

Introduced by: Planning Commission
Introduction Date: July 27, 2021
Public Hearing Date: August 10, 2021
August 24, 2021
Action: Passed
Vote: 6-0

CITY OF BETHEL, ALASKA

Ordinance #21-37

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING THE BETHEL MUNICIPAL CODE TO ADOPT BED AND BREAKFAST PROVISIONS IN THE RESIDENTIAL ZONING DISTRICT FOLLOWING A PLAN REVIEW PERMIT PROCESS

WHEREAS, the City Council and Planning Commission have determined that regulations for bed and breakfast have identified a need to accommodate additional short term rental housing within the City of Bethel, Residential (R) district, and identifying in the code, design and operational design standards, and review process that are enforceable and would ensure compatibility in scale and character with other uses, such as single-family and duplex residential development.;

WHEREAS, it is important to maintain the character of the lower density single-family and duplex development. One way to maintain this stability for the bed and breakfast use is to have the owner occupy the unit;

~~**WHEREAS,** in addition to the initial approval of the plan review permit for bed and breakfast homestay, an annual evaluation, in conjunction with the renewal of the operator's business license, will help keep operators in compliance with the code or any additional requirements added to their individual permits;~~

NOW THEREFORE BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA:

SECTION 1. Classification. This is a codified Ordinance is of general and permanent nature and shall become part of the Bethel Municipal Code.

SECTION 2. Amendment. Bethel Municipal Code Chapters 16.12.030 Planning Land Use, Planning and Site Development, Definitions. New language is underlined, and old language is stricken.

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16.12.030 Definitions.

The following words, terms, and phrases shall have the meanings ascribed to them in this section:

"Abbreviated plat" means a representation of a subdivision in which the subdivision does not create more than four (4) lots; each lot created has legal and physical access to a public highway or street; the subdivision does not involve or require a dedication of a street, right-of-way, or other area; and the subdivision does not require a vacation of a public dedication of land or a variance from the requirements of any ordinance, including, but not limited to, requirements related to subdivision, land use, and building and construction, including flood hazard and drainage regulations.

"Access" means a means of vehicular or pedestrian approach, entry to or exit from property.

"Accessory building, structure or use" means uses and structures customarily accessory and clearly subordinate and incidental to the principal use or structure on a lot. This may include a structure or use for storage, coverage or similar use incidental to the principal use which contributes to the comfort, convenience, or necessity of occupants of the principal structure or use and is located on the same lot as the principal structure or use.

"Addition" means a parcel of land which is platted adjacent to an existing subdivision and which has the same name.

"Adequate" means sufficient in terms of actual or anticipated capacity or demand, satisfactory in terms of public safety requirements or as may be required by this code or other laws, regulations, or standards.

"Adjacent lot" means a lot or parcel of land which shares all or part of a common property line with another lot or parcel of land.

"Aliquot part" means the division of a surveyed section of land, described without reference to bearing or distance, into square or rectilinear parcels, the area of each parcel comprising a fractional portion of the total area of the section and of the parcel from which it is being divided.

"Alley" means a public right-of-way shown on a plat which provides only a secondary means of access to a lot, block, tract or other parcel of land.

"Alteration" means any change, addition or modification in the construction, location or use of a structure or lot.

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"Apartment" means any building or portion thereof which is used, designed, built, rented or leased which contains dwelling units for four (4) or more families living independently of each other.

"Appeal" means a request to a higher body for a review of the decision of an administrative officer, the planning commission or the city council.

"Arterial" means a street used to carry high volumes of traffic to and from major traffic generators or into or out of the community.

"As-built plans" means construction plans that have been revised in accordance with all field changes reflecting the improvements on the site as they actually exist.

"Automotive repair" means replacement of parts, tune-up, lubrication, and washing and polishing of passenger trucks and cars.

"Base flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year; also referred to as the one-hundred- (100-) year flood. Areas subject to the base flood are special flood hazard areas and the designation of these areas on the FIRM always includes the letter A or V.

"Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

"Bedroom" means a room marketed or designed to function primarily for sleeping.

"Bed and Breakfast" means a property providing accommodations for travelers that may also include a breakfast in a common eating area.

"Bed and Breakfast Homestay establishment" means an owner-occupied residential dwelling with up to three guest rooms and includes residential uses offering overnight accommodations to registered transient guest.

"Block" means an area of land within a subdivision that is entirely bounded by rights-of-way, physical barriers, and exterior boundaries of the subdivision, except alleys, and which is usually divided into lots.

"Block length" means the distance between intersections of through streets, such distance being measured along the longest street bounding the block and from the right-of-way line of the two (2) intersecting streets.

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"Building" means a structure of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity. Temporary structures such as tents, fish-drying racks, dog houses, and shipping vans placed on a lot only for the reasonable duration of construction are not buildings for purposes of street and yard setbacks. Permanent structures such as houses, stores, mobile homes, manufactured homes, garages, storage sheds, shops, steambaths, and smokehouses are buildings. For setback purposes, a building includes such extended structures as arctic entries, balconies, carports, decks, exterior stairways, garages, porches, wannigans, water, sewage, and oil tanks, and windows. Where independent buildings with separate entrances are not joined by a common wall and/or ceiling or floor, each building is a separate building.

"Bunk house" means a building consisting of individual sleeping rooms for one (1) or more individuals working for the same employer, provided the rooms are not for rent or lease to persons other than employees of the same employer.

"Certificate to plat" means a certificate prepared by a title company authorized by the laws of the state to write the same, showing the names of all persons having any record title interest in the land to be platted together with the nature of their respective interests therein.

"Certified mobile home" means a transportable structure constructed to be towed on its own chassis, larger than three hundred twenty (320) square feet, designed to be used as a year-round residential dwelling, built after June fifteenth (15th), 1976, and bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards ([42](#) USC Section [5401](#) et seq.) (see also "mobile home").

"Child care facility" means a home or structure used and maintained to provide, for compensation, care for five (5) or more children unrelated to the care provider.

"City" means the city of Bethel.

"Collector street" means a street that carries traffic between local streets and other collectors and arterials.

"Commercial use" means a retail or wholesale business enterprise.

"Comprehensive plan" means a document of text, charts, graphics and maps, or any combination, designed to portray general, long-range proposals for the arrangement of land uses which is intended primarily to guide government policy towards achieving orderly and coordinated development of the entire community.

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“Conditional use” means a use not permitted as a principal use within a district but which may be permitted if approved by the planning commission subject to conditions imposed by the planning commission that eliminate or substantially reduce the adverse effects the use would have on principal uses in the neighborhood and district and as may be necessary to preserve the integrity and character of the district and neighborhood in which the use is conditionally permitted.

“Construction” means and includes design, engineering, contract administration and work, labor and materials furnished for an improvement.

“Control valve” means the shut-off valve required by the city water utility to be placed on the water extension line on the customer’s property.

“Corner lot” means a lot located at the intersection of two (2) or more streets where the angle of intersection of the lot lines abutting those streets does not exceed one hundred thirty-five (135) degrees.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

“Cul-de-sac” means a road having one (1) end open to traffic and being terminated at the other end by a vehicular turnaround.

“Dedication” means the intentional appropriation of land by the owners to public use.

“Development” means any manmade change to improved or unimproved land, including but not limited to buildings or other structures; the excavation or relocation of material or depositing of fill on a parcel of land; mining, dredging, filling, grading, paving, or drilling operations; construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; for purposes of Chapter [15.08](#) BMC, it also includes any storage of equipment or materials; for purposes of BMC Title [18](#), it also includes any use or change in use of any structure or land.

“Development phasing district” means an area shown on Figure 11 as corrected under BMC [16.08.040\(A\)](#), entitled “Development Phasing” in the 1997 Comprehensive Plan of the city of Bethel. Each district is identified by a number and letter as, for example, 3B. The district designations are used separately or in combinations to identify specific areas in which certain infrastructure requirements exist with respect to subdivision or other development activities.

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"District" means a land use district established by BMC Title [18](#).

"Driveway" means a driving surface that connects the parking area of a property to a city, state, or privately maintained road (also see "Interior access lane").

"Duplex" means a structure or use on one (1) lot involving two (2) attached common wall dwelling units with a common wall extending from floor to ceiling and from exterior wall to exterior wall of the unit, each having a separate entrance and each unit designed for occupancy by one (1) family.

"Dwelling" means a building designed or used as the living quarters for one (1) or more families.

"Dwelling unit" means a room or group of rooms constituting all or part of a dwelling which is arranged, designed and used or intended for use exclusively as living quarters for one (1) family which ~~may~~ includes washing toilet facilities, living, sleeping, and eating facilities, but no more than one (1) kitchen.

"Easement" means an interest in land owned by another that entitles the easement holder to a specified limited use, right or enjoyment. A public easement is an area legally reserved by plat or conveyed or reserved by deed for the purpose of allowing use by vehicles, pedestrians, utilities, drainage or for other purposes.

"Egress" means an area where a vehicle may leave a parcel and enter the public right-of-way or alley.

"Elevated building" means, for flood insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

"Engineer" means a registered professional civil engineer authorized to practice engineering in the state.

"Excessive" means a degree of use causing effects exceeding those generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

"Family" means one (1) or more persons occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a roominghouse, club, fraternity house or hotel.

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"Federal Insurance Administration (FIA)" means the division of the Federal Emergency Management Agency which is responsible for administration of the National Flood Insurance Program as set out in [44](#) CFR Part [2](#).

"Federal Insurance Administrator" means the administrator of the FIA as established in [42](#) USC Section [4129](#).

"Fence" means an artificially structured barrier of any material or combination of materials erected to enclose or screen areas of land.

"Final acceptance" means acceptance by the city, at the completion of construction and upon the posting of all required warranties, of a public improvement constructed as a condition of approval of a subdivision plat or other development permit.

"Final plat" means the final map, drawing, or chart on which the subdivision or resubdivision of land is presented to the planning commission or platting officer for approval, and which, when approved as meeting all preliminary plat conditions, will be submitted to the district recorder for recording.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood insurance rate map" or "FIRM" means the official map of the city on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the city.

"Floodplain" or "flood-prone area" means any area of land susceptible to being inundated by water from any source. See definition of "flooding."

"Food and beverage sales" means retail sales of groceries, beverages, and household items. Typical uses include grocery stores, convenience stores and bakeries.

"Food and beverage services" means establishments or places of business primarily engaged in the sale of prepared food and beverages for on-premises consumption. Typical uses include restaurants, cafes, fast food outlets, including drive-through or drive-in establishments, and taverns.

"Freezer van" means a containerized shipping van usually about eight (8) feet wide by eight (8) feet high and either twenty (20) or forty (40) feet long and which have sometimes been converted to dwellings or storage and other nonshipping uses.

"Front lot line" means that boundary of a lot measured along the edge of the right-of-way of a dedicated street, private street or public road easement but not an alley, which abuts that line. In the case of a corner lot, either line which meets this description may be designated by the land use administrator as the "front lot line" and the other shall be treated as a side lot line.

"Front yard" means the distance between the front lot line and the part of the permanent structure nearest the front lot line. It also includes that portion of a yard between the front lot line and the required front yard setback line extended to the two (2) side lot lines, the depth of which is the least distance between the front lot line and the nearest permanent structure. In the case of a corner lot, the front lot line is the lot line so designated by the land use administrator.

"General permit" means general permit No. 83-4, as amended, extended or reauthorized, and issued by the Corps of Engineers, which places conditions on land development.

"Greenbelt or buffer park" means a strip or parcel of land privately restricted or publicly dedicated as open space for the purpose of protecting and enhancing the environment.

"Gross usable area" means the area within a lot or parcel of land that can be developed after subtracting areas of drainages, water areas, significant wetlands, setbacks, easements and areas that cannot be developed as a practical matter because of topography, soil or other physical conditions.

"Group home" means a facility located in a residential structure, the principal use of which is to serve as a place for persons seeking rehabilitation or recovery from any physical, mental, or emotional infirmity in a family setting as part of a group rehabilitation or recovery program involving counseling, self-help or other treatment or assistance.

"Home occupation" means an occupation carried on by the occupants of a dwelling as an accessory use in connection with which there is no exterior display of the activity except as noted in this definition, no persons are employed and no trucks or mechanical equipment are used or stored except trucks that are normally associated with a single-family residence. Home occupations include knitting, making of clothing, basketmaking, skinsewing, jewelrymaking, fish smoking, dance or music instructions in classes of five

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(5) pupils or less, and child care involving three (3) or fewer children who are not members of the household. Home occupation does not include use by an electrician, plumber, doctor, dentist, repair or fix-it shop.

“Improvement” means any construction incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, construction of driveway approaches, sidewalks, street signs, street lights, water lines, sanitary sewers and treatment systems, storm sewers, culverts, bridges, utilities, waterways, lakes and other items; the construction of any building or permanent structure or any external addition to a structure that constitutes a betterment of real property. The relocation of a structure within a lot or the relocation of a structure to another lot, the addition or relocation of fill or native material, the addition of a floor or room that changes the exterior dimensions of the building and the change to or addition to the sewer or water system serving the building are improvements; painting, siding, reroofing or other cosmetic changes are not considered to be improvements.

“Industrial use” means the use of a building or land where a primary use or activity is the warehousing, storage, movement, shipment or sale of cargo, petroleum products, gravel, sand, lumber, timber, fish, fish or material processing, port activities, or use of heavy equipment. The manufacturing of goods that emits obnoxious noise or fumes, requires the use of chemicals or materials that present a threat to the public health or safety, or requires the use of heavy equipment on the premises is an industrial use.

“Ingress” means the area where a vehicle may enter a private lot from the public right-of-way or public or private easement or other way.

“Institutional” means a structure where the primary use is for educational, governmental, or hospital activities.

“Interceptors” means all trunk, main and lateral sewer lines of every kind which are connected to and used for the collection of sewage from the customer service lines and its delivery to the sewage treatment plant.

“Interior access lane” means a nondedicated small vehicular way that is totally within the boundaries of a lot and provides direct access to parking spaces and/or provides interior circulation on the lot (see “Driveway”).

“Land use administrator” means the manager of the city planning department or such other person as the city manager appoints to administer BMC Titles [15](#), [16](#) and [18](#).

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“Legal access” means the right of access to an abutting public, dedicated street, highway or road which is connected to and a part of the public system of streets of the city.

“Local street” means a street, generally within a subdivision, designed primarily to provide direct access to individual abutting properties.

“Lot” means the smallest portion of a subdivision being a measured portion of a parcel of land which is described, identified by a lot number, and fixed on an approved plat filed for record; also, when used in a more general sense, including parcel, tract, plat and property.

“Lot depth” means the distance between straight lines connecting side lot lines, measured between the midpoint of such lines except that such measurement shall not extend outside the lot lines of the lot being measured.

“Lot frontage” means the length of the front lot line.

“Lot improvement” means any building, structure, water or sewer facility, work of art or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

“Lot line” means a fixed boundary of a lot described by survey located on an approved plat filed for record.

“Lot width” means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured between the midpoints of such lines except that such measurement shall not extend outside the lot lines of the lot being measured.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation requirements of BMC [15.08.100](#).

“Manufactured home” means a structure, including a mobile home, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; it also includes any structure which meets all

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the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the U.S. Secretary of Housing and Urban Development and complies with the standards established under [42 USC Sections 5401](#) through [5426](#); and except that such term shall not include any self-propelled recreational vehicle.

“Marginal street access” means a frontage road which separates properties from arterials and collectors and eliminates the need for unlimited access to such streets.

“Minor structure” means, for purposes of yard setback requirements, a structure such as a doghouse, small storage box or other small structure, not exceeding three (3) feet in height and not occupying more than twenty-five (25) square feet; except, a fence that does not exceed six (6) feet in height is treated as a minor structure.

“Mobile home” means a transportable structure constructed to be towed on its own chassis and designed to be used as a year-round residential dwelling (see also “certified mobile home”).

“Mobile home park” means any parcel of land, including separate parcels under common ownership, which is occupied by four (4) or more mobile homes but not including a mobile home sales lot if none of the mobile homes are used as dwellings.

“Nonconforming use, lot, or structure” means lots, structures, buildings, or uses of land that were lawful prior to the effective date of a provision of BMC Title [15](#), [16](#), [17](#) or [18](#), an amendment thereto, the removal of federal or state protections on land, or the annexation of land into the city, but which fail by reason of such new or revised provision, removal of government restriction, or annexation to conform to the present requirements of the provision.

“Nonconformity” means a nonconforming lot, structure, or use of land or structures.

“Nuisance” means an activity which arises from unreasonable, unwarranted or unlawful use by a person of property, which interferes with, obstructs or injures the right of another, or the public, in the use or enjoyment of property, endangers personal health or safety or produces material annoyance, inconvenience and discomfort.

“Official map” or “official land use map” means the map adopted by ordinance showing the boundaries of the land use districts to which the regulations of this code apply.

One-Hundred- (100-) Year Flood. See “Base flood.”

One-Hundred- (100-) Year Floodplain. See “Special flood hazard area.”

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"Ordinance" means any legislative action of the city council which has the force of law, including any amendment or repeal of any ordinance or Bethel Municipal Code provision.

"Owner" means any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient property interest in a parcel that is subject to the provisions of BMC Title [15](#), [16](#), [17](#) or [18](#).

"Owner-Occupied" means that the dwelling unit is occupied by the owner.

"Parcel" means an area of land, legally created and described, not containing any smaller legally created area of land. A lot, tract, outlot, and area of land described by aliquot parts may be referred to as a "parcel."

"Parking space" means a driveable surface of gravel, sand, concrete or asphalt that is accessible from a street, interior access lane or aisle.

"Party wall" means a wall shared as a common support between two (2) contiguous structures, buildings, or dwelling units under different ownerships.

Person. The word "person" includes corporations and other entities and forms of association as well as individuals.

"Personal services" means commercial establishments primarily engaged in the provision of support services to other business, or services of a personal, professional or nonprofessional nature. Business activity may be conducted on the premises or off premises. Typical uses include barber and beauty shops, shoe repair, office maintenance services, health fitness studios, photographers, film processing shops, funeral and mortuary services, travel agencies, laundry and dry cleaning establishments, pharmacy, veterinary services, and secretarial services (see also "Professional office").

"Plan" means the city comprehensive plan.

"Planned development" means a form of development usually characterized by a unified site design for a number of housing units, clustering buildings and providing common open space, density increases, and a mix of building types and land uses. It permits the planning of a project and the calculation of densities over the entire development rather than on an individual lot-by-lot basis. It also refers to a process, mainly revolving around site plan review, in which public officials have considerable involvement and discretion in determining the nature and arrangement of and special restrictions on the development.

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“Planning commission” means the city of Bethel planning commission.

“Plat” means a map or representation on paper of a parcel of land. A “preliminary plat” is a map showing the salient features of a proposed subdivision of land submitted to the planning commission for purposes of preliminary consideration and approval. A “final plat” is a map of a subdivision of land made up in final form ready for approval and filing.

“Platting authority” means the planning commission.

“Platting officer” means the manager of the city of Bethel planning department or such other person as the city manager appoints to administer BMC Title [17](#).

“Preliminary consultation” means a voluntary meeting between the subdivider or developer and the land use administrator or platting officer for the purpose of informing the subdivider or developer of subdivision and development procedures and standards as prescribed by BMC Titles [15](#) through [18](#).

“Preliminary plat” means the conceptual maps, drawing or chart indicating the proposed layout of the subdivision to be submitted to the planning commission.

“Principal structure” means a building within which a principal use takes place, such as a residence or a business. Principal structure is a concept similar to principal use, except that it is specific to the use of a building.

“Principal use” means the major or predominant use of land or a structure, as distinguished from a secondary or accessory use.

“Professional office” means an office for the conduct of any one (1) of the following uses: accountant, advertising agency, architect, attorney, chiropractor, civil engineer or surveyor’s drafting office, photographer, private detective, real estate office, social work, doctor, dentist, insurance sales or similar use, but not including barber shop, beauty parlor, contractor, pest control, pharmacy, veterinary. (Also see “Personal services.”)

“Property line” means the perimeter of the lot.

“Public improvement” means any drainage ditch, roadway, park, pedestrian way, street, off-street parking area, lot improvement, street light, sewer, water or other facility for which the city may ultimately assume the responsibility of maintenance and operation, or which may affect an improvement for which city responsibility is established.

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“Public improvement guarantee” means a performance bond, deposit in escrow, letter of credit or a note from the applicant secured by a first (1st) deed of trust upon land given to the city to secure the timely performance of the applicant in the construction of required improvements.

“Public open space” means land dedicated or reserved for the use by the general public, including, but not limited to, parks, parkways, recreation areas, and school sites.

“Public utility” means all persons, firms, corporations, or municipal or public authorities which are certified as public utilities by the state and which provide gas, electricity, water, telephone, cable, storm sewers, sanitary sewers or other services of a similar nature.

“Rear lot line” means that boundary of a lot which is most parallel to the front lot line and does not intersect the front lot line. In the case of a triangular lot, “rear lot line” means a line twenty (20) feet in length within the lot parallel to and at the maximum distance from the front lot line.

“Rear yard” means the distance between the property line that parallels or generally parallels the rear lot line and the part of a structure, other than a minor structure, nearest the rear lot line.

“Recreational vehicle” means a vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Regulatory flood” means the one-hundred- (100-) year flood. The water surface elevation of the regulatory flood is the water surface elevation delineated on the flood insurance rate map.

“Replat” means an alteration to an original recorded plat; a resubdivision.

“Reserve strip” means land reserved adjacent to a proposed street for the purpose of denying access from adjacent property to such street.

“Residential” means a structure where the primary use is for human habitation.

“Residential structure” means a single structure used primarily as a residence which may have one (1) or more dwelling units.

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“Residential unit” means a common living area designed or advertised to house one (1) family.

“Resubdivision” means the redelineation of an existing lot, block, or tract of a previously recorded subdivision involving the change of property lines after vacation, the altering of dedicated streets, easements or public areas.

“Right-of-way” means land reserved, used or to be used for the use of supporting city services.

“Road” means a way for vehicular traffic, dedicated to public use.

“Setback” means the minimum distance required between a lot line and structures other than minor structures.

“Sewer facilities” means all interceptors, pressure pumps, valves, sumps, heating and electrical facilities, manholes, guards and other features required for an operating, piped sewage collection system.

“Shopping center” means a group of commercial establishments planned, constructed, developed, and managed as a unit with off-street parking provided on site.

“Side lot line” means that boundary of a lot which is neither a front nor rear lot line and which is perpendicular or generally perpendicular to the front lot property line.

“Side yard” means the distance between the side lot line and the part of a structure, other than a minor structure, nearest the side lot line.

“Significant wetlands” means (1) those areas of the floodplain that have not been developed; rivers, lakes, streams, sloughs, drainages, and ponds at least one-half (1/2) acre in size; and (2) a twenty-five- (25-) foot-wide area upland from the mean high water mark of major drainageways, lakes and ponds.

“Single-family dwelling” means a site-built dwelling unit designed for occupancy by one (1) family for individual ownership, lease, or rental.

“Site plan” means a plan, drawn to scale, which depicts and describes uses and structures proposed for a parcel of land as required by the regulations in BMC Title [15](#). It includes lot lines, streets, building sites, reserved open space, buildings, major landscape and drainage features, proposed fill activity, plans for accommodating drainage, access location and dimensions and plans for the water and sewer system.

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"Special flood hazard area" and "area of special flood hazard" mean the area within the city subject to the one-hundred- (100-) year flood as delineated on the flood insurance rate map for Bethel published by the Federal Insurance Administration. Designation of an area on the FIRM will always include the letter A or V.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State" means the state of Alaska.

"Street" means a right-of-way which provides for vehicular and pedestrian travel access to abutting properties and includes arterials, collectors, roads, avenues, highways, ways and other rights-of-way for transportation, and other street uses such as placement of utilities.

"Street right-of-way width" means the distance between property lines measured at right angles to the centerline of the street.

"Street width" means the shortest distance between the lines delineating the right-of-way of the street.

"Structural alteration" means any addition to or subtraction from parts of a building, including walls, columns, beams, girders, foundations, doors and windows.

"Structure" means anything constructed or erected on the ground or attached to something located on the ground. Structures include walled or roofed buildings, radio and TV towers, storage vans, sheds, water tanks, sewage tanks, oil tanks, gas or liquid storage tanks that are principally above ground, fences and signs. Operable vehicles,

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sidewalks and boardwalks, and pavement are not considered structures for yard setback purposes (see also "minor structure" and "temporary structure"). For floodplain management purposes, a "structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Stub street" means a dead-end local street which provides for eventual expansion of the street onto unplatted land.

"Subdivider," "owner" or "developer" means a person, firm, association, partnership, corporation, governmental unit or combination of any of these which may hold any legal or equitable ownership interest in land being subdivided. The terms shall also include heirs, assigns, or successors in interest, or representatives of the subdivider, owner, proprietor or developer.

"Subdivision" means the division of a tract or parcel of land into two (2) or more lots, sites or other divisions by the landowner for the purpose, whether immediate or future, of sale, lease, conveyance or building development, or by the creation of public access other than common carrier and public utility access, including any resubdivision, and when appropriate to the context, the process of subdividing the land subdivided.

"Substandard lot" means a lot that was lawfully created and met all conditions of the applicable provisions of law and ordinance at the time the plat was approved by the platting authority, or at the time it was filed if platting authority approval was not required by state law at the time it was filed, but does not conform to one (1) or more of the applicable standards of BMC Title [17](#) or [18](#).

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means, as applied to an existing structure, any remodeling, repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the fair market value of the structure either: (1) as such value exists before the improvement is started; or (2) if the structure has been damaged and is being restored, as such value existed before the damage occurred. Substantial improvement commences when the first (1st) alteration of any wall, ceiling, floor, or other structural part of a structure begins, whether or not that alteration affects the external dimensions of the structure. The term does not include either a project for improvement of a structure to correct existing violations of state or local

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health, sanitary, or safety code specifications which have been identified by the appropriate code enforcement official and which are the minimum necessary to assure safe living conditions or to any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

“Surveyor” means a land surveyor who is registered in the state.

“Temporary structure” means a structure that can easily be dismantled by one (1) person in one (1) day, or could be moved with human labor without the aid of mechanical lifting equipment. Examples of temporary structures are tents, fish-drying racks, dog houses, and small storage boxes.

“Through or double-frontage lot” means a lot other than a corner lot with frontage on more than one (1) street.

“Topographic map” means a map showing the land form by the use of contour lines.

“Tract” means an area within a subdivision that has been identified as a tract, but which is not a lot located within a numbered or lettered block and is not identified as a block.

“Triplex” means a structure involving three (3) attached common wall dwelling units, each unit designed for occupancy by one (1) family, for ownership, lease or rental.

“Use” means the purpose for which any land, structure, or building is arranged, designed, intended, occupied, or maintained.

“Used” or “occupied” as applied to any land or structure shall be construed to include the phrase “intended, arranged or designed to be used or occupied.”

“Vacation” means the act of making legally void the public interest or rights in a dedicated right-of-way, easement, public area or other dedicated public interest.

“Variance” means permission to depart from the literal standards or requirements of certain provisions of BMC Titles [15](#) through [18](#) granted pursuant to Chapter [18.64](#) BMC or, when applicable, BMC [15.08.260](#).

“Vehicle” means any mechanical device for carrying passengers, goods or equipment, usually moving on wheels or runners, such as a car, bicycle, sled or snow machine.

“Walkway” means a right-of-way, dedicated to public use, which crosses within a block to facilitate pedestrian access to adjacent streets and properties.

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“Warranty” means a guarantee by the subdivider that the completed public improvement, accepted by the city, is free of defects in materials and workmanship and shall remain in good condition during the warranty period.

“Water area” means an area that is regularly or always occupied by water, whether standing, flowing or frozen.

“Water connection” means that part of the water distribution system connecting a water main with the lot line of the property to be furnished water service.

“Water-dependent” means a use or structure for commerce or industry that is dependent on the water by reason of the intrinsic nature of its operations and which cannot exist in any other locations.

“Water facilities” means all water mains, water connections, pumps, valves, fire hydrants, heating and electrical facilities, storage tanks and other parts of the city or a community water system.

“Water main” means that part of the water distribution system intended to directly or indirectly serve more than one (1) water connection.

“Zero lot line” means a development approach in which a building is sited on one (1) or more lot lines with no yard on at least one (1) side.

SECTION 3. Amendment. Bethel Municipal Code Chapters 18.32 Zoning, Residential District-R District. New language is underlined and old language is stricken.

Chapter 18.32 RESIDENTIAL DISTRICT – R DISTRICT

Sections:

18.32.010	Intent.
18.32.020	Permitted and principal uses and structures.
18.32.030	Conditional uses.
18.32.040	Minimum lot size.
18.32.050	Minimum setback requirements.
18.32.060	Maximum height of structures.
18.32.080	Noise.

18.32.010 Intent.

The intent of the residential district is to provide protection to residential areas from encroachment from nonresidential activities.

18.32.020 Permitted and principal uses and structures.

The following are permitted and principal uses and structures in the R district:

- A. Trails and boardwalks.
- B. Nonmotorized public access areas to the Kuskokwim River or other areas that require public access.
- C. Single-family dwelling units.
- D. Duplex uses.
- E. Greenbelts and land reserves.
- F. Subsistence activities.
- G. Any accessory use or structure associated with the principal use or structure on the lot. The use of a freezer van for any purpose is specifically prohibited; except, during the construction or substantial improvement of the primary structure on a lot, a freezer van used solely for storage of construction materials and equipment may be located on the lot for a period not to exceed twelve (12) months unless, for good cause shown, the time is extended in writing by the land use administrator.
- H. The facilities of sewer, water and other utilities required to serve the lots in the district.
- I. Home occupations, but not more than two (2) per dwelling unit.
- J. A bed and breakfast homestay as an accessory use to the principal structure.

18.32.030 Conditional uses.

The following uses and structures are permitted in the R district under the terms of a conditional use permit.

- A. Triplex and residential apartment buildings.
- B. Planned unit developments.
- C. Professional offices.

- D. Parks, playfields, and playgrounds.
- E. Churches and synagogues, along with the customary accessory uses, including administrative offices, parsonages, day nurseries, kindergartens and meeting rooms.
- F. Headquarters or administrative offices for charitable organizations and similar quasi-public organizations of a noncommercial nature.
- G. Radio and television transmission towers and antennas, not including amateur radio and citizen band radio antennas that are accessory to a residential use.
- H. Food and beverage sales.
- I. Personal services.
- J. The facilities of sewer, water and other utilities required to serve lots outside the district.

18.32.090 Bed and Breakfast Homestay

A. A bed and breakfast homestay may be allowed as an accessory use to a residential use provided that the use of the guest rooms for the bed and breakfast homestay is clearly incidental and subordinate to the use for residential purpose by its occupants.

B. Use Specific Standards

1. Definition. A bed and breakfast homestay as defined in 16.12.030

2. General Standards

a. The host-operator of the bed and breakfast homestay shall establish and maintain the single-family or duplex as his or her primary domicile at all times while it is operated as a bed and breakfast homestay.

b. A bed and breakfast homestay may have up to three guest rooms. In the case of a duplex, the total number of bed and breakfast homestay guest rooms for the entire duplex cannot exceed three guest rooms. The guest rooms will have no more than three occupants per guest room.

c. All structures are subject to all dimensional requirements of the R (residential) zoning district as outlined in 18.32.

d. The accessory use shall protect and maintain the integrity of the residential neighborhood. A bed and breakfast homestay shall not detract from the principal use and shall not place a burden on any private or public infrastructure (i.e. streets or utilities) greater than anticipated from permitted development.

e. An operational fire extinguisher, smoke detectors (one per guest room plus one in each hallway) and carbon monoxide detectors shall be provided.

f. Operable egress windows must be in each guest room.

C. Parking. One off-street parking space per guest room in addition to the parking spaces required for the principal dwelling unit is required for bed and breakfast homestay. The required parking must occur on site and meet all design standards requirements set forth in 18.48.180. Landscaping or other screening structure may be required by the Planning Manager to buffer parking from abutting homes.

D. Plan Review Permit. A bed and breakfast homestay shall require a plan review permit the form that is created by the City Planning Department . An application for a bed and breakfast homestay shall not be complete unless it is accompanied by proof of current business license and a site plan and building floorplans for each level with the guest rooms identified. Prior to the issuance of a permit, the City Planning Manager or his/her designee will inspect the bed and breakfast homestay for compliance with the submitted plans. The Owner will be required to submit an affidavit on a form created by the City Planning Department yearly to verify the plans for the bed and breakfast homestay have not changed since the original approval.

E. Violations – Enforcement

1. The Owner of the bed and breakfast homestay is responsible for compliance with all provisions of this chapter and failure of the Owner to comply with this chapter will be deemed noncompliance by the Owner. The City Planning Manager may revoke or void any approval for the bed and breakfast homestay.

2. Remedies and penalties for violations under this chapter are provided in BMC Chapter 18.84 and this section. The following conduct shall constitute a violation for which the referenced penalties may be imposed, or permit revoked:

a. noncompliance with any of the requirements in this chapter.

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b. noncompliance with conditions imposed by the City Planning Manager.

c. Failure to comply with a notice of violation/citation and/or pay fines imposed pursuant this subsection.

~~d. Failure to remit city sales tax or submit a report as required by BMC Chapter 4.16.~~

d. The occupants of the bed and breakfast homestay have created noise, disturbances, or nuisances, in violation of the BMC or state law pertaining to consumption of alcohol or the use of illegal drugs.

e. Any violation regarding sales tax remittance or business licensure shall be enforced by the Finance Director under Titles 4 and 5 of this Code, with the cooperation of the City Planner as necessary.

3. Evidence of Violation.

a. Advertising of any kind by an owner or agent that offers a residential dwelling unit as a bed and breakfast homestay, as defined and regulated in this chapter, shall constitute prima facie evidence of the operation of a bed and breakfast homestay. The burden of proof shall be on the owner to establish that the subject property is being used as a legal bed and breakfast homestay or is not in operation.

b. Other evidence of operation of a bed and breakfast homestay without a valid permit may include, but not limited to, occupant testimony, rental agreements, advertisements, and receipts or bank statements showing payments to owner by an occupant.

4. Penalties. The penalties for violations specified in this chapter shall be subject to 16.04.050.

5. Complaints and Corrections of violations. Complaints and violations shall be in accordance to 18.84.020 and 18.84.030.

a. Revocation. If the violation results in the revocation of the approval for the bed and breakfast homestay, the written notice will set the ground upon which the permit was revoked, the date and time when the revocation is effective, and the appeals procedure. These provisions do not preclude the City Planning Manager's use of any other remedy prescribed by law with respect to violation of this chapter.

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6. Application for Permit after Revocation. A person who has had a bed and breakfast homestay approval revoked shall not be permitted to apply for a subsequent bed and breakfast homestay for a period of one year from the date of revocation.

7. Appeals. Appeals of an action made pursuant this chapter must be filed in accordance with BMC Chapter 18.72.

SECTION 4. Pre-existing lawful or unlawful nonconformities: Notwithstanding BMC 18.80.010 or any other provision of this Code, a pre-existing lawful or unlawful but licensed nonconformity in existence upon the effective date of the provisions of this ordinance shall be permitted to continue existing for one (1) year from the effective date of this ordinance. Such nonconformity should be discontinued, brought into conformity with the requirements of this ordinance, or receive a conditional use permit in accordance with Section 5 of this ordinance within one (1) year of the effective date.

SECTION 5. Uncodified Directive for Conditional Use Procedure for unlawful but licensed nonconformities.

Conditional Use Permit (CUP) Standards and Procedures for Licensed Nonconforming, Bed and Breakfast Homestays in the Residential Zone.

Authorization.

A. The planning commission may grant a conditional use permit for licensed but nonconforming bed and breakfast homestays, that do not meet the breakfast homestay definition, subject to the standards provided in this section. An applicant is not automatically entitled to a conditional use permit, but is entitled only to have the planning commission give fair consideration to an application for a conditional use permit. The planning commission shall evaluate an application for, and grant or deny, a conditional use permit application.

B. If conditions are imposed on a conditional use permit, the planning commission may delegate authority to the land use administrator to issue the conditional use permit when the conditions have been met.

Application and hearing.

The applicant shall complete a conditional use permit application on a form provided by the planning department and a hearing shall be conducted in accordance with BMC 18.60.

Staff review.

The land use administrator shall review the conditional use permit application and the accompanying plan review permit for Bed and Breakfast homestays for completeness and prepare a report in accordance with BMC 18.60.040 and may recommend approval only when the proposed use and conditions clearly support the following conclusions:

1. The proposed conditional use will not be detrimental to the general public health, safety, or welfare or to the environment;
2. The conditional use meets the following general standards for bed and breakfast homestays:
 - a. The structure meets the dimensional requirements of the R (residential) zoning district as outlined in BMC 18.32.
 - b. The accessory use shall protect and maintain the integrity of the residential neighborhood and not unreasonably interfere with or cause undue annoyance to residential uses by reason of visual appearance, odor, noise, dust, traffic, or other negative impacts. A bed and breakfast homestay shall not detract from the principal use and shall not place a burden on any private or public infrastructure (i.e. streets or utilities) greater than anticipated from permitted development.
 - c. An operational fire extinguisher, smoke detectors (one per guest room plus one in each hallway) and carbon monoxide detectors shall be provided.
 - d. Operable egress windows must be in each guest room.
 - e. One off-street parking space per guest room in addition to the parking spaces required for the principal dwelling unit is required for a bed and breakfast homestay. The required parking must be on site and meet all design standards requirements set forth in BMC 18.48.180. Landscaping

or other screening structures may be required by the land use administrator to buffer parking from abutting homes.

3. The use and structures proposed are of an appropriate character and scale for the neighborhood in which the project will be located, including parts of the neighborhood that may lie outside the land use district within which the parcel is located;

4. The conditional use is in accordance with and furthers the goals and policies of the comprehensive plan;

5. The proposed use will not subject surrounding properties nor vehicles or pedestrians using nearby streets and ways to hazardous or substantially increased traffic conditions;

6. The plan review permit application submitted with the conditional use permit review shall meet the standards provided for in BMC 18.32.090 D.

7. The conditional use is exempt from the following the general standards for breakfast homestays as long as the other standards in the review outlined herein are met:

- a. The host-operator of the bed and breakfast homestay shall establish and maintain the single-family or duplex as their primary domicile at all times while it is operated as a bed and breakfast homestay. However, the Owner shall be available at all times the property is being rented. A sign must be posted conspicuously in the common area of each unit and shall contain contact information for the owner and business license number.
- b. A bed and breakfast homestay may have up to three guest rooms. In the case of a duplex, the total number of bed and breakfast homestay guest rooms for the entire duplex cannot exceed three guest rooms.

Planning commission review.

The planning commission shall consider the matter at a public hearing in accordance with BMC 18.60.050.

Standards for planning commission decision.

The planning commission may approve a request for a conditional use permit in accordance with this section and BMC 18.60.060.

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Expiration of conditional use permit for nonconforming bed and breakfast homestays.

An approved conditional use of nonconforming bed and breakfast homestays shall be void and/or expire if the structure operating as the, bed and breakfast homestay is removed, abandoned, substantially damaged, or sold, and/or the business operating on the premises is closed, sold, or not operational for a period of one (1) year from the expiration of the business license.

SECTION 6. Effective Date. This ordinance shall become effective September 1, 2021.

**BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA
THIS 24 DAY OF AUGUST 2021 BY A VOTE OF 6 IN FAVOR AND 0 OPPOSED.**


Michelle DeWitt (Aug 31, 2021 11:04 AKDT)
Michelle DeWitt, Mayor

ATTEST: 
Lori Strickler, City Clerk

Ordinance 21-37 Bed And Breakfast Provisions In Residential Zoning District final1

Final Audit Report

2021-08-31

Created:	2021-08-31
By:	Lori Strickler (lstrickler@cityofbethel.net)
Status:	Signed
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