

TITLE 2

BOARDS AND COMMISSIONS

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CHAPTER 1

BOARD OF ADJUSTMENT

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2-1-1: **CREATED:** A city board of adjustment is established as authorized by Montana Code Annotated sections 76-2-321 through 76-2-328. (Ord . 322,2-14-2000)

2-1-2: **MEMBERSHIP; TERMS:**

- A. **Membership:** The board shall be comprised of city residents, consisting of five (5) regular members and one alternate member appointed by the mayor, with the approval of the city council, for terms of three (3) years. The alternate board member shall serve as a regular board member and vote as a regular board member whenever one of the regular board members is unable to attend a board meeting .
- B. **Term:** The initial board membership shall consist of two (2) individuals appointed to a one year term, two (2) individuals appointed to a two (2) year term, and one individual and one alternate member appointed for three (3) year terms. Successive appointments to the board shall be for three . (3) year terms; provided, that in the event any individual does not complete a term, his or her replacement shall be appointed to fill the remainder of the term. (Ord. 322,2-14-2000)

2-1-3: MEETINGS: The board shall hold its meetings at city hall or such place in the city as may be designated by its chairperson. (Ord. 322, 2-14-2000).

2-1-4: QUORUM: The presence of four (4) members shall be necessary to constitute a quorum. (Ord. 322, 2-14-2000)

2-1-5: DUTIES AND POWERS: The board's duties and powers shall be as defined by state law and as defined herein. It shall be the duty of other departments of the city to render such assistance as may be reasonably required or requested by the board .

- A. Zoning Regulations: Where there are practical difficulties or unnecessary hardships in the application of the provisions of title 10 of this code, or any amendment thereto, the board of adjustment in a specific case shall have the power, after public notice and hearing, in a specific case, to vary or modify any of the regulations or provisions relating to the construction, structural change, or alteration of buildings or structures, in harmony with their fundamental purpose and intent, or any use thereof, so that the public health, safety, and general welfare may be conserved and substantial justice done.
- B. Setback Requirements: Where there are practical difficulties or unnecessary hardships in the application of the provisions of all sections of the city ordinances, or any amendment thereto, the board of adjustment in a specific case shall have the power, after public notice and hearing, in a specific case, to vary or modify any of the regulations or provisions relating to the setback requirements contained in said ordinance, so that the public health, safety and general welfare may be conserved and so that substantial justice is done; provided, that structural changes or alterations of buildings or structures is completed in harmony with the fundamental purpose and intent of the ordinance.
- C. Burden Of Proof: In every case where a variance is granted by the board of adjustment, it must be affirmatively shown by the record before the board that an unnecessary hardship or practical difficulty exists, and the records of the board shall clearly indicate in what particular and specific respect an unnecessary hardship or practical difficulty would be created. The burden shall be on the party appealing to the board to present sufficient evidence to establish a

record justifying board action granting their request. (Ord. 322, 2-14-2000)

2-1-6: BYLAWS: The board of adjustment shall be charged with adopting bylaws providing for the conduct of its meetings and business . The bylaws shall include the guidelines for notice of meetings and actions to be taken by the board of adjustment, and shall be reviewed by the board on an annual basis and ratified by the city council. (Ord. 322, 2-14-2000)

2-1-7: RECORDS: The record kept by the board and created by the board shall be retained in the permanent files of the city , with variances granted pursuant to this chapter being indexed by street address and/or legal description of the premises that is affected. (Ord. 322, 2-14-2000)

2-1-8: CHANGES IN REGULATIONS, RESTRICTIONS AND BOUNDARIES: Any changes in the regulations , restrictions, and boundaries of any zoning district may be made only by the city council, and in a manner designated by law. Any changes in regulations, restrictions, and/or boundaries of any other city ordinance may be made only by the city council, and in the manner designated by law. (Ord. 322, 2-14-2000)