

Chapter 3

BOARD OF ADJUSTMENT

2-3-1: BOARD ESTABLISHED¹:

There is hereby established a board of adjustment for the city, hereinafter referred to as the board. (Ord. 01-08, 3-5-2001)

2-3-2: PURPOSE, POWERS AND DUTIES:

- A. The powers and duties of the board are set forth in Montana code 76-2-321 through 76-2-328, this chapter and rules of procedure adopted by the board.
- B. The purpose of the board is to:
1. Hear and decide applications for appeals in which it is alleged that there is an error in an order, requirement, decision or determination made by the zoning administrator in the enforcement of these regulations.
 2. Hear and grant or deny any application for a variance to the terms of the Whitefish zoning jurisdiction regulations, except where such regulations specifically limit the power of the board.
- C. Decisions rendered by the board on applications for appeals and variances shall be made based upon written findings of fact establishing the reasons for each decision pursuant to the procedures for consideration established in either section [11-7-6](#) of this code, being the zoning jurisdiction regulations for appeals, or section [11-7-7](#) of this code, being the zoning jurisdiction regulations for variances. For each application whereupon the board renders a decision, the city clerk shall enter a copy of the findings of fact, along with the pertinent minutes of the board, into the public record.
- D. The board of adjustment shall not by either variance or appeal process make any changes in the uses categorically permitted in any zoning classification or zoning district, or amend the zoning text or map. (Ord. 01-08, 3-5-2001)

2-3-3: MEMBERSHIP:

- A. Appointments; Compensation: The board shall have seven (7) members. Members shall be appointed by the city council with at least one member residing in the extraterritorial jurisdiction and the remaining residing within the corporate limits of the city. Board members shall receive no compensation.
- B. Terms Of Office: Board terms shall be three (3) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the board. Members serving on the effective date of this chapter shall be assigned to positions that correspond with the expiration dates of their existing terms.

Position Number	Term Expiration Date
1	December 31, 2004
2	December 31, 2004
3	December 31, 2005
4	December 31, 2005
5	December 31, 2005
6	December 31, 2003
7	December 31, 2003

As each of the above listed expiration dates has past, a member appointed to the position shall serve for a three (3) year term. Terms shall begin on January 1 following the initial expiration date of the preceding term. At the discretion of the city council, members may be appointed for more than one term. (Ord. 03-06, 4-7-2003)

- C. Removal Of Member: A member of the board may be removed from the board by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of state statutes, city ordinances and the rules of procedures of the board, or absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his inability to attend a specific meeting shall notify the chair or secretary of the board at least twenty four (24) hours prior to any scheduled meeting.

D. Vacancy: Pursuant to subsections A and B of this section, any vacancy on the board shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the board, including the extraterritorial position. (Ord. 01-08, 3-5-2001)

2-3-4: ORGANIZATION:

At its first meeting after January 1 of each year, the board shall elect a chair, vice chair and secretary for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chair, vice chair or secretary positions, the board shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the board and shall keep an accurate record of all board proceedings. (Ord. 01-08, 3-5-2001)

2-3-5: MEETINGS, RULES AND REGULATIONS:

Four (4) members of the board shall constitute a quorum. Not less than a quorum of the board may transact any business or conduct any proceedings before the board. The concurring vote of four (4) members of the board shall be necessary to decide any question or matter before the board, except a motion for a continuance and motions to elect a chair, vice chair and secretary may be decided by a simple majority vote of the board. The board shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. All meetings shall be open to the public. (Ord. 01-08, 3-5-2001)

2-3-6: EXPENDITURES:

The board shall have no authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds except as has been included in the city budget and after the city council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended. (Ord. 01-08, 3-5-2001)