

# **ARTICLE 27-100: GENERAL PROVISIONS**

## **SECTION 27-101 TITLE**

This chapter and maps shall be known and cited as the Yellowstone County Zoning Code (“Zoning Code”).

## **SECTION 27-102 PURPOSE**

- A. The Zoning Code, classifications, and the districts as herein set forth are in accordance with MCA 76-2-201, County Zoning.
- B. This Zoning Code has been established in accordance with the 2008 Yellowstone County Growth Policy and any updates thereto including the 2016 Lockwood Growth Policy and any County adopted plans and policies related to growth and development of County services and has been deemed necessary and developed with consideration, among other things, to the character of each zoning district and its peculiar suitability for particular uses, to conserve the value of buildings, to stabilize property values, to preserve recreation and agriculture lands from conflict with urban development, to promote the interest of health, safety and general welfare, to secure safety from fire and to provide adequate open space for light and air, and to facilitate the economic provision of adequate transportation, water, sewers, schools, parks and other public requirements. To achieve these goals, this Zoning Code shall govern the height and size of buildings and structures, the percentage of lots that may be occupied, the size of yards and open space, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes within the Yellowstone County zoning jurisdiction boundary.
- C. The BOCC of Yellowstone County further declares these zoning regulations are adopted for the following specific purposes:
  - 1. To promote and guide development consistent with the goals and objectives of the Growth Policy and area plans;
  - 2. To prevent waste and inefficiency in land use;
  - 3. To encourage innovations in residential development and renewal so that the needs of the community for housing may be met by greater variety in type and design of dwellings and by conservation of open space; and
  - 4. To provide adequate land and space for the development of commercial and industrial uses and to encourage such developments in locations calculated to benefit the community at large and in a manner consistent with the goals and objectives of the Growth Policy and area plans.

## **SECTION 27-103 SCOPE**

- A. This chapter applies to all lands within the Yellowstone County zoning jurisdiction boundary.
- B. In their interpretation and application, the provisions of this Zoning Code may be regarded as the minimum requirements for the protection of the public health, safety, comfort, prosperity, and welfare.

- C. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

#### **SECTION 27-104 SEPARABILITY CLAUSE**

If any provision of this Zoning Code or its application to any person or circumstances is held invalid, the remainder of the Zoning Code or the application of the provision to other persons or circumstances is not affected.

#### **SECTION 27-105 EFFECTIVE DATE AND ARCHIVED ZONING CODE**

This Zoning Code shall become effective on December 15, 2020. The zoning code that was effective immediately prior to this Zoning Code shall be retained and referred to as the Archived Zoning Code. One copy of the Archived Zoning Code shall remain of record in the Planning and Community Services Office and one copy shall be stored in the County Clerk and Recorder's office, either in hard copy or electronically. An unofficial public copy may also be maintained on the County's website.

#### **SECTION 27-106 SCHEDULE OF FEES, CHARGES, AND EXPENSES**

The county commission shall establish a schedule of fees, charges and expenses and a collection procedure for appeals and other matters pertaining to this chapter. This schedule may be amended from time to time by resolution of the county commission.

#### **SECTION 27-107 TRANSITIONAL PROVISIONS**

##### **A. EXISTING APPROVALS**

This Zoning Code is not intended to abrogate or annul any lawful zoning compliance permit or variance issued before the effective date of this Zoning Code. Applications and permits that have not achieved final approval as of the effective date of this Zoning Code shall be processed according to the provisions of this section.

##### **B. APPROVED PROJECTS**

###### **1. Validity**

- (a) Except for planned developments approved prior to the effective date of this Zoning Code, permits and approvals that are valid on the effective date of this Zoning Code shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed.
- (b) Where construction has started prior to the effective date of this Zoning Code pursuant to a validly issued zoning compliance permit, it may be completed under the regulations in effect at the time of issuance without regard to this Zoning Code; provided, that construction is begun within six months of the effective date and diligently prosecuted to completion. Upon completion, the structure may be occupied by the use for which originally designated even if the structure or use is nonconforming under the terms of this Zoning Code.

###### **2. Changes**

No provision of this Zoning Code shall require any change in the plans, construction, or designated use of any structure for which a planning permit has been issued prior to the effective date.

**3. Extensions**

The decision-making body that granted the original approval may renew or extend the time of a previous approval if the required standards or criteria for approval remain valid. Any extension granted shall not exceed the time specified for the extension of the specific permit approval in Article 27-1600, Administrative Procedures.

**C. RE-APPLICATION**

Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.

**D. PLANNED DEVELOPMENTS AND MASTER SITE PLANS APPROVED PRIOR TO THE EFFECTIVE DATE**

1. Any planned development identified on the zoning map and approved prior to the effective date shall remain valid. Planned Developments that refer to zone districts not included in this Zoning Code shall use the Archived Zoning Code requirements. For example, a reference to an underlying zone district of "Community Commercial" shall refer to the use table, use standards, and other requirements for that zone district in the Archived Zoning Code.
2. Planned Development and Master Site Plan approvals that predate the adoption of this Zoning Code shall be narrowly interpreted and are limited to the specified terms of approval. Where a term was not included in the PD or MSP approval, the most closely similar provision of this Zoning Code shall be applied. For example, if a planned development does not specify a process for amendment, the process for amending planned development approvals in this Zoning Code will be used.

**E. APPLICATIONS IN PROGRESS****1. Completed Applications**

- (a) Complete applications submitted before the effective date and pending approval at the time of adoption of this Zoning Code may, at the applicant's option, be reviewed wholly under the terms of the previous zoning code. If approved, these projects may be carried out in accordance with the development standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application.
- (b) Complete preliminary subdivision and check print certificate of survey applications submitted prior to the effective date of this Zoning Code shall continue to be processed as long as they are compliant with the terms of the previous zoning code. The lots created may be conforming or nonconforming to the terms of this Zoning Code. The owner or agent may request written confirmation of conformance or non-conformance with this Zoning Code.

**2. No Applications Submitted**

Projects for which no application has been submitted and accepted as complete prior to the effective date shall be subject to all requirements and standards of this Zoning Code.

**3. Lapsing**

Regardless of whether a completed application has been received prior to the adoption of this Zoning Code, any permit or approval issued following the adoption of this Code shall be subject to the lapsing provisions of Section 27-1612.

**F. LAPSING OF PREVIOUS APPROVALS**

If a development permit or approval was approved pursuant to the Archived Zoning Code but did not have a lapsing date under that prior code and does have a lapsing date under this Zoning Code, the permit or approval shall be subject to lapsing pursuant to Section 27-1612, but the lapsing period shall be deemed to begin running on the effective date of this Zoning Code, not the date of approval.

**G. SPECIAL USE PERMITS DEEMED APPROVED**

If (a) a use of land or structures was listed as a permitted use in a specific zone district under the previous zoning code, and (b) that use of land or structures was established on property in that district prior to the adoption of this Zoning Code, and (c) the same use of land or property is now listed as a special review use in the same district in Table 27-1000.1, then the established use shall be deemed to have received a special review approval and shall be a legal, conforming use of land. Upon request by the property owner and submission that the use was established prior to approval of this Zoning Code, the zoning coordinator shall provide written confirmation of the legal, conforming status of the use.

**SECTION 27-108 VIOLATIONS CONTINUE**

Any violation occurring under the previous Zoning Code will continue to be a violation under this Zoning Code and be subject to penalties and enforcement pursuant to Sec. 27-1700, Violations, Enforcement, and Remedies, unless the use, development, construction, or other activity currently complies with the provisions of this Zoning Code.