

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 25- 112

Resolution to Consolidate Yellowstone County Zoning Commission and Yellowstone County Board of Adjustment

WHEREAS, pursuant to Section 76-2-220 of the Montana Code Annotated, a board of county commissioners has the authority to create a county zoning commission. Pursuant to Section 76-2-221 of the Montana Code Annotated, a board of county commissioners has the authority to create a county board of adjustment. Pursuant to Section 76-1-114 of the Montana Code Annotated, a board of county commissioners has the authority to consolidate any combination of planning board, zoning commission and board of adjustment.

WHEREAS, Section 76-1-114 of the Montana Code Annotated, does not provide how a board of county commissioners is supposed to consolidate any combination of planning board, zoning commission and board of adjustment. A board needs to provide the public with the ability to participate in the decision. For the public to participate in the decision, it will need notice of the potential consolidation and an opportunity to comment on the potential consolidation. To allow for public participation, a board should hold a discussion on the consolidation, pass a resolution of intent for the consolidation, set a public hearing, provide notice of the public hearing, accept written comments before the hearing, hold a public hearing, accept written and oral comments at the hearing, discuss the consolidation at the hearing and pass a resolution to either consolidate or not consolidate. The process would allow for public participation in the decision.

WHEREAS, the Yellowstone County Board of County Commissioners created a Yellowstone County Zoning Commission and a Yellowstone County Board of Adjustment. The Board has not been able to obtain enough members for the Zoning Commission to maintain a quorum for the Zoning Commission. The lack of a quorum is adversely affecting Yellowstone County's ability to process zone change requests. To solve the lack of a quorum for the Zoning Commission, the Board has decided to consolidate the Zoning Commission with the Board of Adjustment. If consolidated, the Board would appoint the current members of the Zoning Commission and the Board of Adjustment to the Consolidated Zoning Commission. The Consolidated Zoning Commission would have five members. The Consolidated Zoning Commission would perform the function of both the Zoning Commission and Board of Adjustment.

WHEREAS, on September 2, 2025, the Yellowstone County Board of County Commissioners passed a resolution of intent to consolidate the Yellowstone County Zoning Commission and Yellowstone County Board of Adjustment and set a public hearing on the consolidation for September 16, 2025. On September 5, 2025 and September 12, 2025, the Yellowstone County Clerk and Recorder published notice of the public hearing in the *Yellowstone County News*. On September 16, 2025, the Board held a public hearing on the consolidation. The Board heard comments on the consolidation and considered the consolidation and comments. The Board determined that it would be in the best interest of the public to consolidate.


NOW THEREFORE, BE IT RESOLVED,

The Yellowstone County Board of County Commissioners consolidates the Yellowstone County Zoning Commission and the Yellowstone County Board of Adjustment into a Consolidated Yellowstone County Zoning Commission. The Consolidated Yellowstone County Zoning Commission shall perform the function of both the Zoning Commission and Board of Adjustment. The consolidation is effective immediately. The consolidation shall continue until superseded by another resolution. The Board appoints the current members of the Zoning Commission and Board of Adjustment to the Consolidated Zoning Commission – Tyler Bush, Carlotta Hecker, Todd Hewett, and Pam Ellis. The Consolidated Yellowstone County Zoning Commission shall adopt new bylaws for itself.

Passed and Adopted on the 16th day of September 2025.

BOARD OF COUNTY COMMISSIONERS


YELLOWSTONE COUNTY, MONTANA



Mark Morse, Chair



Michael J. Waters, Member



Chris White, Member

ATTEST:



Jeff Martin, Clerk and Recorder

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

**Affidavit of Notice of Public Hearing for the Consolidation of
Yellowstone County Zoning Commission and Yellowstone County Board of Adjustment**

STATE OF MONTANA)
 : ss.
County of Yellowstone)

Jeff Martin, being first duly sworn, deposes and says:

I am the Yellowstone County Clerk and Recorder. I am the Secretary for the Yellowstone County Board of County Commissioners. On September 2, 2025, the Board passed a resolution of intent to consolidate the Yellowstone County Zoning Commission and the Yellowstone County Board of Adjustment and set a public hearing for September 16, 2025. It ordered me to publish notice of the public hearing, receive written comments and provide the comments to the Board before the hearing.

In compliance with the order, on September 5, 2025 and September 9, 2025, I published notice of the public hearing in the *Yellowstone County News*. Attached is a copy of the notice I published. From September 2, 2025 through September 16, 2025, I received comments. I received _____ comments. I provided the comments to the Board prior to the hearing.

Jeff Martin
Yellowstone County Clerk and Recorder

SUBSCRIBED AND SWORN to before me this 16th day of September 2025.

Notary Public for the State of Montana
Residing at Billings, Montana.
My commission expires _____

(Notarial Seal)

**DRAFT
BY-LAWS
CONSOLIDATED YELLOWSTONE COUNTY ZONING COMMISSION**

ADOPTED: _____

ARTICLE I – NAME AND LOCATION

1. The name of the Commission shall be the Yellowstone County Consolidate Zoning Commission (Commission).
2. The Commission offices are located on the fifth floor of Billings City Hall, 316 N 26th St. Billings, Montana.

ARTICLE II - AUTHORITY, POWERS, AND DUTIES

1. Pursuant to Section 76-2-220 of the Montana Code Annotated, a board of county commissioners has the authority to create a county zoning commission. Pursuant to Section 76-2-221 of the Montana Code Annotated, a board of county commissioners has the authority to create a county board of adjustment. Pursuant to Section 76-1-114 of the Montana Code Annotated, a board of county commissioners has the authority to consolidate any combination of planning board, zoning commission and board of adjustment.
2. On September 16, 2025 the Yellowstone County Board of Commissioners passed Resolution 25-112 to create the Consolidated Yellowstone County Zoning Commission.
3. The Commission shall exercise both the responsibilities of a Zoning Commission and a Board of Adjustment.
 - o Conduct hearings and make recommendations to the Yellowstone County Commissioners on all zoning issues. This includes zone changes, special review requests, zoning regulations, and zoning text amendments.
 - o Hear and decide appeals alleging error in any order, requirement, decision, or determination made by an administrative official in the enforcement or interpretation of zoning regulations.
 - o Authorize, upon appeal, variances from the terms of the zoning regulations where special conditions exist and strict enforcement would cause unnecessary hardship, provided such variances are not contrary to the public interest and uphold the spirit of the regulations.

ARTICLE III – MEMBERSHIP

1. The Commission shall consist of five (5) members appointed by the Yellowstone County Board of County Commissioners.
2. Members shall reside within the Yellowstone County zoning jurisdictional area but outside the City of Billings.
3. Members shall serve two-year terms and may be reappointed. The terms shall be staggered.
 - o Upon creation of the Commission, members appointed from the former Board of Adjustment shall serve an initial term expiring June 30, 2027. Members appointed

from the former Zoning Commission shall serve an initial term expiring June 30, 2026.

4. The County Commissioners may remove a member for cause, including absenteeism, repeated conflicts of interest, or misconduct.
5. Vacancies shall be filled by the County Commissioners for the remainder of the unexpired term.
6. Members are expected to notify the Executive Secretary at least one day in advance of the meeting if unable to attend a meeting. Failure to attend more than three (3) consecutive meetings may be grounds for removal.

ARTICLE III – OFFICERS AND STAFF

1. At the first regular meeting of each calendar year, the Commission shall elect a Chair and a Vice-Chair from among its members.
2. The Chair shall:
 - o Preside over meetings.
 - o Supervise the general affairs of the Commission.
 - o Represent the Commission at meetings, hearings, and conferences.
3. The Vice-Chair shall perform the duties of the Chair in the Chair's absence or disability.
4. If both the Chair and Vice-Chair are absent from a meeting, the Executive Secretary shall call the meeting to order and members shall elect a Temporary Chair.
5. All offices shall serve a term of one year Any officers may serve successive terms.
6. The Director of Planning shall serve as Executive Secretary, responsible for:
 - o Keeping records of all proceedings.
 - o Attending and staffing meetings and hearings.
 - o Preparing agendas, notices, reports, correspondence, and decisions.
 - o Collecting and transmitting applicable fees.
 - o Providing professional planning analysis and recommendations.

ARTICLE IV – MEETINGS AND PROCEDURE

1. Regular meetings shall be held on the second Thursday of each month at 4:00 p.m., or at such other time and place as may be properly advertised.
2. A quorum shall consist of three members.
 - o On any determination regarding an appeal of administrative decision or determination or variance request at least three members of the Commission shall vote in favor. (MCA 76-2-224)
3. The Commission shall only act on matters properly advertised for hearing.
4. Hearings shall follow this order of procedure:
 - o Reading of the legal notice.
 - o Presentation of staff report and recommendation.
 - o Applicant presentation.
 - o Proponent testimony.
 - o Opponent testimony.
 - o Neutral comment.
 - o Applicant rebuttal.
 - o Staff or legal comments.
 - o Commission deliberation and decision.

5. The Chair may close public testimony and proceed to deliberation once all interested parties have had an opportunity to be heard.
6. All persons speaking shall state their name and address for the record.
7. The Commission may continue a hearing to another date if necessary, provided the new date and time are announced at the meeting. If the continuation occurs within six (6) months, no new advertisement is required.
8. The Commission may seek legal assistance from the Yellowstone County Attorney's Office.
9. Robert's Rules of Order shall control the conduct of the meeting unless otherwise provided.
10. The Commission shall follow all applicable federal, state, and local regulations.

ARTICLE V – RULES OF CONDUCT

1. Every member present shall vote unless recused for conflict of interest.
2. Members are allowed to attend meetings virtually no more than six times in twelve meetings.
3. A conflict exists if a member:
 - o Lives within the required notification area;
 - o Has ownership, wholly or partly, of the subject property;
 - o Has a financial or personal interest in the matter.
4. Members shall disclose conflicts at the outset and refrain from participation. The disclosure and recusal shall be recorded in the minutes.
5. Members shall not privately discuss pending matters with applicants, opponents, or other members outside of the public meeting. If such contact occurs inadvertently, the member shall disclose the nature of the discussion.
6. Members shall comply with the Montana Code of Ethics.
7. Members shall conduct themselves impartially, with integrity, and in the interest of the health, safety, and welfare of Yellowstone County residents.

ARTICLE VI – DECISIONS AND RECORDS

1. Written notice of each decision shall be transmitted to the applicant within five (5) days of the decision.
2. All records of the Commission shall be maintained by the Executive Secretary and shall be available for public inspection during business hours.

ARTICLE VII – AMENDMENTS

1. Amendments to these bylaws may be initiated by any member of the Commission.
2. Proposed amendments must be provided in writing at least twenty-four (24) hours before the meeting at which they will be considered.
3. Amendments require a majority vote of the Commission.