

**ORDINANCE 23-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BILLINGS,  
PROVIDING Section 27-1614 ADMINISTRATIVE RELIEF,  
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 Sections 27-302 and 27-1502, BMCC, provide for amendment to the text of the 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 27-1614 be amended to allow requests for administrative relief be normalized between zone districts

**Section 3. ZONE TEXT AMENDMENT.** The text of Section 27-1614 is amended as follows:

Sec. 27-1614. - Administrative relief.

A. Applicability.

1. Administrative relief allows the modification of an existing numeric dimensional standard to accommodate site-specific or minor construction issues.
2. Administrative relief is applicable to new development, redevelopment, and major façade changes.
3. Administrative relief may be requested either as part of an original application or as a modification to an existing approval.

B. Authority. Administrative relief may be requested by an applicant qualified to request a primary development approval or amendment.

C. Procedures.

1. Common procedures. Procedures for review and decision of an administrative relief application are established in sections 27-1602 through 27-1613. They are summarized here for applicant convenience. (*graphic remains the same*)

2. Specific procedures. All applications for administrative relief shall identify the specific issue that the administrative relief is intended to address and how the administrative relief will resolve that issue:

(a) A request for administrative relief prior to construction shall be submitted with the project site plan application. Where the site plan is submitted in conjunction with a primary application, such as a special review request, that is decided by the city council, the request for administrative relief shall also be decided by that body. For example, if an administrative relief request is submitted with a rezoning application, the city council will also decide on the administrative relief.

(b) A request for administrative relief to address a minor construction issue shall be submitted with the ~~approved~~ project site plan, a written description of the minor construction issue, and an amended drawing of that part of the site for which the administrative relief is requested.

D. Permitted types of administrative relief.

1. N1-3, NX1-3, **RMH**, NO, NMU, CMU1, CMU2, DX, and EBURD districts. An applicant may request the following adjustments through administrative relief:

(a) The location of the building may be adjusted within a five-foot area from any minimum yard requirement or build-to zone width/location, **except a side or rear yard setback may only be reduced to three feet from a five foot minimum through administrative relief.**

(b) EBURD: Up to ten (10) percent increase in total impervious coverage, not to exceed the total amount of permitted impervious plus semi-pervious coverage. Compliance with stormwater regulations is required.

(c) Up to ten (10) percent decrease in ~~primary frontage~~ **front lot line** coverage.

(d) Additional height of any story up to two (2) feet, as long as the overall building height does not exceed the allowable height of all floors at their maximum permitted height, **or provided, that the total modification shall not increase the applicable building or structure height by more than ten (10) percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.**

(e) Up to ten (10) percent decrease in ~~transparency~~ **front façade window and door coverage** or a ten (10) percent increase in blank wall limitation for corner side facades. **Up to twenty-five (25%) percent of the front façade window**

**and door required area (square feet) may apply to use alternative materials for windows or doors, including but not limited to spandrel glass, architectural glass block, faux door/window openings or similar installations. Any approved administrative relief will not significantly reduce visibility into and out of the structure.**

**(f) Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.**

**(g) Fence heights and materials. In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height maximum in any yard by more than ten (10) percent. Fences greater than seven (7) feet in height will need a building permit. Fence materials not listed in Section 27-1209.E may be requested through this process.**

**(h) Parking. In any zone, a decrease in the number of required off-street parking spaces of not more than fifty (50) percent when total required spaces are at least ten (10) spaces. In any zone, allow more than the maximum number off-street parking stalls as provided in 27-1302.F.**

**(i) Location of Accessory Structure. In any zone, allow location of an accessory structure in a side yard.**

**(j) Reduction or variations in required landscaping as provided in Section 27-1614.E.4.**

2. CBD, CX, I1, I2, P1-3, PD districts. **An applicant may request the following adjustments through administrative relief:**

~~(a) The zoning coordinator may grant administrative relief that conforms to the following requirements:~~

~~(4) (a) Setbacks. In any zone, modifications of the front, side, or rear yard setback requirement; provided that the total modification shall not reduce the applicable setback(s) by more than ten (10) percent **of the zone district requirement or five (5) feet, whichever reduction is larger.** of that otherwise required in the zone.~~

~~(2)~~ **(b)** Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.

~~(3)~~ **(c)** Structure heights. In any zone, modifications of the building or structure height requirement; provided, that the total modification shall not increase the applicable building or structure height by more than ten (10) percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.

~~(4)~~ **(d)** Usable open space. In any zone, modifications of the usable open space requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise required usable open space in the zone. **Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.**

~~(5)~~ **(e)** Fence heights **and materials. In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height maximum in any yard by more than ten (10) percent. Fences greater than seven (7) feet in height will need a building permit. Fence materials not listed in Section 27-1209.E may be requested through this process.** In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height by more than ten (10) percent of the otherwise maximum height in the zone. Fences greater than or equal to eight (8) feet in height will need a building permit.

~~(6)~~ **(f)** Parking. In any zone, a decrease in the number of required **off-street** parking spaces of not more than ~~ten (10)~~ **fifty (50)** percent when total required spaces are at least ~~twenty (20)~~ **ten (10)** spaces. **In any zone, allow more than the maximum number off-street parking stalls as provided in 27-1302.F.**

~~(7)~~ **(g)** Deviations from final planned development maps. In any planned development zone, deviations to ~~final~~ planned development maps which are consistent with the requirements of the ~~preliminary~~ planned development **approval**, ~~final planned development~~ conditions of approval, or development standards of the underlying zoning district.

~~(b)~~ **3.** Administrative relief may not:

~~(4)~~ **(a)** Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;

- ~~(2)~~ **(b)** Permit uses other than those permitted in the zone district;
- ~~(3)~~ **(c)** Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space; or
- ~~(4)~~ **(d)** Expand the area or type of signage approved.

E. Decision criteria. To approve a request for administrative relief, the zoning coordinator shall make and record findings that all of the following provisions are met:

1. The proposed use, structure, or activity is permitted in the underlying zone district;
2. There are special circumstances existing on the property for which the application is made related to size, shape, area, topography, surrounding conditions, and location that do not apply generally to other property in the same area and zone district;
3. The special circumstances have not been created by the applicant; and
4. The impact of the administrative relief is internal to the subject property.

F. Review and decision-making. Requests for administrative relief are processed as an administrative decision pursuant to subsection 27-1610.A.

**Section 4. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 5. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**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 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 \_\_\_\_ day of September 2023.

PASSED, ADOPTED and APPROVED on second reading this \_\_\_\_ day of October 2023.

CITY OF BILLINGS

BY: \_\_\_\_\_

William A. Cole, Mayor

Attest:

BY: \_\_\_\_\_

Denise R. Bohlman, City Clerk

Zone Change 1034, Text Amendment for Administrative Relief