

Municipal Planning Commission Training

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Community Technical Assistance Program

Montana Department of Commerce

Community MT Division



Planning Boards

- Part 1. General Provisions – Table of Contents, Title 76, Chapter 1, MCA (mt.gov)
- 76-1-106. Role of planning board, MCA (mt.gov)
- 76-1-107. Role of planning board in relation to subdivisions and plats, MCA (mt.gov)

What is the Zoning Commission?



76-2-307. Zoning commission. In order to avail itself of the powers conferred by this part, except [76-2-306](#), the city or town council or other legislative body shall appoint a commission, to be known as the zoning commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such city or town council or other legislative body shall not hold its public hearings or take action until it has received the final report of such commission.

History: En. Sec. 6, Ch. 136, L. 1929; re-en. Sec. 5305.6, R.C.M. 1935; R.C.M. 1947, 11-2706.

Zoning Commission: Duties

- Recommend zone boundaries 76-2-302.
Zoning districts, MCA (mt.gov)
- Define specific uses for each zone designation
- Enforcement of zoning regulations 76-2-304.
Criteria and guidelines for zoning regulations,
MCA (mt.gov)
- Issue permits, collect fees



Board of Adjustment: Duties

- Variance requests, Conditional Use or Special Use Permits
 - 76-2-323. Powers of board of adjustment, MCA (mt.gov)
- Hears appeals
 - 76-2-326. Appeals to board of adjustment, MCA (mt.gov)



Board of Adjustment: Membership, Term, Vacancies

- **76-2-322. Membership and term of board members – vacancies.** (1) The board of adjustment shall consist of not less than five or more than seven members to be appointed for a term to be specified by the city or town council or other legislative body or, if no term is specified, then for a term of three years. A member is removable for cause by the appointing authority upon written charges and after public hearing.
- (2) Vacancies shall be filled for the unexpired term of any member who term becomes vacant.

History: En. Sec. 7, Ch. 136, L. 1929; re-en. Sec. 5305.7, R.C.M. 1935; amd. Sec. 1, Ch. 13, L. 1975; R.C.M. 1947, 11-2707(1); amd. Sec. 1, Ch. 67; L. 1985; amd. Sec. 1, Ch. 110, L. 1987.

Consolidated Land Use Boards

76-1-114. Consolidated land use boards – zoning commission, planning board, and board of adjustment, MCA (mt.gov)



*Optional, different than Planning Commission per SB 382 Montana Land Use Planning Act

Appeals – Board of Adjustment

- **76-2-326.** Appeals to board of adjustment. (1) Appeals to the board of adjustment may be taken by a person aggrieved or by an officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. An appeal must be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds of the appeal.
- (2) The officer from whom the appeal is taken shall, in a timely manner, transmit to the board all papers constituting the record upon which the action appealed was taken.
- (3) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed with the officer that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property. In that case, proceedings may not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
- (4) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice of the hearing as well as due notice to the parties in interest, and decide the appeal within a reasonable time.
- (5) At the hearing, any party may appear in person or by the party's attorney.
- **History:** En. Sec. 7, Ch. 136, L. 1929; re-en. Sec. 5305.7, R.C.M. 1935; amd. Sec. 1, Ch. 13, L. 1975; R.C.M. 1947, 11-2707(3), (4); amd. Sec. 2516, Ch. 56, L. 2009.

Appeals – Court of Record

- **76-2-327. Appeals from board to court of record.** (1) Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment or any taxpayer or any officer, department, board, or bureau of the municipality may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within 30 days after the filing of the decision in the office of the board.
- (2) Upon the presentation of the petition, the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment and shall prescribe in the writ the time within which a return must be made and served upon the relator's attorney, which may not be less than 10 days and may be extended by the court. The allowance of the writ does not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board, and on due cause shown, grant a restraining order. The board of adjustment may not be required to return the original papers acted upon by it, but it is sufficient to return certified or sworn copies of the original papers or of portions of the original papers that may be called for by the writ. The return must concisely set forth other facts that may be pertinent and material to show the grounds of the decision appealed from and must be verified.
- (3) If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence that it may direct and report the evidence to the court with the referee's findings of fact and conclusions of law, which constitute a part of the proceedings upon which the determination of the court must be made.
- (4) The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- **History:** En. Sec. 7, Ch. 136, L. 1929; re-en. Sec. 5305.7, R.C.M. 1935; amd. Sec. 1, Ch. 13, L. 1975; R.C.M. 1947, 11-2707(8) thru (11); amd. Sec. 2517, Ch. 56, L. 2009.

SB 382 Montana Land Use Planning Act

Chapter 25. Montana Land Use Planning Act –
Table of Contents, Title 76, MCA (mt.gov)



Combined Boards

(Planning Commission, Land Use Board,
Community Development Board, etc.)



Per SB 382, Montana Land Use Planning Act

76-25-104. Planning commission, MCA (mt.gov)

Combined Boards

- Bylaws
- Land Use Plan and Map
- Zoning Ordinance
- Subdivision Regulations
- Growth Policy
- Any other land use planning documents governing body designates



Public Participation Plan

76-25-106. Public participation, MCA (mt.gov)



Best Practice: Every local government should have a clear policy for encouraging public participation in public meetings and public hearings.

New Appeal Process

76-25-503. Appeals, MCA (mt.gov)

- Findings – information or conclusion, outcome
- Evidence – document, document, document!
- Decision – takes effect on date issued

Annexation and Extension of Services

76-25-306. Zoning and annexation, MCA
(mt.gov)



Presentations, Publications and Model Documents – [Community Technical Assistance Program – Community MT](#)

Meetings: Roberts Rules of Order

- [Roberts Rules of Order](#)
- Meant to be guidance for parliamentary procedure in public meetings.
- Establishes consistent format for public meetings.

Best Practices

- Keep regulations updated, reflective of current community visions and *enforceable*.
- Fill vacant seats as soon as possible to ensure ability of board to have a quorum at meetings.
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- Review by-laws frequently for compliance.
- No ex-parte communication on appeals.

Resources

- Montana Department of Commerce
 - Planning Board Handbooks ([PDF](#)) ([mt.gov](#))
 - Community Technical Assistance Program ([mt.gov](#))
- 2023 Land Use Statutes (MCA), Title 76. Land Resources and Use – Table of Contents, MCA ([mt.gov](#))



Montana Department of Commerce Website Community Technical Assistance Program

Presentations, Publications, and Model
Documents (mt.gov)



Community Planning Documents (mt.gov)

Other Resources

- Montana Association of Counties (mtcounties.org)
 - Open Meetings & Public Participation White Paper (mtcounties.org)
- Home – Montana League of Cities and Towns (mtleague.org)
 - 2023 Legislative Session Land Use Webinars – Montana League of Cities and Towns (mtleague.org)
- Montana Local Government Board Handbook (Download Only) – 4597E – Montana State University Extension (msuextension.org)

Keeping Up with Community MT

Visit our website:

<https://commerce.mt.gov/Infrastructure-Planning/>

Sign up for emails:

<https://public.govdelivery.com/accounts/MTDOC/subscribe/new?preferences=true>



Questions?

Contact us!

DOCCDD@mt.gov

406-841-2770

Welcome to the official Community MT Division website.

The Community Montana (CMT) Division helps Montana communities offer safe, efficient and quality public facilities, including streets, water and sewer services, schools, excellent health care facilities and social services, a vibrant economy, and job opportunities. The Community MT Division has resources, including financial and technical assistance, to help your community attain its goals.

 <p>Community Development Block Grant Program</p>	 <p>Delivering Local Assistance Program</p>	 <p>Montana Community Reinvestment</p>
 <p>Montana Emergency Tourism Assistance Program</p>	 <p>Montana Historic Preservation Grant</p>	 <p>State-Local Infrastructure Partnership Act</p>