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**BOARD OF COUNTY COMMISSIONERS**  
**YELLOWSTONE COUNTY, MONTANA**  
**TUESDAY, MAY 29, 2012**

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**SUBJECT:** Zone Change #636, Text Amendment – Fence Height – 27-604 and 27-618

**THROUGH:** Candi Beaudry, AICP, Planning Director

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

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**REQUEST**

This is a zone change that will amend one section of the Unified Zoning Regulations for Billings and Yellowstone County regarding fence height in front setbacks. The current code requires a maximum height of 3 feet or any fence in a front setback. The proposed amendment would increase this maximum height to 4 feet in the front setback.

The City Zoning Commission conducted a public hearing on May 1, 2012 and recommended approval to the City Council. The City Council will conduct a public hearing on May 29, 2012. The County Zoning Commission conducted a public hearing on May 14, 2012, and is forwarding a recommendation of approval on a 3-0 vote.

**REASONS**

Most fence material suppliers do not carry a 3-foot height but most carry a 4-foot fence material. Fence height in the front is primarily to promote public health and safety since a tall fence in front of a structure could prevent emergency access or block vision of the address numbers on the building. Allowing a 4-foot front yard fence will not have an effect on public health or safety and would allow property owners to provide a more secure front yard area for pets and children. Any fence within a clear vision area on a corner lot or for a drive way cannot exceed 30 inches in height regardless of the allowable height in the front setback. This amendment will not negate any current or future private subdivision covenants and restrictions regarding fence height in front setback areas. The city does not enforce these private covenants and restrictions.

**RECOMMENDATION**

The Zoning Commission voted 3-0 to recommend approval of Zone Change #636.

**ZONING COMMISSION PUBLIC HEARING AND DISCUSSION**

The Zoning Commission conducted a public hearing on this application on May 14, 2012. Planning staff provided testimony on the proposed text amendment. There was no other public testimony.

Vice Chairman Al Littler called for questions and discussion by the members of the Commission. There were no questions from the Board. The Zoning Commission moved to recommend approval to the Board of County Commissioners on a 3-0 vote.

**RECOMMENDATION**

The Zoning Commission recommends approval of Zone Change #636 on a 3-0 vote.

**ATTACHMENTS**

Attachment A: Draft Resolution

**Attachment A** – Draft Resolution Zone Change #636

Final Resolution 12-\_\_\_\_\_

A RESOLUTION TO AMEND THE UNIFIED ZONING REGULATIONS FOR THE CITY OF BILLINGS AND YELLOWSTONE COUNTY JURISDICTIONAL AREA BY REVISING SECTION 27-604 – FENCES, WALLS AND HEDGES; AND 27-618 FIGURE 6. ILLUSTRATIONS - 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 24<sup>th</sup> day of April, 2012, on the following proposed amendments and additions to the City of Billings – Yellowstone County Unified Zoning Regulations.

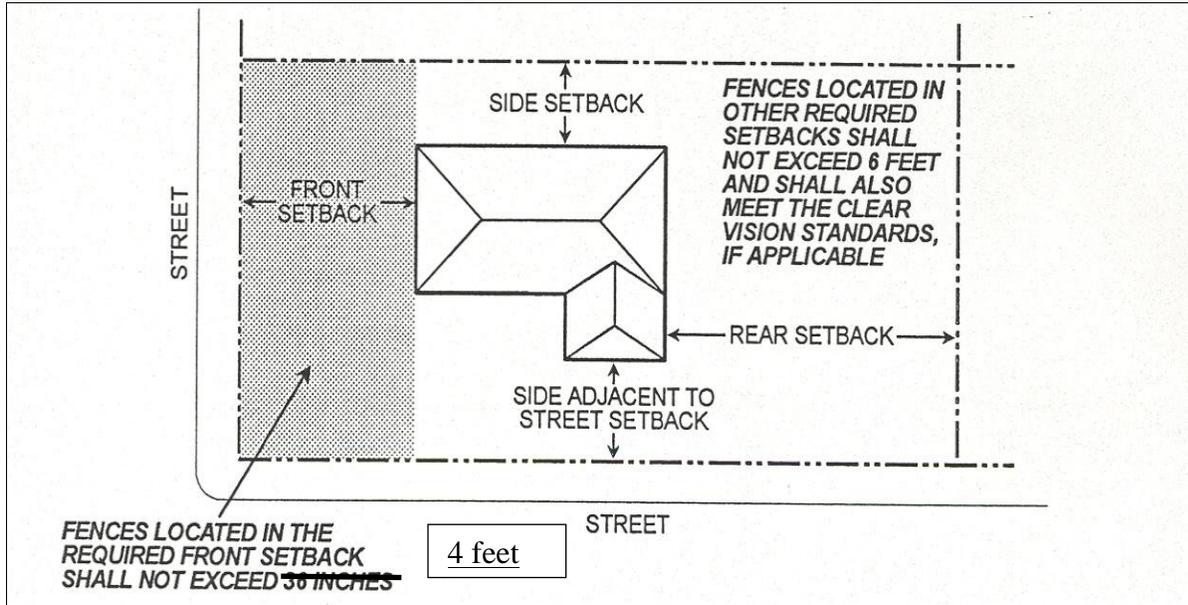
**Section 1.** That the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be amended by revising Section 27-604 as follows:

**SEC. 27-604. FENCES, WALLS AND HEDGES.**

- (a) Fences, walls and hedges may be erected or maintained in any zoning district provided the height, setback, and material provisions outlined below are followed and a permit is secured. "Fence" for the purposes of this section means any fence, wall or hedge. No fence shall be erected or maintained in a public right-of-way.
- (b) *Height.* Height for the purposes of this section shall be defined as the vertical distance from the top rail, board or wire to the ground directly below.
- (c) Setbacks required. Fences, walls or hedges of up to ~~three (3)~~ four (4) feet may be erected or maintained in the required front yard setback as defined in sections 27-308 or 27-309. Fences, walls or hedges between a height of ~~three (3)~~ four (4) and six (6) feet may be erected or maintained anywhere outside of the front yard setback, except as described in subsection (d) below. (see figure 6, section 27-618). Any fence, wall or hedge in excess of six (6) feet shall meet all of the yard setback requirements for structures as defined in sections 27-308 or 27-309. None of the above setback requirements shall apply to lands located in the agricultural-open space (A-1), central business district (CBD), controlled industrial (CI), or heavy industrial (HI) zones.
- (d) Setbacks for clear vision zones. No fence, wall or hedge greater than ~~three (3) feet~~ thirty (30) inches in height may be erected or maintained in any zoning district within a clear vision zone pursuant to Section 27-615 and as illustrated in figures 1, 2, and 3 of section 27-618.
- (h) Permit required. Any fence between a height of ~~three (3)~~ four (4) feet and six (6) feet shall require a permit from the planning department. Any retaining wall exceeding a height of four (4) feet or any fence exceeding a height of six (6) feet shall require a permit from the building department.

**Section 2. AMENDMENT.** That the Billings, Montana City Code be amended by revising Section 27-618 as follows:  
**FIGURE 6. FENCE**

That the Billings, Montana City Code be amended by



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 3<sup>rd</sup> day of July, 2012.

BOARD OF COUNTY COMMISSIONERS  
 YELLOWSTONE COUNTY, MONTANA

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 John Ostlund, Chairman

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 James E. Reno, Member

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 Bill Kennedy, Member

(SEAL)  
 ATTEST:

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 Jeff Martin  
 Clerk and Recorder