effective Date No Longer An Authorized Use: Extended stay lodgings/short term rentals operating without a valid business license or zoning authorization prior to the effective date of this Ordinance, but the zoning regulations for the district in which such use is located would have authorized such use prior to the effective date of this Ordinance (if the owner had made application for such use), may qualify for status as a legal nonconforming use only as provided below.

1. To qualify for status as a legal nonconforming use, a property owner operating an extended stay lodgings/short term rental in **R-1, R-S, R-2 and NEHMU** without a current city business license or zoning authorization is subject to and must comply with the following:

a) Proof of operation. No later than 60 days after the effective date of this Ordinance, the property owner must submit proof of operation of the short term rental that demonstrates such use was actively and regularly conducted prior to **January 1, 2017**. Proof of operation may be shown by one or more of the following:

- 1) A city issued conditional use permit (CUP) for extended stay lodging;
- 2) A city issued business license for extended stay lodging;
- 3) Bed tax registration with the Montana Department of Revenue and proof of payment of bed taxes;
- 4) A public accommodations license with the Montana Department of Health and Human Services; or

- 5) Such other evidence as may be acceptable to the City Attorney.
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- b) Administrative Conditional Use Permit. Property owners seeking to have an extended stay lodging use designated as a legal nonconforming use in the R-1, R-S, R-2 and NEHMU zoning districts must, in addition to meeting the requirements of C.a.1, above, submit an application for a CUP which will be reviewed pursuant to 38.19.110, BMC, except that the review authority will be the Director of Community Development. A CUP issued pursuant to this section 8 does not run with the land and will terminate with a change of ownership of the short term rental.
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2. To qualify for status as a legal nonconforming use, a property owner operating an extended stay lodgings/short term rental as a **Type-3** short term rental in **R-3, R-4, R-5, and R-O** without a current city business license or zoning authorization is subject to and must comply with the following:
    - a) Proof of operation. No later than 60 days after the effective date of this Ordinance, a property owner seeking to have their property designated as a legal nonconforming use in the R-3, R-4, R-5, and R-O zoning districts must submit proof that such use was actively conducted prior to **the effective date** of this Ordinance. Proof of operation may be shown by one or more of the following:
      - 1) A city issued conditional use permit (CUP) for extended stay lodging;
      - 2) A city issued business license for extended stay lodging;
      - 3) Bed tax registration with the Montana Department of Revenue and proof of payment of bed taxes;
      - 4) A public accommodations license with the Montana Department of Health and Human Services; or
      - 5) Such other evidence as may be acceptable to the City Attorney.

- C. Property owners whose use is subject to this section 8 and who fail to submit a complete application for registration, including proof of operation and, if applicable, a complete conditional use permit application along with all applicable fees within the time period required herein will not be eligible for status as a lawful nonconforming use and will be guilty of a misdemeanor punishable as described in 38.34.160, BMC, for non-compliance with the requirements of this Ordinance.

### **Section 9**

#### **Reporting.**

By July 31, 2019 the City Manager must report to the City Commission on the efficacy of the regulations adopted pursuant to this Ordinance.

### **Section 10**

#### **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 11**

#### **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 12**

**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 13**

**Codification.**

This ordinance shall be codified as indicated in Sections 2-6.

**Section 14**

**Effective Date.**

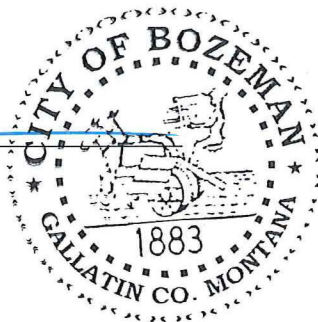
This ordinance shall be in full force and effect on December 1, 2017.

**PROVISIONALLY ADOPTED** by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 14<sup>th</sup> day of August, 2017.

  
\_\_\_\_\_  
**CARSON TAYLOR**  
Mayor


ATTEST:

  
\_\_\_\_\_  
**ROBIN CROUGH**  
City Clerk




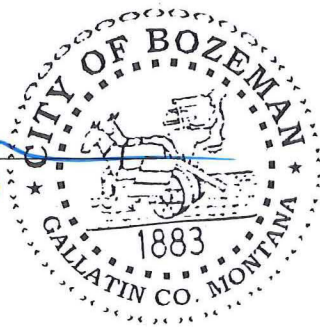


**FINALLY PASSED, ADOPTED, AND APPROVED** by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the 11<sup>th</sup> day of September, 2017. The effective date of this ordinance is December 1, 2017.

  
\_\_\_\_\_  
**CARSON TAYLOR**  
Mayor

ATTEST:

  
\_\_\_\_\_  
**ROBIN CROUGH**  
City Clerk



APPROVED AS TO FORM:

  
\_\_\_\_\_  
**KAREN STAMBAUGH**  
Assistant City Attorney