<div align="center">**DRAFT: ORDINANCE (03/14/2022)**</div>

A City of Missoula initiated ordinance amending Title 20, Missoula Municipal Code, the City Zoning Ordinance, to incorporate revisions in Chapter 20.85 Review and Approval Procedures.

Be it ordained that the following sections and tables are hereby amended as follows: Section 20.85.010, Table 20.85-1, Section 20.85.020.D.3, Table 20.85-2, Section 20.85.095.A, and Section 20.85.095.E.

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.

<div align="center">**Table 20.85-1 Review and Decision-making Authority (Summary Table)**</div>

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~~
Public Forum	X	X	150'	X	20.85.095
	X	X	150'	X	20.85.070
Table continues…					

Explanation: (for example)

>*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.

Explanation:

House Bill 496 includes new language that previously did not exist in either state law or zoning code to require an agency requesting a public forum to attend the public hearing. This amendment mirrors the new state law requirement to make this requirement clear in the zoning code.

Codification note: Remove all explanations from document before codifying.

Effective date. The provisions of this ordinance shall be effective in 30 days after adoption.

Severability. If any selection, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any

one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.
PASSED by a ___Ayes, ___Nays,   Abstain and ___absent vote and
APPROVED by the Mayor this ___ day of _____, 2022.

ATTEST: APPROVED:

Martha L. Rehbein   John Engen

City Clerk   Mayor

(SEAL)