

ORDINANCE 23-5848

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING Section 27-1623 SPECIAL REVIEW and 27- 1628 ZONE CHANGE, BE AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1628, BMCC, provide for amendment to the text of the City Zoning regulations from time to time. The City Zoning Commission and staff have reviewed the proposed text amendment hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.*

Section 2. DESCRIPTION. The text of Section 27-1623 and Section 27-1628 be amended to allow the Zoning Commission and the City Council more options for decisions related to special reviews and zone changes.

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-1623. E is amended as follows:

Sec. 27-1623. - Special review uses.

E. Review and decision-making.

1. City zoning commission.

(a) The zoning commission shall consider each application in accordance with the provisions of this section, and at a public hearing at which time the application has been legally advertised.

(b) The zoning commission shall make a recommendation to the city council to:

- (1) Approve the application;
- (2) Conditionally approve the application;
- (3) Deny the application.

(c) Prior to closure of the public hearing, the zoning commission may also grant a request of the applicant to:

- (1) Allow the withdrawal of the application; or
- (2) Allow a delay not to exceed 60 days.
- (3) Only one delay request from the applicant will be granted by the zoning commission.

(d) The Zoning Commission on its own motion, may continue the public hearing to a date certain, in response to a finding for any of the decision criteria in subsection 27-

1623.D., that requires additional information from the applicant. Only one continuance, not to exceed 60 days, on its own motion can be considered by the zoning commission.

(e) (e) Recommendations from the zoning commission shall be based on findings of fact for each criterion and shall be transmitted to the applicant or applicant's agent, and the city council within fifteen (15) calendar days of the conclusion date of the public hearing before the commission.

(d) (f) The recommendation of the zoning commission shall be published in a newspaper of general circulation.

2. City council action.

(a) At least fifteen (15) calendar days after the first publication of notice of the zoning commission recommendations, a public hearing shall be held by the city council.

(b) Before taking any action on an application for a special review use, the city council shall first consider the findings and recommendations of the zoning commission.

(c) The city council shall:

(1) Approve the application;

(2) Conditionally approve the application;

(3) Deny the application;

(4) Allow withdrawal of the application; or

(5) Delay the application for a period not to exceed thirty (30) calendar days.; or

(6) Refer the application back to the zoning commission for an additional public hearing based on a determination that 1) new information has been submitted that the applicant and public has not had a reasonable opportunity to examine and comment on, or 2) new information has been presented that was never submitted or considered by the zoning commission or staff. A city council referral back to the zoning commission will require publication of a new legal ad, posting of the property and mailing to the surrounding property. A referral back to the commission under this section requires a 60% majority vote of the present and voting members of the Council and may only be done once by the City Council.

Section 4. ZONE TEXT AMENDMENT. The text of Section 27-1628.E is amended as follows:

Sec. 27-1628. - Zone change.

E. Review and decision-making.

1. City zoning commission recommendation.

(a) The city zoning commission shall make a recommendation to the city council to:

(1) Deny the application;

(2) Approve the application; or

~~(3) Allow the application to be withdrawn.~~

(b) Prior to closure of the public hearing, the zoning commission may also grant a request, without prejudice to the applicant, to allow:

- (1) Withdrawal of the application; or
- (2) A delay of the public hearing not to exceed 60 days.
- (3) Only one delay request by the applicant will be granted by the zoning commission.

(c) The Zoning Commission on its own motion, may continue the public hearing to a date certain, in response to a finding for any of the decision criteria in subsection 27-1628.D., that requires additional information from the applicant. Only one continuance, not to exceed 60 days, on its own motion can be considered by the zoning commission.

(b) (d) Recommendations from the zoning commission shall be based on findings of fact and shall be transmitted to the applicant or applicant's agent, and the city council within fifteen (15) calendar days of the conclusion date of the public hearing before the zoning commission.

(e) (e) The recommendation of the zoning commission shall be published in a newspaper of general circulation.

(d) (f) The zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) calendar days, without prejudice to the applicant. A report of the commission's recommendation, and the zoning coordinator's findings and conclusions shall be submitted to the city council.

2. City council action.

- (a) The city council shall hold a public hearing within thirty (30) calendar days after the publication of the zoning commission recommendation.
- (b) Before taking action on a zone change application, and after presentation of the zoning commission report, the city council shall hold a public hearing on the application.
- (c) A second reading of the ordinance as is required by BMCC section 2-232.
- (d) The city council shall:
 - (1) Approve the application;
 - (2) Deny the application;
 - (3) Allow withdrawal of the application; or
 - (4) Delay the application for a period not to exceed thirty (30) calendar days; or
 - (5) Refer the application back to the zoning commission for an additional public hearing based on a determination that 1) new information has been submitted that the applicant and public has not had a reasonable opportunity to examine and comment on, or 2) new information has been presented that was never submitted or considered by the zoning commission or staff. A city council referral back to the zoning commission will require publication of a new legal ad, posting of the property and mailing to the surrounding property. A referral back to the commission under this section requires a 60% majority vote of the present and voting members of the Council and may only be done once by the City Council.

Section 5. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 6. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 7. 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 provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 24th day of July, 2023.

PASSED, ADOPTED and APPROVED on second reading this 14th day of August, 2023.



CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor

Attest:

BY: Denise R. Bohlman for
Denise R. Bohlman, City Clerk

Zone Change 1031, Text Amendment for Zoning Commission and Council actions on special review or zone changes