



Community Planning Division

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MEMORANDUM

TO:

Missoula Building Industry Association
Missoula Architecture & Design Group
Missoula County REALTORS Association
Missoula Area Chamber of Commerce

Interested Citizens
Downtown Missoula Partnership
Missoula Economic Partnership
Office of Neighborhoods

FROM: Emily Gluckin, Associate Planner
Community Planning, Development, and Innovation

DATE: March 21, 2022

RE: Request for Comment on Proposed Title 20 Amendment – Public Forum Standards

Community Planning, Development, and Innovation is seeking your input on proposed targeted amendments to the public forum sections of the Missoula City Zoning Ordinance that are based on recent changes to state law. You have been identified as a representative of an interest group, and we invite you to share these materials with your members. For more information and to share your comments on the proposal, please visit <https://www.engagemissoula.com/title-20-amendment-state-law-changes-to-public-forum-requirements>.

A public forum is a type of public hearing that is held when a public agency, including a board, bureau, commission, department, authority, or other entity of state or local government, proposes to develop or use land in a way that does not meet the requirements of the zoning code. When such a proposal is made by a public agency, a public forum for comment on the project must be held, as described in Montana Codes Annotated (MCA) 76-2-402.

During the 2021 legislative session, the State of Montana passed House Bill 496, which revised the requirements surrounding the review of a public forum request. These revisions included changing the review authority of public forums from the local Board of Adjustment to the local governing body (City Council), as well as adding a new requirement for the requesting agency to attend the public hearing.

The Missoula City Zoning Ordinance (Title 20) includes guidance that in addition to the requirements of the Zoning Ordinance, all uses and development must comply with all other applicable city, state, and federal regulations. The following proposed targeted amendments are intended to align the City zoning regulations surrounding public forums with the amendments to MCA 76-2-402, and include the following sections of the zoning code:

Title 20.85.010 – Review and Decision-Making Authority (Summary Table)

- Changes the review and decision-making authority for a public forum from Board of Adjustment to City Council.

Title 20.85.020 – Common Provisions

- Removes public forums from the Board of Adjustment application types;
- Adds a new line for public forums under Noticing Requirements for Specific Application Types.

Title 20.85.095 – public forum Review and Approval Procedures

- Changes all instances of “Board of Adjustment” to “City Council”;
- Adds that, per the new State Law, an agency requesting a public forum shall attend the public hearing.

The attached document includes a general description and provides amendment language and an explanation for each suggested amendment. Amendments are shown as strike-through and underline. For reference, the City Zoning Ordinance (Title 20), can be viewed online [here](#).

Comments received by **Friday, March 25, 2022**, will be included in an informational packet to the Planning Board prior to their public hearing. Comments received after this time and prior to the public hearings will be forwarded separately to the Planning Board and City Council.

After agency and public input, the Planning Board will review and provide recommendations to the City Council for their final review, recommendation, and decision. The Planning Board will hold a public hearing on **Tuesday, April 5, 2022, at 6:00 p.m.** and the City Council will hold a public hearing on **Monday, April 18th, 2022 at 6:00 p.m.**

Please contact me at gluckine@ci.missoula.mt.us or (406) 552-6621 if you have any questions.

Attachments

Proposed Amendments - Title 20 Public Forum Standards (3/15/2022)
State of Montana House Bill 496

DRAFT Title 20 Amendments
Changes to Public Forum Requirements per State Law
March 15, 2022

Specific Amendments:

20.85.010 - Review and Decision-making Authority (Summary Table)

The following table provides a summary of the review and approval procedures of this chapter. In the event of conflict between this summary table and the detailed procedures contained elsewhere in this chapter, the detailed procedures govern.

Table 20.85-1 Review and Decision-making Authority (Summary Table)

Procedure	Zoning Officer	Design Review Board	Board of Adjustment	HPC	Planning Board	City Council	(N)ewspaper (M)ailed (P)osted
Procedures Requiring a Public Hearing							
Table continues....							
Historic Preservation Permit	R/DM*	-		<DM>	-	<A>	N,M,P
Variances	R	-	<DM>	-	-	-	N,M,P
Public Forum	R	-	↔ -	-	-	- <>	N,M,P
Appeals of Administrative Decisions	-	-	<DM>	-	-	-	N,M,P
Procedures that do not Require a Public Hearing							
Table continues....							

R = Review Body (Responsible for Review and Recommendation)

DM = Decision-Making Body (Responsible for Final Decision to Approve or Deny)

A = Local (de novo, non-judicial) appeal

< > = Public Hearing Required

[1] Appeal processed as a variance

* Historic Preservation Permit may be granted by Zoning Officer if standards are met.

Explanation:

State of Montana House Bill 496 (2021) amended the state law requirements for public forums to change the review authority for public forums from a local Board of Adjustment to a local governing body, which is the Missoula City Council. This proposed amendment reflects that change in authority and communicates that a public hearing is now required before City Council.

20.85.020 - Common Provisions

D. Notice

The purpose of this section is twofold; one, to satisfy legal requirements by providing adequate notice of governmental actions to those affected by such actions; and two, to engage the public by making them aware of proposed changes that may affect them. Notice is provided

3. Notice Requirements for Specific Application Types

**Table 20.85-2
Noticing Requirements for Specific Application Types**

Application	Posted Notice	Mail Notice	Notification Distance ¹	Newspaper Notice	Title 20 Section
Administrative Adjustment ³	X	X	150'	None	20.85.110
Annexation	X	X	150'	X	Post on-site
Appeals of Administrative Decisions ³	X	X	150'	X	20.85.100
Board of Adjustment (Variances and Public Forums)	X	X	150'	X	20.85.090 20.85.095
<u>Public Forum</u>	<u>X</u>	<u>X</u>	<u>150'</u>	<u>X</u>	<u>20.85.095</u>
	X	X	150'	X	20.85.070
Table continues...					

Explanation:

The state law amendments in House Bill 496 change a public forum from having a Board of Adjustment public hearing requirement to a City Council public hearing requirement. Public forums need to be separated from the Board of Adjustment category for noticing requirements and this amendment creates a new line for Public Forum as a specific application type.

20.85.095 - Public Forum

For the purposes of this section, an "agency" means a board, bureau, commission, department, district, an authority, or other entity of state or local government.

A. Applicability; Authorized Public Forum

The ~~Board of Adjustment is authorized to~~ City Council must hold a public hearing when an agency proposes to develop or use public land contrary to these zoning regulations.

B. Authority to File

Applications for a public forum may be initiated only by the owner of the subject property or by the owner's authorized agent .

C. Application Filing

Applications for a public forum must be filed with appropriate personnel in Development Services.

D. Notice of Hearing

Public noticing standards can be found in Section 20.85.020 - Notice.

E. Hearing

The ~~Board of Adjustment~~ City Council shall hold a public hearing within 30 days of the date the agency gives notice to Development Services of its intent to develop or use land contrary to these zoning regulations. The ~~Board of Adjustment~~ City Council shall hold the public hearing as a public forum and shall have no power to deny or condition the proposed use, but shall act only to allow a public forum for comment on the proposed use. The agency shall attend the public hearing (See 76-2-402, MCA.)

Explanation:

The proposed amendments in this section replace all mentions of the Board of Adjustment with "City Council" to reflect the change in state law requirements regarding review authority, and the term "must" is included to directly align with language used in state law.

Additionally, House Bill 496 included new language requiring the agency requesting a public forum to attend the public hearing. This amendment makes this requirement clear in the zoning code.



AN ACT REVISING COUNTY ZONING LAWS; REQUIRING A LOCAL GOVERNING BODY TO HOLD A PUBLIC HEARING ON CERTAIN PUBLIC LAND USE; REMOVING A LOCAL BOARD OF ADJUSTMENTS PROHIBITION TO DENY A PUBLIC LAND USE THAT IS CONTRARY TO ZONING REGULATIONS; AND AMENDING SECTION 76-2-402, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-402, MCA, is amended to read:

"76-2-402. Local zoning regulations -- application to agencies. (1) Whenever an agency proposes to use public land contrary to local zoning regulations, a public hearing, ~~as defined below, shall~~ must be held and the agency shall attend the public hearing.

~~(4)(2)~~ The local governing body shall hold a hearing within 30 days of the date the agency gives notice to the ~~board~~ local governing body of its intent to develop land contrary to local zoning regulations.

~~(2) The board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use."~~

- END -

I hereby certify that the within bill,
HB 496, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 496

INTRODUCED BY B. MERCER

AN ACT REVISING COUNTY ZONING LAWS; REQUIRING A LOCAL GOVERNING BODY TO HOLD A PUBLIC HEARING ON CERTAIN PUBLIC LAND USE; REMOVING A LOCAL BOARD OF ADJUSTMENTS PROHIBITION TO DENY A PUBLIC LAND USE THAT IS CONTRARY TO ZONING REGULATIONS; AND AMENDING SECTION 76-2-402, MCA.