



Livingston City Commission Agenda

December 05, 2023

5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/81443496301?pwd=bEkwSjN4UHVHQ2pEZmVZQTVvQis4QT09>

Meeting ID: 814 4349 6301

Passcode: 599622

1. Call to Order

2. Roll Call

3. Public Comment

Individuals are reminded that public comments should be limited to item over which the City Commission has supervision, control jurisdiction, or advisory power (MCA 2-3-202)

4. Consent Items

A. APPROVAL OF MINUTES FROM NOVEMBER 21, 2023, REGULAR CITY COMMISSION MEETING PG.4

B. APPROVAL OF CLAIMS PAID FOR 11.16.2023 to 11.29.2023 PG.20

C. CONSIDERATION OF AGREEMENT 20048 PG.27

5. Proclamations

6. Scheduled Public Comment

7. Public Hearings

Individuals are reminded that testimony at a public hearing should be relevant, material, and not repetitious. (MCA 7-1-4131 and Livingston City Code Section 2-21)

8. Ordinances

A. ORDINANCE 3048: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 27, CITY PLANNING BOARD, OF THE LIVINGSTON MUNICIPAL CODE, BY RENAMING THE CHAPTER CONSOLIDATED LAND USE BOARD AND GENERALLY REVISING THE PROVISIONS THEREOF. PG.42

9. Resolutions

A. RESOLUTION 5123: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2022-2023, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,631,557 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,635,965. PG.60

10. Action Items

- A. CONSIDERATION OF THE 2024 REGULAR MEETING SCHEDULE OF THE LIVINGSTON CITY COMMISSION PG.63**
- B. CONSIDERATION OF UPDATES TO THE CITY COMMISSION HANDBOOK PG.67**
- C. CONSIDERATION OF AGREEMENT 20049 WITH HRDC FOR OPERATION OF A WARMING CENTER PG.278**

11. City Manager Comment

12. City Commission Comments

13. Adjournment

Calendar of Events

Supplemental Material

Notice

- **Public Comment:** The public can speak about an item on the agenda during discussion of that item by coming up to the table or podium, signing-in, and then waiting to be recognized by the Chairman. Individuals are reminded that public comments should be limited to items over which the City Commission has supervision, control, jurisdiction, or advisory power (MCA 2-3-202).
- **Meeting Recording:** An audio and/or video recording of the meeting, or any portion thereof, may be purchased by contacting the City Administration. The City does not warrant the audio and/or video recording as to content, quality, or clarity.
- **Special Accommodation:** If you need special accommodations to attend or participate in our meeting, please contact the Fire Department at least 24 hours in advance of the specific meeting you are planning on attending.

File Attachments for Item:

A. APPROVAL OF MINUTES FROM NOVEMBER 21, 2023, REGULAR CITY COMMISSION MEETING



Livingston City Commission Minutes

November 21, 2023

5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/82178979351?pwd=a1FDeEppeVIQMUIzc0g4Qm55WmR3dz09>

Meeting ID: 821 7897 9351

Passcode: 459228

1. Call to Order

Chair Nootz called the meeting to order at 5:32pm

2. Roll Call

City Commission in attendance at start of meeting: Chair Nootz, Vice-Chair Kahle, Commissioner Friedman, Commissioner Schwarz, and Commissioner Lyons.

Staff in attendance: City Manager Grant Gager, Policy Analyst Greg Anthony, Acting Chief Wayne Hard, Finance Director Paige Fetterhoff

3. Public Comment

Individuals are reminded that public comments should be limited to item over which the City Commission has supervision, control jurisdiction, or advisory power (MCA 2-3-202)

Public Comment was offered by:

- Leslie Fiegel congratulated Chair Nootz on re-election. She also thanked the City Manager for help on the Christmas Stroll and it's mapping.

4. Consent Items

- | | |
|--|--------------|
| A. APPROVAL OF MINUTES FROM NOVEMBER 7, 2023, REGULAR CITY COMMISSION MEETING | PG.4 |
| B. APPROVAL OF CLAIMS PAID FOR 11.01.2023 TO 11.15.2023 | PG.18 |
| C. AGREEMENT 20044 WITH HEADWATER ECONOMICS | PG.28 |

Chair Nootz asked the City Manager if they had any items that needed to be pulled.

The City Manager stated that a word was missed in the November 7 Minutes on page 14 line 19. There was a comment about affordable housing that Chair Nootz made and the correction will read "should not be"

Motion to approve all consent agenda items with the correction made by the City Manager was made by Chair Nootz and seconded by Commissioner Lyons. The motion passed unanimously by the five members present.

5. Proclamations

**A. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA
RECOGNIZING NOVEMBER 25TH AS SMALL BUSINESS SATURDAY IN LIVINGSTON
MONTANA. PG.33**

Chair Nootz read the proclamation.

The City Manager stated he is looking forward to small business Saturday and hopes to see community members out there enjoying it.

Vice-Chair Kahle hopes everyone goes out and shops downtown on the 25th and then attends Light-Up Livingston that evening.

Chair Nootz thanked the City Manager for including this proclamation tonight.

6. Scheduled Public Comment

7. Public Hearings

Individuals are reminded that testimony at a public hearing should be relevant, material, and not repetitious. (MCA 7-1-4131 and Livingston City Code Section 2-21)

8. Ordinances

**A. ORDINANCE 3047: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF
LIVINGSTON, MONTANA, AMENDING CHAPTER 23 OF THE LIVINGSTON MUNICIPAL CODE,
ENTITLED TREES, BY ELIMINATING THE TREE BOARD. PG.35**

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this is the second reading of this ordinance. As a follow up to conversations in the last meeting the City Manager wanted to work through with the Commission a plan that he and staff had put together for public engagement related to responsibilities of the Tree Board. This will help affirm how those responsibilities will be handled moving forward if this second reading passes.

The City Manager stated the Tree Board was created in response to several efforts such as implementing the tree plan, and also as a requirement of the Tree City USA. Requirements of Tree City USA include: Maintaining a tree board or department, having a community tree ordinance, spending \$2 per capita on urban forestry, celebrating Arbor Day. Livingston Municipal Code and the Growth Policy both include topics around trees and it was made clear that a good number of these are performed at a staff level. Public Engagement Opportunities include: Create an Emerald Ash Borer Action Plan, requirements for trees into the Gateway Overlay Zoning, Expand educational programs, when requested by the City Commission.

Chair Nootz asked if there are items of a policy nature in these 12 items listed.

The City Manager stated in the Tree City USA there are none policy related, the ordinance is a policy as far as updates go, but the most policy driven is when requested by the City Commission,

shall consider, investigate, make finding, report and recommend upon any special matter or questions coming within the scope of its work.

Chair Nootz stated in the last two years she has been on the Tree Board there is a growing interest in educational programming, but realizes that is something that will not go through the Commission.

Vice- Chair Kahle asked to review Public Engagement and what it might look like.

The City Manager started with the Emerald Borer Action Plan stating he believes we would have a citizen's advisory committee. The Gateway Overlay Zoning will look to have engagement happy at the Zoning Commission level. Educational Programs is in the early stages of development, but working with programs like Bee City USA there are various ways to communicate with the public in educational programs.

Commissioner Schwarz moved to approve the ordinance and Commissioner Friedman seconded the motion

Public Comment was offered by:

- Erica Lighthiser is commenting on behalf of Park County Environmental Council and stated Livingston prides itself in being a Tree City USA and included that urban trees are very important to Livingston's community character. She listed some 2022 tree data. She would like to see a comprehensive and long-term Urban Forest management plan created.
- Joanna Massier works with PCEC stated she collected signatures asking folks around town if they support the Livingston Tree Board. She received 30 signatures in 1.5 hours that were all yes.
- Elizabeth McNamee is a member of the Tree Board and expressed her feelings that the Tree Board is an asset not a liability. She asked the Commission not to pass this ordinance tonight and allow the Tree Board to work with the City to create a new vision for volunteer public engagement. She would like the opportunity to re-do their by-laws and create a master plan.
- Angela Devani asked the Commission to keep the Tree Board. She feels it does a lot for the community and helps keep the community involved. She asked how many ash trees are left in the City that the City planning to remove. She would like to see herbalist involvement in the Tree Board so they are able to salvage some parts of the trees that are being taken down.
- Leslie Feigel expressed concerns with the North side of Livingston regarding trees. She stated she still doesn't know who our City arborist is and expressed concerns about the community not knowing who that is.

Chair Nootz starts off by getting answers to some of the questions they heard in public comment. Starting off with clarification on what the Commission is voting on.

The City Manager clarified they are talking about eliminating the Tree Board, which is one avenue that tree work occurs, and it's the City's intention not to do less with the urban forest or with trees, it's really to effectively and properly align roles and responsibilities. He reassured the community that the work will occur and there is much more in urban forestry that will occur especially in the public outreach and engagement part of it.

Chair Nootz asked about for clarification on the questions about the number of ash trees in the community and realizes this is not the time to have that conversation, but did ask that the data please be shared or made available to the public.

The City Manager expressed yes, he could make sure that information is shared.

Chair Nootz asked if the City Manager could clarify without a board how would the community reach out to the City.

The City Manager stated we have a certified Arborist in the Parks division of Public Works as well as the Streets division of Public Works and they are welcome to call the Public Works Department directly, or can contact them through the website.

Chair Nootz asked if the City has to have a designated tree department that stands alone in order to maintain the Tree City USA designation.

The City Manager stated no, it doesn't have to be a specific department. Just a department that has been delegated responsibility for trees and we currently meet that requirement.

Chair Nootz asked how much money receive for being part of Tree City USA

The City Manager stated that is does vary from year to year.

Vice-Chair Kahle asked for clarification around the ash tree comment and how many are we going to take down and wanted to clarify that they are only being removed if they are hazardous or dead.

The City Manager stated that is correct. The City is only cutting these trees down if they are diseased or damaged.

Chair Nootz asked if someone wanted to connect with the City for trees that being removed, is that a possibility.

The City Manager stated yes, that is something the City could do.

Commissioner Friedman stated he was on the Tree Board 12 years ago. And stated people that have concerns about trees will call a professional tree person about their issue, not necessarily reaching out to the Tree Board. He reiterated that the need for a Tree Board has changed and he hopes the folks on board are not too hurt.

Commissioner Lyons asked if the City Manager can estimate how much staff time is required to maintain the volunteer board.

The City Manager stated there are a minimum of 5 staff hours associated with each meeting.

Commissioner Lyons appreciates the list of potential engagement, and would like to know if there is a way for the public and commission to be updated on the progress of those efforts.

The City Manage stated he will update the community and commission regularly on what is happening.

Commissioner Lyons asked about the Comprehensive Management Plan and who would be charged with producing this.

The City Manager stated we would contract out, and this person or team would be supported by staff.

Commission Lyons expressed thoughts around not receiving any feedback from the community that is for eliminating this board and finds this decision challenging. Overall he does trust the City Manager's executive judgment on this topic of elimination, and trusts that there will be opportunities for continuing that work in ways that will be more effective for the City.

Vice-Chair Kahle expressed concerns about the current board and how it's set up, but really appreciates the members of the Tree Board and time they have given to the board. She did like the City Manager's thoughts about continued public engagement, and would like to see ad hoc committees set up around some of these projects.

Chair Nootz stated there are comments from Tree Board members who are for its elimination and doesn't want those comments to be forgotten among the folks who made comment in person at the meeting. It was expressed that there is a liability concerns with the volunteers being in charge of things like hazard trees and making those decisions, and realizing from a risk perspective that they maybe would not be covered under the City insurance if something should happen. She feels it's important for our public engagement to be growing as our community grows and to be responsive to where the community is today, and feels that the way the board was created at the time it was set up is representative of Livingston today.

The item was approved unanimously by the five commissioners present.

B. ORDINANCE 3048: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 27, CITY PLANNING BOARD, OF THE LIVINGSTON MUNICIPAL CODE, BY RENAMING THE CHAPTER CONSOLIDATED LAND USE BOARD AND GEREALLY REVISING THE PROVISIONS THEREOF. PG.65

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this is an item that was discussed in the last meeting and is in response to Senate Bill 130 that was passed by the Montana legislature. It specifically allows the consolidation of a Planning Board and Zoning Commission. Last week they did have a joint Planning and Zoning meeting for the Downtown Master Plan and in that meeting there was a conversation about consolidating the two boards. In that discussion there seemed to be understanding from both boards that they are linked in ways, and also a sense of discomfort that each board could not fully act on some topics as they were just outside of their scope as an individual board.

Chair Nootz stated when she first got on to the Commission those boards were consolidated. She asked the City Manager if he has discussed with staff kind of what it was like having a consolidated board then having them split.

The City Manager stated that staffs preference is to move to a consolidated board.

Commissioner Lyons moved to approve the ordinance and Vice-Chair Kahle seconded the motion

Public Comment was offered by:

- Stacy Jovik is the current Chair of the Livingston Planning Board and feels that they have become a great team. She expressed feelings that this team feeling will be lost with a consolidated board, and feels that the City is taking on so many projects that people connections are getting lost.

Chair Nootz recalled why people did not want to split and hearing the feedback from the joint meeting they had is a reminder of why they never wanted the boards to split in the first place. She

did ask for clarification around the zoning overhaul redoing the growth policy and clear up if they are or are not the same thing.

The City Manager stated that they are two very different things. The Growth Policy is a comprehensive look at where community is now and where the community would like to be. The Zoning code is looking at the definitions of districts and allowable uses of all of those districts. The zoning overhaul is more technical and a consultant has not been hired yet, but they are preparing the scope of work and will put out an RFP in the coming weeks.

Chair Nootz shared her feelings on the importance of trust with the community and a relationship between citizens and government.

Vice-Chair Kahle reviewed the ordinance and expressed concern about the removal of a Commissioner on this consolidated board. She felt it has been helpful having a Commissioner on the Planning Board and found it helpful in decision making. She also wondered about needing additional City staff on this board. Vice-Chair Kahle also acknowledged how much work Stacy Jovick and the Planning Board did during the Growth Policy.

Commissioner Lyons thanked Vice-Chair Kahle for acknowledging the work and effort put into the Growth Policy. In the joint conversation Commissioner Lyons stated there was concern about a reduction in the opportunities for public engagement, but also heard from the group the possibility of efficiency and synergy of bringing those boards together. He clarified by combining these boards it will not eliminate any function of advisory boards to the Commission. Commissioner Lyons shared concern with Vice-Chair Kahle on clearing up what membership would look like.

Chair Nootz expressed her thoughts on what it was like being on the Planning Board while being Commission and stated it at times was an awkward position to be in before deliberating with the City Commission. She gave an example of voting on something for the Planning Board before it has been to the City Commission could really leave the City Commissioner in a tough position. Chair Nootz also expressed that the board doesn't need an employee of the City of Livingston voting on a Planning Board, and asked for clarification that any staff would have time to give their input on a topic before it went to a vote.

The City Manager stated that is correct and also added it is his intent to have staff available for larger deliberations. He reassured that a consolidated board would have ample access to staff.

Chair Nootz brought up a concern on page 74 of the packet, section 27-4 part C the Secretary position, and expressed that she did not like the way this written and feels this will put them in a position where community members are directing staff. She preferred they move this forward using staff as a secretary.

The City Manager stated he shared a similar concern with this, but it was left that way with direction from the Planning Director.

Chair Nootz asked if they could please clarify the language.

Vice-Chair Kahle stated she likes the idea of having a City Commission on this board and know of other communities doing this. She feels it would be helpful to keep a Commissioner on the consolidated board.

Commissioner Lyons understands where Chair Nootz is coming from when she spoke about the voting on Planning Board and on the City Commission, but feels he's been able to provide to the

Planning Board some of the considerations that might be outside of a single decision they are considering, and he can ultimately report to the Commission how those decisions came around. He ultimately feels it's beneficial to have a Commissioner on this consolidated board, and doesn't object to just being a non-voting member of the board. Speaking to having staff on the board he understands both sides of having staff and not having staff on this board.

Chair Nootz clarified that amended changes they want are 8 members, 7 are voting, staff not on the board, and clarity on section C for the secretary, and the quorum be more clearly defined if it's an even number board.

Chair Nootz moved to amend the ordinance to make the changes as discussed and Vice-Chair Kahle seconded the motion.

The amendment was approved unanimously by the five commissioners present.

The item was approved unanimously by the five commissioners present.

7:31PM Chair Nootz motioned for a 10 minute break seconded by Vice-Chair Kahle.

Unanimously approved.

(Starts at Video Mark 1:59:56)

9. Resolutions

- A. RESOLUTION 5120: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2022-2023, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,631,557 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,635,965. PG.78**

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this resolution is to amend the FY year 2022/2023 budget and clarified that is the budget year that ended on 6/30/23. The reason for this change is that we received more revenue than anticipated in the budget and similarly we expended more dollars than were anticipated in the budget. The majority of the work is related to the sewer improvements in Green Acres that were funded through and ARPA grant and we accomplished the work more quickly than expected with outside money that wasn't initially anticipated.

Vice-Chair Kahle moved to approve the resolution and Commissioner Friedman seconded the motion.

The item was approved unanimously by the five Commissioners present.

- B. RESOLUTION 5121: A RESOLUTION OF THE CITY OF LIVINGSTON, MONTANA, DECLARING CERTAIN ITEMS AS SURPLUS AND AUTHORIZING THEIR DISPOSAL PG.82**

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this item is to declare some equipment in the police department surplus and this specifically about one of the K9 units. One of the handlers put in his notice of separation from the City of Livingston, and he is returning to a city where he has family, and so with his departure we will be down a handler. It was determined with former Police Chief and Interim Police Chief that the City's Police operations would not be adversely impacted with the loss of a K9 given that we have a second K9 unit.

Chair Nootz asked for clarity about what it means when a police dog goes up for sale.

The City Manager stated the intent of the City to sell the dog to the handler who has trained with the animal.

Vice-Chair Kahle asked how they come up with the cost of a K9.

The City Manager stated this K9 came to the City through a grant from the Montana Board of Crime Control, so the City has not incurred any cost in the acquisition of the animal, but we did incur cost in the training of the handler, so he and the Finance Director reviewed those costs and will discuss with the handler about recouping some of that.

Commissioner Lyons asked if this item included an assumption of the dog going with its handler.

The City Manager stated it is the City's intention to engage in a transaction with the handler for the dog.

Vice-Chair Kahle moved to approve the resolution and Commissioner Friedman seconded the motion.

Chair Nootz thanked the officers for their service, and is happy to hear that the intent is to keep the two together.

The item was approved unanimously by the five Commissioners present.

10. Action Items

A. SELECTION OF NEW CITY LOGO

PG.86

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this a continuation of a discussion that began in April of this year with the Commission. He recalled that in October the Commission narrowed down the list of possible logos to two finalist and provided direction to staff to work with the graphic design team to refine the two concepts. He let the Commission know they City conducted a survey last week with the two concepts and 3 variations of each. As of earlier today the survey received 601 responses and 58% of the community preferred concept 2.

Commissioner Schwarz stated he has heard feedback wondering why we didn't give the logo to someone local to design.

The City Manager reminded that the City has a procurement policy and it was put out as a request for proposal process and we received 9, one being a local firm, and the RFP was sent directly to 3

local firms, 2 of them stated they were too busy to respond. An evaluation team evaluated and deliberated and ultimately recommended Abbi Agency for award. The Award was approved by the Commission earlier this year.

Commissioner Lyons asked for clarification on the differences in options A-C on Concept 2.

The City Manager clarified that the differences are in the lettering of Livingston Montana.

Vice-Chair Kahle wondered if there is an option to go back to drawing board.

The City Manager stated yes, but there may be added cost, but would need to know the intent of the Commission to gain further clarification on what might be needed from the design team.

Vice-Chair Kahle asked if the internal team had input on the designs.

The City Manager stated yes, they have along with input from the Commission.

Chair Nootz asked about color and the way the color shows up and wondered if it was thought about during design with people in mind who don't see colors the same as others. She also asked to be able to see examples of how this logo will appear on different things within the City, and wants to see it in the different variants by department.

The City Manager stated the colors came from the initial community survey and green and blue were highest ranked for logo colors. He clarified that selecting the logo is the first step and finalizing the color would be a second step on the process. He also addressed the variants stating they were shown in the first round reminding that the change will come in replacement of Montana with each department.

Commissioner Lyons stated as a color blind person he prefers Concept 1, remove the little trees in Concept 1, and put the original bend from Concept 2 into it. With the changes he would choose Concept 1.

Public Comment was offered by:

- James Willich pointed out in Concept 2 the letters in T and A in Montana are awkwardly close together, also pointing out that the M is closer to the date than the end A.
- Forest Husman stated he loves Livingston and lives in Livingston. He doesn't feel there is enough thought in the 2 concepts and feels they are very plain.
- Angela Devani agreed with Forest and expressed concerns about the comments on Facebook about the survey and stated there was no option in the survey to not choose either.

Chair Nootz asked when the current logo became our logo.

The City Manager stated he doesn't have the exact date, but found documents about it predating 1990.

Chair Nootz asked if the City spoke to anyone who applies these types of logos if there were concerns about it.

The City Manager stated that the City spoke to different vendors and did not find any issues other than a minor embroidery challenge around the trees in Concept 1. The City Manager clarified that revisions to the design were made that include Livingston Peak, the Sleeping Giant, and the correct bend in the river.

Vice-Chair Kahle expressed that she feels underwhelmed by the two final picks. She did look back at the work Abbi Agency has done and they have done good stuff, but just really felt underwhelmed by the two selections.

Commissioner Friedman expressed that he like Concept 2.

Commissioner Lyons stated we want to see our place in the design, and states he does kind of see the Sleeping Giant and Livingston Peak, but feels it's a bit of a stretch. He doesn't feel that settling would be the best option.

Commission Schwarz also stated he is underwhelmed, but stated he does agree with the survey results if he had to pick tonight he would choose Concept 2.

Chair Nootz expressed concerns about the smallness of the trees in Concept 1, but feels the mountain view had improved since they first saw the designs. For Concept 2 she expressed thoughts that the green color looked like a smoky day in fall, and doesn't really like the color.

The City Manager check back around and two Commissioners liked Concept 1 and two Commissioners like Concept 2, and the 5th Commissioner chose neither.

Chair Nootz asked the City Manager for this thoughts and what to do.

The City Manager agreed they are in stalemate, but list a couple options being work to merge Concept 1 and 2, or going back to the drawing board and solicit more options from the design team.

Chair Nootz expressed that it would be helpful to see real life examples of what it would like maybe on a truck and changing the word Montana to the things people are going to see when they're around town.

Vice-Chair Kahle stated the colors are very drab and would like to see them brightened up.

Chair Nootz felt it was appropriate not to make a motion and all Commissioners agreed to not motion on this item at this time.

B. COMMISSION DIRECTION ON STATE MANDATED ZONING CHANGES

PG.99

Chair Nootz called on the City Manager to introduce the item.

The City Manager stated this item is in direction response to some legislative changes that were enacted at the State level. This change is coming from the two bills that allow a duplex housing unit where a single family unit is permitted. It brought up concern about density from staff, and they would like to get Commissioners input on a direction as they put into place these statutorily required changes. What it comes down to is the allowance of an accessory unit for a duplex or multifamily housing units. Starting January 1st a duplex will be allow anywhere that a single family home is allowed, and the question for the Commission is would we want to allow ADUs to be constructed for duplex or multifamily units. The concern really comes when looking at double or triple lots and the example being on a triple lot that three duplexes would be allowed with one ADU for each of those duplexes, so nine residential units would be allowed on a triple lot. The primary clarification that staff is looking for is if the Commission will allow an accessory unit for each primary unit or if the Commission would limit accessory units only to single family homes, or some other arrangement.

Chair Nootz clarified that the City Manager is just looking for intent on how the Commission interprets this policy. They are not voting.

The City Manager wanted their interpretation before staff did a Zoning text amendment.

Commissioner Lyons stated his understanding of ADUs is they are most commonly applied in the context of single family housing development where the market has changed and there is now a demand for additional housing. He also said he would be surprised in response to the new allowable density that there would be a huge market response.

Chair Nootz stated she is concerned about this item and reminded that when they first did the ADU ordinance it was to increase density and the state basically doubled their efforts. She shared that many people in her neighborhood are renters and there wasn't off street parking required at the time that many of the units in her neighborhood were built, and she is concerned for those neighborhoods where there is already not off street parking if there is more requirements for no off street parking. She did express that this bill doesn't give Livingston what it wanted which was for development to pay its own way. She would like to see it with their original intention of the ADU ordinance which is a unit with a house.

Vice-Chair Kahle asked if on a double lot you could have 2 homes could you have 2 ADUs as well.

The City Manager stated yes, the way things are currently written if the lot was double-sized it within that zoning district it would be allowed a single family home and an ADU. The way that Livingston Municipal Code is written those could all be within one structure. On a triple lot we could end up with 9 units.

Chair Nootz clarified that we couldn't require parking and they would have to pay impact fees.

Commissioner Lyons clarified that they wouldn't have to pay impact fees for the ADUs they would for the duplexes.

Vice-Chair Kahle questioned that our parking code currently would require one parking space for each primary.

The City Manager stated that is correct.

Vice-Chair Kahle agreed that without parking requirements it could be problematic for neighborhoods.

Commissioner Friedman and the City Manager worked through an example location and what could potentially happen on a double lot.

Commissioner Schwarz really agreed with Chair Nootz and would hate to leave this opened ended especially with parking and he likes the original intent of our ADU ordinance. He strongly agrees that the ADU ordinance that they put into place is the way things should stay.

Commissioner Lyons understands his fellow Commissioners thoughts, but really doesn't feel that will be a huge amount of demand for nine units on a triple lot.

C. UPDATE ON COMMUNITY WELLNESS CENTER PROJECT

Chair Nootz called on the City Manager to introduce the item.

The City Manager presented slides and stated he has spent the last few months working with 4 Ranges Community Recreation Foundation to determine viable paths forward for this project in the absence of County participation. He stated we are at the point where they have reached a plan that is financially viable for the project. Community feedback about what the Wellness Center should include is an indoor pool, gymnasium, and walking track. He reminded that earlier this year the Commission had selected the Katie Bonnell Park as the preferred location. The City Manager stated that he and staff have been working with adjacent private property owners to the park to acquire rights to use their land as part of the project, and those conversations have been successful. The 4 Ranges has been working with an architect team to design a structure that includes the areas that the community wanted to see within the facility. Community cost exercises produced a financial plan that they believe will work for this project. He gave a breakdown of the taxable value for 30 mills can be determined by the locating the taxable value on your most recent tax bill and multiplying that number by 001 then again by 30. A \$5 million operating endowment is needed, in response to lack of our County support for this project, and discussions and plans are being made around that.

Public Comment was offered by:

- Chase Rose is the campaign manager with 4 Ranges and he expressed thanks to the City Manager for his work on this project. He and his team are very optimistic about raising significant funds for the operational endowment. They will attempt to raise this as soon as possible and will continue to raise funds during the building process as well. He requested the Commission let them know about the project as the team has deadlines by the end of 2023 for grants other funds.

Vice-Chair Kahle asked if this goes to ballot when would this be, and wondered if it would be the June election.

The City Manager stated that the City does that the ability to call a special election for a special district at any time no less than 85 days. He reminded the Commission did add money into the budget for a special election if necessary.

Chair Nootz clarified that they set aside for an in person election rather than a special election, so they have not set aside money for a special election.

The City Manager stated that is correct.

Chair Nootz asked how much it would cost for a special election.

The City Manager stated it would depend on the form the election, but the mail in cost is less than \$10,000.

Chair Nootz stated that they conditionally agreed upon Katie Bonnell Park subject to learning more information which is still forthcoming. She felt her and community members would like an update on that location before committing to that location. She asked how many mills were proposed when this proposal went to the County.

The City Manager stated it was 35 mills.

Chair Nootz asked how that was split.

The City Manager stated it was 35 mills to be assessed across the entirety of the district, but believes that was a little more taxable value for the area outside of Livingston.

Chair Nootz shared feedback from the community that our residents need to learn how to swim for safety in our area and it was felt this should be provided for public health and safety. She asked if there would still be a charge for swim lessons.

The City Manager stated yes there would a charge.

Chair Nootz asked if 4 Ranges was committing to the \$5 million endowment.

The City Manager stated he spoke with the two largest funders of 4 Ranges and they are committed to the endowment if the Commission is interested in moving forward in partnership with the 4 Ranges. He recommended that they have a supplemental memorandum of understanding that would outline roles and responsibilities.

Chair Nootz expressed that she felt it would not be compelling to the voters to know that there could be a \$25 million building that is being fund raised for while building it. She wondered what protections are in place for the community in this scenario because it could potentially be a very expensive mistake.

The City Manager stated the only way to have absolute assurance is to raise the money before project moves forward into that step. He also stated that the two large funders seem committed and one of them did offer a gift to the endowment of about 40% of the recommended value. He does feel confident that this money can be raised by the community.

The City Manager addressed the comment on the area of the park and stated they have been working with the State Department of Environmental Quality and also the contracting team who has been doing the monitoring of the BNSF super fund site. They have recently received the data from the railroad that they have conducted. They have done a preliminary review of that data. He stated it does not appear that there is an issue that exists that cannot be fixed through construction needs and methods. A structure that is built on Katie Bonnell Park would require a soil gas system similar to a radon system. They do expect that is the most impactful requirement given the environmental situation with this lot. There are funding pots available from DEQ both in the design and construction of such mitigation systems and after talking to DEQ it would be projects intention to pursue those funds. He did point out the project as its structure is a public private partnership, so to construct the facility itself that would be the responsibility of the foundation. The City, as a requirement of the new market tax credit program, will need to provide an outside entity with care and control of the property. We would not transfer ownership of the property, but we do need to engage in a land lease. We would transfer that land and control over to the private entity, they would construct the facility in accordance with our requirements and DEQ requirements, and then they would have to have control of that property for the first several years of operation. We would operate it on a lease basis, then at the end of the initial time period the building and property would be transferred back to the City for use to then operate.

Chair Nootz did express although she appreciates the City Managers comment she would like to see the data. She thanked the City Manager for prioritizing the community of Livingston with the financial commitment like this. She also stated she appreciates the commitment to the endowment.

Commissioner Schwarz stated he likes this proposal that they are coming up with at least from an affordability standpoint. He stated he doesn't mind paying taxes as long as he getting something

for it. He is concerned about losing the money that has been pledged, but doesn't want to make a rash decision on that either. He wanted to clarify that they did select a location for the project.

Chair Nootz did clarify that the Katie Bonnell Park was selected based studies done on the property with their second choice being the school district location.

Commissioner Schwarz thought they did do studies on this park.

Chair Nootz stated no that there has been information delivered to the City and he has presented that information just tonight.

Commissioner Schwarz stated he would like to see this project keep moving forward.

Commissioner Lyons agrees with Commissioner Schwarz. He did want to acknowledge what has happened between the County not participating to what is viable now, but feels it's been an immense amount of work to get where we are now. He ultimately feels the voters should be able to tell them if they want to pay for this or not.

Vice-Chair Kahle thanked the City Manager for the work he has put into this project to get it where it is now. She does feel that they can get over the few hurdles and put this to the voters. She stated she would like to see an MOU for the endowment so we know they are committed to that.

D. CLOSED SESSION PURSUANT TO 2-3-203 TO DISCUSS A MATTER OF INDIVIDUAL PRIVACY

Chair Nootz moved to go into closed session seconded by Vice-Chair Kahle. Unanimously approved.

(Starts at Video Mark 4:08:30)

11. City Manager Comment

The City Manager thanked the Commission for their input in critical topics tonight. He wished everyone Happy Thanksgiving.

12. City Commission Comments

Commissioners Lyons, Schwarz, and Vice-Chair Kahle wished everyone Happy Thanksgiving.

Chair Nootz congratulated James Willich on welcome to the Commission and is excited to be on the Commission for the next four years.

13. Adjournment

11:08pm Commissioner Friedman motioned to adjourn the meeting seconded by Lyons. Unanimously approved.

Calendar of Events

Supplemental Material

Notice

- **Public Comment:** The public can speak about an item on the agenda during discussion of that item by coming up to the table or podium, signing-in, and then waiting to be recognized by the Chairman. Individuals are reminded that public comments should be limited to items over which the City Commission has supervision, control, jurisdiction, or advisory power (MCA 2-3-202).
- **Meeting Recording:** An audio and/or video recording of the meeting, or any portion thereof, may be purchased by contacting the City Administration. The City does not warrant the audio and/or video recording as to content, quality, or clarity.
- **Special Accommodation:** If you need special accommodations to attend or participate in our meeting, please contact the Fire Department at least 24 hours in advance of the specific meeting you are planning on attending.

File Attachments for Item:

B. APPROVAL OF CLAIMS PAID FOR 11.16.2023 to 11.29.2023

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|----------------------------|----------------|-----------------------|--------------|-----------------------|-------------|------------|
| ALEX WALKER | | | | | | | |
| 10004 | ALEX WALKER | 2023.10.11 | WITNESS FEE | 10/11/2023 | 10.00 | 10.00 | 11/17/2023 |
| Total ALEX WALKER: | | | | | 10.00 | 10.00 | |
| ALL SERVICE TIRE & ALIGNMENT | | | | | | | |
| 22 | ALL SERVICE TIRE & ALIGNME | 67176 | Flat repair | 10/30/2023 | 45.00 | 45.00 | 11/17/2023 |
| Total ALL SERVICE TIRE & ALIGNMENT: | | | | | 45.00 | 45.00 | |
| ALPINE ELECTRONICS RADIO SHACK | | | | | | | |
| 402 | ALPINE ELECTRONICS RADIO | 10297489 | BATTERIES | 11/09/2023 | 19.99 | 19.99 | 11/17/2023 |
| Total ALPINE ELECTRONICS RADIO SHACK: | | | | | 19.99 | 19.99 | |
| ALSCO | | | | | | | |
| 10005 | ALSCO | LBIL1899053 | MATS | 11/03/2023 | 15.14 | 15.14 | 11/17/2023 |
| 10005 | ALSCO | LBIL1899053 | MATS | 11/03/2023 | 15.14 | 15.14 | 11/17/2023 |
| 10005 | ALSCO | LBIL1899053 | MATS | 11/03/2023 | 15.15 | 15.15 | 11/17/2023 |
| 10005 | ALSCO | LBIL1899053 | MATS | 11/03/2023 | 15.15 | 15.15 | 11/17/2023 |
| 10005 | ALSCO | LBIL1900031 | MATS | 11/08/2023 | 135.85 | 135.85 | 11/17/2023 |
| Total ALSCO: | | | | | 196.43 | 196.43 | |
| BALCO UNIFORM COMPANY, INC. | | | | | | | |
| 3371 | BALCO UNIFORM COMPANY, IN | 77090-1 | Uniform-HARD | 10/27/2023 | 116.00 | 116.00 | 11/17/2023 |
| 3371 | BALCO UNIFORM COMPANY, IN | 77095 | Uniform-HARD | 10/30/2023 | 16.00 | 16.00 | 11/17/2023 |
| Total BALCO UNIFORM COMPANY, INC.: | | | | | 132.00 | 132.00 | |
| BOBCAT OF BIG SKY INC | | | | | | | |
| 10003 | BOBCAT OF BIG SKY INC | 98807 | ROLLPIN | 10/31/2023 | 50.96 | 50.96 | 11/17/2023 |
| Total BOBCAT OF BIG SKY INC: | | | | | 50.96 | 50.96 | |
| BOUND TREE MEDICAL, LLC | | | | | | | |
| 2662 | BOUND TREE MEDICAL, LLC | 85151887 | Patient Supplies | 11/09/2023 | 2,524.85 | 2,524.85 | 11/17/2023 |
| Total BOUND TREE MEDICAL, LLC: | | | | | 2,524.85 | 2,524.85 | |
| BRIDGER GARAGE DOOR CO., INC. | | | | | | | |
| 10003 | BRIDGER GARAGE DOOR CO., | 32149 | DOOR REPAIR | 11/02/2023 | 1,135.00 | 1,135.00 | 11/17/2023 |
| Total BRIDGER GARAGE DOOR CO., INC.: | | | | | 1,135.00 | 1,135.00 | |
| CARI RUBIN | | | | | | | |
| 10005 | CARI RUBIN | 2023.11.3 | REIMB- COBRA COVERAGE | 11/03/2023 | 533.56 | 533.56 | 11/17/2023 |
| Total CARI RUBIN: | | | | | 533.56 | 533.56 | |
| CARQUEST AUTO PARTS | | | | | | | |
| 23 | CARQUEST AUTO PARTS | 1912-594038 | ANTIFREEZE | 10/02/2023 | 12.86 | 12.86 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-594599 | BuGS B GONE | 10/07/2023 | 58.49 | 58.49 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-594948 | BATTERY | 10/11/2023 | 119.25 | 119.25 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-595008 | ADHESIVE ERSR | 10/12/2023 | 78.94 | 78.94 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-595134 | OIL | 10/13/2023 | 47.68 | 47.68 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-595164 | Battery | 10/13/2023 | 147.39 | 147.39 | 11/17/2023 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|------------------------------|-----------------------|----------------|----------------------|--------------|-----------------------|-------------|------------|
| 23 | CARQUEST AUTO PARTS | 1912-595172 | oil | 10/13/2023 | 31.58 | 31.58 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-595373 | FUEL SUPPLEMENT | 10/16/2023 | 131.28 | 131.28 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-595472 | CLEANING WIPES | 10/17/2023 | 12.40 | 12.40 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-595694 | SHOP TOWEL | 10/19/2023 | 59.70 | 59.70 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-595774 | TRIM TOOL | 10/20/2023 | 76.23 | 76.23 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-595828 | HEADLIGHT | 10/20/2023 | 48.43 | 48.43 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596259 | oNYX | 10/25/2023 | 37.50 | 37.50 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596272 | ABSORBENT | 10/25/2023 | 105.47 | 105.47 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596284 | BLADE | 10/25/2023 | 51.77 | 51.77 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596375 | BULB | 10/26/2023 | 40.59 | 40.59 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596432 | ABSORBENT | 10/26/2023 | 9.95- | 9.95- | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596490 | TERMINAL | 10/26/2023 | 11.71 | 11.71 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596828 | oil FILTER | 10/30/2023 | 112.29 | 112.29 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596870 | DEGREASER | 10/31/2023 | 50.97 | 50.97 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596871 | DEGREASER | 10/31/2023 | 33.98 | 33.98 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596875 | DEGREASER | 10/31/2023 | 16.99 | 16.99 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-596891 | STARTING FLUID | 10/31/2023 | 4.13 | 4.13 | 11/17/2023 |
| 23 | CARQUEST AUTO PARTS | 1912-RSVD | HEADLIGHT | 10/03/2023 | 45.12 | 45.12 | 11/17/2023 |
| Total CARQUEST AUTO PARTS: | | | | | 1,324.80 | 1,324.80 | |
| CASELLE | | | | | | | |
| 3763 | CASELLE | 128679 | APPLICATION SOFTWARE | 11/01/2023 | 278.62 | 278.62 | 11/17/2023 |
| 3763 | CASELLE | 128679 | APPLICATION SOFTWARE | 11/01/2023 | 183.51 | 183.51 | 11/17/2023 |
| 3763 | CASELLE | 128679 | APPLICATION SOFTWARE | 11/01/2023 | 183.51 | 183.51 | 11/17/2023 |
| 3763 | CASELLE | 128679 | APPLICATION SOFTWARE | 11/01/2023 | 95.10 | 95.10 | 11/17/2023 |
| 3763 | CASELLE | 128679 | APPLICATION SOFTWARE | 11/01/2023 | 95.10 | 95.10 | 11/17/2023 |
| 3763 | CASELLE | 128679 | APPLICATION SOFTWARE | 11/01/2023 | 2,895.16 | 2,895.16 | 11/17/2023 |
| Total CASELLE: | | | | | 3,731.00 | 3,731.00 | |
| CENTRON SERVICES | | | | | | | |
| 682 | CENTRON SERVICES | 2023.10.26 | Parking Collections | 10/26/2023 | 26.68 | 26.68 | 11/17/2023 |
| Total CENTRON SERVICES: | | | | | 26.68 | 26.68 | |
| COMDATA | | | | | | | |
| 2671 | COMDATA | XW660/203938 | EMS FUEL | 11/01/2023 | 1,839.62 | 1,839.62 | 11/17/2023 |
| 2671 | COMDATA | XW660/203938 | FIRE FUEL | 11/01/2023 | 494.52 | 494.52 | 11/17/2023 |
| 2671 | COMDATA | XW716/203938 | CG72P | 11/01/2023 | 574.33 | 574.33 | 11/17/2023 |
| 2671 | COMDATA | XW716/203938 | CG73S | 11/01/2023 | 1,384.02 | 1,384.02 | 11/17/2023 |
| 2671 | COMDATA | XW716/203938 | CG74G | 11/01/2023 | 242.06 | 242.06 | 11/17/2023 |
| 2671 | COMDATA | XW716/203938 | CG72R | 11/01/2023 | 373.99 | 373.99 | 11/17/2023 |
| 2671 | COMDATA | XW716/203938 | CG73C | 11/01/2023 | 574.23 | 574.23 | 11/17/2023 |
| 2671 | COMDATA | XW716/203938 | CG73H | 11/01/2023 | 212.40 | 212.40 | 11/17/2023 |
| 2671 | COMDATA | XW716/203938 | CG73L | 11/01/2023 | 327.24 | 327.24 | 11/17/2023 |
| 2671 | COMDATA | XW717/203938 | CG72S | 11/01/2023 | 2,048.62 | 2,048.62 | 11/17/2023 |
| Total COMDATA: | | | | | 8,071.03 | 8,071.03 | |
| DESERT MOUNTAIN, INC. | | | | | | | |
| 3453 | DESERT MOUNTAIN, INC. | 23-111542 | Ice slicer | 10/31/2023 | 5,249.10 | 5,249.10 | 11/17/2023 |
| Total DESERT MOUNTAIN, INC.: | | | | | 5,249.10 | 5,249.10 | |
| ERIN ELISE HARRIS | | | | | | | |
| 10003 | ERIN ELISE HARRIS | 10 | PRO TEM JUDGE | 09/27/2023 | 183.33 | 183.33 | 11/17/2023 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|--|----------------------------|----------------|-------------------|--------------|-----------------------|-------------|------------|
| Total ERIN ELISE HARRIS: | | | | | 183.33 | 183.33 | |
| FARSTAD OIL | | | | | | | |
| 3353 | FARSTAD OIL | 104619 | Diesel 400G | 10/25/2023 | 1,477.20 | 1,477.20 | 11/17/2023 |
| 3353 | FARSTAD OIL | 104675 | Diesel 410G | 10/20/2023 | 1,799.49 | 1,799.49 | 11/17/2023 |
| 3353 | FARSTAD OIL | 104836 | Diesel 339G | 11/02/2023 | 1,359.59 | 1,359.59 | 11/17/2023 |
| Total FARSTAD OIL: | | | | | 4,636.28 | 4,636.28 | |
| FERGUSON WATERWORKS #1701 | | | | | | | |
| 2386 | FERGUSON WATERWORKS #17 | 0871389 | Meters | 10/27/2023 | 486.82 | 486.82 | 11/17/2023 |
| Total FERGUSON WATERWORKS #1701: | | | | | 486.82 | 486.82 | |
| FISHER SAND AND GRAVEL | | | | | | | |
| 2904 | FISHER SAND AND GRAVEL | 10548 | Sanding Material | 10/28/2023 | 811.07 | 811.07 | 11/17/2023 |
| Total FISHER SAND AND GRAVEL: | | | | | 811.07 | 811.07 | |
| FRONTLINE AG SOLUTIONS, LLC | | | | | | | |
| 2516 | FRONTLINE AG SOLUTIONS, LL | 1086649 | FILTERS | 10/27/2023 | 111.11 | 111.11 | 11/17/2023 |
| 2516 | FRONTLINE AG SOLUTIONS, LL | 1087628 | LUBRICATION FIT | 10/31/2023 | 13.90 | 13.90 | 11/17/2023 |
| 2516 | FRONTLINE AG SOLUTIONS, LL | 1088542 | DRAG LINK | 11/06/2023 | 104.85 | 104.85 | 11/17/2023 |
| 2516 | FRONTLINE AG SOLUTIONS, LL | 1088827 | AIR FILTER | 11/07/2023 | 14.04 | 14.04 | 11/17/2023 |
| Total FRONTLINE AG SOLUTIONS, LLC: | | | | | 243.90 | 243.90 | |
| GENERAL DISTRIBUTING COMPANY | | | | | | | |
| 1845 | GENERAL DISTRIBUTING COM | 0001295866 | NITROUS | 09/30/2023 | 109.89 | 109.89 | 11/17/2023 |
| 1845 | GENERAL DISTRIBUTING COM | 0001304304 | NITROUS | 10/31/2023 | 65.00 | 65.00 | 11/17/2023 |
| 1845 | GENERAL DISTRIBUTING COM | 0001306563 | NITROUS | 10/31/2023 | 113.55 | 113.55 | 11/17/2023 |
| Total GENERAL DISTRIBUTING COMPANY: | | | | | 288.44 | 288.44 | |
| HANSER'S AUTOMOTIVE & WRECKER | | | | | | | |
| 1687 | HANSER'S AUTOMOTIVE & WR | LIV5185 | Towing Charge | 11/13/2023 | 100.00 | 100.00 | 11/17/2023 |
| Total HANSER'S AUTOMOTIVE & WRECKER: | | | | | 100.00 | 100.00 | |
| HAWKINS, INC | | | | | | | |
| 470 | HAWKINS, INC | 6617323 | Chlorine cylinder | 11/01/2023 | 1,757.02 | 1,757.02 | 11/17/2023 |
| Total HAWKINS, INC: | | | | | 1,757.02 | 1,757.02 | |
| HORIZON AUTO PARTS | | | | | | | |
| 1920 | HORIZON AUTO PARTS | 983726 | CONCENTRATE | 10/26/2023 | 63.96 | 63.96 | 11/17/2023 |
| 1920 | HORIZON AUTO PARTS | 983842 | WIPER BLADES | 10/27/2023 | 17.98 | 17.98 | 11/17/2023 |
| Total HORIZON AUTO PARTS: | | | | | 81.94 | 81.94 | |
| IBS INC | | | | | | | |
| 10004 | IBS INC | 830763-1 | ONMI WORKLIGHT | 11/03/2023 | 139.35 | 139.35 | 11/17/2023 |
| 10004 | IBS INC | 830764-1 | NITRO CARB | 11/03/2023 | 227.21 | 227.21 | 11/17/2023 |
| Total IBS INC: | | | | | 366.56 | 366.56 | |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|--------------------------------------|----------------------------|----------------|-----------------------|--------------|-----------------------|-------------|------------|
| INSTY-PRINTS | | | | | | | |
| 250 | INSTY-PRINTS | 16943 | VEHICLE NOTICES | 10/26/2023 | 416.65 | 416.65 | 11/17/2023 |
| 250 | INSTY-PRINTS | 16943 | VEHICLE NOTICES | 10/26/2023 | 416.65 | 416.65 | 11/17/2023 |
| Total INSTY-PRINTS: | | | | | 833.30 | 833.30 | |
| KELLEY CONNECT | | | | | | | |
| 10001 | KELLEY CONNECT | 35203324 | AGREEMENT 112-1689019 | 10/31/2023 | 208.00 | 208.00 | 11/17/2023 |
| 10001 | KELLEY CONNECT | IN1464790 | JH110275 | 11/01/2023 | 5.21 | 5.21 | 11/17/2023 |
| 10001 | KELLEY CONNECT | IN1464791 | JH110287 | 11/01/2023 | 24.56 | 24.56 | 11/17/2023 |
| 10001 | KELLEY CONNECT | IN1467506 | JH120274 | 11/03/2023 | 16.91 | 16.91 | 11/17/2023 |
| 10001 | KELLEY CONNECT | IN1467506 | JH120274 | 11/03/2023 | 16.91 | 16.91 | 11/17/2023 |
| 10001 | KELLEY CONNECT | IN1467506 | JH120274 | 11/03/2023 | 16.91 | 16.91 | 11/17/2023 |
| 10001 | KELLEY CONNECT | IN1467506 | JH120274 | 11/03/2023 | 16.91 | 16.91 | 11/17/2023 |
| Total KELLEY CONNECT: | | | | | 305.41 | 305.41 | |
| KELLEY, DARREN | | | | | | | |
| 3585 | KELLEY, DARREN | 2023.11.6 | JACKED UP PRO | 11/06/2023 | 750.00 | 750.00 | 11/17/2023 |
| 3585 | KELLEY, DARREN | 2023.11.6 | JACKED UP PRO | 11/06/2023 | 750.00 | 750.00 | 11/17/2023 |
| Total KELLEY, DARREN: | | | | | 1,500.00 | 1,500.00 | |
| KEN'S EQUIPMENT REPAIR, INC | | | | | | | |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 61626 | HUB AND DRUM REPAIR | 09/25/2023 | 2,922.10 | 2,922.10 | 11/17/2023 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 61627 | HYDRAULICS | 09/25/2023 | 2,184.89 | 2,184.89 | 11/17/2023 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 61680 | Data Link | 10/04/2023 | 4,407.20 | 4,407.20 | 11/17/2023 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 61692 | BOOM | 10/06/2023 | 595.80 | 595.80 | 11/17/2023 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 61782 | AIR LEAK | 10/23/2023 | 366.50 | 366.50 | 11/17/2023 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 61795 | tEMP GAGE | 10/25/2023 | 110.00 | 110.00 | 11/17/2023 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 61814 | tRANSMISSION | 10/27/2023 | 98.30 | 98.30 | 11/17/2023 |
| Total KEN'S EQUIPMENT REPAIR, INC: | | | | | 10,684.79 | 10,684.79 | |
| KUNNATH, STEVE | | | | | | | |
| 3104 | KUNNATH, STEVE | 2023.10.23 | WITNESS FEES 5 | 10/23/2023 | 50.00 | 50.00 | 11/17/2023 |
| Total KUNNATH, STEVE: | | | | | 50.00 | 50.00 | |
| LEHRKIND'S COCA-COLA | | | | | | | |
| 2830 | LEHRKIND'S COCA-COLA | 2093929 | Water | 11/01/2023 | 13.00 | 13.00 | 11/17/2023 |
| Total LEHRKIND'S COCA-COLA: | | | | | 13.00 | 13.00 | |
| LIVINGSTON LOCKS & CLOCKS | | | | | | | |
| 3210 | LIVINGSTON LOCKS & CLOCKS | 126785 | ReKEY LOCK | 10/30/2023 | 297.50 | 297.50 | 11/17/2023 |
| Total LIVINGSTON LOCKS & CLOCKS: | | | | | 297.50 | 297.50 | |
| MARY KARELL | | | | | | | |
| 10005 | MARY KARELL | 2023.11.9 | MEND FLAGS | 11/09/2023 | 190.52 | 190.52 | 11/17/2023 |
| Total MARY KARELL: | | | | | 190.52 | 190.52 | |
| MISC | | | | | | | |
| 99999 | MISC | 2023.10.11.20 | WITNESS FEE | 10/11/2023 | 10.00 | 10.00 | 11/17/2023 |
| 99999 | MISC | 2023.10.23.21 | WITNESS FEE | 10/23/2023 | 10.00 | 10.00 | 11/17/2023 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|-------------------------------------|----------------|----------------------|--------------|-----------------------|-------------|------------|
| | Total MISC: | | | | 20.00 | 20.00 | |
| MOBILE REPAIR & WELDING, INC | | | | | | | |
| 10 | MOBILE REPAIR & WELDING, IN | 34394 | FABRICATION | 10/27/2023 | 76.47 | 76.47 | 11/17/2023 |
| | Total MOBILE REPAIR & WELDING, INC: | | | | 76.47 | 76.47 | |
| MONTANA RAIL LINK | | | | | | | |
| 112 | MONTANA RAIL LINK | 469955 | Agreement 602054 | 11/07/2023 | 25.00 | 25.00 | 11/17/2023 |
| | Total MONTANA RAIL LINK: | | | | 25.00 | 25.00 | |
| NORTHWEST PIPE FITTINGS, INC | | | | | | | |
| 423 | NORTHWEST PIPE FITTINGS, I | 79181-2 | Box riser | 10/30/2023 | 76.06 | 76.06 | 11/17/2023 |
| | Total NORTHWEST PIPE FITTINGS, INC: | | | | 76.06 | 76.06 | |
| NORTHWESTERN ENERGY | | | | | | | |
| 151 | NORTHWESTERN ENERGY | 0709874-2 202 | Werner Addition Pump | 11/13/2023 | .00 | .00 | |
| | Total NORTHWESTERN ENERGY: | | | | .00 | .00 | |
| O'CONNOR'S BODY SHOP, LLC | | | | | | | |
| 1199 | O'CONNOR'S BODY SHOP, LLC | 7128 | 2012 TRUCK | 10/18/2023 | 896.00 | 896.00 | 11/17/2023 |
| 1199 | O'CONNOR'S BODY SHOP, LLC | 7128 | 2012 TRUCK | 10/18/2023 | 896.00 | 896.00 | 11/17/2023 |
| | Total O'CONNOR'S BODY SHOP, LLC: | | | | 1,792.00 | 1,792.00 | |
| O'REILLY AUTOMOTIVE, INC | | | | | | | |
| 2437 | O'REILLY AUTOMOTIVE, INC | 1558-330963 | Capsule | 11/08/2023 | 30.39 | 30.39 | 11/17/2023 |
| | Total O'REILLY AUTOMOTIVE, INC: | | | | 30.39 | 30.39 | |
| REPUBLIC SERVICES #670 | | | | | | | |
| 10000 | REPUBLIC SERVICES #670 | 0670-0004301 | DISPOSAL/RECYCLING | 10/31/2023 | 86,515.92 | 86,515.92 | 11/17/2023 |
| | Total REPUBLIC SERVICES #670: | | | | 86,515.92 | 86,515.92 | |
| SHERWIN WILLIAMS | | | | | | | |
| 443 | SHERWIN WILLIAMS | 7479-4 | Paint | 10/02/2023 | 961.97 | 961.97 | 11/17/2023 |
| | Total SHERWIN WILLIAMS: | | | | 961.97 | 961.97 | |
| SNYDER INDUSTRIES INC | | | | | | | |
| 3827 | SNYDER INDUSTRIES INC | 0000454967 | LID | 08/24/2023 | 13,187.03 | 13,187.03 | 11/17/2023 |
| | Total SNYDER INDUSTRIES INC: | | | | 13,187.03 | 13,187.03 | |
| SPECIAL LUBE | | | | | | | |
| 1814 | SPECIAL LUBE | 224-280-14422 | Oil Change | 11/01/2023 | 106.95 | 106.95 | 11/17/2023 |
| | Total SPECIAL LUBE: | | | | 106.95 | 106.95 | |
| THOMSON REUTERS - WEST | | | | | | | |
| 2823 | THOMSON REUTERS - WEST | 849213060 | SOFTWARE | 11/01/2023 | 353.65 | 353.65 | 11/17/2023 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---------------------------------------|--------------------------|----------------|---------------------|--------------|--------------------|-------------|------------|
| Total THOMSON REUTERS - WEST: | | | | | 353.65 | 353.65 | |
| ULINE | | | | | | | |
| 3564 | ULINE | 8875224 | POLYBAG | 11/02/2023 | 101.91 | 101.91 | 11/17/2023 |
| Total ULINE: | | | | | 101.91 | 101.91 | |
| UPS STORE #2420, THE | | | | | | | |
| 292 | UPS STORE #2420, THE | 2023.11.7 | ShipPING | 11/07/2023 | 15.53 | 15.53 | 11/17/2023 |
| Total UPS STORE #2420, THE: | | | | | 15.53 | 15.53 | |
| UTILITIES UNDERGROUND LOCATION | | | | | | | |
| 3472 | UTILITIES UNDERGROUND LO | 310509 | Excavation Notifica | 10/31/2023 | 66.98 | 66.98 | 11/17/2023 |
| 3472 | UTILITIES UNDERGROUND LO | 310509 | Excavation Notifica | 10/31/2023 | 66.99 | 66.99 | 11/17/2023 |
| 3472 | UTILITIES UNDERGROUND LO | 310509 | Excavation Notifica | 10/31/2023 | 66.99 | 66.99 | 11/17/2023 |
| Total UTILITIES UNDERGROUND LOCATION: | | | | | 200.96 | 200.96 | |
| YELLOWSTONE NEWS GROUP | | | | | | | |
| 10005 | YELLOWSTONE NEWS GROUP | 346695 | SECTION INVIT | 03/16/2023 | 179.00 | 179.00 | 11/17/2023 |
| Total YELLOWSTONE NEWS GROUP: | | | | | 179.00 | 179.00 | |
| Grand Totals: | | | | | 149,523.12 | 149,523.12 | |

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

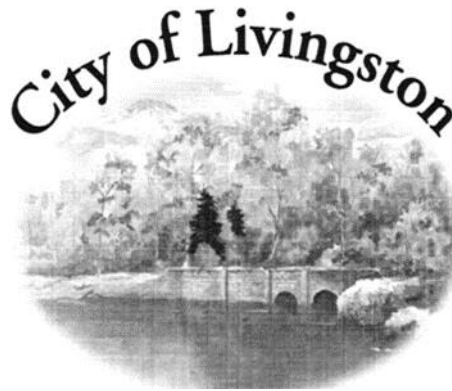
File Attachments for Item:

C. CONSIDERATION OF AGREEMENT 20048

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 12/5/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

Staff Report for Consideration of Agreement 20048

Recommendation and Summary

Staff is presenting the Commission with Agreement 20048 based on direction previously received. If desired, the Commission may approve by adopting the following motion:

“I move to approve Agreement 20048 and authorize the Chair to sign.”

The reasons for the recommendation are as follows:

- The City Commission has provided direction on amending an existing agreement.

Introduction and History

The City Commission has previously approved a contract that it desires to modify.

Analysis

The proposed contract contains the amendments sought by the Commission.

Fiscal Impact

There is minimal fiscal impact from the requested changes.

Strategic Alignment

The contract is consistent with City goals.

Attachments

- Attachment A: Proposed Agreement 20048

Employment Agreement 20048 - City Manager

City of Livingston, Montana And

Grant Gager

INTRODUCTION

This Agreement, made and entered into this ~~1st~~ 5th day of ~~November~~ December, ~~2022~~ 2023, by and between the City of Livingston, Montana (City), a municipal corporation, and Mr. Grant Gager (Manager), an individual who has the education, training and experience in leadership, public administration and local government management, agree as follows:

WITNESSETH:

WHEREAS, the Commission previously contracted for the services of Manager, as City Manager of the City of Livingston; and

WHEREAS, the Commission desires to employ ~~retain~~ the services of Manager, as City Manager of the City of Livingston, as provided in Chapter 2 of the Livingston Municipal Code (the "LMC"); and

WHEREAS, it is the desire of the Commission to provide certain benefits, establish certain conditions of employment, and to set working conditions of the Manager; and

WHEREAS, it is the desire of the Commission (1) to secure the services of Manager and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Manager's morale and peace of mind with respect to future security,

and (3) to provide a just means for terminating the Manager's services at such time as he may be unable to fully discharge his duties, within the discretion of the Commission, due to disability, or when the Commission may otherwise desire to terminate his employment; and,

WHEREAS, Manager desires employment as City Manager of the City;

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

Section A. Term

The term of this Agreement is for an initial term of three (3) years beginning November 2, ~~2022-2023~~ through December 1, ~~2025~~2026. Dates may be amended by mutual agreement of the parties based on transition time and relocation status. In the event the Agreement is not renewed, all compensation, benefits, and requirements of the agreement shall remain in effect until the expiration of the term of the Agreement unless Manager voluntarily resigns.

Section B. Duties and Authority

Commission agrees Manager is to perform the functions and duties specified in any relevant existing or future enactments of the LMC, Resolution, or State Statue governing the City of Livingston and to perform other legally permissible and proper duties and functions.

Section C. Salary

At the commencement of the contract term a base annual wage of \$160,000, payable in accordance with normal City policy and pay practices shall be paid to the Manager. Salary considerations will be made at each renewal of the Agreement based on merit and/or market adjustment or at the discretion of the Commission. Manager will accrue longevity according the standards set out in the City of Livingston Employee Policy and Procedure Manual.

Section D. Performance Evaluation

The Commission will conduct a facilitated performance evaluation at the six (6) month anniversary of Manager’s start date which will be completed and finalized within 30 days of the six-month anniversary. Facilitated evaluations will occur at the anniversary of the Manager's employment anniversary date (December 1). The process, at a minimum, shall include the opportunity for both parties to:

- a. prepare a written evaluation
- b. meet and discuss the evaluation and agree to the process
- c. present a written summary of the evaluation results

The final written evaluation should be completed and delivered to the Manager within thirty (30) days of the annual anniversary date.

Section E. City Vehicle

Manager shall be provided a monthly vehicle allowance of \$400 per month for use of personal vehicle for City related business. Mileage beyond 50 miles per trip will be reimbursed

at the current Internal Revenue Service mileage allowance for when travel occurred.

Section F. Health Benefits

Commission agrees that the Manager will be provided the standard stipend received by all City employees for the purchase of health insurance benefits provided by the City.

Section G. Sick Leave Accrual

Commission agrees the Manager will accrue sick days at a rate of one (1) sick day per month. Upon first day of active employment, Manager shall be credited with 40 hours of sick time and shall accrue sick time based on the normal accrual from that date forward. Upon the end of employment, the Manager will receive the value of one quarter (1/4) the value of accrued and unused sick time.

Section H. Vacation

Commission agrees the Manager will accrue vacation at a rate of 120 hours (15 days per year) and shall follow the accrual rates of all other staff as tenure increases. Manager may carry up to two times the total allowance in the next year. Vacation in excess of this limit must be used in the first ninety (90) days of the calendar year. Any remaining excess vacation at the end of this time period will be forfeit. For the purpose of calculation and using vacation, one (1) vacation day equals eight (8) work hours. At the end of employment, the Manager will be

compensated for any accrued unused vacation at his current rate of salary.

Section I. Administrative / Personal Leave

The Commission agrees that the Manager will receive seven (7) days of administrative leave each fiscal year. Administrative leave does not accrue, cannot be carried into the next fiscal year, and is not eligible to be paid out upon the end of employment. Administrative leave must be used on a fiscal year basis beginning on July 1 and ending on June 30. For the initial term of the contract beginning November 2, 2022, Manager shall be eligible for the full 7 days to allow time for relocation.

Section J. Deferred Compensation

The Commission agrees the City will contribute standard employee retirement contribution of 310% match of the Manager’s base salary to the ICMA-RC Deferred Compensation program or other deferred compensation program at the Manager’s discretion. Additionally, the Manager shall be entitled to participate in the Montana PERS compensation program.

Section K. Life Insurance

The Commission agrees the City will purchase and pay the required premiums on two (2) term life insurance policies, one equal to an amount of \$100,000, for the Manager and one for the City equal to an amount of \$50,000, with the following entities as primary respective beneficiaries:

- a. Manager’s designated beneficiary and
- b. The City of Livingston

The City Manager will have 30 days from start date to complete the requirements to secure the insurance contract and coverage.

Section L. Other Employee Benefits

The Commission agrees that any benefit not specifically mentioned in this Agreement will fall under the guidance of the City of Livingston Employee Policy and Procedure Manual. All clauses in this Agreement supersede the City of Livingston Employee Policy and Procedure Manual.

Section M. Business and Professional Expenses

The Commission agrees to pay for professional dues, subscriptions, and training for the Manager’s business needs or professional development. City will pay for professional conferences at the local, state, and national level as well as necessary travel and expenses in accordance with City policies. The Commission agrees to specifically pay for membership and dues to Great Open Spaces City/County Management Association and the International City/County Management Association.

The Commission agrees to provide the Manager with all technology requirements to efficiently complete his tasks including, but not limited to:

- a. desktop computer

- b. laptop computer
- c. cellular phone (Manager to provide preference for Android or iPhone platform).

Section N. Hours of Work

The Commission agrees that the Manager is required to devote significant time outside normal office hours on City business, and to that end, Manager shall be allowed to establish a flexible work schedule with the intent to normally be available during business hours.

Section O. Outside Work Activities

This Agreement shall represent the Manager’s primary employment. However, the Commission agrees that the Manager may accept limited consulting or promotional opportunities for compensation. Any such arrangement will be on the Manager’s personal time (including vacation) and will not constitute interference with or a conflict of interest with his responsibilities under this Agreement.

Section P. Termination

For the purpose of this Agreement, termination shall occur when:

- a. The majority of the governing body votes to terminate the Manager at a duly authorized public meeting
- b. The Commission, citizens, or legislature acts to amend any provision of LMC or

enabling legislation pertaining to the role, powers, duties, authority, or responsibilities of the Manager's position that substantially changes the form of government or Manager's working conditions, the Manager shall have the right to declare that such amendments constitute termination.

c. If the Commission reduces the base salary, compensation, or any other financial benefit of the Manager, such action shall constitute a breach of this Agreement and will be regarded as a termination.

d. If the Manager resigns following an offer or suggestion by the Commission to resign, whether formal or informal, the Manager may declare a termination as of the date of the offer/suggestion.

e. Breach of contract declared by either party with a 30-day cure period. Written notice of a breach of contract shall be provided to the other party to be served at 220 East Park Street Livingston, MT 59047.

Section Q. Severance Pay

Severance shall be paid to the Manager when employment is terminated as defined in Section O. Severance shall be equal to ~~six-twelve~~ (612) months of regular pay and continuation of benefits at the City's expense. The Manager will cease to have access to any City-provided vehicles, assets or technology and will no longer accrue vacation or sick time. Accrued vacation and sick time will be paid out in accordance with Section G and Section H of this Agreement.

The Manager is not entitled to severance pay of any kind under the following conditions:

- a. If the Manager is terminated due to being convicted of a felony;
- b. death;
- c. disability for more than six (6) months;
- d. malfeasance in office;
- e. abuse of public office for personal gain.
- f. the contract ends or is not renewed.

Section R. Resignation

If the Manager chooses to voluntarily resign his position, the Manager shall provide thirty (30) day notice to the Commission unless the parties agree otherwise.

Section S. Relocation Expenses and Residency Requirement

Manager is required to reside within the city limits of the City of Livingston during employment under this Agreement and within 12 months of his start date. Dates may be amended by mutual agreement of the parties based on transition time and relocation status. The Commission agrees to provide \$15,000 towards relocation expenses on a reimbursable basis. Should the Manager resign or be terminated for cause during the initial 3 year term of the contract (ending December 1, 2025) the Manager agrees to reimburse a pro-rated amount of the relocation expenses based on

tenure.

Section T. Indemnification

Beyond that required under Federal, State, or Local Law, Commission agrees that the City will defend, save harmless, and indemnify Manager against any tort, professional liability claim, or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Manager's duties or resulting from the exercise of judgement or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The manager may request and the Commission shall not unreasonably refuse to provide independent legal representation at the City's expense and Commission may not unreasonably withhold approval. Legal representation, provided for the City for Manager, shall extend until a final determination of the legal action including any appeals brought by either party. The Commission, other than in an action brought by the City against the Manager, or an action filed against the City by the Manager, shall indemnify Manager against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney fees, and any other liabilities incurred by, imposed upon, or suffered by such Manager in connection with or resulting from any claim, action, suit, or proceedings, actual or threatened, arising out of or in connection with the performance of his duties. Any settlement of

any claim must be made with prior approval of the Commission in order for indemnification, as provided in the Section, to be available.

Manager recognizes that Commission shall have the right to compromise, and unless the Manager is a party to the suit over which Commission shall have a veto authority over the settlement, settle any claim or suit; unless, said compromise or settlement is of a personal nature to Manager. The Commission and the Manager understand that neither may have the ability to veto a settlement by the City's insurer. Further, Commission agrees to pay all reasonable litigation expenses of Manager throughout the pendency of any litigation to which the Manager is a party, witness, or advisor to the Commission. Such expense payments shall continue beyond Manager's service to the Commission as long as litigation is pending. Further, Commission agrees to pay Manager reasonable consulting fees and travel expenses when Manager serves as a witness, advisor or consultant to Commission regarding pending litigation.

Section U. Integration

This Agreement sets forth and establishes the entire understanding between the Commission and the Manager relating to the employment of the Manager by the Commission. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this

agreement.

Section V. Binding Effect

This Agreement shall be binding on the Commission and the Manager as well as their heirs, assigns, executors, personal representatives, and successors in interest.

Section W. Severability

The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

Section X. Applicable Law

This Agreement shall be governed in all respects by the laws of the State of Montana. It is agreed that this Agreement has been executed in Livingston, Montana. It is further agreed that jurisdiction for any dispute arising from this Agreement shall be in Park County, Montana, and Venue is the Sixth Judicial District Court, in Park County, Montana.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed

as of the date first above written.

~~Lisa Lowy~~ Melissa Nootz, Chair
~~Interim City Manager~~ City Commission

Grant Gager

File Attachments for Item:

A. ORDINANCE 3048: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 27, CITY PLANNING BOARD, OF THE LIVINGSTON MUNICIPAL CODE, BY RENAMING THE CHAPTER CONSOLIDATED LAND USE BOARD AND GENERALLY REVISING THE PROVISIONS THEREOF.



AN ACT ALLOWING A BOARD OF COUNTY COMMISSIONERS AND THE GOVERNING BODY OF A MUNICIPALITY TO CONSOLIDATE A PLANNING BOARD OR PLANNING BOARDS, A ZONING COMMISSION, OR A BOARD OF ADJUSTMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Consolidated land use boards -- zoning commission, planning board, and board of adjustment. (1) The governing body of a city, county, or consolidated city-county may consolidate any combination of a planning board or planning boards as authorized in Title 76, chapter 1, a zoning commission as provided in 76-2-220 and 76-2-307, and a board of adjustment as provided in 76-2-221 and 76-2-321 into a consolidated land use board.

(2) The requirements regarding the duties and roles of a planning board as provided in Title 76, chapter 1, a zoning commission as provided in Title 76, chapter 2, parts 2 and 3, and a board of adjustment as provided in Title 76, chapter 2, parts 2 and 3, apply to a consolidated land use board.

(3) A consolidated land use board allowed under this section shall adopt bylaws that clearly define the roles and duties of a member when acting as a planning board member, a zoning commission member, or a board of adjustment member.

(4) (a) Except as provided in subsection (4)(b), a consolidated land use board allowed under this section must consist of at least five appointed citizen members that reside within the jurisdictional area of the consolidated land use board and who may be removed by the appointing authority. A vacancy on a consolidated land use board must be filled by the appointing authority.

(b) If a consolidated land use board includes the consolidation of a joint or consolidated board as allowed in 76-1-112 or a city-county planning board as allowed in 76-1-201, the consolidated land use board must consist of at least nine appointed citizen members as required in 76-1-201.

(5) The requirements provided in Title 76, chapter 1, and in Title 76, chapter 2, parts 2 and 3, regarding the number, qualification, and removal of members on a planning board, zoning commission, or board of adjustment do not apply to a consolidated land use board allowed under this section.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 1, part 1, and the provisions of Title 76, chapter 1, part 1, apply to [section 1].

- END -

I hereby certify that the within bill,
SB 130, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 130

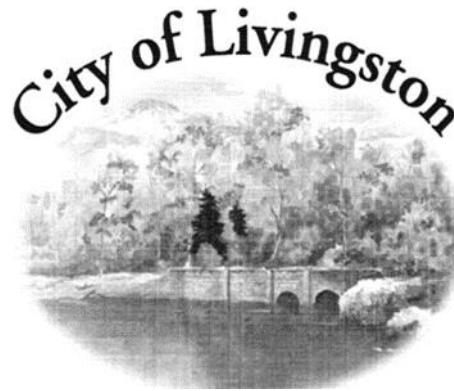
INTRODUCED BY F. MANDEVILLE, M. DUNWELL, G. HERTZ, C. FRIEDEL, D. ZOLNIKOV, J. TREBAS

AN ACT ALLOWING A BOARD OF COUNTY COMMISSIONERS AND THE GOVERNING BODY OF A MUNICIPALITY TO CONSOLIDATE A PLANNING BOARD OR PLANNING BOARDS, A ZONING COMMISSION, OR A BOARD OF ADJUSTMENT.

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 12/5/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

**Staff Report for Ordinance 3048 to Consolidate the Membership of the
Planning Board and Zoning Commission**

Recommendation and Summary

Staff is seeking Commission approval of Ordinance 3048 which will consolidate the membership of the Planning Board and Zoning Commission. Staff recommends approval of the following motion:

“I move to approve the second reading of Ordinance 3048 and authorize the Chair to sign.”

The reasons for the request for guidance are as follows:

- Montana Code Annotated establishes Planning Boards and Zoning Commissions and provides for their roles and requirements.
- Recent legislation has explicitly allowed such boards to be consolidated.

Introduction and History

The City of Livingston has established both a Planning Board and Zoning Commission pursuant to the requirements of Montana Code Annotated. In the 2023 Legislative Session, the Montana Legislature passed SB 130 (attached) that explicitly allows the consolidation of the Planning Board and Zoning Commission. The City previously operated a consolidated board. A first reading of the ordinance was conducted on November 21, 2023, where several changes to the size and composition of the Board were made by the Commission.

Analysis

If approved, it is expected that the Consolidated Land Use Board will be appointed by the end of January 2023. The City will commence with advertising the position upon approval of the ordinance. Working through the Commission, it is the intent to have the board members appointed during the second meeting in January 2024. Before the commencement of the boards activities, members will be expected to attend a training on both board processes and land use specific matters. The City is currently working with the Local Government Center and Montana League of Cities and Towns to plan and schedule such training.

Fiscal Impact

There is no fiscal impact arising from the decision.

Strategic Alignment

The effective function of advisory boards is critical to quality public engagement regarding consideration of development applications and deliberation of policy.

Attachments

- Attachment A: 2023 SB 130
- Attachment B: Ordinance 3048 Clean Version
- Attachment C: Ordinance 3048 Red-line Version

ORDINANCE NO. 3048

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 27, CITY PLANNING BOARD, OF THE LIVINGSTON MUNICIPAL CODE, BY RENAMING THE CHAPTER CONSOLIDATED LAND USE BOARD AND GENEREALLY REVISING THE PROVISIONS THEREOF.

Preamble.

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by providing for a Consolidated Land Use Board to carry out the functions of City Planning Board and the City Zoning Commission.

WHEREAS, the State of Montana has adopted legislation authorizing the City to consolidate a Planning Board or Planning Boards, a Zoning Commission, or a Board of Adjustment; and

WHEREAS, the City Commission has determined that it is in the best interest of the City and its' Citizens to combine the functions of the City Planning Board and the City Zoning Commission by establishing a Consolidated Land Use Board.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Livingston, Montana, that Chapter 27 of the Livingston Municipal Code titled City Planning Board, be and is hereby amended with additions underlined and deletions struck through, as follows:

Chapter 27

CITY CONSOLIDATED LAND USE BOARD

Sec. 27-1. Established—powers and duties.

Pursuant to and under the provisions of Title 76 , Montana Code Annotated, the City Commission of the City of Livingston does hereby create and establish a City Consolidated Land Use Board to be known as the "Livingston Consolidated Land Use Board," and does by this Chapter adopt by reference all of the sections of the laws of the State of Montana aforementioned that specifically pertain to Consolidated Land Use Boards, granting and delegating to the Livingston Consolidated Land Use Board all of the rights, privileges, powers, duties and responsibilities thereto appertaining.

The Livingston Consolidated Land Use Board shall assume the duties and responsibilities of:

1. The City Planning Board as authorized by 76-1-101, MCA
2. The City Zoning Commission as authorized by 76-2-307, MCA

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Sec. 27-2. Jurisdictional area.

The Livingston Consolidated Land Use Board shall have such jurisdiction in the corporate limits of the City of Livingston, as such limits may be amended from time to time and as may be provided by State law.

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Sec. 27-3. Membership of Board, terms of office and qualifications.

- A. The Livingston Consolidated Land Use Board shall consist of eight (8) members, as follows:
 - 1. One (1) member of the City Commission who shall be a non-voting member of the Board who will be appointed annually by the Commission; and
 - 2. Seven (7) citizen members appointed by the City Commission who shall be residents of the City of Livingston and shall be qualified by knowledge and experience in matters pertaining to the development of the City and hold no other office in City government.
- B. All citizen members of the Board shall be appointed to two (2) year overlapping terms of office. To establish the overlapping terms of office, three (3) Board members shall be initially appointed for one (1) year and four (4) members shall be appointed for two (2) years. Thereafter, all other appointments to the Board shall be for two (2) year terms.
- C. The City Clerk shall certify the members appointed by the City Commission. The certificates shall be sent to and become a part of the records of the Livingston Consolidated Land Use Board.
- D. Any appointee may be removed from office by a majority vote of the City Commission.
- E. The Board members shall receive no salary for serving on the Livingston Consolidated Land Use Board.

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06; Ord. No. 3005 , § 2, 4/20/21)

Sec. 27-4. Organization and administration.

- A. Meetings. The Board shall fix the time for holding regular meetings. Special meetings of the Board may be called by the president or by two (2) members upon written request to the Secretary. The Secretary shall send to all members, at least two (2) days' written notice stating the purpose, time and place of the meeting.
- B. Officers. The Board, at its first regular meeting in each year, shall hold annual elections to elect a President and a Vice-President who shall preside in the absence of the President.
- C. Secretary. The Board may appoint, from its' own membership, a Secretary and prescribe the duties thereof. The Board shall have the power and duty to delegate to Staff the authority to perform ministerial acts such as the creation of meeting minutes, publication of notices and filing of documents, except where final action of the Board is necessary.
- D. Quorum. A majority of voting members shall constitute a quorum.
- E. Administration of Board. The Board shall have the power and duty to:
 - 1. Exercise general supervision of and make regulations for the administration of the affairs of the Board;
 - 2. Prescribe uniform rules pertaining to investigations and hearings;

3. Keep an accurate and complete record of all Board proceedings-and assume responsibility for the custody and preservation of all papers and documents of the Board;
4. Make recommendations and an annual report to the Livingston City Commission concerning the operation of the Board and the status of planning within its jurisdiction;
5. Prepare, publish and distribute reports, proposed ordinances and proposed resolutions and other material relating to the activities authorized by law. (Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

SECTION 2

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings Provision:

This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that begun before the effective dates of this ordinance.

SECTION 5

Effective date:

This ordinance will become effective February 1, 2024.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the 21st day of November, 2023.

MELISSA NOOTZ, CHAIR

ATTEST:

Emily Hutchinson
City Clerk

PASSED, ADOPTED AND APPROVED, by the City Commission of the City of Livingston, Montana, on a second reading at a regular session thereof held on the _____ day of December, 2023.

ATTEST:

APPROVED TO AS FORM:

EMILY HUTCHINSON
City Clerk

JON HESSE
City Attorney

ORDINANCE NO. 3048

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 27, CITY PLANNING BOARD, OF THE LIVINGSTON MUNICIPAL CODE, BY RENAMING THE CHAPTER CONSOLIDATED LAND USE BOARD AND GENEREALLY REVISING THE PROVISIONS THEREOF.

Preamble.

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by providing for a Consolidated Land Use Board to carry out the functions of City Planning Board and the City Zoning Commission.

WHEREAS, the State of Montana has adopted legislation authorizing the City to consolidate a Planning Board or Planning Boards, a Zoning Commission, or a Board of Adjustment; and

WHEREAS, the City Commission has determined that it is in the best interest of the City and its' Citizens to combine the functions of the City Planning Board and the City Zoning Commission by establishing a Consolidated Land Use Board.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Livingston, Montana, that Chapter 27 of the Livingston Municipal Code titled City Planning Board, be and is hereby amended with additions underlined and deletions struck through, as follows:

Chapter 27

CITY ~~PLANNING BOARD~~ CONSOLIDATED LAND USE BOARD

Sec. 27-1. Established—powers and duties.

Pursuant to and under the provisions of Title 76 , Montana Code Annotated, the City Commission of the City of Livingston does hereby create and establish a City ~~Planning Board~~ Consolidated Land Use Board to be known as the "Livingston ~~Planning~~ Consolidated Land Use Board," and does by this Chapter adopt by reference all of the sections of the laws of the State of Montana aforementioned that specifically pertain to ~~City-Planning~~ Consolidated Land Use Boards, granting and delegating to the ~~City-Planning~~ Livingston Consolidated Land Use Board all of the rights, privileges, powers, duties and responsibilities thereto appertaining.

The Livingston Consolidated Land Use Board shall assume the duties and responsibilities of:

1. The City Planning Board as authorized by 76-1-101, MCA
2. The City Zoning Commission as authorized by 76-2-307, MCA

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Sec. 27-2. Jurisdictional area.

The Livingston ~~Planning~~ Consolidated Land Use Board shall have such jurisdiction in the corporate limits of the City of Livingston, as such limits may be amended from time to time and as may be provided by State law.

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Sec. 27-3. Membership of Planning Board, terms of office and qualifications.

- A. The Livingston Planning Consolidated Land Use Board shall consist of ~~seven-eight (78)~~ members, as follows:
 - ~~1. One (1) member appointed by the City Commission from its own membership;~~
 - ~~2. 1. One (1) member appointed by of the City Commission who, at the Commission's discretion, may be an employee of the City of Livingston, shall be a non-voting member of the Board who will be appointed annually by the Commission or hold public office in Livingston or Park County; and~~
 - ~~3. One (1) member appointed by the Chair of the Commission, upon designation by the Board of County Commissioners of Park County; and~~
 - ~~4. 2. Four (4) Six-Seven (67) citizen members appointed by the Chair of the City Commission who shall be residents freeholders within of the City of Livingston, who and shall be qualified by knowledge and experience in matters pertaining to the development of the City and hold no other office in City government.~~
- B. ~~The term of the City Commissioner appointed to the City Planning Board shall be coextensive with that City Commissioner's term of office as City Commissioner. All other citizen~~ members of the Planning Board shall be appointed to two (2) year overlapping terms of office. To establish the overlapping terms of office, ~~the appointment of three (3) Planning~~ Board members shall be initially appointed for one (1) year and ~~three-four (34)~~ members shall be appointed for two (2) years. Thereafter, ~~except for the appointed City Commissioner,~~ all other appointments to the Planning Board shall be for two (2) year terms.
- C. The ~~Recording Secretary~~ City Clerk shall certify the members appointed by the City Commission. The certificates shall be sent to and become a part of the records of the Livingston Planning Consolidated Land Use Board. ~~The Chair of the Commission shall make similar certifications for the appointment of citizen members.~~
- D. Any ~~citizen~~ appointee may be removed from office by a majority vote of the City Commission.
- E. The Planning Board members shall receive no salary for serving on the Planning Livingston Consolidated Land Use Board, ~~but may be reimbursed for transportation and actual expenses incurred in attending Planning Board meetings. When the Planning Board determines that it is necessary for members or employees to attend a regional or national conference or interview in another City, County or State dealing with planning or related problems, the Planning Board may pay the actual expense of the attending members or employees provided the amount has been made available in the Board's appropriation.~~

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06; Ord. No. 3005 , § 2, 4/20/21)

Sec. 27-4. Organization and administration.

- A. Meetings. The **Planning** Board shall fix the time for holding regular meetings, ~~but shall meet at least once in the months of January, April, July and October.~~ Special meetings of the **Planning** Board may be called by the president or by two (2) members upon written request to the Secretary. The Secretary shall send to all members, at least two (2) days' written notice stating the purpose, time and place of the meeting.
- B. Officers. The **Planning** Board, at its first regular meeting in each year, shall hold annual elections to elect a President and a Vice-President who shall preside in the absence of the President.
- C. Secretary. The **Planning** Board may appoint, ~~from its' own membership, and prescribe the duties and fix the compensation of~~ a Secretary ~~and prescribe the duties thereof, which may be the City Planning Officer, and such employees as are necessary for the discharge of the duties and responsibilities of the Board~~ The Board shall have the power and duty to ~~prescribe the qualifications of, appoint, remove and fix the compensation of the employees of the Board and~~ delegate to ~~employee's~~ Staff the authority to perform ministerial acts ~~in all cases such as the creation of meeting minutes, publication of notices and filing of documents,~~ except where final action of the Board is necessary.
- D. Quorum. A majority of all-voting members shall constitute a quorum. ~~However, no action of the Planning Board is official unless authorized by a majority of the total membership of the Board at a regular or properly called special meeting.~~
- E. Administration of Board. The **Planning** Board shall have the power and duty to:
 1. Exercise general supervision of and make regulations for the administration of the affairs of the Board;
 2. Prescribe uniform rules pertaining to investigations and hearings;
 3. Keep an accurate and complete record of all ~~departmental~~ Board proceedings, ~~record and file all bonds and contracts,~~ and assume responsibility for the custody and preservation of all papers and documents of the Board;
 4. Make recommendations and an annual report to ~~any governing bodies represented on the Board~~ the Livingston City Commission concerning the operation of the Board and the status of planning within its jurisdiction;
 5. Prepare, publish and distribute reports, proposed ordinances and proposed resolutions and other material relating to the activities authorized by law. (Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

SECTION 2

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and

parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings Provision:

This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that begun before the effective dates of this ordinance.

SECTION 5

Effective date:

This ordinance will become effective February 1, 2024.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the 21st day of November, 2023.

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MELISSA NOOTZ, CHAIR

ATTEST:

Emily Hutchinson
City Clerk

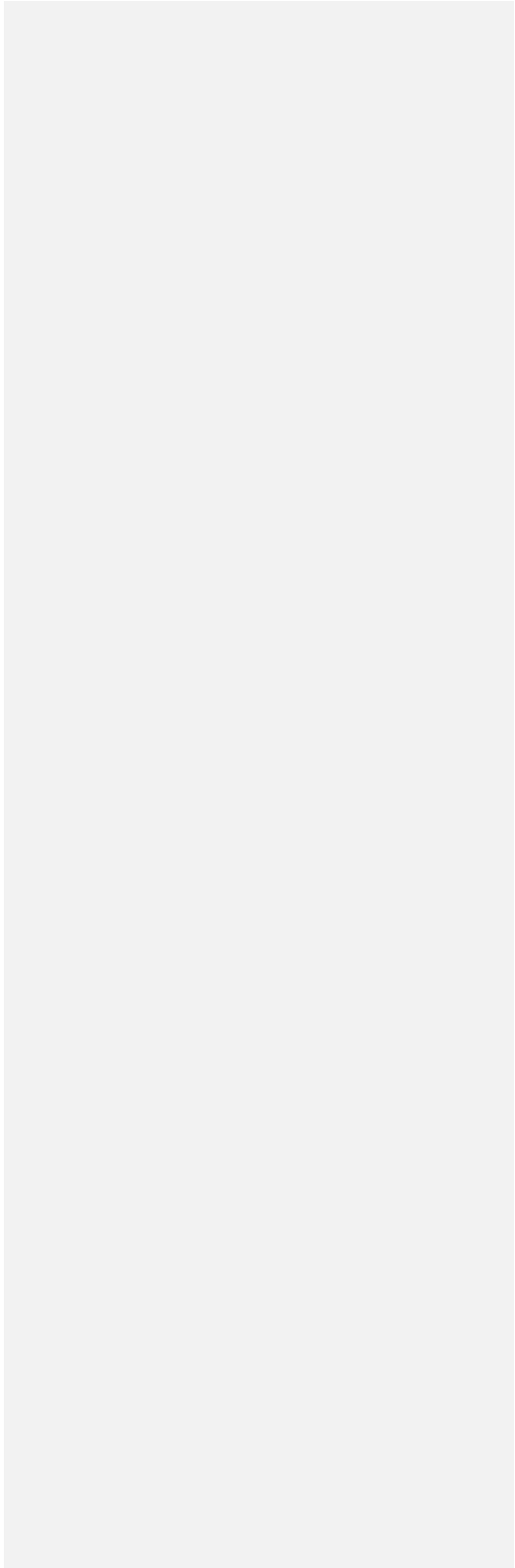
PASSED, ADOPTED AND APPROVED, by the City Commission of the City of Livingston,
Montana, on a second reading at a regular session thereof held on the _____ day of December,
2023.

ATTEST:

APPROVED TO AS FORM:

EMILY HUTCHINSON
City Clerk

JON HESSE
City Attorney



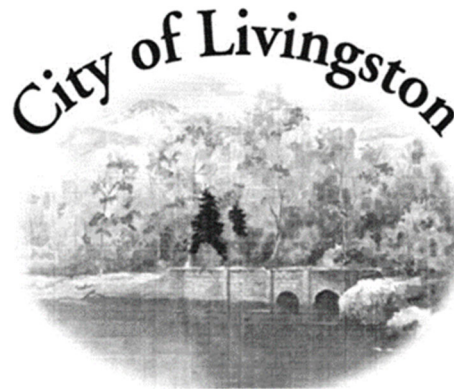
File Attachments for Item:

A. RESOLUTION 5123: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2022- 2023, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,631,557 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,635,965.

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



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Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 12/05/2023
To: Chair Nootz and City Commissioners
From: Paige Fetterhoff

Staff Report for the Budget Amendment for Fiscal Year 22-23.

Recommendation and Summary

Staff is recommending the Commission approve Resolution 5123 amending the budget for the Fiscal Year Ended June 30, 2023.

“I move to approve Resolution Number 5123 and authorize the Chair to sign the resolution.”

Introduction and History

The Commission approved the City Manager’s budget for fiscal year 2022-2023 via resolution no. 5056 on July 26th, 2022. Since the approval of the budget certain expenditures occurred that were not included in the original budget. These expenditures were anticipated but the dollar amount was not available at the time of the adoption of the City Manager’s budget.

Analysis

During the fiscal year expenditures arose that were not included in the original approved budget. When presenting a budget to approve, it can be difficult to determine all the needs of the City for an entire year. Circumstances arise that require expenditures be made that cannot always be anticipated during the creation of the budget. When increasing appropriations, the source of funds must be identified as Fund Reserves, Unanticipated Revenues, or Unbudgeted Revenues. These expenditures were anticipated along with offsetting revenue, however the approximate dollar amounts and timing of the expenditures were unknown to staff.

Fiscal Impact

Revenue adjustments in the amount of \$3,635,965 and appropriation adjustments of \$2,631,557 will be reflected in the final budget for FY 22-23.

Strategic Alignment

This aligns with item 2. Financial Stewardship of the City’s Strategic Plan.

Attachments

- Resolution 5123

RESOLUTION NO. 5123

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE BUDGET FOR FISCAL YEAR 2022-2023, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$2,631,557 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$3,635,965.

WHEREAS, by Resolution No. 5056 the City of Livingston adopted its budget for Fiscal Year 2022-2023 (FY 22-23); and

WHEREAS, Mont. Code Ann. §§ 7-6-4006(4), 7-6-4031(2) and 7-6-4006(3) provide that the budget may be amended by conducting a public hearing thereon; and

WHEREAS, any proposed budget amendment which provides for additional appropriations must identify the fund reserves, unanticipated revenue or previously unbudgeted revenue that will fund the appropriations; and

WHEREAS, the budget for FY 22-23 requires a budget amendment by making appropriation adjustments in the amount of \$2,631,557 and revenue adjustments in the amount of \$3,635,965 as specified herein.

NOW, THEREFORE, be it resolved by the City Commission of the City of Livingston, Montana, that the budget for Fiscal year 2022-2023 is amended as follows:

Revenue Estimate Adjustments

| Fund | Description/Purpose | Account | Amount |
|----------------------------|----------------------------|----------------|--------------------|
| Emergency/ Disaster | Tax Revenue | 2260-311010 | 37,244 |
| | Federal Disaster Aid | 2260-331110 | 315,950 |
| Regional Sewer | Special Assessments | 4205-363010 | 432,839 |
| | ARPA Grant | 4205-331992 | 2,000,000 |
| | Bond Proceeds | 4205-381030 | 849,932 |
| TOTAL | | | \$3,635,965 |

Appropriation Adjustments

| Fund | Description/Purpose | Account | Amount | Fund Reserves | Unanticipated Revenues | Unbudgeted Revenues |
|----------------------------|----------------------------|---------------------|--------------------|----------------------|-------------------------------|----------------------------|
| Emergency/ Disaster | FEMA Flood | 2260-460-510331-800 | 274,106 | | | X |
| Regional Sewer | Sewer Improvements | 4205-400-430630-960 | 2,303,700 | | | X |
| | Bond Issuance Costs | 4205-400-430630-350 | 53,751 | | | X |
| TOTAL | | | \$2,631,557 | | | |

Dated this 5th day of December, 2023.

MELISSA NOOTZ - Chairperson

ATTEST:

APPROVED AS TO FORM:

EMILY HUTCHINGSON
Clerk

JON HESSE
City Attorney

Resolution No. 5123

Amending the budget for Fiscal Year 2022-2023 by making appropriation adjustments in the amount of \$2,631,557 and revenue adjustments in the amount of \$3,635,965.

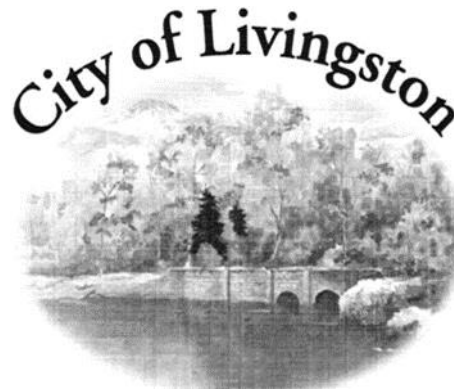
File Attachments for Item:

A. CONSIDERATION OF THE 2024 REGULAR MEETING SCHEDULE OF THE LIVINGSTON CITY COMMISSION

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



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Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 12/5/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

**Staff Report for Consideration of the
2024 Regular Meeting Schedule of the Livingston City Commission**

Recommendation and Summary

The City Manager is recommending the Commission approve the dates for regular meetings of the Livingston City Commission in calendar year 2024 by adopting the following motion:

“I move to approve the 2024 Regular Meeting Schedule of the Livingston City Commission.”

The reasons for the recommendation are as follows:

- Both the Montana Code Annotated and the Livingston Municipal Code establish the required frequency of Commission meetings for municipal governments.
- The City of Livingston values public participation in meetings and wishes to provide the community with sufficient notice of regular City Commission meetings.

Introduction and History

Both the Montana Code Annotated and Livingston Municipal Code (LMC) establish the required frequency of City Commission meetings. Pursuant to the LMC, the Commission’s regular meetings are held on the first and third Tuesday of each month. In order to encourage the participation of community members, the City is providing a schedule of dates for regular meetings of the Livingston City Commission. All meetings will begin at 5:30pm.

Analysis

The proposed schedule includes meetings on the first and third Tuesday of each month for all months except July and November. Due to community events and fiscal year timing, the first meeting of July is proposed to be omitted. Similarly, the first meeting in November is recommended to be postponed one day due to a State holiday for election activities. If required, a special meeting will be subsequently scheduled during the second week of July to accommodate any business needs.

Fiscal Impact

The expenses of the Livingston City Commission are provided in the adopted budget.

Strategic Alignment

The conduct of the Livingston City Commission helps fulfill the City’s obligations under both the Livingston Municipal Code and Montana Code Annotated.

Attachments

- Attachment A: Proposed Meeting 2024 Calendar

2024 City Commission Calendar

| January | | | | | | | February | | | | | | | March | | | | | | | April | | | | | | |
|-----------|----|----|----|----|----|----|----------|----|----|----|----|----|----|----------|----|----|----|----|----|----|----------|----|----|----|----|----|----|
| Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa |
| | 1 | 2 | 3 | 4 | 5 | 6 | | | | | 1 | 2 | 3 | | | | | | 1 | 2 | | 1 | 2 | 3 | 4 | 5 | 6 |
| 7 | 8 | 9 | 10 | 11 | 12 | 13 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 | 31 | | | | 25 | 26 | 27 | 28 | 29 | | | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 28 | 29 | 30 | | | | |
| | | | | | | | | | | | | | | 31 | | | | | | | | | | | | | |
| May | | | | | | | June | | | | | | | July | | | | | | | August | | | | | | |
| Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa |
| | | | 1 | 2 | 3 | 4 | | | | | | 1 | | 1 | 2 | 3 | 4 | 5 | 6 | | | | | 1 | 2 | 3 | |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 26 | 27 | 28 | 29 | 30 | 31 | | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 28 | 29 | 30 | 31 | | | | 25 | 26 | 27 | 28 | 29 | 30 | 31 |
| | | | | | | | 30 | | | | | | | | | | | | | | | | | | | | |
| September | | | | | | | October | | | | | | | November | | | | | | | December | | | | | | |
| Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | | | 1 | 2 | 3 | 4 | 5 | | | | | | 1 | 2 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 8 | 9 | 10 | 11 | 12 | 13 | 14 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | | | | | | 27 | 28 | 29 | 30 | 31 | | | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 29 | 30 | 31 | | | | |

- Commission Meeting
- City Holiday

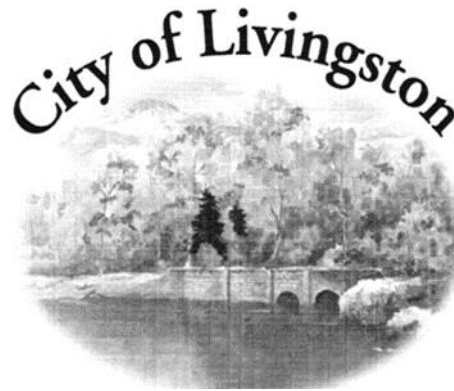
File Attachments for Item:

B. CONSIDERATION OF UPDATES TO THE CITY COMMISSION HANDBOOK

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 12/5/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

Staff Report for Consideration of Changes to the Handbook of the Livingston City Commission

Recommendation and Summary

The City Manager is providing the Commission an opportunity to provide direction on revisions to the current City Commission Handbook. As such, no motion is required or requested, however, feedback is appreciated.

The reasons for the opportunity to provide direction are as follows:

- The current City Commission Handbook was last updated in 2019.
- Certain changes have occurred which have prompted the City to review the current handbook.

Introduction and History

The Livingston City Commission maintains a handbook that provides background on City operations as well as direction to the procedural workings of the City Commission. The handbook was last updated in December 2019.

Analysis

The City Manager has included several proposed changes in the attached “red-line” document.

Fiscal Impact

There is no fiscal impact to providing direction on revisions to the handbook.

Strategic Alignment

The conduct of the Livingston City Commission helps fulfill the City’s obligations under both the Livingston Municipal Code and Montana Code Annotated.

Attachments

- Attachment A: Red-line of proposed changes to the Handbook
- Attachment B: Clean version of proposed changes to the Handbook

LIVINGSTON CITY COMMISSION HANDBOOK



Revised ~~October 2019~~, and approved December ~~31, 2019~~ 2023

TABLE OF CONTENTS

FOReWoRD.....4

Vision, & Goals.....5

ORGANIZATION.....12

QUESTIONS AND ANSWERS ABOUT COMMISSION-MANAGER GOVERNMENT19

LIST OF CITY BOARDS & COMMITTEES– May 2022.....21

BUDGET.....23

PERSONNEL.....26

Unions27

Pensions.....27

Compensation28

MISCELLANEOUS ITEMS.....29

LIABILITY INSURANCE29

ANNEXATION29

Policies and PROCEDURES regarding COMMISSIONers agenda PACKET29

Policy and PROCEDURE regarding Order of Business.....30

POLICY ON COMMISSIONERS Remote participation.....38

COMMISSION VACANCY application.....41

DEVELOPMENT REVIEW COMMITTEE.....42

CODE OF ORDINANCES.....42

WASTE WATER TREATMENT PLANT.....42

POLICY AND PROCEDURES MANUAL AND WAGE PARITY GUIDE.....42

COMMISSIONERS CODE of CONDUCT.....42

SNOW REMOVAL & Sanding.....48

AMBULANCE TRANSFERS.....49

QUESTIONS AND ANSWERS on Departmental Policies & Procedures49

GLOSSARY OF TERMS ASSOCIATED WITH LOCAL GOVERNMENT.....53

ACRONYMS.....60

Appendices.....66

Appendix 1.....67

Appendix 2.....91

Appendix 3.....98

Appendix 4.....103

Appendix 5.....116

FORWARD

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FORWARDFOREWORD

Welcome City Commissioners!

The purpose of this handbook is to provide the City Commission members with some commonly shared background information on the organization and working elements of the Municipal Commission-Manager form of government in Livingston. This Handbook will also be useful to organizations and individuals interested in our government. Copies of the Handbook are available upon request.

Livingston is a second class City in Montana with a population of approximately ~~7,044,790~~. According according to the 2010-2021 American Community Survey census, This population makes Livingston was the eleventh largest community in the State of Montana.

This handbook is separated into the following general categories:

- Purpose/Mission/Goals/Values/Powers
- Organization
- Budget
- Personnel
- Miscellaneous Items
- Glossary of Terms
- Appendices

The City Manager will provide orientation training sessions to newly elected City Commissioners at mutually agreed upon dates and times. This orientation will consist of general overview of departments, functions and introduction of Department Directors as well as the role of the City Manager as it concerns City employees.

In our form of government, the City Commission works with and through the City Manager as its primary liaison to all other City staff and resources. The City Manager is responsible for all City employees and everything ~~that those employees do relative to performing the performance of~~ their jobs. ~~The City Manager is also responsible and accountable to determine how the allocation of resources happens so that all objectives and needs of the City, the Commission and the residents of our community are met.~~ If you would like an idea researched or ~~some~~ task performed, or want to introduce a project or issue through the City Commission, please ask work with the City Manager to research, arrange a City Commission Work Session for preliminary discussion of the item, or to place it on the agenda for Commission direction on how to approach it and what level of resources to devote to it ensure that the item is appropriately addressed through Commission deliberation or other action. The "Commission Comments" section of the regular Commission agenda is another way method that issues can be brought up to determine the Commission and Manager concurrence on how to approach them.

Thank you for the interest and commitment to your community that you have displayed by pursuing and achieving local elected office. I look forward to working for and with you in the service of our community.

Michael J. Kardoes Grant Gager
CITY MANAGER

PURPOSE, MISSION, VISION, & GOALS

Vision

Livingston as a community is:

- People - Engaged, equitable, family-friendly and resilient
- Economy - Economically diverse and vibrant
- Place - Fostering and preserving its unique physical character
- Context - Maintaining its relationship to the neighboring open land

Goals

LAND USE- Adjust current regulations to implement the Growth Policy.

- Create policies that develop infill and limits sprawl
- Update the Zoning Code, Subdivision, and Planned Urban Development process consistent with the Growth Policy
- Establish a process with the county to address the Extra-Territorial Jurisdiction (ETJ)
- Create Community Gateway overlay zones
- Develop a Downtown plan that includes parking and development
- Define and manage an urban boundary interface plan to address fire, wildlife, and waterways

HOUSING - Develop tools to incentivize balanced and diverse housing options.

- Influence legislative action at the state level
- Complete an economic needs study
- Establish an ad hoc community group to propose a set of policies and tools for the city:
 - To explore short-term rental regulations
 - To develop tools to incentivize reasonably priced housing
 - To investigate direct action opportunities and partnerships for publicly owned land

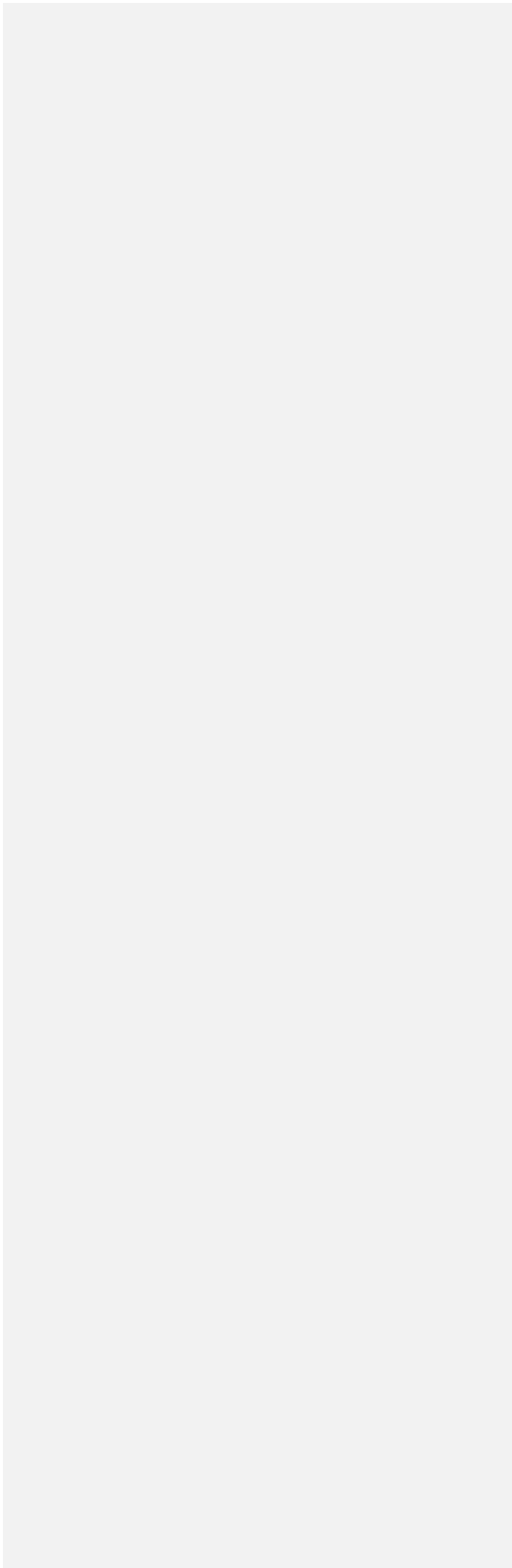
TRANSPORTATION/INFRASTRUCTURE - Develop the needed infrastructure for sustained growth.

- Increase and improve connectivity (including for pedestrians) to and from the northside
- Implement the Active Transportation Plan
- Address stormwater and ground mitigation requirements for 10,000-plus residents
- Develop a plan to preserve access to clean water

LOCAL SERVICES – Maintain our strong performing local services as we grow.

- Identify safety net issues, including housing insecurity and homelessness
- Strengthen social services locally
- Maintain a high level of performance for emergency response services
- Maintain and improve our local utility service infrastructure
- Develop a robust Public Transportation Plan

|



ORGANIZATION

The City's workforce is organized into 4 major areas for more efficient operations. These departments are:

- General Government
- Public Safety
- Public Works
- Planning & Building/Code Enforcement

The Department Heads are appointed by the City Manager, with, the exception of the Fire Chief whose nomination and appointment by the City Manager requires Commission concurrence.

The five Commissioners will elect a ~~Chairman~~ Chair and Vice-Chair from among themselves at the first meeting in January after an election in November.

The City Judge is elected by the voters for a 4-year term.

The ~~Chairperson of the City~~ Commission ~~nominates the following Advisory Boards and Commissions to advise the Commission~~ appoints representatives to several City-County Boards including:

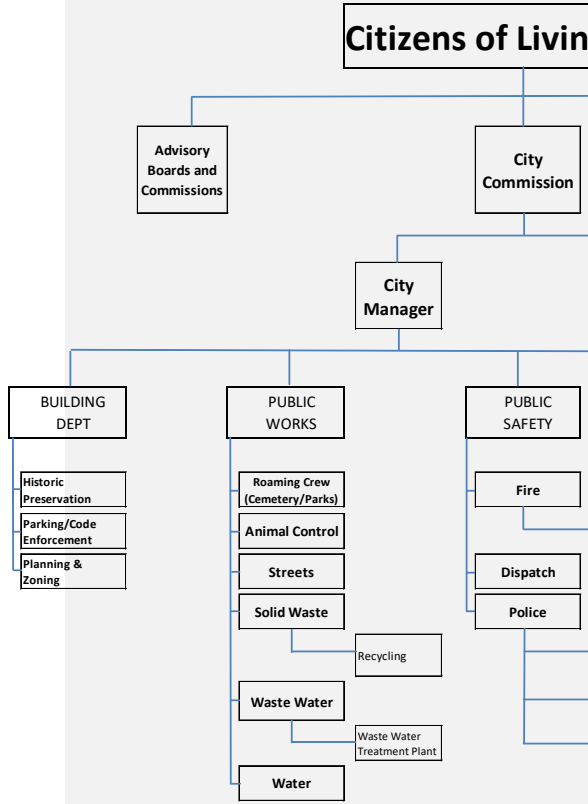
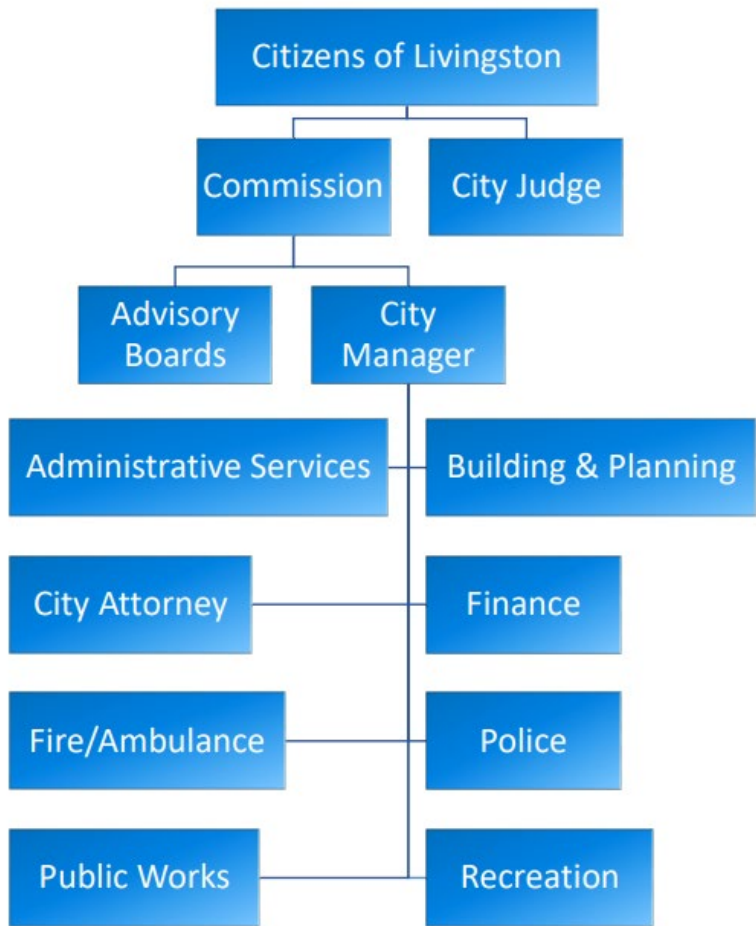
- Library Board
- ~~Historical Preservation Commission~~
- City-County Health Board

~~The City Commissioners and employees interact with various County Boards~~ also maintains advisory and functional boards including:-

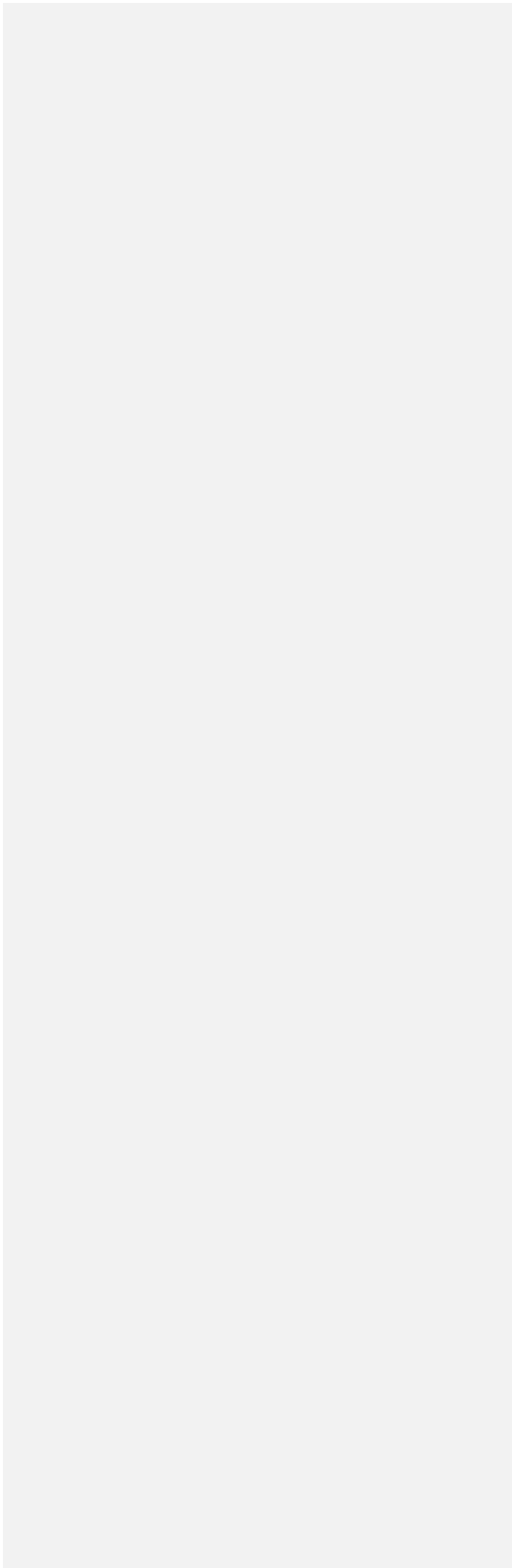
- Consolidated Land Use Board
- Historic Preservation Board
- Urban Renewal Agency

The City Manager hires and dismisses all City non-elected employees, with the exception of the Fire Chief whose hiring requires Commission concurrence. The City Manager nominates Police Commissioners and the City Commission confirms these nominations. The City Manager also may appoint task forces and committees as necessary.

See the following charts for more detailed information:



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QUESTIONS AND ANSWERS ABOUT COMMISSION-MANAGER GOVERNMENT

(Material taken from "City Manager Government - Some Questions and Answers", Governmental research Center, University of Kansas, Lawrence, Kansas, 1960 and Handbook for Commission members in Commission-Manager Cities, National Municipal League, New York, 1976. With emphasis and minor modifications added.)

1. What are the chief features of Commission-Manager Government?

A small number of Commissioners are elected - on a non-partisan ballot, and generally at large -- to serve as the City's governing body. This body determines municipal policies, adopts ordinances, votes appropriations, and appoints the chief administrative officer, the City Manager. The City Manager is responsible for the day-today administration of city operations, advises the City Commission on public policy; and holds office at the pleasure of the Commission.

There is a distinction between the functions of POLICY-MAKING (representation) and POLICY EXECUTION (administration), the former being the duty of the commission, the latter the duty of the Manager. It is inappropriate management for a Commissioner to tell an employee, what he/she wants accomplished. Because the City Manager serves the governing body as a whole, direction must be given by the majority will of the governing body. Since the governing body is responsible to the public for actions of the City Manager, the success of this form of government depends to a very large extent on the maintenance of mutual understanding and a high degree of cooperation between the Manager and Commission.

2. To whom are the City Manager and other City employees responsible?

The City Manager is responsible to the Commission, which may terminate their service at any time. All department heads and other City employees, including City Attorney, are responsible to the City Manager. The Fire Chief is responsible to the City Manager, but appointment of the Fire Chief is subject to the City Commission approval. The City Judge is an elected official and the judicial branch of government is separate from the Executive or Legislative branches, but subject to the appropriation authority of the legislative body.

3. How and to what extent does the Manager participate in policy determination?

The City Manager is expected to prepare and submit the annual budget to the City Commission. In addition to supplying information requested by the body, the City Manager may make recommendations on any matter which requires Commission action. The Commission may adopt or modify these recommendations, and whatever action they take is binding on the City Manager.

4. What should be the relation between the Commission and Manager?

The Manager is responsible to the Commission for the proper conduct of all city activities under the direction of the office, providing information and advice, and making recommendations. The City Manager is the Commission’s technical advisor and consultant, but only the Commission can make laws and establish policies. Thus, the burden for political leadership falls squarely on the Commission.

City Managers cannot and must not permit themselves to assume responsibilities that rest exclusively in the City Commission. The City Manager can and should outline desirable community goals, but not make an issue of the proposals. If the Commission cannot be convinced of the logic of the plans, the Manager will devise another plan or simply follow the Commission’s instructions. But once the Commission has acted, the Manager may assume the responsibility as an administrative duty of acquainting the public with the policy which has been adopted.

5. What control do citizens have of municipal policy and administration under the City Manager plan?

The City Manager plan provides for direct citizen control through the Commission. The Commission has authority to hire and fire the City Manager at will, but continuation of the Commissioners’ term of office is determined by the voters. The Manager is bound by the over-all policies and specific decisions made by the Commission, and ultimately is responsible to the voter.

6. What are the arguments used for adoption or continuation of the City Manager plan?

- a. A single, small governing body is made collectively responsible to the voters for all aspects of City government.
- b. City Manager government insures a greater degree of separation between "politics" and administration, than is found in other forms of government, at the same time increasing the control of the elected governing body over all aspects of municipal affairs.
- c. As technical expertise is not required of them, it is possible to have more representative Commission; Commission positions are more attractive to qualified citizens as they do not require full-time attention.
- d. It appears that generally this form of government has increased the prestige of the Commission and improved the status of expert administration in municipal government.
- e. It is easy to fix responsibility for municipal operations when one person coordinates City administration.
- f. A business-like attitude is brought to the job of running a City and more coordination exists in government than was previously the case.
- g. The plan, as far as can be determined, has brought about a much more efficient administration than was found under the old systems of municipal government.
- h. The City Manager plan increases attention to local problems and diminishes partisanship based on traditional political divisions.
- i. The Manager plan in many cases raises the morale of municipal employees and gives them a sense of security in their jobs than is present under other forms of government.
- j. Although City Managers have not universally lowered the total cost of government in their respective communities materially, unit costs often have been lowered.
- k. It is easier to remove a manager for malfeasance than one or more elected officials.

LIST OF CITY BOARDS & COMMITTEES- May 2022

ALL CITY BOARD/COMMITTEE MEETINGS WILL BE HELD IN THE COMMUNITY ROOM OF THE CITY/COUNTY COMPLEX UNLESS ADVERTISED OTHERWISE. FOR CURRENT MEMBERSHIP LISTINGS, VISIT THE CITY BOARDS AND COMMITTEES PAGES AT WWW.LIVINGSTONMONTANA.ORG/BC

~~CITY TREE BOARD-~~
~~MEETS THE 3RD THURSDAY EACH MONTH AT NOON~~

~~PARKS AND TRAILS COMMITTEE-~~
~~MEETS 4TH WEDNESDAY AT 6:30PM AT THE CITY/COUNTY COMPLEX~~

HISTORICAL PRESERVATION COMMISSION-
MEETS 2ND TUESDAY OF EACH MONTH AT 3:30 P.M.

LIBRARY BOARD-
MEETS 3RD THURSDAY, 4:00 P.M. - LIBRARY

~~CITY PLANNING-CONSOLIDATED LAND USE BOARD-~~
~~MEETS 3RD WEDNESDAY OF MONTH AT 5:30 P.M.~~

~~CITY ZONING COMMISSION-~~
~~MEETS THE 2ND TUESDAY OF EACH MONTH AT 5:30 P.M.~~

URBAN RENEWAL AGENCY –

~~MEETS QUARTERLY OR MORE OFTEN IF NEEDED 4TH TUESDAY OF MONTH AT 4:30 P.M.~~

~~CITY CONSERVATION BOARD-~~
~~MEETS 2ND WEDNESDAY, MONTHLY, 5:00 P.M.~~

SISTER CITY COMMITTEE
MEETS AS NECESSARY, AND AS ADVERTISED
~~MEETS 3RD WEDNESDAY, 7:00 P.M.~~

POLICE COMMISSION-
MEETS AS NECESSARY, AND AS ADVERTISED

CITY-COUNTY AIRPORT BOARD-
~~MEETS QUARTERLY - JANUARY, APRIL, JULY AND OCTOBER, 4TH WEDNESDAY MONDAY, 10:30-00 P.A.M.~~

CITY-COUNTY HEALTH BOARD-
MEETS QUARTERLY - JANUARY, APRIL, JULY AND OCTOBER, 4TH WEDNESDAY, 5:30 P.M.

BUDGET

The City ~~uses a single year budget with a 5-year Capital Improvement Plan for long term~~

National Advisory Commission on State and Local Budgeting (NACSLB) in its annual budget.

The budget process consists of activities that encompass the development, implementation, and evaluation of a plan for the provision of services and capital assets. A good budget process is characterized by several essential features.

- Incorporates a long-term perspective
- Establishes linkages to broad goals
- Focuses budgeting decisions on results and outcomes
- Involves and promotes effective communication with stakeholders

These key characteristics of good budgeting make clear that the budget process is not simply an exercise in balancing revenues and expenditures one year at a time, but is strategic in nature, encompassing a multi-year financial and operating plan that allocates resources on the basis of identified goals. A good budget process moves beyond the traditional concept of line-item expenditure control, providing incentives and flexibility to managers that can lead to improved program efficiency and effectiveness.

~~Below is a general budget calendar the City utilizes:~~

~~City Commission is responsible for approving a budget.~~

PERSONNEL

The City of Livingston currently has ~~98.206~~ approximately 100 Full Time Equivalents (FTE). These employees are a combination of full-time, part-time, and seasonal employees. ~~A ten-year history of staffing is outlined below:~~

The word "seasonal" implies an individual to be hired by the department for a period not exceeding 6 months. These "seasonals" do not receive benefits. The staff for the swimming pool is only hired for the season that the pool is open.

There are three unions representing the City employees in a "Closed Shop" environment. Department Heads, Management Staff and office staff are non-union. The unions are:

- International Association of Firefighters (IAFF) (Fire Department). ~~14 employees.~~
- Montana Public Employees Association (MPEA) (Police & Dispatch Department).
- ~~20 employees.~~

PENSIONS

Pension and Retirement Plans are a vital part of the compensation package. Substantially all full time employees are eligible for one of the following Pension or Retirement Plans:

MONTANA PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

Many full time employees, except Police and Firefighters are covered by the Montana Public Employee's Retirement System. The plan is administered by the State of Montana. All employees contribute 7.9% of their salary to the plan while the City, contributed 8.27% of the employees' salaries to the plan ~~and~~ ~~while~~ the State contributes .1%.

FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM (FURS)

The firefighters are covered under the Montana Firefighters' Unified Retirement System. The plan is a defined contributions/benefits plan. State law requires the contributions to be made and the benefits to be paid. Total contributions amount to 57.67% of defined compensation; 10.7% paid by the firefighter, 14.36% paid by the City, and 32.61% paid by the State of Montana. (Also, pursuant to the same statutory plan, the employee is required to contribute 1% for group life, accidental death and dismemberment insurance related to risk of loss to the plan for each participating member).

MUNICIPAL POLICE OFFICERS' - STATEWIDE RETIREMENT PLAN

The Police are covered under the POLICE RETIREMENT - STATEWIDE PLAN. The plan is a defined contribution/benefit plan. State law requires the contributions to be made and the benefits to be paid. The employee pays 9% of monthly compensation. The City's contributions are 14.41%

of the total monthly compensation. (MCA 19-9-703) The State's contribution is 29.37%. (MCA 19-9-702) totaling 52.78% of the defined contribution.

INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT PLAN

~~The City Manager~~All City employees may participate in the ICMA Retirement Corporation's multiemployer public employee deferred compensation plan. The plan was established under Section 457 of the Internal Revenue Code and therefore the City retains ownership of the portion of salary deferred. ~~A maximum of 25% of total salary or \$7,500 may be deferred per year. All City employees may participate in this deferred compensation plan as a supplemental program at an employee designated deferral amount.~~

COMPENSATION

There are various items in the Compensation Package for employees (contracts prevail):

- 12 paid holidays
- Longevity Pay - .005 times base pay per month for each year of service
- Bereavement Leave
- Sick Leave
 - Full-time employees accrue 12 day of leave per year (4 hours per pay period).
 - Accrued sick leave is usable after 3 months of employment.
 - Balance paid at 25% when you leave employment.
- Medical Insurance - paid at \$~~634~~1,200 per month (capped).
- Vacation
 - 1 to 10 years of service – 120 hours per year.
 - 11 to 15 years of service – 144 hours per year.
 - 16 to 20 years of service – 168 hours per year.
 - 21 years of service and over – 192 hours per year.
 - Based on full-time employment. Less than full-time is prorated.
 - Accrued vacation leave is usable after 6 months of employment.
 - Maximum of two times annual in leave bank as of December 31st (90 days to use excess). Balance paid at 100% when you leave employment.
- Family and Medical Leave: Up to 12 work weeks of paid/unpaid leave during a calendar year period for eligible purposes.
 - Must use accumulated sick, vacation time prior to beginning unpaid leave.
- Health Insurance
 - Four Health insurance plans offered, with monthly contribution by the City, however, most plans require cost (pre-tax) sharing by the employee.
 - Coverage is effective the 1st of the month following date of employment.
 - Life Insurance – \$10,000 term life insurance coverage for the employee fully paid by City contribution
- Employees Assistance Program
 - Employees and their immediate family members may receive short-term counseling services at no charges.
- Medical Flex and/or Dependent Care Plans
 - Voluntary Benefit: Medical Flex – may elect a maximum of \$5000 family annually.

- Voluntary Benefit: Dependent Flex – may elect a maximum of \$5000 annually.
- Aflac Plans – which allows employees to use pre-tax and after tax dollars to fund medical, dental, vision plans.
- Life Insurance – Champion Life - Voluntary Group Life & AD&D.
- Deferred Compensation – 457 Plans
 - Voluntary Benefit: Employees have option of participating in the ICMA plan which is a supplemental retirement savings program – pretax.
 - Roth IRA – Voluntary Benefit: Employees have option of participating in the ICMA-Roth IRA supplement retirement saving program – after-tax.

MISCELLANEOUS ITEMS

LIABILITY INSURANCE

The City is a participant in the Montana Municipal Interlocal Authority (MMIA). This membership affords protection against liability and workers compensation claims beyond the affordable premium amounts and up to the statutory limits allowed by Montana law. Included in the premium are amounts necessary to fund the excess coverage. The MMIA assists the City by providing complete liability coverage up to the statutory maximum, while relieving the City of the expense of such coverage on the open market. In return the City secures a portion of the bond liability which was incurred to provide funds for a loss reserve with a note. Annual premiums are paid by the City to the MMIA to cover the entire liability.

ANNEXATION

There are several methods of annexation by which the City can extend its corporate boundaries. The most common annexations are initiated by a petition from the owner of a property that he/she wishes to bring into the City. In order to be annexed a property must be contiguous to the current City boundary or be already connected to City utilities. All annexations are at the discretion of the City Commission and the City is not compelled to annex any parcel.

POLICIES AND PROCEDURES REGARDING COMMISSIONERS AGENDA PACKET

The City staff prepares the City Commission agenda at the direction of the City Manager. The agenda and supporting documentation are emailed to Commissioners and are available in hard copy format for pick up by 5:00 p.m. on the Thursday before a City Commission meeting.

Members of the Commission may add items to the agenda in two ways. First, a Commissioner can ask the City Manager to place an item on the agenda. Alternatively, items must be added to the agenda if they are requested by one Commissioner and the request is seconded by a second Commissioner. All materials must be received by 12:00 p.m. (Noon) on the Tuesday before a Commission meeting to be included on the agenda.

The Commission packet is available on the city’s website at www.livingstonmontana.org under Commission Meeting Agendas and Meeting Schedules. Commission packets and minutes, are also available at the Library for the community to review.

All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the Commission from the City Commissioners or City staff, shall be submitted by twelve (12) noon on the ~~Monday~~ Tuesday immediately preceding the next regularly scheduled Commission meeting. All requests from the public to be placed on the agenda must be in to the City Manager by the Tuesday immediately preceding the next regularly scheduled Commission meeting. The Commission agenda shall be set by five (5) p.m. on the Tuesday immediately preceding the City Commission meeting. Whereupon, the City Manager shall immediately arrange a list of such matters according to the order of business specified herein, and provide each member of the Commission

with a copy of the same no later than the Thursday immediately preceding the Commission meeting. Copies of the agenda shall be available to the public from the ~~Recording Secretary~~City Clerk of the Commission and one (1) copy shall be posted ~~at the designated posting board in City Hall~~ for public viewing. The City Manager may approve late submittals deemed to be in the City's best interest by delivering the same to the ~~Recording Secretary of the Commission~~City Clerk for delivery to the City Commission, ~~however~~However, late submittals are not the favored manner in which to do business and should be limited to unusual circumstances.

POLICY AND PROCEDURE REGARDING ORDER OF BUSINESS

1. Order of business

The City Manager shall prepare the Commission agenda, which shall be in substantially the following form:

- A. Call to Order
- B. Roll call
- ~~C. Moment of silence~~
- ~~F.D.~~Consent agenda (no discussion should be necessary) *
 - Approval of minutes
 - General business/~~miscellaneous, including Contracts~~
 - Renewal of licenses
 - Applications for special licenses
 - Claims (paying the bills)

* Consent items are those upon which the City Manager anticipates that no discussion should be necessary, however, by placing an item on the consent agenda does not limit the ability of a Commissioner from asking questions or making comments thereon. In the event a Commissioner believes that an item on the consent agenda should not be on the consent agenda, the Commissioner, at the beginning of any meeting may request one (1) or more items to be removed from the consent agenda for a separate vote. The presiding officer shall schedule such discussion and vote following the adoption of the consent agenda.

- E. Proclamations
- F. Scheduled Public Comment
- G. Action Items
 - Ordinances
 - Resolutions
 - Contracts
- H. City Manager Comment
- I. City Commission Comment
- ~~J. Adjournment—Items removed from consent agenda.~~
- ~~G. City business, including proclamations, variances and scheduled public comment.~~

2. Procedure to conduct business and motions.

- A. Procedure to Conduct Business.
 - 1. The Chair shall clearly announce the agenda item to be considered.

2. Following announcement of agenda item, the Chair shall invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the Chair, a member of the body, ~~a staff person~~the City Manager, or a committee chair charged with providing input on the agenda item.

3. The Chair shall ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

4. The Chair ~~shall may~~ invite a motion. ~~The~~If a motion is offered, the Chair shall announce the name of the member of the body who makes the motion. If desired by the Chair, and to allow the body to hear from the public before making a motion, a motion may be invited by the Chair after item 6 (Public Comment).

5. The Chair shall determine if any member of the body wishes to second the motion. The Chair shall announce the name of the member of the body who seconds the motion. No motion shall be debated or put to a vote unless the same shall be seconded. If the motion is made and seconded, the Chair should make sure everyone understands the motion. This is done in one (1) of three (3) ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the recording secretary to repeat the motion.

- a. The Chair shall now invite discussion/debate of the motion by the body. Every member desiring to speak shall address the presiding officer, and upon recognition, shall confine himself to the question under debate, avoiding all personalities and indecorous language.
- b. A member, once recognized, shall not be interrupted when speaking unless it is to call him to order or as herein otherwise provided.
 - i. If a member, while speaking is called to order, he shall cease speaking until the question of order is determined, and, if in order, he shall be permitted to proceed.
- c. Order of rotation in matters of debate or discussion shall be at the discretion of the presiding officer.
 - i. A member shall not speak more than twice on the same subject without leave of the chair, nor more than once until every member desiring to speak on the pending question has had an opportunity to do so.

6. The Chair shall invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input on the agenda item being considered. ~~If numerous members of the public indicate a desire to speak to the~~

~~subject the Chair may limit the time of public speakers. The time for public comments is limited to four (4) minutes per comment. To be~~ recognized, each person desiring to give comment, testimony or evidence shall sit down at the table provided and after being recognized, give his or her name and address before testifying, commenting or presenting other evidence. All comments, testimony and evidence shall be directed to the presiding officer. No questions shall be asked of a Commission member except through the presiding officer. At the conclusion of the public comments, the Chair shall announce that public input has concluded (or the public hearing as the case may be ~~is~~ closed).

7. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

8. The Chair shall direct the ~~Recording Secretary~~ City Manager to take a roll call vote. If members of the body do not vote, then they "abstain". Unless the rules of the body provide otherwise (or unless a super-majority is required as delineated in these rules) then a simple majority determines whether the motion passes or is defeated.

9. The Chair should announce the result of the vote and should announce what action (if any) the body has taken.

B. Motions, Majority Approval, Debatable or not and Exceptions.

1. **The Basic Motion.** The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a 5-member committee to plan and put on our annual fundraiser."
2. **The Motion to Amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a ten-member committee." A motion to amend takes the basic motion which is before the body and seeks to change it in some way. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way.
3. **The Substitute Motion.** If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year." A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it.

4. Order of Consideration of Motions. There can only be three (3) motions on the floor at the same time. The Chair can reject a fourth motion until the Chair has dealt with the three (3) that are on the floor and has resolved them. When there are two (2) or three (3) motions on the floor (after motions and seconds) at the same time, the vote should proceed first on the last motion that is made. So, for example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a ten-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year."

a. First, the Chair would deal with the third (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion passed, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) failed then the Chair would proceed to consideration of the second (now, the last) motion on the floor, the motion to amend.

b. Second, if the substitute motion failed, the Chair would now deal with the second (now, the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five (5) members or ten (10) members). If the motion to amend passed the Chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed the Chair would now move to consider the main motion (the first motion) in its original format, not amended.

c. Third, the Chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or, if amended, would be in its amended format (ten-member committee), and the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

5. Motion to Reconsider. A motion to reconsider requires a majority vote to pass, but there are two (2) special rules that apply only to the motion to reconsider.

a. First, is timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body following due notice. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and by

a two-thirds (2/3) majority, can allow a motion to reconsider to be made at another time following due notice.)

b. Second, a motion to reconsider can only be made by certain members of the body. Accordingly, a motion to reconsider can only be made by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she can make the motion to reconsider (any other member of the body may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again. That would defeat the purpose of finality.

c. If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is then in order. The matter can be discussed and debated as if it were on the floor for the first time.

6. Simple Majority and Exceptions. All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which, effectively, cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds (2/3) vote of the entire commission (a super-majority) to pass:

a. Motion to Limit Debate. Whether a member says "I move the previous question" or "I move the question" or "I call the question" or "I move to limit debate", it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds (2/3) vote of the entire commission to pass.

b. Motion to Close Nominations. When choosing officers of the body (like the Chair) nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds (2/3) vote of the entire commission to pass.

c. Motion to Object to the Consideration of a Question. Normally, such a motion is unnecessary since the objectionable item can be tabled, or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds (2/3) vote of the entire commission to pass.

d. Emergency Measures. In the case of emergency measures, the emergency must be expressed in the preamble or in the body of the measure and the measure must receive a two-thirds (2/3) vote of the entire commission. In emergency ordinances, the resolutions shall include only such measures as are immediately necessary for the preservation of peace, health, and safety and shall not include a franchise to a corporation or individual, any provisions for the sale of real estate, any lease or letting of any property for a period exceeding one (1) year, or the

purchase or sale of personal property exceeding five thousand dollars (\$5,000.00) in value. (7-5-4204 MCA)

e. Motion to Punish and Expel. The commission may punish a member and expel any member for the improper conduct upon a two-thirds (2/3) vote of the entire commission members. (7-5-4103 MCA).

7. Motions Debatable, Exceptions. The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Chair that it is time to move on and take action.

a. Exceptions. There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion):

i. A Motion to Adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

ii. A Motion to Recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

iii. A Motion to Fix the Time to Adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

iv. A Motion to Postpone Consideration. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold". The motion can contain a specific time in which the item can come back to the body: "I move we postpone consideration of this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to consider the item and bring it back to the body will have to be taken at a future meeting. A motion to postpone consideration an item (or to bring it back to the body) requires a simple majority vote.

v. A Motion to Limit Debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote". When such a motion is made, the Chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds (2/3) vote of the body. Note: that a motion to limit debate could include a time limit. For example: "I move we limit

debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds (2/3) vote of the body.

vi. Motion to Object to Consideration of an Item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds (2/3) vote.

3. Addressing the Commission.

- A. The City will provide sign-up sheets for each agenda item to be discussed at each meeting. Anyone desiring to address the City Commission shall sign the appropriate sheet which shall be collected by the City prior to the opening of the meeting.
 - 1. At the appropriate time on the agenda, the chair will invite the person(s) who has signed up to the table. Each person shall than be given the opportunity to make his or her presentation.
 - 2. Following the statements from those who signed up, the chair may ask for additional public comment from those who did not sign-up.
 - 3. Once a person has made his presentation, that person shall not speak on the same subject unless granted permission by the presiding officer and then only if the presentation provides new information not previously presented.
- B. The public is invited to speak: on any item under discussion by the Commission after recognition by the presiding officer.
- C. The speaker should step to the front of the room, and sit at the table provided, provide the speaker's name and address on the signup sheet located at the table, and for the record, give his/her name and address and, if applicable, the person, firm or organization represented.
- D. Prepared statements are welcomed and should be given to the Recording Secretary of the Commission. All prepared statements shall become a part of the permanent record.
- E. While the Commission is in session, the members must preserve order and decorum. A member shall not delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Commission or its presiding officer.
- F. Any person making personal, impertinent or slanderous remarks or who shall become boisterous or disruptive during the Commission meeting shall be forthwith barred from further presentation to the Commission by the presiding officer, unless permission to continue be granted by a majority vote of the Commission.

POLICY ON COMMISSIONERS REMOTE PARTICIPATION

Pursuant to 7-5-4103 Montana Code Annotated (MCA) the City Commission of the City of Livingston, Montana, hereby adopted a remote participation policy.

Introduction

The purpose of the Remote Participation Policy is to provide the Commission with the guidance to allow remote participation of Commissioners in certain meetings. This policy cannot address every possible situation where remote participation may be desired and as such the Commission has the authority to suspend the rules of the remote participation policy by a 2/3 majority vote of those members present.

Background

The City of Livingston’s responsibility under Title 2 Chapter 3 of the MCA and Article II Section 8 of the Montana Constitution to meet the requirements of open meetings and public participation are the primary consideration in the development of this policy. It is understood that any alternative method to Commissioners being physical present erodes the public’s right to participation. However, under the rules of this policy the City Commission believes that remote participation meets the basic requirements set forth by the State of Montana. While individual Commissioners do not have the right to remote participation, the Commission may allow remote participation with any restrictions deemed appropriate.

Policies and Rules

1. Acceptable Means of Remote Participation

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email and web chat without audio are not acceptable means of remote participation. Commissioners attending by an acceptable means of remote participation will be considered “present” for roll call.

2. Quorum & Voting

Commissioners attending meetings remotely will not be counted towards the required quorum. Remote participants may vote if they are present for the entirety of the issue being considered. If Commissioners are attending remotely they are expected to be present for the entirety of the meeting.

3. Expectation to Appear/Allowable Absence

There is an expectation that Commissioners will be physically present for Commission meetings if able. Remote participation will not be used for the convenience of a Commissioner. There are five (5) permissible reasons for remote participation. The chair (or other person chairing the

meeting) must make a determination that one or more of the following factors make the commissioners’ physical attendance unreasonably difficult:

- (a) personal illness;
- (b) personal disability;
- (c) emergency;

(d) military service; or

(e) geographic distance

4. Approval for Remote Participation

Commissioners wishing to participate remotely must notify the Commission Chair a minimum of 48-hours prior to the meeting. The Chair will determine if the subject matter for that meeting will allow for effective remote participation and that the reason for the absence meets the criteria set forth in this policy. The Chair will notify the City Manager if accommodations for remote participation are necessary.

5. Meeting Procedures

At the start of the meeting, the chair (or other person chairing the meeting) must announce the name of any commissioner who will be participating remotely and the reason. All votes must be taken by a roll call and reflected in the minutes.

6. Procedures for Lost Connectivity

If during remote participation the communication connectivity is lost the following procedure will be followed:

- Announce to the room that connectivity has been lost and all discussion will stop
- There will be an automatic 5-minute recess to establish connectivity
- If connectivity is not re-established in 5-minutes the meeting will resume and the remote attendee will not be allowed to vote on that issue

If connectivity is subsequently re-established, the remote attendee may vote on any other issue where they are present for the entirety of the deliberation. If a remote participant loses connectivity three (3) times during a meeting their connection is considered unreliable, they will not be allowed to reconnect to the meeting, and Chair will announce that the remote participant is no longer present for the meeting. If a remote participant is difficult to hear or they are having difficulty hearing proceedings, at the discretion of the Chair their connection can be declared unreliable, they will be disconnected from the meeting and the Chair will announce the remote participant is no longer present for the meeting.

7. Meeting Minutes

Meeting minutes will annotate which Commissioners are participating remotely. Additionally, the minutes will reflect anytime a remote participant is disconnected from the meeting. If a remote participant leaves the meeting for technical or any other reasons it will be annotated in the minutes. ~~A sworn affidavit from each commissioner participating remotely shall be attached~~

8. Restrictions on Remote Participation

Remote participation will not be allowed for meetings where the Commission acts in a quasi-judicial capacity or during closed sessions.

COMMISSION VACANCY APPLICATION

APPLICATION FOR CITY COMMISSIONER

1. Name: _____

2. Address: _____

3. How long have you resided in Livingston _____

4. Are you at least 18 years of age? Yes _____ No _____

5. Are you a citizen of the United States? Yes _____ No _____

6. Have you resided in the State of Montana for more than 30 days? Yes _____ No _____

7. Have you resided in Park County for more than 30 days? Yes _____ No _____

8. Have you ever been convicted of a felony? Yes _____ No _____

Why do you want to be a city commissioner? _____

Do you have any prior experience in local government? If so, please describe? _____

Do you have any special qualifications which you believe would be an asset to the city commission?

What do you see as the most important needs facing the City of Livingston? _____

- The qualifications of the applicant which include that the applicant is a citizen of the United States, a resident of the City of Livingston for at least thirty (30) days, at least eighteen (18) years of age and a registered voter.
- All applicants shall receive a letter acknowledging the receipt of their application along with a copy of the procedure to fill vacancy in the office of the City Commission:
- The City Commission shall meet in a public session to review all applications to determine that the applicants meet the minimum qualifications as set forth by state law.
- The City Commission shall then notice a public meeting wherein all qualifying applicants are interviewed. Interviews of each applicant shall follow the same format. Questions for the candidates will be established by the City Commission in advance of the interview.
- Thereafter, the City Commission, at a regular meeting or a duly notice special meeting shall appoint by a majority vote a qualified person to fill the vacancy who shall serve the unexpired

term of the person creating the vacancy and until a successor is elected and qualified at the next general municipal election.

- After appointment has been made, the City Commission will write a letter to all applicants thanking each applicant for their time and desire to serve the public in making the City of Livingston a better place to live.

DEVELOPMENT REVIEW COMMITTEE

The Development Review Committee was created to allow for joint review of proposed development project by all City Departments. After this review, the DRC sends a recommendation to the City Manager which may then be presented to the City Commission. Utility extensions, annexation requests, street vacation requests, and subdivision applications are all review by the DRC prior to presentation to the City Commission.

CODE OF ORDINANCES

The City works with an outside codifier, Municode, to provide codification, recodification, and publication of the City's Ordinances. Up until 2012, the City's Ordinances were published in a hard copy book entitled CODE OF ORDINANCES, with supplements published in 1991, 1993, 1995, 1998, 2002, 2004, 2006, 2008, 2010, and 2012. Beginning in 2013, however, the records were made available in an electronic format. The most recent changes are available in electronic versions adopted not yet codified. Electronic version is available on the City of Livingston's website under Resources tab and then Livingston Municipal Code or https://library.municode.com/mt/livingston/codes/code_of_ordinances

WASTE WATER TREATMENT PLANT

Our Waste Water Treatment Plant ~~is an RBC (Rotating Biological Chamber Contact) Plant. It was the first such plant built in Montana. RBCs were on the leading edge of technology when the modifications were made to the plant in 1980 and 1981. Since 2015, the City has engaged in an ongoing process to upgrade our Waste Water Treatment Plant to~~ is a state of the art ICEAS process plant. ~~This project will be the single largest infrastructure projected undertaken by the City and is estimated to cost in excess of 12 million dollars.~~ The new upgraded plant and processes which should provide for a minimum of 20 - 30 years of service was completed in July 16, 2019.

POLICY AND PROCEDURES MANUAL AND WAGE PARITY GUIDE

~~In 1990, the City Commission had a contractor prepare~~ ~~approves changes to~~ the City's ~~first~~ Policy Manual and Procedures Manual ~~along with a Wage Parity Guide and Job Descriptions~~. Pay equity, in addition to general wage increases, ~~are is~~ considered annually (or as union contracts are renegotiated).

COMMISSIONERS CODE OF CONDUCT

On February 20, 2007, by Resolution No. 3826 the City Commission of the City of Livingston adopted Rules of Conduct for Livingston City Commissioners. The purpose of the code of conduct was to define the role of the city commissioners in the governance of the City of Livingston and by establishing guidelines for city commissioners when dealing with city staff and members of the public, both in the public process and outside thereof.

RULES OF CONDUCT

FOR THE LIVINGSTON CITY COMMISSION

Pursuant to 7-5-4103 Montana Code Annotated (MCA) the City Commission of the City of Livingston, Montana, hereby adopts rules of conduct for members of the City Commission. [7-5-4103-53-MCA provides as follows: "The Council may determine the rules of its proceedings, punish its members for improper conduct, and expel any member for the same by 2/3 vote of the members elected."]

Introduction

The purpose of this Code of Conduct (Code) is to define the role of City Commissioners in the governance of this City. This code consists of policies and implementing rules is intended to advance the City's goals of providing efficient and high quality services to its residents through its staff, providing a productive work environment for City staff all the while furthering public participation in fair and open public proceedings of the City Commission.

Background

The City of Livingston is a general power city governed by a commission/ manager form of government. The City Commission exercises legislative powers set forth in 7-1-4123-MCA. The City Manager is charged with implementing the policies and decisions of the City Commission, enforcing laws, ordinances and resolutions and administering the day to-day affairs of the city with the assistance of city staff. The City Commission has direct authority over the City Manager; all other city staff are under the direct authority and supervision of the City Manager. This Code of Conduct establishes rules that contribute to the success of this basic structure and to maintaining positive and effective working relationships between City Commissioners, City Manager, staff and the public.

Limitations

This Code of Conduct addresses selective aspects of the governance of the City and supplements, but does not supplant other laws and rules that prescribe the legal responsibilities of City Commissioners, including the Montana State Constitution, laws of the State of Montana, the Standards of Conduct and Code of Ethics (2-2-101et seq. MCA) for public officers and employees and the Livingston Municipal Code.

It is not possible for a code of this kind to anticipate and provide a rule of conduct for all Situations. All City Commissioners are expected to manage their behavior in a manner consistent with the rules that follow, respect the chain of command and behave within the bounds of their authority. All City Commissioners are expected to treat each other, city staff, residents, business people and the public with courtesy and respect in a manner that reflects well on the City.

Policies and Rules

The Code of Conduct consists of general policies governing the conduct of City Commissioners and following each policy is a set of rules that give specific application to the policy.

Policy 1. City Commissioners shall deal with the administration and staff solely through the City Manager or his/her designee. (7-3-305-Montana Code Annotated MCA)

Explanation. City staff is organized in a hierarchical structure, and work under the direction and control of several layers of management culminating with the City Manager. City Manager is responsible for hiring and supervising staff. Individual City commissioners are not part of that management structure and have no authority to direct employees. City Commissioners are not authorized directly to give work assignments to staff. City Staff has been instructed not to take directions or work assignments from city commissioners and to report any such attempt to their Department Head. When any city commissioner attempts to give an employee directions, the employee is put in an awkward position and the management structure is undermined. In addition, a city commissioner may be exposed to personal liability by acting outside the course and scope of his/her duties. City Commissioners are immune from damages for legislative acts, a legislative act does not include administrative actions. (2-9-111-MCA).

Rule 1.1: A City Commissioner shall not direct, order or make demands on city staff. When any City Commissioner attempts to give an employee directions, the employee is put in an awkward position and the management structure is undermined.

Rule 1.2: A City Commissioner having a question concerning city business shall direct such question to the city manager for an answer. The city manager after consultation with staff shall provide an answer within a reasonable time.

Rule 1.3: A City Commissioner shall not attempt to reorganize staff's priorities or influence the manner by which city staff performs their assigned functions and duties.

Rule 1.4: A City Commissioner shall not retaliate, threaten to retaliate, discipline or threaten to discipline city staff.

Rule 1.5: A City Commissioner shall not interfere with the manner by which the City Manager performs his or her duties.

Rule 1.6: A City Commissioner shall not interfere with the implementation by staff of approved projects and programs.

Policy 2: City Commissioners shall only act collectively as a body in a properly noticed and constituted public meeting.

Rule 2.1: A City Commissioner shall not take action on behalf of the City Commission unless expressly authorized to do so by the City Commission in a duly noticed and constituted public meeting.

Rule 2.2: A City Commissioner shall not use his or her official office as a means of advancing personal opinions through public statements whereby an inference can be drawn that they are speaking on behalf of the City Commission as a whole.

Rule 2.3: A City Commissioner shall make no promises or representations on behalf of the City Commission or City unless expressly authorized to do so by the City Commission in a duly noticed and constituted public meeting.

Rule 2.4: To ensure fairness and due process, all decisions made by a city commissioner must be based solely upon the record presented in an open meeting of the city commission wherein the public, following due notice, has had the opportunity to participate in the process and to be heard prior to the final decision.

Rule 2.4. (a) Except as provided for in quasi-judicial proceedings as set forth in Policy No. 5, should a City Commissioner receive information concerning a City Commission agenda matter from a source who is unable to attend the meeting of the City Commission, the information should be placed into the public record by the City Commissioner prior to any decision being made by the City Commission in order to allow public comment on the information and discussion by the City Commission.

Rule 2.5: City Commissioners shall respect the public process including the right to know and the right to participate as established by the Montana Constitution, the laws of the State of Montana and rules adopted by the City Commission to ensure public participation in matters of significant interest to the public (widespread public interest) prior to final decision.

Rule 2.6: A City Commissioner shall perform his/her duties in accordance and with respect to the rules of procedure established by the City Commission to allow meaningful involvement of the public and debate between the commissioners prior to final decision.

Policy 3: A City Commissioner shall conduct himself/herself in a public meeting with civility and with proper decorum.

Rule 3.1: To retain order, a City Commissioner must first be recognized by the Chairman, and once recognized, shall limit comments to the matter currently before the city commission.

Rule 3.2: A City Commissioner shall not interrupt another City Commissioner who has the floor, nor make personal comments not germane to the business under discussion or otherwise interfere with the orderly conduct of meetings.

Rule 3.3: A City Commissioner shall honor the efforts of the chairman to keep comments of city commissioners on track with the agenda item Disagreements with the chairman's

decision shall be voiced politely and stating the reasons, and following a duly seconded motion may be overruled by majority vote of the entire commission.

Rule 3.4: City Commissioners shall prepare for the public meetings, listen courteously and attentively to all public discussions, treat the public with respect and courtesy and focus on the business at hand.

Rule 3.5: While it is acceptable to publicly disagree on issues, a City Commissioner shall not make derogatory comments about other city commissioners, or their opinions and actions.

Rule 3.6: A City Commissioner shall not directly enter into debate with a member of the public or staff. All comments shall be directed through the Chair.

Policy 4: An individual City Commissioner in dealing with the public outside of a duly noticed meeting shall conduct himself/herself in a manner so as not to bring reproach upon the city commission or the public process.

Rule 4.1: An individual City Commissioner shall make no promises or representations on behalf of the Commission or City.

Rule 4.2: When making public comment, a City Commissioner shall make it clear whether they are authorized to speak on behalf of the city commission as a whole, or whether they are presenting their own personal view.

Policy 5: In quasi-judicial matters, the City Commission shall comply with the fairness doctrine and due process requirements of due notice of hearing and provide an opportunity to be heard.

NOTE: The City Commission exercises a quasijudicial function when it exercises judgment and discretion in determining the legal rights, duties or privileges of specific parties in a hearing or contested proceeding before the City Commission. Whenever exercising quasi-judicial authority, due process and the appearance of fairness doctrine requires the hearing to be held in a public forum, where the parties have been provided with adequate notice and an opportunity to be heard prior to the final decision. Most notably, the city commission exercises quasi-judicial authority in rendering land use decisions, including the zoning or rezoning of specific pieces of property, in the granting of variances or special exceptions, and in the approval or denial of subdivisions. A city commission does not act in a quasi-judicial manner when engaged in legislative matters. **Example:** In enacting zoning laws, the city commission exercises its legislative powers as the zoning law would have general effect throughout the community; however, when the city commission is applying the zoning law to a specific piece of property, i.e. the granting of a variance, the city commission is exercising quasijudicial authority as the decision affects a specific party The City Commission also exercises quasijudicial authority in the discipline or termination of a firefighter pursuant to 4712-343-MCA.

Rule 5.1: When a quasi-judicial proceeding is pending before the City Commission, a City Commissioner shall avoid ex pane communications in connection to any issue of fact or law with any party or a party's representative.

NOTE: *An ex parte* communication is an oral or written communication not on the public record to which reasonable prior notice to all parties has not been given. Fairness and due process requires a City Commissioner, sitting as a quasijudicial officer, to make his or her decision based solely upon the information presented in the public forum which has been duly noticed and where the parties have been provided an opportunity to be heard prior to final decision.

Rule 5.2: If a City Commissioner is approached by a member of the public or a party concerning a quasijudicial matter, the City Commissioner should advise the individual that the proper forum for such communication is at the public hearing and that it is improper for the City Commissioner to discuss the matter outside of the public hearing.

Rule 5.3: If an *ex pane* communication which is unavoidable is made to a city commissioner concerning a quasijudicial matter, the city commissioner at the beginning of the hearing shall disclose the content of the communication, as well as the person who made the communication so that the parties may address such communication in the hearing prior to final decision. If necessary, additional time maybe allotted for the parties to address the *ex -arte* communication.

Enforcement

The City Commission is committed to maintain a productive work environment and to that end, every City Commissioner is expected to observe these policies and rules when engaged in City business. The goal of enforcement of this Code of Conduct is corrective, rather than penal, and a progressive approach to curing violations shall be employed, beginning with informal methods and proceeding to more formal methods as necessary.

Violations of this code of conduct, may be enforced as follows:

- 1. Informal counseling means a decision by the chairman of the City Commission, while the City Commission is in session, that a City Commissioner is out of order or is in violation of the Code or Conduct;
- 2. Formal discipline means a decision by the City Commission as a body concerning a violation of the Rules of conduct by a City Commissioner which is formalized by a public reprimand (oral) or by public censure (written) as hereinafter set forth, or
- 3. Expulsion from the public meeting by 2/3 vote (4 of 5) of the elected membership of the City Commission during which the Rules of Conduct are violated.

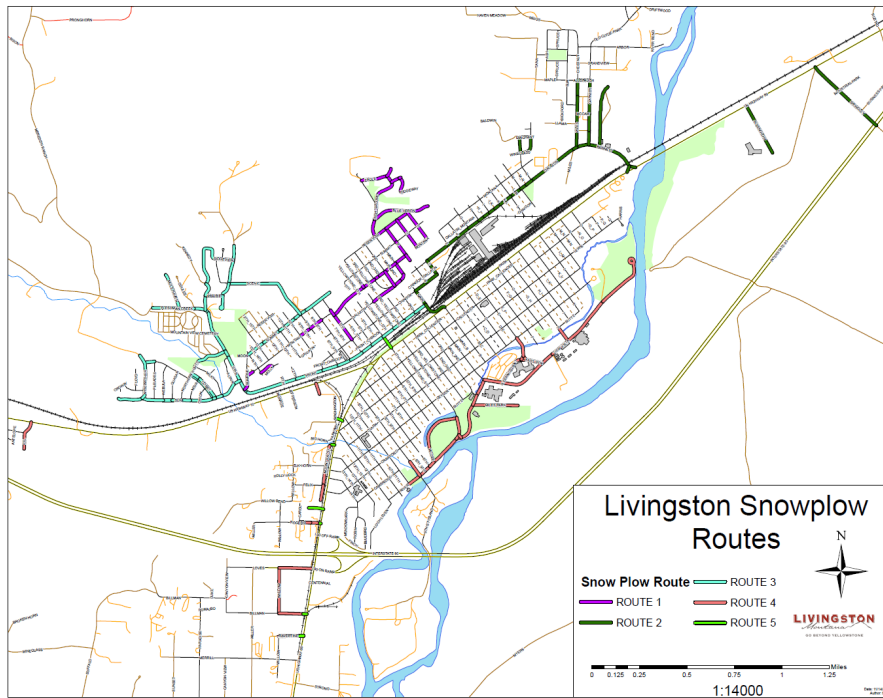
Violations of this code that require formal discipline or which occur outside of a public meeting may be handled as follows:

- 1. The City Commission may determine in a public meeting whether there is a reasonable ground to believe that a violation of this Code of Conduct has occurred. If so, the City Commissioner accused of said violation shall be advised of the nature of the violation in writing and that the matter will be heard before the City Commission at a specific time and place.
- 2. If the City Commissioner admits that allegation is true, the City Commission may impose one or more of the following sanctions:

- i. Public reprimand (oral) by vote of commission
 - ii. Public censure (written) formalized by a resolution
 - iii. Removal from committee/board assignments
3. Should the City Commissioner deny the allegations, following due notice, a public hearing on the charge will be held wherein evidence and testimony will be presented, to the City Commission as a whole. If the City Commission as a body finds by a preponderance of the evidence that the violation is substantiated, the City Commission may impose one or more of the following sanctions:
- i. Public reprimand (oral) by vote of commission
 - ii. Public censure (written) formalized by a resolution
 - iii. Removal from committee/board assignments.

SNOW REMOVAL & SANDING

The Street Department sends out a sanding crew when we receive 1" to 4" of snow. After 4" of snow accumulation or slick conditions exist we plow our Primary Snow Routes. It is unlawful for anyone to shovel or push snow into a city street.



AMBULANCE TRANSFERS

Livingston Fire and Rescue fields request from area hospitals to transfer patients from one medical facility to another. We mainly go to Bozeman and Billings, but have transported patients as far away as Helena, Great Falls, and Missoula. With rare exception these are handled with an ambulance and 2 off duty firefighters who have basic and advanced medical training.

If we can't staff a transfer request, then the hospital calls a private ambulance company ~~located in Bozeman and Billings called American Medical Response~~ or they fly the patient by helicopter or fixed wing aircraft. ~~On rare~~In certain occasions, we are requested to take an emergency transport because no one else is available. If this is a life or death situation, then we will utilize the on duty staff and backfill the station with off duty personnel.

QUESTIONS AND ANSWERS ON DEPARTMENTAL POLICIES & PROCEDURES

The following "Questions and Answers on Departmental Policies and Procedures," "Glossary of Terms Associated with Local Government" and "Budget and Finance Terms" were extracted from a pamphlet prepared by the City of Helena and included for your use.

CITY COMMISSION

1. What appointments are made by the City Commission?

The City Commission appoints the City Manager who serves at the Commission's pleasure. The Chairman, with the Commission's approval, appoints members to several advisory boards and Commissions whose terms vary according to the by-laws of the individual group.

2. What is the difference between an Ordinance and a Resolution?

Ordinances are laws and may carry a penalty for violation. Resolutions are motions, carrying no legal status or penalty and merely express the intent or policy of the City Commission.

3. Who may see minutes of City Commission Meetings?

Digital recordings of City Commission meetings have been designated as the official public record of meeting proceedings; these recordings will be available online at www.livingstonmontana.org and at the City Office. Written minutes are summary minutes that can be viewed online or at the City Office, and are meant to be a supplement to the digital recordings (2-3-212 MCA). Any citizen may review minutes of Commission meetings, since all regular meetings of the Commission are open to the public.

4. How is a special meeting of the City Commission called?

The Chairman, or in his/her absence, the Vice-Chairman, may call special meetings of the Commission whenever public business may require it. A meeting may also be called at the express written request of any three members of the Commission. Whenever a special meeting shall be called, a summons or a notice in writing signed by the Chairman or the Vice-Chairman shall be served upon each member of the Commission either in person or by notice left at their place of residence, stating the day and hour of the meeting, the purpose for which such meeting is called,

and no business shall be transacted except such as is stated in the notice. Such notice must be served at least 24 hours prior to the meeting.

A special meeting may also be held without the requirement of notice being served, if the Chairman and all Commission members, prior to the meeting, sign a waiver of notice of meeting but in this event, the public media shall be notified as soon as practical prior to such meeting.

5. Can the City Commission hold executive sessions?

The City Commission can hold executive sessions on matters where the Chairman determines that the right of individual privacy exceeds the public’s right to know. These meetings are not open to the public. (See Appendix 5, specifically 2-3-303).

PUBLIC WORKS

1. What are the requirements of tying into the City sewer and water main or repairing an individual line?

Individual service line: The property owner hires a licensed, bonded plumber to do the work for him. If the main line tap requires work, the city crew will do the tap work and bill the property owner for time and materials.

Tapping into a line: The property owner must purchase a permit at the City’s Water Counter, pay a tapping fee in accordance with ordinances, pay the city for the first water meter, and pay any reimbursement fee associated with the main, as well as Impact Fees based on the size of the water service.

2. Who is required to pay for sewer or water main extensions?

The owner of a building site located beyond present sewer or water mains is required to pay the total cost of extending that main to the far side of the site, per ordinance. If the line passes any vacant property the owners of those properties will be assessed their share of the costs of extending that line based on calculations performed by the City’s staff at the time they tie into the line and the original owner will be reimbursed that amount, or a special improvement district may be created to fund water and sewer main extensions.

3. What procedures must be followed before a building permit is issued?

Two complete sets of plans including site plan, cross section(s), elevation(s), foundation and floor plan must be submitted to the Building Department along with a completed Permit Application. The plans are reviewed, any deficiencies are noted and corrections are made by the applicant. Once the plans are approved, a permit may be issued. Residential projects will be charged a plan review fee as well as a permit fee. Commercial projects will be charged just a permit fee, but at a higher rate than residential projects.

4. Who can apply for a building permit?

Anyone who wishes to do work on his private residence may do any or all of the work himself. As with all building construction in Livingston, the Building Inspector and/or Fire Inspector makes

periodic inspections to see that the work meets the requirements of the adopted Code. A list of inspections is provided to the permit holder when the permit is issued and it is this person's responsibility to see that all inspections are made at the proper time. Permits for work on a structure other than a private residence must be purchased and the work completed by a licensed professional in the corresponding field.

5. When is a building permit needed?

Building permits are required for any structural work done on a building. This includes re-roofing, changing door or window openings, moving or adding walls and building exterior decks. Changes made to a commercial building, even though minor in nature, will almost always require a permit in order to verify that life safety codes specific to the occupancy are being followed. Detached, one-story, residential storage buildings not larger than 120 square feet do not need a building permit.

6. Does City policy permit non-resident property owners to connect their property to City water and Sewer Facilities?

Yes. But a signed Waiver of Protest of Annexation Form must be submitted by the property owners when the permit is obtained.

7. How is a Special Improvement District created?

- a. A petition is filed with the City reflecting a substantial interest by property owners in a specified improvement.
- b. The City Commission will authorize the development of preliminary cost data which may be done by City staff or a consultant.
- c. If a consultant is needed, a selection committee will be approved by the City Commission, unless the citizen group has already hired an engineer.
- d. The Commission will then consider passing a Resolution of Intent to create the district.
- e. A 15-day waiting period begins during which time residents receive square footage costs and neighborhood meetings are held to explain the data.
- f. After the waiting period a public hearing is held at which the City Commission review protests. If more than 51% protest, the district will not be created. If less than 51% protest, the district can be created at the discretion of the City Commission.

8. What is the City's Sidewalk policy?

The City Commission may at any time, order sidewalks be constructed or repaired. If the property owner fails to do so within thirty days, the City may construct the sidewalk and assess the cost against the property. All sidewalks must be constructed as specified by the City, including acquiring a permit from the City's Building Inspector. Once sidewalks are installed it is the property owner's responsibility to maintain them.

INFORMATION

- 1. How does a citizen inquire about employment with the City?

When the City conducts a search for applicants through an external competitive process, the job is posted in, at minimum, three places: The City website, the bulletin board outside the City Office, and online platforms ~~such as indeed~~. The City accepts applications for posted positions, but not general applications for employment.

ZONING

1. What is the procedure used to apply for a variance to the City Zoning Ordinance and/or special exception?

Application is made to the Planning Office. The application is then presented to the City Commission where a public hearing is held. A staff recommendation is prepared and provided to the City Commission for final action.

2. What is the procedure to apply for a zone change?

An applicant must go to the City Planner to obtain and fill out an application form. A fee is required with the application. The Planner publishes a notice of public hearing on the rezoning request 15 days prior to the public hearing on such request. Notices are sent to property owners within 300 feet of the property notifying them of the rezoning request. A staff recommendation is then prepared and the applicant is made aware of that recommendation prior to the public hearing. The public hearing is held before the Zoning Committee and this body forwards its recommendation to the City Commission.

3. How is an alley or street vacated?

Application is made to the Planning Office and it is then reviewed by the Development Review Committee (DRC). The DRC makes a recommendation to the City Manager who presents the application to the City Commission for final action.

GLOSSARY OF TERMS ASSOCIATED WITH LOCAL GOVERNMENT

GENERAL GOVERNMENT TERMS

CITY CODE - The Official Municipal Code of the City of Livingston is a compilation of the general ordinances of the City. As such, the code is revised as new ordinances are adopted.

COMMISSION POWERS - That authority residing in the Commission including but not limited to the power to:

- acquire land;
- sue and be sued;
- operate and construct public utilities;
- assess, levy and collect taxes;
- borrow money; issue bonds;
- create improvement districts;
- license and regulate persons, businesses, etc.;
- prevent those things detrimental to the public welfare, health, morals and safety;
- regulate construction; and,
- pass laws relating to maintaining peace, promoting good government, etc.

CONDEMNATION - The power to take private property for public purposes. Such procedures may be used for street, alley, park, sewer, water, drainage, and other public works construction. Fair market compensation is required for such taking.

CONFLICT OF INTEREST - Commissioners must be residents of the City and shall not be interested in the profits of contracts, work or services of the municipality. A Commissioner may not hold partisan political office. Generally, Commissioners shall not accept any free tickets, passes or services from any person or firm upon terms more favorable than are granted to the public generally. (See MCA 2-2-101 through 2-2-114 which are included in Appendix 4 and Attorney General Opinion Volume No. 41, Opinion No. 81 in Appendix 5).

ELECTION-AT-LARGE - A structural characteristic whereby officials are elected without regard to their area of residence. Commissioners are elected this way in Livingston.

SECOND CLASS CITY - Any Montana City with a population in excess of 5,000 residents but less than 10,000 residents is a city of the second class. This distinction relates to the various powers granted to different classes of cities by the State.

FRINGE BENEFITS - The City contributes to the following programs for each employee: FICA; a retirement system; Medical Insurance; Life Insurance; State Workman's Compensation; and Unemployment Compensation.

ORDINANCE - A local government law passed by the Commission. In general, ordinances are not effective until 30 days after passage (except appropriation and emergency ordinances).

RECALL - A procedure whereby 25% of the registered electors of the municipality may petition to remove an elected official from office. An election follows the filing of a successful petition.

BUDGET AND FINANCE TERMS

APPROPRIATION - A legal authorization granted by the governing body which permits public officials to incur obligations and make expenditures up to the amount of money allocated and within time limits set by the governing body.

ASSESSED VALUATION - Assessed valuation is that amount of real property subject to the ad valorem tax. In FY 2017-2018 the City's assessed taxable valuation is approximately \$12,254,304. In a process called appraisal, the State Department of Revenue analyzes and assigns a value to all taxable property in the State. In order to determine the taxable value of your property, they multiply the appraised value by a tax rate that is set by the Montana Legislature.

AUDIT - A careful examination, using generally accepted accounting principles and practices, giving the independent auditor's opinion whether or not revenues are fairly reported and whether expenditures are fairly reported.

BUDGET - The budget is a statement of Commission policy in dollars and cents. The budget details the anticipated revenues and outlines activities for which those revenues will be spent. On or before the first Commission meeting in June, the Finance Officer will submit a preliminary annual operating budget to the City Commission. A notice shall be published 2 times at least six days separating each publication (the first notice being no more than 21 days prior to the action and the second no longer than 3 days prior to the action) informing the public that the preliminary budget is available for inspection in the office of the Finance Director. The Commission must adopt the final budget by resolution within 45 days of receiving the certified taxable values from the Montana Department of Revenue. (See Appendix 2 - "Municipal Fiscal Year" and Appendix 3 - "Municipal Budget Law.")

CLAIM - A claim is a bill to the City for services rendered or goods purchased. The vendor sends the bill to the City where a claim is prepared and approved by the Department Head. It is then approved by the Finance Officer, City Manager and Commission prior to payment.

PURCHASE POLICY - Any item(s), service or project total that is over \$80,000 will go out to bid. The Finance Office or their designee will advertise locally as well as in other regions that may accommodate the request. In lieu of soliciting bids, the City Commission may provide authorization, to the staff, for the purchase of items at public auction without public notice/bid (as allowed by state statute).

It is the policy of the City, when making purchases or entering contracts, to give some preference to local vendors and service providers, if the price differential meets the following criteria:

1. If the purchase price is within 5% for purchases less than \$5,000.
2. If the purchase price is within 2% for purchases greater than \$5,000.

The City reserves the right to purchase any item(s) or service(s) with any bidder (with cause) other than the lowest responsible bidder. Likewise, the City reserves the right to accept or reject any, and/or all, bids as deemed in the best interest of the City of Livingston.

Contracts for professional services are exempt from this provision. Contracts involving the expenditure of Gas Tax monies are required to be bid if in excess of \$4,000.

DEBT LIMIT - The total amount of General Obligation Bond Debt as of June 30, 2018 is \$130,000.00. This debt was incurred by the purchase of a fire truck. General Obligation Bonds are incurred with voter approval only. These bonds are paid for with tax dollars collected from property taxes.

The City may incur debt up to 2.5% of the total assessed value of taxable property within the City limits. The total assessed value in FY 2018 is \$758,381,947. The debt limit for FY 2018 is \$18,959,549. The debt applicable to the limit is \$772,081 having a legal debt margin of \$18,187,468.

ENTERPRISE FUND - An Enterprise Fund is used to account for operations that are financed and operated in a manner similar to private business enterprises - where the intent of the governing body is that costs of providing goods or services to the general public on a continuing basis be financed through user charges or fees.

GENERAL FUND - The General Fund is used to account for all financial operations of the City not accounted for in any other fund. Principal sources of revenue are property taxes, licenses and permits, fines and forfeitures, and charges for administrative services that are provided to other funds. Principal expenditures are for Police and Fire Protection and General Administration.

LICENSES - The Commission has the power to grant licenses for industries, pursuits, professions and occupations. The City of Livingston has the following licenses: dog, cat, business, occupation, beer and wine, liquor and cigarettes. Fees vary for each license and the Commission may refuse to issue licenses when it is deemed in the public interest to do so.

MILL - A mill is defined as one-thousandth of a dollar unit of property value. A mill levy is established each year, which when applied to the assessed valuation of a piece of property, constitutes that piece of property's tax burden. For practical purposes, a mill applied to the City's total assessed valuation results in a certain amount of ad valorem tax revenue. In FY 2017-18 a mill is worth approximately \$11,563.

MUNICIPAL BONDS - Municipal bonds are issued, subject to the approval of the electorate, to finance capital improvements. Revenue bonds are those bonds for which revenues are available to repay the bond issue. For example, bonds to build a water treatment plant can be retired with water service charges to customers. A general obligation bond is a bond which pledges the "full faith and credit" of the City towards its retirement. Traditionally, a G.O. Bond is retired with ad valorem tax revenues, however, a "full faith and credit" clause is sometimes applied to a revenue bond to lower the interest rate.

PERFORMANCE BOND - A legal instrument whereby the person providing the bond to the City assures that the agreed upon activities will be completed satisfactorily. The Bond is a security measure.

PROPRIETARY FUNCTIONS - Those activities which "pay their own way" are classified as proprietary functions. Examples within the City include water, waste water, and solid waste. They are also referred to as ENTERPRISE FUNDS.

SINKING FUND - An assessment of tax against a piece of property in addition to the general tax obligation due to benefits particular to that property. Special assessments are levied for both

improvement districts (defined below) and maintenance districts. Street light and street maintenance districts are examples of maintenance districts.

SPECIAL IMPROVEMENT DISTRICT (SID) - A tool used to finance the construction of public improvements. A district is created to extend the time required for payment of the improvements. Assessments are levied against the property benefiting, generally on a square foot basis, for repayment of the warrants issued to provide the initial financing. Pay back periods are for no longer than 20 years. The City presently has (3) three such districts in operation: SID 178, 179 & 180.

WARRANT - A warrant is issued to raise cash for payment of City debts. As such, a warrant constitutes an outstanding obligation for the City. If, at the end of the year, warrants remain outstanding, the next year's budget must provide for an appropriation to retire the debt. A registered warrant is one which is recorded at the bank which holds the warrant for want of funds. Registered warrants are repaid in the order in which they were issued. The City does not currently use this practice.

PLANNING TERMS

ANNEXATION - The process whereby un-incorporated land is added to the City. The procedure can be initiated by either the resident, land owners or the City Commission. Annexation procedures vary according to how the land is situated in relation to the City.

DEDICATION - A procedure whereby the subdivider gives the City ownership of public lands (streets, alleys, parks, etc.) so indicated on the plat. The Commission has the authority to accept or deny such dedications. Denials are generally based upon streets or other public improvements not being in conformance with City standards. Acceptance of the public improvements entails a maintenance responsibility on the part of the City. For purposes of promoting the public comfort, at least one-ninth of the net land area in the addition must be given to the City for parks and playgrounds. A cash contribution in lieu of land dedication is available to the City at its option.

GROWTH MANAGEMENT PLAN - Growth Policy – A comprehensive planning document which complies with 76-1-601 M.C.A.

76-1-601. Growth policy -- contents. (1) A growth policy may cover all or part of the jurisdictional area.

(2) The extent to which a growth policy addresses the elements listed in subsection (3) is at the full discretion of the governing body.

(3) A growth policy must include:

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the

jurisdictional area, including:

(i) land uses;

(ii) population;

(iii) housing needs;

- (iv) economic conditions;
- (v) local services;
- (vi) public facilities;
- (vii) natural resources;
- (viii) sand and gravel resources; and
- (ix) other characteristics and features proposed by the planning board and adopted by the governing bodies;

(c) projected trends for the life of the growth policy for each of the following elements:

- (i) land use;
- (ii) population;
- (iii) housing needs;
- (iv) economic conditions;
- (v) local services;
- (vi) natural resources; and
- (vii) other elements proposed by the planning board and adopted by the governing bodies;

(d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);

(e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;

(f) an implementation strategy that includes:

- (i) a timetable for implementing the growth policy;
- (ii) a list of conditions that will lead to a revision of the growth policy; and
- (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;

(g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:

- (i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;
- (ii) if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy;

(h) a statement explaining how the governing bodies will:

- (i) define the criteria in 76-3-608(3)(a); and
- (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a);

(i) a statement explaining how public hearings regarding proposed subdivisions will be conducted; and

(j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including whether or not there is a need to:

- (i) delineate the wildland-urban interface; and
- (ii) adopt regulations requiring:

(A) defensible space around structures;

(B) adequate ingress and egress to and from structures and developments to facilitate fire suppression activities; and

(C) adequate water supply for fire protection.

(4) A growth policy may:

(a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth policy.

(b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;

(c) establish an infrastructure plan that, at a minimum, includes:

(i) projections, in maps and text, of the jurisdiction's growth in population and number of residential, commercial, and industrial units over the next 20 years;

(ii) for a city, a determination regarding if and how much of the city's growth is likely to take place outside of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate infrastructure planning with the county or counties where growth is likely to take place;

(iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the cities that project growth outside of city boundaries and into the county's jurisdictional area over the next 20 years;

(iv) for cities, a land use map showing where projected growth will be guided and at what densities within city boundaries;

(v) for cities and counties, a land use map that designates infrastructure planning areas adjacent to cities showing where projected growth will be guided and at what densities;

(vi) using maps and text, a description of existing and future public facilities necessary to efficiently serve projected development and densities within infrastructure planning areas, including, whenever feasible, extending interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other municipal public facilities throughout the infrastructure planning area. For the purposes of this subsection (4)(c)(vi), public facilities include but are not limited to drinking water treatment and distribution facilities, sewer systems, wastewater treatment facilities, solid waste disposal facilities, parks and open space, schools, public access areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency services;

(vii) a description of proposed land use management techniques and incentives that will be adopted to promote development within cities and in an infrastructure planning area, including land use management techniques and incentives that address issues of housing affordability;

(viii) a description of how and where projected development inside municipal boundaries for cities and inside designated joint infrastructure planning areas for cities and counties could adversely impact:

(A) threatened or endangered wildlife and critical wildlife habitat and corridors;

(B) water available to agricultural water users and facilities;

(C) the ability of public facilities, including schools, to safely and efficiently service current residents and future growth;

(D) a local government's ability to provide adequate local services, including but not limited to emergency, fire, and police protection;

(E) the safety of people and property due to threats to public health and safety, including but not limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;

(F) natural resources, including but not limited to forest lands, mineral resources, sand and gravel resources, streams, rivers, lakes, wetlands, and ground water; and

(G) agricultural lands and agricultural production; and

(ix) a description of measures, including land use management techniques and incentives, that will be adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).

(d) include any elements required by a federal land management agency in order for the governing body to establish coordination or cooperating agency status as provided in 76-1-607.

(5) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter.

PLANNED UNIT DEVELOPMENT (PUD) - An area of land controlled by a landowner, being developed as a single entity under a plan for a number of dwelling units and/or other appropriate uses, providing a land use mix that will create a harmonious development and neighborhood within the community. The PUD concept represents a flexible means of achieving appropriate land use.

PLAT - A map based on actual survey, detailing the subdivision of a piece of land including the location of lots, blocks, streets, alleys, easement, rights-of-ways, parks, and other landmarks.

RIGHT-OF-WAY - A strip of land dedicated or reserved for use as a public way.

SUBDIVISION - "Subdivision" shall mean a division of land, or land so divided, which creates one or more parcels containing less than twenty (20) acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold or otherwise conveyed, and shall include any of the re-subdivision; and shall further include any area, regardless of its size, which provides or will provide multiple spaces for recreational vehicles or mobile homes. A subdivision shall compose only those parcels of less than twenty (20) acres which have been segregated from the original tract, and the plat thereof shall show all such parcels whether contiguous or not. Provided, however, condominiums constructed on land divided in compliance with this chapter are exempt from the provisions of this chapter of State Law.

ZONING - A series of rules and regulations providing for proper land use and providing for zoning districts with different permitted uses, lot area requirements, building heights, set back requirements, parking requirements, etc. The Zoning Commission acts as the Board of Appeals from the zoning regulations.

ACRONYMS

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| 911 – Emergency Telephone Service | AHERA – Asbestos Hazard Emergency Response Act of 1986 | BP 1,2,3,4 – Budget Preparation Forms |
| A/P – Accounts Payable | AIM – American Indian Movement | BTU – British Thermal Unit |
| A/R – Accounts Receivable | AIP – Apartment Improvement Program | CAB – Central Advisory Board |
| A-95 – Grant Review Clearinghouse | APA – American Planning Association | CAC – Communications Advisory Committee |
| AAE – Academy for Advance Education | APWA – American Public Works Association | CAD – Computer Aided Dispatch |
| AARP – American Association of Retired Persons | ARC – Association for Retarded Citizens | CAD – Computer Aided Drafting |
| ACLU – American Civil Liberties Union | ASAP – As Soon As Possible | CATV – Cable Access Television |
| ACOE – Army Corps of Engineers “Corps” | AUTOCAD – Automated Computer Aided Drafting (Computer Program) | CCI – Citizens for community Improvement |
| ACORN – Association of Community Organizations for Reform Now | BAN – Bond Anticipation Notes | CD – Certificate of Deposit |
| ADC – Aid to Dependent Children | BC/BS – Blue Cross & Blue Shield | CDBG – Community Development Block Grant |
| ADC – Alliance Development Council | BFOQ’S – Bona Fide Occupational Qualifications | CDL – Commercial Drivers License |
| AFDC – Aid to Families with Dependent Children | BID – Business Improvement District | CEBA – Community Economic Betterment Account |
| AFSCME – American Federal, State, County and Municipal Employees | BMO – Bank Money Order | CED – Corporation for Economic Development |
| AG – Attorney General | BOA – Board of Adjustment | CEPP – Community Economic Preparedness Program |
| | BOD – Biochemical Oxygen Demand | CFN – Community Food & Nutrition Program |

CHAP – Comprehensive Homeless Assistance Plan

CIP – Capital Improvements Program

CJIN – Criminal Justice Information Network

CMC – Certified Municipal Clerk

CMS – Center for Medicare & Medicaid Services

CO – Certificate of Occupancy

COBRA – Consolidated Omnibus Budget Reconciliation Act

COG – Council of Governments

COLJ – Court of Limited Jurisdiction

COP – Community Oriented Policing

CP – Citizens Participation

CPA – Certified Public Accountant

CPR – Cardio Pulmonary Resuscitation

CSA – Community Services Administration

CSBG – Community Services Block Grant

CSED – Child Support Enforcement Division

CSI – Centron Services Incorporated

CTEP – Community Transportation Enhancement Program

D/B/A – Doing Business As

DDA – Downtown Development Authority

DEP – Department of Environmental Protection

DEQ – Department of Environmental Quality

DES – Department of Emergency Services

DES – Disaster & Emergency Services

DHHS – Department of Health and Human Services

DLA – Downtown Livingston Association

DMA – Department of Military Affairs

DMV – Department of Motor Vehicle

DNRC – Department of Natural Resource & Conservation

DOB – Date of Birth

DOE – Department of Energy (Federal)

DOL – Department of Labor (Federal)

DOS – Date of Service

DOT – Department of Transportation

DRC – Development Review Committee

EDA – Environmental Development Association

EEOC – Equal Employment Opportunity Commission

EIS – Environmental Impact Statement

EMD – Emergency Medical Dispatch

EMS – Emergency Medical Services

EMT – Emergency Medical Technician

EMT P – Emergency Medical Tech Paramedic

EOC – Emergency Operation Center

EPA – Environmental Protection Agency

ERP – Emergency Response Plan

ESG – Emergency Shelter Grant

FAA – Federal Aviation Administration

Fannie Mae – Federal National Mortgage Association (FNMA)

FAR – Floor Area Ration

FAUS – Federal Aid to Urban System

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| FBE – Female Business Enterprise | FTD – Federal Tax Deposit | HER – Hispanic Education Resources |
| FCC – Federal Communications Commission | FTY – Fail to Yield | HEW – Health, Education and Welfare |
| FDIC – Federal Deposit Insurance Corporation | FURS – Firefighters Unified Retirement System | HHS – Dept, of Health & Human Services (Federal) |
| FDS – Family Development Specialist | FUTA – Federal Unemployment Tax Act | HILP – Home Improvement Loan Program |
| FEMA – Federal Emergency Management Agency | FWP – Fish Wildlife and Parks | HM – Hazardous Material |
| FHA – Federal Housing Agency | FYI – For Your Information | HO – Habitual Offender |
| FICA – Social Security | GAAP – General Accepted Accounting Principles | HODAG – Housing Development Action Grant |
| FIT – Federal Income Tax | GAN – Grant Anticipation Notes | HOME – Home Opportunities Made Easy |
| FLSA – Federal Labor Standards Act | Ginnie Mae – Government Insurance Mortgages | HPO – Historic Preservation Officer |
| FM – Fire Marshall | GIS – Geographic Information System | HRDC – Human Resource Development Council |
| FmHA – Farmers Home Administration | GO – General Obligations | HSCB – Human Services Coordinating Board |
| FMLA – Family Medical Leave Act | GOB – General Obligation Bond | HUD – Dept of Housing & Urban Development (Federal) |
| FOAB – Federal Old Age Benefits | GOSCMA – General Open Space City Managers Association | HURF – Highway User Fund |
| FONSI – Findings of No Significant Impact | GPM – Gallons Per Minute | IAAI – International Association of Arson Investigators |
| FOSI – Findings of Significant Impact | GPR – Grantee Performance Report | IAFC – International Association of Fire Chiefs |
| FRS – Federal Revenue Sharing | HA – Housing Authority | IAFF – International Association of Firefighters |
| FSLIC – Federal Savings and Loan Insurance Corporation | HAP – Housing Assistance Plan | |
| | HELPER – Helping Elderly & Low Income People with Energy Relief | |

ICBO – International Conference of Building Officials

ICC – International Code Council

ICMA – International City Managers Association

ICMA-RC – International City Managers Retirement Corporation

ICS – Incident Command System

IDB – Industrial Development Bonds

IIMC – International Institute of Municipal Clerks

INS – Immigration and Naturalization Service
IRA – Individual Retirement Account

IRC – International Residential Code

IRS – Internal Revenue Service

ISO – Insurance Service Office

ISO – Insurance Services Organization

JTPA – Job Training Partnership Act

LDH – Large Diameter Hose

LEA – Law Enforcement Agency

LFPC – Local Emergency Planning Committee

LJCMS – Limited Jurisdiction Court Management System

LLEBG – Local Law Enforcement Block Grant

LMH – Livingston Memorial Hospital

LMI – Low and Moderate Income

LRC – Livingston Rebuild Center

LRHS – Low Rent Housing Authority

LSC – Legal Services Corporation

LULAC – League of United Latin American Citizens

LWCF – Land & Water Conservation Fund

MBCC – Montana Board of Crime Control

MBE – Minority Business Enterprise

MCA – Montana Code Annotated

MDT – Mobile Data Terminal

MDT – Montana Department of Transportation

MEDA – Montana Economic Development Association

MEDI – Medicare

MEPA – Montana Environment Protection Act

MFOA – Municipal Finance Officers Association

MIP – Minor in Possession

MLCT – Montana League of Cities and Towns

MLEA – Montana Law Enforcement Academy

MMCT & FOA – Montana Municipal Clerks, Treasures and Finance Officers

MMIA – Montana Municipal Interlocal Authority

MPORS – Municipal Police Officers Retirement System

MRDTF – Missouri River Drug Task Force

MRL – Montana Rail Link

MUCR – Montana Uniform Crime Report

NAACP – National Assoc. for the Advancement of Colored People

NAHRO – National Association of Housing and Redevelopment Officials

NCDA – National Community Development Association

NCIC – National Crime Information Center

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| NEPA – National Environmental Policy Act | P.O. - Purchase Order | RAP – Recreational Activities Program |
| NETC – National Emergency Training Center | PAC – Political Action Committee | RC&D – Resource, Conservation and Development |
| NFA – National Fire Academy | PCEDC – Park County Economic Development Council | REC – Rural Electric Cooperative |
| NFPA – National Fire Protection Association | PD – Police Department | RFP – Request for Proposals |
| NIBRS – National Incident Based Reporting System | PERD – Public Employees Retirement Department | RFQ – Request for Qualifications |
| NLC – National League of Cities | PERS – Public Employees Retirement System | RLF – Revolving Loan Fund ROW – Right of Way Violation |
| NLRB – National Labor Relations Board | PFD – Personal Floatation Device | RPC – Regional Planning commission |
| NOFA – Notice of Funding Availability | PFMA- Partner Family Member Assault | RUT – Road Use Tax |
| NSH – National Standard Hose | PHA – Public Housing Authority | RWA – Rural Water Association |
| NTA – Notice to Appear | PIC – Private Industry Council | RWS – Rural Water Supply |
| OAA – Old Age Assistance (State) | PLS – Point Last Seen | RYT – R Y Timber |
| OAA – Older American’s Act | PMO – Personal Money Order | SBA – Small Business Administration (Federal) |
| OASI – Old Age Survivors Insurance | POST – Police Officer Standards of Training | SCI – Sister Cities International |
| ODS – Office of Disaster Services | POV – Personally Owned Vehicle | Section 8 – Low Income Housing (Federal) |
| OMB – Office of Management & Budget (Federal) | PPS – Payment Planning Service | SID – Special Improvement District |
| OPP – Office of Planning and Programming | PSAP – Public Safety Answering Point | SIT – State Income Tax |
| P & Z – Planning and Zoning | PSS – Project Self-Sufficiency | SO – Sheriffs Office |
| | | SOP – Standard Operation Procedure |

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| SOTAF – Society of the Thai Dam American Friendship | TEFAP – Temporary Emergency Food Assistance Program | URA – Urban Renewal Authority |
| SRO – School Resource Officer | TEFRA – Tax Equity & fiscal Responsibility Act | USACE – US Army Corp of Engineers |
| SRO – Standing Room Only | TIF – Tax Increment Financing | USAR – Urban Search and Rescue |
| SSA – Social Security Administration | TIN – Taxpayers Identifying Number | USDA – U.S. Department of Agriculture |
| SSBG – Social Services Block Grant | TO – Training Officer | VA – Veterans Administration |
| SSI – Supplemental Security Income | TOP – Temporary Order of Protection | VFD – Volunteer Fire Department |
| SSN – Social Security Number | TP – Time Payment | VIN – Vehicle Identification Number |
| STGEC – Save the Grain Elevator Committee | TRO – Temporary Restraining Order | VISTA – Volunteers in Service to America |
| SWAM – Department of Water, Air and Waste Management | UBC – Uniform Building Code | W-2 – Earnings Statement |
| SWR – Swift Water Rescue | UDAG – Urban Development Action Grant | W-4 – Withholding Statement |
| T & A – Trust and Agency | UEC – Uniform Electrical Code | WIC – Women, Infants, Children Nutrition Program |
| T/A – Technical Assistance | UFC – Uniform Fire Code | WIN – Work Incentive Program |
| T-Bills – Treasury Bills | UPC – Uniform Plumbing Code | WWTP – Waste Water Treatment Plant |

APPENDICES

- Appendix 1 – Chapter 2 – Livingston Municipal Code – “Government and Administration”.
- Appendix 2 – “Municipal Fiscal Year at a Glance”
- Appendix 3 – “Municipal Budget Law” (MCA 7-6-4001 through 4036).
- Appendix 4 – “Code of Ethics” (MCA Title 2, Chapter 2, Part 1, 2 & 3).
- Appendix 5 – “Public Participation” (MCA 2-3-101 to 221).
- Appendix 6 – “Rules of Conduct” – Adopted by Resolution No. 3826 – February 20, 2007.
- Appendix 7 – “Remote Participation Policy” – Adopted September 18, 2018.

APPENDIX 1

Chapter 2 - GOVERNMENT AND ADMINISTRATION

Articles:

Article I. - Form of Local Government

Sec. 2-1. - Adoption of form of local government.

On November 4, 1986, by Special Election the following plan of government was approved: Sec. Commission-Manager Form. The commission manager form (which may be called the council-manager form) consists of an elected Commission (which may be called the Council) and a Manager appointed by the Commission, who shall be the Chief Administrative Officer of the local government. The Manager shall be responsible to the Commission for the administration of all local government affairs in his charge by law, ordinance or resolution.

B. Nature of Government. The plan of government submitted to the qualified electors shall determine the power of the local government unit by authorizing general government powers.

C. Appointment of Manager. The Manager shall be appointed by the Commission for an indefinite term on the basis of merit only and removed only by a majority vote of the whole number of the Commission.

D. Duties of Manager. The Manager shall:

1. Enforce laws, ordinances, and resolutions;
2. Perform the duties required of him by law, ordinance, or resolution;
3. Administer the affairs of the local government;
4. Direct, supervise and administer all departments, agencies, and offices of the local government unit except as otherwise provided by law or ordinance;
5. Carry out policies established by the Commission;
6. Prepare the Commission agenda;
7. Recommend measures to the Commission;
8. Report to the Commission on the affairs and financial condition of the local government;
9. Execute bonds, notes, contracts, and written obligations of the Commission subject to the approval of the Commission;
10. Report to the Commission as the Commission may require;
11. Attend Commission meetings and may take part in the discussion, but he may not vote;

12. Prepare and present the budget to the Commission for its approval and execute the budget adopted by the Commission;

13. Appoint, suspend and remove all employees of the local government except as otherwise provided by law or ordinance;

14. Appoint members of temporary advisory committees established by the Manager.

E. Employees of the Commission-Manager Government.

1. Employees appointed by the Manager and his subordinates shall be administratively responsible to the Manager.

2. Neither the Commission nor any of its members may dictate the appointment or removal of any employee whom the Manager or any of his subordinates are empowered to appoint.

3. Except for the purpose of inquiry or investigation under this Title, the Commission or its members shall deal with the local government employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Commission nor its members may give orders to any such employee, either publicly or privately.

F. Appointment of Boards. All members of boards, other than temporary advisory committees established by the Manager, shall be appointed by the Chairman with the consent of the Commission.

G. Selection of Commission Members. The Commission shall be elected at large.

H. Type of Election. Local government election shall be conducted on a nonpartisan basis.

I. Chairman of Commission. The Chairman of the Commission shall be elected by the members of the Commission from their own number for a term established by ordinance.

J. Terms of Commission Members. Commission members shall be elected for four (4) year overlapping terms of office. (Ballot Issue 11/4/04; effective date, July 1, 2004). [Transition plan: The two (2) City Commission members to be elected in 2004 would, for their initial term of office, serve a three (3) year term of office which would expire at the end of 2007; subsequently, City Commission members elected in 2007 to fill these two (2) City Commission positions and their successors would all serve four (4) year terms of office. The three (3) City Commission members to be elected in 2005 and their successors would each be elected to a full four (4) year term of office.]

K. Size of Commission. The size of the Commission shall be five (5) as of January 1, 1989, and shall consist of nine (9) until January 1, 1989.

(Ord. 1868, 2/2/98)

Sec. 2-3. - Chairman.

A. The Chairman of the City Commission shall be elected at the first meeting of each year for a term of one (1) year and shall be referred to as Chairman. The Chairman shall:

1. Preside at all City Commission meetings;
 2. Appoint with the consent of the City Commission all members of advisory boards and commissions, and the City Attorney;
 3. Shall execute all ordinances, resolutions and contracts on behalf of the City after Commission approval;
 4. Shall perform ceremonial functions as Chairman of the City of Livingston;
 5. Any other duties specifically designated by ordinance.
- B. The Chairman will have no other executive or administrative duties, these being the responsibility of the City Manager.
- C. The Vice-Chairman shall be elected at the same time as Chairman and shall preside at City Council meetings in the absence of the Chairman.

(Code 1958, Sec. 2-5; Ord. 1868, 2/2/98)

Sec. 2-4. - Elections.

- A. Elections shall be held every two (2) years.
- B. Primary elections shall be held in the fall of each election year in accordance with State Law.

(Code 1958, Sec. 2-2; Ord. 1574, 6-15-87; Ord. 1868, 2/2/98, Ballot Issue 11/4/03)

Sec. 2-5. - Seal.

A seal of circular form with the words, "City of Livingston, State of Montana," on the edge of the circle, and having in the center thereof, the word "Seal," and underneath, the date, "1889," is hereby adopted and declared to be the corporate seal of the City, to be used in all cases in which a seal is necessary or customary to be used by the City of Livingston.

(Ord. 1868, 2/2/98)

Secs. 2-6—2-9. - Reserved.

Article II. - City Commission and Chairman

Sec. 2-10. - Preamble.

Pursuant to 7-1-4142 Montana Code Annotated (MCA), the City Commission of Livingston Montana, hereby adopts its rules of procedure for its public meetings in which to conduct open, fair, efficient and orderly business to enact legislation and to encourage public participation in the City Commission decisions prior to final decision which may have a significant interest to the public and to preserve a public record of such proceedings.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09)

Sec. 2-11. - Reserved.

Editor's note—

Ord. No. 2019, § 1, adopted April 19, 2010, repealed § 2-11 which pertained to Robert's Rules of Order and derived from Ord. No. 1869, adopted Feb. 17, 1998; Ord. No. 1921, § 1(part), adopted Feb. 3, 2003, and Ord. No. 1962, adopted Feb. 21, 2006.

Sec. 2-12. - Posting board and notice.

The City Commission hereby designates the bulletin board attached to the wall of the hallway immediately outside of, and to the left of door to the City Offices located at 414 East Callender Street, Livingston, Montana as its official posting board for the purpose of posting public information. (7-1-4135 MCA).

When notice of a public hearing or other official action is required, unless provided elsewhere in the statutes, notice shall be published twice with at least six (6) days separating each publication. The published notice shall contain the date, time and place at which the hearing or other action will occur, a brief statement of the action to be taken and the address and telephone number of the person who can be contacted for further information.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, 10/19/09; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-13. - Commission meetings.

A. Open Meetings. All meetings of the City Commission shall be open to the public, except as provided by 2-3-203 MCA.

B. Regular Meetings. The City Commission shall hold its regular meetings on the first and third Tuesdays of each month at the hour of 5:30 p.m. in the City Commission Chambers in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana. Provided, however, that when the day set for any regular meeting of the Commission falls upon a day designated by law as a legal holiday, such meeting shall be held at the same hour on the next succeeding day which is not a holiday. Nothing herein precludes the Commission from meeting at different time, date or location, provided, however, that adequate notice is given to the public.

C. Work Sessions. The City Commission may meet at a set time and location for the purpose of a general work session with the City Manager. No official action may be taken at a work session, nor will minutes of such work session recorded. Work Sessions shall be open to the public unless otherwise properly closed to discuss topics for which closure is proper under Montana's Open Meeting Law.

D. Public Hearings. When a matter is required by law to have a public hearing, or when a matter is set for a public hearing by the City Commission upon a motion of a City Commission person, duly seconded and passed, all public hearing will be held at a regular meeting of the Commission after due notice as required by law which notice shall specify the purpose of the

hearing and the date, time and location thereof and invite the public to attend and make comments.

E. Special Meetings. Special meetings of the Commission may be called by the Chairman, two members of the Commission or the City Manager upon at least twelve (12) hours written notice which shall state the date, time, location and subject of the meeting and shall be personally served upon each member of the Commission or left at his or her usual place of residence; a copy of said notice shall also be posted on the official posting board and delivered to the media. Special meetings of the Commission are not the preferred manner of conducting City business. The business of a special meeting must be restricted to the object stated in notice.

F. Training Sessions. The City Manager shall hold a series of training sessions for newly elected City Commission members. The training sessions shall include, but not be limited to review of the City commission budget responsibilities, the role of the City Manager in hiring, supervising and discharging all employees, a review of the government and administration section of the Code of City Ordinances, a discussion and tour of facilities with each department head, and specific briefing on availability of the City Manager and staff to facilitate a City Commission member's responsibility. This Section shall also apply to Commission members elected by the City Commission to fill term vacancies.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2003, § 1, 7-21-08; Ord. No. 2016, § 1, 10/19/09; Ord. No. 2021, § 1, 8/16/10)

Sec. 2-14. - Officers and duties.

A. General. Election, voting, absence and vacancy. The City Commission shall annually elect a chair and a vice chair at the first meeting in January to serve until the next chair and vice chair are elected. The chair and vice chair shall retain all the rights and responsibilities held as a member of the commission, including the right to vote. The chair, or in his/her absence the vice chair, shall be the presiding officer at meetings of the commission. In the absence of both the chair and vice chair, the Recording Secretary shall call the meeting to order, call for the roll and the commission members present shall then appoint an acting chair to preside over the meeting.

B. Chairman. The presiding officer of the City Commission shall be the Chairman who shall preserve strict order and decorum at all meetings of the Commission. The chairman shall assign each Commission member to a seat at the Commission table, as he or she may deem appropriate. The Chairman shall state, or cause to be stated, every motion coming before the Commission, announce the decision of the Commission on all subjects, and decide all questions of order, subject, however, to an appeal to the Commission at large, in which event a majority vote of the Commission shall govern and conclusively determine such question of order.

C. Vice Chairman. In the Chairman's absence or in the case of the Chairman's inability to act, the Vice Chair shall be designated by the Commission to perform the duties of the Chairman.

D. Recording Secretary. The Recording Secretary shall record the proceedings of the City Commission and prepare and maintain permanent minutes of the Commission proceedings and shall file and preserve the recordings of the meetings and preserve and maintain the minutes and records in the City Office, which minutes and records shall be a public record; and shall be the custodian of the files and records of the Commission.

E. Sergeant at arms. The Chief of Police, or such other officer may be designated by the Commission, shall be the Sergeant at Arms who shall assist the Chairman in preserving strict order and decorum at all meetings and shall keep track of the time when the chairman has place time limits upon a speaker's presentation.

F. Procedure to fill Vacancy in office of City Commissioner. In the event of a vacancy in the office of City Commissioner under Section 7-4-4111, Montana Code Annotated, the City Commission shall use the follow process to fill the vacancy.

1. The City Commission shall determine that a vacancy in the office of a City Commissioner has occurred at either the next scheduled regular meeting of the City Commission or at a duly noticed special meeting as a duly noticed agenda item.

2. At the aforementioned meeting, the City Commission shall direct staff to publish in the local newspaper, once per week for two (2) successive weeks, and shall post on the City's official posting board a request to have interested person submit an application to fill said vacancy. The vacancy is required by law to be filled within thirty (30) days of the vacancy with the term being limited to the unexpired term of the person who created the vacancy.

a. The notice shall state the deadline for submitting applications which shall no more than fifteen (15) days from the date of first publication and that the following application is available from the City Offices:

APPLICATION FOR CITY COMMISSIONER

1. Name: ____

2. Address: ____

3. How long have you resided in Livingston ____

4. Are you at least 18 years of age? Yes _____ No _____

5. Are you a citizen of the United States? Yes _____ No _____

6. Have you resided in the State of Montana for more than 30 days? Yes _____ No _____

7. Have you resided in Park County for more than 30 days? Yes _____ No _____

8. Have you ever been convicted of a felony? Yes _____ No _____

Why do you want to be a city commissioner? ____

Do you have any prior experience in local government? If so, please describe? ____

Do you have any special qualifications which you believe would be an asset to the city commission? ____

What do you see as the most important needs facing the City of Livingston? ____

b. The qualifications of the applicant which include that the applicant is a citizen of the United States, a resident of the City of Livingston for at least thirty (30) days, at least eighteen (18) years of age and a registered voter.

c. All applicants shall receive a letter acknowledging the receipt of their application along with a copy of the procedure to fill vacancy in the office of the City Commission:

3. The City Commission shall meet in a public session to review all applications to determine that the applicants meet the minimum qualifications as set forth by state law.

4. The City Commission shall then notice a public meeting wherein all qualifying applicants are interviewed. Interviews of each applicant shall follow the same format. Questions for the candidates will be established by the City Commission in advance of the interview.

5. Thereafter, the City Commission, at a regular meeting or a duly notice special meeting shall appoint by a majority vote a qualified person to fill the vacancy who shall serve the unexpired term of the person creating the vacancy and until a successor is elected and qualified at the next general municipal election.

6. After appointment has been made, the City Commission will write a letter to all applicants thanking each applicant for their time and desire to serve the public in making the City of Livingston a better place to live.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-15. - Quorum.

A quorum shall consist of three (3) Commission members. However, an affirmative vote of a majority of the entire Commission shall be necessary to adopt or reject any motion, resolution or ordinance or pass any measure unless a greater number is required by law. However, in the event of an emergency expenditure, such expenditure must be charged to the emergency budget appropriations and adopted by two-thirds (2/3) of the members of a governing body who are present at the meeting (Section 7-6-4302, MCA).

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06)

Sec. 2-16. - Agenda.

The City Manager shall prepare the agenda for the City Commission and make recommendations thereon for the City Commission's consideration. (Sections 7-3-304(6) and (7), MCA).

Two (2) City Commissioners, when not in session, may make a request to the City Manager to have an item placed upon the agenda for consideration, but such request must meet the requirements set forth in the Rules of Procedure. Upon receipt of such request, the City Manager shall schedule the item for the next regularly scheduled meeting of the City Commission.

All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the Commission from the City Commissioners or City staff, shall be submitted by twelve (12) noon on the Monday immediately preceding the next regularly scheduled Commission meeting. All requests from the public to be placed on the agenda must be in to the City Manager by

the Tuesday immediately preceding the next regularly scheduled Commission meeting. The Commission agenda shall be set by five (5) p.m. on the Tuesday immediately preceding the City Commission meeting. Whereupon, the City Manager shall immediately arrange a list of such matters according to the order of business specified herein, and provide each member of the Commission with a copy of the same no later than the Thursday immediately preceding the Commission meeting. Copies of the agenda shall be available to the public from the Recording Secretary of the Commission and one (1) copy shall be posted at the designated posting board for public viewing. The City Manager may approve late submittals deemed to be in the City's best interest by delivering the same to the Recording Secretary of the Commission for delivery to the City Commission; however, late submittals are not the favored manner in which to do business and should be limited to unusual circumstances.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06)

Sec. 2-17. - Order of business.

The City Manager shall prepare the Commission agenda, which shall be in substantially the following form:

1. Call to order.
2. Roll call.
3. Moment of silence.
4. Pledge of Allegiance.
5. Public Comments
6. Consent items (no discussion should be necessary).*
 - A. Approval of minutes.
 - B. Approve bills and claims

* Consent items are those upon which the City Manager anticipates that no discussion should be necessary, however, by placing an item on the consent agenda does not limit the ability of a Commissioner from asking questions or making comments thereon. In the event a Commissioner believes that an item on the consent agenda should not be on the consent agenda, the Commissioner, at the beginning of any meeting may request one (1) or more items to be removed from the consent agenda for a separate vote. The presiding officer shall schedule such discussion and vote following adoption of the consent agenda.

7. Scheduled Public Comments.
8. Proclamations
9. Public Hearings
10. Ordinances.
11. Resolutions.

- 12. Action items.
- 13. City manager's report.
- 14. Commissioner's comments, i.e. reports, introduction of measures, concerns and proposals by members of the Commission.
- 15. Adjournment.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10; Ord. No. 2040, § 1, 7/19/12)

Sec. 2-18. - Summary minutes and recording of meeting.

All regular and special meetings of the City Commission, except executive sessions, shall be recorded and a copy of the recording shall be retained as the official record of the proceedings of the City Commission. In addition, summary minutes of all regular and special meetings of the City Commission shall be taken. The summary minutes must include at the minimum the date, time and place of the meeting, a list of the members of the City Commission in attendance, the substance of all matters proposed, discussed or decided and a record of all votes taken (7-5-4121 MCA). Summary minutes shall be approved by the Commission. It shall not be necessary to formally read the minutes aloud during the commission meeting prior to approval. Such minutes may be revised by the Recording Secretary to correct spelling, numbering, and other such non-substantive mistakes. Prior to approval, any Commission member may, through the Chairman, request the privilege of amending or correcting the minutes to accurately reflect the substance of the prior meeting. If objection is made by any Commission member to such amendment or correction, a majority vote of the Commission shall be necessary for adoption of the correction or amendment.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09)

Sec. 2-19. - Procedure to conduct business and motions.

- A. Procedure to Conduct Business.
 - 1. The Chair shall clearly announce the agenda item to be considered.
 - 2. Following announcement of agenda item, the Chair shall invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the Chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.
 - 3. The Chair shall ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.
 - 4. The Chair shall invite a motion. The Chair shall announce the name of the member of the body who makes the motion.

5. The Chair shall determine if any member of the body wishes to second the motion. The Chair shall announce the name of the member of the body who seconds the motion. No motion shall be debated or put to a vote unless the same shall be seconded. If the motion is made and seconded, the Chair should make sure everyone understands the motion. This is done in one (1) of three (3) ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the recording secretary to repeat the motion.

a. The Chair shall now invite discussion/debate of the motion by the body. Every member desiring to speak shall address the presiding officer, and upon recognition, shall confine himself to the question under debate, avoiding all personalities and indecorous language.

b. A member, once recognized, shall not be interrupted when speaking unless it is to call him to order or as herein otherwise provided.

i. If a member, while speaking is called to order, he shall cease speaking until the question of order is determined, and, if in order, he shall be permitted to proceed.

c. Order of rotation in matters of debate or discussion shall be at the discretion of the presiding officer.

i. A member shall not speak more than twice on the same subject without leave of the chair, nor more than once until every member desiring to speak on the pending question has had an opportunity to do so.

6. The Chair shall invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input on the agenda item being considered. If numerous members of the public indicate a desire to speak to the subject, the Chair may limit the time of public speakers. To be recognized, each person desiring to give comment, testimony or evidence shall sit down at the table provided and after being recognized, give his or her name and address before testifying, commenting or presenting other evidence. All comments, testimony and evidence shall be directed to the presiding officer. No questions shall be asked of a Commission member except through the presiding officer. At the conclusion of the public comments, the Chair shall announce that public input has concluded (or the public hearing as the case may be is closed).

7. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

8. The Chair shall direct the Recording Secretary to take a roll call vote. If members of the body do not vote, then they "abstain". Unless the rules of the body provide otherwise (or unless a super-majority is required as delineated in these rules) then a simple majority determines whether the motion passes or is defeated.

9. The Chair should announce the result of the vote and should announce what action (if any) the body has taken.

B. Motions, Majority Approval, Debatable or not and Exceptions.

1. The Basic Motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a 5-member committee to plan and put on our annual fundraiser."

2. The Motion to Amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a ten-member committee." A motion to amend takes the basic motion which is before the body and seeks to change it in some way. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way.

3. The Substitute Motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year." A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it.

4. Order of Consideration of Motions. There can only be three (3) motions on the floor at the same time. The Chair can reject a fourth motion until the Chair has dealt with the three (3) that are on the floor and has resolved them. When there are two (2) or three (3) motions on the floor (after motions and seconds) at the same time, the vote should proceed first on the last motion that is made. So, for example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a ten-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year."

a. First, the Chair would deal with the third (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion passed, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) failed then the Chair would proceed to consideration of the second (now, the last) motion on the floor, the motion to amend.

b. Second, if the substitute motion failed, the Chair would now deal with the second (now, the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five (5) members or ten (10) members). If the motion to amend passed the Chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed the Chair would now move to consider the main motion (the first motion) in its original format, not amended.

c. Third, the Chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or, if amended, would be in its amended format (ten-member committee), and the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

5. Motion to Reconsider. A motion to reconsider requires a majority vote to pass, but there are two (2) special rules that apply only to the motion to reconsider.

a. First, is timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body following due notice. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and by a two-thirds (2/3) majority, can allow a motion to reconsider to be made at another time following due notice.)

b. Second, a motion to reconsider can only be made by certain members of the body. Accordingly, a motion to reconsider can only be made by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she can make the motion to reconsider (any other member of the body may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again. That would defeat the purpose of finality.

c. If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is then in order. The matter can be discussed and debated as if it were on the floor for the first time.

6. Simple Majority and Exceptions. All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which, effectively, cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds (2/3) vote of the entire commission (a super-majority) to pass:

a. Motion to Limit Debate. Whether a member says "I move the previous question" or "I move the question" or "I call the question" or "I move to limit debate", it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds (2/3) vote of the entire commission to pass.

b. Motion to Close Nominations. When choosing officers of the body (like the Chair) nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds (2/3) vote of the entire commission to pass.

c. Motion to Object to the Consideration of a Question. Normally, such a motion is unnecessary since the objectionable item can be tabled, or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds (2/3) vote of the entire commission to pass.

d. Emergency Measures. In the case of emergency measures, the emergency must be expressed in the preamble or in the body of the measure and the measure must receive a two-thirds (2/3) vote of the entire commission. In emergency ordinances, the resolutions shall include only such measures as are immediately necessary for the preservation of peace, health, and safety and shall not include a franchise to a corporation or individual, any provisions for the sale of real estate, any lease or letting of any property for a period exceeding one (1) year, or the purchase or sale of personal property exceeding five thousand dollars (\$5,000.00) in value. (7-5-4204 MCA)

e. Motion to Punish and Expel. The commission may punish a member and expel any member for the improper conduct upon a two-thirds (2/3) vote of the entire commission members. (7-5-4103 MCA).

7. Motions Debatable, Exceptions. The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Chair that it is time to move on and take action.

a. Exceptions. There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion):

i. A Motion to Adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

ii. A Motion to Recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

iii. A Motion to Fix the Time to Adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

iv. A Motion to Postpone Consideration. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold". The motion can contain a specific time in which the item can come back to the body: "I move we postpone consideration of this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to consider the item and bring it back to the body will have to be taken at a future meeting. A motion to postpone consideration an item (or to bring it back to the body) requires a simple majority vote.

v. A Motion to Limit Debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote". When such a motion is made, the Chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds (2/3) vote of the body. Note: that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds (2/3) vote of the body.

vi. Motion to Object to Consideration of an Item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds (2/3) vote.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-20. - Reserved.

Editor's note—

Ord. No. 2019, § 1, adopted April 19, 2010, repealed § 2-20 which pertained to procedure for the presentation of agenda items to the City Commission to encourage public participation in regular meetings and public hearings, and derived from Ord. No. 1869, adopted Feb. 17, 1998; Ord. No. 1921, § 1(part), adopted Feb. 3, 2003; and Ord. No. 1962, adopted Feb. 21, 2006.

Sec. 2-21. - Public hearings.

A. The Commission may conduct public hearings or may appoint a hearing officer for that purpose, except for budget hearings, as provided in Section 7-1-4131, MCA.

B. When heard by the Commission, the items will be presented to the Commission in the same format, as described in Section 2-19 of this Chapter.

C. In addition, when public hearings and public interest matters are being heard and it is anticipated that a large number of the public may wish to participate, the presiding officer, with the consent of the Commission, may, prior to the meeting, establish reasonable guidelines for conducting the meeting.

D. Witness may be required to testify under oath and all testimonies shall be directed to the presiding officer only.

E. The Commission shall not be bound by the strict rules of evidence, and may exclude irrelevant, immaterial, incompetent or unduly repetitious comments, testimony or evidence. The presiding officer shall, with advise from the City Attorney, rule on all questions relating to admissibility of testimony or evidence. The ruling of the presiding officer may be overruled by a majority vote of the Commission.

F. The proponents or opponents, their agents or attorneys, may submit petitions and written comments during or prior to the closing of the hearing and the same shall be entered by reference into the minutes and considered as other testimony received at the hearing.

G. Following the presentation of all comments, testimony and evidence, the Commission may:

- 1. Continue the hearing to a date certain to allow additional information to be submitted to the Commission as a body on any unresolved issues;
- 2. Close the public hearing and proceed to Commission debate of the matter; or
- 3. Continue the Commission debate and vote to a date certain.

H. A public hearing which has been formally closed may not be reopened. If additional information is required before a decision can be made, the Commission, upon motion duly made, seconded and passed, may call for an additional public hearing, which hearing shall be duly noticed, specifying date, time, place and subject matter of the hearing.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-22. - Addressing the Commission.

- A. The public is invited to speak: on any item under discussion by the Commission after recognition by the presiding officer.
- B. The speaker should step to the front of the room, and sit at the table provided, provide the speaker's name and address on the signup sheet located at the table, and for the record, give his/her name and address and, if applicable, the person, firm or organization represented.
- C. Prepared statements are welcomed and should be given to the Recording Secretary of the Commission. All prepared statements shall become a part of the permanent record.
- D. While the Commission is in session, the members must preserve order and decorum. A member shall not delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Commission or its presiding officer.
- E. Any person making personal, impertinent or slanderous remarks or who shall become boisterous or disruptive during the Commission meeting shall be forthwith barred from further presentation to the Commission by the presiding officer, unless permission to continue be granted by a majority vote of the Commission.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09)

Sec. 2-23. - Ordinances and resolutions.

- A. All ordinances and resolutions shall be prepared or reviewed by the City Attorney. No ordinance or resolution shall be prepared for presentation to the Commission unless ordered by a majority vote of the Commission or requested by the City Manager.
- B. The ordinances and resolutions, before presentation to the Commission, shall be approved as to form and legality by the City Attorney and shall have been examined by the City Manager who may refer it for comment to the head of the department under whose jurisdiction the subject matter of the ordinance or resolution is to be administered.
- C. A draft of the proposed ordinance or resolution shall be presented to the Commission for review and comment with the public being notified of the proposed action and invited to make comment.
- D. If the draft ordinance is approved by the Commission, it shall then be placed on the agenda for the first reading and provisional adoption, with the second reading and final adoption occurring at least twelve (12) days after the first reading and provisional adoption. After being provisionally adopted, the ordinance shall be posted in a conspicuous place in the City/County Complex and copies thereof shall be available to the public from the Recording Secretary of the Commission. The reading of the ordinance's or resolution's title and number shall be sufficient to constitute a reading and an actual oral pronouncement of each word contained therein of the proposed ordinance or resolution is not required and shall be waived unless required by a majority vote of the City Commission.

E. All ordinances, except emergency ordinances, shall become effective thirty (30) days after the second reading and final adoption. All resolutions and emergency ordinances shall become effective upon passage or at the time specified therein. Emergency ordinances and resolutions, which are defined as those measures which are immediately necessary for the preservation of peace, health and safety, require a two-thirds (2/3) vote of the entire commission

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10)

Secs. 2-24—2-39. - Reserved.

Article III. - Officers

Sec. 2-40. - Qualifications.

The qualifications for elected or appointed City officers shall be those qualifications set by State law. In addition, except as may be provided by specific ordinance, all officers must reside within the City of Livingston City limits.

(Ord. 1330, 7-76; Ord. 1466, 9-80; Ord. 1981, 12/4/06)

Sec. 2-41. - Officers.

The officers of the City shall consist of all elected positions and the City Manager (Section 7-1-4121(11), MCA).

(Ord. 1981, 12/4/06)

Sec. 2-42. - Commencement of term for elected officers.

The terms of all elected officers shall commence on the date set by State law following the election. Elected officers shall be sworn in by having the Recording Secretary administer the oath of office at seven p.m. at the City Commission Chambers on the date the term commences, or if the date falls on a legal holiday, on the day following the legal holiday.

(Ord. 1981, 12/4/06)

Sec. 2-43. - Elected officer vacancy or removal.

The filling of any vacancy or the removal from any elective office shall be conducted in conformity with State law.

(Ord. 1981, 12/4/06)

Sec. 2-44. - Compensation.

The annual salary of all officers, elected or appointed, shall be set each year by budget resolution.

(Ord. 1981, 12/4/06)

Sec. 2-45. - Term.

All officer, elected or appointed, shall continue to act in the office to which they were elected or appointed, regardless of the term of office, until a successor is sworn in, or otherwise provided by contract.

(Ord. 1981, 12/4/06)

Sec. 2-46. - Oath.

All elected and appointed officers shall take and subscribe to the prescribed oath of office, which oath shall be filed with the Recording Secretary.

(Ord. 1981, 12/4/06)

Article IV. - Departments

Sec. 2-47. - Establishment of departments and department heads.

A. The administrative functions of City government are divided into the following departments: Finance, Planning, Public Works, Police, Fire and Law.

B. A department head will be appointed for each department who shall be hired and supervised by the City Manager.

(Ord. 1981, 12/4/06)

Sec. 2-48. - Acting department heads.

During a vacancy or periods when any department head is on an authorized leave of absence, the Manager may appoint a person to undertake the duties and responsibilities of the officer for a designated time and such person shall be designated as "acting" in such capacity.

(Ord. 1981, 12/4/06)

Sec. 2-49. - City Finance Director who may also be referred to as Finance Officer.

The Finance Officer shall be responsible for the following duties:

- A. Keeping an accurate accounting of all City funds according to standards of municipal accounting;
- B. Collecting, depositing and investing all City funds;
- C. Assisting in providing information for budget preparations;
- D. Filing proper reports with all Federal and State agencies as to City employee wages and benefits;
- E. Day to day supervision of Finance Department personnel; and

F. Performing such other functions as may be assigned by the City Manager.

(Ord. 179, 10/17/94; Ord. 1981, 12/4/06)

Sec. 2-50. - Public Works Director.

The Public Works Director shall perform all duties incident to the supervision of the maintenance, operation and construction of the streets, alleys, water, sewer, sanitation, garbage, cemetery, building, parks and recreation departments and the employees and personnel thereof, subject to the direction of the City Manager.

(Ord. 1981, 12/4/06)

Sec. 2-51. - Department of Law.

A. Department of Law. The Department of Law is hereby established under the direction, supervision and administration of the City Manager.

B. Department Head. The City Attorney, who shall be appointed by the City Manager, shall be in charge of the Department of Law.

C. Qualifications. The City Attorney shall be a resident and an elector of the City of Livingston, a citizen of the United States and shall have been admitted to the practice of law for at least five (5) years before the date of appointment.

D. Duties. The City Attorney shall be the chief legal advisor of the City and of all the City's departments and offices. The City Attorney shall appear before all courts, administrative agencies and all legal proceedings which involve the City as a municipal corporation and political subdivision of the State of Montana. The City Attorney shall prosecute all misdemeanor criminal offenses committed within the jurisdiction of the City Court. The City Attorney shall draft all contracts, ordinances, resolutions, deeds, easements, and other legal documents for the City and shall provide legal advice and render written opinions on questions pertaining to the duties, rights, liabilities and powers of the City, its officers and employees, as may be requested by the City Manager or the City Commission and perform such other duties as may be required by law or ordinance.

(Ord. 1969, 6/5/06; Ord. 1981, 12/4/06)

Sec. 2-52. - Nepotism, public contracts and interest in sales or purchases.

All officers and employees shall be subject to State law with regard to restrictions upon nepotism in the appointment or employment of any person.

All officers and employees shall be subject to State law prohibiting an interest, as defined by State law, in any City contract or in sales or purchases by the City.

(Ord. 1981, 12/4/06)

Sec. 2-53. - Suspension or removal from office.

The Chairman may suspend or remove, with the consent of a majority of the City Commission, any appointive officer, for neglect of duty or misbehavior, after notice to the party affected and hearing before the City Commission.

(Ord. 1981, 12/4/06)

Secs. - 2-54—2-69. Reserved.

Article V. - Employees

Sec. 2-70. - Hiring of employees.

Employees shall be hired and discharged by the City Manager. This shall include department heads.

(Ord. 1981, 12/4/06)

Sec. 2-71. - Union contracts.

The provisions of union contracts that are in effect shall determine the filling of any position vacancies in union positions.

(Ord. 1981, 12/4/06)

Sec. 2-72. - Police Officer positions.

All applications for the position of Police Officer shall be reviewed and certified by the City of Livingston Police Commission in conformity with State law prior to any action being taken upon the application.

(Ord. 1981, 12/4/06)

Sec. 2-73. - Employee holidays.

A. Paid holidays for employees who are not members of a union shall be as follows:

1. January 1—New Year's Day;
2. Third Monday in January—Martin Luther King, Jr. Day;
3. Third Monday in February—as observation of both Lincoln's and Washington's Birthdays;
4. Last Monday in May—Memorial Day;
5. July 4—Independence Day;
6. First Monday in September—Labor Day;
7. Second Monday in October—Columbus Day;
8. November 11—Veteran's Day;

- 9. Fourth Thursday in November—Thanksgiving Day;
- 10. December 24—Christmas Eve (Note: not a State holiday);
- 11. December 25—Christmas Day;
- 12. Every day declared a legal holiday by the City of Livingston.
- 13. State General Election Day.

B. Employees required to work on a holiday will be paid at two (2) times the regular rate of pay in addition to the regular day's pay. An employee who is scheduled for a day-off on a day which is observed as a legal holiday shall receive a different day-off for the legal holiday. If any of the above-enumerated holidays fall upon a Sunday, the Monday following is a holiday or if the holiday falls upon a Saturday, the Friday before is a holiday.

(Ord. 1981, 12/4/06)

Sec. 2-76. - Suspension, termination and promotion authority.

The department heads and the working supervisors in any department shall have the authority to generally direct the work of employees working under their supervision.

(Ord. 1981, 12/4/06)

Sec. 2-77. - Code of Ethics.

All employees shall be subject to the Code of Ethics provisions of State law that prohibit conflict between public duty and private interests. All employees of the City shall recognize that they are public employees and have a particular responsibility for serving the public without conflict between public duty and their own private interest.

(Ord. 1981, 12/4/06)

Sec. 2-78. - Employment policies.

The City Commission may adopt employment policies to aid in the management of City affairs and all employees shall follow such policies.

(Ord. 1981, 12/4/06)

Secs. - 2-79—2-89. Reserved.

Article VI. - Civil Defense

Sec. 2-100. - Civil defense and disaster relief plan approved, purpose, approval of revisions authorized.

The County of Park and City of Livingston Civil Defense Plan is hereby approved. This plan provides for an integrated City-County organization for civil defense and for operations during

periods of emergency, and thereby constitutes the most effective and efficient means of meeting the civil defense needs of the City and its citizens, by making maximum use of the existing agencies and capabilities of local government within the County, supported by volunteers and nongovernmental personnel and resources, to prevent or minimize loss of life and property that could be caused by enemy attack or other catastrophe or disaster affecting the City. The Chairman is authorized to approve such revisions of the civil defense plan as may be made, from time to time, if he deems the revisions to be reasonably necessary to meet the civil defense needs of the City and its citizens.

(Code 1958, 8-1; Ord. 1198, A, 9/8/70)

Sec. 2-101. - Same—directing and controlling operations.

The Chairman and the Board of County Commissioners shall, during periods of emergency caused by enemy attack or other catastrophe or disaster affecting the City, jointly direct and control the operations of the City-County organization for civil defense established in such civil defense plan. The Chairman is authorized and directed to take, during such periods of emergency, such actions as are reasonably necessary to prevent or minimize loss of life and property, in cooperation with the Board of County Commissioners and the Civil Defense Director of the County.

(Code 1958, 8/1; Ord. 1198, B, 9/8/70)

Sec. 2-102. - Appointment of "acting" officers, term limited.

The City Commission may appoint an "acting" officer to temporarily replace any officer who shall enter military service or emergency defense employment in the manner provided in this article. Acting officers so appointed shall be appointed for a period not to exceed the unexpired term of the officer whose duties he assumes, and such appointment shall be subject to the right of the officer to the restoration of his position.

Sec. 2-103. - Leaves of absence and reemployment or reinstatement upon completion of military or civil defense—authorized.

A. Any person inducted into the armed forces or reserve unit of the United States, or any person employed for emergency civil defense, who, in order to perform such training, service or active duty or such emergency employment, leaves a permanent position in the employ of the City, upon completion of duty, and being still qualified to perform the duty of such office or employment, shall be restored to such position, or to a position of like seniority, status and pay, provided, however, such position or department has not been abolished or consolidated.

B. If such position was that of an elective officer of the City such person shall be restored to such position, status and pay at anytime during the term for which he was elected.

Sec. 2-104. - Absence because of military or civil defense service considered leave of absence.

Any person who is restored to a position in accordance with the provisions of this section shall be considered as have been on leave of absence during the period of his absence, and shall be immediately restored without loss of seniority.

Sec. 2-105. - Procedure for reinstatement; application.

All persons asking restoration to a position in accordance with the provisions of this section shall, in order to qualify for the restoration of such position, make application for reemployment or reinstatement within forty (40) days after discharge from such training, service or emergency defense employment. Such application must be in writing and presented to the City Commission.

(Code 1958; Ord. 1054, 2/59; Ord. 1082, 4/61; Ord. 1099, 5/63; Ord. 1114, 9/63; Ord. 1151, 4/66; Ord. 1164, 3/64; Ord. 1174, 9/67; Ord. 1191, 8/69; Ord. 1248, 4/73; Ord. 1270, 8/74; Ord. 1283, 3/75; Ord. 1287, 5/5/75; Ord. 1299, 10/6/75; Ord. 1343, 4/77; Ord. 1314, 2/2/76; Ord. 1315, 2/2/76; Ord. 1330, 7/18/76; Ord. 1349, 4/77; Ord. 1350, 4/18/77; Ord. 1351, 4/18/77; Ord. 1352, 4/18/77; Ord. 1359, 7/77; Ord. 1373, 9/19/77; Ord. 1394, 2/6/78; Ord. 1466, 9/80; Ord. 1618, 3/20/89; Ord. 1868, 2/2/98)

Article VII. - Development Review Fees

Sec. 2-110. - Site plans review.

A. Site Plan Review. Any and all commercial or industrial development or redevelopment will be required to apply to the City for site plan review. The purpose of this review is to identify and mitigate any conflicts or inconsistencies between the proposed project, existing services, future needs and the City's development standards.

B. Building Permit. All projects which require a building permit are subject to site plan review. No building permit shall be issued nor will any work of any kind commence until the application for site plan review has been approved in writing by an authorized City official.

C. Applications for Site Plan Review.

1. The City shall require, when deemed necessary, changes, modifications or improvements in the proposed plans and drawings submitted for review in order to bring development projects into compliance with established City development standards and future needs. Applications for site plan review, containing adopted development standards, will be made on a form supplied by the City to which will be attached plans and drawings submitted by the developer or his agents which address the following issues:

- a. Zoning. Land use type, lot size/density, property line setbacks, building heights, parking requirements, signs, landscaping requirements, screening, lighting and any other site-specific issues deemed to be pertinent to a given project;
- b. Sewer and Water. Service lines and applicable fees, main extensions, payback areas and hydrant placement;
- c. Storm Water. Site grading and drainage, parking area surfacing, oil and grease traps, storm water retention and/or connection to storm sewers;
- d. Streets and Transportation. On-site traffic flow, curb cuts, proposed and existing ingress and egress to the property, sidewalks, boulevards, pedestrian safety, impact on public streets, traffic control devices and any other required off-site improvements;

e. Emergency Services. Building security and patrol requirements, lighting, fire access and water flows for fire-fighting;

f. Solid Waste. Size, type, location and access to receptacles.

2. Applications with required supporting data and applicable filing fees shall be filed with the City Planning Office. The site plan review will not commence until all required documents and fees have been submitted.

3. The filing fee for site plan review is two hundred fifty dollars (\$250.00).

4. The site plan review committee shall consist of the City Manager and department heads or other designated person. The site plan review committee will meet as necessary to review each application.

D. Violations and Civil Penalty. Any work performed contrary to the approved site plan shall not be permitted, a stop order will be issued and all work will cease until the violation is either removed or made to conform with the site plan at the applicant's expense. A violation may be punished by a civil penalty not to exceed five hundred dollars (\$500.00) for each day the violation is allowed to continue and each day shall be deemed a separate violation.

(Ord. 1870, 4/20/98)

Sec. 2-111. - Reserved.

Article VIII. - Immunization, Defense and Indemnification

Sec. 2-112. - Immunization, defense and indemnification of public officers and public employees.

A. It is the purpose of this section to provide for immunization, defense, and indemnification of public officers and public employees of the City civilly sued for alleged violations of Constitutional Initiative 75 for actions taken within the course and scope of their employment.

B. In any civil action brought against any public official or public employee of the City, alleging a violation of Constitutional Initiative 75, the City shall then defend the action on behalf of the public official or public employee and indemnify the public official or public employee from any liability resulting from the alleged violation of Constitutional Initiative 75, except as provided for hereinafter.

C. Upon receipt of service of Summons and Complaint alleging a violation of Constitutional Initiative 75, the public official or public employee shall give written notice thereof to the City Manager or to the City Attorney requesting that a defense to this action be provided by the City.

(Ord. 1881, 12/21/98)

Sec. 2-113. - Exceptions.

In a civil action alleging a violation of Constitutional Initiative 75, in which a public official or public employee of the City is a party defendant, the public official or public employee may not be

defended or indemnified by the City for any money judgments or legal expenses, including attorney's fees, to which the public official or public employee may be subject to as a result of a law suit under the following circumstances:

- A. The conduct upon which the claim is based constitutes oppression, fraud, or malice or for any other reason does not arise out of the course and scope of the public official or public employee's employment;
- B. The public official or public employee compromised or settled the claim without the consent of the City; or
- C. The public official or public employee failed or refused to cooperate reasonable in the defense of the claim.
- D. The conduct of the public official or public employee constitutes a criminal offense.

However, if there is a dispute as to whether the exceptions apply, and the City determines it should clarify its obligation to the public official or public employee arising under this section by commencing a declaratory judgment action or other legal action, the City is obligated to provide a defense or assume the costs of the defense of the public official or public employee until a final judgment is rendered in such action holding the City of Livingston has no obligation to defend the public official or public employee. The City has no obligation to provided a defense to the public official or public employee in a declaratory action or other legal action brought against the public official or public employee by the City of Livingston under this section.

(Ord. 1881, 12/21/98)

APPENDIX 2

MUNICIPAL FISCAL YEAR

~~2018-2019~~

A compilation of statutory references detailing important dates and deadlines in the city's fiscal year, including dates concerning budgets, assessments, elections and general operations.

Caveat: A local government official may not make a disbursement or expenditure or incur an obligation in excess of the total appropriations for a fund group.

A local government official who makes a disbursement or expenditure or incurs an obligation in excess of the total fund appropriation is liable personally. The subsequent claims approval process may not be considered as the making of a disbursement or expenditure or as incurring an obligation and does not otherwise limit or mitigate the local government official's personal liability. (Mont. Code Ann. § 7-6-4005.)

All accounts and demands against a city must be presented within one (1) year from the date it was accrued and any claim or demand not so presented is forever barred and the commission has no authority to allow any account or demand. (Mont. Code Ann. § 7-6-4301.)

Utility rate increases require at least seven (7) days and not more than thirty (30) days prior to the rate hearing to all customers and consumer counsel containing an estimate of the increase, as well as a publishing note. (Mont. Code Ann. § 69-7-111.)

July 1st - Fiscal year begins. (Mont. Code Ann. § 7-6-610)

A municipality may receive and expend money between **July 1** and the date of the adoption of final budget. (Mont. Code Ann. § 7-6-4025.)

July 7th - On or before the 7th of July each year, the city treasurer or clerk is to give written notice to every property owner to which sewer or water services were provided prior to July 1 of sewer/water arrearage amount, including penalty and interest and that unless paid within thirty (30) days of notice, the amount will be levied as a tax. The notice must state that the city may collect past-due assessments by suit, including interest and penalties as a debt owing the city. (Mont. Code Ann. § 7-13-4309.) At the time the annual tax levy is certified to the County, the city shall certify and file with the Department of Revenue a list of all lots, giving the legal description of each lot, to the owners of which notices of arrearage in payments were given and which remain unpaid, stating the amount of the arrearage with penalty and interest which the Department of Revenue shall insert the amount as a tax against each lot.

July-27th - Ballot issues must be filed with the Secretary of State by the third Friday of the fourth month prior to the election at which they are voted on. (Mont. Code Ann. § 13-27-104.)

Notice of preliminary budget must be given pursuant to Mont. Code Ann. § 7-6-4021. The notice must specify that the budget has been completed, is open to inspection, and give the date, time and place of a public hearing for taxpayers to appear and be heard on the budget. (Mont. Code Ann. § 7-1-4127.) The notice is to be published twice in a local newspaper at least six (6) days apart. The July publication date would apply only if the Department of Revenue certifies the total taxable value of properties in the City prior to August 1.

August 6th- By the first Monday in August, the Department of Revenue shall certify to the City the total taxable value within the City. (Mont. Code Ann. §15-10-202.)

August 7th - To avoid tax levy, all sewer/water arrearages must be paid. See July 7th for more information. (Mont. Code Ann. § 7-13-4309.)

Immediately after the second Monday in August, the city treasurer is to certify to the Department of Revenue all special assessments and taxes levied and assessed. The certification is to occur at the same time the copy of the resolution determining the annual levy for general taxes is certified to County. (Mont. Code Ann. § 7-12-4181.)

August 13th- No later than the second Monday in August, the City Commission shall estimate the cost of maintenance in street maintenance districts and shall pass and finally adopt a resolution specifying the district assessment option and levying and assessing all the property within the district. (Mont. Code Ann. § 7-12-4425.) Thereafter, the City shall publish notice of hearing stating that the resolution levying a special assessment to defray the cost of maintenance is on file and subject to inspection. The notice shall be published once and state the time and place at which objections to final adoption of resolution will be heard. The time for the hearing shall be not less than five (5) days after publication of the notice. (Mont. Code Ann. § 7-12-4426.) At the hearing, the City Commission may adopt a resolution modifying such assessments in whole or in part. (Mont. Code Ann. § 7-12-4427(1).) A copy of the resolution to modify shall be delivered to the financial officer and the assessments shall be placed upon the tax roll. (Mont. Code Ann. § 7-12-4427(2).)

At least seventy-five (75) days prior to the general election, the Secretary of State shall certify to the election administrator the candidates and ballot issues that are to appear on the ballot. The election administrator shall then cause official ballots to be prepared. (Mont. Code Ann. § 13-12-201.)

Budget/Levy Notes: Montana Code Annotated § 15-10-420 allows the City to impose mills sufficient to generate the amount of property taxes actually assessed in the prior year, plus one-half (1/2) of the average rates of inflation for the prior three (3) years. The maximum number of mills a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the City in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half average rates of inflation for the prior 3 years. The maximum number of mills required to generate the amount of property tax actually assessed in the city if the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rates of inflation for the prior 3 years.

(1/2) of the average rates of inflation for the prior three (3) years.

The final budget resolution may authorize the governing body or the chief executive to transfer appropriations between items within the same fund. (Mont. Code Ann. § 7-6-4031.) The final approved budget becomes effective on July 1 of the fiscal year. (Mont. Code Ann. § 7-6-4030(4).)

Authorization to exceed the maximum mill requires an election (§ 7-6-4431) to be held as provided by § 15-10-425 to be held in conjunction with a primary or general election.

Ambulance mill levy subject to § 15-10-420 is authorized pursuant to § 7-34-102 to defray the costs incurred in providing ambulance service.

Subject to § 15-10-420 the city may levy a tax to fund parks, swimming pools, skating rinks, playgrounds, civic centers, youth centers, and museums in addition to the levy for general municipal or administrative purposes. (§ 7-16-4105 MCA)

At the time the annual tax levy is certified to the county clerk, the City shall certify and file with Department of Revenue a list of all lots or parcels, giving the legal description, to the owners of which notices of sewer or water arrearages were given and remain unpaid and stating the amount of the arrearage, including penalty and interest. The department of revenue shall insert the amount as a tax against the lot or parcel. (§ 7-13-4309(2))

| **September-6th** - Final Budget must be completely approved and adopted by resolution by the later of the first Thursday after the first Tuesday in September or within 30 calendar days of receiving the certified taxable values from the Department of Revenue. (Mont. Code Ann. § 7-6-4024(3)).

| **September-6th** - On or before the first Thursday after the first Tuesday in September, or within thirty (30) calendar days after receiving certified taxable values, the City Commission shall fix the tax levy at levels that will balance the budgets. Each levy must be made in the manner provided in Montana Code Annotated § 15-10-201; i.e. the levy must be in mills, tenths and hundredths of mills. (Mont. Code Ann. § 7-6-4036)

| **September-10th** - By the second Monday in September or within 30 calendar days after receiving certified taxable values, the Clerk and Recorder shall notify the Department of Revenue of the number of mills needed to be levied for each taxing jurisdiction in the County. (§ 15-10-305 MCA) and shall add all fees or assessments to be levied against a piece of property.

| **September-11th** - If the City is required to hold an annual general election and opts for a November general election, a primary election, if required, shall be held on the Tuesday following the second Monday in September in odd numbered years. (Mont. Code Ann. § 13-1-104 and 107.) **Note:** A general election for a city which holds annual elections may be held in conjunction with the school election which is held on the first Monday in May. (Mont. Code Ann. § 13-1-104(4).) The city is required to pay the cost of primary election in even-numbered years. (Mont. Code Ann. § 13-1-107(3).)

October 1st - No later than October 1st or 60 days after receipt of taxable values from the Department of Revenue, the finance officer shall forward a complete copy of the final budget together with tax levies to the Department of Administration. (Mont. Code Ann. § 7-6-4003.)

October 1st - Before the first Monday in October, the City Commission shall pass and adopt a resolution levying an assessment and tax against each lot for sidewalks, curbs and gutters which have been ordered installed pursuant to Montana Code Annotated § 7-14-4109. The assessment may be spread over a period of time not to exceed twenty (20) years. (Mont. Code Ann. § 7-14-4110.)

October 1st – Pursuant to Montana Code Annotated § 7-12-4328, before the first Monday in October, the City Commission shall estimate the cost of maintaining lights and furnishing electrical current in the light maintenance districts. The City Commission shall also determine the amount to be assessed against property in the light maintenance districts and shall pass and finally adopt a resolution levying and assessing each property in the districts with an amount equal to the proportion of the cost of maintenance and electrical current. A notice signed by the clerk stating that the resolution levying the assessment is on file and subject to inspection for a period of five (5) days shall be published at least once. Such notice shall state the time and place at which objections to the final adoption of such resolution shall be heard by the City Commission. The time for such hearing shall not be less than five (5) days after the publication of notice. At the time of the hearing, the City Commission shall meet and hear all such objections and may modify such resolution in whole or in part. A copy of such resolution as finally adopted, certified by the clerk, must be delivered within two (2) days to the city treasurer. (Mont. Code Ann. §§ 7-12-4329, 4330, 4332, 4333 MCA.)

October 8th - By the second Monday the Department of Revenue shall complete the computation of taxes, fees, and assessments to be levied against property in the city and shall notify the County Treasurer and County Clerk and Recorder. (Mont. Code Ann. § 15-10-305(2).)

November 6th – In even numbered years, the general election is held on the first Tuesday after the first Monday in November for federal, state, and county officials. (Mont. Code Ann. § 13-1-104.)

If a municipality desires to exceed the maximum number of mills authorized by law, it is required to have an election on either primary or general election day. (Mont. Code Ann. §§ 7-6-4431 and 15-10-425.)

November 30th - First ½ of taxes are due. (Mont. Code Ann. § 15-16-101 and 102.)

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December 31st - Annual Financial Reports are due to the Department of Administration.



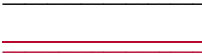
January 1st – The Department of Revenue may not be required to levy or compute a tax for any new taxing jurisdiction created or for any change in an existing jurisdiction unless formally notified by January 1 of the year in which the taxes are to be levied. (Mont. Code Ann. § 15-10-321.)

January 1st – Local governments are permitted to create special districts. A special district is a unit of local government authorized to perform a single or limited number of functions. (§ 7-11-1002(3)(a)) Within sixty (60) days after the creation of a special district, or by January 1 of the effective tax year, whichever occurs first, the governing body shall provide to the Department of Revenue a legal description of the district, a map of the district’s boundaries, list of taxpayers or owners of real property, and a copy of the resolution establishing the special district. (§ 7-11-1014.)

General Assessment Day: Between January 1 and the first Monday in August, the Department of Revenue shall ascertain the names of all taxable inhabitants and assess all property subject to taxation. (Mont. Code Ann. § 15-8-201.)

January 1st - The terms of all elected officers commence on the first Monday in January. (Mont. Code Ann. § 7-4-4107.)

Declarations for nomination are to be filed no sooner than one hundred forty-five (145) days and no later than forty-five (45) days before the primary election in even numbered years. (Mont. Code Ann. § 13-10-201.)



February-15th - Ballot issues must be filed with the Secretary of State by 5:00 p.m. on the third Friday of the fourth month prior to the election at which they are voted on. (Mont. Code Ann. § 13-27-104.)

March-11th - In even numbered years, eighty-five (85) to seventy-five (75) days prior to primary election (first Monday in June), the Secretary of State is to certify primary candidates and issues to the election administrator. (Mont. Code Ann. § 13-10-208(1).) Sixty-seven (67) to sixty-two (62) days prior to the primary, the election administrator certifies ballot and has ballots prepared. (Mont. Code Ann. § 13-10-208(2).)

One hundred thirty-five (135) to seventy-five (75) days prior to the primary, declarations for nomination are to be filed with the Secretary of State. (Mont. Code Ann. § 13-10-201.) Check with election administrator.

May-7th - On the first regular meeting of May, the City Commission shall appoint one member of Police Commission to be appointed annually for a 3-year term. (Mont. Code Ann. § 7-32-4152.)

May-7th - The first Tuesday after the first Monday (School Election Day) is the alternative general election day for Cities which hold annual elections. (Mont. Code Ann. § 13-1-104(4).)

May 31st - Second ½ of taxes are due. (Mont. Code Ann. §§ 15-16-101 and 102.)

Election to exceed the maximum mill requires an election (**7-6-4431**) to be held in an election as provided by **15-10-425** on either primary or general election day

~~30th Fiscal year ends on the 30th (7-6-610).~~



June 30th - Fiscal year ends. (Mont. Code Ann. § 7-6-610.)

APPENDIX 3

M.C.A. 7-6-4001 THROUGH 4036

7-6-4001. Short title -- applicability. (1) This part may be referred to as the "Local Government Budget Act".

(2) This part applies to all local governments.

7-6-4002. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Governing body" means the elected body responsible for the administration of a local government.

(2) "Local government" has the meaning provided in 7-6-602.

(3) "Municipality" means an incorporated city or town.

(4) "Working capital" means the current assets of a fund minus the current liabilities and designated reserves of a fund.

7-6-4003. Budget and levies supplied to department of administration. (1) A local government shall submit a complete copy of the final budget together with a statement of tax levies to the department of administration by the later of October 1 or 60 days after receipt of taxable values from the department of revenue. The county clerk and recorder shall make this submission for counties.

(2) The local government shall use standard forms prescribed by the department of administration or may use an alternative budget format acceptable to the department of administration.

7-6-4004. Budget fund structure. Local government budgets must conform to the fund structure prescribed by the department of administration.

7-6-4005. Expenditures limited to appropriations. (1) Local government officials may not make a disbursement or an expenditure or incur an obligation in excess of the total appropriations for a fund.

(2) A local government official who violates subsection (1) is liable for the amount of the excess disbursement, expenditure, or obligation personally.

(3) The subsequent claims approval process may not be considered as the making of a disbursement or an expenditure or as incurring an obligation and does not otherwise limit or mitigate the local government official's personal liability.

7-6-4006. Appropriation power -- requirements. (1) A governing body may appropriate money and provide for the payment of the debts and expenses of the local government.

(2) Money may not be disbursed, expended, or obligated except pursuant to an appropriation for which working capital is or will be available.

(3) Appropriations may be adjusted according to procedures authorized by the governing body for:

- (a) debt service funds for obligations related to debt approved by the governing body;
- (b) trust funds for obligations authorized by trust covenants;
- (c) any fund for federal, state, local, or private grants and shared revenue accepted and approved by the governing body;
- (d) any fund for special assessments approved by the governing body;
- (e) the proceeds from the sale of land;
- (f) any fund for gifts or donations; and
- (g) money borrowed during the fiscal year.

(4) The governing body may amend the budget during the fiscal year by conducting public hearings at regularly scheduled meetings. Budget amendments providing for additional

appropriations must identify the fund reserves, unanticipated revenue, or previously unbudgeted revenue that will fund the appropriations.

7-6-4007 through 7-6-4010 reserved.

7-6-4011. Use of bond proceeds and borrowed money. (1) Except as otherwise provided by law, money borrowed by a local government may be used only for the purpose for which the money was borrowed. Unless restricted by law, surplus borrowed money may be used to redeem the debt for which the money was borrowed.

(2) The authorization of bonds by the electors or the governing body constitutes the appropriation of the bond proceeds for the purpose for which the bonds are authorized.

7-6-4012. Fee based budgets -- adjustable appropriation. (1) In its final budget resolution, the governing body may authorize adjustments to appropriations funded by fees throughout the budget period. Adjustable appropriations are:

(a) proprietary fund appropriations; or

(b) other appropriations specifically identified in the local government's final budget resolution as fee-based appropriations.

(2) Adjustments of fee-based appropriations must be:

(a) based upon the cost of providing the services supported by the fee; and

(b) fully funded by the related fees for services, fund reserves, or nonfee revenue such as interest.

7-6-4013. Fees for services -- hearing and resolution. (1) If a local government has the authority to regulate, establish, and change fees, rates, charges, and classifications that are imposed for services to its inhabitants and other persons served by the local government, the fees, rates, charges, and classifications must be reasonable and related to the cost of providing the service.

(2) Charges for services must comply with Title 17, chapter 2, part 3, and other applicable statutes.

(3) In order to establish or change fees, rates, charges, or classifications imposed for services, the governing body shall order a hearing to be held as provided in 7-1-4131, unless a special hearing process is provided by law. Municipal utility rate hearings must be held as provided in 69-7-112.

(4) Notice of a hearing must be published as provided in 7-1-2121 for a county and as provided in 7-1-4127 for a municipality.

(5) After a hearing, the fees, rates, charges, or classifications must be established by resolution of the governing body.

7-6-4014. Restriction on tax-financed expenditures if voter approval required. If an expenditure is to be financed from a tax levy required to be authorized and approved at an election, the expenditure may not be made or an obligation may not be incurred against the expenditure until the tax levy is authorized and approved.

7-6-4015. Payments for judgments. (1) Judgments against a local government that are not covered by insurance may be paid:

(a) from the general fund; or

(b) from the fund or funds supporting the local government operation that incurred the judgment.

(2) Judgments that are to be paid from the general fund:

(a) must be paid in the current fiscal year if there is sufficient money in the general fund to pay both the judgment and the general fund appropriations for the current fiscal year; or

(b) must be paid from additional tax levies made in each of the next 3 years if general fund money is insufficient to pay the judgment in the current fiscal year.

7-6-4016 through 7-6-4019 reserved.

7-6-4020. Preliminary annual operating budget. (1) A preliminary annual operating budget must be prepared for the local government.

(2) This part does not provide for the consolidation or reassignment, but does not prohibit delegation by mutual agreement, of any duties of elected county officials.

(3) (a) Before June 1 of each year, the county clerk and recorder shall notify the county commission and each board, office, regional resource authority, or official that they are required to file preliminary budget proposals for their component of the total county budget.

(b) Component budgets must be submitted to the clerk and recorder before June 10th or on a date designated by the county commission and must be submitted on forms provided by the county clerk and recorder.

(c) The county clerk and recorder shall prepare and submit the county's preliminary annual operating budget.

(d) Component budget responsibilities as provided in this subsection (3) include but are not limited to the following:

(i) The county surveyor or any special engineer shall compute road and bridge component budgets and submit them to the county commission.

(ii) The county commission shall submit road and bridge component budgets.

(iii) The county treasurer shall submit debt service component budgets.

(iv) The county commission shall submit component budgets for construction or improvements to be made from new general obligation debt.

(4) The preliminary annual operating budget for each fund must include, at a minimum:

(a) a listing of all revenue and other resources for the prior budget year, current budget year, and proposed budget year;

(b) a listing of all expenditures for the prior budget year, the current budget year, and the proposed budget year. All expenditures must be classified under one of the following categories:

(i) salaries and wages;

(ii) operations and maintenance;

(iii) capital outlay;

(iv) debt service; or

(v) transfers out.

(c) a projection of changes in fund balances or cash balances available for governmental fund types and a projection of changes in cash balances and working capital for proprietary fund types. This projection must be supported by a summary for each fund or group of funds listing the estimated beginning balance plus estimated revenue, less proposed expenditures, cash reserves, and estimated ending balances.

(d) a detailed list of proposed capital expenditures and a list of proposed major capital projects for the budget year;

(e) financial data on current and future debt obligations;

(f) schedules or summary tables of personnel or position counts for the prior budget year, current budget year, and proposed budget year. The budgeted amounts for personnel services must be supported by a listing of positions, salaries, and benefits for all positions of the local government. The listing of positions, salaries, and benefits is not required to be part of the budget document.

(g) all other estimates that fall under the purview of the budget.

(5) The preliminary annual operating budget for each fund for which the local government will levy an ad valorem property tax must include the estimated amount to be raised by the tax.

7-6-4021. Notice of preliminary or amended budget. (1) The governing body shall cause a notice of a public hearing on the preliminary or amended budget to be published. The notice must:

(a) provide that the governing body has completed its preliminary annual budget for the

ensuing fiscal year or intends to amend its annual budget;

(b) state that the budget or budget amendment has been placed on file and is open to inspection in the county or municipal office designated in the notice;

(c) designate the date, time, and place of the meeting at which the governing body will meet for approving a final budget or amended budget and making appropriations; and

(d) state that any taxpayer or resident may appear at the meeting and be heard for or against any part of the proposed budget or budget amendment.

(2) The publication requirements must conform to the provisions of 7-1-2121 for a county or 7-1-4127 for a municipality.

7-6-4022. District court budgets. (1) The district court must be provided with copies of the preliminary district court fund budget as soon as the preliminary county budget is prepared pursuant to 7-6-4020.

(2) The district court may recommend changes to any part of the district court fund budget that the court considers to be necessary for it to discharge its obligations under the law. Any recommendations must be made at the hearing on the preliminary budget held pursuant to 7-6-4024.

(3) The district court fund may be used only for district court operations and expenses.

7-6-4023. Repealed. Sec. 74, Ch. 449, L. 2005; Sec. 21, Ch. 453, L. 2005.

7-6-4024. Hearing on preliminary budget. (1) The governing body shall hold a hearing in accordance with the notice given pursuant to 7-6-4021.

(2) Local government officials shall attend the budget hearing to answer questions on their proposed budgets if called upon:

(a) by the governing body; or

(b) by a taxpayer or resident.

(3) The hearing may be continued from day to day and must be concluded and the budget finally approved and adopted by resolution by the later of the first Thursday after the first Tuesday in September or within 30 calendar days of receiving certified taxable values from the department of revenue.

7-6-4025. Receipt and expenditure of money prior to adoption of final budget. A local government may receive and expend money between July 1 of the fiscal year and the date the final budget resolution is adopted.

7-6-4026 through 7-6-4029 reserved.

7-6-4030. Final budget -- resolution -- appropriations. (1) The governing body may amend the preliminary budget after the public hearing and after considering any public comment.

(2) The amended budget constitutes the final budget. The final budget must be balanced so that appropriations do not exceed the projected beginning balance plus the estimated revenue of each fund for the fiscal year.

(3) The governing body shall adopt the final budget by resolution. The resolution must:

(a) authorize appropriations to defray the expenses or liabilities for the fiscal year; and

(b) establish legal spending limits at the level of detail in the resolution.

(4) The effective date of the resolution is July 1 of the fiscal year, even if the resolution is adopted after that date.

7-6-4031. Budget amendment procedures. (1) The final budget resolution may authorize the governing body or a designated official to transfer appropriations between items within the same fund.

(2) The annual budget appropriations may be amended as provided in 7-6-4006(3) and 7-6-4012.

(3) Except as provided in 7-6-4006, 7-6-4011, 7-6-4012, 7-6-4015, and 7-6-4032 or in the case of an emergency under Title 10, chapter 3, a public hearing is required for an overall increase in appropriation authority.

7-6-4032. Emergency expenditures. (1) Emergency budget appropriations must be adopted by two-thirds of the members of a governing body who are present at a meeting.

(2) Emergency expenditures are limited to and must be charged to the adopted emergency budget appropriations.

(3) The governing body may submit the question of funding emergency warrants at an election as provided by law.

7-6-4033. Expenditure limitation. Except as provided in 7-6-4006, 7-6-4011, 7-6-4012, 7-6-4015, and 7-6-4032, the governing body, each county or municipal official, and the district courts are limited to the amount of appropriations and by the classifications in the annual appropriation resolution provided for in 7-6-4030 when making disbursements or expenditures or incurring liabilities.

7-6-4034. Determination of fund requirements -- property tax levy. (1) After determining the final budget, the governing body shall determine the property tax levy needed for each fund by:

(a) adding the total amount of the appropriations and authorized expenditures for the budget year;

(b) adding an additional amount, subject to the provisions of subsection (2), as a reserve to meet expenditures made from the fund during the months of July to November of the next fiscal year;

(c) subtracting the working capital; and

(d) subtracting the total estimated revenue, other than the property tax levy, for the budget year.

(2) After deducting from the amount of the appropriations and authorized expenditures the total amount appropriated and authorized to be spent for election expenses and payment of emergency warrants, the amount that may be added as a reserve, as provided in subsection (1)(b), to:

(a) a county's fund may not exceed one-third of the total amount appropriated and authorized to be spent from the fund during the current fiscal year; and

(b) a city's or town's fund may not exceed one-half of the total amount appropriated and authorized to be spent from the fund during the current fiscal year.

7-6-4035. Tax levies for boards and commissions -- bond exemption. (1) The proposed budget and mill levy for each board, commission, or other governing entity are subject to approval by the governing body.

(2) Except for a port authority created under Title 7, chapter 14, part 11, the taxes, revenue, or fees legally pledged for the payment of debt or for the operations of a regional resource authority are not subject to approval by the governing body.

(3) Except for judgment levies under 2-9-316 or 7-6-4015, all tax levies are subject to 15-10-420.

7-6-4036. Fixing tax levy. (1) The governing body shall fix the tax levy for each taxing jurisdiction within the county or municipality:

(a) by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values;

(b) after the approval and adoption of the final budget; and

(c) at levels that will balance the budgets as provided in 7-6-4034.

(2) Each levy:

(a) must be made in the manner provided by 15-10-201; and

(b) is subject to 15-10-420.

APPENDIX 4

CODE OF ETHICS – MONTANA CODE ANNOTATED

2-2-101. Statement of purpose. The purpose of this part is to set forth a code of ethics prohibiting conflict between public duty and private interest as required by the constitution of Montana. This code recognizes distinctions between legislators, other officers and employees of state government, and officers and employees of local government and prescribes some standards of conduct common to all categories and some standards of conduct adapted to each category. The provisions of this part recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

2-2-102. Definitions. As used in this part, the following definitions apply:

(1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money or economic benefit conferred on or received by any person in return for services rendered or to be rendered by the person or another.

(3) (a) "Gift of substantial value" means a gift with a value of \$50 or more for an individual.

(b) The term does not include:

(i) a gift that is not used and that, within 30 days after receipt, is returned to the donor or delivered to a charitable organization or the state and that is not claimed as a charitable contribution for federal income tax purposes;

(ii) food and beverages consumed on the occasion when participation in a charitable, civic, or community event bears a relationship to the public officer's or public employee's office or employment or when the officer or employee is in attendance in an official capacity;

(iii) educational material directly related to official governmental duties;

(iv) an award publicly presented in recognition of public service; or

(v) educational activity that:

(A) does not place or appear to place the recipient under obligation;

(B) clearly serves the public good; and

(C) is not lavish or extravagant.

(4) "Local government" means a county, a consolidated government, an incorporated city or town, a school district, or a special district.

(5) "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.

(6) "Private interest" means an interest held by an individual that is:

- (a) an ownership interest in a business;
- (b) a creditor interest in an insolvent business;
- (c) an employment or prospective employment for which negotiations have begun;
- (d) an ownership interest in real property;
- (e) a loan or other debtor interest; or
- (f) a directorship or officer ship in a business.

(7) "Public employee" means:

- (a) any temporary or permanent employee of the state;
- (b) any temporary or permanent employee of a local government;
- (c) a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority; and
- (d) a person under contract to the state.

(8) "Public officer" includes any state officer and any elected officer of a local government.

(9) "Special district" means a unit of local government, authorized by law to perform a single function or a limited number of functions. The term includes but is not limited to conservation districts, water districts, weed management districts, irrigation districts, fire districts, community college districts, hospital districts, sewer districts, and transportation districts. The term also includes any district or other entity formed by interlocal agreement.

(10) (a) "State agency" includes:

- (i) the state;
- (ii) the legislature and its committees;
- (iii) all executive departments, boards, commissions, committees, bureaus, and offices;
- (iv) the university system; and
- (v) all independent commissions and other establishments of the state government.

(b) The term does not include the judicial branch.

(11) "State officer" includes all elected officers and directors of the executive branch of state government as defined in 2-15-102.

2-2-103. Public trust -- public duty. (1) The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of public officers, legislators, and public employees. A public officer, legislator, or public employee shall carry out the individual's duties for the benefit of the people of the state.

(2) A public officer, legislator, or public employee whose conduct departs from the person's public duty is liable to the people of the state and is subject to the penalties provided in this part for abuse of the public's trust.

(3) This part sets forth various rules of conduct, the transgression of any of which is a violation of public duty, and various ethical principles, the transgression of any of which must be avoided.

(4) (a) The enforcement of this part for:

(i) state officers, legislators, and state employees is provided for in 2-2-136;

(ii) legislators, involving legislative acts, is provided for in 2-2-135 and for all other acts is provided for in 2-2-136;

(iii) local government officers and employees is provided for in 2-2-144.

(b) Any money collected in the civil actions that is not reimbursement for the cost of the action must be deposited in the general fund of the unit of government.

2-2-104. Rules of conduct for public officers, legislators, and public employees. (1) Proof of commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A public officer, legislator, or public employee may not:

(a) disclose or use confidential information acquired in the course of official duties in order to further substantially the individual's personal economic interests; or

(b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:

(i) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or

(ii) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

(2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of the services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

(3) (a) Except as provided in subsection (3)(b), a public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated, unless:

(i) the public officer, legislator, or public employee reimburses the public entity from which the employee is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent; or

(ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the amount of salary received from the other public employer in order to avoid duplicate compensation for the overlapping hours.

(b) Subsection (3)(a) does not prohibit:

(i) a public officer, legislator, or public employee from receiving income from the use of accrued leave or compensatory time during the period of overlapping employment; or

(ii) a public school teacher from receiving payment from a college or university for the supervision of student teachers who are enrolled in a teacher education program at the college or university if the supervision is performed concurrently with the school teacher's duties for a public school district.

(c) In order to determine compliance with this subsection (3), a public officer, legislator, or public employee subject to this subsection (3) shall disclose the amounts received from the two separate public employment positions to the commissioner of political practices.

2-2-105. Ethical requirements for public officers and public employees.

(1) The requirements in this section are intended as rules of conduct, and violations constitute a breach of the public trust and public duty of office or employment in state or local government.

(2) Except as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

(3) A public officer or public employee may not, within 12 months following the voluntary termination of office or employment, obtain employment in which the officer or employee will take direct advantage, unavailable to others, of matters with which the officer or employee was directly involved during a term of office or during employment.

These matters are rules, other than rules of general application, that the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the officer or employee was an active participant.

(4) When a public employee who is a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority is required to take official action on a matter as to which the public employee has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter, the public employee shall disclose the interest creating the conflict prior to participating in the official action.

(5) A public officer or public employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the officer or employee has a substantial personal interest in a competing firm or undertaking.

2-2-106. Disclosure. (1) (a) Prior to December 15 of each even-numbered year, each state officer or holdover senator shall file with the commissioner of political practices a business disclosure statement on a form provided by the commissioner. An individual filing pursuant to subsection (1)(b) or (1)(c) is not required to file under this subsection (1)(a) during the same period.

(b) Each candidate for a statewide or a state office elected from a district shall, within 5 days of the time that the candidate files for office, file a business disclosure statement with the commissioner of political practices on a form provided by the commissioner.

(c) An individual appointed to office who would be required to file under subsection (1)(a) or (1)(b) is required to file the business disclosure statement at the earlier of the time of submission of the person's name for confirmation or the assumption of the office.

(2) The statement must provide the following information:

(a) the name, address, and type of business of the individual;

(b) each present or past employing entity from which benefits, including retirement benefits, are currently received by the individual;

(c) each business, firm, corporation, partnership, and other business or professional entity or trust in which the individual holds an interest;

(d) each entity not listed under subsections (2)(a) through (2)(c) in which the individual is an officer or director, regardless of whether or not the entity is organized for profit; and

(e) all real property, other than a personal residence, in which the individual holds an interest. Real property may be described by general description.

(3) An individual may not assume or continue to exercise the powers and duties of the office to which that individual has been elected or appointed until the statement has been filed as provided in subsection (1).

(4) The commissioner of political practices shall make the business disclosure statements available to any individual upon request.

2-2-111. Rules of conduct for legislators. Proof of commission of any act enumerated in this section is proof that the legislator committing the act has breached the legislator's public duty. A legislator may not:

(1) accept a fee, contingent fee, or any other compensation, except the official compensation provided by statute, for promoting or opposing the passage of legislation;

(2) seek other employment for the legislator or solicit a contract for the legislator's services by the use of the office; or

(3) accept a fee or other compensation, except as provided for in 5-2-302, from a Montana state agency or a political subdivision of the state of Montana for speaking to the agency or political subdivision.

2-2-112. Ethical requirements for legislators. (1) The requirements in this section are intended as rules for legislator conduct, and violations constitute a breach of the public trust of legislative office.

(2) A legislator has a responsibility to the legislator's constituents to participate in all matters as required in the rules of the legislature. A legislator concerned with the possibility of a conflict may briefly present the facts to the committee of that house that is assigned the determination of ethical issues. The committee shall advise the legislator as to whether the legislator should disclose the interest prior to voting on the issue pursuant to the provisions of subsection (5). The legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest.

(3) When a legislator is required to take official action on a legislative matter as to which the legislator has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter, the legislator shall disclose the interest creating the conflict prior to participating in the official action, as provided in subsections (2) and (5) and the rules of the legislature. In making a decision, the legislator shall consider:

- (a) whether the conflict impedes the legislator's independence of judgment;
- (b) the effect of the legislator's participation on public confidence in the integrity of the legislature;
- (c) whether the legislator's participation is likely to have any significant effect on the disposition of the matter; and
- (d) whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation.

(4) A conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class.

(5) A legislator shall disclose an interest creating a conflict, as provided in the rules of the legislature. A legislator who is a member of a profession, occupation, or class affected by legislation is not required to disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct and distinctive personal impact on the legislator. A legislator may seek a determination from the appropriate committee provided for in 2-2-135.

2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

- (a) subject to subsection (7), use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor and department director.

(3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

(i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a ballot issue on state or local government operations;

(ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of law governing public meetings of the local board of trustees, including the resulting dissemination of information by a board of trustees or a school superintendent or a designated employee in a district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors. Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors.

(c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express personal political views.

(4) A candidate, as defined in 13-1-101(6)(a), may not use or permit the use of state funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains the candidate's name, picture, or voice except in the case of a state or national emergency and then only if the announcement is reasonably necessary to the candidate's official functions.

(5) A public officer or public employee may not participate in a proceeding when an organization, other than an organization or association of local government officials, of which the public officer or public employee is an officer or director is:

(a) involved in a proceeding before the employing agency that is within the scope of the public officer's or public employee's job duties; or

(b) attempting to influence a local, state, or federal proceeding in which the public officer or public employee represents the state or local government.

(6) A public officer or public employee may not engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization, other than an organization or association of local government officials, of which the public officer or public employee is a member while performing the public officer's or public employee's job duties. The provisions of this subsection do not prohibit a public officer or public employee from performing charitable fundraising activities if approved by the public officer's or public employee's supervisor or authorized by law.

(7) A listing by a public officer or a public employee in the electronic directory provided for in 30-17-101 of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this section. The public officer or public employee may not make arrangements for the listing in the electronic directory during work hours.

(8) A department head or a member of a quasi-judicial or rulemaking board may perform an official act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute and if the person complies with the disclosure procedures under 2-2-131.

(9) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless the member is also a full-time public employee.

(10) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to performing the official act.

2-2-131. Disclosure. A public officer or public employee shall, prior to acting in a manner that may impinge on public duty, including the award of a permit, contract, or license, disclose the nature of the private interest that creates the conflict. The public officer or public employee shall make the disclosure in writing to the commissioner of political practices, listing the amount of private interest, if any, the purpose and duration of the person's services rendered, if any, and the compensation received for the services or other information that is necessary to describe the interest. If the public officer or public employee then performs the official act involved, the officer or employee shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act.

2-2-135. Ethics committees. (1) Each house of the legislature shall establish an ethics committee. Subject to 5-5-234, the committee must consist of two members of the majority party and two members of the minority party. The committees may meet jointly. Each committee shall educate members concerning the provisions of this part concerning legislators and may consider conflicts between public duty and private interest as provided in 2-2-112. The joint committee may consider matters affecting the entire legislature.

(2) Pursuant to Article V, section 10, of the Montana constitution, the legislature is responsible for enforcement of the provisions of this part concerning legislators.

2-2-136. Enforcement for state officers, legislators, and state employees -- referral of complaint involving county attorney. (1) (a) A person alleging a violation of this part by a state officer, legislator, or state employee may file a complaint with the commissioner of political practices. The commissioner does not have jurisdiction for a complaint concerning a legislator if a legislative act is involved in the complaint. The commissioner also has jurisdiction over complaints against a county attorney that are referred by a local government review panel pursuant to 2-2-144 or filed by a person directly with the commissioner pursuant to 2-2-144(6). The commissioner may request additional information from the complainant or the person who is the subject of the complaint to make an initial determination of whether the complaint states a potential violation of this part.

(b) The commissioner may dismiss a complaint that is frivolous, does not state a potential violation of this part, or does not contain sufficient allegations to enable the commissioner to determine whether the complaint states a potential violation of this part. If the issues presented in a complaint have been addressed and decided in a prior decision and the commissioner determines that no additional factual development is necessary, the commissioner may issue a summary decision without holding an informal contested case hearing on the complaint.

(c) Except as provided in subsection (1)(b), if the commissioner determines that the complaint states a potential violation of this part, the commissioner shall hold an informal contested case hearing on the complaint as provided in Title 2, chapter 4, part 6. The commissioner shall issue a decision based upon the record established before the commissioner.

(2) If the commissioner determines that a violation of this part has occurred, the commissioner may impose an administrative penalty of not less than \$50 or more than \$1,000, and if the violation was committed by a state employee, the commissioner may also recommend that the employing state agency discipline the employee. The employing entity of a state employee may take disciplinary action against an employee for a violation of this part, regardless of whether the commissioner makes a recommendation for discipline. The commissioner may assess the costs of the proceeding against the person bringing the charges if the commissioner determines that a violation did not occur or against the officer or employee if the commissioner determines that a violation did occur.

(3) A party may seek judicial review of the commissioner's decision, as provided in chapter 4, part 7, of this title, after a hearing, a dismissal, or a summary decision issued pursuant to subsection (1)(b).

(4) Except for records made public in the course of a hearing held under subsection (1) and records that are open for public inspection pursuant to Montana law, a complaint and records obtained or prepared by the commissioner in connection with an investigation or complaint are

confidential documents and are not open for public inspection. The complainant and the person who is the subject of the complaint shall maintain the confidentiality of the complaint and any related documents released to the parties by the commissioner until the commissioner issues a decision. However, the person who is the subject of a complaint may waive, in writing, the right of confidentiality provided in this subsection. If a waiver is filed with the commissioner, the complaint and any related documents must be open for public inspection. The commissioner's decision issued after a hearing is a public record open to inspection.

(5) When a complaint is filed, the commissioner may issue statements or respond to inquiries to confirm that a complaint has been filed, to identify against whom it has been filed, and to describe the procedural aspects and status of the case.

(6) The commissioner may adopt rules to carry out the responsibilities and duties assigned by this part.

2-2-144. Enforcement for local government. (1) Except as provided in subsections (5) and (6), a person alleging a violation of this part by a local government officer or local government employee shall notify the county attorney of the county where the local government is located. The county attorney shall request from the complainant or the person who is the subject of the complaint any information necessary to make a determination concerning the validity of the complaint.

(2) If the county attorney determines that the complaint is justified, the county attorney may bring an action in district court seeking a civil fine of not less than \$50 or more than \$1,000. If the county attorney determines that the complaint alleges a criminal violation, the county attorney shall bring criminal charges against the officer or employee.

(3) If the county attorney declines to bring an action under this section, the person alleging a violation of this part may file a civil action in district court seeking a civil fine of not less than \$50 or more than \$1,000. In an action filed under this subsection, the court may assess the costs and attorney fees against the person bringing the charges if the court determines that a violation did not occur or against the officer or employee if the court determines that a violation did occur. The court may impose sanctions if the court determines that the action was frivolous or intended for harassment.

(4) The employing entity of a local government employee may take disciplinary action against an employee for a violation of this part.

(5) (a) A local government may establish a three-member panel to review complaints alleging violations of this part by officers or employees of the local government. The local government shall establish procedures and rules for the panel. The members of the panel may not be officers or employees of the local government. The panel shall review complaints and may refer to the county attorney complaints that appear to be substantiated. If the complaint is against the county attorney, the panel shall refer the matter to the commissioner of political practices and the complaint must then be processed by the commissioner pursuant to 2-2-136.

(b) In a local government that establishes a panel under this subsection (5), a complaint must be referred to the panel prior to making a complaint to the county attorney.

(6) If a local government review panel has not been established pursuant to subsection (5), a person alleging a violation of this part by a county attorney shall file the complaint with the commissioner of political practices pursuant to 2-2-136.

2-2-201. Public officers, employees, and former employees not to have interest in contracts. (1) Members of the legislature; state, county, city, town, or township officers; or any deputies or employees of an enumerated governmental entity may not be interested in any contract made by them in their official capacity or by anybody, agency, or board of which they are members or employees if they are directly involved with the contract. A former employee may not, within 6 months following the termination of employment, contract or be employed by an employer who contracts with the state or any of its subdivisions involving matters with which the former employee was directly involved during employment.

(2) In this section, the term:

- (a) "be interested in" does not include holding a minority interest in a corporation;
- (b) "contract" does not include:
 - (i) contracts awarded based on competitive procurement procedures conducted after the date of employment termination;
 - (ii) merchandise sold to the highest bidder at public auctions;
 - (iii) investments or deposits in financial institutions that are in the business of loaning or receiving money;
 - (iv) a contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract. It is presumed that a local government could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than 10% of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.
- (c) "directly involved" means the person directly monitors a contract, extends or amends a contract, audits a contractor, is responsible for conducting the procurement or for evaluating proposals or vendor responsibility, or renders legal advice concerning the contract;
- (d) "former employee" does not include a person whose employment with the state was involuntarily terminated because of a reduction in force or other involuntary termination not involving violation of the provisions of this chapter.

2-2-202. Public officers not to have interest in sales or purchases. State, county, town, township, and city officers must not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

2-2-203. Voidable contracts. Every contract made in violation of any of the provisions of 2-2-201 or 2-2-202 may be avoided at the instance of any party except the officer interested therein.

2-2-204. Dealings in warrants and other claims prohibited. The state officers, the several county, city, town, and township officers of this state, their deputies and clerks, are prohibited from purchasing or selling or in any manner receiving to their own use or benefit or to the use or benefit of any person or persons whatever any state, county, or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state or any county, city, town, or township thereof except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy, clerk, and evidences of the funded indebtedness of such state, county, city, township, town, or corporation.

2-2-205. Affidavit to be required by auditing officers. Each officer whose duty it is to audit and allow the accounts of other state, county, city, township, or town officers shall, before allowing the accounts, require each of the officers to make and file with the auditing officer an affidavit that the affiant has not violated any of the provisions of this part.

2-2-206. Officers not to pay illegal warrant. Officers charged with the disbursement of public moneys must not pay any warrant or other evidence of indebtedness against the state, county, city, town, or township when the same has been purchased, sold, received, or transferred contrary to any of the provisions of this part.

2-2-207. Settlements to be withheld on affidavit. (1) Each officer charged with the disbursement of public money who is informed by affidavit establishing probable cause that an officer whose account is about to be settled, audited, or paid has violated any of the provisions of this part shall suspend the settlement or payment and cause the officer to be prosecuted for the violation by the county attorney.

(2) If there is a judgment for the defendant upon prosecution, the proper officer may proceed to settle, audit, or pay the account as if an affidavit had not been filed.

2-2-301. Nepotism defined. Nepotism is the bestowal of political patronage by reason of relationship rather than of merit.

2-2-302. Appointment of relative to office of trust or emolument unlawful -- exceptions -- publication of notice. (1) Except as provided in subsection (2), it is unlawful for a person or member of any board, bureau, or commission or employee at the head of a department of this state or any political subdivision of this state to appoint to any position of trust or emolument any person related or connected by consanguinity within the fourth degree or by affinity within the second degree.

(2) The provisions of 2-2-303 and this section do not apply to:

- (a) a sheriff in the appointment of a person as a cook or an attendant;
- (b) school district trustees if all the trustees, with the exception of any trustee who is related to the person being appointed and who must abstain from voting for the appointment, approve the appointment of a person related to a trustee;
- (c) a school district in the employment of a person as a substitute teacher who is not employed as a substitute teacher for more than 30 consecutive school days as defined by the trustees in 20-1-302;

(d) the renewal of an employment contract of a person who was initially hired before the member of the board, bureau, or commission or the department head to whom the person is related assumed the duties of the office;

(e) the employment of election judges;

(f) the employment of pages or temporary session staff by the legislature; or

(g) county commissioners of a county with a population of less than 10,000 if all the commissioners, with the exception of any commissioner who is related to the person being appointed and who must abstain from voting for the appointment, approve the appointment of a person related to a commissioner.

(3) Prior to the appointment of a person referred to in subsection (2)(b) or (2)(g), written notice of the time and place for the intended action must be published at least 15 days prior to the intended action in a newspaper of general circulation in the county in which the school district is located or the county office or position is located.

2-2-303. Agreements to appoint relative to office unlawful. It shall further be unlawful for any person or any member of any board, bureau, or commission or employee of any department of this state or any political subdivision thereof to enter into any agreement or any promise with other persons or any members of any boards, bureaus, or commissions or employees of any department of this state or any of its political subdivisions thereof to appoint to any position of trust or emolument any person or persons related to them or connected with them by consanguinity within the fourth degree or by affinity within the second degree.

2-2-304. Penalty for violation of nepotism law. A public officer or employee or a member of any board, bureau, or commission of this state or any political subdivision who, by virtue of the person's office, has the right to make or appoint any person to render services to this state or any subdivision of this state and who makes or appoints a person to the services or enters into any agreement or promise with any other person or employee or any member of any board, bureau, or commission of any other department of this state or any of its subdivisions to appoint to any position any person or persons related to the person making the appointment or connected with the person making the appointment by consanguinity within the fourth degree or by affinity within the second degree is guilty of a misdemeanor and upon conviction shall be punished by a fine not less than \$50 or more than \$1,000, by imprisonment in the county jail for not more than 6 months, or both.

APPENDIX 5

PUBLIC PARTICIPATION

2-3-101. Legislative intent. The legislature finds and declares pursuant to the mandate of Article II, section 8, of the 1972 Montana constitution that legislative guidelines should be established to secure to the people of Montana their constitutional right to be afforded reasonable opportunity to participate in the operation of governmental agencies prior to the final decision of the agency.

2-3-102. Definitions. As used in this part, the following definitions apply:

(1) "Agency" means any board, bureau, commission, department, authority, or officer of the state or local government authorized by law to make rules, determine contested cases, or enter into contracts except:

(a) the legislature and any branch, committee, or officer thereof;

(b) the judicial branches and any committee or officer thereof;

(c) the governor, except that an agency is not exempt because the governor has been designated as a member thereof; or

(d) the state military establishment and agencies concerned with civil defense and recovery from hostile attack.

(2) "Agency action" means the whole or a part of the adoption of an agency rule, the issuance of a license or order, the award of a contract, or the equivalent or denial thereof.

(3) "Rule" means any agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include:

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or

(b) declaratory rulings as to the applicability of any statutory provision or of any rule.

2-3-103. Public participation -- governor to ensure guidelines adopted.

(1) (a) Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures must ensure adequate notice and assist public participation before a final agency action is taken that is of significant interest to the public. The agenda for a meeting, as defined in 2-3-202, must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the agency conducting the meeting. However, the agency may not take action on any matter discussed unless specific notice of that matter is included on an

agenda and public comment has been allowed on that matter. Public comment received at a meeting must be incorporated into the official minutes of the meeting, as provided in 2-3-212.

(b) For purposes of this section, "public matter" does not include contested case and other adjudicative proceedings.

(2) The governor shall ensure that each board, bureau, commission, department, authority, agency, or officer of the executive branch of the state adopts coordinated rules for its programs. The guidelines must provide policies and procedures to facilitate public participation in those programs, consistent with subsection (1). These guidelines must be adopted as rules and published in a manner so that the rules may be provided to a member of the public upon request.

2-3-104. Requirements for compliance with notice provisions. An agency shall be considered to have complied with the notice provisions of 2-3-103 if:

- (1) an environmental impact statement is prepared and distributed as required by the Montana Environmental Policy Act, Title 75, chapter 1;
- (2) a proceeding is held as required by the Montana Administrative Procedure Act;
- (3) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or
- (4) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision to permit public comment on the matter.

2-3-105. Supplemental notice by radio or television. (1) An official of the state or any of its political subdivisions who is required by law to publish a notice required by law may supplement the publication by a radio or television broadcast of a summary of the notice or by both when in the official's judgment the public interest will be served.

(2) The summary of the notice must be read without a reference to any person by name who is then a candidate for political office.

(3) The announcements may be made only by duly employed personnel of the station from which the broadcast emanates.

(4) Announcements by political subdivisions may be made only by stations situated within the county of origin of the legal notice unless a broadcast station does not exist in that county, in which case announcements may be made by a station or stations situated in any county other than the county of origin of the legal notice.

2-3-106. Period for which copy retained. Each radio or television station broadcasting any summary of a legal notice shall for a period of 6 months subsequent to such broadcast retain at its office a copy or transcription of the text of the summary as actually broadcast, which shall be available for public inspection.

2-3-107. Proof of publication by broadcast. Proof of publication of a summary of any notice by radio or television broadcast shall be by affidavit of the manager, an assistant manager, or a program director of the radio or television station broadcasting the same.

2-3-111. Opportunity to submit views -- public hearings. (1) Procedures for assisting public participation must include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

(2) When a state agency other than the board of regents proposes to take an action that directly impacts a specific community or area and a public hearing is held, the hearing must be held in an accessible facility in the impacted community or area or in the nearest community or area with an accessible facility.

2-3-112. Exceptions. The provisions of 2-3-103 and 2-3-111 do not apply to:

(1) an agency decision that must be made to deal with an emergency situation affecting the public health, welfare, or safety;

(2) an agency decision that must be made to maintain or protect the interests of the agency, including but not limited to the filing of a lawsuit in a court of law or becoming a party to an administrative proceeding; or

(3) a decision involving no more than a ministerial act.

2-3-113. Declaratory rulings to be published. The declaratory rulings of any board, bureau, commission, department, authority, agency, or officer of the state which is not subject to the Montana Administrative Procedure Act shall be published and be subject to judicial review as provided under 2-4-623(6) and 2-4-501, respectively.

2-3-114. Enforcement. The district courts of the state have jurisdiction to set aside an agency decision under this part upon petition of any person whose rights have been prejudiced. A petition pursuant to this section must be filed within 30 days of the date on which the petitioner learns, or reasonably should have learned, of the agency's decision.

2-3-201. Legislative intent -- liberal construction. The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.

2-3-202. Meeting defined. As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public agency or association described in 2-3-203, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.

2-3-203. Meetings of public agencies and certain associations of public agencies to be open to public -- exceptions. (1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or

agencies supported in whole or in part by public funds or expending public funds, including the supreme court, must be open to the public.

(2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public.

(3) The presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

(4) (a) Except as provided in subsection (4)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.

(b) A meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public bodies or associations described in subsections (1) and (2).

(5) The supreme court may close a meeting that involves judicial deliberations in an adversarial proceeding.

(6) Any committee or subcommittee appointed by a public body or an association described in subsection (2) for the purpose of conducting business that is within the jurisdiction of that agency is subject to the requirements of this section.

2-3-211. Recording. Accredited press representatives may not be excluded from any open meeting under this part and may not be prohibited from taking photographs, televising, or recording such meetings. The presiding officer may assure that such activities do not interfere with the conduct of the meeting.

2-3-212. Minutes of meetings -- public inspection. (1) Appropriate minutes of all meetings required by 2-3-203 to be open shall be kept and shall be available for inspection by the public.

(2) Such minutes shall include without limitation:

- (a) date, time, and place of meeting;
- (b) a list of the individual members of the public body, agency, or organization in attendance;
- (c) the substance of all matters proposed, discussed, or decided; and
- (d) at the request of any member, a record by individual members of any votes taken.

2-3-213. Voidability. Any decision made in violation of 2-3-203 may be declared void by a district court having jurisdiction. A suit to void a decision must be commenced within 30 days of the date on which the plaintiff or petitioner learns, or reasonably should have learned, of the agency's decision.

2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know. A plaintiff who prevails in an action brought in district court to enforce the plaintiff's rights under Article II, section 9, of the Montana constitution may be awarded costs and reasonable attorney fees.

LIVINGSTON CITY COMMISSION HANDBOOK



Revised and approved December 19, 2023

TABLE OF CONTENTS

| | |
|---|----|
| FOReWoRD | 4 |
| Vision, & Goals | 5 |
| ORGANIZATION | 6 |
| QUESTIONS AND ANSWERS ABOUT COMMISSION-MANAGER GOVERNMENT | 8 |
| LIST OF CITY BOARDS & COMMITTEES– May 2022..... | 10 |
| BUDGET | 11 |
| PERSONNEL..... | 12 |
| Unions | 12 |
| Pensions | 12 |
| Compensation..... | 13 |
| MISCELLANEOUS ITEMS..... | 15 |
| LIABILITY INSURANCE | 15 |
| ANNEXATION..... | 15 |
| Policies and PROCEDURES regarding COMMISSIONers agenda PACKET | 15 |
| Policy and PROCEDURE regarding Order of Business | 16 |
| POLICY ON COMMISSIONERS Remote participation..... | 23 |
| COMMISSION VACANCY application | 25 |
| DEVELOPMENT REVIEW COMMITTEE..... | 26 |
| CODE OF ORDINANCES..... | 26 |
| WASTE WATER TREATMENT PLANT | 26 |
| POLICY AND PROCEDURES MANUAL AND WAGE PARITY GUIDE | 26 |
| COMMISSIONERS CODE of CONDUCT | 26 |
| SNOW REMOVAL & Sanding..... | 32 |
| AMBULANCE TRANSFERS | 33 |
| QUESTIONS AND ANSWERS on Departmental Policies & Procedures | 33 |
| GLOSSARY OF TERMS ASSOCIATED WITH LOCAL GOVERNMENT | 37 |
| ACRONYMS..... | 44 |
| Appendices..... | 50 |
| Appendix 1 | 51 |
| Appendix 2 | 75 |
| Appendix 3 | 81 |
| Appendix 4 | 86 |
| Appendix 5 | 99 |

FOREWORD

Welcome City Commissioners!

The purpose of this handbook is to provide the City Commission members with some commonly shared background information on the organization and working elements of the Municipal Commission-Manager form of government in Livingston. This Handbook will also be useful to organizations and individuals interested in our government. Copies of the Handbook are available upon request.

Livingston is a second class City in Montana with a population of approximately 8,790, according to the 2021 American Community Survey. This population makes Livingston the eleventh largest community in the State of Montana.

This handbook is separated into the following general categories:

- Purpose/Mission/Goals/Values/Powers
- Organization
- Budget
- Personnel
- Miscellaneous Items
- Glossary of Terms
- Appendices

The City Manager will provide orientation training sessions to newly elected City Commissioners at mutually agreed upon dates and times. This orientation will consist of general overview of departments, functions and introduction of Department Directors as well as the role of the City Manager as it concerns City employees.

In our form of government, the City Commission works with and through the City Manager as its liaison to all other City staff and resources. The City Manager is responsible for all City employees and the performance of their jobs. If you would like an idea researched or task performed, or want to introduce a project or issue through the City Commission, please work with the City Manager to ensure that the item is appropriately addressed through Commission deliberation or other action. The “Commission Comments” section of the regular Commission agenda is another method that issues can be brought up to the Commission and Manager.

Thank you for the interest and commitment to your community that you have displayed by pursuing and achieving local elected office. I look forward to working for and with you in the service of our community.

Grant Gager
CITY MANAGER

VISION, & GOALS

Vision

Livingston as a community is:

- People - Engaged, equitable, family-friendly and resilient
- Economy - Economically diverse and vibrant
- Place - Fostering and preserving its unique physical character
- Context - Maintaining its relationship to the neighboring open land

Goals

LAND USE- Adjust current regulations to implement the Growth Policy.

- Create policies that develop infill and limits sprawl
- Update the Zoning Code, Subdivision, and Planned Urban Development process consistent with the Growth Policy
- Establish a process with the county to address the Extra-Territorial Jurisdiction (ETJ)
- Create Community Gateway overlay zones
- Develop a Downtown plan that includes parking and development
- Define and manage an urban boundary interface plan to address fire, wildlife, and waterways

HOUSING - Develop tools to incentivize balanced and diverse housing options.

- Influence legislative action at the state level
- Complete an economic needs study
- Establish an ad hoc community group to propose a set of policies and tools for the city:
 - To explore short-term rental regulations
 - To develop tools to incentivize reasonably priced housing
 - To investigate direct action opportunities and partnerships for publicly owned land

TRANSPORTATION/INFRASTRUCTURE - Develop the needed infrastructure for sustained growth.

- Increase and improve connectivity (including for pedestrians) to and from the northside
- Implement the Active Transportation Plan
- Address stormwater and ground mitigation requirements for 10,000-plus residents
- Develop a plan to preserve access to clean water

LOCAL SERVICES – Maintain our strong performing local services as we grow.

- Identify safety net issues, including housing insecurity and homelessness
- Strengthen social services locally
- Maintain a high level of performance for emergency response services
- Maintain and improve our local utility service infrastructure
- Develop a robust Public Transportation Plan

ORGANIZATION

The City's workforce is organized into 4 major areas for more efficient operations. These departments are:

- General Government
- Public Safety
- Public Works
- Planning & Building/Code Enforcement

The Department Heads are appointed by the City Manager, with the exception of the Fire Chief whose nomination and appointment by the City Manager requires Commission concurrence. The City Attorney is also appointed by the City Manager.

The five Commissioners will elect a Chair and Vice-Chair from among themselves at the first meeting in January after an election in November.

The City Judge is elected by the voters for a 4-year term.

The City Commission appoints representatives to several City-County Boards including:

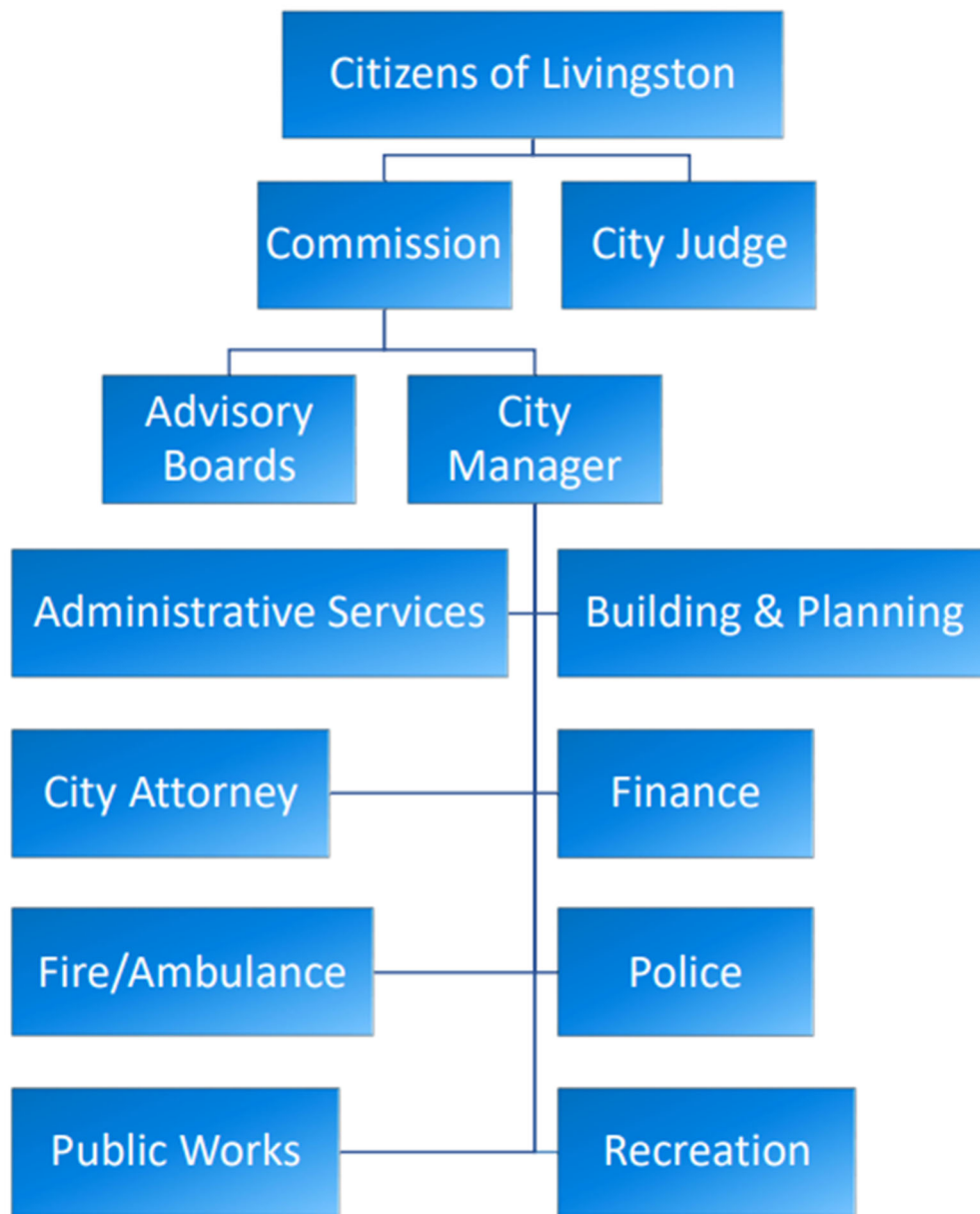
- Library Board
- City-County Airport Board
- City-County Health Board

The City Commission also maintains advisory and functional boards including:

- Consolidated Land Use Board
- Historic Preservation Board
- Urban Renewal Agency

The City Manager hires and dismisses all City non-elected employees, with the exception of the Fire Chief whose hiring requires Commission concurrence. The City Manager nominates Police Commissioners and the City Commission confirms these nominations. The City Manager also may appoint task forces and committees as necessary.

See the following chart for more detailed information:



QUESTIONS AND ANSWERS ABOUT COMMISSION-MANAGER GOVERNMENT

(Material taken from "City Manager Government - Some Questions and Answers", Governmental research Center, University of Kansas, Lawrence, Kansas, 1960 and Handbook for Commission members in Commission-Manager Cities, National Municipal League, New York, 1976. With emphasis and minor modifications added.)

1. What are the chief features of Commission-Manager Government?

A small number of Commissioners are elected - on a non-partisan ballot, and generally at large -- to serve as the City's governing body. This body determines municipal policies, adopts ordinances, votes appropriations, and appoints the chief administrative officer, the City Manager. The City Manager is responsible for the day-to-day administration of city operations, advises the City Commission on public policy; and holds office at the pleasure of the Commission.

There is a distinction between the functions of POLICY-MAKING (representation) and POLICY EXECUTION (administration), the former being the duty of the commission, the latter the duty of the Manager. It is inappropriate management for a Commissioner to tell an employee, what he/she wants accomplished. Because the City Manager serves the governing body as a whole, direction must be given by the majority will of the governing body. Since the governing body is responsible to the public for actions of the City Manager, the success of this form of government depends to a very large extent on the maintenance of mutual understanding and a high degree of cooperation between the Manager and Commission.

2. To whom are the City Manager and other City employees responsible?

The City Manager is responsible to the Commission, which may terminate their service at any time. All department heads and other City employees, including City Attorney, are responsible to the City Manager. The Fire Chief is responsible to the City Manager, but appointment of the Fire Chief is subject to the City Commission approval. The City Judge is an elected official and the judicial branch of government is separate from the Executive or Legislative branches, but subject to the appropriation authority of the legislative body.

3. How and to what extent does the Manager participate in policy determination?

The City Manager is expected to prepare and submit the annual budget to the City Commission. In addition to supplying information requested by the body, the City Manager may make recommendations on any matter which requires Commission action. The Commission may adopt or modify these recommendations, and whatever action they take is binding on the City Manager.

4. What should be the relation between the Commission and Manager?

The Manager is responsible to the Commission for the proper conduct of all city activities under the direction of the office, providing information and advice, and making recommendations. The City Manager is the Commission’s technical advisor and consultant, but only the Commission can make laws and establish policies. Thus, the burden for political leadership falls squarely on the Commission.

City Managers cannot and must not permit themselves to assume responsibilities that rest exclusively in the City Commission. The City Manager can and should outline desirable community goals, but not make an issue of the proposals. If the Commission cannot be convinced of the logic of the plans, the Manager will devise another plan or simply follow the Commission’s instructions. But once the Commission has acted, the Manager may assume the responsibility as an administrative duty of acquainting the public with the policy which has been adopted.

5. What control do citizens have of municipal policy and administration under the City Manager plan?

The City Manager plan provides for direct citizen control through the Commission. The Commission has authority to hire and fire the City Manager at will, but continuation of the Commissioners' term of office is determined by the voters. The Manager is bound by the over-all policies and specific decisions made by the Commission, and ultimately is responsible to the voter.

6. What are the arguments used for adoption or continuation of the City Manager plan?

- a. A single, small governing body is made collectively responsible to the voters for all aspects of City government.
- b. City Manager government insures a greater degree of separation between "politics" and administration, than is found in other forms of government, at the same time increasing the control of the elected governing body over all aspects of municipal affairs.
- c. As technical expertise is not required of them, it is possible to have more representative Commission; Commission positions are more attractive to qualified citizens as they do not require full-time attention.
- d. It appears that generally this form of government has increased the prestige of the Commission and improved the status of expert administration in municipal government.
- e. It is easy to fix responsibility for municipal operations when one person coordinates City administration.
- f. A business-like attitude is brought to the job of running a City and more coordination exists in government than was previously the case.
- g. The plan, as far as can be determined, has brought about a much more efficient administration than was found under the old systems of municipal government.
- h. The City Manager plan increases attention to local problems and diminishes partisanship based on traditional political divisions.
- i. The Manager plan in many cases raises the morale of municipal employees and gives them a sense of security in their jobs than is present under other forms of government.
- j. Although City Managers have not universally lowered the total cost of government in their respective communities materially, unit costs often have been lowered.
- k. It is easier to remove a manager for malfeasance than one or more elected officials.

LIST OF CITY BOARDS & COMMITTEES- May 2022

ALL CITY BOARD/COMMITTEE MEETINGS WILL BE HELD IN THE COMMUNITY ROOM OF THE CITY/COUNTY COMPLEX UNLESS ADVERTISED OTHERWISE. FOR CURRENT MEMBERSHIP LISTINGS, VISIT THE CITY BOARDS AND COMMITTEES PAGES AT WWW.LIVINGSTONMONTANA.ORG/BC

HISTORICAL PRESERVATION COMMISSION-
MEETS 2ND TUESDAY OF EACH MONTH AT 3:30 P.M.

LIBRARY BOARD-
MEETS 3RD THURSDAY, 4:00 P.M. - LIBRARY

CITY CONSOLIDATED LAND USE BOARD-
MEETS 3RD WEDNESDAY OF MONTH AT 5:30 P.M.

URBAN RENEWAL AGENCY –
MEETS 4TH TUESDAY OF MONTH AT 4:30 P.M.

SISTER CITY COMMITTEE
MEETS AS NECESSARY, AND AS ADVERTISED

POLICE COMMISSION-
MEETS AS NECESSARY, AND AS ADVERTISED

CITY-COUNTY AIRPORT BOARD-
MEETS 4TH MONDAY, 9:00 A.M.

CITY-COUNTY HEALTH BOARD-
MEETS QUARTERLY - JANUARY, APRIL, JULY AND OCTOBER, 4TH WEDNESDAY, 5:30 P.M.

BUDGET

The City fiscal year runs from July 1 to June 30. The City Manager provides a recommended budget and the City Commission is responsible for approving a budget.

The City of Livingston is striving to incorporate the recommended practices promulgated by the National Advisory Commission on State and Local Budgeting (NACSLB) in its annual budget.

The budget process consists of activities that encompass the development, implementation, and evaluation of a plan for the provision of services and capital assets. A good budget process is characterized by several essential features.

- Incorporates a long-term perspective
- Establishes linkages to broad goals
- Focuses budgeting decisions on results and outcomes
- Involves and promotes effective communication with stakeholders

These key characteristics of good budgeting make clear that the budget process is not simply an exercise in balancing revenues and expenditures one year at a time, but is strategic in nature, encompassing a multi-year financial and operating plan that allocates resources on the basis of identified goals. A good budget process moves beyond the traditional concept of line-item expenditure control, providing incentives and flexibility to managers that can lead to improved program efficiency and effectiveness. The mission of the budget process is to help decision makers make informed choices about the provision of services and capital assets and to promote stakeholder participation in the process. Communication and involvement with citizens and other stakeholders is stressed. Communication and involvement are essential components of every aspect of the budget process.

PERSONNEL

The City of Livingston currently has approximately 100 Full Time Equivalent (FTE). These employees are a combination of full-time, part-time, and seasonal employees.

The word "seasonal" implies an individual to be hired by the department for a period not exceeding 6 months. These "seasonals" do not receive benefits. The staff for the swimming pool is only hired for the season that the pool is open.

UNIONS

There are three unions representing the City employees in a "Closed Shop" environment. Department Heads, Management Staff and office staff are non-union. The unions are:

- International Association of Firefighters (IAFF) (Fire Department).
- Montana Public Employees Association (MPEA) (Police & Dispatch Department).
- American Federation of State, County & Municipal Employees (AFSCME) (Public Works).

PENSIONS

Pension and Retirement Plans are a vital part of the compensation package. Substantially all full time employees are eligible for one of the following Pension or Retirement Plans:

MONTANA PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

Many full time employees, except Police and Firefighters are covered by the Montana Public Employee's Retirement System. The plan is administered by the State of Montana. All employees contribute 7.9% of their salary to the plan while the City contributed 8.27% of the employees' salaries to the plan and the State contributes .1%.

FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM (FURS)

The firefighters are covered under the Montana Firefighters' Unified Retirement System. The plan is a defined contributions/benefits plan. State law requires the contributions to be made and the benefits to be paid. Total contributions amount to 57.67% of defined compensation; 10.7% paid by the firefighter, 14.36% paid by the City, and 32.61% paid by the State of Montana. (Also, pursuant to the same statutory plan, the employee is required to contribute 1% for group life, accidental death and dismemberment insurance related to risk of loss to the plan for each participating member).

MUNICIPAL POLICE OFFICERS' - STATEWIDE RETIREMENT PLAN

The Police are covered under the POLICE RETIREMENT - STATEWIDE PLAN. The plan is a defined contribution/benefit plan. State law requires the contributions to be made and the benefits to be paid. The employee pays 9% of monthly compensation. The City's contributions are 14.41%

of the total monthly compensation. (MCA 19-9-703) The State’s contribution is 29.37%. (MCA 19-9-702) totaling 52.78% of the defined contribution.

INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT PLAN

All City employees may participate in the ICMA Retirement Corporation's multiemployer public employee deferred compensation plan. The plan was established under Section 457 of the Internal Revenue Code and therefore the City retains ownership of the portion of salary deferred.

COMPENSATION

There are various items in the Compensation Package for employees (contracts prevail):

- 12 paid holidays
- Longevity Pay - .005 times base pay per month for each year of service
- Bereavement Leave
- Sick Leave
 - Full-time employees accrue 12 day of leave per year (4 hours per pay period).
 - Accrued sick leave is usable after 3 months of employment.
 - Balance paid at 25% when you leave employment.
- Medical Insurance - paid at \$1,200 per month (capped).
- Vacation
 - 1 to 10 years of service – 120 hours per year.
 - 11 to 15 years of service – 144 hours per year.
 - 16 to 20 years of service – 168 hours per year.
 - 21 years of service and over – 192 hours per year.
 - Based on full-time employment. Less than full-time is prorated.
 - Accrued vacation leave is usable after 6 months of employment.
 - Maximum of two times annual in leave bank as of December 31st (90 days to use excess). Balance paid at 100% when you leave employment.
- Family and Medical Leave: Up to 12 work weeks of paid/unpaid leave during a calendar year period for eligible purposes.
 - Must use accumulated sick, vacation time prior to beginning unpaid leave.
- Health Insurance
 - Four Health insurance plans offered, with monthly contribution by the City, however, most plans require cost (pre-tax) sharing by the employee.
 - Coverage is effective the 1st of the month following date of employment.
 - Life Insurance – \$10,000 term life insurance coverage for the employee fully paid by City contribution
- Employees Assistance Program
 - Employees and their immediate family members may receive short-term counseling services at no charges.
- Medical Flex and/or Dependent Care Plans
 - Voluntary Benefit: Medical Flex – may elect a maximum of \$5000 family annually.
 - Voluntary Benefit: Dependent Flex – may elect a maximum of \$5000 annually.
 - Aflac Plans – which allows employees to use pre-tax and after tax dollars to fund medical, dental, vision plans.

- Life Insurance – Champion Life - Voluntary Group Life & AD&D.
- Deferred Compensation – 457 Plans
 - Voluntary Benefit: Employees have option of participating in the ICMA plan which is a supplemental retirement savings program – pretax.
 - Roth IRA – Voluntary Benefit: Employees have option of participating in the ICMA-Roth IRA supplement retirement saving program – after-tax.

MISCELLANEOUS ITEMS

LIABILITY INSURANCE

The City is a participant in the Montana Municipal Interlocal Authority (MMIA). This membership affords protection against liability and workers compensation claims beyond the affordable premium amounts and up to the statutory limits allowed by Montana law. Included in the premium are amounts necessary to fund the excess coverage. The MMIA assists the City by providing complete liability coverage up to the statutory maximum, while relieving the City of the expense of such coverage on the open market. In return the City secures a portion of the bond liability which was incurred to provide funds for a loss reserve with a note. Annual premiums are paid by the City to the MMIA to cover the entire liability.

ANNEXATION

There are several methods of annexation by which the City can extend its corporate boundaries. The most common annexations are initiated by a petition from the owner of a property that he/she wishes to bring into the City. In order to be annexed a property must be contiguous to the current City boundary or be already connected to City utilities. All annexations are at the discretion of the City Commission and the City is not compelled to annex any parcel.

POLICIES AND PROCEDURES REGARDING COMMISSIONERS AGENDA PACKET

The City staff prepares the City Commission agenda at the direction of the City Manager. The agenda and supporting documentation are emailed to Commissioners and are available in hard copy format for pick up by 5:00 p.m. on the Thursday before a City Commission meeting.

Members of the Commission may add items to the agenda in two ways. First, a Commissioner can ask the City Manager to place an item on the agenda. Alternatively, items must be added to the agenda if they are requested by one Commissioner and the request is seconded by a second Commissioner. All materials must be received by 12:00 p.m. (Noon) on the Tuesday before a Commission meeting to be included on the agenda.

The Commission packet is available on the city's website at www.livingstonmontana.org under Commission Meeting Agendas and Meeting Schedules. Commission packets and minutes, are also available at the Library for the community to review.

All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the Commission from the City Commissioners or City staff, shall be submitted by twelve (12) noon on the Tuesday immediately preceding the next regularly scheduled Commission meeting. All requests from the public to be placed on the agenda must be in to the City Manager by the Tuesday immediately preceding the next regularly scheduled Commission meeting. The Commission agenda shall be set by five (5) p.m. on the Tuesday immediately preceding the City Commission meeting. Whereupon, the City Manager shall immediately arrange a list of such matters according to the order of business specified herein, and provide each member of the Commission

with a copy of the same no later than the Thursday immediately preceding the Commission meeting. Copies of the agenda shall be available to the public from the City Clerk and one (1) copy shall be posted in City Hall for public viewing. The City Manager may approve late submittals deemed to be in the City's best interest by delivering the same to the City Clerk for delivery to the City Commission. However, late submittals are not the favored manner in which to do business and should be limited to unusual circumstances.

POLICY AND PROCEDURE REGARDING ORDER OF BUSINESS

1. Order of business

The City Manager shall prepare the Commission agenda, which shall be in substantially the following form:

- A. Call to Order
- B. Roll call
- C. Public Comment
- D. Consent agenda (no discussion should be necessary) *
 - Approval of minutes
 - General business, including Contracts
 - Renewal of licenses
 - Applications for special licenses
 - Claims (paying the bills)

* Consent items are those upon which the City Manager anticipates that no discussion should be necessary, however, by placing an item on the consent agenda does not limit the ability of a Commissioner from asking questions or making comments thereon. In the event a Commissioner believes that an item on the consent agenda should not be on the consent agenda, the Commissioner, at the beginning of any meeting may request one (1) or more items to be removed from the consent agenda for a separate vote. The presiding officer shall schedule such discussion and vote following the adoption of the consent agenda.

- E. Proclamations
- F. Scheduled Public Comment
- G. Action Items
 - Ordinances
 - Resolutions
 - Contracts
- H. City Manager Comment
- I. City Commission Comment
- J. Adjournment

2. Procedure to conduct business and motions.

A. Procedure to Conduct Business.

- 1. The Chair shall clearly announce the agenda item to be considered.

2. Following announcement of agenda item, the Chair shall invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the Chair, a member of the body, the City Manager, or a committee chair charged with providing input on the agenda item.

3. The Chair shall ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

4. The Chair may invite a motion. If a motion is offered, the Chair shall announce the name of the member of the body who makes the motion. If desired by the Chair, and to allow the body to hear from the public before making a motion, a motion may be invited by the Chair after item 6 (Public Comment).

5. The Chair shall determine if any member of the body wishes to second the motion. The Chair shall announce the name of the member of the body who seconds the motion. No motion shall be debated or put to a vote unless the same shall be seconded. If the motion is made and seconded, the Chair should make sure everyone understands the motion. This is done in one (1) of three (3) ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the recording secretary to repeat the motion.

- a. The Chair shall now invite discussion/debate of the motion by the body. Every member desiring to speak shall address the presiding officer, and upon recognition, shall confine himself to the question under debate, avoiding all personalities and indecorous language.
- b. A member, once recognized, shall not be interrupted when speaking unless it is to call him to order or as herein otherwise provided.
 - i. If a member, while speaking is called to order, he shall cease speaking until the question of order is determined, and, if in order, he shall be permitted to proceed.
- c. Order of rotation in matters of debate or discussion shall be at the discretion of the presiding officer.
 - i. A member shall not speak more than twice on the same subject without leave of the chair, nor more than once until every member desiring to speak on the pending question has had an opportunity to do so.

6. The Chair shall invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input on the agenda item being considered. The time for public comments is limited to four (4) minutes per commenter. To be recognized, each person desiring to give comment, testimony or

evidence shall sit down at the table provided and after being recognized, give his or her name and address before testifying, commenting or presenting other evidence. All comments, testimony and evidence shall be directed to the presiding officer. No questions shall be asked of a Commission member except through the presiding officer. At the conclusion of the public comments, the Chair shall announce that public input has concluded (or the public hearing as the case may be closed).

7. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

8. The Chair shall direct the City Manager to take a roll call vote. If members of the body do not vote, then they "abstain". Unless the rules of the body provide otherwise (or unless a super-majority is required as delineated in these rules) then a simple majority determines whether the motion passes or is defeated.

9. The Chair should announce the result of the vote and should announce what action (if any) the body has taken.

B. Motions, Majority Approval, Debatable or not and Exceptions.

1. The Basic Motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a 5-member committee to plan and put on our annual fundraiser."
2. The Motion to Amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a ten-member committee." A motion to amend takes the basic motion which is before the body and seeks to change it in some way. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way.
3. The Substitute Motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year." A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it.
4. Order of Consideration of Motions. There can only be three (3) motions on the floor at the same time. The Chair can reject a fourth motion until the Chair has

dealt with the three (3) that are on the floor and has resolved them. When there are two (2) or three (3) motions on the floor (after motions and seconds) at the same time, the vote should proceed first on the last motion that is made. So, for example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a ten-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year."

- a. First, the Chair would deal with the third (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion passed, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) failed then the Chair would proceed to consideration of the second (now, the last) motion on the floor, the motion to amend.
 - b. Second, if the substitute motion failed, the Chair would now deal with the second (now, the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five (5) members or ten (10) members). If the motion to amend passed the Chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed the Chair would now move to consider the main motion (the first motion) in its original format, not amended.
 - c. Third, the Chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or, if amended, would be in its amended format (ten-member committee), and the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.
5. Motion to Reconsider. A motion to reconsider requires a majority vote to pass, but there are two (2) special rules that apply only to the motion to reconsider.
- a. First, is timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body following due notice. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and by a two-thirds (2/3) majority, can allow a motion to reconsider to be made at another time following due notice.)

- b. Second, a motion to reconsider can only be made by certain members of the body. Accordingly, a motion to reconsider can only be made by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she can make the motion to reconsider (any other member of the body may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again. That would defeat the purpose of finality.
 - c. If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is then in order. The matter can be discussed and debated as if it were on the floor for the first time.
- 6. Simple Majority and Exceptions. All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which, effectively, cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds (2/3) vote of the entire commission (a super-majority) to pass:
 - a. Motion to Limit Debate. Whether a member says "I move the previous question" or "I move the question" or "I call the question" or "I move to limit debate", it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds (2/3) vote of the entire commission to pass.
 - b. Motion to Close Nominations. When choosing officers of the body (like the Chair) nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds (2/3) vote of the entire commission to pass.
 - c. Motion to Object to the Consideration of a Question. Normally, such a motion is unnecessary since the objectionable item can be tabled, or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds (2/3) vote of the entire commission to pass.
 - d. Emergency Measures. In the case of emergency measures, the emergency must be expressed in the preamble or in the body of the measure and the measure must receive a two-thirds (2/3) vote of the entire commission. In emergency ordinances, the resolutions shall include only such measures as are immediately necessary for the preservation of peace, health, and safety and shall not include a franchise to a corporation or individual, any provisions for the sale of real estate, any lease or letting of any property for a period exceeding one (1) year, or the purchase or sale of personal property exceeding five thousand dollars (\$5,000.00) in value. (7-5-4204 MCA)

e. Motion to Punish and Expel. The commission may punish a member and expel any member for the improper conduct upon a two-thirds (2/3) vote of the entire commission members. (7-5-4103 MCA).

7. Motions Debatable, Exceptions. The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Chair that it is time to move on and take action.

a. Exceptions. There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion):

i. A Motion to Adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

ii. A Motion to Recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

iii. A Motion to Fix the Time to Adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

iv. A Motion to Postpone Consideration. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold". The motion can contain a specific time in which the item can come back to the body: "I move we postpone consideration of this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to consider the item and bring it back to the body will have to be taken at a future meeting. A motion to postpone consideration an item (or to bring it back to the body) requires a simple majority vote.

v. A Motion to Limit Debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote". When such a motion is made, the Chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds (2/3) vote of the body. Note: that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds (2/3) vote of the body.

vi. Motion to Object to Consideration of an Item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds (2/3) vote.

3. Addressing the Commission.

- A. The City will provide sign-up sheets for each agenda item to be discussed at each meeting. Anyone desiring to address the City Commission shall sign the appropriate sheet which shall be collected by the City prior to the opening of the meeting.
 - 1. At the appropriate time on the agenda, the chair will invite the person(s) who has signed up to the table. Each person shall then be given the opportunity to make his or her presentation.
 - 2. Following the statements from those who signed up, the chair may ask for additional public comment from those who did not sign-up.
 - 3. Once a person has made his presentation, that person shall not speak on the same subject unless granted permission by the presiding officer and then only if the presentation provides new information not previously presented.
- B. The public is invited to speak: on any item under discussion by the Commission after recognition by the presiding officer.
- C. The speaker should step to the front of the room, and sit at the table provided, provide the speaker's name and address on the signup sheet located at the table, and for the record, give his/her name and address and, if applicable, the person, firm or organization represented.
- D. Prepared statements are welcomed and should be given to the Recording Secretary of the Commission. All prepared statements shall become a part of the permanent record.
- E. While the Commission is in session, the members must preserve order and decorum. A member shall not delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Commission or its presiding officer.
- F. Any person making personal, impertinent or slanderous remarks or who shall become boisterous or disruptive during the Commission meeting shall be forthwith barred from further presentation to the Commission by the presiding officer, unless permission to continue be granted by a majority vote of the Commission.

POLICY ON COMMISSIONERS REMOTE PARTICIPATION

Pursuant to 7-5-4103 Montana Code Annotated (MCA) the City Commission of the City of Livingston, Montana, hereby adopted a remote participation policy.

Introduction

The purpose of the Remote Participation Policy is to provide the Commission with the guidance to allow remote participation of Commissioners in certain meetings. This policy cannot address every possible situation where remote participation may be desired and as such the Commission has the authority to suspend the rules of the remote participation policy by a 2/3 majority vote of those members present.

Background

The City of Livingston’s responsibility under Title 2 Chapter 3 of the MCA and Article II Section 8 of the Montana Constitution to meet the requirements of open meetings and public participation are the primary consideration in the development of this policy. It is understood that any alternative method to Commissioners being physical present erodes the public’s right to participation. However, under the rules of this policy the City Commission believes that remote participation meets the basic requirements set forth by the State of Montana. While individual Commissioners do not have the right to remote participation, the Commission may allow remote participation with any restrictions deemed appropriate.

Policies and Rules

1. Acceptable Means of Remote Participation

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email and web chat without audio are not acceptable means of remote participation. Commissioners attending by an acceptable means of remote participation will be considered “present” for roll call.

2. Quorum & Voting

Commissioners attending meetings remotely will not be counted towards the required quorum. Remote participants may vote if they are present for the entirety of the issue being considered. If Commissioners are attending remotely they are expected to be present for the entirety of the meeting.

3. Expectation to Appear/Allowable Absence

There is an expectation that Commissioners will be physically present for Commission meetings if able. Remote participation will not be used for the convenience of a Commissioner. There are five (5) permissible reasons for remote participation. The chair (or other person chairing the

meeting) must make a determination that one or more of the following factors make the commissioners’ physical attendance unreasonably difficult:

- (a) personal illness;
- (b) personal disability;
- (c) emergency;

- (d) military service; or
- (e) geographic distance

4. Approval for Remote Participation

Commissioners wishing to participate remotely must notify the Commission Chair a minimum of 48-hours prior to the meeting. The Chair will determine if the subject matter for that meeting will allow for effective remote participation and that the reason for the absence meets the criteria set forth in this policy. The Chair will notify the City Manager if accommodations for remote participation are necessary.

5. Meeting Procedures

At the start of the meeting, the chair (or other person chairing the meeting) must announce the name of any commissioner who will be participating remotely and the reason. All votes must be taken by a roll call and reflected in the minutes.

6. Procedures for Lost Connectivity

If during remote participation the communication connectivity is lost the following procedure will be followed:

- Announce to the room that connectivity has been lost and all discussion will stop
- There will be an automatic 5-minute recess to establish connectivity
- If connectivity is not re-established in 5-minutes the meeting will resume and the remote attendee will not be allowed to vote on that issue

If connectivity is subsequently re-established, the remote attendee may vote on any other issue where they are present for the entirety of the deliberation. If a remote participant loses connectivity three (3) times during a meeting their connection is considered unreliable, they will not be allowed to reconnect to the meeting, and Chair will announce that the remote participant is no longer present for the meeting. If a remote participant is difficult to hear or they are having difficulty hearing proceedings, at the discretion of the Chair their connection can be declared unreliable, they will be disconnected from the meeting and the Chair will announce the remote participant is no longer present for the meeting.

7. Meeting Minutes

Meeting minutes will annotate which Commissioners are participating remotely. Additionally, the minutes will reflect anytime a remote participant is disconnected from the meeting. If a remote participant leaves the meeting for technical or any other reasons it will be annotated in the minutes.

8. Restrictions on Remote Participation

Remote participation will not be allowed for meetings where the Commission acts in a quasi-judicial capacity or during closed sessions.

COMMISSION VACANCY APPLICATION

APPLICATION FOR CITY COMMISSIONER

1. Name: _____

2. Address: _____

3. How long have you resided in Livingston _____

4. Are you at least 18 years of age? Yes _____ No _____

5. Are you a citizen of the United States? Yes _____ No _____

6. Have you resided in the State of Montana for more than 30 days? Yes _____ No _____

7. Have you resided in Park County for more than 30 days? Yes _____ No _____

8. Have you ever been convicted of a felony? Yes _____ No _____

Why do you want to be a city commissioner? _____

Do you have any prior experience in local government? If so, please describe? _____

Do you have any special qualifications which you believe would be an asset to the city commission?

What do you see as the most important needs facing the City of Livingston? _____

- The qualifications of the applicant which include that the applicant is a citizen of the United States, a resident of the City of Livingston for at least thirty (30) days, at least eighteen (18) years of age and a registered voter.
- All applicants shall receive a letter acknowledging the receipt of their application along with a copy of the procedure to fill vacancy in the office of the City Commission:
- The City Commission shall meet in a public session to review all applications to determine that the applicants meet the minimum qualifications as set forth by state law.
- The City Commission shall then notice a public meeting wherein all qualifying applicants are interviewed. Interviews of each applicant shall follow the same format. Questions for the candidates will be established by the City Commission in advance of the interview.
- Thereafter, the City Commission, at a regular meeting or a duly notice special meeting shall appoint by a majority vote a qualified person to fill the vacancy who shall serve the unexpired

term of the person creating the vacancy and until a successor is elected and qualified at the next general municipal election.

- After appointment has been made, the City Commission will write a letter to all applicants thanking each applicant for their time and desire to serve the public in making the City of Livingston a better place to live.

DEVELOPMENT REVIEW COMMITTEE

The Development Review Committee was created to allow for joint review of proposed development project by all City Departments. After this review, the DRC sends a recommendation to the City Manager which may then be presented to the City Commission. Utility extensions, annexation requests, street vacation requests, and subdivision applications are all review by the DRC prior to presentation to the City Commission.

CODE OF ORDINANCES

The City works with an outside codifier, Municode, to provide codification, recodification, and publication of the City’s Ordinances. Up until 2012, the City’s Ordinances were published in a hard copy book entitled CODE OF ORDINANCES, with supplements published in 1991, 1993, 1995, 1998, 2002, 2004, 2006, 2008, 2010, and 2012. Beginning in 2013, however, the records were made available in an electronic format. The most recent changes are available in electronic versions adopted not yet codified. Electronic version is available on the City of Livingston’s website under Resources tab and then Livingston Municipal Code or https://library.municode.com/mt/livingston/codes/code_of_ordinances

WASTE WATER TREATMENT PLANT

Our Waste Water Treatment Plant is a state of the art ICEAS process plant. The new upgraded plant and processes which should provide for a minimum of 20 - 30 years of service was completed in July 16, 2019.

POLICY AND PROCEDURES MANUAL AND WAGE PARITY GUIDE

The City Commission approves changes to the City’s Policy Manual and Procedures Manual. Pay equity, in addition to general wage increases, is considered annually (or as union contracts are renegotiated).

COMMISSIONERS CODE OF CONDUCT

On February 20, 2007, by Resolution No. 3826 the City Commission of the City of Livingston adopted Rules of Conduct for Livingston City Commissioners. The purpose of the code of conduct was to define the role of the city commissioners in the governance of the City of Livingston and by establishing guidelines for city commissioners when dealing with city staff and members of the public, both in the public process and outside thereof.

RULES OF CONDUCT
FOR THE LIVINGSTON CITY COMMISSION

Pursuant to 7-5-4103 Montana Code Annotated (MCA) the City Commission of the City of Livingston, Montana, hereby adopts rules of conduct for members of the City Commission. [7-5-4103-53-MCA provides as follows: "The Council may determine the rules of its proceedings, punish its members for improper conduct, and expel any member for the same by 2/3 vote of the members elected."]

Introduction

The purpose of this Code of Conduct (Code) is to define the role of City Commissioners in the governance of this City. This code consists of policies and implementing rules is intended to advance the City's goals of providing efficient and high quality services to its residents through its staff, providing a productive work environment for City staff all the while furthering public participation in fair and open public proceedings of the City Commission.

Background

The City of Livingston is a general power city governed by a commission/ manager form of government. The City Commission exercises legislative powers set forth in 7-1-4123-MCA. The City Manager is charged with implementing the policies and decisions of the City Commission, enforcing laws, ordinances and resolutions and administering the day to-day affairs of the city with the assistance of city staff. The City Commission has direct authority over the City Manager; all other city staff are under the direct authority and supervision of the City Manager. This Code of Conduct establishes rules that contribute to the success of this basic structure and to maintaining positive and effective working relationships between City Commissioners, City Manager, staff and the public.

Limitations

This Code of Conduct addresses selective aspects of the governance of the City and supplements, but does not supplant other laws and rules that prescribe the legal responsibilities of City Commissioners, including the Montana State Constitution, laws of the State of Montana, the Standards of Conduct and Code of Ethics (2-2-101et seq. MCA) for public officers and employees and the Livingston Municipal Code.

It is not possible for a code of this kind to anticipate and provide a rule of conduct for all Situations. All City Commissioners are expected to manage their behavior in a manner consistent with the rules that follow, respect the chain of command and behave within the bounds of their authority. All City Commissioners are expected to treat each other, city staff, residents, business people and the public with courtesy and respect in a manner that reflects well on the City.

Policies and Rules

The Code of Conduct consists of general policies governing the conduct of City Commissioners and following each policy is a set of rules that give specific application to the policy.

Policy 1. City Commissioners shall deal with the administration and staff solely through the City Manager or his/her designee. (7-3-305-Montana Code Annotated MCA)

Explanation. City staff is organized in a hierarchical structure, and work under the direction and control of several layers of management culminating with the City Manager. City Manager is responsible for hiring and supervising staff. Individual City commissioners are not part of that management structure and have no authority to direct employees. City Commissioners are not authorized directly to give work assignments to staff. City Staff has been instructed not to take directions or work assignments from city commissioners and to report any such attempt to their Department Head. When any city commissioner attempts to give an employee directions, the employee is put in an awkward position and the management structure is undermined. In addition, a city commissioner may be exposed to personal liability by acting outside the course and scope of his/her duties. City Commissioners are immune from damages for legislative acts, a legislative act does not include administrative actions. (2-9-111-MCA).

Rule 1.1: A City Commissioner shall not direct, order or make demands on city staff. When any City Commissioner attempts to give an employee directions, the employee is put in an awkward position and the management structure is undermined.

Rule 1.2: A City Commissioner having a question concerning city business shall direct such question to the city manager for an answer. The city manager after consultation with staff shall provide an answer within a reasonable time.

Rule 1.3: A City Commissioner shall not attempt to reorganize staff's priorities or influence the manner by which city staff performs their assigned functions and duties.

Rule 1.4: A City Commissioner shall not retaliate, threaten to retaliate, discipline or threaten to discipline city staff.

Rule 1.5: A City Commissioner shall not interfere with the manner by which the City Manager performs his or her duties.

Rule 1.6: A City Commissioner shall not interfere with the implementation by staff of approved projects and programs.

Policy 2: City Commissioners shall only act collectively as a body in a properly noticed and constituted public meeting.

Rule 2.1: A City Commissioner shall not take action on behalf of the City Commission unless expressly authorized to do so by the City Commission in a duly noticed and constituted public meeting.

Rule 2.2: A City Commissioner shall not use his or her official office as a means of advancing personal opinions through public statements whereby an inference can be drawn that they are speaking on behalf of the City Commission as a whole.

Rule 2.3: A City Commissioner shall make no promises or representations on behalf of the City Commission or City unless expressly authorized to do so by the City Commission in a duly noticed and constituted public meeting.

Rule 2.4: To ensure fairness and due process, all decisions made by a city commissioner must be based solely upon the record presented in an open meeting of the city commission wherein the public, following due notice, has had the opportunity to participate in the process and to be heard prior to the final decision.

Rule 2.4. (a) Except as provided for in quasi-judicial proceedings as set forth in Policy No. 5, should a City Commissioner receive information concerning a City Commission agenda matter from a source who is unable to attend the meeting of the City Commission, the information should be placed into the public record by the City Commissioner prior to any decision being made by the City Commission in order to allow public comment on the information and discussion by the City Commission.

Rule 2.5: City Commissioners shall respect the public process including the right to know and the right to participate as established by the Montana Constitution, the laws of the State of Montana and rules adopted by the City Commission to ensure public participation in matters of significant interest to the public (widespread public interest) prior to final decision.

Rule 2.6: A City Commissioner shall perform his/her duties in accordance and with respect to the rules of procedure established by the City Commission to allow meaningful involvement of the public and debate between the commissioners prior to final decision.

Policy 3: A City Commissioner shall conduct himself/herself in a public meeting with civility and with proper decorum.

Rule 3.1: To retain order, a City Commissioner must first be recognized by the Chairman, and once recognized, shall limit comments to the matter currently before the city commission.

Rule 3.2: A City Commissioner shall not interrupt another City Commissioner who has the floor, nor make personal comments not germane to the business under discussion or otherwise interfere with the orderly conduct of meetings.

Rule 3.3: A City Commissioner shall honor the efforts of the chairman to keep comments of city commissioners on track with the agenda item Disagreements with the chairman's decision shall be voiced politely and stating the reasons, and following a duly seconded motion may be overruled by majority vote of the entire commission.

Rule 3.4: City Commissioners shall prepare for the public meetings, listen courteously and attentively to all public discussions, treat the public with respect and courtesy and focus on the business at hand.

Rule 3.5: While it is acceptable to publicly disagree on issues, a City Commissioner shall not make derogatory comments about other city commissioners, or their opinions and actions.

Rule 3.6: A City Commissioner shall not directly enter into debate with a member of the public or staff. All comments shall be directed through the Chair.

Policy 4: An individual City Commissioner in dealing with the public outside of a duly noticed meeting shall conduct himself/herself in a manner so as not to bring reproach upon the city commission or the public process.

Rule 4.1: An individual City Commissioner shall make no promises or representations on behalf of the Commission or City.

Rule 4.2: When making public comment, a City Commissioner shall make it clear whether they are authorized to speak on behalf of the city commission as a whole, or whether they are presenting their own personal view.

Policy 5: In quasi-judicial matters, the City Commission shall comply with the fairness doctrine and due process requirements of due notice of hearing and provide an opportunity to be heard.

NOTE: The City Commission exercises a quasijudicial function when it exercises judgment and discretion in determining the legal rights, duties or privileges of specific parties in a hearing or contested proceeding before the City Commission. Whenever exercising quasi-judicial authority, due process and the appearance of fairness doctrine requires the hearing to be held in a public forum, where the parties have been provided with adequate notice and an opportunity to be heard prior to the final decision. Most notably, the city commission exercises quasi-judicial authority in rendering land use decisions, including the zoning or rezoning of specific pieces of property, in the granting of variances or special exceptions, and in the approval or denial of subdivisions. A city commission does not act in a quasi-judicial manner when engaged in legislative matters. **Example:** In enacting zoning laws, the city commission exercises its legislative powers as the zoning law would have general effect throughout the community; however, when the city commission is applying the zoning law to a specific piece of property, i.e. the granting of a variance, the city commission is exercising quasijudicial authority as the decision affects a specific party The City Commission also exercises quasijudicial authority in the discipline or termination of a firefighter pursuant to 4712-343-MCA.

Rule 5.1: When a quasi-judicial proceeding is pending before the City Commission, a City Commissioner shall avoid ex pane communications in connection to any issue of fact or law with any party or a party's representative.

NOTE: *An ex parte* communication is an oral or written communication not on the public record to which reasonable prior notice to all parties has not been given. Fairness and due process requires a City Commissioner, sitting as a quasijudicial officer, to make his or her decision based solely upon the information presented in the public forum which has been duly noticed and where the parties have been provided an opportunity to be heard prior to final decision.

Rule 5.2: If a City Commissioner is approached by a member of the public or a party concerning a quasijudicial matter, the City Commissioner should advise the individual that the proper forum for such communication is at the public hearing and that it is improper for the City Commissioner to discuss the matter outside of the public hearing.

Rule 5.3: If an *ex pane* communication which is unavoidable is made to a city commissioner concerning a quasijudicial matter, the city commissioner at the beginning of the hearing shall disclose the content of the communication, as well as the person who made the communication so that the parties may address such communication in the hearing prior to final decision. If necessary, additional time maybe allotted for the parties to address the *ex -arte* communication.

Enforcement

The City Commission is committed to maintain a productive work environment and to that end, every City Commissioner is expected to observe these policies and rules when engaged in City business. The goal of enforcement of this Code of Conduct is corrective, rather than penal, and a progressive approach to curing violations shall be employed, beginning with informal methods and proceeding to more formal methods as necessary.

Violations of this code of conduct, may be enforced as follows:

1. Informal counseling means a decision by the chairman of the City Commission, while the City Commission is in session, that a City Commissioner is out of order or is in violation of the Code or Conduct;
2. Formal discipline means a decision by the City Commission as a body concerning a violation of the Rules of conduct by a City Commissioner which is formalized by a public reprimand (oral) or by public censure (written) as hereinafter set forth, or
3. Expulsion from the public meeting by 2/3 vote (4 of 5) of the elected membership of the City Commission during which the Rules of Conduct are violated.

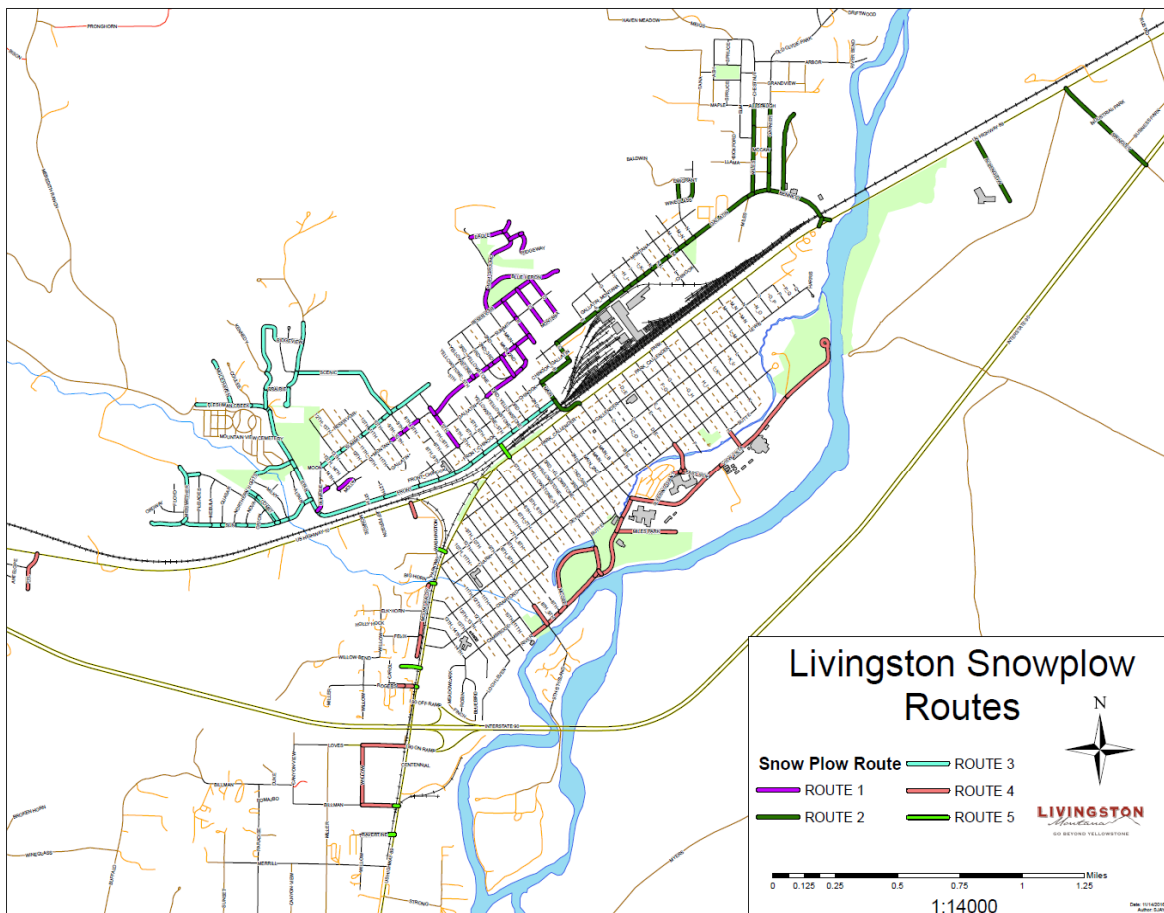
Violations of this code that require formal discipline or which occur outside of a public meeting may be handled as follows:

1. The City Commission may determine in a public meeting whether there is a reasonable ground to believe that a violation of this Code of Conduct has occurred. If so, the City Commissioner accused of said violation shall be advised of the nature of the violation in writing and that the matter will be heard before the City Commission at a specific time and place.
2. If the City Commissioner admits that allegation is true, the City Commission may impose one or more of the following sanctions:

- i. Public reprimand (oral) by vote of commission
 - ii. Public censure (written) formalized by a resolution
 - iii. Removal from committee/board assignments
3. Should the City Commissioner deny the allegations, following due notice, a public hearing on the charge will be held wherein evidence and testimony will be presented, to the City Commission as a whole. If the City Commission as a body finds by a preponderance of the evidence that the violation is substantiated, the City Commission may impose one or more of the following sanctions:
- i. Public reprimand (oral) by vote of commission
 - ii. Public censure (written) formalized by a resolution
 - iii. Removal from committee/board assignments.

SNOW REMOVAL & SANDING

The Street Department sends out a sanding crew when we receive 1" to 4" of snow. After 4" of snow accumulation or slick conditions exist we plow our Primary Snow Routes. It is unlawful for anyone to shovel or push snow into a city street.



AMBULANCE TRANSFERS

Livingston Fire and Rescue fields request from area hospitals to transfer patients from one medical facility to another. We mainly go to Bozeman and Billings, but have transported patients as far away as Helena, Great Falls, and Missoula. With rare exception these are handled with an ambulance and 2 off duty firefighters who have basic and advanced medical training.

If we can't staff a transfer request, then the hospital calls a private ambulance company or they fly the patient by helicopter or fixed wing aircraft. In certain occasions, we are requested to take an emergency transport because no one else is available. If this is a life or death situation, then we will utilize the on duty staff and backfill the station with off duty personnel.

QUESTIONS AND ANSWERS ON DEPARTMENTAL POLICIES & PROCEDURES

The following "Questions and Answers on Departmental Policies and Procedures," "Glossary of Terms Associated with Local Government" and "Budget and Finance Terms" were extracted from a pamphlet prepared by the City of Helena and included for your use.

CITY COMMISSION

1. What appointments are made by the City Commission?

The City Commission appoints the City Manager who serves at the Commission's pleasure. The Chairman, with the Commission's approval, appoints members to several advisory boards and Commissions whose terms vary according to the by-laws of the individual group.

2. What is the difference between an Ordinance and a Resolution?

Ordinances are laws and may carry a penalty for violation. Resolutions are motions, carrying no legal status or penalty and merely express the intent or policy of the City Commission.

3. Who may see minutes of City Commission Meetings?

Digital recordings of City Commission meetings have been designated as the official public record of meeting proceedings; these recordings will be available online at www.livingstonmontana.org and at the City Office. Written minutes are summary minutes that can be viewed online or at the City Office, and are meant to be a supplement to the digital recordings (2-3-212 MCA). Any citizen may review minutes of Commission meetings, since all regular meetings of the Commission are open to the public.

4. How is a special meeting of the City Commission called?

The Chairman, or in his/her absence, the Vice-Chairman, may call special meetings of the Commission whenever public business may require it. A meeting may also be called at the express written request of any three members of the Commission. Whenever a special meeting shall be called, a summons or a notice in writing signed by the Chairman or the Vice-Chairman shall be served upon each member of the Commission either in person or by notice left at their place of residence, stating the day and hour of the meeting, the purpose for which such meeting is called, and no business shall be transacted except such as is stated in the notice. Such notice must be served at least 24 hours prior to the meeting.

A special meeting may also be held without the requirement of notice being served, if the Chairman and all Commission members, prior to the meeting, sign a waiver of notice of meeting but in this event, the public media shall be notified as soon as practical prior to such meeting.

5. Can the City Commission hold executive sessions?

The City Commission can hold executive sessions on matters where the Chairman determines that the right of individual privacy exceeds the public’s right to know. These meetings are not open to the public. (See Appendix 5, specifically 2-3-303).

PUBLIC WORKS

1. What are the requirements of tying into the City sewer and water main or repairing an individual line?

Individual service line: The property owner hires a licensed, bonded plumber to do the work for him. If the main line tap requires work, the city crew will do the tap work and bill the property owner for time and materials.

Tapping into a line: The property owner must purchase a permit at the City's Water Counter, pay a tapping fee in accordance with ordinances, pay the city for the first water meter, and pay any reimbursement fee associated with the main, as well as Impact Fees based on the size of the water service.

2. Who is required to pay for sewer or water main extensions?

The owner of a building site located beyond present sewer or water mains is required to pay the total cost of extending that main to the far side of the site, per ordinance. If the line passes any vacant property the owners of those properties will be assessed their share of the costs of extending that line based on calculations performed by the City's staff at the time they tie into the line and the original owner will be reimbursed that amount, or a special improvement district may be created to fund water and sewer main extensions.

3. What procedures must be followed before a building permit is issued?

Two complete sets of plans including site plan, cross section(s), elevation(s), foundation and floor plan must be submitted to the Building Department along with a completed Permit Application. The plans are reviewed, any deficiencies are noted and corrections are made by the applicant. Once the plans are approved, a permit may be issued. Residential projects will be charged a plan review fee as well as a permit fee. Commercial projects will be charged just a permit fee, but at a higher rate than residential projects.

4. Who can apply for a building permit?

Anyone who wishes to do work on his private residence may do any or all of the work himself. As with all building construction in Livingston, the Building Inspector and/or Fire Inspector makes periodic inspections to see that the work meets the requirements of the adopted Code. A list of inspections is provided to the permit holder when the permit is issued and it is this person's responsibility to see that all inspections are made at the proper time. Permits for work on a

structure other than a private residence must be purchased and the work completed by a licensed professional in the corresponding field.

5. When is a building permit needed?

Building permits are required for any structural work done on a building. This includes re-roofing, changing door or window openings, moving or adding walls and building exterior decks. Changes made to a commercial building, even though minor in nature, will almost always require a permit in order to verify that life safety codes specific to the occupancy are being followed. Detached, one-story, residential storage buildings not larger than 120 square feet do not need a building permit.

6. Does City policy permit non-resident property owners to connect their property to City water and Sewer Facilities?

Yes. But a signed Waiver of Protest of Annexation Form must be submitted by the property owners when the permit is obtained.

7. How is a Special Improvement District created?

- a. A petition is filed with the City reflecting a substantial interest by property owners in a specified improvement.
- b. The City Commission will authorize the development of preliminary cost data which may be done by City staff or a consultant.
- c. If a consultant is needed, a selection committee will be approved by the City Commission, unless the citizen group has already hired an engineer.
- d. The Commission will then consider passing a Resolution of Intent to create the district.
- e. A 15-day waiting period begins during which time residents receive square footage costs and neighborhood meetings are held to explain the data.
- f. After the waiting period a public hearing is held at which the City Commission review protests. If more than 51% protest, the district will not be created. If less than 51% protest, the district can be created at the discretion of the City Commission.

8. What is the City's Sidewalk policy?

The City Commission may at any time, order sidewalks be constructed or repaired. If the property owner fails to do so within thirty days, the City may construct the sidewalk and assess the cost against the property. All sidewalks must be constructed as specified by the City, including acquiring a permit from the City's Building Inspector. Once sidewalks are installed it is the property owner's responsibility to maintain them.

INFORMATION

1. How does a citizen inquire about employment with the City?

When the City conducts a search for applicants through an external competitive process, the job is posted in, at minimum, three places: The City website, the bulletin board outside the City

Office, and online platforms. The City accepts applications for posted positions, but not general applications for employment.

ZONING

1. What is the procedure used to apply for a variance to the City Zoning Ordinance and/or special exception?

Application is made to the Planning Office. The application is then presented to the City Commission where a public hearing is held. A staff recommendation is prepared and provided to the City Commission for final action.

2. What is the procedure to apply for a zone change?

An applicant must go to the City Planner to obtain and fill out an application form. A fee is required with the application. The Planner publishes a notice of public hearing on the rezoning request 15 days prior to the public hearing on such request. Notices are sent to property owners within 300 feet of the property notifying them of the rezoning request. A staff recommendation is then prepared and the applicant is made aware of that recommendation prior to the public hearing. The public hearing is held before the Zoning Committee and this body forwards its recommendation to the City Commission.

3. How is an alley or street vacated?

Application is made to the Planning Office and it is then reviewed by the Development Review Committee (DRC). The DRC makes a recommendation to the City Manager who presents the application to the City Commission for final action.

GLOSSARY OF TERMS ASSOCIATED WITH LOCAL GOVERNMENT

GENERAL GOVERNMENT TERMS

CITY CODE - The Official Municipal Code of the City of Livingston is a compilation of the general ordinances of the City. As such, the code is revised as new ordinances are adopted.

COMMISSION POWERS - That authority residing in the Commission including but not limited to the power to:

- acquire land;
- sue and be sued;
- operate and construct public utilities;
- assess, levy and collect taxes;
- borrow money; issue bonds;
- create improvement districts;
- license and regulate persons, businesses, etc.;
- prevent those things detrimental to the public welfare, health, morals and safety;
- regulate construction; and,
- pass laws relating to maintaining peace, promoting good government, etc.

CONDEMNATION - The power to take private property for public purposes. Such procedures may be used for street, alley, park, sewer, water, drainage, and other public works construction. Fair market compensation is required for such taking.

CONFLICT OF INTEREST - Commissioners must be residents of the City and shall not be interested in the profits of contracts, work or services of the municipality. A Commissioner may not hold partisan political office. Generally, Commissioners shall not accept any free tickets, passes or services from any person or firm upon terms more favorable than are granted to the public generally. (See MCA 2-2-101 through 2-2-114 which are included in Appendix 4 and Attorney General Opinion Volume No. 41, Opinion No. 81 in Appendix 5).

ELECTION-AT-LARGE - A structural characteristic whereby officials are elected without regard to their area of residence. Commissioners are elected this way in Livingston.

SECOND CLASS CITY - Any Montana City with a population in excess of 5,000 residents but less than 10,000 residents is a city of the second class. This distinction relates to the various powers granted to different classes of cities by the State.

FRINGE BENEFITS - The City contributes to the following programs for each employee: FICA; a retirement system; Medical Insurance; Life Insurance; State Workman's Compensation; and Unemployment Compensation.

ORDINANCE - A local government law passed by the Commission. In general, ordinances are not effective until 30 days after passage (except appropriation and emergency ordinances).

RECALL - A procedure whereby 25% of the registered electors of the municipality may petition to remove an elected official from office. An election follows the filing of a successful petition.

BUDGET AND FINANCE TERMS

APPROPRIATION - A legal authorization granted by the governing body which permits public officials to incur obligations and make expenditures up to the amount of money allocated and within time limits set by the governing body.

ASSESSED VALUATION - Assessed valuation is that amount of real property subject to the ad valorem tax. In FY 2017-2018 the City's assessed taxable valuation is approximately \$12,254,304. In a process called appraisal, the State Department of Revenue analyzes and assigns a value to all taxable property in the State. In order to determine the taxable value of your property, they multiply the appraised value by a tax rate that is set by the Montana Legislature.

AUDIT - A careful examination, using generally accepted accounting principles and practices, giving the independent auditor's opinion whether or not revenues are fairly reported and whether expenditures are fairly reported.

BUDGET - The budget is a statement of Commission policy in dollars and cents. The budget details the anticipated revenues and outlines activities for which those revenues will be spent. On or before the first Commission meeting in June, the Finance Officer will submit a preliminary annual operating budget to the City Commission. A notice shall be published 2 times at least six days separating each publication (the first notice being no more than 21 days prior to the action and the second no longer than 3 days prior to the action) informing the public that the preliminary budget is available for inspection in the office of the Finance Director. The Commission must adopt the final budget by resolution within 45 days of receiving the certified taxable values from the Montana Department of Revenue. (See Appendix 2 - "Municipal Fiscal Year" and Appendix 3 - "Municipal Budget Law.")

CLAIM - A claim is a bill to the City for services rendered or goods purchased. The vendor sends the bill to the City where a claim is prepared and approved by the Department Head. It is then approved by the Finance Officer, City Manager and Commission prior to payment.

PURCHASE POLICY - Any item(s), service or project total that is over \$80,000 will go out to bid. The Finance Office or their designee will advertise locally as well as in other regions that may accommodate the request. In lieu of soliciting bids, the City Commission may provide authorization, to the staff, for the purchase of items at public auction without public notice/bid (as allowed by state statute).

It is the policy of the City, when making purchases or entering contracts, to give some preference to local vendors and service providers, if the price differential meets the following criteria:

1. If the purchase price is within 5% for purchases less than \$5,000.
2. If the purchase price is within 2% for purchases greater than \$5,000.

The City reserves the right to purchase any item(s) or service(s) with any bidder (with cause) other than the lowest responsible bidder. Likewise, the City reserves the right to accept or reject any, and/or all, bids as deemed in the best interest of the City of Livingston.

Contracts for professional services are exempt from this provision. Contracts involving the expenditure of Gas Tax monies are required to be bid if in excess of \$4,000.

DEBT LIMIT - The total amount of General Obligation Bond Debt as of June 30, 2018 is \$130,000.00. This debt was incurred by the purchase of a fire truck. General Obligation Bonds are incurred with voter approval only. These bonds are paid for with tax dollars collected from property taxes.

The City may incur debt up to 2.5% of the total assessed value of taxable property within the City limits. The total assessed value in FY 2018 is \$758,381,947. The debt limit for FY 2018 is \$18,959,549. The debt applicable to the limit is \$772,081 having a legal debt margin of \$18,187,468.

ENTERPRISE FUND - An Enterprise Fund is used to account for operations that are financed and operated in a manner similar to private business enterprises - where the intent of the governing body is that costs of providing goods or services to the general public on a continuing basis be financed through user charges or fees.

GENERAL FUND - The General Fund is used to account for all financial operations of the City not accounted for in any other fund. Principal sources of revenue are property taxes, licenses and permits, fines and forfeitures, and charges for administrative services that are provided to other funds. Principal expenditures are for Police and Fire Protection and General Administration.

LICENSES - The Commission has the power to grant licenses for industries, pursuits, professions and occupations. The City of Livingston has the following licenses: dog, cat, business, occupation, beer and wine, liquor and cigarettes. Fees vary for each license and the Commission may refuse to issue licenses when it is deemed in the public interest to do so.

MILL - A mill is defined as one-thousandth of a dollar unit of property value. A mill levy is established each year, which when applied to the assessed valuation of a piece of property, constitutes that piece of property's tax burden. For practical purposes, a mill applied to the City's total assessed valuation results in a certain amount of ad valorem tax revenue. In FY 2017-18 a mill is worth approximately \$11,563.

MUNICIPAL BONDS - Municipal bonds are issued, subject to the approval of the electorate, to finance capital improvements. Revenue bonds are those bonds for which revenues are available to repay the bond issue. For example, bonds to build a water treatment plant can be retired with water service charges to customers. A general obligation bond is a bond which pledges the "full faith and credit" of the City towards its retirement. Traditionally, a G.O. Bond is retired with ad valorem tax revenues, however, a "full faith and credit" clause is sometimes applied to a revenue bond to lower the interest rate.

PERFORMANCE BOND - A legal instrument whereby the person providing the bond to the City assures that the agreed upon activities will be completed satisfactorily. The Bond is a security measure.

PROPRIETARY FUNCTIONS - Those activities which "pay their own way" are classified as proprietary functions. Examples within the City include water, waste water, and solid waste. They are also referred to as ENTERPRISE FUNDS.

SINKING FUND - An assessment of tax against a piece of property in addition to the general tax obligation due to benefits particular to that property. Special assessments are levied for both

improvement districts (defined below) and maintenance districts. Street light and street maintenance districts are examples of maintenance districts.

SPECIAL IMPROVEMENT DISTRICT (SID) - A tool used to finance the construction of public improvements. A district is created to extend the time required for payment of the improvements. Assessments are levied against the property benefiting, generally on a square foot basis, for repayment of the warrants issued to provide the initial financing. Pay back periods are for no longer than 20 years. The City presently has (3) three such districts in operation: SID 178, 179 & 180.

WARRANT - A warrant is issued to raise cash for payment of City debts. As such, a warrant constitutes an outstanding obligation for the City. If, at the end of the year, warrants remain outstanding, the next year's budget must provide for an appropriation to retire the debt. A registered warrant is one which is recorded at the bank which holds the warrant for want of funds. Registered warrants are repaid in the order in which they were issued. The City does not currently use this practice.

PLANNING TERMS

ANNEXATION - The process whereby un-incorporated land is added to the City. The procedure can be initiated by either the resident, land owners or the City Commission. Annexation procedures vary according to how the land is situated in relation to the City.

DEDICATION - A procedure whereby the subdivider gives the City ownership of public lands (streets, alleys, parks, etc.) so indicated on the plat. The Commission has the authority to accept or deny such dedications. Denials are generally based upon streets or other public improvements not being in conformance with City standards. Acceptance of the public improvements entails a maintenance responsibility on the part of the City. For purposes of promoting the public comfort, at least one-ninth of the net land area in the addition must be given to the City for parks and playgrounds. A cash contribution in lieu of land dedication is available to the City at its option.

GROWTH MANAGEMENT PLAN - Growth Policy – A comprehensive planning document which complies with 76-1-601 M.C.A.

76-1-601. Growth policy -- contents. (1) A growth policy may cover all or part of the jurisdictional area.

(2) The extent to which a growth policy addresses the elements listed in subsection (3) is at the full discretion of the governing body.

(3) A growth policy must include:

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:

(i) land uses;

(ii) population;

(iii) housing needs;

- (iv) economic conditions;
- (v) local services;
- (vi) public facilities;
- (vii) natural resources;
- (viii) sand and gravel resources; and
- (ix) other characteristics and features proposed by the planning board and adopted by the governing bodies;

(c) projected trends for the life of the growth policy for each of the following elements:

- (i) land use;
- (ii) population;
- (iii) housing needs;
- (iv) economic conditions;
- (v) local services;
- (vi) natural resources; and
- (vii) other elements proposed by the planning board and adopted by the governing bodies;

(d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);

(e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;

(f) an implementation strategy that includes:

- (i) a timetable for implementing the growth policy;
- (ii) a list of conditions that will lead to a revision of the growth policy; and
- (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the

policy if necessary;

(g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:

(i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;

(ii) if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy;

(h) a statement explaining how the governing bodies will:

(i) define the criteria in 76-3-608(3)(a); and

(ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a);

(i) a statement explaining how public hearings regarding proposed subdivisions will be conducted; and

(j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including whether or not there is a need to:

(i) delineate the wildland-urban interface; and

(ii) adopt regulations requiring:

(A) defensible space around structures;
(B) adequate ingress and egress to and from structures and developments to facilitate fire suppression activities; and

(C) adequate water supply for fire protection.

(4) A growth policy may:

(a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth policy.

(b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;

(c) establish an infrastructure plan that, at a minimum, includes:

(i) projections, in maps and text, of the jurisdiction's growth in population and number of residential, commercial, and industrial units over the next 20 years;

(ii) for a city, a determination regarding if and how much of the city's growth is likely to take place outside of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate infrastructure planning with the county or counties where growth is likely to take place;

(iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the cities that project growth outside of city boundaries and into the county's jurisdictional area over the next 20 years;

(iv) for cities, a land use map showing where projected growth will be guided and at what densities within city boundaries;

(v) for cities and counties, a land use map that designates infrastructure planning areas adjacent to cities showing where projected growth will be guided and at what densities;

(vi) using maps and text, a description of existing and future public facilities necessary to efficiently serve projected development and densities within infrastructure planning areas, including, whenever feasible, extending interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other municipal public facilities throughout the infrastructure planning area. For the purposes of this subsection (4)(c)(vi), public facilities include but are not limited to drinking water treatment and distribution facilities, sewer systems, wastewater treatment facilities, solid waste disposal facilities, parks and open space, schools, public access areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency services;

(vii) a description of proposed land use management techniques and incentives that will be adopted to promote development within cities and in an infrastructure planning area, including land use management techniques and incentives that address issues of housing affordability;

(viii) a description of how and where projected development inside municipal boundaries for cities and inside designated joint infrastructure planning areas for cities and counties could adversely impact:

(A) threatened or endangered wildlife and critical wildlife habitat and corridors;

(B) water available to agricultural water users and facilities;

(C) the ability of public facilities, including schools, to safely and efficiently service current residents and future growth;

(D) a local government's ability to provide adequate local services, including but not limited to emergency, fire, and police protection;

(E) the safety of people and property due to threats to public health and safety, including but not limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;

(F) natural resources, including but not limited to forest lands, mineral resources, sand and gravel resources, streams, rivers, lakes, wetlands, and ground water; and

(G) agricultural lands and agricultural production; and

(ix) a description of measures, including land use management techniques and incentives, that will be adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).

(d) include any elements required by a federal land management agency in order for the governing body to establish coordination or cooperating agency status as provided in 76-1-607.

(5) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter.

PLANNED UNIT DEVELOPMENT (PUD) - An area of land controlled by a landowner, being developed as a single entity under a plan for a number of dwelling units and/or other appropriate uses, providing a land use mix that will create a harmonious development and neighborhood within the community. The PUD concept represents a flexible means of achieving appropriate land use.

PLAT - A map based on actual survey, detailing the subdivision of a piece of land including the location of lots, blocks, streets, alleys, easement, rights-of-ways, parks, and other landmarks.

RIGHT-OF-WAY - A strip of land dedicated or reserved for use as a public way.

SUBDIVISION - "Subdivision" shall mean a division of land, or land so divided, which creates one or more parcels containing less than twenty (20) acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold or otherwise conveyed, and shall include any of the re-subdivision; and shall further include any area, regardless of its size, which provides or will provide multiple spaces for recreational vehicles or mobile homes. A subdivision shall compose only those parcels of less than twenty (20) acres which have been segregated from the original tract, and the plat thereof shall show all such parcels whether contiguous or not. Provided, however, condominiums constructed on land divided in compliance with this chapter are exempt from the provisions of this chapter of State Law.

ZONING - A series of rules and regulations providing for proper land use and providing for zoning districts with different permitted uses, lot area requirements, building heights, set back requirements, parking requirements, etc. The Zoning Commission acts as the Board of Appeals from the zoning regulations.

ACRONYMS

| | | |
|--|--|--|
| 911 – Emergency Telephone Service | AHERA – Asbestos Hazard Emergency Response Act of 1986 | BP 1,2,3,4 – Budget Preparation Forms |
| A/P – Accounts Payable | AIM – American Indian Movement | BTU – British Thermal Unit |
| A/R – Accounts Receivable | AIP – Apartment Improvement Program | CAB – Central Advisory Board |
| A-95 – Grant Review Clearinghouse | APA – American Planning Association | CAC – Communications Advisory Committee |
| AAE – Academy for Advance Education | APWA – American Public Works Association | CAD – Computer Aided Dispatch |
| AARP – American Association of Retired Persons | ARC – Association for Retarded Citizens | CAD – Computer Aided Drafting |
| ACLU – American Civil Liberties Union | ASAP – As Soon As Possible | CATV – Cable Access Television |
| ACOE – Army Corps of Engineers “Corps” | AUTOCAD – Automated Computer Aided Drafting (Computer Program) | CCI – Citizens for community Improvement |
| ACORN – Association of Community Organizations for Reform Now | BAN – Bond Anticipation Notes | CD – Certificate of Deposit |
| ADC – Aid to Dependent Children | BC/BS – Blue Cross & Blue Shield | CDBG – Community Development Block Grant |
| ADC – Alliance Development Council | BFOQ’S – Bona Fide Occupational Qualifications | CDL – Commercial Drivers License |
| AFDC – Aid to Families with Dependent Children | BID – Business Improvement District | CEBA – Community Economic Betterment Account |
| AFSCME – American Federal, State, County and Municipal Employees | BMO – Bank Money Order | CED – Corporation for Economic Development |
| AG – Attorney General | BOA – Board of Adjustment | CEPP – Community Economic Preparedness Program |
| | BOD – Biochemical Oxygen Demand | CFN – Community Food & Nutrition Program |

CHAP – Comprehensive Homeless Assistance Plan

CIP – Capital Improvements Program

CJIN – Criminal Justice Information Network

CMC – Certified Municipal Clerk
 CMS – Center for Medicare & Medicaid Services

CO – Certificate of Occupancy

COBRA – Consolidated Omnibus Budget Reconciliation Act

COG – Council of Governments

COLJ – Court of Limited Jurisdiction

COP – Community Oriented Policing

CP – Citizens Participation

CPA – Certified Public Accountant

CPR – Cardio Pulmonary Resuscitation

CSA – Community Services Administration

CSBG – Community Services Block Grant

CSED – Child Support Enforcement Division

CSI – Centron Services Incorporated

CTEP – Community Transportation Enhancement Program

D/B/A – Doing Business As

DDA – Downtown Development Authority

DEP – Department of Environmental Protection

DEQ – Department of Environmental Quality

DES – Department of Emergency Services

DES – Disaster & Emergency Services

DHHS – Department of Health and Human Services

DLA – Downtown Livingston Association

DMA – Department of Military Affairs

DMV – Department of Motor Vehicle

DNRC – Department of Natural Resource & Conservation

DOB – Date of Birth

DOE – Department of Energy (Federal)

DOL – Department of Labor (Federal)

DOS – Date of Service

DOT – Department of Transportation

DRC – Development Review Committee

EDA – Environmental Development Association

EEOC – Equal Employment Opportunity Commission

EIS – Environmental Impact Statement

EMD – Emergency Medical Dispatch

EMS – Emergency Medical Services

EMT – Emergency Medical Technician

EMT P – Emergency Medical Tech Paramedic

EOC – Emergency Operation Center

EPA – Environmental Protection Agency

ERP – Emergency Response Plan

ESG – Emergency Shelter Grant

FAA – Federal Aviation Administration

Fannie Mae – Federal National Mortgage Association (FNMA)

FAR – Floor Area Ration

FAUS – Federal Aid to Urban System

FBE – Female Business Enterprise

FCC – Federal Communications Commission

FDIC – Federal Deposit Insurance Corporation

FDS – Family Development Specialist

FEMA – Federal Emergency Management Agency

FHA – Federal Housing Agency

FICA – Social Security

FIT – Federal Income Tax

FLSA – Federal Labor Standards Act

FM – Fire Marshall

FmHA – Farmers Home Administration

FMLA – Family Medical Leave Act

FOAB – Federal Old Age Benefits

FONSI – Findings of No Significant Impact

FOSI – Findings of Significant Impact

FRS – Federal Revenue Sharing

FSLIC – Federal Savings and Loan Insurance Corporation

FTD – Federal Tax Deposit

FTY – Fail to Yield

FURS – Firefighters Unified Retirement System

FUTA – Federal Unemployment Tax Act

FWP – Fish Wildlife and Parks

FYI – For Your Information

GAAP – General Accepted Accounting Principles

GAN – Grant Anticipation Notes

Ginnie Mae – Government Insurance Mortgages

GIS – Geographic Information System

GO – General Obligations

GOB – General Obligation Bond

GOSCOMA – General Open Space City Managers Association

GPM – Gallons Per Minute

GPR – Grantee Performance Report

HA – Housing Authority

HAP – Housing Assistance Plan

HELPER – Helping Elderly & Low Income People with Energy Relief

HER – Hispanic Education Resources

HEW – Health, Education and Welfare

HHS – Dept, of Health & Human Services (Federal)

HILP – Home Improvement Loan Program

HM – Hazardous Material

HO – Habitual Offender

HODAG – Housing Development Action Grant

HOME – Home Opportunities Made Easy

HPO – Historic Preservation Officer

HRDC – Human Resource Development Council

HSCB – Human Services Coordinating Board

HUD – Dept of Housing & Urban Development (Federal)

HURF – Highway User Fund

IAAI – International Association of Arson Investigators

IAFC – International Association of Fire Chiefs

IAFF – International Association of Firefighters

ICBO – International Conference of Building Officials

ICC – International Code Council

ICMA – International City Managers Association

ICMA-RC – International City Managers Retirement Corporation

ICS – Incident Command System

IDB – Industrial Development Bonds

IIMC – International Institute of Municipal Clerks

INS – Immigration and Naturalization Service
IRA – Individual Retirement Account

IRC – International Residential Code

IRS – Internal Revenue Service

ISO – Insurance Service Office

ISO – Insurance Services Organization

JTPA – Job Training Partnership Act

LDH – Large Diameter Hose

LEA – Law Enforcement Agency

LFPC – Local Emergency Planning Committee

LJCMS – Limited Jurisdiction Court Management System

LLEBG – Local Law Enforcement Block Grant

LMH – Livingston Memorial Hospital

LMI – Low and Moderate Income

LRC – Livingston Rebuild Center

LRHS – Low Rent Housing Authority

LSC – Legal Services Corporation

LULAC – League of United Latin American Citizens

LWCF – Land & Water Conservation Fund

MBCC – Montana Board of Crime Control

MBE – Minority Business Enterprise

MCA – Montana Code Annotated

MDT – Mobile Data Terminal

MDT – Montana Department of Transportation

MEDA – Montana Economic Development Association

MEDI – Medicare

MEPA – Montana Environment Protection Act

MFOA – Municipal Finance Officers Association
MIP – Minor in Possession

MLCT – Montana League of Cities and Towns

MLEA – Montana Law Enforcement Academy

MMCT & FOA – Montana Municipal Clerks, Treasures and Finance Officers

MMIA – Montana Municipal Interlocal Authority

MPORS – Municipal Police Officers Retirement System

MRDTF – Missouri River Drug Task Force

MRL – Montana Rail Link

MUCR – Montana Uniform Crime Report

NAACP – National Assoc. for the Advancement of Colored People

NAHRO – National Association of Housing and Redevelopment Officials

NCDA – National Community Development Association

NCIC – National Crime Information Center

NEPA – National Environmental Policy Act

NETC – National Emergency Training Center

NFA – National Fire Academy

NFPA – National Fire Protection Association

NIBRS – National Incident Based Reporting System

NLC – National League of Cities

NLRB – National Labor Relations Board

NOFA – Notice of Funding Availability

NSH – National Standard Hose

NTA – Notice to Appear

OAA – Old Age Assistance (State)

OAA – Older American’s Act

OASI – Old Age Survivors Insurance

ODS – Office of Disaster Services

OMB – Office of Management & Budget (Federal)

OPP – Office of Planning and Programming

P & Z – Planning and Zoning

P.O. - Purchase Order

PAC – Political Action Committee

PCEDC – Park County Economic Development Council

PD – Police Department

PERD – Public Employees Retirement Department

PERS – Public Employees Retirement System

PFD – Personal Floatation Device

PFMA- Partner Family Member Assault

PHA – Public Housing Authority

PIC – Private Industry Council

PLS – Point Last Seen

PMO – Personal Money Order

POST – Police Officer Standards of Training

POV – Personally Owned Vehicle

PPS – Payment Planning Service

PSAP – Public Safety Answering Point

PSS – Project Self-Sufficiency

RAP – Recreational Activities Program

RC&D – Resource, Conservation and Development

REC – Rural Electric Cooperative

RFP – Request for Proposals

RFQ – Request for Qualifications

RLF – Revolving Loan Fund
ROW – Right of Way Violation

RPC – Regional Planning commission

RUT – Road Use Tax

RWA – Rural Water Association

RWS – Rural Water Supply

RYT – R Y Timber

SBA – Small Business Administration (Federal)

SCI – Sister Cities International

Section 8 – Low Income Housing (Federal)

SID – Special Improvement District

SIT – State Income Tax

SO – Sheriffs Office

SOP – Standard Operation Procedure

SOTAF – Society of the Thai Dam American Friendship

SRO – School Resource Officer

SRO – Standing Room Only

SSA – Social Security Administration

SSBG – Social Services Block Grant

SSI – Supplemental Security Income

SSN – Social Security Number

STGEC – Save the Grain Elevator Committee

SWAM – Department of Water, Air and Waste Management

SWR – Swift Water Rescue

T & A – Trust and Agency

T/A – Technical Assistance

T-Bills – Treasury Bills

TCC – Transportation Coordinating Committee

TEFAP – Temporary Emergency Food Assistance Program

TEFRA – Tax Equity & fiscal Responsibility Act

TIF – Tax Increment Financing

TIN – Taxpayers Identifying Number

TO – Training Officer

TOP – Temporary Order of Protection

TP – Time Payment

TRO – Temporary Restraining Order

UBC – Uniform Building Code

UDAG – Urban Development Action Grant

UEC – Uniform Electrical Code

UFC – Uniform Fire Code

UPC – Uniform Plumbing Code

URA – Urban Renewal Authority

USACE – US Army Corp of Engineers

USAR – Urban Search and Rescue

USDA – U.S. Department of Agriculture

VA – Veterans Administration

VFD – Volunteer Fire Department

VIN – Vehicle Identification Number

VISTA – Volunteers in Service to America

W-2 – Earnings Statement

W-4 – Withholding Statement

WIC – Women, Infants, Children Nutrition Program

WIN – Work Incentive Program

WWTP – Waste Water Treatment Plant

APPENDICES

- Appendix 1 – Chapter 2 – Livingston Municipal Code – “Government and Administration”.
- Appendix 2 – “Municipal Fiscal Year at a Glance”
- Appendix 3 – “Municipal Budget Law” (MCA 7-6-4001 through 4036).
- Appendix 4 – “Code of Ethics” (MCA Title 2, Chapter 2, Part 1, 2 & 3).
- Appendix 5 – “Public Participation” (MCA 2-3-101 to 221).
- Appendix 6 – “Rules of Conduct” – Adopted by Resolution No. 3826 – February 20, 2007.
- Appendix 7 – “Remote Participation Policy” – Adopted September 18, 2018.

APPENDIX 1

Chapter 2 - GOVERNMENT AND ADMINISTRATION

Articles:

Article I. - Form of Local Government

Sec. 2-1. - Adoption of form of local government.

On November 4, 1986, by Special Election the following plan of government was approved: Sec. Commission-Manager Form. The commission manager form (which may be called the council-manager form) consists of an elected Commission (which may be called the Council) and a Manager appointed by the Commission, who shall be the Chief Administrative Officer of the local government. The Manager shall be responsible to the Commission for the administration of all local government affairs in his charge by law, ordinance or resolution.

B. Nature of Government. The plan of government submitted to the qualified electors shall determine the power of the local government unit by authorizing general government powers.

C. Appointment of Manager. The Manager shall be appointed by the Commission for an indefinite term on the basis of merit only and removed only by a majority vote of the whole number of the Commission.

D. Duties of Manager. The Manager shall:

1. Enforce laws, ordinances, and resolutions;
2. Perform the duties required of him by law, ordinance, or resolution;
3. Administer the affairs of the local government;
4. Direct, supervise and administer all departments, agencies, and offices of the local government unit except as otherwise provided by law or ordinance;
5. Carry out policies established by the Commission;
6. Prepare the Commission agenda;
7. Recommend measures to the Commission;
8. Report to the Commission on the affairs and financial condition of the local government;
9. Execute bonds, notes, contracts, and written obligations of the Commission subject to the approval of the Commission;
10. Report to the Commission as the Commission may require;
11. Attend Commission meetings and may take part in the discussion, but he may not vote;

12. Prepare and present the budget to the Commission for its approval and execute the budget adopted by the Commission;

13. Appoint, suspend and remove all employees of the local government except as otherwise provided by law or ordinance;

14. Appoint members of temporary advisory committees established by the Manager.

E. Employees of the Commission-Manager Government.

1. Employees appointed by the Manager and his subordinates shall be administratively responsible to the Manager.

2. Neither the Commission nor any of its members may dictate the appointment or removal of any employee whom the Manager or any of his subordinates are empowered to appoint.

3. Except for the purpose of inquiry or investigation under this Title, the Commission or its members shall deal with the local government employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Commission nor its members may give orders to any such employee, either publicly or privately.

F. Appointment of Boards. All members of boards, other than temporary advisory committees established by the Manager, shall be appointed by the Chairman with the consent of the Commission.

G. Selection of Commission Members. The Commission shall be elected at large.

H. Type of Election. Local government election shall be conducted on a nonpartisan basis.

I. Chairman of Commission. The Chairman of the Commission shall be elected by the members of the Commission from their own number for a term established by ordinance.

J. Terms of Commission Members. Commission members shall be elected for four (4) year overlapping terms of office. (Ballot Issue 11/4/04; effective date, July 1, 2004). [Transition plan: The two (2) City Commission members to be elected in 2004 would, for their initial term of office, serve a three (3) year term of office which would expire at the end of 2007; subsequently, City Commission members elected in 2007 to fill these two (2) City Commission positions and their successors would all serve four (4) year terms of office. The three (3) City Commission members to be elected in 2005 and their successors would each be elected to a full four (4) year term of office.]

K. Size of Commission. The size of the Commission shall be five (5) as of January 1, 1989, and shall consist of nine (9) until January 1, 1989.

(Ord. 1868, 2/2/98)

Sec. 2-3. - Chairman.

A. The Chairman of the City Commission shall be elected at the first meeting of each year for a term of one (1) year and shall be referred to as Chairman. The Chairman shall:

1. Preside at all City Commission meetings;
 2. Appoint with the consent of the City Commission all members of advisory boards and commissions, and the City Attorney;
 3. Shall execute all ordinances, resolutions and contracts on behalf of the City after Commission approval;
 4. Shall perform ceremonial functions as Chairman of the City of Livingston;
 5. Any other duties specifically designated by ordinance.
- B. The Chairman will have no other executive or administrative duties, these being the responsibility of the City Manager.
- C. The Vice-Chairman shall be elected at the same time as Chairman and shall preside at City Council meetings in the absence of the Chairman.

(Code 1958, Sec. 2-5; Ord. 1868, 2/2/98)

Sec. 2-4. - Elections.

- A. Elections shall be held every two (2) years.
- B. Primary elections shall be held in the fall of each election year in accordance with State Law.

(Code 1958, Sec. 2-2; Ord. 1574, 6-15-87; Ord. 1868, 2/2/98, Ballot Issue 11/4/03)

Sec. 2-5. - Seal.

A seal of circular form with the words, "City of Livingston, State of Montana," on the edge of the circle, and having in the center thereof, the word "Seal," and underneath, the date, "1889," is hereby adopted and declared to be the corporate seal of the City, to be used in all cases in which a seal is necessary or customary to be used by the City of Livingston.

(Ord. 1868, 2/2/98)

Secs. 2-6—2-9. - Reserved.

Article II. - City Commission and Chairman

Sec. 2-10. - Preamble.

Pursuant to 7-1-4142 Montana Code Annotated (MCA), the City Commission of Livingston Montana, hereby adopts its rules of procedure for its public meetings in which to conduct open, fair, efficient and orderly business to enact legislation and to encourage public participation in the City Commission decisions prior to final decision which may have a significant interest to the public and to preserve a public record of such proceedings.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09)

Sec. 2-11. - Reserved.

Editor's note—

Ord. No. 2019, § 1, adopted April 19, 2010, repealed § 2-11 which pertained to Robert's Rules of Order and derived from Ord. No. 1869, adopted Feb. 17, 1998; Ord. No. 1921, § 1(part), adopted Feb. 3, 2003, and Ord. No. 1962, adopted Feb. 21, 2006.

Sec. 2-12. - Posting board and notice.

The City Commission hereby designates the bulletin board attached to the wall of the hallway immediately outside of, and to the left of door to the City Offices located at 414 East Callender Street, Livingston, Montana as its official posting board for the purpose of posting public information. (7-1-4135 MCA).

When notice of a public hearing or other official action is required, unless provided elsewhere in the statutes, notice shall be published twice with at least six (6) days separating each publication. The published notice shall contain the date, time and place at which the hearing or other action will occur, a brief statement of the action to be taken and the address and telephone number of the person who can be contacted for further information.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, 10/19/09; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-13. - Commission meetings.

A. Open Meetings. All meetings of the City Commission shall be open to the public, except as provided by 2-3-203 MCA.

B. Regular Meetings. The City Commission shall hold its regular meetings on the first and third Tuesdays of each month at the hour of 5:30 p.m. in the City Commission Chambers in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana. Provided, however, that when the day set for any regular meeting of the Commission falls upon a day designated by law as a legal holiday, such meeting shall be held at the same hour on the next succeeding day which is not a holiday. Nothing herein precludes the Commission from meeting at different time, date or location, provided, however, that adequate notice is given to the public.

C. Work Sessions. The City Commission may meet at a set time and location for the purpose of a general work session with the City Manager. No official action may be taken at a work session, nor will minutes of such work session recorded. Work Sessions shall be open to the public unless otherwise properly closed to discuss topics for which closure is proper under Montana's Open Meeting Law.

D. Public Hearings. When a matter is required by law to have a public hearing, or when a matter is set for a public hearing by the City Commission upon a motion of a City Commission person, duly seconded and passed, all public hearing will be held at a regular meeting of the Commission after due notice as required by law which notice shall specify the purpose of the

hearing and the date, time and location thereof and invite the public to attend and make comments.

E. Special Meetings. Special meetings of the Commission may be called by the Chairman, two members of the Commission or the City Manager upon at least twelve (12) hours written notice which shall state the date, time, location and subject of the meeting and shall be personally served upon each member of the Commission or left at his or her usual place of residence; a copy of said notice shall also be posted on the official posting board and delivered to the media. Special meetings of the Commission are not the preferred manner of conducting City business. The business of a special meeting must be restricted to the object stated in notice.

F. Training Sessions. The City Manager shall hold a series of training sessions for newly elected City Commission members. The training sessions shall include, but not be limited to review of the City commission budget responsibilities, the role of the City Manager in hiring, supervising and discharging all employees, a review of the government and administration section of the Code of City Ordinances, a discussion and tour of facilities with each department head, and specific briefing on availability of the City Manager and staff to facilitate a City Commission member's responsibility. This Section shall also apply to Commission members elected by the City Commission to fill term vacancies.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2003, § 1, 7-21-08; Ord. No. 2016, § 1, 10/19/09; Ord. No. 2021, § 1, 8/16/10)

Sec. 2-14. - Officers and duties.

A. General. Election, voting, absence and vacancy. The City Commission shall annually elect a chair and a vice chair at the first meeting in January to serve until the next chair and vice chair are elected. The chair and vice chair shall retain all the rights and responsibilities held as a member of the commission, including the right to vote. The chair, or in his/her absence the vice chair, shall be the presiding officer at meetings of the commission. In the absence of both the chair and vice chair, the Recording Secretary shall call the meeting to order, call for the roll and the commission members present shall then appoint an acting chair to preside over the meeting.

B. Chairman. The presiding officer of the City Commission shall be the Chairman who shall preserve strict order and decorum at all meetings of the Commission. The chairman shall assign each Commission member to a seat at the Commission table, as he or she may deem appropriate. The Chairman shall state, or cause to be stated, every motion coming before the Commission, announce the decision of the Commission on all subjects, and decide all questions of order, subject, however, to an appeal to the Commission at large, in which event a majority vote of the Commission shall govern and conclusively determine such question of order.

C. Vice Chairman. In the Chairman's absence or in the case of the Chairman's inability to act, the Vice Chair shall be designated by the Commission to perform the duties of the Chairman.

D. Recording Secretary. The Recording Secretary shall record the proceedings of the City Commission and prepare and maintain permanent minutes of the Commission proceedings and shall file and preserve the recordings of the meetings and preserve and maintain the minutes and records in the City Office, which minutes and records shall be a public record; and shall be the custodian of the files and records of the Commission.

E. Sergeant at arms. The Chief of Police, or such other officer may be designated by the Commission, shall be the Sergeant at Arms who shall assist the Chairman in preserving strict order and decorum at all meetings and shall keep track of the time when the chairman has place time limits upon a speaker's presentation.

F. Procedure to fill Vacancy in office of City Commissioner. In the event of a vacancy in the office of City Commissioner under Section 7-4-4111, Montana Code Annotated, the City Commission shall use the follow process to fill the vacancy.

1. The City Commission shall determine that a vacancy in the office of a City Commissioner has occurred at either the next scheduled regular meeting of the City Commission or at a duly noticed special meeting as a duly noticed agenda item.

2. At the aforementioned meeting, the City Commission shall direct staff to publish in the local newspaper, once per week for two (2) successive weeks, and shall post on the City's official posting board a request to have interested person submit an application to fill said vacancy. The vacancy is required by law to be filled within thirty (30) days of the vacancy with the term being limited to the unexpired term of the person who created the vacancy.

a. The notice shall state the deadline for submitting applications which shall no more than fifteen (15) days from the date of first publication and that the following application is available from the City Offices:

APPLICATION FOR CITY COMMISSIONER

1. Name: ____

2. Address: ____

3. How long have you resided in Livingston ____

4. Are you at least 18 years of age? Yes _____ No _____

5. Are you a citizen of the United States? Yes _____ No _____

6. Have you resided in the State of Montana for more than 30 days? Yes _____ No _____

7. Have you resided in Park County for more than 30 days? Yes _____ No _____

8. Have you ever been convicted of a felony? Yes _____ No _____

Why do you want to be a city commissioner? ____

Do you have any prior experience in local government? If so, please describe? ____

Do you have any special qualifications which you believe would be an asset to the city commission? ____

What do you see as the most important needs facing the City of Livingston? ____

b. The qualifications of the applicant which include that the applicant is a citizen of the United States, a resident of the City of Livingston for at least thirty (30) days, at least eighteen (18) years of age and a registered voter.

c. All applicants shall receive a letter acknowledging the receipt of their application along with a copy of the procedure to fill vacancy in the office of the City Commission:

3. The City Commission shall meet in a public session to review all applications to determine that the applicants meet the minimum qualifications as set forth by state law.

4. The City Commission shall then notice a public meeting wherein all qualifying applicants are interviewed. Interviews of each applicant shall follow the same format. Questions for the candidates will be established by the City Commission in advance of the interview.

5. Thereafter, the City Commission, at a regular meeting or a duly notice special meeting shall appoint by a majority vote a qualified person to fill the vacancy who shall serve the unexpired term of the person creating the vacancy and until a successor is elected and qualified at the next general municipal election.

6. After appointment has been made, the City Commission will write a letter to all applicants thanking each applicant for their time and desire to serve the public in making the City of Livingston a better place to live.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-15. - Quorum.

A quorum shall consist of three (3) Commission members. However, an affirmative vote of a majority of the entire Commission shall be necessary to adopt or reject any motion, resolution or ordinance or pass any measure unless a greater number is required by law. However, in the event of an emergency expenditure, such expenditure must be charged to the emergency budget appropriations and adopted by two-thirds (2/3) of the members of a governing body who are present at the meeting (Section 7-6-4302, MCA).

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06)

Sec. 2-16. - Agenda.

The City Manager shall prepare the agenda for the City Commission and make recommendations thereon for the City Commission's consideration. (Sections 7-3-304(6) and (7), MCA).

Two (2) City Commissioners, when not in session, may make a request to the City Manager to have an item placed upon the agenda for consideration, but such request must meet the requirements set forth in the Rules of Procedure. Upon receipt of such request, the City Manager shall schedule the item for the next regularly scheduled meeting of the City Commission.

All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the Commission from the City Commissioners or City staff, shall be submitted by twelve (12) noon on the Monday immediately preceding the next regularly scheduled Commission meeting. All requests from the public to be placed on the agenda must be in to the City Manager by

the Tuesday immediately preceding the next regularly scheduled Commission meeting. The Commission agenda shall be set by five (5) p.m. on the Tuesday immediately preceding the City Commission meeting. Whereupon, the City Manager shall immediately arrange a list of such matters according to the order of business specified herein, and provide each member of the Commission with a copy of the same no later than the Thursday immediately preceding the Commission meeting. Copies of the agenda shall be available to the public from the Recording Secretary of the Commission and one (1) copy shall be posted at the designated posting board for public viewing. The City Manager may approve late submittals deemed to be in the City's best interest by delivering the same to the Recording Secretary of the Commission for delivery to the City Commission; however, late submittals are not the favored manner in which to do business and should be limited to unusual circumstances.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06)

Sec. 2-17. - Order of business.

The City Manager shall prepare the Commission agenda, which shall be in substantially the following form:

1. Call to order.
2. Roll call.
3. Moment of silence.
4. Pledge of Allegiance.
5. Public Comments
6. Consent items (no discussion should be necessary).*
 - A. Approval of minutes.
 - B. Approve bills and claims

* Consent items are those upon which the City Manager anticipates that no discussion should be necessary, however, by placing an item on the consent agenda does not limit the ability of a Commissioner from asking questions or making comments thereon. In the event a Commissioner believes that an item on the consent agenda should not be on the consent agenda, the Commissioner, at the beginning of any meeting may request one (1) or more items to be removed from the consent agenda for a separate vote. The presiding officer shall schedule such discussion and vote following adoption of the consent agenda.

7. Scheduled Public Comments.
8. Proclamations
9. Public Hearings
10. Ordinances.
11. Resolutions.

- 12. Action items.
- 13. City manager's report.
- 14. Commissioner's comments, i.e. reports, introduction of measures, concerns and proposals by members of the Commission.
- 15. Adjournment.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10; Ord. No. 2040, § 1, 7/19/12)

Sec. 2-18. - Summary minutes and recording of meeting.

All regular and special meetings of the City Commission, except executive sessions, shall be recorded and a copy of the recording shall be retained as the official record of the proceedings of the City Commission. In addition, summary minutes of all regular and special meetings of the City Commission shall be taken. The summary minutes must include at the minimum the date, time and place of the meeting, a list of the members of the City Commission in attendance, the substance of all matters proposed, discussed or decided and a record of all votes taken (7-5-4121 MCA). Summary minutes shall be approved by the Commission. It shall not be necessary to formally read the minutes aloud during the commission meeting prior to approval. Such minutes may be revised by the Recording Secretary to correct spelling, numbering, and other such non-substantive mistakes. Prior to approval, any Commission member may, through the Chairman, request the privilege of amending or correcting the minutes to accurately reflect the substance of the prior meeting. If objection is made by any Commission member to such amendment or correction, a majority vote of the Commission shall be necessary for adoption of the correction or amendment.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09)

Sec. 2-19. - Procedure to conduct business and motions.

- A. Procedure to Conduct Business.
 - 1. The Chair shall clearly announce the agenda item to be considered.
 - 2. Following announcement of agenda item, the Chair shall invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the Chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.
 - 3. The Chair shall ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.
 - 4. The Chair shall invite a motion. The Chair shall announce the name of the member of the body who makes the motion.

5. The Chair shall determine if any member of the body wishes to second the motion. The Chair shall announce the name of the member of the body who seconds the motion. No motion shall be debated or put to a vote unless the same shall be seconded. If the motion is made and seconded, the Chair should make sure everyone understands the motion. This is done in one (1) of three (3) ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the recording secretary to repeat the motion.

a. The Chair shall now invite discussion/debate of the motion by the body. Every member desiring to speak shall address the presiding officer, and upon recognition, shall confine himself to the question under debate, avoiding all personalities and indecorous language.

b. A member, once recognized, shall not be interrupted when speaking unless it is to call him to order or as herein otherwise provided.

i. If a member, while speaking is called to order, he shall cease speaking until the question of order is determined, and, if in order, he shall be permitted to proceed.

c. Order of rotation in matters of debate or discussion shall be at the discretion of the presiding officer.

i. A member shall not speak more than twice on the same subject without leave of the chair, nor more than once until every member desiring to speak on the pending question has had an opportunity to do so.

6. The Chair shall invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input on the agenda item being considered. If numerous members of the public indicate a desire to speak to the subject, the Chair may limit the time of public speakers. To be recognized, each person desiring to give comment, testimony or evidence shall sit down at the table provided and after being recognized, give his or her name and address before testifying, commenting or presenting other evidence. All comments, testimony and evidence shall be directed to the presiding officer. No questions shall be asked of a Commission member except through the presiding officer. At the conclusion of the public comments, the Chair shall announce that public input has concluded (or the public hearing as the case may be is closed).

7. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

8. The Chair shall direct the Recording Secretary to take a roll call vote. If members of the body do not vote, then they "abstain". Unless the rules of the body provide otherwise (or unless a super-majority is required as delineated in these rules) then a simple majority determines whether the motion passes or is defeated.

9. The Chair should announce the result of the vote and should announce what action (if any) the body has taken.

B. Motions, Majority Approval, Debatable or not and Exceptions.

1. The Basic Motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a 5-member committee to plan and put on our annual fundraiser."

2. The Motion to Amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a ten-member committee." A motion to amend takes the basic motion which is before the body and seeks to change it in some way. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way.

3. The Substitute Motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year." A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it.

4. Order of Consideration of Motions. There can only be three (3) motions on the floor at the same time. The Chair can reject a fourth motion until the Chair has dealt with the three (3) that are on the floor and has resolved them. When there are two (2) or three (3) motions on the floor (after motions and seconds) at the same time, the vote should proceed first on the last motion that is made. So, for example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a ten-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year."

a. First, the Chair would deal with the third (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion passed, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) failed then the Chair would proceed to consideration of the second (now, the last) motion on the floor, the motion to amend.

b. Second, if the substitute motion failed, the Chair would now deal with the second (now, the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five (5) members or ten (10) members). If the motion to amend passed the Chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed the Chair would now move to consider the main motion (the first motion) in its original format, not amended.

c. Third, the Chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or, if amended, would be in its amended format (ten-member committee), and the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

5. Motion to Reconsider. A motion to reconsider requires a majority vote to pass, but there are two (2) special rules that apply only to the motion to reconsider.

a. First, is timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body following due notice. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and by a two-thirds (2/3) majority, can allow a motion to reconsider to be made at another time following due notice.)

b. Second, a motion to reconsider can only be made by certain members of the body. Accordingly, a motion to reconsider can only be made by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she can make the motion to reconsider (any other member of the body may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again. That would defeat the purpose of finality.

c. If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is then in order. The matter can be discussed and debated as if it were on the floor for the first time.

6. Simple Majority and Exceptions. All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which, effectively, cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds (2/3) vote of the entire commission (a super-majority) to pass:

a. Motion to Limit Debate. Whether a member says "I move the previous question" or "I move the question" or "I call the question" or "I move to limit debate", it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds (2/3) vote of the entire commission to pass.

b. Motion to Close Nominations. When choosing officers of the body (like the Chair) nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds (2/3) vote of the entire commission to pass.

c. Motion to Object to the Consideration of a Question. Normally, such a motion is unnecessary since the objectionable item can be tabled, or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds (2/3) vote of the entire commission to pass.

d. Emergency Measures. In the case of emergency measures, the emergency must be expressed in the preamble or in the body of the measure and the measure must receive a two-thirds (2/3) vote of the entire commission. In emergency ordinances, the resolutions shall include only such measures as are immediately necessary for the preservation of peace, health, and safety and shall not include a franchise to a corporation or individual, any provisions for the sale of real estate, any lease or letting of any property for a period exceeding one (1) year, or the purchase or sale of personal property exceeding five thousand dollars (\$5,000.00) in value. (7-5-4204 MCA)

e. Motion to Punish and Expel. The commission may punish a member and expel any member for the improper conduct upon a two-thirds (2/3) vote of the entire commission members. (7-5-4103 MCA).

7. Motions Debatable, Exceptions. The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Chair that it is time to move on and take action.

a. Exceptions. There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion):

i. A Motion to Adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

ii. A Motion to Recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

iii. A Motion to Fix the Time to Adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

iv. A Motion to Postpone Consideration. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold". The motion can contain a specific time in which the item can come back to the body: "I move we postpone consideration of this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to consider the item and bring it back to the body will have to be taken at a future meeting. A motion to postpone consideration an item (or to bring it back to the body) requires a simple majority vote.

v. A Motion to Limit Debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote". When such a motion is made, the Chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds (2/3) vote of the body. Note: that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds (2/3) vote of the body.

vi. Motion to Object to Consideration of an Item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds (2/3) vote.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-20. - Reserved.

Editor's note—

Ord. No. 2019, § 1, adopted April 19, 2010, repealed § 2-20 which pertained to procedure for the presentation of agenda items to the City Commission to encourage public participation in regular meetings and public hearings, and derived from Ord. No. 1869, adopted Feb. 17, 1998; Ord. No. 1921, § 1(part), adopted Feb. 3, 2003; and Ord. No. 1962, adopted Feb. 21, 2006.

Sec. 2-21. - Public hearings.

A. The Commission may conduct public hearings or may appoint a hearing officer for that purpose, except for budget hearings, as provided in Section 7-1-4131, MCA.

B. When heard by the Commission, the items will be presented to the Commission in the same format, as described in Section 2-19 of this Chapter.

C. In addition, when public hearings and public interest matters are being heard and it is anticipated that a large number of the public may wish to participate, the presiding officer, with the consent of the Commission, may, prior to the meeting, establish reasonable guidelines for conducting the meeting.

D. Witness may be required to testify under oath and all testimonies shall be directed to the presiding officer only.

E. The Commission shall not be bound by the strict rules of evidence, and may exclude irrelevant, immaterial, incompetent or unduly repetitious comments, testimony or evidence. The presiding officer shall, with advise from the City Attorney, rule on all questions relating to admissibility of testimony or evidence. The ruling of the presiding officer may be overruled by a majority vote of the Commission.

F. The proponents or opponents, their agents or attorneys, may submit petitions and written comments during or prior to the closing of the hearing and the same shall be entered by reference into the minutes and considered as other testimony received at the hearing.

G. Following the presentation of all comments, testimony and evidence, the Commission may:

- 1. Continue the hearing to a date certain to allow additional information to be submitted to the Commission as a body on any unresolved issues;
- 2. Close the public hearing and proceed to Commission debate of the matter; or
- 3. Continue the Commission debate and vote to a date certain.

H. A public hearing which has been formally closed may not be reopened. If additional information is required before a decision can be made, the Commission, upon motion duly made, seconded and passed, may call for an additional public hearing, which hearing shall be duly noticed, specifying date, time, place and subject matter of the hearing.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-22. - Addressing the Commission.

- A. The public is invited to speak: on any item under discussion by the Commission after recognition by the presiding officer.
- B. The speaker should step to the front of the room, and sit at the table provided, provide the speaker's name and address on the signup sheet located at the table, and for the record, give his/her name and address and, if applicable, the person, firm or organization represented.
- C. Prepared statements are welcomed and should be given to the Recording Secretary of the Commission. All prepared statements shall become a part of the permanent record.
- D. While the Commission is in session, the members must preserve order and decorum. A member shall not delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Commission or its presiding officer.
- E. Any person making personal, impertinent or slanderous remarks or who shall become boisterous or disruptive during the Commission meeting shall be forthwith barred from further presentation to the Commission by the presiding officer, unless permission to continue be granted by a majority vote of the Commission.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09)

Sec. 2-23. - Ordinances and resolutions.

- A. All ordinances and resolutions shall be prepared or reviewed by the City Attorney. No ordinance or resolution shall be prepared for presentation to the Commission unless ordered by a majority vote of the Commission or requested by the City Manager.
- B. The ordinances and resolutions, before presentation to the Commission, shall be approved as to form and legality by the City Attorney and shall have been examined by the City Manager who may refer it for comment to the head of the department under whose jurisdiction the subject matter of the ordinance or resolution is to be administered.
- C. A draft of the proposed ordinance or resolution shall be presented to the Commission for review and comment with the public being notified of the proposed action and invited to make comment.
- D. If the draft ordinance is approved by the Commission, it shall then be placed on the agenda for the first reading and provisional adoption, with the second reading and final adoption occurring at least twelve (12) days after the first reading and provisional adoption. After being provisionally adopted, the ordinance shall be posted in a conspicuous place in the City/County Complex and copies thereof shall be available to the public from the Recording Secretary of the Commission. The reading of the ordinance's or resolution's title and number shall be sufficient to constitute a reading and an actual oral pronouncement of each word contained therein of the proposed ordinance or resolution is not required and shall be waived unless required by a majority vote of the City Commission.

E. All ordinances, except emergency ordinances, shall become effective thirty (30) days after the second reading and final adoption. All resolutions and emergency ordinances shall become effective upon passage or at the time specified therein. Emergency ordinances and resolutions, which are defined as those measures which are immediately necessary for the preservation of peace, health and safety, require a two-thirds (2/3) vote of the entire commission

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10)

Secs. 2-24—2-39. - Reserved.

Article III. - Officers

Sec. 2-40. - Qualifications.

The qualifications for elected or appointed City officers shall be those qualifications set by State law. In addition, except as may be provided by specific ordinance, all officers must reside within the City of Livingston City limits.

(Ord. 1330, 7-76; Ord. 1466, 9-80; Ord. 1981, 12/4/06)

Sec. 2-41. - Officers.

The officers of the City shall consist of all elected positions and the City Manager (Section 7-1-4121(11), MCA).

(Ord. 1981, 12/4/06)

Sec. 2-42. - Commencement of term for elected officers.

The terms of all elected officers shall commence on the date set by State law following the election. Elected officers shall be sworn in by having the Recording Secretary administer the oath of office at seven p.m. at the City Commission Chambers on the date the term commences, or if the date falls on a legal holiday, on the day following the legal holiday.

(Ord. 1981, 12/4/06)

Sec. 2-43. - Elected officer vacancy or removal.

The filling of any vacancy or the removal from any elective office shall be conducted in conformity with State law.

(Ord. 1981, 12/4/06)

Sec. 2-44. - Compensation.

The annual salary of all officers, elected or appointed, shall be set each year by budget resolution.

(Ord. 1981, 12/4/06)

Sec. 2-45. - Term.

All officer, elected or appointed, shall continue to act in the office to which they were elected or appointed, regardless of the term of office, until a successor is sworn in, or otherwise provided by contract.

(Ord. 1981, 12/4/06)

Sec. 2-46. - Oath.

All elected and appointed officers shall take and subscribe to the prescribed oath of office, which oath shall be filed with the Recording Secretary.

(Ord. 1981, 12/4/06)

Article IV. - Departments

Sec. 2-47. - Establishment of departments and department heads.

- A. The administrative functions of City government are divided into the following departments: Finance, Planning, Public Works, Police, Fire and Law.
- B. A department head will be appointed for each department who shall be hired and supervised by the City Manager.

(Ord. 1981, 12/4/06)

Sec. 2-48. - Acting department heads.

During a vacancy or periods when any department head is on an authorized leave of absence, the Manager may appoint a person to undertake the duties and responsibilities of the officer for a designated time and such person shall be designated as "acting" in such capacity.

(Ord. 1981, 12/4/06)

Sec. 2-49. - City Finance Director who may also be referred to as Finance Officer.

The Finance Officer shall be responsible for the following duties:

- A. Keeping an accurate accounting of all City funds according to standards of municipal accounting;
- B. Collecting, depositing and investing all City funds;
- C. Assisting in providing information for budget preparations;
- D. Filing proper reports with all Federal and State agencies as to City employee wages and benefits;
- E. Day to day supervision of Finance Department personnel; and

F. Performing such other functions as may be assigned by the City Manager.

(Ord. 179, 10/17/94; Ord. 1981, 12/4/06)

Sec. 2-50. - Public Works Director.

The Public Works Director shall perform all duties incident to the supervision of the maintenance, operation and construction of the streets, alleys, water, sewer, sanitation, garbage, cemetery, building, parks and recreation departments and the employees and personnel thereof, subject to the direction of the City Manager.

(Ord. 1981, 12/4/06)

Sec. 2-51. - Department of Law.

A. Department of Law. The Department of Law is hereby established under the direction, supervision and administration of the City Manager.

B. Department Head. The City Attorney, who shall be appointed by the City Manager, shall be in charge of the Department of Law.

C. Qualifications. The City Attorney shall be a resident and an elector of the City of Livingston, a citizen of the United States and shall have been admitted to the practice of law for at least five (5) years before the date of appointment.

D. Duties. The City Attorney shall be the chief legal advisor of the City and of all the City's departments and offices. The City Attorney shall appear before all courts, administrative agencies and all legal proceedings which involve the City as a municipal corporation and political subdivision of the State of Montana. The City Attorney shall prosecute all misdemeanor criminal offenses committed within the jurisdiction of the City Court. The City Attorney shall draft all contracts, ordinances, resolutions, deeds, easements, and other legal documents for the City and shall provide legal advice and render written opinions on questions pertaining to the duties, rights, liabilities and powers of the City, its officers and employees, as may be requested by the City Manager or the City Commission and perform such other duties as may be required by law or ordinance.

(Ord. 1969, 6/5/06; Ord. 1981, 12/4/06)

Sec. 2-52. - Nepotism, public contracts and interest in sales or purchases.

All officers and employees shall be subject to State law with regard to restrictions upon nepotism in the appointment or employment of any person.

All officers and employees shall be subject to State law prohibiting an interest, as defined by State law, in any City contract or in sales or purchases by the City.

(Ord. 1981, 12/4/06)

Sec. 2-53. - Suspension or removal from office.

The Chairman may suspend or remove, with the consent of a majority of the City Commission, any appointive officer, for neglect of duty or misbehavior, after notice to the party affected and hearing before the City Commission.

(Ord. 1981, 12/4/06)

Secs. - 2-54—2-69. Reserved.

Article V. - Employees

Sec. 2-70. - Hiring of employees.

Employees shall be hired and discharged by the City Manager. This shall include department heads.

(Ord. 1981, 12/4/06)

Sec. 2-71. - Union contracts.

The provisions of union contracts that are in effect shall determine the filling of any position vacancies in union positions.

(Ord. 1981, 12/4/06)

Sec. 2-72. - Police Officer positions.

All applications for the position of Police Officer shall be reviewed and certified by the City of Livingston Police Commission in conformity with State law prior to any action being taken upon the application.

(Ord. 1981, 12/4/06)

Sec. 2-73. - Employee holidays.

- A. Paid holidays for employees who are not members of a union shall be as follows:
 1. January 1—New Year's Day;
 2. Third Monday in January—Martin Luther King, Jr. Day;
 3. Third Monday in February—as observation of both Lincoln's and Washington's Birthdays;
 4. Last Monday in May—Memorial Day;
 5. July 4—Independence Day;
 6. First Monday in September—Labor Day;
 7. Second Monday in October—Columbus Day;
 8. November 11—Veteran's Day;

- 9. Fourth Thursday in November—Thanksgiving Day;
- 10. December 24—Christmas Eve (Note: not a State holiday);
- 11. December 25—Christmas Day;
- 12. Every day declared a legal holiday by the City of Livingston.
- 13. State General Election Day.

B. Employees required to work on a holiday will be paid at two (2) times the regular rate of pay in addition to the regular day's pay. An employee who is scheduled for a day-off on a day which is observed as a legal holiday shall receive a different day-off for the legal holiday. If any of the above-enumerated holidays fall upon a Sunday, the Monday following is a holiday or if the holiday falls upon a Saturday, the Friday before is a holiday.

(Ord. 1981, 12/4/06)

Sec. 2-76. - Suspension, termination and promotion authority.

The department heads and the working supervisors in any department shall have the authority to generally direct the work of employees working under their supervision.

(Ord. 1981, 12/4/06)

Sec. 2-77. - Code of Ethics.

All employees shall be subject to the Code of Ethics provisions of State law that prohibit conflict between public duty and private interests. All employees of the City shall recognize that they are public employees and have a particular responsibility for serving the public without conflict between public duty and their own private interest.

(Ord. 1981, 12/4/06)

Sec. 2-78. - Employment policies.

The City Commission may adopt employment policies to aid in the management of City affairs and all employees shall follow such policies.

(Ord. 1981, 12/4/06)

Secs. - 2-79—2-89. Reserved.

Article VI. - Civil Defense

Sec. 2-100. - Civil defense and disaster relief plan approved, purpose, approval of revisions authorized.

The County of Park and City of Livingston Civil Defense Plan is hereby approved. This plan provides for an integrated City-County organization for civil defense and for operations during

periods of emergency, and thereby constitutes the most effective and efficient means of meeting the civil defense needs of the City and its citizens, by making maximum use of the existing agencies and capabilities of local government within the County, supported by volunteers and nongovernmental personnel and resources, to prevent or minimize loss of life and property that could be caused by enemy attack or other catastrophe or disaster affecting the City. The Chairman is authorized to approve such revisions of the civil defense plan as may be made, from time to time, if he deems the revisions to be reasonably necessary to meet the civil defense needs of the City and its citizens.

(Code 1958, 8-1; Ord. 1198, A, 9/8/70)

Sec. 2-101. - Same—directing and controlling operations.

The Chairman and the Board of County Commissioners shall, during periods of emergency caused by enemy attack or other catastrophe or disaster affecting the City, jointly direct and control the operations of the City-County organization for civil defense established in such civil defense plan. The Chairman is authorized and directed to take, during such periods of emergency, such actions as are reasonably necessary to prevent or minimize loss of life and property, in cooperation with the Board of County Commissioners and the Civil Defense Director of the County.

(Code 1958, 8/1; Ord. 1198, B, 9/8/70)

Sec. 2-102. - Appointment of "acting" officers, term limited.

The City Commission may appoint an "acting" officer to temporarily replace any officer who shall enter military service or emergency defense employment in the manner provided in this article. Acting officers so appointed shall be appointed for a period not to exceed the unexpired term of the officer whose duties he assumes, and such appointment shall be subject to the right of the officer to the restoration of his position.

Sec. 2-103. - Leaves of absence and reemployment or reinstatement upon completion of military or civil defense—authorized.

A. Any person inducted into the armed forces or reserve unit of the United States, or any person employed for emergency civil defense, who, in order to perform such training, service or active duty or such emergency employment, leaves a permanent position in the employ of the City, upon completion of duty, and being still qualified to perform the duty of such office or employment, shall be restored to such position, or to a position of like seniority, status and pay, provided, however, such position or department has not been abolished or consolidated.

B. If such position was that of an elective officer of the City such person shall be restored to such position, status and pay at anytime during the term for which he was elected.

Sec. 2-104. - Absence because of military or civil defense service considered leave of absence.

Any person who is restored to a position in accordance with the provisions of this section shall be considered as have been on leave of absence during the period of his absence, and shall be immediately restored without loss of seniority.

Sec. 2-105. - Procedure for reinstatement; application.

All persons asking restoration to a position in accordance with the provisions of this section shall, in order to qualify for the restoration of such position, make application for reemployment or reinstatement within forty (40) days after discharge from such training, service or emergency defense employment. Such application must be in writing and presented to the City Commission.

(Code 1958; Ord. 1054, 2/59; Ord. 1082, 4/61; Ord. 1099, 5/63; Ord. 1114, 9/63; Ord. 1151, 4/66; Ord. 1164, 3/64; Ord. 1174, 9/67; Ord. 1191, 8/69; Ord. 1248, 4/73; Ord. 1270, 8/74; Ord. 1283, 3/75; Ord. 1287, 5/5/75; Ord. 1299, 10/6/75; Ord. 1343, 4/77; Ord. 1314, 2/2/76; Ord. 1315, 2/2/76; Ord. 1330, 7/18/76; Ord. 1349, 4/77; Ord. 1350, 4/18/77; Ord. 1351, 4/18/77; Ord. 1352, 4/18/77; Ord. 1359, 7/77; Ord. 1373, 9/19/77; Ord. 1394, 2/6/78; Ord. 1466, 9/80; Ord. 1618, 3/20/89; Ord. 1868, 2/2/98)

Article VII. - Development Review Fees

Sec. 2-110. - Site plans review.

A. Site Plan Review. Any and all commercial or industrial development or redevelopment will be required to apply to the City for site plan review. The purpose of this review is to identify and mitigate any conflicts or inconsistencies between the proposed project, existing services, future needs and the City's development standards.

B. Building Permit. All projects which require a building permit are subject to site plan review. No building permit shall be issued nor will any work of any kind commence until the application for site plan review has been approved in writing by an authorized City official.

C. Applications for Site Plan Review.

1. The City shall require, when deemed necessary, changes, modifications or improvements in the proposed plans and drawings submitted for review in order to bring development projects into compliance with established City development standards and future needs. Applications for site plan review, containing adopted development standards, will be made on a form supplied by the City to which will be attached plans and drawings submitted by the developer or his agents which address the following issues:

- a. Zoning. Land use type, lot size/density, property line setbacks, building heights, parking requirements, signs, landscaping requirements, screening, lighting and any other site-specific issues deemed to be pertinent to a given project;
- b. Sewer and Water. Service lines and applicable fees, main extensions, payback areas and hydrant placement;
- c. Storm Water. Site grading and drainage, parking area surfacing, oil and grease traps, storm water retention and/or connection to storm sewers;
- d. Streets and Transportation. On-site traffic flow, curb cuts, proposed and existing ingress and egress to the property, sidewalks, boulevards, pedestrian safety, impact on public streets, traffic control devices and any other required off-site improvements;

e. Emergency Services. Building security and patrol requirements, lighting, fire access and water flows for fire-fighting;

f. Solid Waste. Size, type, location and access to receptacles.

2. Applications with required supporting data and applicable filing fees shall be filed with the City Planning Office. The site plan review will not commence until all required documents and fees have been submitted.

3. The filing fee for site plan review is two hundred fifty dollars (\$250.00).

4. The site plan review committee shall consist of the City Manager and department heads or other designated person. The site plan review committee will meet as necessary to review each application.

D. Violations and Civil Penalty. Any work performed contrary to the approved site plan shall not be permitted, a stop order will be issued and all work will cease until the violation is either removed or made to conform with the site plan at the applicant's expense. A violation may be punished by a civil penalty not to exceed five hundred dollars (\$500.00) for each day the violation is allowed to continue and each day shall be deemed a separate violation.

(Ord. 1870, 4/20/98)

Sec. 2-111. - Reserved.

Article VIII. - Immunization, Defense and Indemnification

Sec. 2-112. - Immunization, defense and indemnification of public officers and public employees.

A. It is the purpose of this section to provide for immunization, defense, and indemnification of public officers and public employees of the City civilly sued for alleged violations of Constitutional Initiative 75 for actions taken within the course and scope of their employment.

B. In any civil action brought against any public official or public employee of the City, alleging a violation of Constitutional Initiative 75, the City shall then defend the action on behalf of the public official or public employee and indemnify the public official or public employee from any liability resulting from the alleged violation of Constitutional Initiative 75, except as provided for hereinafter.

C. Upon receipt of service of Summons and Complaint alleging a violation of Constitutional Initiative 75, the public official or public employee shall give written notice thereof to the City Manager or to the City Attorney requesting that a defense to this action be provided by the City.

(Ord. 1881, 12/21/98)

Sec. 2-113. - Exceptions.

In a civil action alleging a violation of Constitutional Initiative 75, in which a public official or public employee of the City is a party defendant, the public official or public employee may not be

defended or indemnified by the City for any money judgments or legal expenses, including attorney's fees, to which the public official or public employee may be subject to as a result of a law suit under the following circumstances:

- A. The conduct upon which the claim is based constitutes oppression, fraud, or malice or for any other reason does not arise out of the course and scope of the public official or public employee's employment;
- B. The public official or public employee compromised or settled the claim without the consent of the City; or
- C. The public official or public employee failed or refused to cooperate reasonable in the defense of the claim.
- D. The conduct of the public official or public employee constitutes a criminal offense.

However, if there is a dispute as to whether the exceptions apply, and the City determines it should clarify its obligation to the public official or public employee arising under this section by commencing a declaratory judgment action or other legal action, the City is obligated to provide a defense or assume the costs of the defense of the public official or public employee until a final judgment is rendered in such action holding the City of Livingston has no obligation to defend the public official or public employee. The City has no obligation to provided a defense to the public official or public employee in a declaratory action or other legal action brought against the public official or public employee by the City of Livingston under this section.

(Ord. 1881, 12/21/98)

APPENDIX 2

MUNICIPAL FISCAL YEAR

A compilation of statutory references detailing important dates and deadlines in the city's fiscal year, including dates concerning budgets, assessments, elections and general operations.

Caveat: A local government official may not make a disbursement or expenditure or incur an obligation in excess of the total appropriations for a fund group.

A local government official who makes a disbursement or expenditure or incurs an obligation in excess of the total fund appropriation is liable personally. The subsequent claims approval process may not be considered as the making of a disbursement or expenditure or as incurring an obligation and does not otherwise limit or mitigate the local government official's personal liability. (Mont. Code Ann. § 7-6-4005.)

All accounts and demands against a city must be presented within one (1) year from the date it was accrued and any claim or demand not so presented is forever barred and the commission has no authority to allow any account or demand. (Mont. Code Ann. § 7-6-4301.)

Utility rate increases require at least seven (7) days and not more than thirty (30) days prior to the rate hearing to all customers and consumer counsel containing an estimate of the increase, as well as a publishing note. (Mont. Code Ann. § 69-7-111.)

July 1st - Fiscal year begins. (Mont. Code Ann. § 7-6-610)

A municipality may receive and expend money between **July 1** and the date of the adoption of final budget. (Mont. Code Ann. § 7-6-4025.)

July 7th - On or before the 7th of July each year, the city treasurer or clerk is to give written notice to every property owner to which sewer or water services were provided prior to July 1 of sewer/water arrearage amount, including penalty and interest and that unless paid within thirty (30) days of notice, the amount will be levied as a tax. The notice must state that the city may collect past-due assessments by suit, including interest and penalties as a debt owing the city. (Mont. Code Ann. § 7-13-4309.) At the time the annual tax levy is certified to the County, the city shall certify and file with the Department of Revenue a list of all lots, giving the legal description of each lot, to the owners of which notices of arrearage in payments were given and which remain unpaid, stating the amount of the arrearage with penalty and interest which the Department of Revenue shall insert the amount as a tax against each lot.

July - Ballot issues must be filed with the Secretary of State by the third Friday of the fourth month prior to the election at which they are voted on. (Mont. Code Ann. § 13-27-104.)

Notice of preliminary budget must be given pursuant to Mont. Code Ann. § 7-6-4021. The notice must specify that the budget has been completed, is open to inspection, and give the date, time and place of a public hearing for taxpayers to appear and be heard on the budget. (Mont. Code Ann. § 7-1-4127.) The notice is to be published twice in a local newspaper at least six (6) days apart. The July publication date would apply only if the Department of Revenue certifies the total taxable value of properties in the City prior to August 1.



August - By the first Monday in August, the Department of Revenue shall certify to the City the total taxable value within the City. (Mont. Code Ann. §15-10-202.)

August 7th - To avoid tax levy, all sewer/water arrearages must be paid. See July 7th for more information. (Mont. Code Ann. § 7-13-4309.)

Immediately after the second Monday in August, the city treasurer is to certify to the Department of Revenue all special assessments and taxes levied and assessed. The certification is to occur at the same time the copy of the resolution determining the annual levy for general taxes is certified to County. (Mont. Code Ann. § 7-12-4181.)

August - No later than the second Monday in August, the City Commission shall estimate the cost of maintenance in street maintenance districts and shall pass and finally adopt a resolution specifying the district assessment option and levying and assessing all the property within the district. (Mont. Code Ann. § 7-12-4425.) Thereafter, the City shall publish notice of hearing stating that the resolution levying a special assessment to defray the cost of maintenance is on file and subject to inspection. The notice shall be published once and state the time and place at which objections to final adoption of resolution will be heard. The time for the hearing shall be not less than five (5) days after publication of the notice. (Mont. Code Ann. § 7-12-4426.) At the hearing, the City Commission may adopt a resolution modifying such assessments in whole or in part. (Mont. Code Ann. § 7-12-4427(1).) A copy of the resolution to modify shall be delivered to the financial officer and the assessments shall be placed upon the tax roll. (Mont. Code Ann. § 7-12-4427(2).)

At least seventy-five (75) days prior to the general election, the Secretary of State shall certify to the election administrator the candidates and ballot issues that are to appear on the ballot. The election administrator shall then cause official ballots to be prepared. (Mont. Code Ann. § 13-12-201.)

Budget/Levy Notes: Montana Code Annotated § 15-10-420 allows the City to impose mills sufficient to generate the amount of property taxes actually assessed in the prior year, plus one-half (1/2) of the average rates of inflation for the prior three (3) years. The maximum number of mills a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the City in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half average rates of inflation for the prior 3 years. The maximum number of mills required to generate the amount of property tax actually assessed in the city if the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rates of inflation for the prior 3 years.

(1/2) of the average rates of inflation for the prior three (3) years.

The final budget resolution may authorize the governing body or the chief executive to transfer appropriations between items within the same fund. (Mont. Code Ann. § 7-6-4031.) The final approved budget becomes effective on July 1 of the fiscal year. (Mont. Code Ann. § 7-6-4030(4).)

Authorization to exceed the maximum mill requires an election (§ 7-6-4431) to be held as provided by § 15-10-425 to be held in conjunction with a primary or general election.

Ambulance mill levy subject to § 15-10-420 is authorized pursuant to § 7-34-102 to defray the costs incurred in providing ambulance service.

Subject to § 15-10-420 the city may levy a tax to fund parks, swimming pools, skating rinks, playgrounds, civic centers, youth centers, and museums in addition to the levy for general municipal or administrative purposes. (§ 7-16-4105 MCA)

At the time the annual tax levy is certified to the county clerk, the City shall certify and file with Department of Revenue a list of all lots or parcels, giving the legal description, to the owners of which notices of sewer or water arrearages were given and remain unpaid and stating the amount of the arrearage, including penalty and interest. The department of revenue shall insert the amount as a tax against the lot or parcel. (§ 7-13-4309(2))

September - Final Budget must be completely approved and adopted by resolution by the later of the first Thursday after the first Tuesday in September or within 30 calendar days of receiving the certified taxable values from the Department of Revenue. (Mont. Code Ann. § 7-6-4024(3)).

September - On or before the first Thursday after the first Tuesday in September, or within thirty (30) calendar days after receiving certified taxable values, the City Commission shall fix the tax levy at levels that will balance the budgets. Each levy must be made in the manner provided in Montana Code Annotated § 15-10-201; i.e. the levy must be in mills, tenths and hundredths of mills. (Mont. Code Ann. § 7-6-4036)

September - By the second Monday in September or within 30 calendar days after receiving certified taxable values, the Clerk and Recorder shall notify the Department of Revenue of the number of mills needed to be levied for each taxing jurisdiction in the County. (§ 15-10-305 MCA) and shall add all fees or assessments to be levied against a piece of property.

September - If the City is required to hold an annual general election and opts for a November general election, a primary election, if required, shall be held on the Tuesday following the second Monday in September in odd numbered years. (Mont. Code Ann. § 13-1-104 and 107.) **Note:** A general election for a city which holds annual elections may be held in conjunction with the school election which is held on the first Monday in May. (Mont. Code Ann. § 13-1-104(4).) The city is required to pay the cost of primary election in even-numbered years. (Mont. Code Ann. § 13-1-107(3).)

October 1st - No later than October 1st or 60 days after receipt of taxable values from the Department of Revenue, the finance officer shall forward a complete copy of the final budget together with tax levies to the Department of Administration. (Mont. Code Ann. § 7-6-4003.)

October - Before the first Monday in October, the City Commission shall pass and adopt a resolution levying an assessment and tax against each lot for sidewalks, curbs and gutters which have been ordered installed pursuant to Montana Code Annotated § 7-14-4109. The assessment may be spread over a period of time not to exceed twenty (20) years. (Mont. Code Ann. § 7-14-4110.)

October – Pursuant to Montana Code Annotated § 7-12-4328, before the first Monday in October, the City Commission shall estimate the cost of maintaining lights and furnishing electrical current in the light maintenance districts. The City Commission shall also determine the amount to be assessed against property in the light maintenance districts and shall pass and finally adopt a resolution levying and assessing each property in the districts with an amount equal to the proportion of the cost of maintenance and electrical current. A notice signed by the clerk stating that the resolution levying the assessment is on file and subject to inspection for a period of five (5) days shall be published at least once. Such notice shall state the time and place at which objections to the final adoption of such resolution shall be heard by the City Commission. The time for such hearing shall not be less than five (5) days after the publication of notice. At the time of the hearing, the City Commission shall meet and hear all such objections and may modify such resolution in whole or in part. A copy of such resolution as finally adopted, certified by the clerk, must be delivered within two (2) days to the city treasurer. (Mont. Code Ann. §§ 7-12-4329, 4330, 4332, 4333 MCA.)

October - By the second Monday the Department of Revenue shall complete the computation of taxes, fees, and assessments to be levied against property in the city and shall notify the County Treasurer and County Clerk and Recorder. (Mont. Code Ann. § 15-10-305(2).)



November – In even numbered years, the general election is held on the first Tuesday after the first Monday in November for federal, state, and county officials. (Mont. Code Ann. § 13-1-104.)

If a municipality desires to exceed the maximum number of mills authorized by law, it is required to have an election on either primary or general election day. (Mont. Code Ann. §§ 7-6-4431 and 15-10-425.)

November 30th - First ½ of taxes are due. (Mont. Code Ann. § 15-16-101 and 102.)



December 31st - Annual Financial Reports are due to the Department of Administration.

January 1st – The Department of Revenue may not be required to levy or compute a tax for any new taxing jurisdiction created or for any change in an existing jurisdiction unless formally notified by January 1 of the year in which the taxes are to be levied. (Mont. Code Ann. § 15-10-321.)

January 1st – Local governments are permitted to create special districts. A special district is a unit of local government authorized to perform a single or limited number of functions. (§ 7-11-1002(3)(a)) Within sixty (60) days after the creation of a special district, or by January 1 of the effective tax year, whichever occurs first, the governing body shall provide to the Department of Revenue a legal description of the district, a map of the district’s boundaries, list of taxpayers or owners of real property, and a copy of the resolution establishing the special district. (§ 7-11-1014.)

General Assessment Day: Between January 1 and the first Monday in August, the Department of Revenue shall ascertain the names of all taxable inhabitants and assess all property subject to taxation. (Mont. Code Ann. § 15-8-201.)

January 1st - The terms of all elected officers commence on the first Monday in January. (Mont. Code Ann. § 7-4-4107.)

Declarations for nomination are to be filed no sooner than one hundred forty-five (145) days and no later than forty-five (45) days before the primary election in even numbered years. (Mont. Code Ann. § 13-10-201.)

February - Ballot issues must be filed with the Secretary of State by 5:00 p.m. on the third Friday of the fourth month prior to the election at which they are voted on. (Mont. Code Ann. § 13-27-104.)

March - In even numbered years, eighty-five (85) to seventy-five (75) days prior to primary election (first Monday in June), the Secretary of State is to certify primary candidates and issues to the election administrator. (Mont. Code Ann. § 13-10-208(1).) Sixty-seven (67) to sixty-two (62) days prior to the primary, the election administrator certifies ballot and has ballots prepared. (Mont. Code Ann. § 13-10-208(2).)

One hundred thirty-five (135) to seventy-five (75) days prior to the primary, declarations for nomination are to be filed with the Secretary of State. (Mont. Code Ann. § 13-10-201.) Check with election administrator.

May - On the first regular meeting of May, the City Commission shall appoint one member of Police Commission to be appointed annually for a 3-year term. (Mont. Code Ann. § 7-32-4152.)

May – The first Tuesday after the first Monday (School Election Day) is the alternative general election day for Cities which hold annual elections. (Mont. Code Ann. § 13-1-104(4).)

May 31st – Second ½ of taxes are due. (Mont. Code Ann. §§ 15-16-101 and 102.)

Election to exceed the maximum mill requires an election **(7-6-4431)** to be held in an election as provided by **15-10-425** on either primary or general election day

June 30th - Fiscal year ends. (Mont. Code Ann. § 7-6-610.)

APPENDIX 3

M.C.A. 7-6-4001 THROUGH 4036

7-6-4001. Short title -- applicability. (1) This part may be referred to as the "Local Government Budget Act".

(2) This part applies to all local governments.

7-6-4002. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Governing body" means the elected body responsible for the administration of a local government.

(2) "Local government" has the meaning provided in 7-6-602.

(3) "Municipality" means an incorporated city or town.

(4) "Working capital" means the current assets of a fund minus the current liabilities and designated reserves of a fund.

7-6-4003. Budget and levies supplied to department of administration. (1) A local government shall submit a complete copy of the final budget together with a statement of tax levies to the department of administration by the later of October 1 or 60 days after receipt of taxable values from the department of revenue. The county clerk and recorder shall make this submission for counties.

(2) The local government shall use standard forms prescribed by the department of administration or may use an alternative budget format acceptable to the department of administration.

7-6-4004. Budget fund structure. Local government budgets must conform to the fund structure prescribed by the department of administration.

7-6-4005. Expenditures limited to appropriations. (1) Local government officials may not make a disbursement or an expenditure or incur an obligation in excess of the total appropriations for a fund.

(2) A local government official who violates subsection (1) is liable for the amount of the excess disbursement, expenditure, or obligation personally.

(3) The subsequent claims approval process may not be considered as the making of a disbursement or an expenditure or as incurring an obligation and does not otherwise limit or mitigate the local government official's personal liability.

7-6-4006. Appropriation power -- requirements. (1) A governing body may appropriate money and provide for the payment of the debts and expenses of the local government.

(2) Money may not be disbursed, expended, or obligated except pursuant to an appropriation for which working capital is or will be available.

(3) Appropriations may be adjusted according to procedures authorized by the governing body for:

(a) debt service funds for obligations related to debt approved by the governing body;

(b) trust funds for obligations authorized by trust covenants;

(c) any fund for federal, state, local, or private grants and shared revenue accepted and approved by the governing body;

(d) any fund for special assessments approved by the governing body;

(e) the proceeds from the sale of land;

(f) any fund for gifts or donations; and

(g) money borrowed during the fiscal year.

(4) The governing body may amend the budget during the fiscal year by conducting public hearings at regularly scheduled meetings. Budget amendments providing for additional

appropriations must identify the fund reserves, unanticipated revenue, or previously unbudgeted revenue that will fund the appropriations.

7-6-4007 through 7-6-4010 reserved.

7-6-4011. Use of bond proceeds and borrowed money. (1) Except as otherwise provided by law, money borrowed by a local government may be used only for the purpose for which the money was borrowed. Unless restricted by law, surplus borrowed money may be used to redeem the debt for which the money was borrowed.

(2) The authorization of bonds by the electors or the governing body constitutes the appropriation of the bond proceeds for the purpose for which the bonds are authorized.

7-6-4012. Fee based budgets -- adjustable appropriation. (1) In its final budget resolution, the governing body may authorize adjustments to appropriations funded by fees throughout the budget period. Adjustable appropriations are:

- (a) proprietary fund appropriations; or
- (b) other appropriations specifically identified in the local government's final budget resolution as fee-based appropriations.

(2) Adjustments of fee-based appropriations must be:

- (a) based upon the cost of providing the services supported by the fee; and
- (b) fully funded by the related fees for services, fund reserves, or nonfee revenue such as interest.

7-6-4013. Fees for services -- hearing and resolution. (1) If a local government has the authority to regulate, establish, and change fees, rates, charges, and classifications that are imposed for services to its inhabitants and other persons served by the local government, the fees, rates, charges, and classifications must be reasonable and related to the cost of providing the service.

(2) Charges for services must comply with Title 17, chapter 2, part 3, and other applicable statutes.

(3) In order to establish or change fees, rates, charges, or classifications imposed for services, the governing body shall order a hearing to be held as provided in 7-1-4131, unless a special hearing process is provided by law. Municipal utility rate hearings must be held as provided in 69-7-112.

(4) Notice of a hearing must be published as provided in 7-1-2121 for a county and as provided in 7-1-4127 for a municipality.

(5) After a hearing, the fees, rates, charges, or classifications must be established by resolution of the governing body.

7-6-4014. Restriction on tax-financed expenditures if voter approval required. If an expenditure is to be financed from a tax levy required to be authorized and approved at an election, the expenditure may not be made or an obligation may not be incurred against the expenditure until the tax levy is authorized and approved.

7-6-4015. Payments for judgments. (1) Judgments against a local government that are not covered by insurance may be paid:

- (a) from the general fund; or
- (b) from the fund or funds supporting the local government operation that incurred the judgment.

(2) Judgments that are to be paid from the general fund:

- (a) must be paid in the current fiscal year if there is sufficient money in the general fund to pay both the judgment and the general fund appropriations for the current fiscal year; or
- (b) must be paid from additional tax levies made in each of the next 3 years if general fund money is insufficient to pay the judgment in the current fiscal year.

7-6-4016 through 7-6-4019 reserved.

7-6-4020. Preliminary annual operating budget. (1) A preliminary annual operating budget must be prepared for the local government.

(2) This part does not provide for the consolidation or reassignment, but does not prohibit delegation by mutual agreement, of any duties of elected county officials.

(3) (a) Before June 1 of each year, the county clerk and recorder shall notify the county commission and each board, office, regional resource authority, or official that they are required to file preliminary budget proposals for their component of the total county budget.

(b) Component budgets must be submitted to the clerk and recorder before June 10th or on a date designated by the county commission and must be submitted on forms provided by the county clerk and recorder.

(c) The county clerk and recorder shall prepare and submit the county's preliminary annual operating budget.

(d) Component budget responsibilities as provided in this subsection (3) include but are not limited to the following:

(i) The county surveyor or any special engineer shall compute road and bridge component budgets and submit them to the county commission.

(ii) The county commission shall submit road and bridge component budgets.

(iii) The county treasurer shall submit debt service component budgets.

(iv) The county commission shall submit component budgets for construction or improvements to be made from new general obligation debt.

(4) The preliminary annual operating budget for each fund must include, at a minimum:

(a) a listing of all revenue and other resources for the prior budget year, current budget year, and proposed budget year;

(b) a listing of all expenditures for the prior budget year, the current budget year, and the proposed budget year. All expenditures must be classified under one of the following categories:

(i) salaries and wages;

(ii) operations and maintenance;

(iii) capital outlay;

(iv) debt service; or

(v) transfers out.

(c) a projection of changes in fund balances or cash balances available for governmental fund types and a projection of changes in cash balances and working capital for proprietary fund types. This projection must be supported by a summary for each fund or group of funds listing the estimated beginning balance plus estimated revenue, less proposed expenditures, cash reserves, and estimated ending balances.

(d) a detailed list of proposed capital expenditures and a list of proposed major capital projects for the budget year;

(e) financial data on current and future debt obligations;

(f) schedules or summary tables of personnel or position counts for the prior budget year, current budget year, and proposed budget year. The budgeted amounts for personnel services must be supported by a listing of positions, salaries, and benefits for all positions of the local government. The listing of positions, salaries, and benefits is not required to be part of the budget document.

(g) all other estimates that fall under the purview of the budget.

(5) The preliminary annual operating budget for each fund for which the local government will levy an ad valorem property tax must include the estimated amount to be raised by the tax.

7-6-4021. Notice of preliminary or amended budget. (1) The governing body shall cause a notice of a public hearing on the preliminary or amended budget to be published. The notice must:

(a) provide that the governing body has completed its preliminary annual budget for the

ensuing fiscal year or intends to amend its annual budget;

(b) state that the budget or budget amendment has been placed on file and is open to inspection in the county or municipal office designated in the notice;

(c) designate the date, time, and place of the meeting at which the governing body will meet for approving a final budget or amended budget and making appropriations; and

(d) state that any taxpayer or resident may appear at the meeting and be heard for or against any part of the proposed budget or budget amendment.

(2) The publication requirements must conform to the provisions of 7-1-2121 for a county or 7-1-4127 for a municipality.

7-6-4022. District court budgets. (1) The district court must be provided with copies of the preliminary district court fund budget as soon as the preliminary county budget is prepared pursuant to 7-6-4020.

(2) The district court may recommend changes to any part of the district court fund budget that the court considers to be necessary for it to discharge its obligations under the law. Any recommendations must be made at the hearing on the preliminary budget held pursuant to 7-6-4024.

(3) The district court fund may be used only for district court operations and expenses.

7-6-4023. Repealed. Sec. 74, Ch. 449, L. 2005; Sec. 21, Ch. 453, L. 2005.

7-6-4024. Hearing on preliminary budget. (1) The governing body shall hold a hearing in accordance with the notice given pursuant to 7-6-4021.

(2) Local government officials shall attend the budget hearing to answer questions on their proposed budgets if called upon:

(a) by the governing body; or

(b) by a taxpayer or resident.

(3) The hearing may be continued from day to day and must be concluded and the budget finally approved and adopted by resolution by the later of the first Thursday after the first Tuesday in September or within 30 calendar days of receiving certified taxable values from the department of revenue.

7-6-4025. Receipt and expenditure of money prior to adoption of final budget. A local government may receive and expend money between July 1 of the fiscal year and the date the final budget resolution is adopted.

7-6-4026 through 7-6-4029 reserved.

7-6-4030. Final budget -- resolution -- appropriations. (1) The governing body may amend the preliminary budget after the public hearing and after considering any public comment.

(2) The amended budget constitutes the final budget. The final budget must be balanced so that appropriations do not exceed the projected beginning balance plus the estimated revenue of each fund for the fiscal year.

(3) The governing body shall adopt the final budget by resolution. The resolution must:

(a) authorize appropriations to defray the expenses or liabilities for the fiscal year; and

(b) establish legal spending limits at the level of detail in the resolution.

(4) The effective date of the resolution is July 1 of the fiscal year, even if the resolution is adopted after that date.

7-6-4031. Budget amendment procedures. (1) The final budget resolution may authorize the governing body or a designated official to transfer appropriations between items within the same fund.

(2) The annual budget appropriations may be amended as provided in 7-6-4006(3) and 7-6-4012.

(3) Except as provided in 7-6-4006, 7-6-4011, 7-6-4012, 7-6-4015, and 7-6-4032 or in the case of an emergency under Title 10, chapter 3, a public hearing is required for an overall increase in appropriation authority.

7-6-4032. Emergency expenditures. (1) Emergency budget appropriations must be adopted by two-thirds of the members of a governing body who are present at a meeting.

(2) Emergency expenditures are limited to and must be charged to the adopted emergency budget appropriations.

(3) The governing body may submit the question of funding emergency warrants at an election as provided by law.

7-6-4033. Expenditure limitation. Except as provided in 7-6-4006, 7-6-4011, 7-6-4012, 7-6-4015, and 7-6-4032, the governing body, each county or municipal official, and the district courts are limited to the amount of appropriations and by the classifications in the annual appropriation resolution provided for in 7-6-4030 when making disbursements or expenditures or incurring liabilities.

7-6-4034. Determination of fund requirements -- property tax levy. (1) After determining the final budget, the governing body shall determine the property tax levy needed for each fund by:

(a) adding the total amount of the appropriations and authorized expenditures for the budget year;

(b) adding an additional amount, subject to the provisions of subsection (2), as a reserve to meet expenditures made from the fund during the months of July to November of the next fiscal year;

(c) subtracting the working capital; and

(d) subtracting the total estimated revenue, other than the property tax levy, for the budget year.

(2) After deducting from the amount of the appropriations and authorized expenditures the total amount appropriated and authorized to be spent for election expenses and payment of emergency warrants, the amount that may be added as a reserve, as provided in subsection (1)(b), to:

(a) a county's fund may not exceed one-third of the total amount appropriated and authorized to be spent from the fund during the current fiscal year; and

(b) a city's or town's fund may not exceed one-half of the total amount appropriated and authorized to be spent from the fund during the current fiscal year.

7-6-4035. Tax levies for boards and commissions -- bond exemption. (1) The proposed budget and mill levy for each board, commission, or other governing entity are subject to approval by the governing body.

(2) Except for a port authority created under Title 7, chapter 14, part 11, the taxes, revenue, or fees legally pledged for the payment of debt or for the operations of a regional resource authority are not subject to approval by the governing body.

(3) Except for judgment levies under 2-9-316 or 7-6-4015, all tax levies are subject to 15-10-420.

7-6-4036. Fixing tax levy. (1) The governing body shall fix the tax levy for each taxing jurisdiction within the county or municipality:

(a) by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values;

(b) after the approval and adoption of the final budget; and

(c) at levels that will balance the budgets as provided in 7-6-4034.

(2) Each levy:

(a) must be made in the manner provided by 15-10-201; and

(b) is subject to 15-10-420.

APPENDIX 4

CODE OF ETHICS – MONTANA CODE ANNOTATED

2-2-101. Statement of purpose. The purpose of this part is to set forth a code of ethics prohibiting conflict between public duty and private interest as required by the constitution of Montana. This code recognizes distinctions between legislators, other officers and employees of state government, and officers and employees of local government and prescribes some standards of conduct common to all categories and some standards of conduct adapted to each category. The provisions of this part recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

2-2-102. Definitions. As used in this part, the following definitions apply:

(1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money or economic benefit conferred on or received by any person in return for services rendered or to be rendered by the person or another.

(3) (a) "Gift of substantial value" means a gift with a value of \$50 or more for an individual.

(b) The term does not include:

(i) a gift that is not used and that, within 30 days after receipt, is returned to the donor or delivered to a charitable organization or the state and that is not claimed as a charitable contribution for federal income tax purposes;

(ii) food and beverages consumed on the occasion when participation in a charitable, civic, or community event bears a relationship to the public officer's or public employee's office or employment or when the officer or employee is in attendance in an official capacity;

(iii) educational material directly related to official governmental duties;

(iv) an award publicly presented in recognition of public service; or

(v) educational activity that:

(A) does not place or appear to place the recipient under obligation;

(B) clearly serves the public good; and

(C) is not lavish or extravagant.

(4) "Local government" means a county, a consolidated government, an incorporated city or town, a school district, or a special district.

(5) "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.

(6) "Private interest" means an interest held by an individual that is:

- (a) an ownership interest in a business;
- (b) a creditor interest in an insolvent business;
- (c) an employment or prospective employment for which negotiations have begun;
- (d) an ownership interest in real property;
- (e) a loan or other debtor interest; or
- (f) a directorship or officer ship in a business.

(7) "Public employee" means:

- (a) any temporary or permanent employee of the state;
- (b) any temporary or permanent employee of a local government;
- (c) a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority; and
- (d) a person under contract to the state.

(8) "Public officer" includes any state officer and any elected officer of a local government.

(9) "Special district" means a unit of local government, authorized by law to perform a single function or a limited number of functions. The term includes but is not limited to conservation districts, water districts, weed management districts, irrigation districts, fire districts, community college districts, hospital districts, sewer districts, and transportation districts. The term also includes any district or other entity formed by interlocal agreement.

(10) (a) "State agency" includes:

- (i) the state;
- (ii) the legislature and its committees;
- (iii) all executive departments, boards, commissions, committees, bureaus, and offices;
- (iv) the university system; and
- (v) all independent commissions and other establishments of the state government.

(b) The term does not include the judicial branch.

(11) "State officer" includes all elected officers and directors of the executive branch of state government as defined in 2-15-102.

2-2-103. Public trust -- public duty. (1) The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of public officers, legislators, and public employees. A public officer, legislator, or public employee shall carry out the individual's duties for the benefit of the people of the state.

(2) A public officer, legislator, or public employee whose conduct departs from the person's public duty is liable to the people of the state and is subject to the penalties provided in this part for abuse of the public's trust.

(3) This part sets forth various rules of conduct, the transgression of any of which is a violation of public duty, and various ethical principles, the transgression of any of which must be avoided.

(4) (a) The enforcement of this part for:

(i) state officers, legislators, and state employees is provided for in 2-2-136;

(ii) legislators, involving legislative acts, is provided for in 2-2-135 and for all other acts is provided for in 2-2-136;

(iii) local government officers and employees is provided for in 2-2-144.

(b) Any money collected in the civil actions that is not reimbursement for the cost of the action must be deposited in the general fund of the unit of government.

2-2-104. Rules of conduct for public officers, legislators, and public employees. (1) Proof of commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A public officer, legislator, or public employee may not:

(a) disclose or use confidential information acquired in the course of official duties in order to further substantially the individual's personal economic interests; or

(b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:

(i) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or

(ii) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

(2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of the services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

(3) (a) Except as provided in subsection (3)(b), a public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated, unless:

(i) the public officer, legislator, or public employee reimburses the public entity from which the employee is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent; or

(ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the amount of salary received from the other public employer in order to avoid duplicate compensation for the overlapping hours.

(b) Subsection (3)(a) does not prohibit:

(i) a public officer, legislator, or public employee from receiving income from the use of accrued leave or compensatory time during the period of overlapping employment; or

(ii) a public school teacher from receiving payment from a college or university for the supervision of student teachers who are enrolled in a teacher education program at the college or university if the supervision is performed concurrently with the school teacher's duties for a public school district.

(c) In order to determine compliance with this subsection (3), a public officer, legislator, or public employee subject to this subsection (3) shall disclose the amounts received from the two separate public employment positions to the commissioner of political practices.

2-2-105. Ethical requirements for public officers and public employees.

(1) The requirements in this section are intended as rules of conduct, and violations constitute a breach of the public trust and public duty of office or employment in state or local government.

(2) Except as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

(3) A public officer or public employee may not, within 12 months following the voluntary termination of office or employment, obtain employment in which the officer or employee will take direct advantage, unavailable to others, of matters with which the officer or employee was directly involved during a term of office or during employment.

These matters are rules, other than rules of general application, that the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the officer or employee was an active participant.

(4) When a public employee who is a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority is required to take official action on a matter as to which the public employee has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter, the public employee shall disclose the interest creating the conflict prior to participating in the official action.

(5) A public officer or public employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the officer or employee has a substantial personal interest in a competing firm or undertaking.

2-2-106. Disclosure. (1) (a) Prior to December 15 of each even-numbered year, each state officer or holdover senator shall file with the commissioner of political practices a business disclosure statement on a form provided by the commissioner. An individual filing pursuant to subsection (1)(b) or (1)(c) is not required to file under this subsection (1)(a) during the same period.

(b) Each candidate for a statewide or a state office elected from a district shall, within 5 days of the time that the candidate files for office, file a business disclosure statement with the commissioner of political practices on a form provided by the commissioner.

(c) An individual appointed to office who would be required to file under subsection (1)(a) or (1)(b) is required to file the business disclosure statement at the earlier of the time of submission of the person's name for confirmation or the assumption of the office.

(2) The statement must provide the following information:

(a) the name, address, and type of business of the individual;

(b) each present or past employing entity from which benefits, including retirement benefits, are currently received by the individual;

(c) each business, firm, corporation, partnership, and other business or professional entity or trust in which the individual holds an interest;

(d) each entity not listed under subsections (2)(a) through (2)(c) in which the individual is an officer or director, regardless of whether or not the entity is organized for profit; and

(e) all real property, other than a personal residence, in which the individual holds an interest. Real property may be described by general description.

(3) An individual may not assume or continue to exercise the powers and duties of the office to which that individual has been elected or appointed until the statement has been filed as provided in subsection (1).

(4) The commissioner of political practices shall make the business disclosure statements available to any individual upon request.

2-2-111. Rules of conduct for legislators. Proof of commission of any act enumerated in this section is proof that the legislator committing the act has breached the legislator's public duty. A legislator may not:

(1) accept a fee, contingent fee, or any other compensation, except the official compensation provided by statute, for promoting or opposing the passage of legislation;

(2) seek other employment for the legislator or solicit a contract for the legislator's services by the use of the office; or

(3) accept a fee or other compensation, except as provided for in 5-2-302, from a Montana state agency or a political subdivision of the state of Montana for speaking to the agency or political subdivision.

2-2-112. Ethical requirements for legislators. (1) The requirements in this section are intended as rules for legislator conduct, and violations constitute a breach of the public trust of legislative office.

(2) A legislator has a responsibility to the legislator's constituents to participate in all matters as required in the rules of the legislature. A legislator concerned with the possibility of a conflict may briefly present the facts to the committee of that house that is assigned the determination of ethical issues. The committee shall advise the legislator as to whether the legislator should disclose the interest prior to voting on the issue pursuant to the provisions of subsection (5). The legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest.

(3) When a legislator is required to take official action on a legislative matter as to which the legislator has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter, the legislator shall disclose the interest creating the conflict prior to participating in the official action, as provided in subsections (2) and (5) and the rules of the legislature. In making a decision, the legislator shall consider:

- (a) whether the conflict impedes the legislator's independence of judgment;
- (b) the effect of the legislator's participation on public confidence in the integrity of the legislature;
- (c) whether the legislator's participation is likely to have any significant effect on the disposition of the matter; and
- (d) whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation.

(4) A conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class.

(5) A legislator shall disclose an interest creating a conflict, as provided in the rules of the legislature. A legislator who is a member of a profession, occupation, or class affected by legislation is not required to disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct and distinctive personal impact on the legislator. A legislator may seek a determination from the appropriate committee provided for in 2-2-135.

2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

- (a) subject to subsection (7), use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor and department director.

(3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

(i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a ballot issue on state or local government operations;

(ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of law governing public meetings of the local board of trustees, including the resulting dissemination of information by a board of trustees or a school superintendent or a designated employee in a district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors. Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors.

(c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express personal political views.

(4) A candidate, as defined in 13-1-101(6)(a), may not use or permit the use of state funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains the candidate's name, picture, or voice except in the case of a state or national emergency and then only if the announcement is reasonably necessary to the candidate's official functions.

(5) A public officer or public employee may not participate in a proceeding when an organization, other than an organization or association of local government officials, of which the public officer or public employee is an officer or director is:

(a) involved in a proceeding before the employing agency that is within the scope of the public officer's or public employee's job duties; or

(b) attempting to influence a local, state, or federal proceeding in which the public officer or public employee represents the state or local government.

(6) A public officer or public employee may not engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization, other than an organization or association of local government officials, of which the public officer or public employee is a member while performing the public officer's or public employee's job duties. The provisions of this subsection do not prohibit a public officer or public employee from performing charitable fundraising activities if approved by the public officer's or public employee's supervisor or authorized by law.

(7) A listing by a public officer or a public employee in the electronic directory provided for in 30-17-101 of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this section. The public officer or public employee may not make arrangements for the listing in the electronic directory during work hours.

(8) A department head or a member of a quasi-judicial or rulemaking board may perform an official act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute and if the person complies with the disclosure procedures under 2-2-131.

(9) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless the member is also a full-time public employee.

(10) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to performing the official act.

2-2-131. Disclosure. A public officer or public employee shall, prior to acting in a manner that may impinge on public duty, including the award of a permit, contract, or license, disclose the nature of the private interest that creates the conflict. The public officer or public employee shall make the disclosure in writing to the commissioner of political practices, listing the amount of private interest, if any, the purpose and duration of the person's services rendered, if any, and the compensation received for the services or other information that is necessary to describe the interest. If the public officer or public employee then performs the official act involved, the officer or employee shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act.

2-2-135. Ethics committees. (1) Each house of the legislature shall establish an ethics committee. Subject to 5-5-234, the committee must consist of two members of the majority party and two members of the minority party. The committees may meet jointly. Each committee shall educate members concerning the provisions of this part concerning legislators and may consider conflicts between public duty and private interest as provided in 2-2-112. The joint committee may consider matters affecting the entire legislature.

(2) Pursuant to Article V, section 10, of the Montana constitution, the legislature is responsible for enforcement of the provisions of this part concerning legislators.

2-2-136. Enforcement for state officers, legislators, and state employees -- referral of complaint involving county attorney. (1) (a) A person alleging a violation of this part by a state officer, legislator, or state employee may file a complaint with the commissioner of political practices. The commissioner does not have jurisdiction for a complaint concerning a legislator if a legislative act is involved in the complaint. The commissioner also has jurisdiction over complaints against a county attorney that are referred by a local government review panel pursuant to 2-2-144 or filed by a person directly with the commissioner pursuant to 2-2-144(6). The commissioner may request additional information from the complainant or the person who is the subject of the complaint to make an initial determination of whether the complaint states a potential violation of this part.

(b) The commissioner may dismiss a complaint that is frivolous, does not state a potential violation of this part, or does not contain sufficient allegations to enable the commissioner to determine whether the complaint states a potential violation of this part. If the issues presented in a complaint have been addressed and decided in a prior decision and the commissioner determines that no additional factual development is necessary, the commissioner may issue a summary decision without holding an informal contested case hearing on the complaint.

(c) Except as provided in subsection (1)(b), if the commissioner determines that the complaint states a potential violation of this part, the commissioner shall hold an informal contested case hearing on the complaint as provided in Title 2, chapter 4, part 6. The commissioner shall issue a decision based upon the record established before the commissioner.

(2) If the commissioner determines that a violation of this part has occurred, the commissioner may impose an administrative penalty of not less than \$50 or more than \$1,000, and if the violation was committed by a state employee, the commissioner may also recommend that the employing state agency discipline the employee. The employing entity of a state employee may take disciplinary action against an employee for a violation of this part, regardless of whether the commissioner makes a recommendation for discipline. The commissioner may assess the costs of the proceeding against the person bringing the charges if the commissioner determines that a violation did not occur or against the officer or employee if the commissioner determines that a violation did occur.

(3) A party may seek judicial review of the commissioner's decision, as provided in chapter 4, part 7, of this title, after a hearing, a dismissal, or a summary decision issued pursuant to subsection (1)(b).

(4) Except for records made public in the course of a hearing held under subsection (1) and records that are open for public inspection pursuant to Montana law, a complaint and records obtained or prepared by the commissioner in connection with an investigation or complaint are

confidential documents and are not open for public inspection. The complainant and the person who is the subject of the complaint shall maintain the confidentiality of the complaint and any related documents released to the parties by the commissioner until the commissioner issues a decision. However, the person who is the subject of a complaint may waive, in writing, the right of confidentiality provided in this subsection. If a waiver is filed with the commissioner, the complaint and any related documents must be open for public inspection. The commissioner's decision issued after a hearing is a public record open to inspection.

(5) When a complaint is filed, the commissioner may issue statements or respond to inquiries to confirm that a complaint has been filed, to identify against whom it has been filed, and to describe the procedural aspects and status of the case.

(6) The commissioner may adopt rules to carry out the responsibilities and duties assigned by this part.

2-2-144. Enforcement for local government. (1) Except as provided in subsections (5) and (6), a person alleging a violation of this part by a local government officer or local government employee shall notify the county attorney of the county where the local government is located. The county attorney shall request from the complainant or the person who is the subject of the complaint any information necessary to make a determination concerning the validity of the complaint.

(2) If the county attorney determines that the complaint is justified, the county attorney may bring an action in district court seeking a civil fine of not less than \$50 or more than \$1,000. If the county attorney determines that the complaint alleges a criminal violation, the county attorney shall bring criminal charges against the officer or employee.

(3) If the county attorney declines to bring an action under this section, the person alleging a violation of this part may file a civil action in district court seeking a civil fine of not less than \$50 or more than \$1,000. In an action filed under this subsection, the court may assess the costs and attorney fees against the person bringing the charges if the court determines that a violation did not occur or against the officer or employee if the court determines that a violation did occur. The court may impose sanctions if the court determines that the action was frivolous or intended for harassment.

(4) The employing entity of a local government employee may take disciplinary action against an employee for a violation of this part.

(5) (a) A local government may establish a three-member panel to review complaints alleging violations of this part by officers or employees of the local government. The local government shall establish procedures and rules for the panel. The members of the panel may not be officers or employees of the local government. The panel shall review complaints and may refer to the county attorney complaints that appear to be substantiated. If the complaint is against the county attorney, the panel shall refer the matter to the commissioner of political practices and the complaint must then be processed by the commissioner pursuant to 2-2-136.

(b) In a local government that establishes a panel under this subsection (5), a complaint must be referred to the panel prior to making a complaint to the county attorney.

(6) If a local government review panel has not been established pursuant to subsection (5), a person alleging a violation of this part by a county attorney shall file the complaint with the commissioner of political practices pursuant to 2-2-136.

2-2-201. Public officers, employees, and former employees not to have interest in contracts. (1) Members of the legislature; state, county, city, town, or township officers; or any deputies or employees of an enumerated governmental entity may not be interested in any contract made by them in their official capacity or by anybody, agency, or board of which they are members or employees if they are directly involved with the contract. A former employee may not, within 6 months following the termination of employment, contract or be employed by an employer who contracts with the state or any of its subdivisions involving matters with which the former employee was directly involved during employment.

(2) In this section, the term:

(a) "be interested in" does not include holding a minority interest in a corporation;

(b) "contract" does not include:

(i) contracts awarded based on competitive procurement procedures conducted after the date of employment termination;

(ii) merchandise sold to the highest bidder at public auctions;

(iii) investments or deposits in financial institutions that are in the business of loaning or receiving money;

(iv) a contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract. It is presumed that a local government could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than 10% of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.

(c) "directly involved" means the person directly monitors a contract, extends or amends a contract, audits a contractor, is responsible for conducting the procurement or for evaluating proposals or vendor responsibility, or renders legal advice concerning the contract;

(d) "former employee" does not include a person whose employment with the state was involuntarily terminated because of a reduction in force or other involuntary termination not involving violation of the provisions of this chapter.

2-2-202. Public officers not to have interest in sales or purchases. State, county, town, township, and city officers must not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

2-2-203. Voidable contracts. Every contract made in violation of any of the provisions of 2-2-201 or 2-2-202 may be avoided at the instance of any party except the officer interested therein.

2-2-204. Dealings in warrants and other claims prohibited. The state officers, the several county, city, town, and township officers of this state, their deputies and clerks, are prohibited from purchasing or selling or in any manner receiving to their own use or benefit or to the use or benefit of any person or persons whatever any state, county, or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state or any county, city, town, or township thereof except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy, clerk, and evidences of the funded indebtedness of such state, county, city, township, town, or corporation.

2-2-205. Affidavit to be required by auditing officers. Each officer whose duty it is to audit and allow the accounts of other state, county, city, township, or town officers shall, before allowing the accounts, require each of the officers to make and file with the auditing officer an affidavit that the affiant has not violated any of the provisions of this part.

2-2-206. Officers not to pay illegal warrant. Officers charged with the disbursement of public moneys must not pay any warrant or other evidence of indebtedness against the state, county, city, town, or township when the same has been purchased, sold, received, or transferred contrary to any of the provisions of this part.

2-2-207. Settlements to be withheld on affidavit. (1) Each officer charged with the disbursement of public money who is informed by affidavit establishing probable cause that an officer whose account is about to be settled, audited, or paid has violated any of the provisions of this part shall suspend the settlement or payment and cause the officer to be prosecuted for the violation by the county attorney.

(2) If there is a judgment for the defendant upon prosecution, the proper officer may proceed to settle, audit, or pay the account as if an affidavit had not been filed.

2-2-301. Nepotism defined. Nepotism is the bestowal of political patronage by reason of relationship rather than of merit.

2-2-302. Appointment of relative to office of trust or emolument unlawful -- exceptions -- publication of notice. (1) Except as provided in subsection (2), it is unlawful for a person or member of any board, bureau, or commission or employee at the head of a department of this state or any political subdivision of this state to appoint to any position of trust or emolument any person related or connected by consanguinity within the fourth degree or by affinity within the second degree.

(2) The provisions of 2-2-303 and this section do not apply to:

(a) a sheriff in the appointment of a person as a cook or an attendant;

(b) school district trustees if all the trustees, with the exception of any trustee who is related to the person being appointed and who must abstain from voting for the appointment, approve the appointment of a person related to a trustee;

(c) a school district in the employment of a person as a substitute teacher who is not employed as a substitute teacher for more than 30 consecutive school days as defined by the trustees in 20-1-302;

(d) the renewal of an employment contract of a person who was initially hired before the member of the board, bureau, or commission or the department head to whom the person is related assumed the duties of the office;

(e) the employment of election judges;

(f) the employment of pages or temporary session staff by the legislature; or

(g) county commissioners of a county with a population of less than 10,000 if all the commissioners, with the exception of any commissioner who is related to the person being appointed and who must abstain from voting for the appointment, approve the appointment of a person related to a commissioner.

(3) Prior to the appointment of a person referred to in subsection (2)(b) or (2)(g), written notice of the time and place for the intended action must be published at least 15 days prior to the intended action in a newspaper of general circulation in the county in which the school district is located or the county office or position is located.

2-2-303. Agreements to appoint relative to office unlawful. It shall further be unlawful for any person or any member of any board, bureau, or commission or employee of any department of this state or any political subdivision thereof to enter into any agreement or any promise with other persons or any members of any boards, bureaus, or commissions or employees of any department of this state or any of its political subdivisions thereof to appoint to any position of trust or emolument any person or persons related to them or connected with them by consanguinity within the fourth degree or by affinity within the second degree.

2-2-304. Penalty for violation of nepotism law. A public officer or employee or a member of any board, bureau, or commission of this state or any political subdivision who, by virtue of the person's office, has the right to make or appoint any person to render services to this state or any subdivision of this state and who makes or appoints a person to the services or enters into any agreement or promise with any other person or employee or any member of any board, bureau, or commission of any other department of this state or any of its subdivisions to appoint to any position any person or persons related to the person making the appointment or connected with the person making the appointment by consanguinity within the fourth degree or by affinity within the second degree is guilty of a misdemeanor and upon conviction shall be punished by a fine not less than \$50 or more than \$1,000, by imprisonment in the county jail for not more than 6 months, or both.

APPENDIX 5

PUBLIC PARTICIPATION

2-3-101. Legislative intent. The legislature finds and declares pursuant to the mandate of Article II, section 8, of the 1972 Montana constitution that legislative guidelines should be established to secure to the people of Montana their constitutional right to be afforded reasonable opportunity to participate in the operation of governmental agencies prior to the final decision of the agency.

2-3-102. Definitions. As used in this part, the following definitions apply:

(1) "Agency" means any board, bureau, commission, department, authority, or officer of the state or local government authorized by law to make rules, determine contested cases, or enter into contracts except:

(a) the legislature and any branch, committee, or officer thereof;

(b) the judicial branches and any committee or officer thereof;

(c) the governor, except that an agency is not exempt because the governor has been designated as a member thereof; or

(d) the state military establishment and agencies concerned with civil defense and recovery from hostile attack.

(2) "Agency action" means the whole or a part of the adoption of an agency rule, the issuance of a license or order, the award of a contract, or the equivalent or denial thereof.

(3) "Rule" means any agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include:

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or

(b) declaratory rulings as to the applicability of any statutory provision or of any rule.

2-3-103. Public participation -- governor to ensure guidelines adopted.

(1) (a) Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures must ensure adequate notice and assist public participation before a final agency action is taken that is of significant interest to the public. The agenda for a meeting, as defined in 2-3-202, must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the agency conducting the meeting. However, the agency may not take action on any matter discussed unless specific notice of that matter is included on an

agenda and public comment has been allowed on that matter. Public comment received at a meeting must be incorporated into the official minutes of the meeting, as provided in 2-3-212.

(b) For purposes of this section, "public matter" does not include contested case and other adjudicative proceedings.

(2) The governor shall ensure that each board, bureau, commission, department, authority, agency, or officer of the executive branch of the state adopts coordinated rules for its programs. The guidelines must provide policies and procedures to facilitate public participation in those programs, consistent with subsection (1). These guidelines must be adopted as rules and published in a manner so that the rules may be provided to a member of the public upon request.

2-3-104. Requirements for compliance with notice provisions. An agency shall be considered to have complied with the notice provisions of 2-3-103 if:

(1) an environmental impact statement is prepared and distributed as required by the Montana Environmental Policy Act, Title 75, chapter 1;

(2) a proceeding is held as required by the Montana Administrative Procedure Act;

(3) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or

(4) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision to permit public comment on the matter.

2-3-105. Supplemental notice by radio or television. (1) An official of the state or any of its political subdivisions who is required by law to publish a notice required by law may supplement the publication by a radio or television broadcast of a summary of the notice or by both when in the official's judgment the public interest will be served.

(2) The summary of the notice must be read without a reference to any person by name who is then a candidate for political office.

(3) The announcements may be made only by duly employed personnel of the station from which the broadcast emanates.

(4) Announcements by political subdivisions may be made only by stations situated within the county of origin of the legal notice unless a broadcast station does not exist in that county, in which case announcements may be made by a station or stations situated in any county other than the county of origin of the legal notice.

2-3-106. Period for which copy retained. Each radio or television station broadcasting any summary of a legal notice shall for a period of 6 months subsequent to such broadcast retain at its office a copy or transcription of the text of the summary as actually broadcast, which shall be available for public inspection.

2-3-107. Proof of publication by broadcast. Proof of publication of a summary of any notice by radio or television broadcast shall be by affidavit of the manager, an assistant manager, or a program director of the radio or television station broadcasting the same.

2-3-111. Opportunity to submit views -- public hearings. (1) Procedures for assisting public participation must include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

(2) When a state agency other than the board of regents proposes to take an action that directly impacts a specific community or area and a public hearing is held, the hearing must be held in an accessible facility in the impacted community or area or in the nearest community or area with an accessible facility.

2-3-112. Exceptions. The provisions of 2-3-103 and 2-3-111 do not apply to:

(1) an agency decision that must be made to deal with an emergency situation affecting the public health, welfare, or safety;

(2) an agency decision that must be made to maintain or protect the interests of the agency, including but not limited to the filing of a lawsuit in a court of law or becoming a party to an administrative proceeding; or

(3) a decision involving no more than a ministerial act.

2-3-113. Declaratory rulings to be published. The declaratory rulings of any board, bureau, commission, department, authority, agency, or officer of the state which is not subject to the Montana Administrative Procedure Act shall be published and be subject to judicial review as provided under 2-4-623(6) and 2-4-501, respectively.

2-3-114. Enforcement. The district courts of the state have jurisdiction to set aside an agency decision under this part upon petition of any person whose rights have been prejudiced. A petition pursuant to this section must be filed within 30 days of the date on which the petitioner learns, or reasonably should have learned, of the agency's decision.

2-3-201. Legislative intent -- liberal construction. The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.

2-3-202. Meeting defined. As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public agency or association described in 2-3-203, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.

2-3-203. Meetings of public agencies and certain associations of public agencies to be open to public -- exceptions. (1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or

agencies supported in whole or in part by public funds or expending public funds, including the supreme court, must be open to the public.

(2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public.

(3) The presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

(4) (a) Except as provided in subsection (4)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.

(b) A meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public bodies or associations described in subsections (1) and (2).

(5) The supreme court may close a meeting that involves judicial deliberations in an adversarial proceeding.

(6) Any committee or subcommittee appointed by a public body or an association described in subsection (2) for the purpose of conducting business that is within the jurisdiction of that agency is subject to the requirements of this section.

2-3-211. Recording. Accredited press representatives may not be excluded from any open meeting under this part and may not be prohibited from taking photographs, televising, or recording such meetings. The presiding officer may assure that such activities do not interfere with the conduct of the meeting.

2-3-212. Minutes of meetings -- public inspection. (1) Appropriate minutes of all meetings required by 2-3-203 to be open shall be kept and shall be available for inspection by the public.

(2) Such minutes shall include without limitation:

(a) date, time, and place of meeting;

(b) a list of the individual members of the public body, agency, or organization in attendance;

(c) the substance of all matters proposed, discussed, or decided; and

(d) at the request of any member, a record by individual members of any votes taken.

2-3-213. Voidability. Any decision made in violation of 2-3-203 may be declared void by a district court having jurisdiction. A suit to void a decision must be commenced within 30 days of the date on which the plaintiff or petitioner learns, or reasonably should have learned, of the agency's decision.

2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know. A plaintiff who prevails in an action brought in district court to enforce the plaintiff's rights under Article II, section 9, of the Montana constitution may be awarded costs and reasonable attorney fees.

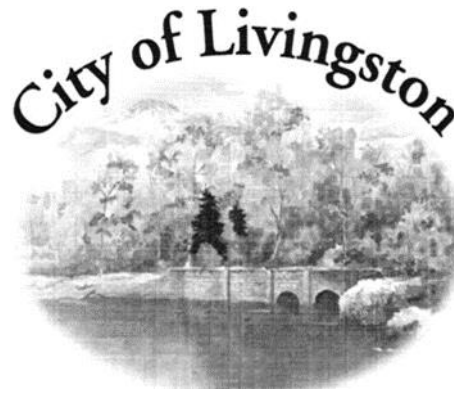
File Attachments for Item:

C. CONSIDERATION OF AGREEMENT 20049 WITH HRDC FOR OPERATION OF A WARMING CENTER

City Manager
Grant Gager

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

Date: 12/5/2023
To: Chair Nootz and City Commissioners
From: Grant Gager, City Manager

**Staff Report for Consideration of Agreement 20049 with Human Resources
Development Council Region IX**

Recommendation and Summary

Staff is recommending the Commission approve Agreement 20049 with the Human Resources Development Council Region IX by adopting the following motion:

“I move to approve Agreement 20049 and authorize the City Manager to sign.”

The reasons for the recommendation are as follows:

- The FY 2024 City of Livingston approved budget included \$25,000 to support the operations of a warming center.
- The Human Resources Development Council Region IX plans to operate a warming center in the City of Livingston during the coming winter.

Introduction and History

For the past several years, the Human Resources Development Council Region IX (HRDC) has operated a warming center in the City of Livingston. The HRDC plans to operate the center in the coming winter.

Analysis

A warming center provides opportunity for those in need of housing to find overnight respite from colder weather during the winter months.

Fiscal Impact

The approved FY 2024 City budget included \$25,000 to support the operation of a warming center.

Strategic Alignment

Providing temporary emergency housing for community members is consistent with City goals.

Attachments

- Attachment A: Proposed Agreement 20049

PROFESSIONAL SERVICES AGREEMENT 20049

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made and entered into as of the ____ day of _____, 2023, by and between the CITY OF LIVINGSTON, MONTANA, a municipal corporation and political subdivision of the state of Montana with its principal business office located at 220 East Park Street, Livingston, Montana 59047 (hereinafter referred to as the “City”), and Human Resource Development Council, District IX, a Montana corporation with its principal business office located at 32 Tracy Avenue, Bozeman MT 59715 (hereinafter referred to as the “Contractor”; and together with the City, the “Parties”).

RECITALS:

- A. Whereas, the City has budgeted funding in FY 2024 for the operation of a warming center; and
- B. Whereas, The CONTRACTOR has the necessary space and staffing to operate a warming center;

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions contained herein, the Parties agree as follows:

- 1. INCORPORATION OF RECITALS. The above Recitals are true and correct and are fully incorporated into this Agreement as if fully set forth in this Paragraph 1.
- 2. PURPOSE AND SCOPE OF SERVICES. City agrees to retain CONTRACTOR to perform all services and comply with all obligations specified or indicated in Exhibit A, which is attached hereto and incorporated herein as if fully set forth in this Paragraph 2 (the services described in this Paragraph 2 shall be collectively referred to hereinafter as the “Services”).
- 3. NON-DISCRIMINATION. Pursuant to Mont. Code Ann. § 49-3-207, in the performance of this Agreement the CONTRACTOR agrees that all hiring will be on the basis of merit and qualifications and that the CONTRACTOR will not be discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.
- 4. NATURE OF RELATIONSHIP.

- a. The CONTRACTOR states that it is engaged in an established business or profession which is in no way affiliated with or connected to the City, except by this Agreement and that it uses independent judgment in the performance of services provided hereby free from control or direction of others. The CONTRACTOR shall perform the Services as an independent contractor. The Parties agree that the City is only interested in the end result of the Services, not in the method of performance, and as such, the CONTRACTOR has been and will continue to be free from the control or direction of the City in the performance of this Agreement.
 - b. CONTRACTOR shall not be considered an employee of the City for purposes of tax, retirement system, or social security, FICA withholding, or for any other purpose. CONTRACTORS are not subject to the terms and provisions of the City's personnel policies and may not be considered a City employee for workers' compensation or any other purpose.
 - c. The CONTRACTOR shall not be deemed by virtue of this Agreement nor the performance thereof to have entered into any partnership, joint venture, employer/employee or any other legal relationship with the City besides that of an independent contractor.
 - d. The CONTRACTOR, its officers, agents and/or employees shall not have the authority to make representations on behalf of the City, and neither shall the aforementioned persons have the authority to legally bind or otherwise obligate the City to any third person or entity.
 - e. CONTRACTOR shall furnish all labor, materials, supplies and incidentals necessary to conduct and complete the Services.
5. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES. The CONTRACTOR represents and warrants as follows:
- a. It and its employees are licensed by the State of Montana and agree to perform the Services in a professional manner according to the standards of care, skill, knowledge and diligence normally exercised and in accordance with sound practices.
 - b. It and its employees possess all of the necessary qualifications, experience, knowledge, tools and equipment to undertake the performance of the Services as set forth in this Agreement.

- c. It will comply with all applicable laws, rules, ordinances and regulations adopted or promulgated by any governmental agency or regulatory body, whether State, federal or local, and furthermore agrees to assume full responsibility for the payment of all contributions of all federal and state income or other payroll tax or assessment, social security, worker's compensation insurance, unemployment insurance, self-employment tax or any other required deduction or contribution for himself or for any employees engaged by the CONTRACTOR in performance of this Agreement.
- d. It will comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71 of the Montana Code Annotated, and the Occupational Disease Act of Montana, Title 39, Chapter 71 of the Montana Code Annotated, and shall maintain workers' compensation coverage for all members and employees of the CONTRACTOR, except for those members who are exempted by law. CONTRACTOR shall furnish copies showing proof of workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana or proof of exemption from workers' compensation granted by law for independent contractors.
- e. It has reviewed the contract documents related to the Services and this Agreement and has entered into this Agreement based solely upon its own knowledge, inspection and judgment, and not upon any representations or warranties made by the City or its officers, employees or agents.

6. PAYMENT.

- a. For the satisfactory completion of the Services, the City will pay the CONTRACTOR a sum not to not to exceed Twenty-five Thousand and No/100 Dollars (\$25,000.00).
- b. The CONTRACTOR may submit monthly requests for payment based on actual work performed.
- c. In connection with obtaining payment under this Agreement, CONTRACTOR agrees to familiarize itself with, and agrees to be bound by, the City's claim procedure, including but not limited to deadlines for submitting claims for approval and payment. The CONTRACTOR assumes responsibility for the late filing of a claim.
- d. In the event the CONTRACTOR seeks payment or compensation for work, materials or services not included in this Agreement and the exhibits hereto, the CONTRACTOR must seek prior written authorization from the City before such expenditure is incurred. If the CONTRACTOR fails to obtain prior written

authorization, the CONTRACTOR shall not be entitled to payment for the unauthorized work, materials or services.

7. TERMINATION OF THIS AGREEMENT. The City reserves the right to terminate this Agreement for any and all causes, or for its convenience, at any time upon fifteen (15) days written notice to the CONTRACTOR. If termination is effected by the City for default, an equitable adjustment in the fee shall be made, but no amount shall be allowed for anticipated profit or unperformed services. If termination is effected by the City for reasons of convenience, an equitable adjustment in the fee shall be made, including reasonable profit. The equitable adjustment for any termination shall provide for payment to the CONTRACTOR for services rendered and expenses incurred prior to the termination. Upon termination, the CONTRACTOR will cease work and deliver to the City all data, design drawings, specifications, reports, estimates summaries and such other information and material accumulated by the CONTRACTOR in performing this Agreement whether completed or in progress.

8. OWNERSHIP AND PUBLICATION OF MATERIALS. All documents, design drawings, data, specifications, reports, estimates and such other information and material accumulated or prepared as a result of this Agreement are the property of the City, and the City shall have exclusive and unrestricted authority to release, publish or otherwise use, in whole or in part, information relating thereto. Any reuse without written verification or adaptation by the CONTRACTOR for the specific purpose intended will be at the City's sole risk and without liability or legal exposure to the CONTRACTOR. The City hereby grants to the CONTRACTOR an unlimited, royalty-free, worldwide, non-exclusive license regarding such documents, design drawings, data, specifications and reports prepared by the CONTRACTOR as part of its services under this Agreement.

9. INDEMNIFICATION AND HOLD HARMLESS. The CONTRACTOR waives any and all claims and recourse against the City, its officers, agents or employees, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incident to the CONTRACTOR's performance of this Agreement, except for liability arising out of concurrent or sole negligence of the City or its officers, agents or employees. Further, the CONTRACTOR will indemnify, hold harmless, and defend the City, its officers, employees and agents against any and all claims, demands, damages, costs, expenses or liability arising out of the CONTRACTOR's negligent performance of this Agreement, except for liability arising out of the concurrent or sole negligence of the City or its officers, agents or employees.

10. INSURANCE. The CONTRACTOR will carry a general liability insurance and professional errors and omissions insurance during the term of this Agreement in an

amount of not less than One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00) per occurrence, and Seven Hundred Fifty Thousand and No/100 Dollars (\$750,000.00) per claim. Copies of certificates of insurance, suitable to the City, shall be filed with the City and are attached hereto and incorporated herein as Exhibit C. The CONTRACTOR shall also maintain workers' compensation and unemployment insurance, as well as other insurances as may be required by law for employers, or an exemption from the state of Montana.

11. CONFLICT OF INTEREST. The CONTRACTOR covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the Services which would conflict in any manner or degree with the performance of the Services. The CONTRACTOR further covenants that, in performing this Agreement, it will employ no person who has any such interest.
12. NOTICES. All notices or communications required to be given under this Agreement shall be in writing and shall be deemed to have been duly given by personal delivery or upon deposit into the United States Postal Service, postage prepaid, for mailing by certified mail, return receipt required and addressed, to the address set forth in this Agreement. Any change of address shall be made by giving written notice thereof to the other party, providing the new address.
13. MODIFICATION AND WAIVER. No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound and specifying with particularity the nature and extent of such amendment, modification or waiver. Any waiver by any party of any default of the other party shall not effect or impair any right arising from any subsequent default. Nothing herein shall limit the remedies or rights of the parties hereunder and pursuant to this Agreement.
14. SEVERABILITY. Each provision of this Agreement is intended to be severable. If any provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity of said provision shall not affect the validity of the remainder of this Agreement.
15. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the Parties in respect to the Services and supersedes all prior agreements and understandings between the Parties with respect to the Services.
16. INTERPRETATION. All captions, headings, or titles in the paragraphs or sections of this Agreement are inserted for convenience or reference only and shall not constitute a part of

this Agreement or act as a limitation of the scope of the particular paragraph or section to which they apply. As used herein, where appropriate, the singular shall include the plural and vice versa and the masculine, feminine or neuter expressions shall be interchangeable.

17. TIME IS OF THE ESSENCE. Time is of the essence in performance of this Agreement.
18. COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.
19. PARTIES IN INTEREST AND ASSIGNMENT. This Agreement shall be binding upon, and the benefits and obligations provided for herein shall inure to and bind, the Parties and their respective successors and assigns, provided that this section shall not be deemed to permit any transfer or assignment otherwise prohibited by this Agreement. This Agreement is for the exclusive benefit of the Parties and it does not create a contractual relationship with or exist for the benefit of a third party. This Agreement shall not be assigned, or any right or obligation hereunder, in whole or in part, to another without first having prior written consent of the other party. No assignment or transfer of any interest under this Agreement shall be deemed to release the CONTRACTOR from any liability or obligation under this Agreement, or to cause any such liability or obligation to be reduced to a secondary liability or obligation.
20. APPLICABLE LAW AND VENUE. This Agreement and the rights and obligations of the Parties shall be governed by and interpreted in accordance with the laws of the State of Montana. The parties stipulate and agree that the Montana Sixth Judicial District Court, Park County, has proper venue and jurisdiction to resolve all causes of action which may accrue in the performance of this Agreement.
21. LIAISON. The designated liaisons with the City is Grant Gager who may be reached at (406) 223-4475. The CONTRACTOR's liaison is Lila Fleishman, who can be reached at (406) 585-4943.
22. ATTORNEY FEES. In the event either party incurs legal expenses to enforce the terms and conditions of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees and other costs and expenses, whether the same are incurred with or without suit.
23. COMPUTING TIME. For the purpose of calculating time under this Agreement, the following computation shall be used: If the period is stated in days or a longer unit of time, exclude the day of the event that triggers the period, count every day, including

intermediate Saturdays, Sundays, and legal holidays, and include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

- 24. **CONTRACTORS.** The CONTRACTOR shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall the CONTRACTOR have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at a project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work. The CONTRACTOR neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between the City and such contractor. The CONTRACTOR shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except the CONTRACTOR's own employees) at a project site or otherwise furnishing or performing any construction work, or for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract other than those made by the CONTRACTOR.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in Livingston, Montana, the day and year first aforementioned herein.

CITY OF LIVINGSTON

**HUMAN RESOURCES
DEVELOPMENT COUNCIL, REGION
IX**

Grant Gager
City Manager

Heather Grenier
President

Exhibit A

Scope of Services

The Contractor shall be responsible for operating a warming center in the City of Livingston during the cold weather during the period of December 15, 2023, to March 15, 2024. The Center shall be open and available to persons in Livingston that are experiencing temporary housing availability issues and include an enclosed area which provides overnight respite from cold weather. At all times when the shelter is open to the public and hosting persons for shelter, the Contractor shall maintain adequate staffing to ensure the safety of all users. On days where there are no users, the Contractor may modify the operations of the warming center to reduce staffing.

At the conclusion of each month, the Contractor shall provide a report to the City on the number and type of users of the facility, including the specific number of nights the shelter was utilized.