COUNTY OF YELLOWSTONE ZONING COMMISSION

AGENDA-Project ReCode
Thursday, September 24, 2020
4:30 PM
Billings Senior Center at 360 N 23rd Street, Billings, MT

NOTICE TO THE PUBLIC

Public Comment:
The Zoning Commission will hear all persons wishing to speak relative to the proposed Text Amendments and Zoning Map Update. Testimony regarding the above mentioned item may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 (247-8676) or via email to cromwelln@billingsmt.gov or Plnonline@billingsmt.gov
The Zoning Commission is conducting multiple topic-focused hearings on the draft zoning codes. The Zoning Commission will meet at a regularly schedule monthly meeting after all hearings are completed to make formal recommendations to the Board of County Commissioners. Additional public hearing notices will be published for future dates, times & locations.

Call the meeting to order.

Introduction of the Yellowstone County Zoning Commission Members and Planning Department Staff.

Public Comment: The Zoning Commission will hear all persons wishing to speak relative to the proposed Text Amendments and Zoning Map Update. Testimony regarding the above mentioned item may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 (247-8676) or via email to cromwelln@billingsmt.gov or Plnonline@billingsmt.gov

Regular Business:

A. Opening of public hearings. The public hearing will be broadcast on the Planning Community Services Department Facebook page https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks and the public may call in to this number during the hearing (406)237-6120.
Community 7 Television will also broadcast the public hearing live on their Facebook page: https://www.facebook.com/comm7tv . The hearings will be recorded and available for viewing at any time on both Facebook pages above.

B. Reading of rules for the procedure by which the public hearings will be conducted.

C. Reading of notices of the public hearings on the following items:

Public Hearings: The public hearing will be broadcast on the Planning Community Services Department Facebook page https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks and the public may call in to this number during the hearing (406)237-6120.
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a. **Text Amendment – Project ReCode – Proposed Draft Sections 27-200: Zoning Map Update; 27-1600: Administrative Procedures**
The Zoning Commission is conducting multiple topic-focused hearings on the draft zoning codes. This final fifth session of the County Zoning Commission to review the Zoning Map Update and the Administrative Procedures for the new Zoning Code.

Other Business/Announcements:

a. **YC Zoning Commsion: Monday, October 12, 2020, 4:00 PM: Project ReCode – Zoning Code Amendments and Zoning Map Update -** Review and recommendation to the Board of County Commissioners. https://project-recode.com/code-outline (Amendments) and https://project-recode.com/zoning-map-comparison (Zoning Map Update) This hearing will summarize the previous five public hearing sessions on the Zoning Code Amendments and Map Update, review the findings of the Zone Change criteria, and make a recommendation to the County Commissioners.

b. The **Board of County Commissioners**: **Tuesday, November 10, 2020, at 9:30 a.m.** Public hearing for **Project ReCode**, The Board of County Commissioners will hear all persons wishing to speak relative to the proposed **Zoning Code Amendments and Zoning Map Update**. The Board of County Commissioners may also have specific public hearing procedures in place for this hearing date and time. Please contact the Board Secretary, Teri Reitz at 256-2798, for information regarding the Commissioners hearing.

Adjournment

The Zoning Commission is conducting multiple topic-focused hearings on the draft zoning codes. The Zoning Commission will meet at a regularly schedule monthly meeting after all hearings are completed to make formal recommendations to the Board of County Commissioners. Additional public hearing notices will be published for future dates, times & locations.

Additional information and copies of the draft amendments are available in the Planning and Community Services Office, the County Clerk and Recorder, the County Commissioners' Office, the City Clerk's Office, and online at https://project-recode.com/code-outline and the draft Zoning Map is available at https://project-recode.com/zoning-map-comparison
Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to bartleyr@billingsmt.gov

County Zoning Commission Project ReCode

Meeting Date: 09/24/2020

SUBJECT: Project Recode - County Zoning Commission - Map Update and Administrative Procedures - Sec 27-1600

THROUGH: Monica Plecker **PRESENTED BY:** Nicole Cromwell

Information

REQUEST

Text Amendment – Project ReCode – Proposed Draft Sections 27-200: Zoning Map Update; 27-1600: Administrative Procedures

The Zoning Commission is conducting multiple topic-focused hearings on the draft zoning codes. This final fifth session of the County Zoning Commission to review the Zoning Map Update and the Administrative Procedures for the new Zoning Code.

RECOMMENDATION

Staff recommends the Zoning Commission review the Map and the Procedures and hold a public hearing. No action on the document is required at this time.

APPLICATION DATA

OWNER: NA
AGENT:
LEGAL DESCRIPTION:
ADDRESS:
CURRENT ZONING:
EXISTING LAND USE:
PROPOSED USE:
SIZE OF PARCEL:

CONCURRENT APPLICATIONS

NA

APPLICABLE ZONING HISTORY

The current zoning regulations for the County were adopted on November 6, 1973, and unified with the City zoning regulations in December 1997. Since 1973, the County has amended the text of the regulations and added several zoning districts. The County has amended the 1973 zoning code 40 times in the past 47 years since its adoption. Of those 40 amendments, only a few were major changes, including the addition of the entryway and interchange zone districts in 1992. The County sign code was not part of the unification of the city and county codes in 1997 and was a separate code section until 2017. In 2017, in anticipation of a comprehensive code update, the City and County agreed to formally separate the zoning codes to aid in the process of the comprehensive update known as Project Re:Code.

The Zoning Map for Yellowstone County has been updated over 700 times since 1973 when the 4.5-mile zoning

jurisdiction was established and parcels were assigned zoning districts. Most of those changes were initiated by property owners and individuals. Some zoning map amendments were initiated by the County Commissioners when new districts were developed such as the Entryway zone districts and some were initiated at the request of multiple surrounding owners.

The administrative provisions of the County Zoning regulations have remained essentially the same over the past 47 years. These procedures include zone changes, special reviews, zoning variances, sign permit reviews, written interpretations of the zoning code, Zoning Compliance Permits, temporary uses and government use of public land contrary to zoning. The current code has dispersed these procedures throughout the text. In large part this was for the ease of amending the code when new districts, or regulations were added over the years. Few changes have been made to the procedures since these were first adopted. A significant change was made to zone change approvals in 2012 when the code was amended to require a pre-application neighborhood meeting by the property owner. This provision has assisted with engaging the surrounding owners with the property owner outside of a formal public hearing process.

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: NA Land Use:
SOUTH:	Zoning: Land Use:
EAST:	Zoning: Land Use:
WEST:	Zoning: Land Use:

BACKGROUND

The Zoning Map Update and the Administrative Procedures are the two capstone sections of the new zoning code.

Zoning Map Update

The Zoning Map illustrates the zone district for each parcel in Yellowstone County. The map and information on each parcel within the county is kept in the Zoning History records in the Planning Division. There are over 25,000 parcels of land within the County's zoning jurisdiction. There are currently over 30 zone districts.

The Zoning Map update was a challenging and meticulous process. The Planning staff and consultant team worked with the Steering Committee and Working Group to assemble a final list of proposed updated zone districts. It was decided early on, the best elements of the current overlay districts would be incorporated in to the new use standards, landscaping and sign codes. There are no overlay zone districts on the updated Zoning Map. The County GIS staff were a critical component of this process and the consultant team and staff also followed a set of good zoning map practices including:

- Developing a zone district equivalency guide
- Matching zone districts across streets and changing zone districts along rear property lines whenever possible
- Matching existing uses and development with zone district update - whenever reasonable and practicable
- Allow for transitions between more intense zone districts to less intense zone districts
- Allow for some more intense zone districts on the end of blocks and avoid mid-block changes
- Continuous updates of the draft map from June 2019 to present - errors, omissions and fact checking parcel history

Zoning Districts

The current number of zone districts is being consolidated and updated throughout the county. Under current zoning, the county has three districts not allowed within the city limits - the two agricultural zone districts A-1 and A-S and the Residential 15,000 (R-150) zone district. Most of the remaining zone districts are allowed in both the city and county. In an effort to ensure the county and city develop with sustainable neighborhoods and commercial areas, urban density residential zones will be available only in the city and where county water and sewer districts exist. In other areas of the county, only agricultural and rural residential zone districts will be available for neighborhoods. The commercial and industrial zone districts are being consolidated as well to four main zone

districts.

In January 2019, a zone map equivalency guide was developed to start work on updating the zone map to the new zone districts. This included the consolidation of 13 agricultural and residential zones districts into five primary county zone districts. The ten commercial and industrial zone districts will be consolidated into four districts to better match the county's growth policy outside of Lockwood. The urban density residential zones and mixed use commercial zone districts will be available for application within the Lockwood Water and Sewer district.

Residential Zone Districts

There are 13 current base agriculture and residential zone districts

1. A-1 - Agriculture Open-Space - Agriculture use primary with single family only as accessory use
2. A-S - Agriculture Suburban - Agriculture use primary with single family only as accessory use
3. R-150 - Residential 15,000 - Single family only
4. R-96 - Single family only
5. R-80 - Single family and two family
6. R-70 - Single family and two family
7. R-70-R - Single family only
8. R-60 - Single family and two family - multi-family with special review
9. R-60-R - Single family only
10. R-50 - Single family and two-family
11. RMH - Single family only - manufactured homes allowed
12. RMF-R - Single family, two family and multi-family allowed - higher lot area requirements
13. RMF - Single family, two family and multi-family allowed - no height restrictions, lower lot area requirements

There are five proposed agricultural and residential zone districts

1. A - Agriculture - Agriculture use primary with single family only as accessory use
2. RR-3 - Rural Residential - single family only - 3 acre minimum - replaces some A-S zones and some A zones
3. RR-1 - Rural Residential - single family only - 1 acre minimum - 2.99 acre maximum - replaces some A-S zones, some A zones but mostly R-150
4. N4 - Large Lot Suburban Neighborhood - single family only - 15,001 sf minimum - .99 acre maximum - replaces most R-96 zones and some R-150 zones
5. R-RMH - Rural Residential Manufactured Home - single family only including all types of manufactured homes - 15,001 sf minimum - no maximum

In Lockwood, some of the urban density zone districts are on the map already. Future zone changes may also involve these higher density zone districts and some mixed use zone districts.

Commercial and Industrial Zone Districts

The current zone districts for commercial and industrial uses include ten different zones:

1. RP - Professional offices and some service businesses - no retail and allows single family
2. NC - Commercial and retail with some use and size limitations - allows single family, two family and multi-family developments
3. CC - Intense and large commercial developments - malls, car dealers, casinos & bars with special review - allows single family, two family and multi-family developments
4. HC - More intense than CC including some industrial type uses - truck stops, lumber yards, small manufacturing plants, casinos and bars with special review - allows single family, two family and multi-family developments
5. CI - Industrial zone used for less intense industrial businesses, wholesale and retail businesses, casinos and bars with special review and allows single family by special review
6. HI - Heavy industrial users such as chemical plants, refineries, processing plants, casinos and bars with special review - no residential uses allowed
7. ELC - Entryway zone equivalent to NC uses but residential use by special review
8. EGC - More intense Entryway zone equivalent to CC uses but no stand alone bars and casinos allowed -

must include a restaurant, residential uses by special review approval
9. EMU - Mixed use Entryway district similar to EGC but allows single family and multi-family developments, restaurants serving alcohol by special review
10. ELI - An industrial Entryway district designed for large warehousing operations, wholesale operations but no residential uses allowed

The proposed county commercial and industrial districts include four different zones:

1. C3 - General Commercial - generally replaces the Entryway zones, CC zones, some HC and CI zones depending on uses, these are large lot developments along major transportation corridors
2. CX - Heavy Commercial - generally replaces HC & CI zones where uses are less retail oriented and includes contractor yards and suppliers, warehousing and logistics
3. I1 - Light Industrial - generally replaces CI zones, and some HC zones with industrial uses
4. I2 - Heavy Industrial - generally replaces HI zones

All Planned Developments (PD) will carry forward and will show as PD on the zoning map.

Administrative Procedures

The new code will consolidate all processes and procedures into one code section for clarity and for ease of use. The procedures include everything from permit reviews to zone changes, master site plans and special reviews. The draft section includes a change to how special reviews are evaluated and the status of such uses under the zoning code. The current code states a special review use is an "allowed use" in the zone district and the county may only impose mitigation on the use through conditions of approval. This status has led to some special review uses that are not entirely compatible with the surrounding uses. In order to deny an "allowed use", the County Commissioners would have to find no conditions of approval could mitigate the potential impact on the surrounding property. This is an incredibly high standard to achieve. The proposed administrative process and use table treats a special review use not as an allowed use but as a "special exception" to the uses normally allowed in the zone. There are expanded review criteria and a termination or lapsing of the approval if the use is not established or the use is abandoned.

The draft code Section 27-1600 also includes detailed descriptions of processes along with flow charts with review steps shown. This will help applicants understand how each type of process works without reading 10 or 12 pages of text. The amended code section also includes post approval processes, steps on how to appeal a decision and when approvals might lapse if no action is taken by the property.

RECOMMENDATION

Staff recommends the Zoning Commission review the draft map and administrative procedures and hold a public hearing. No action on the document is required at this time.

Attachments

2008 County Growth Policy
2016 Lockwood Growth Policy Map
Steering Committee Members
Working Group Members
Guiding Principles
Existing Zoning Map
Map_nne Sept 2020
Map_nncentral Sept 2020
Map_nnw Sept 2020
Map_sse Sept 2020
Map_sscentral Sept 2020
Map_ssw Sept 2020
Map_Legend
Existing Section 27-1500 Administrative Procedures
Draft Code - 27-1600 Administrative Procedures

These Goals and Objectives applicable to all zoned areas except Lockwood:

PRIMARY GOALS AND OBJECTIVES OF THE 2008 GROWTH POLICY

Land Use Element

1. ISSUE: *Neighborhoods are experiencing pressures from new development and land use changes.*

GOAL: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans.

OBJECTIVES:

• Preserve neighborhood integrity.

• Empower neighborhood groups.

2. ISSUE: *The current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites.*

GOAL: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites[2].

OBJECTIVES:

• Maintain a high quality of life for new and existing residents.

• Reduce conflicts between neighbors.

3. ISSUE: *Rural townsites are not prepared to handle increased growth.*

GOAL: Growth management tools available to rural townsites.

OBJECTIVES:

• Empower communities to direct growth.

• Use County resources and services more efficiently.

• Create a sense of community.

4. ISSUE: *Urban sprawl threatens the rural character of land surrounding Billings, increases the cost of providing public services, and threatens the vitality of the city core and downtown area.*

GOAL: Contiguous development focused in and around existing population centers separated by open space.

OBJECTIVES:

• Ensure the continued functionality of natural systems.

• Use City and County resources in a cost effective manner.

• Create attractive communities.

5. ISSUE: *There is a serious lack of affordable housing for low to moderate income households[3].*

GOAL: Affordable housing for all income levels dispersed throughout the City and County.

OBJECTIVES:

• Improve the quality of life of low income people. Preserve and rehabilitate the existing supply of affordable housing.

• Promote social equity and diversity.

• Create more affordable housing and work towards replacing affordable housing lost during redevelopment projects.

• Provide rental and ownership housing options for the diverse workforce.

6. ISSUE: *There is a desire for more mixed use neighborhoods.*

GOAL: More housing and business choices within each neighborhood.

OBJECTIVES:

• Improve quality of life.

• Encourage more live-work environments.

• Reduce commuting and subsequent drain on natural resources and traffic congestion.

• Develop more self-contained neighborhoods.

Economic Development Element

1. ISSUE: *We need to continue a cohesive focus in economic development.*

GOAL: Coordinated economic development efforts that target business recruitment, retention, and expansion**.**

OBJECTIVES:

• Improve the quality of life for residents. Strengthen area economy.

• Create living-wage jobs.

2. ISSUE: *Lack of living-wage jobs.*

GOAL: Increase the median income of households and individuals.

OBJECTIVES:

• Improve the quality of life for residents.

• Attract and retain businesses that offer competitive wages and benefits.

• Reduce dependency on social programs.

3. ISSUE: *Entryways to our communities should be attractive and not present physical barriers discouraging economic development.*

GOAL: Attractive and accessible communities.

OBJECTIVES:
• Encourage new businesses to locate in Billings and gateway areas.
• Reduce travel time through town.
• Convey a business-friendly attitude.
• Increase the visual appeal of our highway and railroad corridors.

4. ISSUE: *Government supported programs and improvements are not sufficiently funded.*
GOAL: Improved public services and facilities.
OBJECTIVES:
• Construct safe and efficient infrastructure.
• Respond in a timely manner to public service needs.

5. ISSUE: *Surrounding communities in the County need economic development to sustain them.*
GOAL: Preserve and sustain the rural community centers throughout the County.
OBJECTIVES:
• Preserve rural culture and living options.
• Promote business development to provide local services and less dependence on travel to Billings.

6. ISSUE: *Billings needs to attract businesses that pay higher wages.*
GOAL: Provide citizens with greater financial stability.
OBJECTIVES:
• Focus on attracting skilled labor positions in clean industries.
• Improve the quality of life for residents.
• Strengthen area economy.
• Create living-wage jobs.

7. ISSUE: *The economic development of Billings Heights is overlooked.*
GOAL: Business development and rejuvenation in the Heights.
OBJECTIVES:
• Improve quality of life for Heights residents.
• Create more jobs near where people live to reduce commuter traffic.
• Capitalize on existing infrastructure and facilities.

8. ISSUE: *The quality of our schools is a determining factor for whether businesses locate in Billings.*
GOAL: Promote excellence in education and safe and healthy school facilities.
OBJECTIVES:
• Highlight educational quality as a business recruitment tool.
• Attract and retain educated citizens.
• Provide future taxpayers a quality education.

9. ISSUE: *Neighborhoods provide the character and strength of the community and the quality of neighborhoods should be preserved.*
GOAL: Preserve neighborhood character and quality of life.
OBJECTIVES:
• Empower neighborhoods.

12. ISSUE: *The Billings economy faces a severe shortage of skilled workers in a number of sectors (a problem that will worsen as the population ages).*
GOAL: Community-wide planning and preparation of a skilled workforce to meet the diverse and growing economic development needs of the community.
OBJECTIVES:
• Improve coordination between the business community, economic development agencies and school districts.
• Increase educational attainment for high demand,
well-paying jobs.
• Increase per capita income.
• Increase local workforce availability to attract new clean industry jobs.

Aesthetics Element

1. ISSUE: *There are areas in the City and County that are unattractive and present a poor image of the community.*
GOAL: Visually appealing communities.
OBJECTIVES:
• Improve the image of the community.
• Instill pride in the community.
• Improve the quality of life for residents.
• Preserve the community assets such as the Rimrocks, the Yellowstone River, the downtown and the major street thoroughfares.

2. ISSUE: *New development and signs, cell towers, power lines and other structures could reduce the visual quality of the rims.*
GOAL: Unobstructed views of the rimrocks surrounding the City of Billings.
OBJECTIVES:
• Improve the visual image of Billings.
• Protect a publicly recognized landmark.

3. ISSUE: *Urban interstate corridors through the County are unattractive.*
GOAL: An inviting and attractive urban interstate corridor through the County.
OBJECTIVES:
• Improve signage standards.
• Provide more aesthetic open space.
• Develop more greenspace.
• Develop attractive and well-maintained rest areas.

Natural Resources Element

1. ISSUE: *The quality of the Yellowstone River and the associated riparian habitat is threatened.*
GOAL: A healthy river ecosystem system that supports multiple uses.
OBJECTIVES:
• Ensure high water quality.
• Ensure continued recreational access.
• Protect wildlife and wildlife habitat.
2. ISSUE: *Water is an important resource and it is becoming scarcer.*
GOAL: A sustainable supply of clean water.
OBJECTIVES:
• Protect public health.
• Reduce the cost of groundwater remediation.
3. ISSUE: *Due in part to the arid nature of our environment and the remoteness of some developments, there is an increased risk to human life and property from wildfires.*
GOAL: Minimize loss of life and property damage resulting from wildfires.
OBJECTIVES:
• Save lives and property.
• Utilize fire protection resources more efficiently.
• Protect the natural environment.
4. ISSUE: *Weeds detract from the beauty of an area, pose a fire danger, and reduce the productivity of agricultural land.*
GOAL: Controlled weed populations.
OBJECTIVES:
• Improve range productivity.
• Preserve native vegetation.
• Reduce the risk of wildfire and potential for erosion.
5. ISSUE: *Human encounters with wildlife often result in a painful consequence for wildlife, pets, and humans.*
GOAL: Reduced opportunities for negative human and wildlife encounters.
OBJECTIVES:
• Reduce needless injury or death of wildlife and pets.
• Minimize property damage caused by wildlife.
• Protect human life and property.
6. ISSUE: *Certain development is damaging our natural resources.*
GOAL: Protection of groundwater, surface water, riparian areas, air quality, and productive agricultural land.
OBJECTIVES:
• Use City and County resources in a cost effective manner.
• Protect public health.
• Ensure the continued functionality of natural systems.

Open Space and Recreation Element

1. ISSUE: *Some neighborhood parks appear to receive more funding for improvements than other neighborhood parks.*
GOAL: Rational consideration of neighborhoods for park expenditures.
OBJECTIVES:
• Provide well-maintained and equipped neighborhood parks and improve undeveloped parks.
• Create neighborhood parks designed to meet the needs of the neighborhood.
• Empower neighborhoods to provide direction for budgetary decisions.
2. ISSUE: *Billings and Yellowstone County need more major recreation facilities and need to improve those we already have.*
GOAL: Recreation facilities that serve the diverse recreational needs of Billings and Yellowstone County.
OBJECTIVES:
• Meet the recreation needs of City and County residents.
• Improve the quality of life of residents.
• Encourage the development of all athletes.
3. ISSUE: *Private land development sometimes restricts access to public land.*
GOAL: Accessible public lands.
OBJECTIVES:

• Improve relations between users and landowners.
• Ensure the public use of public land.

4. ISSUE: *Billings and surrounding County townsites need more multiple use trails.*

GOAL: A multi-purpose trail network integrated into the community infrastructure that emphasizes safety, environmental preservation, resource conservation and cost effectiveness.

OBJECTIVES:
• Develop non-motorized connections between residential neighborhoods and work places.
• Provide convenient access to bicycle and pedestrian facilities.
• Improve quality of life for residents.

5. ISSUE: *Public access to areas above and below the rimrocks is limited and decreasing each year.*

GOAL: Protect and increase the availability of public access to natural areas and trails near the rims.

OBJECTIVES:
• Protect public use of a well-recognized and economically valuable natural resource.
• Increase recreation options for residents.
• Preserve a unique Billings' feature.

6. ISSUE: *Public access to areas along the Yellowstone River is limited and decreasing each year.*

GOAL: Protect and increase the availability of public access to natural areas and trails along the River.

OBJECTIVES:
• Protect public use of a well-recognized and economically valuable natural resource.
• Increase recreation options for residents.
• Preserve a unique Billings' feature.

Transportation Element

1. ISSUE: *Speeding in City neighborhoods and outlying communities.*

GOAL: Safe traffic speeds consistent with the surrounding uses.

OBJECTIVES:
• Decrease pedestrian-vehicle accidents.
• Promote non-motorized transportation modes.
• Promote cooperative speed enforcement.

2. ISSUE: *Safe and efficient traffic circulation around and through the City.*

GOAL: Efficient cross-town and in-town traffic.

OBJECTIVES:
• Reduce travel times.
• Create convenient traffic connections.
• Employ adaptable design options.
• Provide multiple intercity travel options.

3. ISSUE: *Lack of adequate traffic control.*

GOAL: Improved traffic flow and reduced congestion.

OBJECTIVES:
• Reduce potential harm to people and property.
• Maintain safe and efficient traffic flow.

4. ISSUE: *The design of roads, streets, and pedestrian facilities can be more attractive and functional.*

GOAL: Visually appealing rights-of-way that serve the needs of all modes of travel.

OBJECTIVES:
• Employ smart, cost effective designs.
• Use designs that recognize the needs of all users.
• Incorporate attractive visual elements into rights-of-way design.

5. ISSUE: *Obstacles to efficient and safe traffic flow.*

GOAL: A safe and efficient transportation system characterized by convenient connections and steady traffic flow.

OBJECTIVES:
• Identify obstacles to traffic flow.
• Remove or minimize impediments to traffic flow.
• Manage traffic demand.

6. ISSUE: *Deteriorated conditions of City streets and County roads.*

GOAL: City streets and County roads maintained at safe standards.

OBJECTIVES:
• Equitably share the cost of maintaining roadways.
• Timely response to public needs.

7. ISSUE: *Resources for transportation improvements should be rationally allocated throughout City neighborhoods and County townsites.*

GOAL: Rational consideration of all City neighborhoods and County townsites when allocating transportation improvement funds.

OBJECTIVES:
• Select projects based on a needs assessment.
• Reduce waste through coordination of projects.
8. ISSUE: *Lack of adequate bicycle facilities.*
GOAL: Additional bicycle facilities throughout the City and the County.
OBJECTIVES:
• Provide needed facilities for recreational and commuter bicyclists
• Encourage bicycling as a cost-effective, healthy alternative to driving
• Promote safe bike riding options
9. ISSUE: *Deterioration of air quality due to vehicle emissions.*
GOAL: Reduce carbon emissions from vehicles.
OBJECTIVES:
• Maintain healthy air quality levels.
• Act locally to fight global warming.
• Support alternative transportation modes.
10. ISSUE: *Some bicyclists do not follow traffic laws and can cause unsafe situations.*
GOAL: Vehicles, pedestrians and bicyclists safely and courteously sharing facilities.
OBJECTIVES:
• Ensure equitable and safe use of public transportation facilities.
• Encourage alternative modes of transportation.
• Educate users of the responsibilities.
11. ISSUE: *There are more motorcycles, bicycles and motor scooters on the roadways.*
GOAL: All transportation modes safely and courteously sharing facilities.
OBJECTIVES:
• Ensure equitable and safe use of public transportation facilities.
• Encourage alternative modes of transportation.
• Educate users of the responsibilities.

Public Facilities and Services Element

1. ISSUE: *Residents are not adequately informed of County and City projects.*
GOAL: An effective public notification system.
OBJECTIVES:
• Enhance public involvement.
• Provide timely and accurate public notification.
• Increase contact with news media.
2. ISSUE: *Dilapidated and unsafe properties in City neighborhoods and County townsites.*
GOAL: Sanitary and safe properties.
OBJECTIVES:
• Provide helpful and responsive public services.
• Improve the community image.
• Increase property values.
3. ISSUE: *Safety is a concern in neighborhoods and outlying County townsites.*
GOAL: Protect public lives and property.
OBJECTIVES:
• Ensure adequate public service to all residents.
• Utilize scarce resources wisely and employ cost effective techniques.
• Maintain acceptable levels of service in existing City neighborhoods when expanding service to new areas.
4. ISSUE: *Funding for community facilities and infrastructure is very limited.*
GOAL: Equitable collection and distribution of funding for public services and facilities.
OBJECTIVES:
• Ensure users pay fair share for public services and facilities.
• Ensure facilities and services are maintained in existing neighborhoods as new neighborhoods are added.
• Explore new sources of funding as appropriate.
5. ISSUE: *Public funds are not distributed rationally throughout City neighborhoods and County townsites.*
GOAL: Rational consideration of all City neighborhoods and County townsites for public funds expenditures.
OBJECTIVES:
• Identify and prioritize neighborhood needs.
• Empower public to provide direction on capital improvements expenditures.
• Leverage public funds with other resources.
6. ISSUE: *There are vacant structures around Billings and in the County that could be reused.*
GOAL: Adaptive reuse of vacant structures.
OBJECTIVES:
• Conserve resources.
• Preserve historic or cultural landmarks.
• Take advantage of economic development

opportunities.
• Preserve neighborhood integrity.
7. ISSUE: *Community services are not always available to everyone.*
GOAL: Equitable provision of community programs and services.
OBJECTIVES:
• Enhance public access to community services and programs such as libraries, public transportation, and the like.
• Encourage civic participation.
8. ISSUE: *Subdivision review, zoning applications, and other development permit review are not always conducted in a streamlined and timely manner.*
GOAL: Predictable and timely development review procedures.
OBJECTIVES:
• Expedite review process.
• Actively enforce development regulations.
• Be responsive to applicants' needs.
• Provide adequate Planning Department staff for review purposes.
9. ISSUE: *Maintenance of existing K-12 school facilities and planning for new schools is critically important to maintaining existing communities built around the neighborhood school concept and fostering new communities surrounding school sites.*
GOAL: Coordinated land use and facility planning among local governments, school districts and private industries.
OBJECTIVES:
• Shared community vision.
• Increased communication and problem solving.
• Encourage joint-use facilities and collocation of needs for cost-effectiveness and community building.
10. ISSUE: *Multiple community interests (including local government, arts organizations, and social organizations) are competing for tax dollars for facility development and maintenance, resulting in taxpayer fatigue and overall declining support for capital and maintenance projects.*
GOAL: Adequate funding for necessary public facilities' maintenance and improvement without
overburdening taxpayers.
OBJECTIVES:
• Coordinated and prioritized capital improvements planning for all community interests.
• Identify shared funding sources.
• Coordinated bonding requests to balance all interests.

Cultural and Historic Resources Element

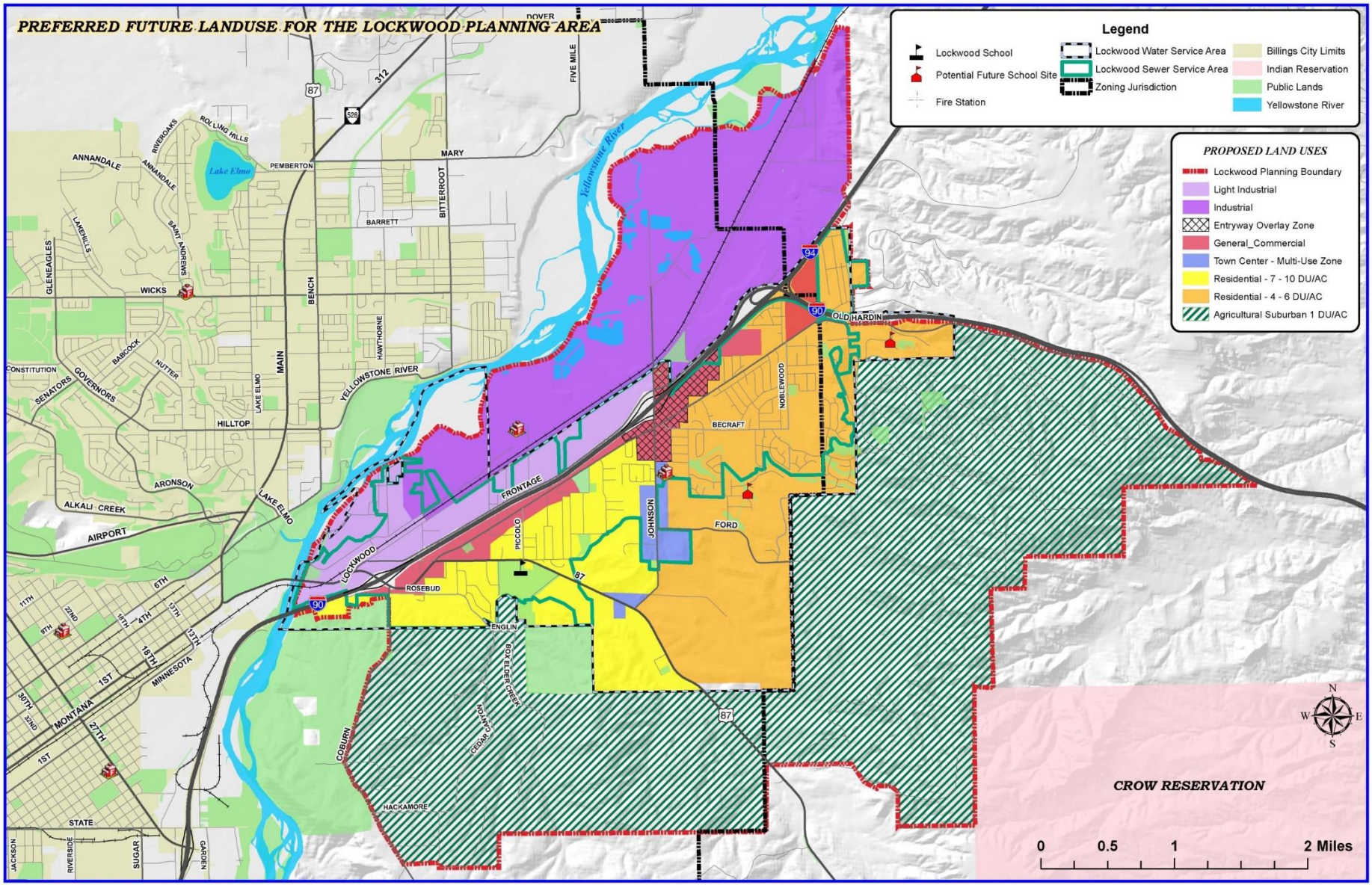
1. ISSUE: *Historic landmarks and structures are being lost to neglect and development.*
GOAL: Identification and protection of the historical, archeological, and cultural resources of Yellowstone County.
OBJECTIVES:
• Improve awareness of historic and cultural resources.
• Increase property values through structural rehabilitation.
2. ISSUE: *Cities must link economic development with quality of life. Businesses and professionals are attracted to a culturally aware city.*
GOAL: Actively maintain existing cultural institutions in Billings and support additional venues and interest.
OBJECTIVES:
• Promote the community's rich historical and cultural heritage.
• Capitalize on Billings' cultural assets to attract and recruit businesses.
3. ISSUE: *Public art is seen as an important part of the Billings landscape.*
GOAL: A visually appealing and attractive landscape.
OBJECTIVES:
• Enhance the natural and built environments with art.
• Support cultural appreciation and education.
4. ISSUE: *There is no requirement for surface archeological surveys to be conducted prior to many*
development processes, nor is there a provision for
salvaging any sites that are discovered.
GOAL: Preservation of archeological, historic, and paleontological resources within Yellowstone County.
OBJECTIVES:
• Preserve unique cultural assets.

• Support cultural appreciation and education.
• Follow State Historic Preservation Office guidelines.

Community Health Element

1. ISSUE: *Existing neighborhood plans lack sufficient detail to address emergency preparedness.*
GOAL: Neighborhoods and communities prepared to react to natural disasters and other emergencies.
OBJECTIVES:
• Identify and acknowledge emergency risks in the community.
• Educate neighborhoods and communities of risks and how to prepare and prevent them.
• Prepare emergency plans so that all responders and citizens know what to do.
2. ISSUE: *Not all neighborhoods are planned with ways to access nutritious foods.*
GOAL: Accessible, affordable and nutritious food for everyone.
OBJECTIVES:
• Reduce malnutrition, diabetes, heart disease, and other nutrition related diseases.
• Ensure equal opportunities to healthy food sources.
• Support local farm produce.
3. ISSUE: *Some roadways are not designed to accommodate pedestrians and therefore create inconvenient and unsafe conditions.*
GOAL: Safe **r**oadways supportive of vehicles, bicycles and pedestrians.
OBJECTIVES:
• Reduce traffic conflicts among multiple user groups.
• Support and encourage walking and bicycling for exercise and transportation.
• Provide safe walking routes to schools.
• Reduce vehicle carbon emissions.
4. ISSUE: *Physical activity is not seen as a viable means of getting from place to place.*
GOAL: Physically active, healthy citizens.
OBJECTIVES:
• Neighborhoods designed in ways that promote physical activity.
• Reduce healthcare costs.
• Reduce vehicle carbon emissions.
5. ISSUE: *Neighborhoods lack a sense of community, which is contributing to neighborhood decline.*
GOAL: Healthy, safe neighborhoods and communities with sense of pride.

OBJECTIVES:
• Citizens with a sense of belonging.
• Safe places to live and raise children.
• Local governments who are responsive to neighborhood needs.
6. ISSUE: *Some neighborhoods are not safe.*
GOAL: Active, safe neighborhoods with a high quality of life.
OBJECTIVES:
• Address neighborhood nuisances to promote safety.
• Adequate resources for public safety and crime prevention.
7. ISSUE: *Poor housing and lack of living wage jobs puts the health of residents at risk.*
GOAL: Adequate affordable housing and living wage options for all citizens.
OBJECTIVES:
• Reduce poverty related health issues.
• Provide service workers more options for housing and basic needs.


PREFERRED FUTURE LANDUSE FOR THE LOCKWOOD PLANNING AREA
Legend
Lockwood School
Potential Future School Site
Fire Station
Lockwood Water Service Area
Lockwood Sewer Service Area
Zoning Jurisdiction
Billings City Limits
Indian Reservation
Public Lands
Yellowstone River
PROPOSED LAND USES
Lockwood Planning Boundary
Light Industrial
Industrial
Entryway Overlay Zone
General_Commercial
Town Center - Multi-Use Zone
Residential - 7 - 10 DU/AC
Residential - 4 - 6 DU/AC
Agricultural Suburban 1 DU/AC
CROW RESERVATION
0 0.5 1 2 Miles
N
S
E
W
DOVER
FIVE MILE
312
87
ANNANDALE
RIVEROAKS
ROLLING HILLS
Lake Elmo
PEMBERTON
MARY
BITTERROOT
BARRETT
Yellowstone River
GLENEAGLES
LAKEHILLS
SAINT ANDREWS
WICKS
BENCH
HAWTHORNE
CONSTITUTION
BABCOCK
NUTTER
GOVERNORS
SENATORS
MAIN
LAKE ELMO
HILLTOP
YELLOWSTONE RIVER
ARONSON
ALKALI CREEK
AIRPORT
FRONTAGE
LOCKWOOD
PICCOLO
JOHNSON
BECRAFT
NOBLEWOOD
FORD
OLD HARDIN
94
90
ROSEBUD
ENGLIN
BOX ELDER CREEK
CEDAR CANYON
COBURN
HACKAMORE
6TH
11TH
2ND
8TH
4TH
15TH
13TH
18TH
1ST
MINNESOTA
30TH
32ND
MONTANA
27TH
STATE
JACKSON
RIVERSIDE
SUGAR
GARDEN

Name	Organization
Darell Tunnicliff	City/County Planning Board
David Goodridge, Chair	City/County Planning Board
Troy Boucher	City/County Planning Board
Woody Woods	City/County Planning Board
John Ostlund	BOCC
Shaun Brown	City Council
Tyler Bush	County Zoning Commission
Carlotta Hecker	County BOA
Mike Boyett	City Zoning Commission
Mark Noennig	City BOA
Kolten Knatterud	Territorial Landworks
Pat Davies	Sanderson Stewart
Jan Rehberg	Rehberg Ranch
Greg McCall	McCall Development
Virgil Middendorf	Heights Comm. Task Force
Marty Connell	Kairos Inc.
Steve Arveschoug	BSEDA
Melissa Henderson	Riverstone Health
Steve Zeier	Zeier Consulting
Bill Stene	Realtor

County Issues Working Group
Name
Darell Tunnicliff
Troy Boucher
Carlotta Hecker
Woody Woods
Tyler Bush
Mike Boyett
John Ostlund
Jeff Bollman
Steve Arveschoug

Urban Issues Working Group
Kolten Knatterud
Mellisa Henderson
Pat Davies
Greg McCall
Mark Noennig
Jan Rehberg
Fran Bertholet

Sign Code Working Group
David Goodridge
Jan Rehberg
Mike Boyett
Shaun Brown
Steve Zeier
Cheryl Lenhardt
Jeff Bollman
Paul Cox

Landscaping Working Group
Darell Tunnicliff
Woody Woods
Bill Stene
John Ostlund
Neil Kiner
Jerry Ray
Good Earth Works

ADU Task Group
Greg McCall
Jan Rehberg
Troy Boucher
Darell Tunnicliff
Ron Hill
Sheldon Douglas
Brian Johnson

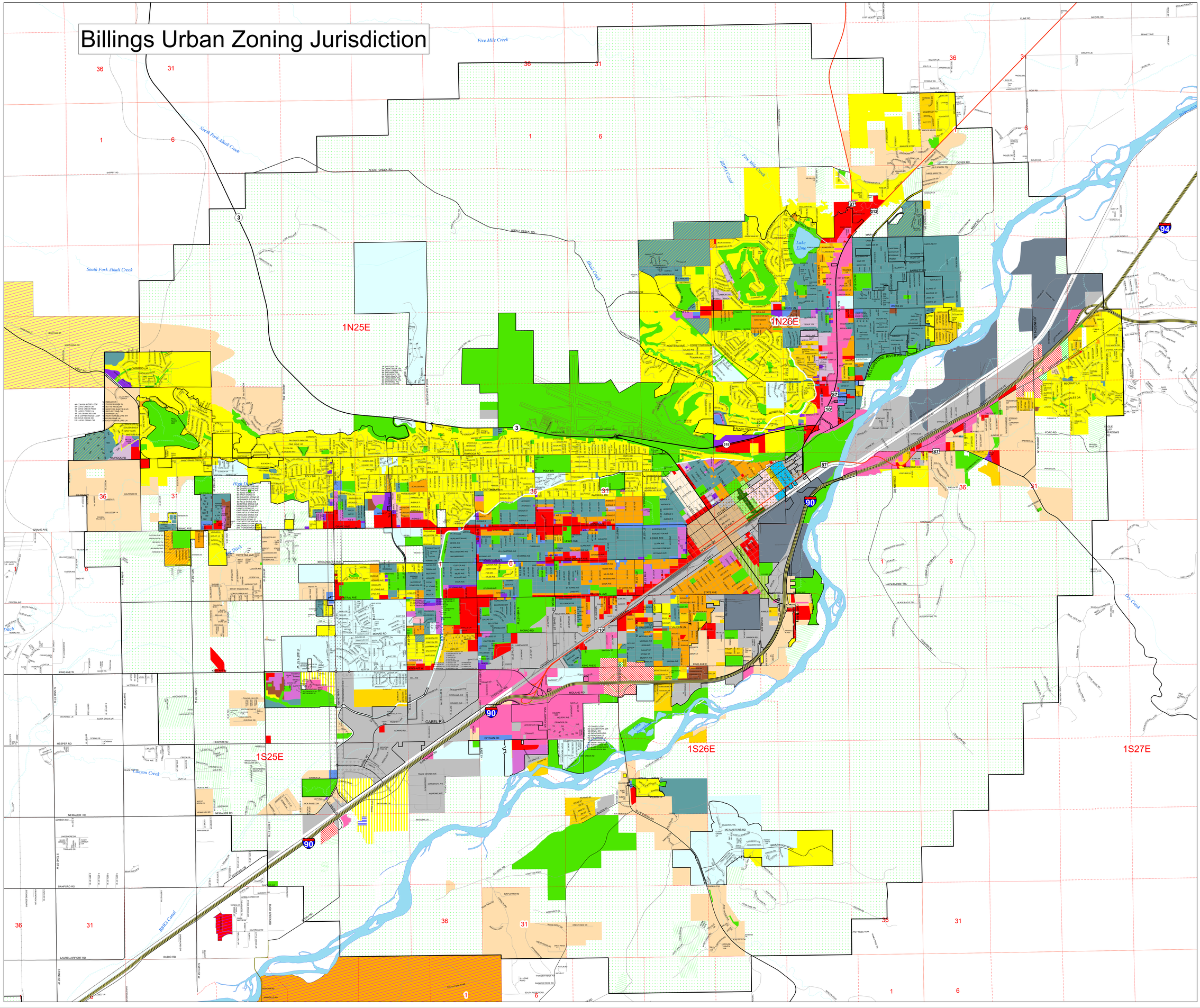
Project Re:Code

Billings I Yellowstone County

Mission Statement – To create a zoning code that allows for efficient and intelligent growth while meeting the goals of the community today and into tomorrow. As the Steering Committee, working groups, City & County staff review, revise and draft new zoning regulations, we will adhere to the following Guiding Principles:

- **CLARIFY AND SIMPLIFY** - All new regulations will be written in Plain English to maximize readers' ability to find what they need, understand what they find, and use what they find to meet their needs.
- **REGULATE WHAT MATTERS** - The regulations will have a clear alignment with community goals today while allowing for changing goals in the future.
- **PRESERVE AND PROTECT THE RIGHTS OF OWNERS AND RESIDENTS** - The regulations will recognize and incorporate clear and well defined processes that uphold property rights and access to housing choices.
- **PREVENT CONFLICTS** - The regulations will be internally consistent and will not create direct or un-reconcilable conflicts.
- **OPTIONS AND CONTEXT** - The regulations will provide a range of site development options with clear criteria and guidelines for allowing alternatives to future development as well as changes to existing neighborhoods as the community's goals change.
- **MAINTAIN WHAT WE CARE ABOUT** - The regulations will encourage stability of existing neighborhoods while allowing for changes over time.
- **FILL THE VOID** – The regulations will consider and include land uses and combinations of land uses that have been overlooked or not considered in the current code and methods for accommodating new use options.
- **PROSPERITY** – The regulations will serve to support the community's need and desire to remain regionally competitive in the recruitment of businesses, expansion of existing business, and private investment in the economy, all to promote job creation.

Billings Urban Zoning Jurisdiction



- Public
- Residential 15000
- Residential 9600
- Residential 8000
- Residential 7000
- Residential 7000 Restricted
- Residential 6000
- Residential 6000 Restricted
- Residential 5000
- Residential Multi-Family
- Residential Multi-Family Restricted
- Residential Manufactured Home
- Residential Professional
- Neighborhood Commercial
- Community Commercial
- Central Business District
- Planned Unit Development
- Highway Commercial
- Heavy Industrial
- Controlled Industrial
- Agricultural Open
- Agricultural Suburban
- Entryway Light Commercial
- Entryway General Commercial
- Entryway Mixed Use
- Entryway Light Industrial
- East Billings Railspur Village
- East Billings Railspur Village Main St.
- East Billings Central Works
- East Billings 13th St. Main St.
- East Billings Industrial Sanctuary
- Medical Corridor Permit Zoning District
- S. 27th Street Permit Zoning District
- East Billings Parking District
- Shiloh Corridor Overlay District
- South Shiloh Corridor Overlay District

Special Zoning Districts

- 12
- 14
- 20

CITY LIMITS

- BILLINGS

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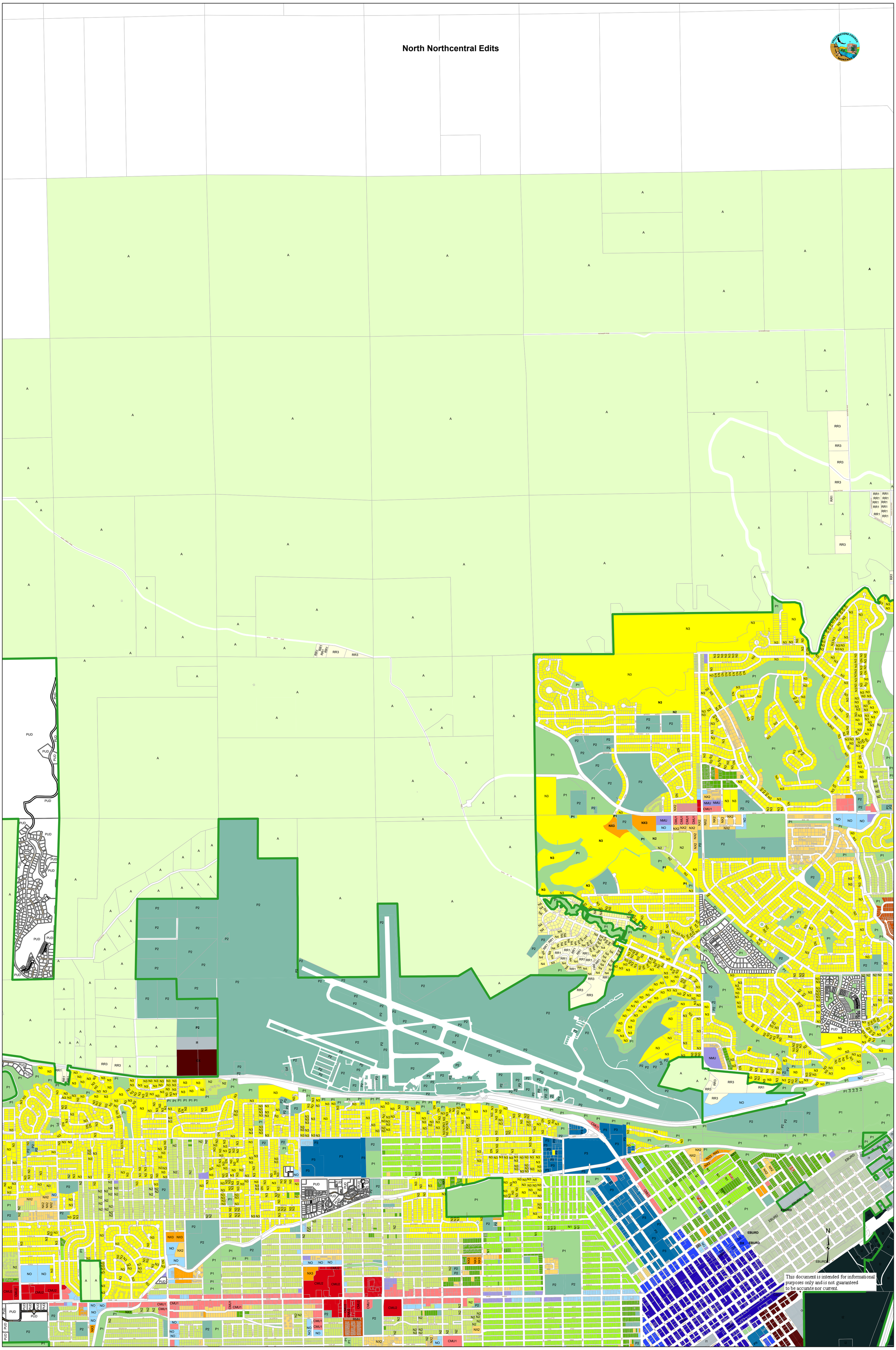
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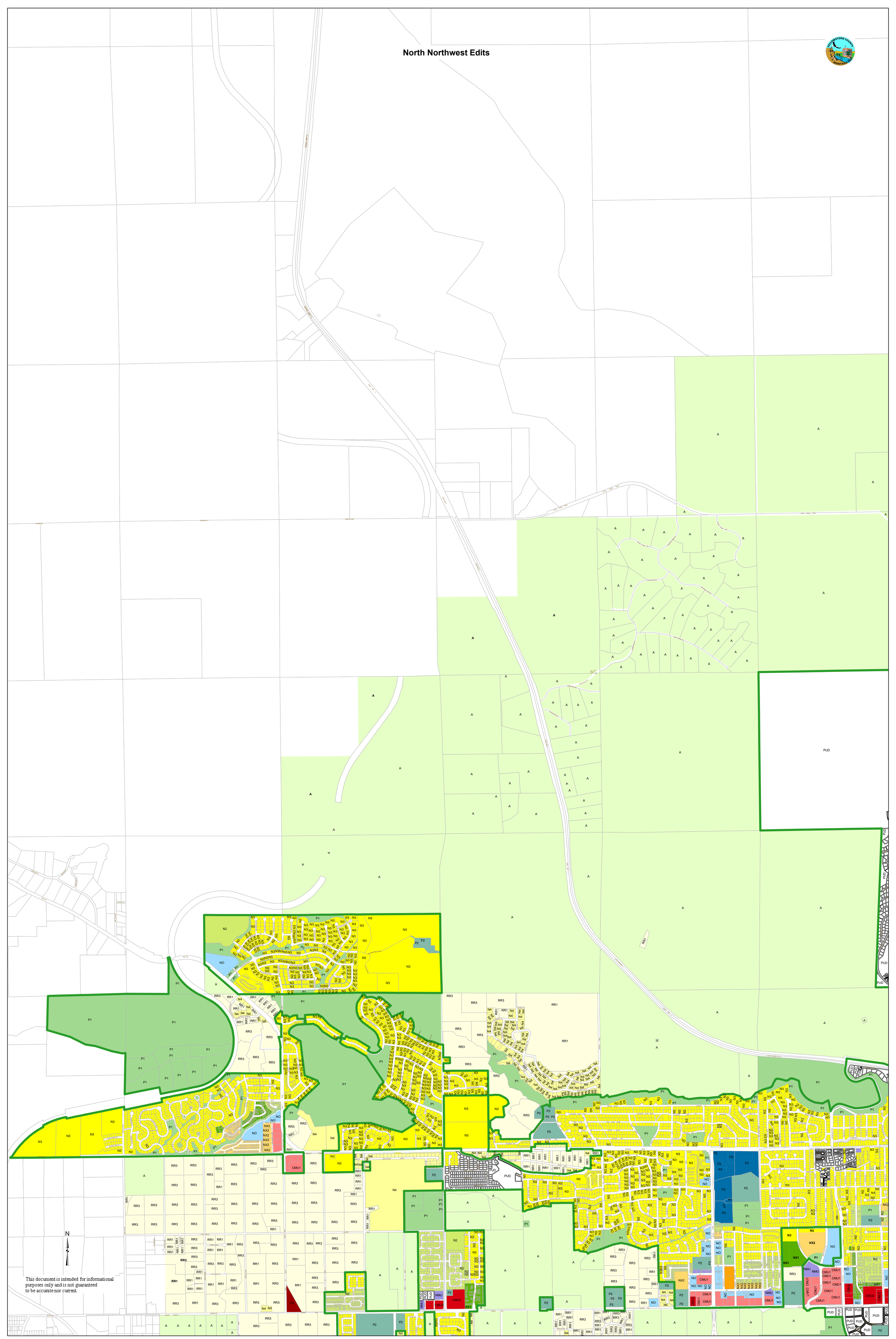
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YELLOWSTONE COUNTY GIS
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North Northeast Edits

North Northcentral Edits



North Northwest Edits



South Southeast Edits

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South Southcentral Edits

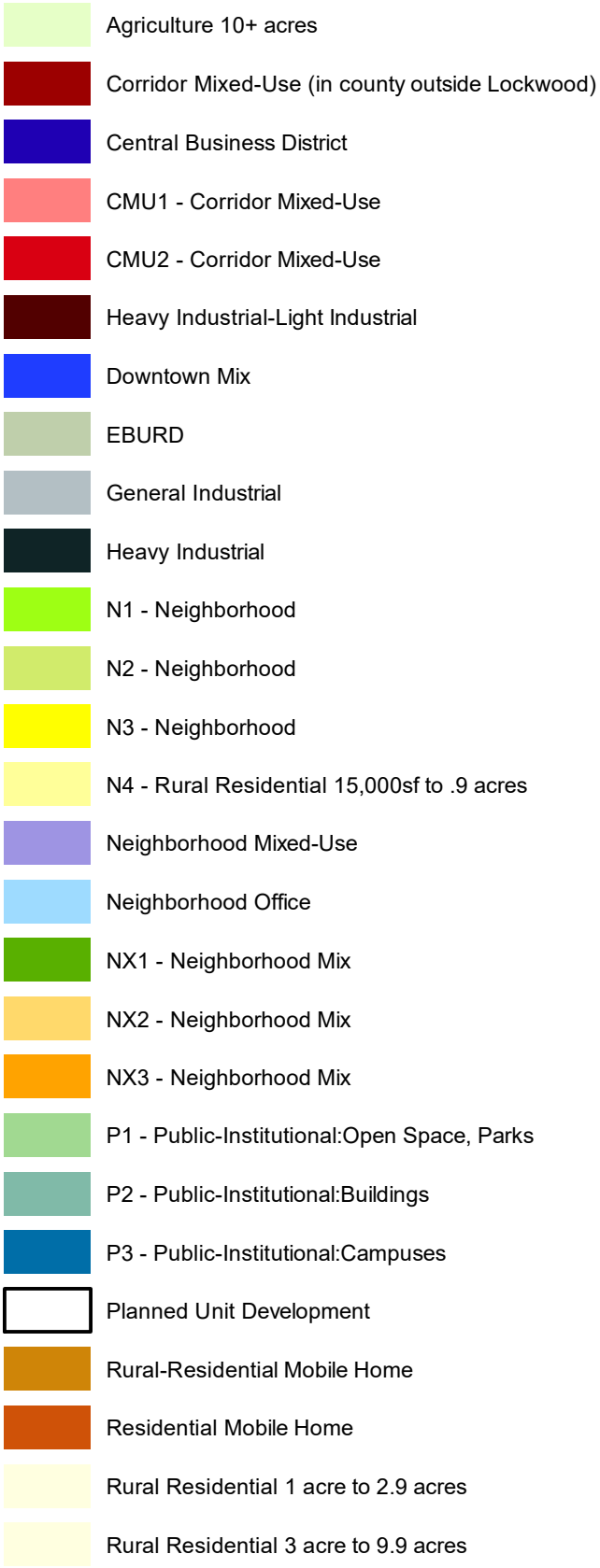
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South Southwest Edits

This document is intended for informational purposes only and is not guaranteed to be accurate nor current.

Legend

Billings New Zoning



ARTICLE 27-1500. CITY AND COUNTY ZONING COMMISSIONS AND CITY AND COUNTY BOARDS OF ADJUSTMENT

SEC. 27-1501. CITY ZONING COMMISSION CREATED.

There is hereby created a City of Billings zoning commission to consist of five (5) members residing on property, any part of which lies within the limits of the City of Billings. The members are to be appointed by the mayor, subject to confirmation by the city council, for a term of four (4) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year.

The members of said city zoning commission are required to attend all city zoning commission meetings advertised publicly, except in the case of an excused absence. The presence of three (3) members shall constitute a quorum.

The duties and powers of the city zoning commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the city council on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The city council shall not hold its public hearing or take any action until it has received a final report from such commission.

SEC. 27-1502. AMENDMENTS TO CHAPTER.

(a) *General.* This chapter, including the official zoning map, may be amended only by the city council but no amendment shall be finally approved by the city council unless it has been submitted to the city zoning commission for review and recommendation. Proposals to amend this chapter, including the official zoning map, may be initiated by the city council or by the board of planning. Proposals to amend this chapter, except for the official zoning map, may also be initiated by the city zoning commission. Before enacting an amendment to this chapter, the city council shall give public notice and hold a public hearing thereon. Before enacting on its own motion an amendment to the official zoning map, the city council shall provide written notification by mail of such amendment to each property owner whose name appears on the last tax record of the property subject to the amendment. The notification shall include what the proposed amendment is, the time, date and place of the public hearing on the proposed amendment. Such notification shall be made no less than fifteen (15) days nor more than thirty (30) days in advance of the date of public hearing.

(b) *Applications for map amendments.* Unless initiated by the city council or board of planning, all applications for official map amendments must be submitted by the owner of such property, the contract purchaser, or the authorized agent of the owner. An application for an amendment affecting the same property shall not be submitted more often than once every twelve (12) months. Each application to amend the official map shall be filed with the zoning coordinator, and each application shall be submitted under the following conditions:

(1) The applicant or his/her authorized agent shall submit the following pre-application information to the planning department to begin the zone change process:

a. Legal description of the subject parcel(s), along with a map showing the dimensions, acreage and location of the parcel(s);

b. The names and addresses of the owner(s) and contract purchasers, if any, of the subject property and their agent(s), if any, along with the recorded property owner's signature;

c. A zone change plan which shall consist of the following:

i. A written description of the proposed zone change including the area in square footage or acres to be included in the zone change.

ii. If there are multiple zone changes proposed, the location and area of each specific new zoning district.

(2) The planning department shall provide a list of surrounding property owners within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s) to the applicant or his/her agent based on the submitted information.

(3) The applicant or his/her agent shall conduct a pre-application neighborhood meeting to explain the proposed new zoning and receive comment from the surrounding property owners. The applicant or his/her agent shall notify in writing the persons on the surrounding property owner list as provided in subsection (2) and the planning department of the date, time and location of the pre-application neighborhood meeting. The pre-application neighborhood meeting shall be conducted within 2 radius miles of the subject parcel. The written notification shall be mailed at least seven (7) calendar days prior to the scheduled meeting. The written notification shall include all the materials noted in subsection 27-1502 (b) 1. The pre-application neighborhood meeting shall be conducted at least seven (7) calendar days prior to the submittal of the proposed zone change to the planning department. The applicant shall obtain a roster of the names of the persons that attend the pre-application neighborhood meeting and make a record of the minutes of the meeting.

(4) Once the pre-application neighborhood meeting has been conducted the applicant or his/her agent may submit a zone change application and it shall include but not be limited to the following information:

a. A legal description of the tract(s) proposed to be rezoned;

b. A map showing the dimensions, acreage and location of the tract(s) being changed;

c. The names and addresses of the owner(s) of the land and their agents, if any, along with the recorded property owner's signature;

d. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);

e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list; and

f. Payment of all applicable fees.

g. A signed statement affirming the pre-application neighborhood meeting was conducted in conformance with the requirements of Section 27-1502(b) 3, and the zone change application is based on material presented at the meeting. The signed statement shall include a copy of the meeting notice, any written materials provided to the surrounding property owners, a brief synopsis of the meeting results, a roster of the persons attending the meeting and audio or written minutes of the meeting.

(5) An application for amendment to the official map shall be submitted at least twenty (20) days prior to the date of the public hearing before the city zoning commission.

(6) An application for a zone change may be withdrawn or amended as follows:

a. No application may be amended after the legal advertising, as required by below subsection (c) herein has been published.

b. An application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the city zoning commission without respect to the twelve (12) month waiting period. After legal notice for the city zoning commission has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The city zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. After the city zoning commission hearing, a request for withdrawal shall be submitted to the city clerk and shall be submitted by the property owner or authorized agent, as listed on the application. The city council shall have exclusive authority to act on any request for withdrawal after notice of the city council public hearing has been published.

c. An applicant may withdraw an application for any particular property only once within the twelve (12) month period commencing with the submittal of the original application.

d. After withdrawal of an application, no new application for the same property shall be made until four (4) months after the date of withdrawal of the original application.

(c) *Planning department study and responsibility.* The zoning coordinator, upon receiving an application for rezoning of an area or a particular piece of property shall do the following:

(1) Consult with other departments of the city and/or county to fully evaluate the impact of any zoning change upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;

(2) Study each application with reference to its appropriateness and effect on existing and proposed land use, and references to the growth policy;

(3) In the case of a protest petition filed in the matter of any application for rezoning, determine the validity of such petition;

(4) Publish notice of the application in a newspaper of general circulation at least fifteen (15) days in advance of the date of the city zoning commission public hearing. The notice shall contain: the classification sought, the location of the property, and the date, time and place of the city zoning commission public hearing;

(5) Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the city zoning commission public hearing of the date, time and place of such hearing;

(6) Notify, by mail, all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the rezoning at least fifteen (15) days in advance of the time, date, place of the city zoning commission public hearing and the existing and proposed classification. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed rezoning of the property would likely have a substantial impact on the surrounding land uses;

(7) Place notice of the city zoning commission public hearing on the property subject to rezoning at least fifteen (15) days in advance of the date of public hearing; and

(8) Report his/her findings and conclusions in writing to the city zoning commission, which report shall be a matter of public record.

(d) *City zoning commission action.* The city zoning commission shall review and take action upon each application in accordance with the provisions of this chapter, and after a public hearing at which the application has been legally advertised. Each application shall be presented to the city zoning commission by the zoning coordinator, together with his/her findings and conclusions on the matter. The city zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) 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. The city zoning commission shall make a recommendation to the city council to:

(1) Deny the application; or

(2) Grant the application.

The city zoning commission shall submit its recommendations in writing along with a statement indicating its reasons for the recommendation to grant, deny, or allow withdrawal of the amendment within fifteen (15) days following the public hearing. In no case shall the city zoning commission make a recommendation that an amendment be granted for an amendment that was not legally advertised.

In making its recommendation to the city council for an amendment to the official map or text of this chapter, the city zoning commission shall consider, among other things, the following:

(1) Whether the new zoning is designed in accordance with the growth policy;

(2) Whether the new zoning is designed to secure from fire and other dangers;

(3) Whether the new zoning will promote public health, public safety and general welfare;

(4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;

(5) Whether the new zoning will provide adequate light and air;

(6) Whether the new zoning will effect motorized and non-motorized transportation;

(7) Whether the new zoning will promote compatible urban growth;

(8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;

(9) Whether the new zoning will conserve the value of buildings; and

(10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

(e) *City council public hearing.* Before taking action on an application for an amendment to the official map, and after presentation of the city zoning commission report, the city council shall hold a public hearing on the application.

As provided in Montana Code Annotated, Section 76-2-305(2), in the event of a protest petition against such zone change signed by the owners of twenty-five (25) percent or more of: (1) the area of the lots included in any proposed change; or (2) those lots or units, as defined in MCA 70-23-102, one hundred fifty (150) feet from a lot included in a proposed change, such proposed amendment shall not become effective except by the favorable vote of two-thirds (2/3) of the present and voting members of the city council. For purposes of this protest provision, each unit owner is entitled to have the percentage of the unit owner's undivided interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in 70-23-102, spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located. The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change or by the presiding officer of the association of unit owners. The protest petition must be received in the planning department office by 5:00 p.m. on the Friday preceding the first reading of the amendment by the city council.

(f) *City council action.* Before taking any action on an application for an amendment to the official map, or amendment to the text of this resolution/ordinance, the city council shall first consider the findings and recommendations of the city zoning commission. In no case shall the city council approve an amendment for a classification other than the one advertised. 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) days.

When such proposed amendment has been denied by the city council neither it nor one involving the same tract shall be submitted for adoption within one (1) year after such denial.

SEC. 27-1503. SPECIAL REVIEW BY CITY ZONING COMMISSION.

(a) *General.* Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan.

(b) *Application for special review; procedure.* An application for a special review may be filed by the property owner, contract purchaser, or his/her authorized agent. Such application shall be filed with the zoning coordinator and shall be submitted under the following conditions:

(1) The application shall include, but not be limited to the following information:

a. A legal and general description of the tract(s) upon which the special review use is sought;

b. A map showing the dimensions, acreage and location of the tract(s);

c. The names and addresses of the owner(s) of the tract and his/her agent, if any, along with the recorded property owner's signature;

d. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading; service and refuse areas; means of ingress and egress; landscaping, screening, signs, and open space areas;

e. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);

f. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;

g. The application must be accompanied by the payment of all applicable fees; and

h. Any other information the applicant believes will support his/her request or other information as requested by the zoning coordinator or planning department.

(2) The application must be submitted at least twenty (20) days prior to the date of the public hearing before the city zoning commission.

(3) An application may be withdrawn or amended at any time prior to the publication of the legal advertisement for the public hearing before the city zoning commission. After legal notice for the city zoning commission has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The city zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. After the city zoning commission hearing, a request for withdrawal shall be submitted to the city clerk and shall be submitted by the property owner or authorized agent, as listed on the application. The city council shall have exclusive authority to act on any request for withdrawal after notice of the city council public hearing has been published.

(c) *Planning department action.* The zoning coordinator, upon receiving an application for a special review use shall do the following:

(1) Consult with other departments of the city and/or county to fully evaluate the impact of the use contemplated under the special review application upon public facilities and services;

(2) Study each application with references to its appropriateness and effect on existing and proposed land uses, and its relationship to the comprehensive plan;

(3) Advertise notice of the application in a newspaper of general circulation fifteen (15) days in advance of the date of the public hearing. The notice shall contain: the use proposed, the location of the property, and the date, time and place of the public hearing;

(4) Notify, by mail, the applicant and/or his/her authorized agent five (5) days prior to the date of the public hearing of the date, time and place of such hearing;

(5) Notify, by mail, all the property owners within three hundred (300) feet of the exterior boundaries of the tract subject to the special review, fifteen (15) days in advance of the time, date, place and proposed use. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;

(6) Place notice of the public hearing on the property subject to the special review fifteen (15) days in advance of the public hearing; and

(7) Report his/her conclusions and findings, in writing, to the city zoning commission which report shall become a matter of public record.

(d) *City zoning commission action.* The city zoning commission shall consider each application in accordance with the provisions of this chapter, and at a public hearing at which time the application has been legally advertised. Each application shall be presented to the city zoning commission, by the zoning coordinator or his/her designee, together with his/her conclusions and findings on the matter. The city zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A written report of the commission's decision and recommendation and the zoning coordinator's report shall be submitted to the city council.

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

(1) Deny the application;

(2) Approve the application; or

(3) Conditionally approve the application.

Recommendations from the city zoning commission shall be based on findings of fact and shall be transmitted to the applicant or his/her agent, and the city council within fifteen (15) days of the date of the public hearing before the commission.

Before approving a special review use, the city zoning commission shall find that the contemplated use:

(1) Complies with all requirements of this chapter;

(2) Is consistent with the objectives and purposes of this chapter and the comprehensive plan; and

(3) Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further, the city zoning commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

(1) Street and road capacity;

(2) Ingress and egress to adjoining streets;

(3) Off-street parking;

(4) Fencing, screening and landscaping;

(5) Building bulk and location;

(6) Usable open space;

(7) Signs and lighting; and/or

(8) Noise, vibration, air pollution and similar environmental influences.

(e) *City council action.* The recommendation of the city zoning commission shall be published in a newspaper of general circulation and at least fifteen (15) days after the first publication of such notice, a public hearing shall be held by the city council. Before taking any action on an application for a special review use, the city council shall first consider the findings and recommendations of the city zoning commission. In no case shall the city council approve a special review use other than the one advertised. 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) days.

SEC. 27-1504. CLASSIFICATION OF NEWLY ANNEXED AREA.

(a) Annexations of land into the City of Billings may be effected under several statutory procedures. When a parcel of land is annexed to the city under any procedure except annexation by petition, the appropriate zone shall be determined as follows:

(1) Immediately subsequent to the adoption of resolution/ordinance of intent to annex, the zoning coordinator and planning staff will determine the most appropriate zone. They will work closely with the owner of the land. The land owner shall have adequate opportunity to have full input, but the final classification shall be made by the zoning coordinator and the planning staff.

(2) Upon determination of the classification the zoning coordinator shall follow the procedure set forth in above BMCC section 27-1502(C) except that the report, findings and conclusions shall be submitted to the city council prior to or concurrently with the services report that is required by the annexation statutes.

(3) A public hearing on the zoning classification shall be held concurrently with the public hearing on the annexation before the city council, provided that the hearing shall not be sooner than fifteen (15) days after notice of the proposed zone has been given.

(4) If the zoning classification is not approved by the city council, the land shall retain the zone classification it had in the county; provided, that if the county classification is not identical to the city classification the city classification established will be the closet equivalent zone.

(b) When the proposed annexation is by petition pursuant to MCA Title 7, Chapter 2, Part 46 (section 7-2-4601, et seq.), the petitioners shall, concurrently with the petition for annexation, make an application for change of zoning that the petitioner may desire. All fees shall be paid by petitioner upon filing the application for zoning. Upon filing the application, the zoning coordinator shall follow the procedure set forth in above Section 2. If no application is filed or the application is denied the land shall retain the same zone classification it had in the county provided, that if the county classification is not identical, the city classification established will be the closest equivalent zone. The provisions of this subsection shall not be construed to preclude the city from fixing the zone classification as provided in subparagraph (a). hereinabove.

ARTICLE 27-1500. CITY AND COUNTY ZONING COMMISSIONS AND CITY AND COUNTY BOARDS OF ADJUSTMENT

SEC. 27-1505. CITY BOARD OF ADJUSTMENT.

(a) *Created.* There is hereby created for the City of Billings, a board of adjustment as provided by statute, consisting of seven (7) members appointed by the mayor, with the consent of the city council. The terms of each member shall run concurrent to that of the mayor's. Vacancies shall be filled for the unexpired terms of any members whose terms are interrupted for any reason.

(b) *Proceedings.* The city board of adjustment shall schedule regular meetings, along with special meetings which may also be called by the chairperson. The chairperson may cancel the regularly scheduled meeting if no matters are pending for the board's consideration. The chairperson, or in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The board shall keep minutes of its proceedings, showing the vote of each member, or if absent or failure to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and shall be filed in the office of the Yellowstone County board of planning. Whenever the city board of adjustment grants an application for a variance, the minutes shall specifically state the hardship upon which the variance is granted. The official minutes of the board's proceedings shall be signed by the chairperson or acting chairperson. The decision of the board shall become effective immediately, unless otherwise directed by the board. The zoning coordinator in coordination with each board shall designate a secretary of the board and shall be custodian of all records of the meetings, findings, conclusions and orders of the board.

(c) *Hearings, appeals, notices.* Appeals to the city board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decisions of the administrative office made under the terms of this chapter. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the city board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.

The city board of adjustment shall fix a reasonable time for the hearing of appeal, not to exceed thirty (30) days, give public notice thereof, as well as due notice to the parties in interest, and render a decision within a reasonable time, not to exceed ten (10) days thereafter. At the hearing, any party may appear in person or by agent or attorney.

(d) *Appeals; stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the city board of adjustment, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the city board of adjustment or by a court of record upon application to same and notice to the officer from whom the appeal is taken and on due cause shown.

(e) *Powers and duties.* The city board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the

enforcement or interpretation of this chapter or of any resolution/ordinance adopted pursuant thereto; and

(2) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

(f) *Decisions, appeals, rehearing.* In exercising the above mentioned powers, the city board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution/ordinance, or to effect any variation in the application of this chapter.

Any person aggrieved by any decision of the city board of adjustment, or any affected taxpayer, or any officer, department, board, or bureau of the city may appeal the decision by presenting a petition to a court of record. The petition must set forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) calendar days after the filing of the decision of the board.

If the city board of adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant may deem the matter be denied and may immediately proceed by appeal as provided in this subsection (f).

If an application for an administrative review or variance is denied by the city board of adjustment, another application shall not be filed within a period one (1) year from the date of denial.

ARTICLE 27-1500. CITY AND COUNTY ZONING COMMISSIONS AND CITY AND COUNTY BOARDS OF ADJUSTMENT

SEC. 27-1506. CITY VARIANCES.

(a) *Authority.* The city board of adjustment shall have the authority to grant a variance from the terms of this chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

(b) *Applications.* An application for a variance shall be filed with the zoning coordinator under the following conditions:

(1) The application shall include, but not be limited to the following:

a. A legal and general description of the tract(s) upon which a variance is sought;

b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;

c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet of the exterior boundaries of the tract(s); and

d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.

(2) The applicant shall present a map showing the location of the property for which the application is submitted, and its relation to adjoining property;

(3) The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not necessarily be limited to, the following:

a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulations;

b. The location and size of all existing and proposed buildings, structures and improvements; and

c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.

(4) The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;

(5) The application must be submitted at least twenty (20) days prior to the date of the public hearing;

(6) The application must be accompanied by payment of all applicable fees; and

(7) An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this chapter shall have first appeared.

However, the city board of adjustment may, by majority vote of members present, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.

(c) *Planning department action.* The zoning coordinator, upon receiving an application for a variance shall do the following:

(1) Consult with other departments of the city and/or county to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;

(2) Study each application with reference to its appropriateness and effect on existing and proposed land uses; and its relationship to the comprehensive plan;

(3) Place notice of the time, date and place of the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;

(4) Notify, by mail, the owner of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;

(5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the subject property of the time, date, place and proposed variance. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;

(6) Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and

(7) Report his/her findings, in writing, to the city board of adjustment which report shall be a matter or public record.

(d) *City board of adjustment action.* The city board of adjustment, before it grants a variance shall determine:

(1) That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;

(2) That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;

(4) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;

(5) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this chapter;

(6) The board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and

(7) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

ARTICLE 27-1500. CITY AND COUNTY ZONING COMMISSIONS AND CITY AND COUNTY BOARDS OF ADJUSTMENT

SEC. 27-1507. COUNTY ZONING COMMISSION CREATED.

There is hereby created a Yellowstone County zoning commission to consist of five (5) members residing on property, any part of which lies within the Unincorporated Jurisdictional Area of this chapter but outside the limits of the City of Billings. The members are to be appointed by the board of county commissioners for a term of two (2) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year. At the first regular meeting of the county zoning commission, the commission shall select a chairman and adopt written procedures for the conduct of its responsibilities as established in this section.

The members of said county zoning commission are required to attend all county zoning commission meetings advertised publicly, except in the case of an excused absence. The presence of three (3) members shall constitute a quorum.

The duties and powers of the county zoning commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the board of county commissioners on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The board of county commissioners shall not take any action until it has received a final report from such commission.

SEC. 27-1508. AMENDMENTS TO CHAPTER.

(a) *General.* The regulations, restrictions and boundaries set forth in this chapter may, from time to time, be amended, supplemented, changed or repealed by the board of county commissioners provided, however, that no action on any application for amendment, change or repeal may be taken until the application has first been processed and advertised in accordance with the provisions of this chapter.

(b) *Application for map amendments.* Unless initiated by the board of planning or board of county commissioners, all applications for an amendment to the official map, or to the text of this chapter must be submitted in person by the property owner, the contract purchaser or the authorized agent of the property owner. Proposals to amend this chapter, except for the official zoning map, may also be initiated by the county zoning commission. An application for an amendment affecting the same property shall not be submitted more than once every twelve (12) months.

Each application to amend the official map or text shall be filed with the zoning coordinator, and each application shall be submitted under the following conditions:

(1) The applicant or his/her authorized agent shall submit the following information to the planning department to begin the zone change process:

a. Legal description of the subject parcel(s), along with a map showing the dimensions, acreage and location of the parcel(s);
b. The names and addresses of the owner(s) of the subject property and contract purchasers, if any, and their agent(s), if any, along with the recorded property owner's signature;
c. A zone change plan which shall consist of the following:

i. A written description of the proposed zone change including the area in square footage or acres to be included in the zone change.

ii. If there are multiple zone changes proposed, the location and area of each specific new zoning district.

(2) The planning department shall provide a list of surrounding property owners within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s) to the applicant or his/her agent based on the submitted information.

(3) The applicant or his/her agent shall conduct a pre-application neighborhood meeting to explain the proposed new zoning and receive comment from the surrounding property owners. The applicant or his/her agent shall notify in writing the persons on the surrounding property owner list as provided in subsection (2) and the planning department of the date, time and location of the pre-application neighborhood meeting. The written notification shall be mailed at least seven (7) calendar days prior to the scheduled meeting. The written notification shall include all the materials noted in subsection 27-1508 (b) 1. The pre-application neighborhood meeting shall be conducted at least seven (7) calendar days prior to the submittal of the proposed zone change to the planning department. The applicant shall obtain a roster of the names of the persons that attend the pre-application neighborhood meeting and make a record of the minutes of the meeting.

(4) Once the pre-application neighborhood meeting has been conducted the applicant or his/her agent may submit a zone change application and it shall include, but not be limited to, the following information:

a. A legal description of the tract(s) proposed to be rezoned;

b. A map showing the dimensions, acreage, and location of the tract(s) and adjacent land uses;

c. The present and proposed classification for the tract(s);

d. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);

e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;

f. The names and addresses of the owner(s) of the land and their agents, if any, along with the recorded property owner's signature; and

g. Payment of all applicable fees.

h. A signed statement affirming the pre-application neighborhood meeting was conducted in conformance with the requirements of Section 27-1508 (b) 3, and the zone change application is based on material presented at the meeting. The signed statement shall include a copy of the meeting notice, any written materials provided to the surrounding property

owners, a brief synopsis of the meeting results, a roster of the persons attending the meeting and audio or written minutes of the meeting.

(5) Any application for an amendment to the official map must be submitted together with all applicable fees, to the zoning coordinator twenty (20) days prior to the date of the public hearing before the Yellowstone County zoning commission.

(6) An application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the county zoning commission without respect to the twelve (12) month waiting period. After legal notice for the county zoning commission public hearing has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The county zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. However, no application shall be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.

(7) An applicant requesting a zone change may request a thirty (30) day delay on the hearing of his/her application before the county zoning commission. The request for the delay and reasons must be submitted in writing to the planning office or chairman of the county zoning commission twenty-four (24) hours in advance of the public hearing. Approval of a delay shall require a majority vote of the members present, without requiring county commission approval of the delay. Only one such delay shall be allowed on any application.

(c) *Planning department action.* The zoning coordinator, upon receiving an application for rezoning an area or a particular piece of property, shall do the following:

(1) Consult with other departments of the city and/or county to fully evaluate the impact of any zoning change upon public facilities and services including, but not limited to schools, drainage, traffic and related facilities;

(2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the growth policy;

(3) Publish notice of the application in a newspaper of general circulation at least fifteen (15) days in advance of the date of the county zoning commission public hearing. The notice shall contain: the classification sought, the location of the property, the date, time and place of the county zoning commission public hearing and that the proposed zone change information is on file for public inspection at the office of county clerk and recorder;

(4) Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the county zoning commission public hearing of the date, time and place of such hearing;

(5) Notify, by mail, all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the rezoning of the date, time and

place of the county zoning commission public hearing and the existing and proposed classification at least fifteen (15) days in advance of that date. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed rezoning of the property would likely have a substantial impact on the surrounding land uses;

(6) Place notice of the county zoning commission public hearing and Board of County Commissioners public hearing on the property subject to rezoning and in four (4) other public places at least forty-five (45) days in advance of the date of the Board of County Commissioners public hearing; and

(7) Report his/her findings and conclusions in writing to the county zoning commission, which report shall be a matter of public record.

(d) *County zoning commission action.* The county zoning commission shall review and take action upon each application in accordance with the provisions of this chapter, and after a public hearing for which the application has been legally advertised. Each application shall be presented to the county zoning commission by the zoning coordinator or his/her designee, together with his/her findings and conclusions on the matter. The county zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) 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 board of county commissioners.

The county zoning commission shall make a recommendation to the board of county commissioners to:

(1) Approve the application; or

(2) Deny the application.

The county zoning commission shall submit its recommendations in writing along with a statement indicating its reasons for the recommendation, or allow withdrawal of the amendment within fifteen (15) days following the public hearing. In no case shall the county zoning commission make a recommendation that an amendment be granted for an amendment that was not legally advertised.

In making its recommendation to the board of county commissioners for an amendment to the official map or text of this chapter, the county zoning commission shall consider, among other things, the following:

(1) Whether the new zoning is designed in accordance with the growth policy;

(2) Whether the new zoning is designed to secure from fire and other dangers;

(3) Whether the new zoning will promote public health, public safety and general welfare;

(4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;

(5) Whether the new zoning will provide adequate light and air;

(6) Whether the new zoning will effect motorized and non-motorized transportation;

(7) Whether the new zoning will be compatible with urban growth in the vicinity of cities or towns;

(8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;

(9) Whether the new zoning will conserve the value of buildings; and

(10) Whether the new zoning will encourage the most appropriate use of land throughout Yellowstone County; and

(11) Whether the new zoning will, as nearly as possible, be compatible with the zoning of nearby cities and towns.

(e) *Board of county commissioners action.* Notice of the board of county commissioners public hearing shall be published once a week for two weeks in a newspaper of general circulation. The notice shall contain the time, date and place of the board of county commissioners public hearing, the boundaries of the proposed district, the general character of the proposed zoning district or regulations and that the proposed zoning regulations or district boundary change are on file for public inspection at the office of the county clerk and recorder. Before taking any action on an application for an amendment to the official map, or amendment to the text of this chapter the board of county commissioners shall first consider the findings and recommendations of the county zoning commission. In no case shall the board approve an amendment for a classification other than the one advertised. The board shall:

(1) Approve the application;

(2) Deny the application;

(3) Allow withdrawal of the application; or

(4) Delay action on the application for a period not to exceed thirty (30) days.

SEC. 27-1509. SPECIAL REVIEW BY COUNTY ZONING COMMISSION.

(a) *General.* Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan.

(b) *Application procedure.* An application for a special review may be submitted by the property owner, contract purchaser or his/her authorized agent. Such application shall be filed with the zoning coordinator and shall be submitted under the following conditions:

(1) The application shall include, but not be limited to, the following information:

a. A legal and general description of the tract(s) upon which the special review use is sought;

b. A map showing the dimensions, acreage and location of the tract(s);

c. The names and addresses of the owner(s) of the tract(s) and his/her authorized agent, if any, along with the recorded property owner's signature;

d. A certified list of the names and addresses of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);

e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;

f. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading; service and refuse areas; means of ingress and egress; landscaping, screening, signs and open space areas;

g. The application must be accompanied by the payment of all applicable fees; and

h. Any other information the applicant believes will support his/her request or other information as requested by the zoning coordinator or planning department.

(2) An application may be withdrawn or amended at any time prior to the publication of the legal advertisement for the public hearing before the county zoning commission. After legal notice for the county zoning commission public hearing has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The county zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. However, no application shall be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.

(3) An applicant may request a delay for a period not to exceed thirty (30) days on the hearing of his/her application before the county zoning commission. The request for the delay and reasons must be submitted in writing to the planning office or chairperson of the county zoning commission twenty-four (24) hours in advance of the public hearing. Approval of a delay shall require a majority vote of the members present, without requiring county commission approval of the delay. Only one (1) such delay shall be allowed on any application.

(4) The application must be submitted, together with all applicable fees, to the zoning coordinator twenty (20) days prior to the date of the public hearing.

(c) *Planning department action.* The zoning coordinator, upon receiving an application for a special review use, shall do the following:

(1) Consult with other departments of the city and/or county to fully evaluate the impact of the use contemplated under the special review application upon public facilities and services;

(2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the comprehensive plan;

(3) Advertise notice of the application in a newspaper of general circulation fifteen (15) days in advance of the date of the county zoning commission public hearing. The notice shall contain the time, date and place of the county zoning commission public hearing;

(4) Notify, by mail, the applicant and/or his/her authorized agent, of the time, date and place of the public hearing five (5) days in advance of that date;

(5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the tract(s) subject to the special review of the time, date, place and proposed use at least fifteen (15) days prior to the public hearing date. The zoning coordinator may notify property owners within a distance greater than three hundred (300) feet if he/she determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;

(6) Place notice of the public hearing on the property subject to the special review fifteen (15) days in advance of the public hearing; and

(7) Report his/her conclusions and findings, in writing, to the county zoning commission, which report shall become a matter of public record.

(d) *County zoning commission action.* The county zoning commission shall consider each application in accordance with the provisions of this chapter, and at a public hearing at which time the application has been legally advertised. Each application shall be presented to the county zoning commission, by the zoning coordinator or his/her designee, together with his/her conclusions and findings on the matter. The county zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A written report of the commission's decision and recommendation and the zoning coordinator's report shall be submitted to the board of county commissioners.

The county zoning commission shall make a recommendation to the board of county commissioners to:

(1) Approve the application;

(2) Conditionally approve the application; or

(3) Deny the application.

Recommendations from the county zoning commission shall be based on findings of fact and shall be transmitted to the applicant, or his/her agent and the board of county commissioners within fifteen (15) days of the date of the public hearing before the commission.

Before approving a special review use, the county zoning commission shall find that the contemplated use:

(1) Complies with all requirements of this chapter;

(2) Is consistent with the objectives and purposes of this chapter and the comprehensive plan; and

(3) Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further, the county zoning commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

(1) Street and road capacity;

(2) Ingress and egress to adjoining streets;

(3) Off-street parking;

(4) Fencing, screening and landscaping;

(5) Building bulk and location;

(6) Usable open space;

(7) Signs and lighting; and/or

(8) Noise, vibration, air pollution and similar environmental influences.

(e) *Board of county commissioners action.* Notice of the board of county commissioners public hearing shall be placed in a newspaper of general circulation. The notice shall contain the time, date and place of the board of county commissioners public hearing. Before taking any action on an application for a special review use, the board of county commissioners shall first consider the findings and recommendations of the county zoning commission. In no case shall the board approve a special review use other than the one advertised. The board 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) days.

SEC. 27-1510. COUNTY BOARD OF ADJUSTMENT.

(a) *Created.* There is hereby created a Yellowstone County board of adjustment consisting of five (5) members residing on property, any part of which lies within the unincorporated jurisdictional area of this chapter, but outside the limits of the City of Billings. The members are to be appointed by the board of county commissioners for a term of two (2) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year.

(b) *Proceedings.* Meetings of the county board of adjustment shall be scheduled at a regular time each month and special meetings may also be called by the chairperson. The

chairperson may cancel the regular monthly meeting if no matters are pending for the board's consideration. The chairperson, or in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. In exercising its powers and duties under this chapter, not less than three (3) members of the board shall constitute a quorum.

The board of adjustment shall keep minutes of its proceedings, showing the vote of each member, or if absent or failure to vote, indicating such fact. The board shall keep records of its examinations and other official actions, all of which shall be public record and shall be filed in the office of the Yellowstone County board of planning, with copies forwarded to the board of county commissioners and zoning coordinator within thirty (30) days. The official minutes of the board's proceedings shall be signed by the chairperson or acting chairperson. The decision of the board shall become effective immediately, unless otherwise directed by the board. The board shall adopt bylaws for the conduct of its affairs and responsibilities under this chapter.

(c) *Hearing, appeals, notices.* Appeals to the county board of adjustment may be taken by any person aggrieved or by any office, department or bureau of the county affected by any decisions of the administrative officer. Such appeal shall be taken within a reasonable time, not to exceed thirty (30) days, by filing a notice of appeal specifying the grounds thereof with the officer from whom the appeal is taken and with the county board of adjustment. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.

The county board of adjustment shall fix a reasonable time for the hearing of appeal, not to exceed thirty (30) days, give public notice thereof, as well as due notice to the parties in interest, and render a decision within a reasonable time not to exceed ten (10) days thereafter. At the hearing any party may appear in person, by agent or attorney.

(d) *Appeals, stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the county board of adjustment, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would in his/her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the county board of adjustment or by a court of record upon application to same and notice to the officer from whom the appeal is taken and on due cause shown.

(e) *Powers and duties.* The county board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or interpretation of this chapter or of any resolution/ordinance adopted pursuant thereto;

(2) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

(f) *Decision and appeals.* In exercising the above mentioned powers, the county board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm,

wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken. The concurring vote of three (3) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution/ordinance, or to effect any variation in the application of this chapter.

Any person aggrieved by any decision of the county board of adjustment, or any affected taxpayer, or any officer, department, board or bureau of the county may appeal the board's decision, subject to the following procedure:

(1) Present to a court of record a petition setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the decision of the board;

(2) That all action permitted by a grant of variance pursuant to the authority granted herein shall be stayed pending a petition to a court of record. The stay shall continue until the court has made a final determination;

(3) If the county board of adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant may deem the matter denied and may immediately proceed by appeal as provided in this BMCC section 27-1510(F).

If an application for an administrative review or variance is denied by the county board of adjustment, another application shall not be filed within a period of one (1) year from the date of denial.

SEC. 27-1511. COUNTY VARIANCES.

(a) *Authority.* The county board of adjustment shall have the authority to grant a variance from the terms of the chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

(b) *Application procedure.* An application for a variance shall be filed with zoning coordinator under the following conditions:

(1) The application shall include, but not be limited to, the following:

a. A legal and general description of the tract(s) upon which the variance is sought;

b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;

c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s); and

d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.

(2) The applicant shall present a map showing the location of the property for which the application is submitted, and its relationship to adjoining property;

(3) The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not be limited to, the following:

a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulation;

b. The location and size of all existing and proposed buildings, structures and improvements; and

c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.

(4) The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;

(5) The application must be submitted at least twenty (20) days prior to the date of public hearing;

(6) The application must be accompanied by the payment of all applicable fees; and

(7) An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this Section shall have first appeared. However, the county board of adjustment may, by a two-thirds vote of all members, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.

(c) *Planning department action.* The zoning coordinator, upon receiving an application for a variance, shall do the following:

(1) Consult with other departments of the city and/or county to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;

(2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the comprehensive plan;

(3) Place notice of the time, date and place for the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;

(4) Notify, by mail, the owner(s) of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;

(5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the variance of the time, date, and place of the public hearing and the proposed variance request at least fifteen (15) days prior to the public hearing. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet, if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;

(6) Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and

(7) Report his/her findings, in writing, to the county board of adjustment, which report shall be a matter of public record.

(d) *County board of adjustment action.* The county board of adjustment, before it grants a variance shall determine:

(1) That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;

(2) That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;

(4) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;

(5) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this Resolution/Ordinance. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Resolution/Ordinance;

(6) The board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and

(7) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this Resolution/Ordinance in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the same district.

SECTION 27-1601 OVERVIEW OF PROCEDURAL REQUIREMENTS

A. ORGANIZATION

The administration of zoning processes and permits is divided into two categories. Commonly applicable procedures (Sections 27-1603 to 27-1613) and specific procedures (Sections 27-1614 to 27-1628). Both are described in this section.

1. Commonly Applicable Procedures

The following requirements are common to many of the procedures contained in this Zoning Code. Applications are typically processed in accordance with the steps shown in Figure 27-1600.A. Additional details may be included in each specific procedure.

(a) Sec. 27-1603, Pre-Application Meeting

(b) Sec. 27-1604, Neighborhood Meeting

(c) Sec. 27-1605, Application Submission Meeting

(d) Sec. 27-1606, Procedures for Complete Applications with Changed Status

(e) Sec. 27-1607, Staff Review, Referral, and Recommendation

(f) Sec. 27-1608, Public Notice Requirements

(g) Sec. 27-1609, Review and Decision-Making Bodies

(h) Sec. 27-1610, Action by Review and Decision-Making Bodies

(i) Sec. 27-1611, Post-Review Actions

(j) Sec. 27-1612, Lapsing and Extension of Approvals

(k) Sec. 27-1613, Other Permits and Approvals Still Necessary

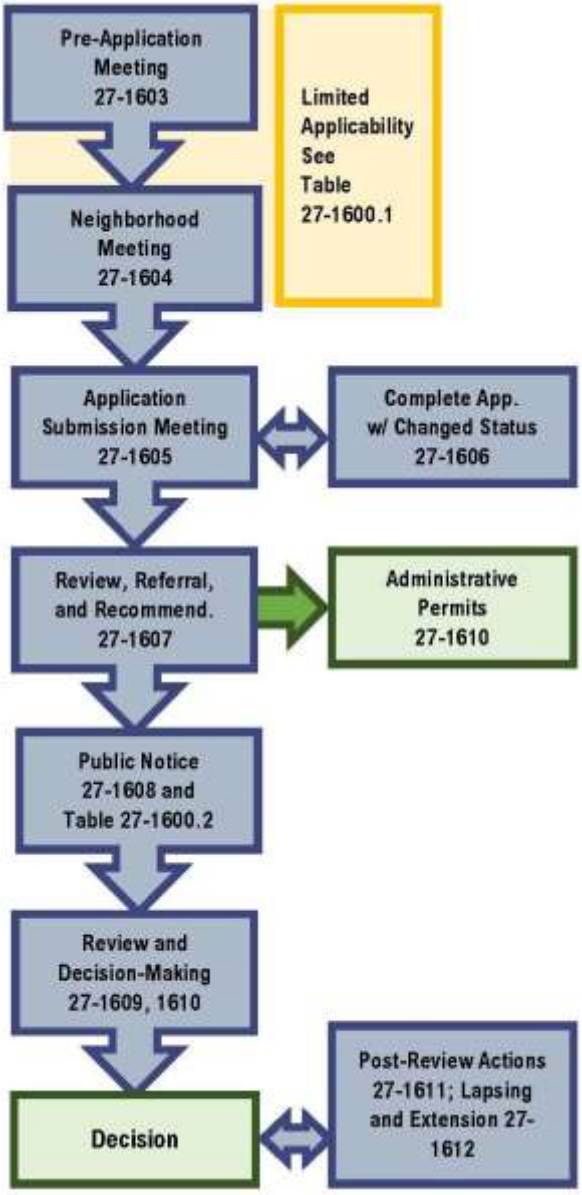


Fig. 27-1600.A: Commonly Applicable Procedures

2. Specific Procedures

Sections 27-1614 to 27-1626 provide the application-specific requirements for review and submission of each type of application or permit available:

(a) Sec. 27-1614, Administrative Relief

(b) Sec. 27-1615, Appeal of Administrative Decision

(c) Sec. 27-1616, Code Interpretation

(d) Sec. 27-1617, Landscape Plan

(e) Sec. 27-1618, Master Site Plan

(f) Sec. 27-1619, Permits

(g) Sec. 27-1620, Short-Term Rentals

(h) Sec. 27-1621, Sign Permit

(i) Sec. 27-1622, Special Review Uses

(j) Sec. 27-1623, Temporary Use Permit

(k) Sec. 27-1624, Wind and Solar Facilities

(l) Sec. 27-1625, Wireless Communication Facilities

(m) Sec. 27-1626, Variance

(n) Sec. 27-1627, Zone Change

(o) Sec. 27-1628, Zoning Compliance Permit

B. USER'S GUIDE

The zoning coordinator may compile the requirements for application contents, forms, fees, submission materials, and review schedule in a User's Guide, which shall be made available to the public. The zoning coordinator may amend and update the User's Guide from time-to-time.

SECTION 27-1602 SUMMARY OF SPECIFIC APPLICATION STEPS

Table 27-1600.1 summarizes the application procedures in this Zoning Code and identifies whether pre-application and neighborhood meetings are required. Exceptions to these general rules apply and may be specified in the regulations for the individual procedure.

Table 27-1600.1: Summary of Application Steps

		Application Process							Review and Determination			
	Section	Pre-Application Meeting	Neighbor. Meeting	Application Submission Meeting	Referral Review	Staff Review	Public Notice Required	Public Hearing Required	Staff	Zoning Comm	County Comm.	District Court (DC) or Board of Appeals (BOA)
		Key: O Optional, R Required, -- Not Applicable							Key: R Review, RR Review and Recommend, D Decision, A Appeal, -- Not Applicable			
Project Application Type												
Administrative Relief	27-1614	--	--	R	--	R	--	--	D	--	--	BOA
Planned Development (PD)	27-700	R	R	R	R	R	R	R	RR	RR	D	DC
Special Review	27-1622	O	R	R	R	R	R	R	RR	RR	D	DC
Variance	27-1626	O	O	R	R	R	R	R	RR		BOA	DC
Zone Change	27-1627	O	R	R	R	R	R	R	RR	RR	D	DC
Permits												
Fence	27-1619	O	--	R	--	R	--	--	D	--	--	BOA
Landscape Plan	27-1618	O	--	R	--	R	--	--	D	--	--	BOA
Master Site Plan	27-1619	R	--	R	R	R	--	--	D	--	--	BOA
Proportionate Compliance	27-1619	O	--	R	--	R	--	--	D	--	--	BOA
Short-Term Rental	27-1620	O	--	R	--	R	--	--	D	--	--	BOA
Sign/Temporary Sign	27-1621	O	--	R	--	R	--	--	D	--	--	BOA
Temporary Use	27-1623	O	--	R	R	R	--	--	D	--	--	BOA
Wind and Solar	27-1624	O	--	R	--	R	--	--	D	--	--	BOA
Wireless Communication	27-1625	O	--	R	--	R	--	--	D	--	--	BOA
Zoning Compliance	27-1628	O	--	R	--	R	--	--	D	--	--	BOA
Code Administration												
Appeal of Admin. Decision	27-1616	R	--	R	--	R	R	R	RR	--	BOA	DC
Code Interpretation	27-1617	--	--	R	--	R	--	--	D	--	--	BOA
Zoning Text Amendment	27-1627	R	--	R	R	R	R	R	RR	R	D	DC

SECTION 27-1603 PRE-APPLICATION MEETING

A. PURPOSE

1. The purpose of the pre-application meeting is to provide an opportunity for the applicant and the County to discuss the development concept prior to the application submission for a project or permit in order to:
   (a) Determine the required application(s) and, if necessary, the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially);
   (b) Provide the applicant with application materials and inform the applicant of submittal requirements;
   (c) Provide the applicant with an estimated time frame for the review process;
   (d) Discuss generally compliance with the code's zoning, use, density, development, and design standards, and attempt to identify potentially significant issues regarding compliance;
   (e) Discuss the need for any neighborhood meetings and public notice requirements; and
   (f) Engage the applicant in conversation with other departments or agencies to discuss potential significant issues prior to application submittal.
2. Pre-application meetings are informational for the applicant and are not open to the public.

B. APPLICABILITY

1. Pre-Application Meeting Recommended

Any applicant may request a pre-application meeting prior to submitting most development applications. The pre-application meeting is designed to help the applicant understand the development review and approval process.

2. Pre-Application Meeting Required

Pre-application meeting are required for some application types, as noted in the specific application section.

C. RECORD AND EFFECT

1. The County is not responsible for making or keeping a summary of the general topics discussed at the pre-application conference.
2. A pre-application meeting is advisory only and does not constitute or effect approval of any aspect or item of an application.

SECTION 27-1604 NEIGHBORHOOD MEETING

A. PURPOSES

The purposes of a neighborhood meeting are to: inform neighboring property owners of the details of a proposed development, identify how the developer intends to meet the standards contained in this Zoning Code, and to allow the applicant to receive preliminary public comment on the proposal.

B. APPLICABILITY

1. When a neighborhood meeting is required by this Zoning Code, the applicant or applicant's agent shall conduct a pre-application neighborhood meeting to explain the proposed development and receive comment from the surrounding property owners.
2. An applicant may voluntarily conduct a neighborhood meeting prior to submission of any application.

C. NOTICE

1. The applicant shall provide written notice of the date, time, and location of the pre-application neighborhood meeting to:
   (a) Persons on the surrounding property owner list provided by the County,
   (b) Additional persons, businesses, or property owners as identified by the County; and
   (c) The planning and community services department.
2. The written notification shall be mailed at least seven calendar days prior to the scheduled meeting. The written notification shall include the information required for public notice as listed in Section 27-1608.B.1, B.2, and B.3.
3. Courtesy electronic notice of the neighborhood meeting shall also be provided to any affected neighborhood organizations that request notification from the planning and community services department. Planning staff is not responsible for verifying or correcting email addresses provided by a neighborhood organization and failure of a neighborhood organization or individual member to receive notice does not affect the validity of the neighborhood meeting.

D. MEETING

1. The pre-application neighborhood meeting shall be conducted at a location that is within two radius miles of the subject parcel. The meeting may be scheduled after 5:00 p.m. on a weekday or on a weekend day between 8:00 a.m. and 7:00 p.m.
2. The pre-application neighborhood meeting shall be conducted at least seven calendar days but no more than 60 calendar days prior to the submittal of the proposed development application to the planning and community services department.
3. The applicant shall obtain a roster of the names of the persons that attend the pre-application neighborhood meeting and make a record of the minutes of the meeting.

E. WRITTEN SUMMARY AND EFFECT

1. The applicant shall provide the zoning coordinator with a written summary or minutes of the neighborhood meeting with the completed application.
2. The written summary or notes shall include a list of those in attendance, a summary of the issues discussed, comments by those in attendance and the applicant's response, and any other comments the applicant deems appropriate.
3. The written summary or notes of the meeting shall be made available to the meeting attendees and the public for inspection following the filing of a complete application.

SECTION 27-1605 APPLICATION SUBMISSION

A. AUTHORITY TO FILE

1. Property Owner Application

Unless otherwise specified in this Zoning Code, the person having legal authority to take action according to the approval sought shall file an application for a project review or approval under this Zoning Code. The person is presumed to be one of the following: (1) the record owner, (2) purchaser under a sale or option to purchase, or (3) the duly authorized agent of the record owner. Agents may only submit applications where the owner indicates consent in writing on the application.

2. County Application

A request for action pursuant to the Zoning Code that is submitted on behalf of the County shall be initiated by the appropriate managing agency (e.g., engineering or parks department). Requests made by elected or appointed bodies with the authority to request a change or other action pursuant to this Zoning Code shall be initiated by a vote of that body and then processed by the zoning coordinator.

B. APPLICATION SUBMISSION REQUIREMENTS

All applications for all permits and approvals, or modifications of permits or approvals, pursuant to this section and Article 27-1600 shall be submitted in accordance with the application submittal schedule, required forms, and required numbers of copies of each document (if any), established and revised from time to time by the zoning coordinator.

C. CONCURRENT APPLICATIONS

1. Where an applicant seeks approval of two different requests for the same parcel simultaneously, the applicant shall submit all necessary documents, plans, maps, and other required information in accordance with the provisions relating to both of the submitted applications and pay all appropriate fees for both applications.
2. Whenever two or more different application types are being processed simultaneously and this Zoning Code provides different time frames for review or decision-making, all related applications and approvals shall be completed within the longest time frame applicable to any of the relevant procedures.

D. FEES

1. Generally

Application fees for each type of application shall be established by resolution from time to time by the County Commission to defray estimated staff costs and expenses of processing applications pursuant to this Zoning Code.

2. Initial Application

The required application fee shall be paid by the applicant at the same time any application is filed. Application fees are generally non-refundable unless otherwise specified on the application form.

3. Changes to Complete Applications

In addition to fees set forth in the County fee schedule, the following fees shall apply to actions taken on a complete application:

(a) Withdrawn Application: All fees are forfeited in the event the County has incurred any expense related to the application. If the application is refiled within 180 days

a resubmittal fee must be paid. The submission fee shall be paid again in full if the application is resubmitted after six months.

(b) Continuance of Application: Payment of fees may be required to cover the cost of additional notice.

(c) Reapplication: Payment of fees shall be required for a reapplication where a previous application has been denied.

(d) Modification or Revision of Approved Site Plan

(1) Minor modifications: Application for administrative relief and payment of associated fee.

(2) Major modifications: Any requested modifications that do not qualify for administrative relief shall be considered major modifications. A new application is required along with the associated application fee.

E. SUBMITTAL WAIVERS

1. At or following an application submission meeting, the zoning coordinator may agree to waive specific project submittal requirements, in order to reduce the burden on the applicant and tailor the requirements to the information required to review a specific application.
2. The zoning coordinator may waive such requirements where the applicant has made an itemized, written request identifying the specific submission items to be waived and why, and the zoning coordinator finds the following:

(a) The applicant shows good cause for the requested waiver;

(b) The project size, complexity, anticipated impacts, or other factors support a waiver;

(c) The waiver does not compromise a proper and complete review; and

(d) The information is not material to describing the proposal or demonstrating compliance with approval criteria.

F. DETERMINATION OF COMPLETENESS

1. Complete Application Required

All applications must be complete prior to any processing by the County. A complete application includes all of the submittal information identified on the application form and any items or exhibits requested by the zoning coordinator that are consistent with the standards and requirements of this Zoning Code. A complete application is also accompanied by the applicable fee.

2. Application Submission Meeting

Planning staff shall meet with applicants to review all applications and permit requests to determine if the application includes all material required by the applicable application submittal schedule (including required supporting material) in sufficient detail to evaluate the application and determine whether it complies with the requirements of this Zoning Code. A completeness determination will be made during the application submittal meeting.

G. SUBMISSION TIMING FOR PUBLIC HEARING SCHEDULE

All applications to be heard in a specific month must be received on or before the first Monday of the previous month. For example, an applicant desiring public hearings in June would have to submit a complete application by the first Monday of May.

SECTION 27-1606 PROCEDURES FOR COMPLETE APPLICATIONS WITH CHANGED STATUS

A. INACTIVE APPLICATION

1. An inactive application is any application for which the County has requested additional information or revisions and the applicant has not provided this information within 60 calendar days.
2. Inactive applications shall not receive further review and shall be considered withdrawn by the applicant and shall be terminated by the County without further notice. Time of delay shall commence on the date on which the County requests additional information.

B. WITHDRAWN APPLICATION

1. Prior to Public Notice

(a) An applicant may withdraw an application by providing written notice to the zoning coordinator of the applicant's intent to withdraw the application. After such withdrawal, no further County action on the application shall take place.

(b) A zone change application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the County zoning commission. A withdrawn zone change application may be refiled after a 120-day waiting period.

(c) To re-initiate review, the applicant shall re-submit the application with a new application fee payment, and the application shall in all respects be treated as a new application for purposes of review and scheduling.

2. Following Public Notice

(a) No application may be amended or modified after the legal advertising has been published.

(b) After legal notice for the County zoning commission or board of adjustment has been published, the request for withdrawal shall be submitted in writing to the planning and community services department office at least 24 hours prior to the first or only public hearing.

(c) The County zoning commission may allow withdrawal of an application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present. After the County zoning commission hearing, a request for withdrawal shall be submitted to the County clerk and shall be submitted by the property owner or authorized agent, as listed on the application. The County Commission shall have exclusive authority to act on any request for withdrawal after notice of the public hearing has been published.

C. POSTPONEMENT

The applicant may request an application be postponed to a future scheduled public hearing date.

1. Request submitted prior to public notice: the request must be in writing, either by mail or email, and the request must be received by the zoning coordinator prior to date of publication of the notice of public hearing.
2. Request submitted following public notice: If the request is received by the zoning coordinator after the date of publication of the notice of public hearing, the applicant must attend the public hearing to request the application be tabled to a future scheduled public hearing date.

D. APPLICATION TERMINATION

1. If the zoning coordinator determines the applicant is not taking affirmative steps to advance a postponed application for a final determination or the applicant requests that an application be tabled for a second time, the zoning coordinator may declare the application terminated.
2. No further processing of such application shall occur and the application fees shall be forfeited.
3. Any re-submittal of the application shall be treated as a new application for purposes of review, scheduling, and payment of application fees.

SECTION 27-1607 STAFF REVIEW, REFERRAL, AND RECOMMENDATION

A. STAFF REVIEW

1. Upon submission of an application, the zoning coordinator shall review the application and accompanying documentation to determine whether the information included in the application is sufficient for the review and decision-maker(s) to evaluate the application against the approval criteria of the procedure or permit requested,
2. The zoning coordinator, upon receiving a complete application, shall also do the following:
   (a) Consult with other departments of the County and relevant external agencies to fully evaluate the impact of the proposal upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;
   (b) Study each application with reference to its appropriateness and effect on existing and proposed land use, and references to the growth policy;
   (c) In the case of a protest petition filed in the matter of any application for zone change, determine the validity of such petition; and
   (d) Prepare written findings and conclusions for submission to the County zoning commission, which report shall be a matter of public record.

B. STAFF REPORT

1. Staff shall use best efforts to reconcile and compile all referral comments, including comments collected from any neighborhood outreach, into a single written report.

2. The preliminary report shall incorporate the responses and comments from reviewing agencies, shall report whether the development application complies with all applicable standards, and shall specify any areas of possible noncompliance.
3. Where the application includes technical information that requires expert analysis outside of that provided by staff, the County may contract with a technical expert to review the application and charge the consultant's fees to the applicant. The County shall notify the applicant if expert analysis will be necessary and will discuss the estimated fee with the applicant prior to engaging the expert. Technical information subject to expert analysis shall be limited to those issues outside of the scope of typical planning and community services department review. Outside technical experts will not be hired for routine site, structural, use, or transportation issues.
4. The preliminary report shall also identify any need for any required plan modifications, additional information, or technical reports to supplement the mandatory submittal requirements.
5. Staff may recommend conditions for approvals to mitigate any adverse impacts from the development proposal or any changes necessary to bring the application into compliance with the provisions of this Zoning Code. Zone change applications may not be conditioned.

SECTION 27-1608 PUBLIC NOTICE REQUIREMENTS

A. GENERAL APPLICABILTY

1. Applications for development approval shall comply with the Montana Code Annotated and the provisions of this section with regard to public notification. The required notice for each application type is identified in Table 27-1600.2. Application-specific notification instructions are located in the section for the specific application types.

Table 27-1600.2: Required Public Notice

	Section	Mailed	Published	Posted	Electronic via email	Agenda/ Website
		Key: O Optional, R Required, -- Not Applicable				
Project Application Type						
Administrative Relief	27-1614	--	--	--	--	--
Planned Development (PD)	27-700	R	R	R	R	R
Special Review	27-1622	R	R	R	R	R
Variance	27-1626	R	R	R	R	R
Zone Change	27-1627	R	R	R	R	R
Permits						
Fence	Public notice is not required for permit review.					
Landscape Plan						
Master Site Plan						
Proportionate Compliance						
Short-Term Rental						
Sign/Temporary Sign						
Temporary Use						
Wind and Solar						
Wireless Communication						
Zoning Compliance Permit						
Code Administration						
Appeal of Administrative Action	27-1615	R	R	R	R	R
Code Interpretation	27-1616	--	--	--	--	--
Zoning Text Amendment	27-1628	R	R	R	R	R

2. No public notice under this section shall be made for incomplete applications per Section 27-1605.E, or for applications requiring additional revisions and review per Section 27-1606.E. Applications that remain incomplete or requiring revision after the posting deadline in Table 27-1600.2 shall be removed from the applicable meeting agenda and placed on the next available meeting agenda.

B. CONTENT

Notices, when required by this section or a specific application type, shall, whether by publication or written, meet the general requirements of notice provided by the County and provide the following information:

1. Address or location of the property subject to the application and the name, address, email, and telephone number of the applicant or the applicant's agent;
2. Date, time, and place of the public hearing;
3. Description of the nature, scope, and purpose of the application or proposal including a description of the development plan and, where appropriate, the classification or change sought;
4. Notification about where the public may view the application; and
5. State that the public may appear at the public hearing.
6. All meetings are held in buildings and locations that comply with accessibility standards according to the Americans with Disabilities Act (ADA). A TTY number for the hearing impaired, 406-657-3079, is available upon request.
7. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify the Planning Clerk, at 406-247-8610.

C. TYPES OF NOTICE

1. Agenda Notice

Agenda notice shall be posted and published on the City's website a minimum of 48 hours prior to a meeting.

2. Published Notice

Where Table 27-1600.2 requires published notice, the notice containing the content listed in Section 27-1607.B above shall be provided in a newspaper of general circulation at least 15 days in advance of the date of the County zoning commission, board of adjustment, or County Commission public hearing.

3. Mailed Notice

(a) Where Table 27-1600.2 requires mailed notice, the County shall:

(1) Notify the applicant and/or the applicant's agent of the County zoning commission public hearing of the date, time, and place of such hearing at least five days prior to the date.

(2) Notify adjacent property owners and other interested parties as provided in the specific application type. Mailed notice shall be provided to the property owner whose name appears on the last tax record of the property subject to notice. Unless otherwise specified, mailed notice shall be provided not less than 15 days in advance of the date of the hearing.

(b) Failure of any addressee of such letter of notification to receive the same shall not in any way invalidate or affect subsequent action on the application and such requirement shall not be construed as a legal precedent to the official approval.

(c) Written notice to property owners shall be required only for the initial presentation of the proposed development at a public hearing. Additional mailed notice shall not be required where the application is not decided at the initial public hearing.

(d) If the hearing is deferred or continued at the applicant's request, the applicant shall be responsible for paying any additional fees for the purposes of re-notifying adjacent property owners.

4. Posted Notice

(a) Where posted notice is required, the applicant planning staff shall place notice of the public hearing on the property subject to the application at least 15 days in advance of the date of public hearing.

(b) The signs shall be clearly posted by the zoning coordinator on the property for which a request has been made.

(c) On large parcels, interior parcels, or parcels that are difficult to see from the exterior boundary lines, additional posted signs, as may be necessary to reasonably ensure that notice is provided around the property, may be required by the zoning coordinator.

(d) At least one sign must be placed on the property's frontage so that it may be seen from the abutting street. If the property has two streets frontages and both frontages are more than 300 feet long, a sign shall be posted on both frontages.

(e) Reposting. If the decision-making body continues the meeting or public hearing at which the application is being considered to a later date, or if the decision-making body decides to consider the application at any time other than that specified on the notification signs, the zoning coordinator shall update the existing signs with the new date.

(f) Sign Removal

(1) Notice signs shall be removed by the applicant within five days after the meeting or public hearing for which they were required.

(2) No person other than the applicant, applicant's agent, or County staff shall erect, remove, or alter such signs.

5. Courtesy Notice

(a) The County may, as a courtesy, provide notice to any persons or organization in the County or City of Billings, or to any governmental, public, or quasi-public organization regarding any matter related to this Zoning Code that may be of interest to of that person or organization, or on any matter on which any such person or organization has requested notice.

(b) Courtesy notice may be provided in any appropriate manner, including electronically, and may be directed to an organization through its leadership for distribution rather than to the entire membership.

(c) The failure of the County to send courtesy notice or the failure of any resident or property owner to receive such notice shall not affect the validity of any County action with respect to an application.

6. Constructive Notice

(a) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in legal descriptions, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to the affected parties.

(b) Failure of a party to receive written notice shall not invalidate subsequent action.

(c) If questions arise at a review hearing regarding the adequacy of notice, the decision-making authority shall direct the zoning coordinator to make a formal finding as to whether there was substantial compliance with the notice requirements of this Zoning Code, and such finding shall be made available to the decision-making authority prior to final action on the request.

(d) When County records document the publication, mailing, or posting of notices as required by this section, it shall be presumed that notice of a public hearing was given as required by this section.

SECTION 27-1609 REVIEW AND DECISION-MAKING BODIES

A. COUNTY COMISSION

1. Powers and Duties

The County Commission shall have the following powers and duties:

(a) To review and decide on amendments to this Zoning Code or the future land use map.

(b) To review and decide on special review applications.

2. Membership and Procedures

The membership and procedures for the Yellowstone County Commission is established in MCA 7-1-2101 et seq.

B. COUNTY ZONING COMMISSION

1. Created

There is hereby created a Yellowstone County Zoning Commission to consist of five members residing on property, any part of which lies within the Unincorporated Jurisdictional Area of this chapter but outside the limits of the City of Billings. The members are to be appointed by the board of county commissioners for a term of two years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one year. At the first regular meeting of the county zoning commission, the commission shall select a chairman and adopt written procedures for the conduct of its responsibilities as established in this section.

2. Attendance

The members of the County zoning commission are required to attend all publicly-advertised County zoning commission meetings. Members shall notify the zoning commission chairperson and zoning coordinator of any absence in advance of the meeting that will be missed. The presence of three members shall constitute a quorum.

3. Duties

(a) The County zoning commission shall have the authority to exercise all powers granted to the commission by state statute and as amended from time to time.

(b) In particular, the County zoning commission shall recommend the boundaries of the various zone districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the County Commission on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts.

(c) The County Commission shall not hold its public hearing or take any action until it has received a final report from the zoning commission.

C. COUNTY BOARD OF ADJUSTMENT

1. Created

There is hereby created for Yellowstone County, a board of adjustment as provided by statute, consisting of five members appointed by the County Commission. The terms of each member shall run for two years. Vacancies shall be filled for the unexpired terms of any members whose terms are interrupted for any reason.

2. Proceedings

(a) The board of adjustment shall schedule regular meetings, along with special meetings which may also be called by the chairperson. The chairperson may cancel the regularly scheduled meeting if no matters are pending for the board's consideration. The chairperson, or in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(b) The board of adjustment shall keep minutes of its proceedings, showing the vote of each member, or if absent or failure to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and shall be filed in the office of the Planning & Community Services Department.

(1) The official minutes of the board's proceedings shall be signed by the chairperson or acting chairperson.

(2) The decision of the board shall become effective immediately, unless otherwise directed by the board.

3. Powers and Duties

The board of adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or interpretation of this chapter or of any resolution adopted pursuant thereto; and

(b) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

(c) The board of adjustment does not have the authority to hear or decide on special review requests to this Zoning Code.

(d) If the board of adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant may deem the matter be denied and may immediately proceed by appeal.

D. ZONING COORDINATOR

1. The zoning coordinator has the authority to administer the provisions of this chapter for Yellowstone County along with all responsibilities as assigned or delegated by the Planning and Community Services Director. The zoning coordinator may delegate this work to other personnel in the Planning and Community Services Department.
2. The zoning coordinator shall supervise and effectuate the processing of applications for amendments to the official zoning map, special review applications, requests for variances, and other applications under the terms of this chapter. Further it shall be the zoning coordinator's responsibility to present any applications or requests to the appropriate board or commission.
3. The zoning coordinator shall also aid the various boards, commissions, and departments in transmitting recommendations to the County Commission and to otherwise promote procedural regularity in the administration of this chapter.

E. ZONING ENFORCEMENT OFFICER

It shall be the duty of the zoning coordinator to be the enforcement officer for the zoning regulations. The zoning coordinator is hereby given the authority to enforce the provisions of this chapter for Yellowstone County. The zoning coordinator may delegate this work to other personnel in the Planning and Community Services Department.

SECTION 27-1610 ACTION BY REVIEW AND DECISION-MAKING BODIES

A. ADMINISTRATIVE DECISIONS

For procedures where the zoning coordinator serves as the decision-making authority, the zoning coordinator shall make a decision according to the following steps:

1. Review

(a) The zoning coordinator shall review the application for conformance with all applicable provisions of this Zoning Code.

(b) Within the timeframe specified by the application type, or 15 business days of the filing date if no timeframe is specified, the zoning coordinator shall approve or deny the application and provide written notification of the decision to the applicant. If an application is denied, the written notification shall include the reasons for denial.

2. Review Criteria

When the zoning coordinator has the authority to decide an application, except in the case of an interpretation, the application shall be reviewed against the applicable provisions of this Zoning Code. To be approved, an application shall be fully consistent with the standards of this Zoning Code unless administrative relief is concurrently approved to allow specified deviation from applicable standards. An administrative approval may include instructions and clarifications regarding compliance with this Zoning Code, but shall not be approved with conditions that require action beyond the specific requirements of this Zoning Code.

B. COUNTY ZONING COMMISSION

The zoning commission shall review and take action upon each application in accordance with the provisions of this article and after a public hearing at which the application has been legally advertised.

1. The zoning coordinator shall present each application, together with the staff report, to the zoning commission.
2. The zoning commission may, by a majority vote of the members present, delay action to the next available public meeting of the commission without prejudice to the applicant.
3. A report of the commission's recommendation and the zoning coordinator's findings and conclusions shall be submitted to the County Commission.
4. The zoning commission shall make a recommendation to the County Commission to:
   (a) Zone changes: Grant or deny the application;
   (b) Special review applications: Grant, condition, or deny the application.
   (c) Request to withdraw an application after the zoning commission’s hearing: allow or refuse withdrawal
5. The zoning commission shall submit its recommendations and, where appropriate, conditions in writing along with a statement indicating its reasons for the recommendation to grant, condition, deny, or allow withdrawal of the amendment within 15 business days following the public hearing.

C. COUNTY COMMISSION ACTION

Before taking any action on an application, the County Commission shall first consider the findings and recommendations of the zoning commission. The County Commission shall:

1. Approve the application, either as submitted for zone change applications, or with conditions for special review applications;
2. Deny the application;
3. Allow withdrawal of the application; or
4. Delay the application to a future commission meeting date certain.

SECTION 27-1611 POST-REVIEW ACTIONS

A. SUCCESSIVE APPLICATIONS

No application for zone change, special review, or variance on the same request nor one involving the same tract shall be permitted within one year of an application denial. Amendments

1. All substantial changes, modifications, removal, or release of the provisions of an approved application that do not qualify for administrative relief under Section 27-1611.C.2 shall be considered amendments. Amendments shall include, but are not be limited to, changes in use, access, layout, any condition of approval, any change resulting in significant increased off-site impacts, and similar changes as determined by the zoning coordinator.
2. For purposes of review and scheduling, proposed amendments are treated as new applications subject to the applicable procedures and review criteria set forth in this article unless otherwise noted in the specific review procedures.

B. MODIFICATION OF APPROVALS

1. Application

If, at any time, the owner of land with an existing development approval desires to modify the terms of that approval or the conditions attached to that approval, the owner shall submit a written application requesting such revision.

2. Review and Determination of Major/Minor Modification Status

Applications for modification shall be reviewed by the zoning coordinator to determine whether the proposed modifications constitute a major or minor revision to the existing approval.

(a) Minor modifications are those that qualify for administrative relive pursuant to Sec. 27-1614 or modification to an application that was approved administratively.

(b) Major modifications are those that do not qualify for administrative relief pursuant to Sec. 27-1614, request for modification to a special review approval, or request for modification to a condition established by the County Commission.

3. Action by Decision-Making Body

(a) Applications for minor modifications shall be treated as applications for administrative relief.

(b) The zoning coordinator may require that an application for administrative relief be treated as an application for a major modification if the zoning coordinator determines that the application raises a significant public controversy in which numerous parties other than the owner of the property may want to offer testimony. Applications for major modifications shall be treated as new applications for an approval of the same type being modified, unless the zoning coordinator determines that an application for modification of is not consistent with an approved preliminary plan or plat for the property, as applicable. If so, the zoning coordinator shall inform the applicant that a new application will need to be submitted.

4. Effect of Modification

If approved, the modification shall then supersede the previous approval, and subsequent development on the property shall be in accord with the amended approval.

SECTION 27-1612 LAPSING AND EXTENSION OF APPROVALS

Approvals granted under this Zoning Code terminate if unused by the applicant after a reasonable period of time.

A. LAPSE

1. Administrative Approval and Permits

Except where a different timeframe is provided in a specific procedure or application approval, an administrative approval or zoning compliance permit granted under this Zoning Code shall lapse and shall become void one year following the date of final approval unless, prior to the expiration date, construction is commenced and pursued toward completion.

2. Approvals Subject to Public Hearing

(a) A zone change is not subject to lapsing.

(b) Any approval made through a public hearing process shall not lapse pursuant to this section unless the approval was not a zone change and the County

Commission, or board of adjustment established a specific time limit for the approval.

B. EXTENSION

1. An approval that is subject to lapsing may be extended one time by the zoning coordinator for a period of time not to exceed six months. Applicants who require a second extension shall make the second extension request of the body that issued the original approval, which may also be a second request to the zoning coordinator if the zoning coordinator issued the original approval. The total time approved for extensions may not exceed one year.
2. All requests for extensions should be submitted to the zoning coordinator in writing at least 30 days prior to the expiration of approval.
   (a) An extension request shall include payment of required fees and written description of the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes to the growth policy or this Zoning Code that have occurred since approval of the permit/plan as these changes affect the permit/plan, and the anticipated time schedule for completing the review project and/or the specific project.
   (b) Additional review of the permit/plan may result in additional conditions.
3. If an application lapses at the end of an extension period, the applicant may re-submit a new application, subject to the fees and regulations in effect at the time of re-submittal, for the same project.

SECTION 27-1613 OTHER PERMITS AND APPROVALS STILL NECESSARY

A. COUNTY PERMITS AND APPROVALS

The approval of any application pursuant to this Zoning Code shall not relieve the applicant of the requirement to apply for and receive any other permits or approvals required from Yellowstone County. Any such later permits and approvals shall be consistent with the terms and provisions of any approval granted pursuant to this Zoning Code.

B. OTHER PERMITS AND APPROVALS

The approval of any application pursuant to this Zoning Code shall not relieve the applicant of the requirement to apply for and receive any and all other permits or approvals from the City of Billings, State of Montana, or federal government or from other local entities with jurisdiction over the property.

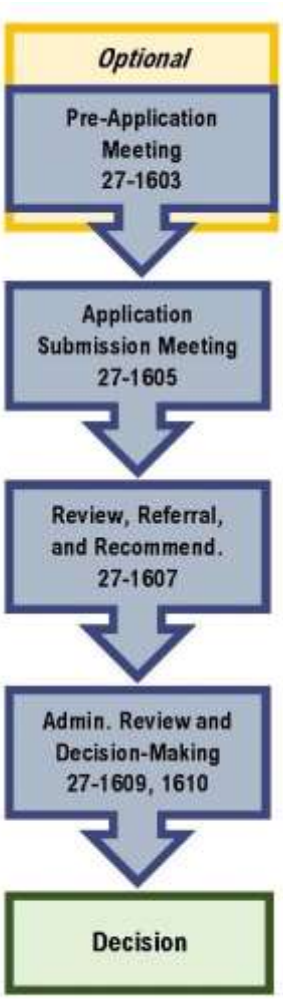
SECTION 27-1614 ADMINISTRATIVE RELIEF

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.

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 County Commission, 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 County Commission 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. RR1, RR3, N1-4, NX1-3, NO, NMU, CMU1, and CMU2 Districts

An applicant may request the following adjustments through administrative relief:

(a) The location of the building within up to 5 feet from any minimum yard requirement or build-to zone width/location.

(b) Up to 10 percent decrease in primary frontage coverage.

(c) Additional height of any story up to 2 feet, as long as the overall building height does not exceed the allowable height of all floors at their maximum permitted height.

(d) Up to 10 percent decrease in transparency or a 10 percent increase in blank wall limitation for corner side facades.

2. A, RMH, RRMH, C3, CX, I1, I2, and P1-3 Districts

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

(1) Setbacks. In any zone, modifications of the front, side, or rear yard setback requirement; provided that the total modification shall not reduce the applicable setbacks by more than ten percent of those otherwise required in the zone.

(2) 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 percent of the otherwise maximum lot coverage in the zone.

(3) 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 percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.

(4) 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 percent of the otherwise required usable open space in the zone.

(5) Fence Heights. 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 percent of the otherwise maximum height in the zone. Fences greater than or equal to eight feet in height will need a Zoning Compliance Permit.

(6) Parking. In any zone, a decrease in the number of required parking spaces of not more than ten percent when total required spaces are at least twenty spaces.

(7) 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, final planned development conditions of approval, or development standards of the underlying zoning district.

(b) Administrative relief may not:

(1) Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;

(2) Permit uses other than those permitted in the zone district;

(3) Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space; or

(4) 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 Section 27-1610.A.

SECTION 27-1615 APPEAL OF ADMINISTRATIVE DECISION

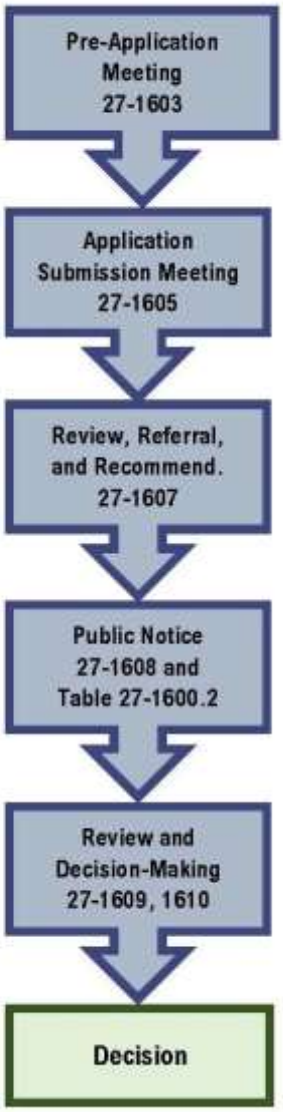
A. APPLICABILITY

Any administrative decision made in the interpretation or application of this Zoning Code may be appealed to the board of adjustment.

B. AUTHORITY

Appeals to the BOA may be taken by any person aggrieved or by any officer, department, board or of the County affected by any decisions of the administrative office made under the terms of this Zoning Code.

C. PROCEDURES



1. Common Procedures

Procedures for appeal of an administrative decision are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

(a) Such appeal shall be taken within 60 calendar days of the issuance of a final administrative decision. An applicant who wishes to appeal a verbal administrative decision may request that the decision be provided to the applicant in writing and the appeal timeframe will start on the date after the written decision has been signed.

(b) The staff member from whom the appeal is taken shall transmit the decision record to the BOA. The decision record shall include all of the information relied upon in making the decision.

(c) The BOA shall:

(1) Fix a reasonable time for the hearing of appeal, not to exceed 60 days; and

(2) Give public notice of the hearing, as well as mailed notice to the parties in interest.

(d) At the hearing, any party may appear in person or by agent or attorney.

D. STAY OF PROCEEDINGS

1. An appeal stays all proceedings in furtherance of the action appealed from except as provided in Section D.2. No further action will be taken by the planning division on the initial application or request while the administrative decision is being appealed.

2. The County may decide not to stay activities related to the application while the administrative decision is being appealed where a stay would cause imminent peril to life or property, determined as follows:

(a) The appeal is filed; and

(b) The staff member from whom the appeal is taken certifies to the BOA that by reason of facts stated in the appeal, a stay would, in that officer's opinion, cause imminent peril to life or property.

(c) In such cases, proceedings shall not be stayed other than by a court of record upon application to same and notice to the officer from whom the appeal is taken and on due cause shown.

E. DECISION CRITERIA

In reviewing an administrative decision, the BOA shall have all the powers of the office from whom the appeal is taken. An appeal may be sustained only if the BOA finds that the administrative decision was made in error.

F. REVIEW AND DECISION-MAKING

1. The BOA may, in conformity with the provisions of this Zoning Code, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made.
2. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any appeal.
3. The BOA shall render a decision within 35 calendar days of the completion of the hearing.

G. JUDICIAL APPEAL

Any person aggrieved by any decision of the BOA, or any affected taxpayer, or any officer, department, board, or bureau of the County may appeal the decision by presenting a petition to a court of record.

1. The petition must set forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality.
2. The petition shall be presented to the court within 30 calendar days after the filing of the decision of the BOA.

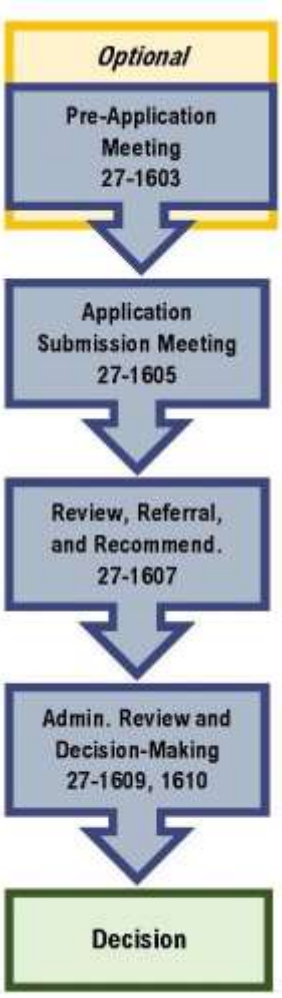
H. REAPPLICATION

If an application for an administrative review is denied by the BOA and not approved for reconsideration, another application shall not be filed within a period one year from the date of denial.

SECTION 27-1616 CODE INTERPRETATION

A. APPLICABILITY

1. The zoning coordinator is authorized to provide a written interpretation of the contents and requirements of this Zoning Code.
2. Interpretations may be requested for a provision of this Zoning Code subject to a proposed or current application, hearing, or appeal.
3. The zoning coordinator may also provide a property-specific code interpretation in the form of a zoning code clarification that identifies whether specific regulations in this Zoning Code are applicable to the subject property.



B. AUTHORITY

An interpretation may be requested by any:

1. Applicant,
2. Person affected by an action proposed pursuant to this Zoning Code, or
3. Any County departments or other governmental agencies that may be subject to the provisions of this Zoning Code.

C. PROCEDURES

Procedures for a code appeal are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

D. RENDERING OF INTERPRETATION

After the application for request for interpretation has been determined complete, the zoning coordinator shall render an interpretation pursuant to Section 27-1610.A, Administrative Determinations.

E. OFFICIAL RECORD

The zoning coordinator shall maintain an official record of all interpretations, which shall be available for public inspection during normal business hours.

SECTION 27-1617 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 zoning compliance permit shall include a landscape plan where appropriate.

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 Section 27-1607.C.



C. PROCEDURES

1. Common Procedures

Common procedures for landscape plan review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

Landscape plans shall be prepared as follows:

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

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

D. DECISION CRITERIA

The zoning coordinator may approve a landscape plan upon a finding that the application meets all of the following criteria, as applicable:

1. The landscape plan conforms to all requirements of this article and is consistent with the currently adopted growth policies and any other applicable plans.
2. The landscape design includes the installation of a diversity of species and sizes of vegetation with preference given to locally naturalized vegetation.
3. Preservation of existing, locally naturalized vegetation is incorporated into the landscape design.
4. No plant materials or landscape features are situated in such a manner so as to inhibit clear sight areas established in Section 27-1812 or otherwise create a traffic hazard.
5. The facilities for watering and drainage are adequate to ensure the landscape area is maintained and that no soil, bark, mulch, gravel, stone, or similar materials are allowed to wash off the landscape area into parking areas, driveways, public streets, sidewalks, gutters, or storm drainage facilities.

E. POST APPROVAL

1. Site Specific and Binding

Approved landscape plans shall be binding upon the applicants and their successors and assigns.

2. Landscaping Installed Within One Year of Completion of Construction

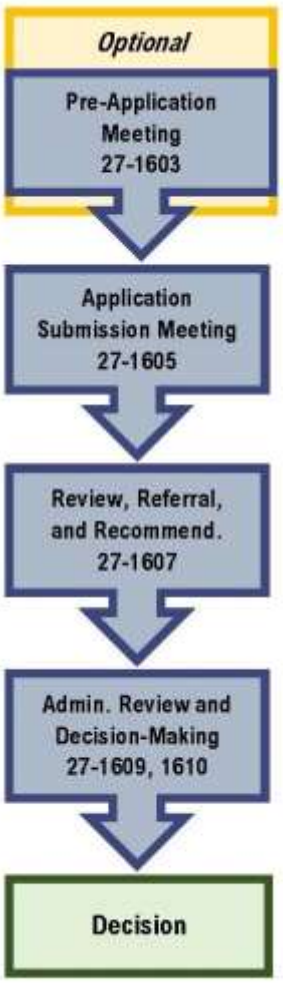
(a) All landscaping and screening material, organic and inorganic, shall meet the standards of Section 27-1210 and be in place within one year of completion of construction. Irrigation systems shall be fully functional at the same time as the completion of the landscape planting. This requirement shall be verified by the submission of a final, as-installed landscaping plan by the party responsible for the creation of the landscape plan.

(b) If the timing of the project and seasonal limitations prevent planting within one year of completion of construction, security as described in this section may be provided and the planting period may be extended accordingly.

3. Security Required

(a) When the timing of a project delays the installation of the landscaping, a performance bond or letter of credit in an amount of 150 percent of the landscaping materials and labor costs that does not expire for at least one year from the date of issuance shall be posted with the planning and community services department to ensure the placement of the required landscaping.

(b) The property shall be inspected by the zoning coordinator to make sure that the required landscaping has been planted before release of the security bond or letter of credit.



SECTION 27-1618 MASTER SITE PLAN

A. APPLICABILITY

The purpose of this section is to set forth the procedures and criteria for review and approval of master site plans when two or more buildings share common facilities on an undivided lot. The purpose of master site plan review is to confirm that development is consistent with the requirements of this Zoning Code and with all previously approved plans applicable to the property.

B. AUTHORITY

A request for master site plan approval may be submitted by a property owner or owner's agent.

C. PROCEDURES

Common procedures for master site plan review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

D. DECISION CRITERIA

The master site plan shall be reviewed against the following criteria:

1. The master site plan is consistent with any prior approvals, including any conditions that may have been placed on such approvals, and
2. The master site plan conforms with all applicable requirements of this Zoning Code, or with all applicable requirements as modified by a request for a minor code adjustment.

E. REVIEW AND DECISION-MAKING

A master site plan is subject to administrative approval and shall be reviewed as follows:

1. Within 30 working days following the submittal of a complete application, the zoning coordinator shall approve or deny the application, unless the applicant consents in writing to an extension of the review period.
2. In the event that review exceeds 30 days, the applicant may seek immediate approval from the planning director.

F. EFFECT

1. Approved master site plans shall be binding upon the property owner(s) and their successors and assigns.
2. No permit shall be issued for any building, structure, or use that does not conform to an approved master site plan.
3. No building, structure, use or other element of the approved master site plan shall be modified without amending the master site plan.
4. All buildings, structures and uses shall remain in conformance with the approved master site plan or be subject to enforcement action.

G. APPEAL PROCESS

An appeal to the BOA may be made by any applicant aggrieved by a denial of a Master Site Plan application.

H. POST-APPROVAL ACTIONS

1. Expiration

(a) Approved master site plans shall expire one year after approval if the project has not been commenced or the approved use not established. Where a master site plan expires due to the passage of this time period, new site plan review documents must be submitted for approval in the same manner as an original application for development review.

(b) An extension not to exceed one year may be granted by the zoning coordinator.

2. Modifications to Master Site Plans

The holder of an approved site plan may request a minimal modification to the document, or the conditions of approval, by submitting amended documents to the zoning coordinator.

SECTION 27-1619 PERMITS

A. APPLICABILITY

The zoning coordinator may review and decide upon applications for the following administrative permits. Some of these permits have additional review and approval requirements included in this section; a cross-reference to those section is provided in the right column.

Permit Type	Additional Procedural Standards
Fences	None
Landscape Plan	Section 27-1617
Proportionate Compliance	None
Master Site Plan	Section 27-1619
Short-Term Rental	Section 27-1620
Sign/Temporary Sign	Section 27-1621
Temporary Use	Section 27-1623
Wind and Solar	Section 27-1624
Wireless Communication	Section 27-1625, Submitted with Zoning Compliance Permit
Zoning Compliance Permit	Section 27-1628



B. AUTHORITY

Permit applications may be submitted by a property owner or owner's agent.

C. PROCEDURES

Common procedures for permit review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

D. REVIEW AND DECISION-MAKING

Permit applications shall be decided pursuant to the requirements of Section 27-1610. Permit-specific procedural requirements identified in this article shall be applicable.

SECTION 27-1620 SHORT-TERM RENTAL PERMITS

Short-Term Rental (STR) Permits are processed through Section 27-1619, Permits.

Drafting Note: The STR procedures are currently located in a stand-alone section of the project website. They will be moved to this section following the public review process.

SECTION 27-1621 SIGN PERMIT

A. APPLICABILITY

1. Permanent Sign Permit

(a) Except as otherwise provided in this article, it shall be unlawful for any person to erect, construct, enlarge, move or convert any permanent sign in the County or cause the same to be done, without first obtaining a sign permit for each sign from the zoning coordinator as required by this article.

(b) A sign permit shall be required for each group of signs on a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate sign permit.

(c) These directives shall not be construed to require any permit for a change of copy on any sign, nor for the repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way.

2. Temporary Sign Permit Required

Application for a temporary sign permit shall be made to the zoning coordinator by the owner or person entitled to possession of the property or business on which the temporary sign is to be located and shall be upon the form prescribed by the zoning coordinator

3. Illegal Signs

No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.



B. AUTHORITY

1. A sign permit may be requested by a property owner, tenant, or an owner or tenant's agent.

2. No person shall erect, construct or maintain any sign upon any property or building without the consent of the owner or person entitled to possession of the property or building if any, or their authorized representatives.

C. PROCEDURES

Common procedures for sign permit review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

D. DECISION CRITERIA

The sign permit shall be reviewed against the following criteria:

1. The sign permit is consistent with any prior approvals, including any conditions that may have been placed on such approvals; and

2. The sign permit conforms with all applicable requirements of this Zoning Code, specifically Section 27-1400, Signs, or with all applicable requirements as modified by a request for administrative relief or variance.

E. REVIEW AND DECISION-MAKING

The zoning coordinator shall issue a permit for the erection, alteration, or relocation of a sign within the County when an application has been properly made and the sign complied with all appropriate laws and regulations.

F. APPEAL

1. Appeal may be taken to the board of adjustment from the zoning coordinator's denial of a sign permit.
2. The zoning coordinator's failure to either formally grant or deny a sign application within 20 business days of the determination of a complete application shall be grounds for appeal to the board of adjustment.

G. POST-APPROVAL ACTION

1. Revocation

The zoning coordinator may, in writing, suspend or revoke a permit under provisions of this section whenever the permit was issued on the basis of a misstatement of fact or fraud.

2. Permit Expiration

Every sign permit issued by the zoning coordinator shall become null and void if installation is not commenced within 120 days from the date of permit issuance.

SECTION 27-1622 SPECIAL REVIEW USES

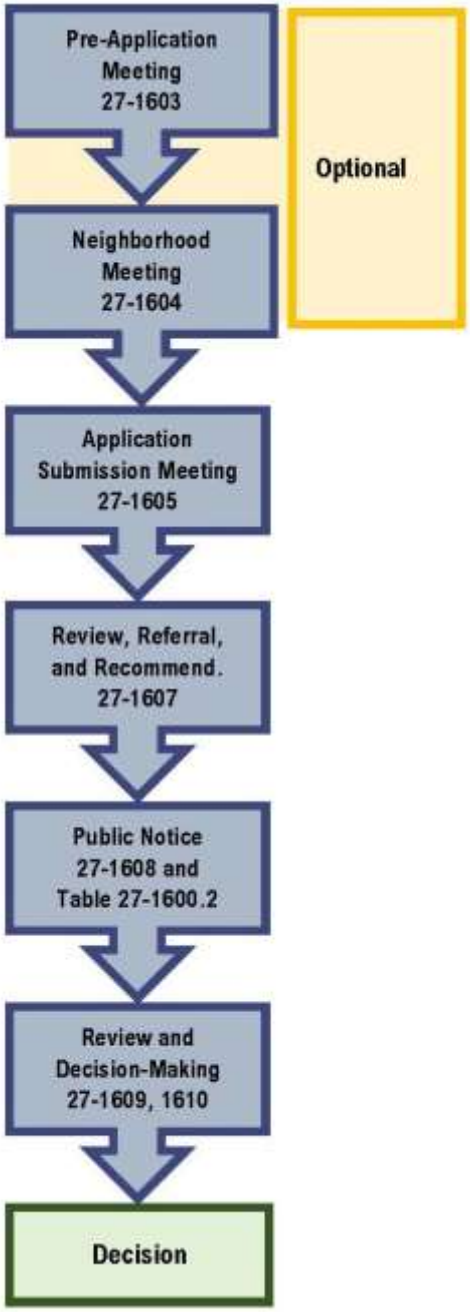
A. APPLICABILITY

1. Each zoning district is primarily intended for a predominant type of use as identified in Table 27-1000.1.There are also a limited number of specific uses that may or may not be appropriate in a particular district, depending upon all the circumstances of the individual use on the site and in context with surrounding development. Consideration of these uses includes examination of the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, and whether specific conditions can be applied to mitigate the potential negative impacts of the use. Special review uses are special exceptions to the general terms of this Zoning Code.
2. It is the intent of this section to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this Zoning Code and the objectives of the County growth policies.

1. Only those uses identified as special review uses in Table 27-1000.1 may be approved pursuant to these procedures. If the zoning coordinator determines that a desired use is not included within the definition of a use listed as a special review use in Table 27-1000.1, then the desired use may only be approved if:

   (a) This Zoning Code is amended to add the specific use to the district containing the subject property, or

   (b) The subject property is rezoned to a district where the use is listed as a permitted or special review use.



B. AUTHORITY

An application for a special review may be filed by the property owner, contract purchaser, or an owner or applicant's authorized agent.

C. PROCEDURES

1. Common Procedures

Common procedures for special review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

(a) A neighborhood meeting is required per Section 27-1604.

(b) Notice shall be provided as follows:

(1) Publication: Notice of the application shall be advertised in a newspaper of general circulation at least 15 days in advance of the date of the public hearing.

(2) Mail

a. The applicant and/or applicant's authorized agent shall be mailed notice of the public hearing date, time and place at least five days prior to the date;

b. All the property owners within 300 feet of the exterior boundaries of the tract subject to the special review shall be mailed notice at least 15 days in advance of the time, date, place and proposed use.

i. Where the subject property is within 300 feet of the city limits, the mailed notice area will be 600 feet.

ii. Where special review uses are subject to a separation requirement from other uses, the maximum separation distance will be the mail notice area.

iii. The zoning coordinator may notify property owners within a radius of more than 300 feet if the zoning coordinator determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;

(3) Posted: Place notice of the public hearing on the property subject to the special review at least 15 days in advance of the public hearing. Additional posting may be required by the zoning coordinator for large parcels.

(c) The staff report for a special review use shall contain the following information:

(1) A summary of the comments received from the interdepartmental/agency review;

(2) Findings for each of the decision criteria listed in this section;

(3) A preliminary list of conditions if approval is recommended; and

(4) A recommendation to approve the application, approve it with conditions, or deny the application.

D. DECISION CRITERIA

The zoning commission shall only recommend approval or conditional approval and the County Commission shall only approve or conditionally approve a special review request if:

1. The special review use is consistent with the County's growth policy and applicable neighborhood plans, if any;
2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.
4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
6. Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:

(a) Regulation of the use;

(b) Special setbacks, buffers, or screening;

(c) Surfacing of parking areas;

(d) Street, alley, or service road dedications, improvements, or bonds;

(e) Regulation of points of vehicular ingress and egress;

(f) Regulation of signs;

(g) Regulation on the performance of the site, including noise, vibration, and odors;

(h) Regulation of the hours of activities;

(i) Timeframe for development

(j) Duration of use; and

(k) Other relevant conditions that will ensure the orderly development of the site.

7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;

8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and

9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the County Commission.

E. REVIEW AND DECISION-MAKING

1. County 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 County Commission to:

(1) Approve the application;

(2) Conditionally approve the application;

(3) Deny the application;

(c) Recommendations from the zoning commission shall be based on findings of fact for each criteria and shall be transmitted to the applicant or applicant's agent, and the County Commission within 15 business days of the date of the public hearing before the commission.

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

2. County Commission Action

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

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

(c) The County Commission 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 30 days.

(d) If the application is approved, the applicant shall be notified in writing within 10 business days of the approval. The notification shall include:

(1) Identification of any conditions of approval;

(2) Automatic termination date; and

(3) Notification that permit issuance is contingent upon compliance with the conditions of approval.

(e) If the application is denied, it shall constitute a determination that the applicant has not shown that the conditions required for special review use approval exist. A decision to deny shall include the following:

(1) A statement that the application is denied;

(2) A description of the project, including acreage and proposed use characteristics;

(3) Findings for each of the decision criteria;

(4) A statement indicating that a denial does not limit the applicant's ability to resubmit a revised application for consideration;

(5) A statement that the decision may be appealed to a court of competent jurisdiction; and

(6) The date of the decision.

F. REQUIREMENTS OF APPROVAL

1. All of the conditions imposed by the special review use approval:

(a) Constitute restrictions running with the land use;

(b) Apply, are binding upon, and must be adhered to by the property owner and any successors or assigns;

2. The right to building and occupancy permits are contingent upon the fulfilment of all conditions imposed by the special review use approval.

G. AMENDMENT TO APPROVED SPECIAL REVIEW USES

Uses that have been approved pursuant to a special review by the County Commission, may be allowed to expand or remodel without an additional special review, provided that the expansion or remodeling meets all of the following criteria:

1. The gross floor area of the remodeled or expanded establishment is not over 10 percent greater than the gross floor area originally occupied by the special review use;
2. The number of potential occupants is not increased by more than 10 percent over the number that is currently allowed;
3. The number of new parking stalls is not more than 10 percent greater than the original number of spaces; and
4. All other requirements of this Zoning Code and/or applicable Yellowstone County resolutions are met.

H. EXPIRATION OF APPROVAL

1. **Non-Establishment**
   A special review use shall expire one year after the date of issuance unless substantial work has commenced pursuant to the approval and continues in good faith to completion.

2. **Non Use**
   If a special review use has been established but ceases to operate for more than six months, the special review approval shall expire.

SECTION 27-1623 TEMPORARY USE PERMIT

Temporary uses are processed through Section 27-1619, Permits.

SECTION 27-1624 WIND AND SOLAR FACILITIES

Wind and solar facilities are processed through Section 27-1626, Zoning Compliance Permit.

Drafting Note: The wind and solar procedures are currently located in Section 27-1000, Use-Specific Standards. They will be moved to this section following the public review process.

SECTION 27-1625 WIRELESS COMMUNICATION FACILITIES

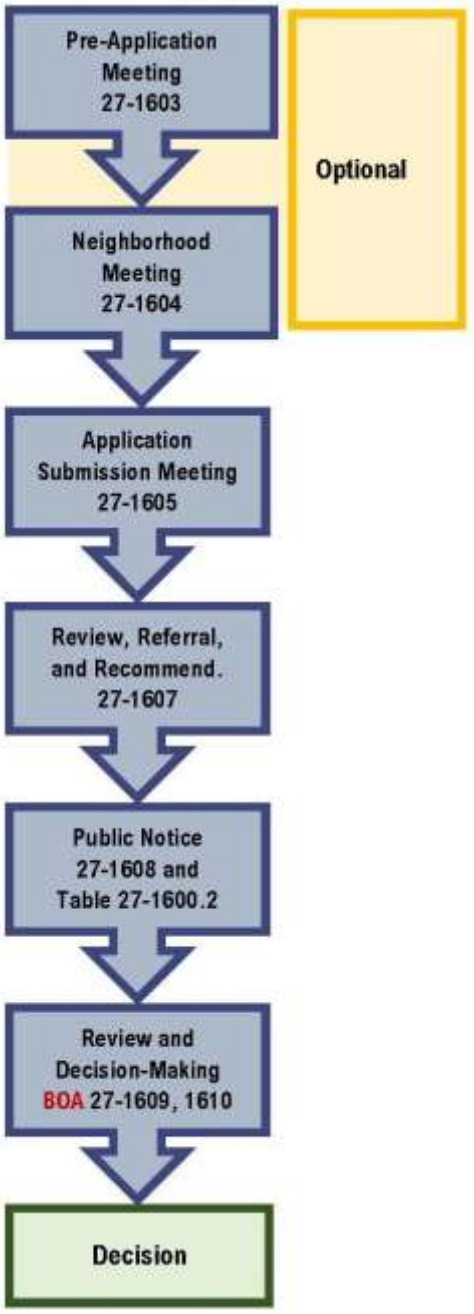
Wireless communication facilities are processed through Section 27-1626, Zoning Compliance Permit.

Drafting Note: The WCF procedures are currently located in Section 27-1000, Use-Specific Standards. They will be moved to this section following the public review process.

SECTION 27-1626 VARIANCES

A. APPLICABILITY

1. The board of adjustment (BOA) shall have the authority to grant a variance from the terms of this Zoning Code in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the Code would result in unnecessary hardship.
2. The variance process may not be used to:
   (a) Waive, modify or amend any definition or use classification;
   (b) Waive, modify or otherwise vary any of the review and approval procedures of this Zoning Code; or;
   (c) Waive, vary, modify or otherwise override a condition of approval or requirement imposed by another authorized board or commission.



B. AUTHORITY

A request for variance may be filed by a property owner or the owner's agent.

C. PROCEDURES

1. Common Procedures

Procedures for variances are established in Section 27-1600, Commonly Applicable Procedures. They are summarized here for applicant convenience.

2. Specific Procedures

(a) Notice shall be provided as follows:

(1) Published: Place notice in a newspaper of general circulation at least 15 days in advance of the date set for the public hearing;

(2) Mailed:

a. Notify the owner of the property and/or owner's agent at least five days in advance of the hearing date;

b. Notify the property owners within 150 feet of the exterior boundaries of the subject property;

(3) Posted: Place a notice on the property at least 15 calendar days prior to the hearing date.

D. DECISION CRITERIA

Before the BOA grants a variance, it shall determine:

1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in

the land which causes the hardship, and which are not applicable to other lands in the same district;

2. That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other tracts in the same district;
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other land in the same district;
4. That the granting of the variance will be in harmony with the general purpose and intent of this Zoning Code and with the growth policies;

E. REVIEW AND DECISION-MAKING

1. Whenever the County board of adjustment grants an application for a variance, the minutes shall specifically state the criteria upon which the variance is granted.
2. In granting any variance, the BOA may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Zoning Code.
3. The BOA shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance.
4. Under no circumstances shall the BOA grant a variance to allow a use not permissible under the terms of this chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

F. POST-APPROVAL ACTION

A request for changes in conditions of approval of a zoning variance must be processed as a new variance application, including the requirements for fees, notices and hearings.

G. TRANSFERABILITY

Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.

H. REAPPLICATION

If an application for an administrative review is denied by the BOA and not approved for reconsideration, another application shall not be filed within a period one year from the date of denial.

SECTION 27-1627 ZONE CHANGE

A. PURPOSE

This Zoning Code, including the official zoning map, may be amended by the County Commission.

B. INITIATION OF ZONE CHANGE

1. Text Amendment

Proposals to amend the text of this Zoning Code (text amendment), may be initiated by the County Commission, the zoning commission, or the Yellowstone County Board of Planning.

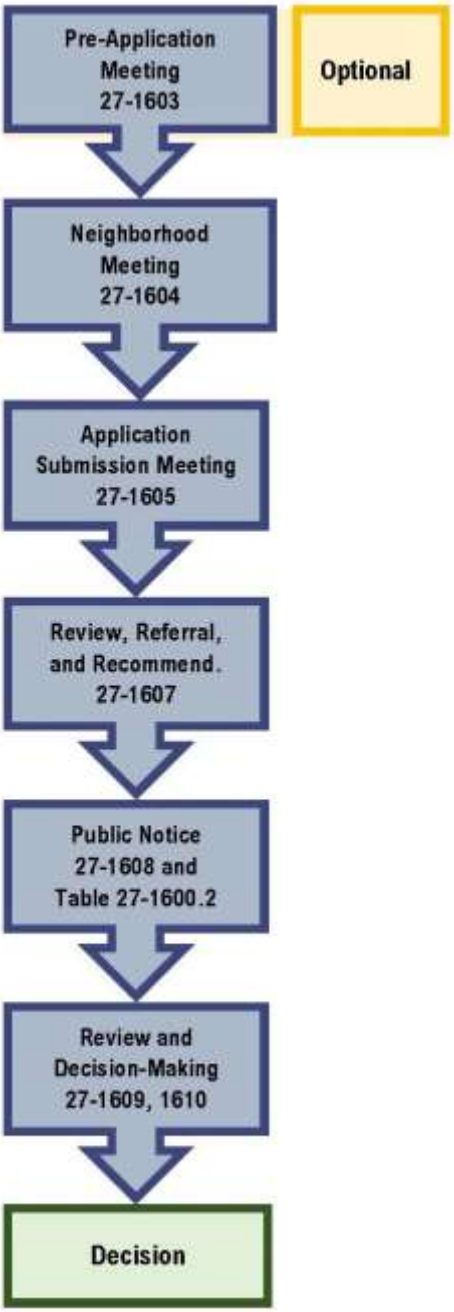
2. Zone Change (Map Amendment)

Unless initiated by the County Commission, all applications for zone change must be submitted by the owner of the subject property, the contract purchaser, or the authorized agent of the owner.

C. PROCEDURES

1. Common Procedures

Common procedures for review and decision of a zone change application are established in Sections 27-1603 through 27-1613. They are summarized here for applicant convenience.



2. Specific Procedures

(a) A pre-application neighborhood meeting is required per Section 27-1604.

(1) The applicant shall provide a signed statement affirming the pre-application neighborhood meeting was conducted in conformance with the requirements of subsection 27-1602(b)(3), and the zone change application is based on material presented at the meeting. The signed statement shall include a copy of the meeting notice, any written materials provided to the surrounding property owners, a brief synopsis of the meeting results, a roster of the persons attending the meeting and audio or written minutes of the meeting .

(b) Notice of a zone change application shall be provided as follows:

(1) Publication: Notice of the application shall be advertised in a newspaper of general circulation at least 15 calendar days in advance of the date of the public hearing.

(2) Mailed notice shall be provided to the applicant and/or applicant's authorized agent and;

a. Subject property located more than 600 feet from city limits as measured at the closest location: All property owners within 300 feet. Subject property is 600 feet or closer to the city limits at measured at the closest location: All property owners within 1,320 feet.

b. PD zone change: All property owners within 1,320 feet.

c. PND zone change: All property owners within 1,320 feet.

d. In addition to the notice above and before enacting on its own motion an amendment to the official zoning map, the County Commission shall provide written notification by mail of such amendment to each property owner whose name appears on the last tax record of the property subject to the amendment. The notification shall include what the proposed map amendment is, the time, date and place of the public hearing on the proposed amendment. Such notification shall be made at least 15 calendar days in advance of the date of public hearing.

(3) Posted: Place notice of the public hearing on the property subject to the special review 15 days in advance of the public hearing.

(4) Notice of a text amendment shall be published in the same manner as the publication requirement of a zone change application.

(c) Public hearings shall be held for both the County zoning commission review and County Commission review of the request for zone change or text amendment.

D. DECISION CRITERIA

The review and decision-making bodies shall consider the following statutory criteria in making a recommendation or decision regarding a zone change application:

1. Whether the new zoning is designed in accordance with the growth policy;
2. Whether the new zoning is designed to secure from fire and other dangers;
3. Whether the new zoning will promote public health, public safety and general welfare;
4. Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
5. Whether the new zoning will provide adequate light and air;
6. Whether the new zoning will effect motorized and nonmotorized transportation;
7. Whether the new zoning will be compatible with urban growth in the vicinity of cities or towns;
8. Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
9. Whether the new zoning will conserve the value of buildings;
10. Whether the new zoning will encourage the most appropriate use of land throughout Yellowstone County; and
11. Whether the new zoning will, as nearly as possible, be compatible with the zoning of nearby cities and towns.

E. REVIEW AND DECISION-MAKING

1. County Zoning Commission Recommendation

(a) The County zoning commission shall make a recommendation to the County Commission to:

(1) Deny the application;

(2) Approve the application; or

(3) Allow the application to be withdrawn.

(b) 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 County Commission within 15 business days of the date of the public hearing before the zoning commission.

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

(d) The county zoning commission may, by a majority vote of the members present, delay action for a period not to exceed 30 business 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 County Commission.

2. County Commission Action

(a) The County Commission shall hold a public hearing within 20 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 County Commission shall hold a public hearing on the application.

(c) The County Commission shall:

(1) Approve the application;

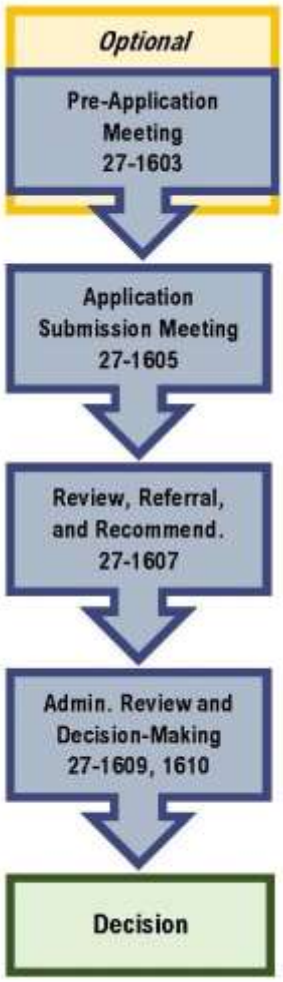
(2) Deny the application;

(3) Allow withdrawal of the application; or

(4) Delay the application for a period not to exceed 30 days.

(d) If the County Commission approves the application it shall prepare a resolution of intent to adopt, which shall be passed at second reading 30 days later.

SECTION 27-1628 ZONING COMPLIANCE PERMIT



A. APPLICABILITY

A zoning compliance permit is required prior to the start of construction for properties that are located within the unincorporated jurisdictional area. No land use may be established or changed in whole or in part; or no building or other structure shall be erected, moved, enlarged, rebuilt, added to, or structurally altered without first having received a zoning compliance permit.

B. AUTHORITY

A request for zoning compliance permit may be filed by a property owner or the owner's agent.

C. PROCEDURES

1. Common Procedures

Common procedures for review and decision of a zoning compliance permit are established in Sections 27-1603 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

(a) Each application for a zoning compliance permit shall be accompanied by a site development plan, building elevations and any other information requested by the zoning coordinator to adequately review the proposed project.

(b) Commercial projects also require submittal of a landscaping plan and a site plan showing off-street parking, loading, etc.

(c) The zoning coordinator may waive the submittal requirements for some of the above-mentioned plans.

D. DECISION CRITERIA

1. The zoning coordinator shall determine that the permit is issued in compliance with the regulations set forth in this Zoning Code.
2. The review of a zoning compliance permit application shall be limited only to a review of the applicable zoning regulations and shall not constitute a review of compliance with any applicable building codes or other County, State, or Federal regulations.

E. REVIEW AND DECISION-MAKING

Zoning compliance permits are processed as an administrative decision pursuant to Section 27-1610.A.

F. LAPSE AND EXTENSION

Zoning compliance permits are valid for a period of six months from the date of approval and may be extended for an additional six months with written approval from the zoning coordinator.