

PROPOSED BY-LAWS FOR THE  
YELLOWSTONE COUNTY BOARD OF ADJUSTMENT

ARTICLE I

1. Variance, Appeal or Special Exception hearings shall be held in Room 605, 6th Floor of the Yellowstone County Courthouse, North 27th and 6th Avenues North, Billings, Montana at 10:00 A. M. on the 2nd Friday of the month or as noted in the legal advertising of the hearings.
2. The Yellowstone County Board of Adjustment shall consist of five (5) members residing within the jurisdictional area of Resolution 34723, who shall be appointed by the Yellowstone County Commissioners and whose terms shall run for two (2) years.
3. The Board of Adjustment, at the first regularly scheduled meeting shall:

Elect a chairman whose term shall run for one year, and who shall:

- A. Preside at the meetings of the Board.
- B. Have general supervision of the conduct of the affairs of the Board and shall instruct the executive secretary in conducting Board of Adjustment business.
- C. Perform such other duties as are usually exercised by the Chairman of a Board or Commission.
- D. Sign all communications of the Board and all recommendations to the Board of County Commissioners.
- E. Represent the Board at meetings, conferences and all other sessions of a similar nature.

Elect a Vice-Chairman whose term shall run for one year and who shall:

- A. Perform the duties of the Chairman during the absence or disability of the Chairman.

And designate the Zoning Coordinator or his representative as the Executive Secretary who shall:

- A. Attend all regular, regular adjourned, special, special adjourned meetings or public hearings, and keep a record of same and transcribe same and file properly with the Clerk and Recorder of Yellowstone County.
- B. Prepare all notices and complete all work for meetings of the Board required under these by-laws, State law and County zoning regulations.
- C. Keep a permanent record of all official books, papers, maps and record of the Board of Adjustment and shall conduct all official correspondence relative to hearings, meetings, resolutions, decisions and other business of the Board of Adjustment and shall collect all fees relative to these proceedings.
- D. Prepare the Agenda and Agenda or Reports for Items of business on the Board of Adjustment Agenda. The reports will contain factual background data and professional planning information to guide the Board of Adjustment on its actions.
- E. Notify the Vice-Chairman, by telephone or in person, on the day the Chairman informs the Executive Secretary that he will not attend a future Board meeting.

4. Only those Varlance, Appeal or Special Exception requests as advertised for hearing on a given date will be heard and they shall be in the order in which they appear on the Agenda for that date.
5. When a Varlance, Appeal or Special Exception request is set for a hearing pursuant to advertisement the matter shall be heard even though no one is favor or in opposition to the application appears at the hearing, unless the Board of Adjustment has in writing a request to continue such hearing at a later time due to good and sufficient reason.
6. Each person who speaks at the public hearing shall furnish his name and address to the Board and shall thereby become a part of the record.
7. Each matter in the public hearing shall be heard in the following order:
  - A. Chairman of the Board of Adjustment or other member of the Board shall read the Agenda Report and the notice of hearing.
  - B. The applicant, or his representative, may make a statement on the application.
  - C. Other persons in favor of the application shall be heard.
  - D. Those persons opposed to the application shall be heard.
  - E. The applicant or his representative may be heard in rebuttal.
  - F. The Zoning Coordinator and City-County Planning Staff may summarize pertinent data and present or amplify the recommendation of the same.
8. After the close of the public hearing the Board may retire to a closed discussion period, no witness shall testify before the Board and no new evidence shall be received by it; provided, however, this rule shall not prohibit the members of the Board from examining:
  - A. The subject land and its surroundings, either before or after the public hearings, and reporting to other members of the Board.
  - B. Any part of the Comprehensive Plan previously adopted or being considered.
  - C. Any public record.
  - D. Any file, report or map already in the office of the Planning Department.
  - E. Requesting additional information from the Zoning Coordinator.
  - F. The Board of Adjustment does not have to render a decision on the day the hearing is held but must render a decision within 5 days of the hearing.
9. Any applicant may voluntarily submit restrictive covenants with respect to the land in question. The Board may consider these covenants in reviewing the case and may impose further restrictions if the Board feels they may be necessary.
10. No Board member shall participate, as a Board member in any discussion or voting if he owns property or has a financial interest within the required notification area of any case before the Board of Adjustment, and this shall be noted in the minutes of the proceedings.

11. Within five (5) days following the date of a decision, the Zoning Coordinator shall transmit three (3) copies of the written notice to the applicant.
12. All actions or decisions of the Board of Adjustment shall be taken by a Resolution in which at least a majority of those participating in the action or decision must concur. There shall be at least three (3) members of the Board present at the hearing before any official business may be conducted.
13. If for any reason any business is postponed or delayed, announcement of the time, date and place of the next hearing in which the business will be heard shall constitute official notice and will not be re-advertised if the time period does not exceed six (6) months.
14. The Board of Adjustment shall also follow any rules and regulations set forth in State law and all rules set forth in Resolution 34723 pertaining to the Board and its procedures.

#### ARTICLE II

1. The foregoing by-laws and rules of procedure or any part thereof, may be amended at any meeting of the County Board of Adjustment after not less than twenty-four (24) hours notice has been given to all members of the Board and a copy of the proposed amendment sent with the notices, provided, however, it shall require the concurring vote of a majority of the entire membership.

Adopted this \_\_\_\_\_ day of November, 1973  
By the Yellowstone Board of Adjustment.

  
\_\_\_\_\_  
Chairman

Attest:   
\_\_\_\_\_  
Executive Secretary