

ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING Section 27-1618 LANDSCAPE PLAN
PROCESS, 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 27-1618 be amended to clarify landscape plan submittal is not required for one and two-family developments and to conform the plan submission between the city and county landscape code sections.

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-1618 is amended as follows:

Sec. 27-1618. Landscape plan.

A. Applicability. Landscaping in compliance with this zoning code shall be required for any new construction, and expansion of existing structures. All plans submitted in support of a building permit or zoning compliance permit shall include a landscape plan where required. **No landscape plan submittal is required for any one or two-family building permit applications except those located within a development covered by a Master Site Plan approval (Sec. 27-1619). Any building permit for a one or two-family dwelling within a Master Site Plan approved location shall indicate on the site plan the landscaping required by the approved Master Site Plan.**

B. Authority. A landscape plan may be submitted for review by a property owner or the property owner's agent, including the landscape professionals described in subsection 27-1618.C.

C. Procedures.

1. *Common procedures.* Common procedures for landscape plan review are identified in Table 27-1600.1 and are summarized here for applicant convenience.

2. *Specific procedures.* Landscape plans shall be prepared as follows:

(a) Lots of ~~one~~ **1.5 acres** or larger: The plan shall be prepared by a Montana licensed landscape architect.

(b) Lots smaller than ~~one~~ **1.5 acres**: The applicant is encouraged to work with a nurseryman or landscape design professional to meet the requirements of this article.

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E. *Post approval.*

4. *Administrative relief.* Administrative relief is provided to add flexibility in the application of a specific landscaping regulation when a standard is inapplicable or inappropriate to a specific use or design proposal. Administrative relief may be applied up to a total of ten (10) individual landscape standards for any site.

The application shall follow the procedures in Section 27-1614 – Administrative Relief.

(a) *Policies.*

(1) The planning division recognizes that the specific landscape requirements in article 27-1200 cannot and do not anticipate all possible landscape situations. In addition, the planning division recognizes that there may be landscape proposals which conform to the purpose, intent and objectives of the landscape regulations, but were not anticipated in the specific regulations. Therefore, the planning division may grant administrative relief in the event of these situations and proposals.

(2) The reasonable development of a site may require the granting of administrative relief to some of the requirements. Although all of the categories of landscape requirements are considered important, the planning division generally assigns the following priorities for compliance with the landscape requirements:

- i. First, adjacent residential uses should be buffered;
- ii. Second, an attractive appearance of the project should be provided along adjacent streets by landscaped setbacks and trees;

- iii. Third, the parking areas and building elevations which form major public views of the project should be visually softened and enhanced by trees and other plantings.
- (3) Compliance with the requirements, such as the third priority above, should not be "forced" into a site design. For both visual effect and ease of maintenance, relatively few, but larger landscaped areas, which are integrated with the other elements of the site design, are generally encouraged. In addition, relatively numerous and smaller landscaped areas, which are not integrated with the other elements of the site design, are generally discouraged.
 - (4) However, the granting of administrative relief should not always mean that a requirement is reduced without compensation. For example, the granting of a reduced bufferyard depth should be compensated by the planting of additional trees, shrubs or other plants.
- (b) *Application.*
- (1) A written request for administrative relief shall be submitted ~~to the zoning coordinator either before or in conjunction with the building permit review process.~~ **following the procedures in Section 27-1614.** The written request shall include a justification in terms of the findings necessary to grant administrative relief. ~~The written request shall close with a section for the planning division's use which will include a block for the decision of approval/denial, the zoning coordinator signature, and decision date.~~ The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate.
 - (2) The zoning coordinator must make all of the following findings in order to grant administrative relief:
 - i. The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same general area and such conditions will not allow a reasonable use of the property in its current zone in absence of relief;
 - ii. The intent of the landscaping section and the specific regulation in question is preserved;
 - iii. The granting of the administrative relief will not result in an adverse impact upon surrounding properties; and

- iv. Proportional compliance is not appropriate for the location and development planned.
- (3) The zoning coordinator shall render a decision on the request within thirty (30) calendar days of receipt of the request and all required information. An appeal of the zoning coordinator's decision may be made to the board of adjustment with jurisdiction over the property, within thirty (30) calendar days after the decision. At this time, the appeal will be put on the agenda for the next board of adjustment meeting which allows for the required public notice.

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 Landscape Plan process