



YELLOWSTONE COUNTY ZONING COMMISSION
YELLOWSTONE COUNTY, MONTANA
MONDAY, APRIL 9, 2012

SUBJECT: Zone Change #632, Text Amendment – County Zone Change Procedures and Enforcement – Sections 27-1508 and 27-1604

THROUGH: Candi Beaudry, AICP, Planning Director

PRESENTED BY: Nicole Cromwell, AICP, Zoning Coordinator, Planner II

REQUEST

This is a zone change that will amend Sections 27-1508 and 27-1604 of the Billings, Montana City Code (BMCC) to align the County zone change procedures and enforcement with new state law amendments passed in 2009. The zoning code is a unified code for the city and the 4 ½-mile jurisdictional area outside the city limits in the county. In order to incorporate the changes that apply outside the city limits, the City Council must adopt an ordinance to effect the changes. In 2009, the Montana Legislature approved a bill, HB0486, to amend state law to clarify the criteria for zone changes. The changes require amendments to local ordinances to conform to the new requirements. The City Zoning Commission initiated this amendment on February 7, 2012 and the County Zoning Commission initiated this amendment on February 13, 2012.

RECOMMENDATION

The Planning Division is recommending approval.

BACKGROUND

The state periodically updates its authority for municipal and county zoning. These provisions are the parameters under which all local zoning must be formed. These provisions set standards each jurisdiction must follow when changing zoning districts and the minimum notification requirements for those changes. The proposed amendment will bring local codes into conformance with state law.

ATTACHMENTS

Attachment A: Draft Resolution

Attachment A – Draft Resolution Zone Change #632

Final Resolution 12-_____

A RESOLUTION TO AMEND THE UNIFIED ZONING REGULATIONS FOR THE CITY OF BILLINGS AND YELLOWSTONE COUNTY JURISDICTIONAL AREA BY REVISING SECTION 27-1508 – AMENDMENTS TO CHAPTER – AND TO 27-1604 – ENFORCEMENT TO DELETE LANGUAGE AND ADD LANGUAGE TO CLARIFY THE REGULATION AND ADOPT THE REVISION AS AN AMENDMENT TO THE ZONING REGULATIONS

WHEREAS, pursuant to Title 76, Chapter 2, Montana Code Annotated, the Board of County Commissioners of Yellowstone County, Montana, held a public hearing and adopted a resolution of intent on the 24th day of April, 2012, on the following proposed amendments and additions to the City of Billings – Yellowstone County Unified Zoning Regulations.

Section 1. That the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be amended by revising Section 27-1508 as follows:

SEC. 27-1508. AMENDMENTS TO CHAPTER

(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:

- (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the growth policy comprehensive plan;
- (3) ~~Advertise~~ 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, ~~and~~ 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;
- (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) fifteen (15) days in advance of the date of the Board of County Commissioners public hearing; and

(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 decision 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 to granting, denying, or allowing 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 was is designed in accordance with the growth policy comprehensive plan;
- (2) Whether the new zoning was is designed to lessen congestion in the streets 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 secure safety from fire, panic and other dangers 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 prevent the overcrowding of land effect motorized and nonmotorized transportation;
- (7) Whether the new zoning will avoid undue concentration of population be compatible with urban growth in the vicinity of cities or towns;
- ~~(8) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks, fire, police and other public requirements;~~
- ~~(9) Whether the new zoning gives reasonable consideration to the character of the district;~~
- ~~(10) (8) Whether the new zoning gives reasonable considers ation to the character of the district and the peculiar suitability of the property for particular uses;~~
- ~~(11) (9) Whether the new zoning was adopted with a view to will conserve ing the value of buildings; and~~
- ~~(12) (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 ~~placed~~ 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.

Section 2. That the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional area be amended by revision Section 27-1604 as follows:

SEC. 27-1604. PENALTIES FOR VIOLATION.

(b) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this act, or of any Resolution/Ordinance made under authority conferred hereby, the proper authorities of the City or County may institute any appropriate action or proceedings, in addition to other remedies, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation to prevent the occupancy of such building, structure, or land to prevent any illegal act, conduct, business, or use in or about such premises. Outside the Billings city limits and for the purposes of enforcing this section, the county shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties under section (a) above.

WHEREAS, the Board of County Commissioner received and considered the recommendations of the City/County Planning staff and the Yellowstone County Zoning Commission on the proposed amendment and additions.

NOW, THEREFORE, BE IT RESOLVED that it is the intent of the Board of County Commissioners that the above-described amendment to the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be adopted.

PASSED AND ADOPTED by the Board of County Commissioners of Yellowstone County, Montana, this 29th day of May, 2012.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

John Ostlund, Chairman

James E. Reno, Member

Bill Kennedy, Member

(SEAL)
ATTEST:

Jeff Martin
Clerk and Recorder