

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							
<i>Table continues....</i>							
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							
<i>Table continues....</i>							

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.