

**Planning & Zoning Special Meeting  
Amendments to the Billings County Zoning Resolution No. 1**

**Zoning Hearings – December 21, 2023 & January 25, 2024**

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The proposed amendments were reviewed and approved by the Planning & Zoning Commission hearings held on Thursday, December 21, 2023 and January 25, 2024:

Conditional Uses in Ag Districts:

5.1.2(p) Bed and Breakfast Inns and Short-term Rentals (UPDATE)

Conditional Uses in Residential Districts:

5.2.2(e) Bed and Breakfast Inns and Short-term Rentals (UPDATE)

Conditional Uses in Recreational Districts

5.3.2(j) Bed and Breakfast Inns and Short-term Rentals (NEW)

To add a new Section under Special Provisions:

6.18 Short-term Rentals (NEW)

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**To add a new section under Special Provisions**

**6.18 Short-term Rentals**

**6.18.1 Purpose**

The purpose of this section is to establish standards for the short-term rental of privately owned dwelling units or accessory dwelling units in certain zoning districts. The intent is to accommodate the traveling public visiting Billings County and the Historic Medora area while minimizing adverse effects this use may have on neighboring properties, public services, availability of housing, or community character.

**6.18.2 Applicability**

- a) The provisions of this section shall apply to the establishment of short-term rentals in Billings County.
- b) This use may be allowed as a Conditionally Permitted Use in Agriculture, Residential, and Recreational Zoning Districts.
- c) The issuance of the Conditional Use Permit is subject to the procedures contained within this section and Section 7.3 of the Billings County Zoning Ordinance.
- d) This section does not replace the licensing and inspection requirements of the North Dakota Department of Health and Human Services, Public Health Division or the Southwest District Health Unit.
- e) Short-term rentals within platted Major Subdivisions must have recorded Protective Covenants and Restrictions allowing, monitoring, and self-regulating such use by the homeowners' association or property owners within the subdivision. If the Covenants conflict with the regulations of this Ordinance, the rules of the Ordinance shall apply.
- f) The County may limit the number of short-term rentals in order to sustain the availability of permanent housing. Short-term rentals will be monitored and limits may be imposed on an as needed basis. Short-term rentals shall not make up more than 40% of the total housing units in a major subdivision or within a residential neighborhood under the Billings County Zoning authority. In major subdivisions, the homeowners' association or property owners within the subdivision shall determine what housing units qualify to be permitted as short-term rentals.

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**6.18.3 Definitions**

The definitions contained in NDCC 23-09.1 Bed and Breakfast Facilities, NDAC 33-33-06 Bed and Breakfast Facilities, NDCC 23-09 Food and Lodging Establishments and Assisted Living Facilities, NDAC 33-39 Lodging Establishments, and any regulations administered by the North Dakota Department of Health & Human Services, Public Health Division for similar uses, as amended from time to time, are incorporated into this Section by reference. All other applicable definitions are defined in Section 2.3 of this Ordinance and below:

- a) **Accessory Dwelling Unit (ADU)** - A residential dwelling unit located on the same lot as a principal single-family dwelling unit. Accessory dwelling units shall be developed in accordance with the standards set forth in this Ordinance and only in those zoning districts where the use is listed as a permitted or conditionally permitted use. Types of Accessory Dwelling Units include:
- 1) **Attached** – a dwelling unit which has at least part of a wall in common with the main dwelling unit, or which is connected to the structure by a roof, garage, or breezeway.
  - 2) **Detached** – a dwelling unit in a separate building not connected to the structure of the main dwelling unit. Often referred as a guest house, cottage home, or pool house.
  - 3) **Interior** – a dwelling unit within the same structure as the single-family dwelling unit, such as a basement apartment, attic apartment, or a bonus room above an attached garage.
- b) **Bedroom** - an area in a dwelling unit that is:
- 1) A room designed or used for sleeping that has a minimum floor area of 70 square feet; or
  - 2) A room or area of a dwelling that has a minimum floor area of 70 square feet with access gained from the living area or living area hallway. Architectural features that affect the use as a bedroom under this item may be considered in making the bedroom determination. For example, an open loft area with beds in a cabin.

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- 3) Non-Conforming bedrooms shall not be allowed as bedrooms in a short-term rental.
- 4) Bedrooms shall be adequately sized for the safe egress of the occupants.
- c) **Owner** – the property owner of record of the real estate located in Billings County.
- d) **Primary Residence** - a dwelling in this state owned and occupied by an individual as that individual's primary place of residence. An individual may not have more than one primary residence.
- e) **Short-term Rental (STR)** – a dwelling unit, or portion thereof, which provides overnight lodging to the traveling public for compensation for a period of less than thirty consecutive days. Short-term rentals shall be developed in accordance with the standards set forth in this Ordinance and allowed only in those zoning districts where the use is listed as a conditionally permitted use. Any short-term rental property with more than five (5) bedrooms or accommodates more than sixteen (16) occupants shall be considered a hotel and shall be required to comply with the zoning regulations for such use.

**6.18.4 Application Procedure**

In addition to the Zoning District and Conditional Use Permit requirements in Section 7.3 of this Ordinance, the application for a short-term rental shall contain the following information:

- a) The name, address, and contact information of the property manager;
- b) The name, address, and contact information of a local contact person who is available by telephone twenty-four hours per day, 7 days per week;
- c) Proof of insurance for the use of the property as a short-term rental;
- d) North Dakota business registration and Sales and Use Tax permit;
- e) Identify all hosting platforms, websites, social media, and traditional media resources where the STR is listed or advertised.

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**6.18.5 Additional Application Requirements**

Applications must also include the information as required for the Zoning District in which the property is located, and:

- a) Supplemental Design Standards in Section 6.15.1 of this Ordinance
- b) Swimming pools, hot tubs, or spas
- c) Fire safety requirements
  - 1) Location and type of smoke & carbon monoxide detectors
  - 2) Egress doors and windows
  - 3) Number of bedrooms
  - 4) Floor area of each bedroom
  - 5) Number and type of beds in each bedroom

**6.18.6 Specific Requirements**

In addition to the requirements applicable to all Conditional Use Permit applications, an application for a Conditional Use Permit for a short-term rental must include the following:

- a) Short-term rentals shall be developed and inspected in accordance with all applicable state and local health, safety, building, and fire code provisions and have a certificate of occupancy.

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- b) Occupancy – The overnight occupancy of a short-term rental shall be limited to no more than three (3) people per bedroom plus one (1) additional person per short-term rental unit, up to the maximum number of sixteen (16) occupants as stated below. The occupancy may be reduced based on available parking spaces. The maximum occupancy will be determined at the time of the site plan approval based on the number of parking spaces and bedrooms. Occupancies greater than 10 and less than or equal to 16 must be licensed by the North Dakota Department of Health & Human Services Division of Food and Lodging. Maximum occupancy will be included in the list of short-term rental rules.
1. One-bedroom STR = 4 occupants
  2. Two-bedroom STR = 7 occupants
  3. Three-bedroom STR = 10 occupants
  4. Four-bedroom STR = 13 occupants
  5. Five-bedroom STR = 16 occupants

	TIER I SHORT-TERM RENTAL			TIER II SHORT-TERM RENTAL		
Size of the Short-term Rental Unit	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms	5 Bedrooms	Occupancies >16 will be considered a hotel & NOT allowed in Residential Districts.
Maximum Occupancy (3 per bedroom+1)	4	7	10	13	16	
County Conditional Use Permit	Yes	Yes	Yes	Yes	Yes	Yes
State Lodging License Required	No	No	No	Yes	Yes	Yes
Allowed Zoning Districts	Agriculture, Residential, Recreational			Agriculture, Residential, Recreational		Recreational or Commercial

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- c) Parking - Parking requirements shall be one space per bedroom and contained on the site. On-street parking shall not be allowed on the public rights-of-way or within a private road right-of-way. Parking areas may not obstruct access for emergency service vehicles.
- d) Access requirements – Property will have a public or private access off a public road. If a short-term rental is accessed by a shared driveway, written permission to access the drive must be obtained from each shared driveway property owner.
- e) The use of a dwelling unit as a short-term rental shall not change the appearance of the dwelling or property for residential purposes.
- f) Septic Systems – Septic systems will be sized according to the number of bedrooms and occupancy of the short-term rental and inspected by the SW District Health Unit. Systems will be monitored and pumped regularly and inspected by the SW District Health Unit at least once every three years. Best practices for maintaining a septic system will be included in the list of short-term rental rules.
- g) Signage – Signage is not allowed.
- h) Fires & Fireworks – Fire places, fire pits, charcoal grills, wood burning stoves, or other outdoor cooking or fire facilities that could throw off embers are not allowed. Lighting fireworks on site is prohibited. Compressed or liquid gas grills, stoves, and pellet grills may be allowed with proper clearance of flammable materials. Burn-ban restrictions will be enforced and included in the list of short-term rental rules.
- i) Garbage – Garbage, refuse, or recycling shall be stored completely enclosed within designated refuse containers. The owner or operator of the STR shall provide sufficient trash storage containers and service to accommodate the demand of the occupants.
- j) Short-term rentals that are not a primary residence will be classified as commercial for property tax purposes. It is up to the applicant to prove primary residency.

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**6.18.7 Annual Permit Fee**

As authorized by the Board of County Commissioners, the Planning and Zoning Director is to establish an annual permit fee to offset costs associated with monitoring, inspecting, and regulating short-term rentals. No portion of the fee is refundable if a permit is denied or operation of the short-term rental is discontinued for any reason.

**6.18.8 Termination of Conditional Use Permit**

- a) A Conditional Use Permit granted in accordance with this section is subject to review by the Planning and Zoning Board at any time. The permit may be revoked, pursuant to Section 7.3 of the Billings County Zoning Ordinance, by the County Commission anytime the applicant is in non-compliance with any of the conditions set by the Planning and Zoning Board or the County Commission for the issuance of the permit.
- b) Violations of this ordinance will lead to termination of the Conditional Use Permit.
- c) A Conditional Use Permit for a short-term rental does not run with the land. In the event of the sale or other transfer of property permitted as a short-term rental, the grantor shall cease operations of the short-term rental. Future property owners may reapply for this use.



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**6.18.9 Renewal of Conditional Use Permit**

Any Conditional Use Permit granted in accordance with this section shall expire one year from the date of issuance. The permit may be extended by the Planning and Zoning Administrator upon written application and payment of applicable fees by the owner of the property or authorized representative provided that the extension is for the same use as specified in the original permit and that the applicant is in compliance with the terms and conditions specified in the original permit. The applicant understands that by submitting an application for this use, the county may inspect the property at any reasonable time, with reasonable notice to the property owner, to ensure compliance with the Ordinance.

The proposed amendments were recommended for approval by the Planning & Zoning Commission hearing held on Thursday, January 25, 2024.

The above Amendments were approved by the Billings County Board of County Commissioners on the 6th day of February, 2024.

By: \_\_\_\_\_  
Lester Iverson, Board Chairman

Attest: \_\_\_\_\_  
Marcia Kessel, County Auditor/Treasurer