

ORDINANCE NO. 1958

AN INTERIM ZONING ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA, AMENDING SECTION 38.08.020 OF THE MUNICIPAL CODE TO CHANGE THE USES ALLOWED WITHIN THE R-1, R-2, R-S, AND NEHMU ZONING DISTRICTS BY REMOVING “EXTENDED STAY LODGINGS” AS A CONDITIONAL USE IN THOSE DISTRICTS FOR A PERIOD OF SIX MONTHS.

Preamble

This ordinance is intended to protect the public safety, health and welfare through the adoption, as an urgency measure, of amendments to the allowed uses within the R-1, R-2, R-S, and NEHMU residential zoning districts.

WHEREAS, Section 76-2-306, Montana Code Annotated, provides for adoption of an interim zoning ordinance prohibiting for a period of six months any uses which may be in conflict with a contemplated zoning proposal which the legislative body is considering or studying, or intends to study; and

WHEREAS, there has been a rapid increase in the number of vacation or “short term rentals” in the City of Bozeman; and

WHEREAS, the City’s adopted ordinances permit the creation of and location of land uses within established zoning districts as “principal”, “accessory”, or “conditional” uses; and

WHEREAS, the adopted ordinances permit the creation of and location of short term rentals (termed “extended stay lodgings” in Chapter 38 of the Bozeman Municipal Code) as a conditional use in R-1, R-2, R-S, and NEHMU residential zoning districts; and

WHEREAS, the City Commission has received extensive public comment during a period of

several years regarding the granting of conditional use permits for extended stay lodgings in R-1, R-2, R-S, and NEHMU residential zoning districts; and

WHEREAS, the City Commission finds the ongoing permitting of short term rentals within R-1, R-2, R-S, and NEHMU residential zoning districts until such time as the City has the opportunity to study the impacts of such short term rentals on these zoning districts has a detrimental effect on the public safety, health and welfare because the increase of such use in these zoning districts is leading to and may continue to lead to increases in disturbances to neighboring residents' peaceful enjoyment of their homes by excessive noise, disorderly conduct, parking congestion, and other nuisances; and

WHEREAS, the City Commission finds the continued permitting of short term rentals within R-1, R-2, R-S, and NEHMU residential zoning districts until such time as the City has the opportunity to study the impacts of such short term rentals on these zoning districts has a detrimental effect on the public safety, health and welfare by altering the residential character of neighborhoods within those districts without adequate evaluation of such impacts over the long term; and

WHEREAS, the City Commission finds adoption of this interim zoning ordinance is urgent and necessary to address whether short term rentals continue to be compatible and appropriate with R-1, R-2, R-S and NEHMU as such uses appear to be increasing in such zoning districts; and

WHEREAS, the City Commission intends, over the next six months, to carefully consider and study options regarding appropriate locations and regulations for short term rentals, and their compatibility with residential uses within the City prior to permanently adopting revised or new regulations; and

WHEREAS, the development and review of amendments to Chapter 38 of the Bozeman Municipal Code to address short term rentals will require numerous formal steps to inform and involve and obtain input from the public and other agencies prior to adoption of any proposed amendments; and

WHEREAS, the process to involve the public and other agencies and to create permanent zoning or general ordinances will take at least six months, a period of time that could allow additional applications for conditional use permits for short term rentals in R-1, R-2, R-S, and NEHMU residential zoning districts.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Bozeman, Montana, that:

Section 1

The City Commission incorporates the above recitals into this ordinance.

Section 2

Extended Stay Lodging, and any other similar use such as a short term rental or a vacation rental, is hereby repealed and suspended as a conditionally permitted use in R-1, R-2, R-S, and NEHMU zoning districts until six (6) months from the effective date of this Ordinance or such time as the City Commission adopts an ordinance(s) authorizing such use, whichever is sooner. The effect of such repeal and suspension is that such uses are hereby prohibited in R-1, R-2, R-S, and NEHMU zoning districts. Nothing in this Ordinance may be construed by any person, firm, corporation or entity as authorizing any use for an extended stay lodging or similar use that operated prior to the effective date of this Ordinance without a valid zoning permit, business license, or other required permit from the City.

Section 3

The City Commission hereby directs the City Manager to investigate and study the effects of extended stay lodgings, and other similar uses, including short term and vacation rentals, on locations in the City zoned R-1, R-2, R-S, or NEHMU and other locations and to make recommendations in as timely a manner as possible to the City Commission regarding the zoning of such uses and other matters relating to impacts of such uses on the public health, safety, and general welfare.

Section 4

Effective Date and Period.

This ordinance shall be effective immediately upon passage and for a period of not more than

six (6) months from the date of adoption hereof, unless otherwise extended in accordance with Montana law.

Section 5

Supersedence.

All City ordinances and parts thereof in conflict herewith are hereby temporarily superseded by this Ordinance for the time period as described in Section 2 above, insofar as said ordinances or parts thereof may apply within the corporate boundaries of the City of Bozeman.

Section 6

Severability.

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

Section 7

Savings Provision.

This Ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred, or proceedings that were finally acted upon prior to the effective date of this Ordinance.

Section 8

Codification Instruction.


This Ordinance shall not be codified but shall be kept by the City Clerk and entered into a list in numerical order with all other ordinances of the City and also shall be organized in a category entitled "Interim Zoning Ordinances." The City Clerk must immediately transmit this Ordinance for inclusion on the City's internet-accessed municipal code website so as to prominently display the repeal and suspension as provided for in Section 2.

Section 9

Applicability.

Subject to the provisions of 38.34.090, BMC, this Ordinance is made expressly applicable to all applications for city business licenses, building permits, zoning, or any other permit that could establish an entitlement for a use prohibited by this Ordinance, which have been received by the City of Bozeman but not yet finally acted upon as of the effective date of this Ordinance. Notwithstanding the foregoing, this Ordinance does not apply to conditional use permit applications received and determined by the City to be adequate for review pursuant to 38.19.090.D, BMC, prior to the effective date of this Ordinance.

PASSED, ADOPTED AND APPROVED by the City Commission of the City of Bozeman, Montana, at a regular session thereof held on the 8th day of August, 2016.

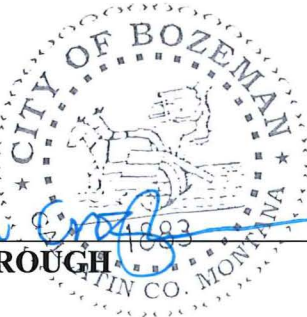


CARSON TAYLOR
Mayor


ATTEST:



ROBIN CROUGH
City Clerk



APPROVED AS TO FORM:



GREG SULLIVAN
City Attorney