



**Yellowstone County Zoning Commission
Minutes for the Meeting of
Monday, October 12, 2020
Project ReCode**

The County Zoning Commission met on Monday, August 27, 2020 at 4:30 p.m. Due to the COVID-19 health concerns, the format of the County Zoning Commission meeting will be held in a virtual videoconferencing environment.

The Zoning Commission will hear all persons wishing to speak relative to the proposed Text Amendments. 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 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.

The public hearing will be broadcast on the Planning Community Services Department Facebook page <https://www.facebook.com/Billings-Planning-Community-Services-Department> and a call-in phone number will be published and broadcast so members of the public can call in during the public hearing. 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. 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> (Draft Sections 27-300, 27-400, 27-500, 27-600, 27-800, 27-900 and 27-1000).

Commissioners and Staff		01/13/20	02/10/20	03/09/20	04/13/20	05/11/20	06/08/20	07/13/20	08/10/20	08/26/20	08/27/20	09/14/20	10/12/20
Jerry T. Ray	Commissioner	1	-	-	-	1	-	-	1	1	1	1	1
Troy Boucher	Commissioner Chairman	1	-	-	-	1	-	-	1	1	1	1	1
Ryan Wittman	Commissioner	1	-	-	-	E	-	-	A	E	E	R	R
Tyler Bush	Commissioner Chairman	E	-	-	-	1	-	--	1	1	1	1	1
Todd Hewett	Commissioner	1	-	-	-	1	-		A	A	A	A	A



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Chairman Boucher opened the meeting and introduced the County Zoning Commission members and Planning Division staff: Nicole Cromwell, Zoning Coordinator, Tammy Deines, Planning Clerk.

Other Participants Leslie Oberholtzer, Consultant, SAFEbuilt; Planning Board President Woody Woods, Jeff Bollman, DNRC; Citizen Paul Bitts

Public Comment

Chairman Boucher asked if there was anyone wishing to speak during the public comment portion of the meeting. The Public may call in during specific Public Comment periods at (406) 237-6165. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary.

Motion. Approval of Minutes: August 26, Project ReCode; August 27, 2020 Project ReCode, September 14, 2020 YC Zoning Commission Regular Meeting

Motion

Motion was made by Commissioner Bush and seconded by Commissioner Ray to approve the August 26, Project ReCode; August 27, 2020 Project ReCode, September 14, 2020 YC Zoning Commission Regular Meeting minutes as submitted.

The motion carried with a unanimous voice vote.

Item #1: Project ReCode – Zoning Code Amendments and Zoning Map Update
Zoning Coordinator Nicole Cromwell read the legal notice for the record.

REQUEST

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. The **Board of County Commissioners** public hearing for **Project ReCode** will be held **on Tuesday, November 10, 2020, at 9:30 a.m.** 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. This final public hearing is to review the amendments and map update and to make a formal recommendation on these changes to the Board of County Commissioners for their consideration.



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, October 12, 2020 Project ReCode

RECOMMENDATION

Staff recommends the County Zoning Commission forward a recommendation of approval to the County Commissioners along with the findings of the 11 review criteria for the Zoning Code Amendments and Zoning Map Update.

Zoning Coordinator Nicole Cromwell gave an overview of the Yellowstone County Draft Zoning Code. She opened with the Steering Committee Guiding Principles and an explanation of the Zoning Code outline in comparison to the existing zoning code outline. She defined the RR-Rural Residential zones, N4-Suburban Residential Neighborhood; RR1-Rural Neighborhood; RR3-Rural Neighborhood; R-RMH-Rural Manufactured Home and gave the criterion for detached accessory structures. She pointed out the County Board of Adjustment has granted several dozen variances to exceed the 1,000 sf or 1,500 sf maximum footprint. The County Board of Adjustment has not granted many variances in excess of 2,000 sf in the current code.

Discussion

Commissioner Boucher proposed not including the limitation of the footprint of the house in the N4 District and 3,000 square feet in the RR1 and RR3 zones. He commented that it is his experience in the last few years that there has been a great deal of interest in larger lots in order to have a larger garage. Commissioner Bush stated he concurs with Commissioner Boucher as several Board of Adjustment meetings have been held with applications specific to this issue. He said accommodation in this way would be good. He is in favor of allowing the 2,000 sq. ft. maximum per structure and eliminating the verbiage of the residence as a controlling factor. Commissioner Ray is in agreement with this suggestion. Nicole Cromwell pointed out that 3,000 sq. ft. is allowable in the R1 & RR3 zones and there are no limits within the agricultural zone. Commissioner Boucher said he believes restricting garages to the principle dwelling square footage in the N4 Zoning District is too restrictive. He would be in favor of no size restriction for detached structures up to 2,400 to 3,000 square feet on larger lots between .5 acres to 1 acre. He said often times residents do not realize they are in County zoning. A 40 X 60 ft. building is a common size. Commissioner Ray stated he has a 40 X 60 ft. shop on his property and there should be no limitations, as he does not want hamstringing residents who wish to have larger buildings. He is opposed to limitations as residents move to the County to have these types of structures. Nicole Cromwell pointed out that the larger buildings are often outside of the zoning.

Nicole Cromwell continued with the presentation to the Commission. She said the proposed County Zone Districts, C3-General Commercial; CX-Heavy Commercial; L1-Light Industrial; L2-Heavy Industrial; and P1, P2, P3-Public were reviewed on September 27, 2020. She noted that the Planned Neighborhood Developments are a new zoning tool. Urban level zone districts will not be allowed outside the city limits except in **Lockwood**. There are four types – Mixed Use, Mixed Residential, and Neighborhood & Town Center.



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, October 12, 2020 Project ReCode

The County landscaping code, (Section 27-1000), was updated to provide maximum flexibility to the developer for landscaping of the property.

Proportionate Compliance-the proposed code can allow adjustments over time and allows a “look back” period over five years.

The Off-Street Parking code has new parking ratios that had better reflect uses. The County code will not have a maximum parking requirement. Code Updates:

- New Parking Ratios to better reflect current uses and transportation options in the city and county
- City code will allow off-sets for transit and will require most Mixed Use Commercial zones to provide at least one bike parking rack
- City and County code allow off-sets for some on-street parking for neighborhood adjacent uses
- City code will set maximum off-street parking ratio – allow administrative appeal to increase above maximum ratio
- In the City, continue the no off-street parking provisions in EBURD and CBD
- EV charging stations allowed

Sign Code Section 27-1400-City and County

New billboards will be allowed in the County. Nicole Cromwell clarified exempt and temporary signs, and addressed nonconforming signs. Updates to Code Section 27-1400 include:

- Updates to Purpose of Sign Code
- Retain Billboard Moratorium in city limits
- Ensure content neutral regulations throughout
- Add window signs as a regulated sign
- Clarify exempt and temporary signs
- Private signs in public right of ways
- Nonconforming signs

Discussion

Commissioner Ray asked if the distance between billboards is the same. Nicole Cromwell explained that the required separation distance of 500-feet between billboards in the County is the same as before. The spacing law between billboard signs is a requirement of the Federal Highway dollars for Montana. Staff is trying to ensure this code is not contradictory to other existing codes. Commissioner Ray asked for clarification of the zoning districts in Lockwood. Planning Board President Woody Woods referred to the TEDD District located on Johnson Lane. **Nonconformities** -Some conformity's can be cured through the approval of zoning variances for setbacks, height, and lot coverage. There are no use variances.



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, October 12, 2020 Project ReCode

Zoning map update-Whenever possible and practical, the existing zone districts and the logic behind the new zoning classifications.

Most R-96 zones (or other dense R zones) = N4 zone – except in Lockwood – N3, N2, NX1 or NX2 zones

Most R-150 zones = RR1 or N4 depending on lot area

Most A-S zones = RR1 or RR3

Most A-1 zones = A zone - OR – if less than 10 acres RR1/RR3

CC zone = C3 or CX – depends on use

HC zone = CX or I1

Entryway zones = C3, CX, I1 – in Lockwood CMU1 & CMU2, or NMU

HI zones = I2

Administrative Procedures-New code section – includes all types of processes

- Permit reviews (zoning compliance for buildings, fences, signs, temporary uses etc.)
- Zoning Variances
- Special Reviews
- Zoning Changes
- Planned Neighborhood Developments
- Appeals

Special Topics in Rural Residential Neighborhoods

- Accessory Dwelling Units in the County require a special review in N4, RR1, and RR3. AARP supports ADUs as a way for residents to “age in place” or allow caretakers to live on the property.
- Short Term Rentals, i.e. VRBO, Air-BnB, must be registered. Guest homes are allowed in commercial districts but special review is required for tourist homes. The code cannot override private covenants and restrictions.

Public Hearing: Chairman Boucher opened the public hearing and announced the Public Comment phone number 237-6165 and asked if there is anyone wishing to speak in regard to this text amendment. Planning Clerk Deines announced a phone call from Citizen Jeff Bollman.

Jeff Bollman, 619 Lewis, Billings, Montana

Jeff Bollman works for the Department of Natural Resources and Conservation and has served on the County Issues Working Group. He asked if changes have been made or more discussion held on his questions posed during the prior Re:Code meeting. He said he sent an e-mail to Division Monica Plecker with comments on the substation section. Nicole Cromwell apologized and said this was an oversight on her part. She read aloud Jeff Bollman’s e-mail asking about the special review in Light Industrial zoning and permitted reviews in Heavy Industrial zones; and if this is the intent of the code adjustment for alternative energy production. Mr. Bollman suggested breaking it down further than the listing on Page 15, Use table, 27-1000.



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, October 12, 2020 Project ReCode

Jeff Bollman said the issue is utilities and public major facilities, which speaks to water and wastewater treatment and energy facilities. This does not have to do with alternative energy but instead the manner of electric generation. Nicole Cromwell referred to Table 27-1000, Transportation Utilities and Communities. She noted there are allowed uses that should not have been changed. Jeff Bollman said the definitions section lumps the uses together. He read aloud the definition of the Utilities section and compared it to the table. He said the difference is the generation of power. This code update would make the power generation plants an allowed use in Heavy Industrial zoning. Commissioner Boucher said he did not recall that conversation in the County Issues Working Group. Nicole Cromwell said it could be updated to make it a special review in Heavy Industrial, Light Industrial, and P2 zones as well. Commissioners Bush and Boucher concurred with this suggestion for updates.

It was pointed out that substations are an allowed use in AG-Open zones. Jeff Bollman said he does not want to create nonconforming uses in Ag-Open zones, and suggested changing this from special review to permitted. Commissioner Boucher said this is an appropriate change. He asked how the special review process has changed. Nicole Cromwell said they are changing the way these are approached by applicants who will have to meet additional criterion for the special exemption as an allowed use. There are fewer special review uses in this Code. Commissioner Boucher said Mr. Bollman's suggestion is appropriate.

Discussion followed on Article 27-1000. Oil and gas refineries are permitted in the HI zone and the current code requires a special review. Question was asked if the special review use for oil and gas refineries should be retained. Commissioner Boucher stated the new "PR" designation is similar to the old special review approach. "PR" means it is restricted based on its location and in proximity to another use. There are standard restrictions and conditions that apply. Currently, Petroleum is special review in Heavy Industrial only currently. Commissioner Boucher stated it seems reasonable to have at least a "PR" in this section. Use restrictions for oil and gas refineries were not discussed. Nicole Cromwell suggested keeping it as a special review. Commissioners Boucher and Bush are in concurrence.

Jeff Bollman noted the section on Utilities, minor facilities includes wind and solar. He asked if these conflict with the special provisions that were done for specific facilities in Tier 2 or Tier 3. It may be removed from the definition to alleviate conflicts. Commissioner Boucher is in agreement with removing this language in Tier 2 or Tier 3.

Page 38: SEF Permit Requirements, (County). Tiers 1-3 solar energy facilities are combined in 1-1 and 1-2. The table should be split, as the table does not match the language. The table is a duplicate of the use table. Remove 1, 2, and 3, in the table. The same issue exists on Page 55, Wind. The numbers in the table should be removed and "A", and "B" kept. The Commissioners are in agreement with these changes.



**Yellowstone County Zoning Commission
Minutes for the Meeting of
Monday, October 12, 2020
Project ReCode**

Jeff Bollman stated he had no further suggestions and thanked the Commissioners for their efforts.

Commissioner Boucher asked for a review of the changes on Administrative Procedures and it was given by Zoning Coordinator Cromwell.

Planning Board President Woods stated he has no further comments as this has been a thorough discussion. He stated he is in agreement with Jeff Bellman's suggestions and the direction taken.

Public Comment: Chairman Boucher announced the Public Comment phone number 237-6165 and asked if there is anyone wishing to speak concerning this text amendment. Planning Clerk Deines announced a phone call from Citizen Paul Bitts.

Paul Bitts, (no address given)

Mr. Bitts asked if there is any limitation on adult offender homes. Nicole Cromwell responded that group homes and sober living homes are an allowed use under Community Residential Facilities. Offenses are not addressed as a matter of zoning. The Zoning Code designation for community residential facilities are defined under state law and federally protected. There is no designation for group homes as to why they are living together.

Chairman Boucher announced the Public Comment phone number 237-6165 and asked if there is anyone wishing to speak about this text amendment. There were no further public comments. Chairman Boucher closed the public hearing at 5:35 pm and called for a motion.

Motion

Commissioner Bush moved and Commissioner Boucher seconded the motion that the County Zoning Commission forward a recommendation of approval to the County Commissioners along with the findings of the 11 review criteria for the Zoning Code Amendments and Zoning Map Update and including the modifications discussed during this meeting.

Chairman Boucher called for discussion on the motion.

Discussion

Commissioner Ray stated he is abstaining from this vote due to the inability of changing this code. He said he needs to know if this group can change the code. Nicole Cromwell pointed out that several adjustments have been discussed and Commission members were asked to submit comments and concerns. The Board of County Commissioners will take the Zoning Commission's recommendation, hold a public hearing, and decide how the adoption will proceed. The BOCC hearing will be held Tuesday, November 10, 2020.



**Yellowstone County Zoning Commission
Minutes for the Meeting of
Monday, October 12, 2020
Project ReCode**

The motion carries, 2-1, with Commissioner Ray abstaining. The abstention counts as a vote in opposition for the purposes of this recommendation.

OTHER BUSINESS

a. **Announcement:** The next Yellowstone County Zoning Commission meeting on Monday, November 9, 2020 is canceled due to a lack of agenda items.

Adjournment 5:45 PM

Approved by a motion January 11, 2021

--Tamara L. Deines, Planning Clerk