

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 22-97

Resolution to Initiate Process to Expand Yellowstone County Jurisdictional Zoning to Encompass Yellowstone County Special Zoning District No. 21

WHEREAS, Section 76-2-201 of the Montana Code Annotated gives a board of county commissioners the authority to expand its jurisdictional zoning for public health, safety, morals or general welfare. Section 76-2-205 of the Montana Code Annotated requires a board to pass a resolution to hold a public hearing on the expansion, receive a recommendation from the planning board on expansion, hold a public hearing, pass a resolution of intent to expand, accept comments, consider the comments and pass a resolution to expand the zoning. A board has to have adopted a growth policy for the area it intends to expand the zoning to cover.

WHEREAS, the Yellowstone County Board of County Commissioners adopted Yellowstone County Jurisdictional Zoning. The Board adopted boundaries and regulations for County Jurisdictional Zoning. The Board created Yellowstone County Special Zoning District No. 21. Attached is the resolution that created the District. The Board received enough protests as to the creation of the District that it had to void the creation of the District. Attached is the resolution that voided the creation of the District. Some landowners in the District filed a complaint that the protest provisions violated the Montana Constitution. Attached is a copy of the complaint. The District Court found the protest provisions violated the Constitution and ordered the District recreated. Attached is a copy of the order. The County has not adopted regulations for the District. It will take some time for the County to adopt regulations for the District. To expediate the implementation of zoning in the District, the Board decided to consider the expansion of County Jurisdictional Zoning to encompass the District. County Jurisdictional Zoning already has regulations. The County adopted a growth policy for the area it intends to expand the zoning to cover.

NOW THEREFORE, BE IT RESOLVED,

On January 17, 2023, the Yellowstone County Board of County Commissioners shall hold a public hearing on the expansion of Yellowstone County Jurisdictional Zoning to encompass all of Yellowstone County Special Zoning District No. 21.

The Board orders the Yellowstone County Clerk and Recorder to post notices of the hearing, publish notice of the hearing, accept written comments prior to the hearing, provide the comments to the Board before the hearing and make the boundaries and regulations for the expansion available to the public. The Clerk and Recorder shall post the notices of the hearing at least 45 days before the hearing in at least five public places and publish the notice at least once a week for two weeks in a newspaper of general circulation.

The Board also orders the Yellowstone County Planning Board to hold a public hearing on the expansion of County Jurisdictional Zoning to encompass all of the District and make a recommendation to the Board on the expansion by December 27, 2022.

Passed and Adopted on the 1st day of November 2022.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

Donald W. Jones, Chair

John Ostlund, Member

Denis Pitman, Member

ATTEST:

Jeff Martin, Clerk and Recorder

Chronology

BOCC Resolution to Initiate Process	November 1, 2022
Notice of Public Hearing	December 2, 2022 & December 9, 2022
	December 2, 2022 until January 16, 2023 = 45 days
Affidavit of Notice	January 17, 2022
Resolution for Public Hearing Planning Board	December 13, 2022
Notice of Public Hearing Planning Board	December 16, 2022 & December 23, 2022.
Affidavit of Notice Planning Board	December 23, 2022
Public Hearing Planning Board	December 27 2022
Recommendation Planning Board	December 27, 2022
BOCC Public Hearing	January 17, 2023
BOCC Resolution of Intent	January 17, 2022
Notice of Resolution of Intent	January 20, 2023 & January 27, 2023
Affidavit of Notice	January 20, 2023 until February 19, 2023 = 30 days
BOCC Resolution	February 21, 2023

Documents

- Growth policy
- Resolution Creating District
- Resolution Voiding District
- Complaint
- Order

- Resolution Initiate Process / Public Hearing
 - meeting minute entry
 - meeting recording
- Notices of public hearing
- Affidavit of notices

- Planning Board
 - Resolution Public Hearing Planning Board
 - Notice of Public Hearing Planning Board
 - Affidavit of Notice
 - meeting minute entry
 - meeting recording
 - Recommendation

- Resolution of Intent
 - meeting minute entry
 - meeting recording
- Comments

- Resolution
 - meeting minute entry
 - meeting recording

76-2-205. Procedure for adoption of regulations and boundaries

The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

- (1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district must:
 - (a) state:
 - (i) the boundaries of the proposed district;
 - (ii) the general character of the proposed zoning regulations;
 - (iii) the time and place of the public hearing;
 - (iv) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;
 - (b) be posted not less than 45 days before the public hearing in at least five public places, including but not limited to public buildings and adjacent to public rights-of-way, within the proposed district; and
 - (c) be published once a week for 2 weeks in a newspaper of general circulation within the county.
- (2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.
- (3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make any revisions or amendments that it determines to be proper.
- (4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.
- (5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:
 - (a) the boundaries of the proposed district;
 - (b) the general character of the proposed zoning regulations;
 - (c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;
 - (d) that for 30 days after first publication of this notice, the board of county commissioners will receive written comments on the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last-completed assessment roll of the county.
- (6) Within 30 days after the expiration of the comment period, the board of county commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district.