



ORDINANCE 2161

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA AMENDING TABLE 38.320.040 OF CHAPTER 38 OF THE BOZEMAN MUNICIPAL CODE TO REDUCE THE REAR YARD SETBACK FOR SINGLE-HOUSEHOLD, TOWNHOUSE/ROWHOUSE, TWO-TO-FOUR HOUSEHOLD DWELLINGS, GROUP LIVING AND APARTMENT DWELLINGS ON ALLEY-ABUTTING LOTS LYING WITHIN REMU (RESIDENTIAL EMPHASIS MIXED USE) DISTRICTS CITYWIDE.

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, the City of Bozeman has adopted and is hereby relying upon its self-government powers recognizing pursuant to Montana law such self-government powers must be liberally construed in favor of such power; and

WHEREAS, pursuant to Chapter 38, Section 38.260.010.A of the Bozeman Municipal Code (BMC), the Bridger Land Group submitted application number 24055 for a specific zoning text amendment for Table 38.320.040 to reduce the rear yard setback for single-household, townhouse/rowhouse, two-to-four household, group living and apartment dwellings on lots that abut alleyways lying within a Residential Emphasis Mixed Use (REMU) District; and

WHEREAS, pursuant to BMC Section 38.260.020, upon receipt of such application, the Community Development Department initiated the required investigation of facts bearing on such proposed amendment to ensure that the action is consistent with the intent and purposes of Chapter 38, Section 38.100.040 to protect health, safety and general welfare; and

WHEREAS, on May 6, 2024, the Bozeman Community Development Board, acting as the Bozeman Zoning Commission, voted to recommend to the City Commission an amendment to the Applicant’s text amendment proposal. The Board recommended separating the group living and apartment buildings into a new category and maintaining a 10-foot setback for those uses,

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instead of the applicant's initial proposal, which proposed reducing the setback for those uses to a 6-foot rear yard alley setback; and

WHEREAS, pursuant to Sections 38.220.420 and 38.260.030, public notice of the May 6, 2024 public hearing on the proposed amendment before the Community Development Board and of the May 21, 2024 public hearing before the Bozeman City Commission was given by publication in a general circulation newspaper on April 21, 2024 and April 28, 2024, which is not less than 15 or more than 45 calendar days prior to the public hearings; and

WHEREAS, after proper notice, the City Commission held its public hearing on May 21, 2024, to receive and review all written and oral testimony on the proposed amendments; and

WHEREAS, the City Commission has reviewed and considered the applicable amendment criteria established in Montana Code Annotated (MCA) § 76-2-304, considered the Community Development Board recommendation, and all the information presented by staff and the Applicant at the May 21, 2024 public hearing, and found that the proposed amendments to Table 38.320.040 presented by the Applicant was preferred to that recommended by the Community Development Board and found that the Applicant's zone text amendment is in compliance with the MCA criteria; and

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

Section 1

Legislative Findings

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

1. The City adopted a growth policy, the Bozeman Community Plan 2020, by Resolution 5133 to establish policies for development of the community including zoning;
2. The Bozeman Community Plan 2020, Chapter 5, sets forth the policies by which the City reviews and applies the criteria for amendment of zoning established in 76-2-305, MCA;
3. Zoning, including text amendments, must be in accordance with an adopted growth policy;
4. A staff report analyzing the required criteria for a zone text amendment, including accordance to the Bozeman Community Plan 2020, has found that the required criteria are satisfied;
5. The two required public hearings were advertised as required in state law and municipal code and all persons have had opportunity to review the materials applicable to the application and provide comment prior to a decision;
6. The Bozeman Community Development Board as the Zoning Commission has been established as required in state law and conducted their required public hearing; and after

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consideration of application materials, staff analysis and report, and all submitted public comment recommended approval of the application.

7. The City Commission conducted a public hearing to provide all interested parties the opportunity to provide evidence and testimony regarding the proposed amendment prior to the City Commission acting on the application.
8. The City Commission considered the application materials, staff analysis and report, the Community Development Board recommendation, all information presented by staff and the Applicant, and all other relevant information.
9. The City Commission determines that, as set forth in the staff report and incorporating the staff findings, Community Development Board's amendment and recommendation, and staff and Applicant presentation at the public hearing as part of their decision, the required criteria for approval of the proposed Bozeman Unified Development Code (UDC) Table 38.320.040.E text amendment to reduce the rear yard setback to 6-feet for single-household, townhouse/rowhouse, two-to-four household, group living and apartment dwellings on lots within the REMU District which abut an alley have been satisfied.

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Section 2

Table 38.320.040—Form and Intensity Standards of the Residential Emphasis Mixed Use (REMU) Districts—Minimum-Maximum Setbacks (feet)—shall be amended to read as follows with all other elements of the table and footnotes remaining unchanged.

Standard	Small-lot single-house hold	Single-house hold	Townhouse/rowhouse townhouse/rowhouse cluster ¹	Two to four household dwellings, group living, apartments	Mixed use (residential over commercial)	Non-residential
Front Setback (minimum and maximum)	10-15	10-15	10-15	10-15	Note ⁷	Note ⁸
Setback to an individual garage oriented to the street	20 ¹¹	20 ¹¹	20 ¹¹	—	—	—
Rear Setback	10	15	10	10	—	—
Rear Setback Adjacent to an Alley	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	—	—
Side Setback	5 ⁹	5 ⁹	5 ¹⁰	5	—	—
Residential garages	Note ¹²	Note ¹²	Note ¹²	Note ¹²	Note ¹²	—
Special Parking Standards	—	—	—	Note ¹³	Note ^{6,13,14}	Note ^{6,13,14}

Notes: [All notes remain unchanged.]

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Section 3

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 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. All other provisions of the Bozeman Municipal Code not amended by this Ordinance shall remain in full force and effect.

Section 5

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 6

Codification.

The provisions of Section 2 of this Ordinance shall be codified as appropriate in the Bozeman Municipal Code.

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Section 7

Effective Date.

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

ADOPTED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 21st day of May, 2024.

DocuSigned by:
Terry Cunningham
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TERENCE CUNNINGHAM
Mayor

ATTEST: DocuSigned by:
Mike Maas
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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 18th of June, 2024. The effective date of this ordinance is July 18th, 2024.

DocuSigned by:
Terry Cunningham
0F83C603A13E47F...
TERENCE CUNNINGHAM Mayor

ATTEST: DocuSigned by:
Mike Maas
F41F922095AB475...
MIKE MAAS
City Clerk



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APPROVED AS TO FORM:

DocuSigned by:
Greg Sullivan
876992AC9ACA44B...

GREG SULLIVAN
City Attorney