

**Sec. 27-1628. Zone change.**

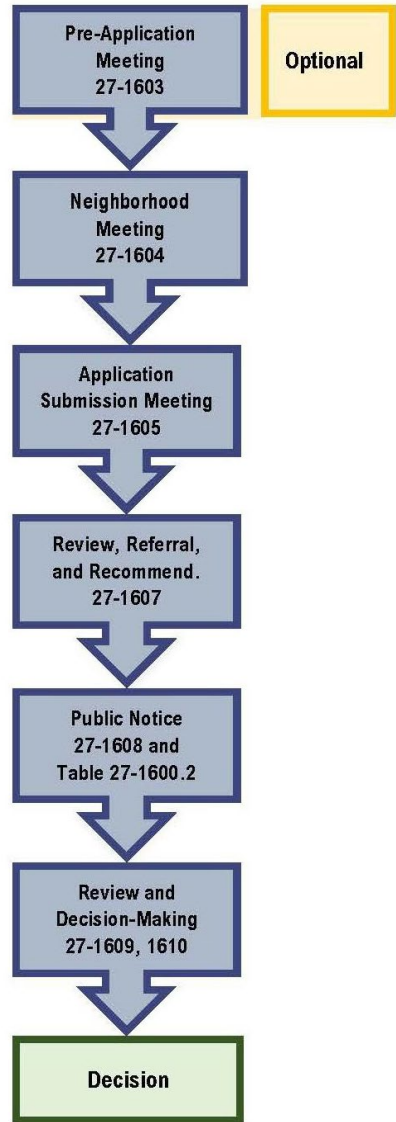
A. *Purpose.* This zoning code, including the official zoning map, may be amended by the city council.

B. *Initiation of zone change.*

1. *Text amendment.* Proposals to amend the text of this zoning code (text amendment), may be initiated by the city council, the zoning commission, or the Yellowstone County Board of Planning.
2. *Zone change (map amendment).* Unless initiated by the city council, 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 identified in Table 27-1600.1 and 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 27-1604(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 fifteen (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. Where the subject property is equal to or more than six hundred (600) feet to exterior coterminous city limits: All property owners within a 300-foot radius. Where the subject property is less than six hundred (600) feet to exterior coterminous city limits: All property owners within one thousand three



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hundred twenty (1,320) feet. Coterminous city limits do not include unincorporated islands within the city limits.

- b. PD zone change: All property owners within one thousand three hundred twenty (1,320) feet.
- c. PND zone change: All property owners within one thousand three hundred twenty (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 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 map amendment is, the time, date and place of the public hearing on the proposed amendment. Such notification shall be made at least fifteen (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 zone change fifteen (15) calendar 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 city zoning commission review and city council 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 affect motorized and nonmotorized 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.

E. *Review and decision-making.*

1. *City zoning commission recommendation.*

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

- (1) Deny the application;
- (2) Approve the application; or
- (3) Allow the application to be withdrawn.

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- (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 city council within fifteen (15) calendar 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 zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) calendar 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.

2. *City council action.*

- (a) The city council shall hold a public hearing within thirty (30) 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 city council shall hold a public hearing on the application.
- (c) A second reading of the ordinance as required by BMCC section 2-232.
- (d) 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) calendar days.

3. *Protest petition triggers supermajority vote requirement.* As provided in MCA 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 ( $\frac{2}{3}$ ) of the present and voting members of the city council.

- (a) 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.
- (b) If the property, as defined in MCA 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.
- (c) 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.
- (d) The protest petition must be received in the planning and community services department office by 5:00 p.m. on the Friday preceding the first reading of the amendment by the city council.

( Ord. No. 21-5748 , § 3(Exh. A), 1-25-21; Ord. No. 22-5807 , § 3(o), 5-9-22)