



Local Government Review Board 4-10-25

Agenda

March 10, 2025 at 5:30 PM

1. Call to Order
2. New Business
 - [a.](#) November 21st, 2024 Minutes
 - [b.](#) January 16th, 2024 Minutes
 - [c.](#) February 3rd, 2025 Minutes
 - [d.](#) Forms of Government Discussion
3. Old Business
4. Questions/ Comments from Public
5. Questions/ Comments from Board
6. Adjournment



Local Government Review Board
Minutes
November 21, 2024 at 5:30 PM

1. Call to Order

Mayor Norby called the first meeting of the Sidney Local Government Review Board to order.

2. New Business

a. Elect Temporary Presiding Officer

Mayor Norby stated the first order of business will be the Board electing a Temporary Presiding Officer who will run the remaining of this meeting and any further meetings until permanent officers are elected.

Motion was made to elect Mrs. Sergent as Temporary Presiding Officer.

Motion made by Mayer, Seconded by Whiteman.

Voting Yea: Sergent, Whiteman, Mayer

b. Adopt Bylaws

-Officers

-Staff (Administrative Representative (cost negotiation with City Council))

-Frequency, Day and Time of Meetings

-Agenda Structure

Clerk/Treasurer Chamberlin provided draft bylaws for the LGRB to review. She stated the locations that she needs specific action on is for what officer positions they would like to have, the staff, the meeting details including when they will meet and the agenda

structure. She stated she has provided examples in red for these areas to be discussed. She stated that the bylaws can be amended in the future if changes need to be made.

Staff: Clerk/Treasurer Chamberlin stated the current bylaws has an Administrative Representative who completes the staff work for the Board, including agenda, minutes, noticing, posting and budget management. She stated instead of an Administrative Representative, the LGRB can also elect to have a Secretary/Treasurer from the Board members. It was the general consensus to keep the Administrative Representative as a staff position.

Officers: Clerk/Treasurer Chamberlin stated the current bylaws has a Presiding Officer who is basically the President of the Board and a Vice President. She stated that because of the Administrative Representative a Secretary and/or Treasurer are unnecessary positions. It was the general consensus to keep the Officer Positions as in the draft bylaws.

Frequency, Day and Time of Meetings: Clerk/Treasurer Chamberlin stated this is completely up to the board to decide based off their schedules. She stated the only legal requirement after this meeting is having one more meeting within 90 days of the certification of election and to complete a report at the end of their term or by November 2026 to go in that election. She stated special meetings to request public participation can always be called on top of the regularly scheduled meetings. It was the general consensus for the meetings to be quarterly, the thirds Thursday at 5:30pm.

Agenda Structure: Clerk/Treasurer Chamberlin stated she recommends keeping the agenda structure as it is. She stated the current structure not only allows for easy workflow, but guarantees the opportunity for public and committee participation. In discussion it was agreed to keep the agenda structure the same as provided.

Motion was made to approve the bylaws as drafted and with the changes discussed for the Local Government Review Board.

Motion made by Mayer, Seconded by Whiteman.
Voting Yea: Sergeant, Whiteman, Mayer

c. Draft Budget for Approval of Sidney City Council

Clerk/Treasurer Chamberlin presented a draft budget that the LGRB will need to review and approve. She stated after approval it will go before the City Council for final approval. She stated the board will notice that there is no payment allocated for the staff member who will be the administrative representative. She stated the board could "hire" herself to do this position but ask the City Council to approve these duties be done as part of her job as the Clerk/Treasurer's position, meaning her pay will come from the City

budget as normal and since she is a salaried position it would not increase the liability of the city. Mayor Norby added this is a common practice to do.

Motion was made to approve the hiring of Clerk/Treasurer Chamberlin as the Administrative Representative and request to have it be a part of her routine duties with the City Council.

Motion made by Whiteman, Seconded by Mayer.
Voting Yea: Sergent, Whiteman, Mayer

Clerk/Treasurer Chamberlin stated as for the rest of the budget, it was drafted to remain as simple as possible and as long as the Board remains within the max allocation of the \$31,000 for the next two years, they can amend the budget as needed. She also provided training cost and information from the Local Government Center beyond the first in person training and recommended the LGRB approve purchasing the Gold Start Package to ensure they have all they need to complete the review study.

Motion was made to approve the draft budget and present it to the City Council for approval.

Motion made by Mayer, Seconded by Whiteman.
Voting Yea: Sergent, Whiteman, Mayer

d. Registration for December 10th, 2024 in person training

Clerk/Treasurer Chamberlin stated she will complete the registration for those who are able to attend the in-person training on December 10th, which she and the Local Government Center highly recommend attending. Mr. Whiteman stated he will be out of town, but Mrs. Sergent and Mr. Mayer are available for the training. Clerk/Treasurer Chamberlin stated she will provide the training materials to Mr. Whiteman as soon as they are available.

e. Adopt a timetable that will be published in the newspapers (can be tabled until 2nd meeting, must be completed within 90 days of Certification of Election)

Clerk/Treasurer Chamberlin stated the timetable does not have to be approved at this meeting, but she does have a draft one available for them to review and have. She stated the timeline is kept simple because after taking care of the house keeping decisions, the timeline is simple, to review the form and powers of the local government. It was recommended to add the first regular meeting date and when they will be meeting quarterly to the timetable.

Motion was made to approve the time table as amended.

Motion made by Mayer, Seconded by Whiteman.
Voting Yea: Sergent, Whiteman, Mayer

f. Elect Permanent Officers (can be tabled until 2nd Meeting after training)

Clerk/Treasurer Chamberlin stated the election of the permanent officers can wait until the next meeting, the Temporary Presiding Officer will just continue with their duties until it is completed.

Motion was made to elect Janet Sergent as the Presiding Officer.

Motion made by Mayer, Seconded by Whiteman.
Voting Yea: Sergent, Whiteman, Mayer

Motion was made to elect Wade Whiteman as the Vice President.

Motion made by Mayer, Seconded by Whiteman.
Voting Yea: Sergent, Whiteman, Mayer

3. Old Business

Nothing.

4. Questions/ Comments from Public

Nothing.

5. Questions/ Comments from Board

Mr. Mayer asked if the Local Government Center online 6-week course is at set times or at their own leisure and Clerk/Treasurer Chamberlin stated she is not sure, more information will be available at the in person training, but she hopes at their own leisure.

6. Adjournment

at 5:59 pm.



Local Government Review Board 1-16-25
Minutes
January 16, 2025 at 5:30 PM

1. Call to Order
2. New Business

a. Bills to be Approved: Local Government Center for \$825.00 (In-Person Training)

Motion was made to approve the bills to be paid.

Motion made by Whiteman, Seconded by Mayer.
Voting Yea: Sergent, Whiteman, Mayer

b. MMIA Risk Management Bulletin-LGRB Liability and WC Coverage

Chair Sergent presented the MMIA Risk Management Bulletin pertaining to the insurances for the Local Government Review Board. Clerk/Treasurer Chamberlin stated the City has acquired the additional liability coverage and provided the volunteer forms for the board to complete to cover them under the City's workers comp insurance.

c. Local Government Center Training and Resource Package

Chair Sergent stated this is the package that includes the 6-week training and after discussions with the Local Government Center, there is no way around completing the entire 6 weeks and the quizzes for the training. She stated the package does include the zoom/topic specific meetings with the Local Government Center when specific topics come up.

Clerk/Treasurer Chamberlin stated she looked at the syllabus for the 6-week course and a majority of it would be review and redundant training, especially after the in person training. She stated if there is material the Board would like to learn more about, she can easily gather that and provide it to them and/or line up the meeting with the LGC.

d. What's Next Discussion:

It was the general consensus of the Local Government Board to have Clerk/Treasurer Chamberlin provide the following information by the end of January for them to review and possibly set meeting with the Local Government Center:

- Details on the forms of government, specifically Commission-Executive (Council-Mayor) and Commission-Manager (Mayor-Manager)
- Details on the powers of government.
- A list of municipalities that have the two forms of government from above.
- A list of municipalities that have self-governed powers.

3. Old Business

Nothing.

4. Questions/ Comments from Public

None.

5. Questions/ Comments from Board

None.

6. Adjournment

at 5:37pm.



Local Government Review Board 2-3-25

Minutes

February 03, 2025 at 5:30 PM

1. Call to Order

Chair Sergent called the meeting of the Local Government Review Board to order at 5:30pm.

2. New Business

a. Finalize Training Package via Local Government Center

Chair Sergent stated Clerk/Treasurer Chamberlin provided more information on the training packages available to them. Clerk/Treasurer Chamberlin stated there is still the set packages available, including the gold pack previously discussed. She stated the difference is that in order to have in person training it will cost an additional \$2,000 plus travel expenses for one, one hour, training. She stated all discussions with the board has revolved around in person training, so she was not sure how the committee would want to proceed or if the virtual trainings and consultations will suffice. The Local Government Review Board reviewed the package options and stated virtual would meet their needs.

Motion was made to approve purchasing the blue starter package.

Motion made by Whiteman, Seconded by Sergent.

Voting Yea: Sergent, Whiteman

3. Old Business

Nothing.

4. Questions/ Comments from Public

Nothing.

5. Questions/ Comments from Board

Nothing.

6. **Adjournment**

at 5:39pm.

- another city or town to act as city judge (See [3-11-205, MCA](#));
- If a city of the third class adopts a commission-manager form of government, it may continue to *appoint* its judge under an ordinance passed pursuant to [7-4-4102, MCA](#) and 45 A.G. Op. 15 (1993).

1.204 Principal Statutes Related to Municipal Classification

- [7-1-4111](#) through [4118, MCA](#)
- See also [7-4-4101](#) through [4103, MCA](#)
- [Article V, Section 12](#), Constitution of the State of Montana

1.3 FORMS OF MUNICIPAL GOVERNMENT

1.301 Forms of Government Defined

The 1972 Montana Constitution [Article XI, Section 3](#) requires the legislature to provide optional or alternative *forms of government* (emphasis added) that each unit or combination of units may adopt, amend or abandon by a majority of those voting on the question. In 1975, the legislature responded to this constitutional mandate by enacting [7-3-102, MCA](#), which requires that each unit of local government in Montana adopt one of the following forms of government:

- Town meeting form
- Commission form
- Commission-presiding officer form
- Commission-executive (council-mayor) form
- Commission-manager form
- Charter form

The form of government refers to a particular structural arrangement of the law-making (legislative) and law-enforcing (executive) structures of the local government. For example, in the *town meeting* form of municipal government, the law-making (legislative function) is performed directly by the citizens convened in an annual or semi-annual town meeting. By comparison, the law-making function in the typical *council-mayor* form is carried out by the town or city council acting with the concurrence of an executive mayor possessing veto power. In the *commission-manager* form, on the other hand, law-making is solely the responsibility of the elected commission while the ordinances adopted by the commission are then carried out by the city employees under the supervision of a city manager.

Even though there is significant variation in the structural arrangements within each form, the forms of government listed above are the forms of local government generally encountered throughout the United States. In Montana, however, *the commission form* is found only in county government (all but three of Montana's 56 counties use the commission form). All five of the other forms of government are found in one or more of Montana's municipalities, as detailed below.

1.302 Permitted Forms of Municipal Government

The most obvious difference between each of the permitted forms of government is the method of selecting the chief-executive. However, the method of selecting a chief-executive will also significantly impact the governing relationship between the legislative branch of the local government (the commission or council) and the executive branch (the mayor; manager or presiding officer). The structural characteristics and the varying relationship between the legislative and executive branches of each of these forms of government are summarized in Table 1.3.

Table 1.3 Forms of Municipal Government in Montana

Form of Government	With	Without Charter	Totals
Town Meeting	1		1
Commission-Presiding Officer		2	2
Commission Executive (Council-Mayor)	23*	89	112*
Commission-Manager	9	3	12
Totals	33	94	127

* includes the two consolidated governments

Town Meeting Form

There is but one example of the town meeting form of municipal government in Montana and that is found in the small community of Pinesdale. This is a form of government authorized by Montana law for only those communities of less than 2,000 residents. It has two distinguishing characteristics. First and most characteristically, it is a form of local government based upon *direct democracy* rather than *representative democracy*, which means that there is no elected council to represent the interests of the community. Rather, the citizens (electors) represent themselves in at least one annual town meeting to make policy decisions, which are to be carried out by an elected *town presiding officer* who is provided with specifically-limited administrative powers sufficient to enable the day-to-day operations of the government. Second and less obviously, the success of this form of government ultimately depends upon the willingness of the community to participate in its own governance through direct and knowledgeable involvement in the annual policy-making meeting.

Whatever advantages the town meeting form may offer a small, relatively homogeneous, community by way of open, participatory, minimalist and inexpensive government, this form of municipal government may also be disadvantaged by a cumbersome decision-making process. In a community facing complex policy issues, such as land-use planning and zoning, and which also has a diversity of neighborhood interests, the more robust decision processes of representative government would probably be required to cope effectively with the modern challenges to municipal government.

Commission Form

Although permitted by state law and still functioning in a few states, there is no example of the commission form of *municipal* government in Montana. Rather, it is the most frequently encountered form of *county* government with some 53 of Montana's 56 counties using the elected commission form of government.

Commission-Presiding Officer Form

The commission-presiding officer form of government has been adopted only by Broadview and Virginia City and both in 1976 during the first cycle of Montana's unique Voter Review process. This somewhat unfamiliar form of local government is included as one of the optional forms specifically permitted by Montana law although it is seldom encountered in the United States. It is, in essence, a "parliamentary" form of government in that the elected commission or council of not less than five members *selects a presiding officer from among its own members* to serve as the chief-executive for a term determined by the commission. The presiding officer, who may be called the president or mayor, also retains full voting rights as a member of the commission and is the presiding officer of the commission. Hence, this form fuses legislative responsibilities with substantial executive authority (but not veto power) in a single individual, not unlike a British or Canadian prime minister.

The commission-presiding officer form of municipal government has at least two advantages, which some critics would also recognize as potential liabilities. The most probable advantage of this form, especially in a relatively small community where the pool of willing and competent candidates to serve in municipal government is likely to be quite

limited, is that the chief-executive is recruited directly from those already elected to serve on the municipal council. The elected council becomes the training and selection mechanism for the chief-executive in this form of municipal government. A critic might point out that the apparent advantage of indirect selection of the community's chief-executive officer by the council deprives the electorate of the opportunity to vote for a chief-executive of their choice, thereby reducing electoral accountability.

A second advantage that might be advanced in support of the commission-presiding officer form is that by enabling a majority of the commission to choose the executive, it is likely that the individual will share, in some degree, the political orientation and policy priorities of a majority of the commission. As a result, the community might expect decisive collaborative leadership from its municipal government. On the other hand, a critic might reason that, because the chief-executive serves at the pleasure of the commission, which could reverse its appointment at will, this form of government could be inherently unstable with unpredictable changes in executive leadership accompanied by episodes of unsettling policy reversals.

Commission-Executive (Council-Mayor) Form

By far the most commonly encountered form of municipal government in Montana is the commission-executive form, usually called the "council-mayor" or "aldermanic" form of municipal government. It is characterized by a locally elected city or town council (alternatively referred to as commission in [7-3-201, MCA](#)) and a separately elected executive mayor. With separate elections for and partial separation of the legislative and executive branches, the council-mayor model is the form of local government which most nearly approximates the structures of our familiar national and state models of government. In addition to the 112 Montana cities and towns using this form, the charters of the consolidated city-county governments of Butte-Silver Bow and Anaconda-Deer Lodge also call for a commission-executive form of government.

Most of the cities and towns which use the council-mayor form have never gained voter approval of its adoption by popular initiative or through the Voter Review process. As a consequence, the structures and powers of 90 of these municipalities operating with the statutory version of the council-mayor municipal government are spelled out in state law, as detailed immediately below.

The Commission. The statutorily defined version of the council-mayor form provides for a governing and policy-making body (the council) of not less than three members elected to overlapping, four-year terms of office. Council members are required to be elected on a partisan basis by districts (wards) in which they must reside and which must be apportioned by population. In historic terms, this is essentially an "aldermanic" system in which the governing body or commission is comprised of elected members who might be expected to represent both their neighborhoods and their political parties. However, most Montana communities using this statutory form of government simply ignore the requirement for partisan elections or have adopted a local ordinance calling for nonpartisan elections while retaining all other features of this form as required by law. Typically, each ward elects two members to the city council, one of whom is elected every two years thereby establishing the four-year, overlapping terms of office required by law.

The Executive. The elected mayor is the chief-executive in the commission-executive form of municipal government. The mayor is elected at large in the community, typically as a nonpartisan candidate irrespective of the statutory requirement that he or she be elected on a partisan basis. The statutory term of office as mayor in this form is four years with no limit placed by law on the number of consecutive terms of office.

The nature and extent of the mayor's executive powers and duties are set forth rather specifically by law [7-3-203, MCA](#). In this statutory form, the mayor as chief-executive is obliged and empowered to enforce state law and local ordinances and has the responsibility of carrying out and administering the policies and resolutions adopted by the council.

Additionally, and unlike the national and state models of government, the mayor serves as the presiding officer of the city or town council and may take part in council discussions but may cast a vote only to break tie votes of the council. The mayor does, however, enjoy *veto power with respect to the ordinances and resolutions adopted by the council. However, an executive veto is subject to a two-thirds override vote by the council.*

The procedurally powerful role of the mayor in serving as the presiding officer of the council is a particularly significant characteristic of this statutorily defined version of the council-mayor form of government. The resulting overlap in executive and legislative functions virtually mandates a cooperative relationship between the mayor and at least a majority of the council if the legislative and policy-making process is to function smoothly. This same pattern of shared responsibilities is extended in a reciprocal way to the administration of the day-to-day affairs of the local government. For example, the mayor's appointments to fill department head positions within the government, as well as vacancies on the various city boards, require the consent expressed in a majority vote of the council. Similarly, the preparation of the annual budget for council consideration and final adoption is also a shared council-mayor responsibility. Finally, though the mayor may exercise broad administrative control and supervision of all city departments and boards, he or she may do so only to the degree authorized by local ordinance adopted by the council.

In summary, the commission-executive (council-mayor) form of municipal government is the most frequently encountered and therefore the most familiar form of local government. In Montana, 112 cities and towns, including the two consolidated units of city-county government, employ some version of this traditional council-mayor form. The separately elected mayor and city or town council typically share general government powers. Nonpartisan and districted (ward-based) elections incline this form of government toward a fairly high degree of political responsiveness in meeting ward and community expectations. However, the shared nature of the executive powers exercised by the mayor, with substantial council involvement, requires a cooperative relationship between the two branches of municipal government which, when absent, limits its capacity for management efficiency.

Commission-Manager Form

Some in Montana might view the commission-manager form as an untried, if not radical, departure from the familiar council-mayor form. In fact, however, the commission-manager form of local government has been in continual and growing use in the United States since the turn of the century and in Montana since 1921 when Bozeman was the first city to adopt this form, apparently in an effort to strengthen its capacity to deal with its then serious financial difficulties. Presently in the United States there are more than 3,600 commission-manager cities. In Montana, 12 municipalities have adopted this form and typically for the same reasons Bozeman did, which was to increase the efficiency of their city government.

Of the 12 commission-manager forms of municipal government now functioning in Montana, nine are embedded within voter approved, self-governing charters. The remaining three communities adopted, with minor variations, the statutory version of the commission-manager form whose structures and powers are set forth specifically in law and described immediately below.

The Commission. The role of the city commission in the commission-manager form of government is quite different from that of the traditional city council. Gone are the shared executive powers and day-to-day committee involvement in the administration of city affairs. Gone too are the aldermen representing their neighborhoods, wards, and political parties. In this form of local government, the commission typically has five members elected at large from the community and without political party identification. The commission's much simplified yet more *sophisticated role is to set goals, make policy and then hire a*

competent and compatible manager to achieve its goals and carry out commission policy.

Even the role of the presiding officer of the commission carries with it no executive or administrative authority. Although the commission chairperson is often and ambiguously referred to as the “mayor,” she or he has no authority beyond that of presiding over the city commission itself and in doing so may not exercise veto power. The presiding officer of the commission is sometimes selected by the commission from among its own number; however, most manager cities in Montana now directly elect a mayor to serve as the presiding officer of the city commission. In most cases, the chair of the city commission (mayor) may be recognized as the “head of the municipality” for limited ceremonial purposes.

The Executive (Manager). The distinctive characteristic of the commission-manager form is that the executive (manager) is hired by and serves at the pleasure of the commission, rather than being elected directly by the voters. Once appointed to the position, the manager is responsible to the commission for the administration of all departments and services of the city. Unlike the shared and blurred executive powers of the mayor in the commission-executive form, described above, the typical Montana city manager has sole responsibility to enforce the law, direct, supervise, hire and fire all employees of the city (except those who may work directly for the commission, such as clerk of the commission) and to prepare the city’s budget for commission approval. Neither the commission nor any individual commissioner may give orders to or even deal with the city employees except through the manager. As in the modern corporation, the commission serves as the “board of directors” and the city manager is the municipal government’s “CEO.”

In summary, the commission-manager form of government is characterized by relatively simple organizational structure, clearly defined responsibilities and powers of the hired professional manager and by the sharply defined policy-making role of the elected commission. A reasonable expectation of this form of government is that the full-time professional manager, directly accountable to an elected commission, will bring a measure of competent efficiency to local governmental operations. In some communities these efficiencies may become imperative in order to cope with the difficult financial conditions and growth problems confronting Montana’s medium size and larger communities in the new century. The aggregate experience of the Montana communities, which have successfully adopted this form of government, tends to bear out this expectation although it would be incorrect to assume that the manager form will produce less expensive government.

Charter Form

Montana law [7-3-102, MCA](#) specifies the “charter form” as one of the enumerated and permitted forms of local government. However, in reality those 33 municipal governments in Montana which have adopted a self-government charter have essentially wrapped a charter around the governing structures described in one of the forms of government described above. For example, both the Billings charter and the Belgrade charter provide for governing structures that are typical of the commission-manager form while the voters of Red Lodge and Troy wrapped a self-government charter around the familiar structures of the council-mayor form of municipal government. Technically, however, these and all of the other municipalities which have adopted self-government charters now operate with the “charter form” of municipal government. (See Table 1.3 for a list of municipalities with charter governments.)

Charter Requirements: [Part 7, Chapter 3, Title 7, MCA](#) implements [Article XI, Section 5](#) of the Montana constitution by providing procedures for constructing a local government charter.

In essence, a municipal charter is a voter approved written constitution that defines the powers, structures, privileges, rights and duties of the local government. A charter may also impose limitations on the local government such as property tax mill levy limits and may specifically authorize the local government to perform functions or services not otherwise delegated to “general powers” municipalities. In general, a locally devised self-government charter must:

- Provide for a legislative body and, if other than the town meeting form, the method of election of the members;
- Designate which official will serve as the government's chief-executive and chief administrative officer and the method of selection, the powers and duties and the grounds for removal from office; and
- Provide for an effective date.

Additionally, the charter may establish other legislative, administrative or organization structures and these provisions are superior to statutory provisions. On the other hand, a charter may not include provisions which conflict with limitations on self-government powers imposed by law or which establish election, initiative or referendum procedures, nor may the charter contain any provisions establishing or modifying the local court system.

1.303 Method to Alter the Form of Municipal Government

Under Montana law, there are three methods of altering the form of a local government and *all three methods of alteration require voter approval*:

1. By the Local Government Review process [7-3-171 through 7-3-193, MCA](#) and [Article XI, Section 9](#), Montana State Constitution
2. By citizen petition (initiative) process [7-3-103](#) and [7-3-125, MCA](#)
3. By a council/commission referendum process [7-3-103\(2\), MCA](#)

Alteration by Local Government Review

This method of altering local government forms and powers (often referred to as the Voter Review process) is unique in the United States. In essence, Montana's 1972 Constitution requires that every 10 years starting in 1974, the governments in every municipal and county jurisdiction **must** ask their voters whether they wish to elect a panel of citizens to conduct a two-year review of the forms, powers, functions and services of their unit of local government and to make recommendations directly to the voters concerning alterations in the form of government.

Pursuant to [7-3-173, MCA](#) the city/town must pass a resolution that calls for an election on the question of conducting a local government review and establishing a study commission. This resolution must be passed and submitted to the County Elections Administrator by a date determined by the Secretary of State's office and the question will subsequently appear on the ballot at the primary election. The ballot language is mandated by [7-3-175, MCA](#) and includes both the number of members to be elected to the study commission and the dollar amount or number of mills that will be permissively levied to fund the activities of the study commission. See the Sample Resolution on the following page.

The purpose of a study commission is to "*study the existing form and powers of a local government and procedures for delivery of local government services and compare them with other forms available under the laws of the state*" [7-3-172, MCA](#). The Study Commission's powers are enumerated at [7-3-183, MCA](#) and include the authority to employ and fix the compensation of necessary staff, contract and cooperate with other agencies, establish advisory boards and committees, retain consultants, and do any other act consistent with and reasonably required to perform its functions. A study commission examining the government of a municipality may recommend amendments to the existing plan of government, recommend any plan of government authorized by Title 7, Chapter 3, parts 1 through 6, draft a charter (or recommendations on amendments to the charter), recommend municipal-county consolidation, recommend disincorporation; or submit no recommendation [7-3-185\(2\)\(a\), MCA](#). In addition, a study commission may

1. *Municipal Government Defined*

recommend service consolidation or transfer in cooperation with a county study commission, a county study commission and one or more municipal study commissions, or one or more municipal study commissions [7-3-185\(2\)\(b\), MCA](#).

A study commission must prepare a budget for each fiscal year it is in existence and submit it to the city/town commission for adoption. The city/town commission must, for the support of the study commission, appropriate an amount necessary to fund the study [7-3-184, MCA](#). To do so, the city/town commission “*may levy mills in excess of all other mill levies authorized by law to fund the appropriation*” [7-3-184\(2\)\(a\), MCA](#). Any money remaining in the study commission fund at the end of the two-year cycle reverts to the municipality’s general fund.

Since its implementation in 1974, five cycles of the Voter Review process have now been conducted, resulting in 202 proposed changes to municipal government, of which 74 proposals for change have been approved by municipal voters.

RESOLUTION NUMBER 20XX---_____

A RESOLUTION OF THE CITY/TOWN COUNCIL OF THE CITY/TOWN OF _____, MONTANA, CALLING FOR AN ELECTION ON THE QUESTION OF CONDUCTING A LOCAL GOVERNMENT REVIEW AND ESTABLISHING A STUDY COMMISSION TO DO SO.

WHEREAS, Section 9, Article XI of the Constitution of the State of Montana requires that each unit of local government shall conduct an election once every ten years to determine whether the local government will undertake a local government review procedure; and

WHEREAS, 7---3---173(2) M.C.A. requires that the governing body shall call for an election, to be held on the primary election date, on the question of conducting a local government review and establishing a study commission; and

WHEREAS, the _____ City/Town Council is the governing body of the City/Town of _____.

NOW THEREFORE BE IT RESOLVED THAT:

1. The City/Town Council of _____ hereby calls for an election on the question of conducting a local government review and electing a study commission to be held at the primary election on June 3, 20XX.
2. If the voters decide in favor of conducting a local government review, a study commission comprised of three members (or other odd number of members greater than 3) shall be elected at the general election of November 4, 20XX.
3. Pursuant to 7---3---175, M.C.A. the question of conducting a local government review shall be submitted to the electors in substantially the following form:

Vote for one:

FOR the review of the government of (insert name of local government) and the establishment and funding, not to exceed (insert dollar or mill amount), of a local government study commission consisting of (insert number of members) members

to examine the government of (insert name of local government) and submit recommendations on the government.

AGAINST the review of the government of (insert name of local government) and the establishment and funding, not to exceed (insert dollar or mill amount), of a local government study commission consisting of (insert number of members) members to examine the government of (insert name of local government) and submit recommendations on the

government.

Passed and adopted by the City/Town Council of the City/Town of _____, Montana meeting at regular session held on the _____ day of _____, 20XX.

, Mayor/Presiding Officer

ATTEST:, City/Town Clerk

Alteration by Citizen Petition (Popular Initiative)

The authority and process for altering municipal government form, structures and powers by popular initiative are set forth at [7-3-125 through 161, MCA](#), which require that the petition be signed by at least 15 percent of the electors registered at the most recent municipal election. Upon receipt of an authenticated citizen initiative, the municipal government is obliged to call an election on the proposed alteration.

Alteration by Commission/Council Referendum

A unit of municipal government which has previously adopted an alternative form of government or which has previously adopted a self-government charter may, by ordinance, *refer to the local voters* a proposed amendment to the existing form of government or an amendment to the self-government charter.

It should be noted that at the November 1976 election following the first round of Voter Review, *all* Montana municipalities were required to vote for one of the *alternative forms of government* enumerated at [7-3-102, MCA](#). Importantly, the required ballot language had to specify a vote *FOR* the adoption of a proposed form of government or *FOR* the existing form of government [7-3-150, MCA](#). Either outcome resulted in an affirmative vote for the adoption of one of the *alternative forms of government listed at 7-3-102, MCA*, thereby satisfying the enabling condition for referral of a proposed amendment by the council, as required by [7-3-103\(2\), MCA](#).

1.304 Principal Statutes Related to Forms of Municipal Government

1. [7-3-102](#) and [103, MCA](#)
2. [7-3-111](#) through [114, MCA](#) and, by reference, [7-3-201](#) through [709, MCA](#)
3. [Article XI, section 3](#), Constitution of the State of Montana.

1.4 POWERS OF MUNICIPAL GOVERNMENT

1.401 Governing Powers Defined

A municipality's governing power is its authority to act in order to carry out the lawful functions of a municipal government. In Montana, a municipality's authority to exercise governing power is derived from: (1) the state constitution; (2) enabling legislation; (3) a voter approved self-government charter; and (4) the interpretation of these sources of authority by the courts and by the opinions of the state's attorney general.

1.402 Municipal Police Powers

In the most general sense, the police power is the power to legislate for the public health, order, safety, morals and welfare. A municipality's police powers are typically employed by the governing body (city or town commission or council) to enact and enforce local ordinances and regulations requiring that those who are subject to the city or town's jurisdiction conduct themselves and use their property so as not to unnecessarily injure others.

Police power is not an inherent power of a Montana municipal government. Rather, it has been delegated by the state whose own police power derives as a "reserved power" directly from the Tenth Amendment of the U.S. Constitution. In Montana, the delegation of police power to all municipal governments is encoded generally at [7-1-4123](#) and [7-5-4101, MCA](#).

A prudent governing body will exercise caution and seek the advice of the city attorney before employing its police powers to:

- License some commercial activity;
- Define and/or abate some community or neighborhood nuisance; or
- Regulate the use of private property.

In doing so, the municipal government will necessarily interfere in some way with the liberty of action of the people or with the free and unencumbered use of their private property. Legal scholars point out that there must first be a showing that there is a *public interest* that requires governmental interference with a person's freedom or property rights. Secondly, the means adopted by the government to advance that public interest must be *reasonably necessary* to accomplish that purpose. Moreover, and especially with respect to the exercise of municipal police power to license commercial activity, it is important to note that:

There is a well understood distinction between a license fee imposed under the police powers for the purpose of regulation and a tax imposed under the taxing power for revenue. A license fee or tax under the police power is such a fee only as will legitimately assist in regulation and will not exceed the necessary and probable expense of issuing a license and inspecting and regulating the business.¹

In short, the legitimate purpose of using police power to license pursuant to [7-21-4101, MCA](#) is to protect the public health, safety and well-being, *not to raise revenues*.

Finally, a municipality's power, under state law, to place restraints upon the personal freedom and property rights of individuals for the protection of the public health, safety and well-being, is always subject to the limitations imposed by the Montana State Constitution and the U.S. Constitution.

Especially important in the exercise of police power is careful observance of constitutionally protected *due process* requirements. Accordingly, a prudent municipal council or commission will *always seek the advice of the city attorney before trying to exercise its government's police powers*.

1.403 General Government Powers

[Article XI, section 4](#) of the 1972 constitution provides that municipalities with *general powers*, (i.e. all of those municipalities that lack *self-government powers*) have the powers of a municipal corporation and other powers provided or implied by law, which is to say only those powers delegated to municipalities by the state legislature.

Montana law [7-1-4123](#) and [4124, MCA](#) specifies the governing powers that may be exercised by a municipal government with *general powers* and which enable any municipal government to protect the public health, safety and welfare within their community. The statutes also provide that a *general powers* municipality may perform any function or provide any service *authorized or required by state law* and may exercise any power *authorized by state law*. The effect of this language is *to limit the governing powers of a general powers municipal government to those powers explicitly delegated to it by the state legislature or necessarily implied incident to such delegation*.

This limitation on the exercise of local governing powers is often cited as "Dillon's Rule," which is derived from the 1872 writings of Iowa Judge John F. Dillon, whose narrow construction of local governing powers has been widely adopted by state and federal courts. In short, a *general powers municipal government* in Montana may exercise only those governing powers made available to the municipal government by the state legislature or reasonably implied or necessary to implement a legislatively delegated power. *If the state legislature has not delegated the power to provide a service or perform a governmental function, a municipal government with general powers is*

not authorized to do so.

1.404 Self-Government Powers

[Article XI, Section 6](#), of the 1972 constitution provides that a local government, which adopts a self-government charter may exercise any power not prohibited by this constitution, law or charter.

At first reading by a municipal official, this sweeping constitutional grant of *any power not prohibited* to a self-governing municipality would appear to reverse “Dillon’s Rule” and with it the municipality’s dependence upon a specific legislative grant of governing authority to perform some function or exercise some power. Such an interpretation would be perilous. The governing reality is that the Montana State Legislature has found it appropriate to *prohibit* the exercise of a very broad range of governing powers, even by a self-governing municipality. *In general, these legislatively imposed prohibitions are set forth explicitly in law at [7-1-111](#) through [7-1-114, MCA](#), which, in aggregate, significantly diminish the substance of local self-governing authority.*

Notwithstanding the prohibitions noted above, possession of self-government powers may well enable a municipality to act in the best interests of its citizens under circumstances where a *general powers* government would not be able to act. For example and because they possess self-government powers, Billings was enabled to expand its solid waste service area; Great Falls gained greater authority to dispose of public lands; Helena and Billings were able to implement local development fees; Anaconda-Deer Lodge altered its organizational structure; Libby and Troy were enabled to develop and operate an electric utility; and the Attorney General recently decided that Butte-Silver Bow’s self-government powers enabled it to acquire and operate electric and natural gas utilities within and outside the boundaries of its jurisdiction.

The availability of self-government powers to a municipal government will not, in and of itself, solve community problems or improve local government performance. At best, self-government powers will enable a community and its local government to become more effective participants in their own problem-solving and governing processes.

1.405 Acquiring Self-Government Powers

A municipal government may acquire self-government powers only with the approval of a majority of the municipal electors voting on the question. The question may be presented to the local electorate directly as a ballot proposal to adopt self-government powers, or indirectly as a ballot proposal to adopt a municipal charter, which, if approved by the voters, automatically confers self-government powers upon the municipality. See Section 1.303 above for the specific requirements to alter or amend the plan of government.

Table 1.4 Municipalities with Self-Government Powers

GOVERNMENT	FORM	WITH CHARTER	WITHOUT CHARTER
Anaconda-Deer Lodge*	Consolidated Com-Ex	X	
Butte-Silver Bow*	Consolidated Com-Ex	X	
Belgrade	Com-Manager	X	
Billings	Com-Manager	X	
Bozeman	Com-Manager	X	
Bridger	Com-Ex	X	
Broadview	Com-Ex		X
Choteau	Com-Ex	X	
Circle	Com-Ex	X	
Clyde Park	Com-Ex		X
Colstrip	Com-Ex	X	
Conrad	Com-Ex	X	
Cut Bank	Com-Ex	X	
Darby	Com-Ex	X	
Dillon	Com-Ex	X	
Ennis	Com-Ex	X	
Forsyth	Com-Ex	X	
Fort Benton	Com-Ex		X
Fort Peck	Com-Ex		X
Fromberg	Com-Ex		X
Glasgow	Com-Ex		X
Great Falls	Com-Manager	X	
Helena	Com-Manager	X	
Hingham	Com-Ex		X
Laurel	Com-Ex	X	
Lewistown	Com-Manager	X	
Libby	Com-Ex	X	
Lima	Com-Ex	X	
Manhattan	Com-Ex	X	
Missoula	Com-Ex	X	
Neihart	Com-Ex		X
Pinesdale	Town Meeting	X	
Polson	Com-Manager	X	
Red Lodge	Com-Ex	X	
Saco	Com-Ex	X	
Sunburst	Com-Ex	X	
Superior	Com-Ex	X	
Three Forks	Com-Ex	X	
Troy	Com-Ex	X	
Virginia City	Com-Presiding Officer		X
West Yellowstone	Com-Manager	X	
Whitefish	Com-Manager	X	
Wolf Point	Com-Ex		X
TOTALS		33*	10

* includes the two consolidated governments

City/Town	Population	Form
Alberton	527	Commission-Executive
Anaconda-Deer Lodge	9,673	Commission-Executive
Bainville	263	Commission-Executive
Baker	1,800	Commission-Executive
Bearcreek	99	Commission-Executive
Belgrade	12,509	Manager
Belt	523	Commission-Executive
Big Sandy	588	Commission-Executive
Big Timber	1,686	Commission-Executive
Billings	120,864	Manager
Boulder	1,283	Commission-Executive
Bozeman	57,305	Manager
Bridger	714	Commission-Executive
Broadus	469	Commission-Executive
Broadview	138	Commission-Presiding Officer
Butte-Silver Bow	35,701	Commission-Executive
Cascade	587	Commission-Executive
Chester	853	Commission-Executive
Chinook	1,160	Commission-Executive
Choteau	1,787	Commission-Executive
Circle	572	Commission-Executive
Clyde Park	346	Commission-Executive
Colstrip	2,055	Commission-Executive
Columbia Falls	5,723	Manager
Columbus	1,906	Commission-Executive
Conrad	2,402	Commission-Executive
Culbertson	753	Commission-Executive
Cut Bank	3,017	Commission-Executive
Darby	860	Commission-Executive
Deer Lodge	3,030	Commission-Executive
Denton	209	Commission-Executive
Dillon	4,176	Commission-Executive
Dodson	126	Commission-Executive
Drummond	296	Commission-Executive
Dutton	314	Commission-Executive
East Helena	2,138	Commission-Executive
Ekalaka	410	Commission-Executive
Ennis	1,047	Commission-Executive
Eureka	1,533	Commission-Executive
Fairfield	784	Commission-Executive
Fairview	866	Commission-Executive
Flaxville	60	Commission-Executive
Forsyth	1,616	Commission-Executive
Fort Benton	1,425	Commission-Executive
Fort Peck	235	Commission-Executive
Froid	186	Commission-Executive

Fromberg	422	Commission-Executive
Geraldine	203	Commission-Executive
Glasgow	3,180	Commission-Executive
Glendive	4,796	Commission-Executive
Grass Range	115	Commission-Executive
Great Falls	60,422	Manager
Hamilton	5,268	Commission-Executive
Hardin	3,709	Commission-Executive
Harlem	756	Commission-Executive
Harlowton	949	Commission-Executive
Havre	9,330	Commission-Executive
Helena	34,464	Manager
Hingham	130	Commission-Executive
Hobson	184	Commission-Executive
Hot Springs	617	Commission-Executive
Hysham	278	Commission-Executive
Ismay	19	Commission-Executive
Joilet	620	Commission-Executive
Jordan	365	Commission-Executive
Judith Gap	106	Commission-Executive
Kalispell	29,886	Manager
Kevin	161	Commission-Executive
Laurel	7,193	Commission-Executive
Lavina	139	Commission-Executive
Lewistown	6,149	Manager
Libby	3,169	Commission-Executive
Lima	217	Commission-Executive
Livingston	8,908	Manager
Lodge Grass	429	Commission-Executive
Malta	1,872	Commission-Executive
Manhattan	2,109	Commission-Executive
Medicine Lake	244	Commission-Executive
Melstone	145	Commission-Executive
Miles City	8,438	Commission-Executive
Missoula	77,757	Commission-Executive
Moore	220	Commission-Executive
Nashua	294	Commission-Executive
Neihart	40	Commission-Executive
Opheim	73	Commission-Executive
Outlook	82	Commission-Executive
Phillipsburg	910	Commission-Executive
Pinesdale	865	Town Meeting
Plains	1,222	Commission-Executive
Plentywood	1,647	Commission-Executive
Plevna	169	Commission-Executive
Polson	5,613	Manager
Poplar	727	Commission-Executive

Red Lodge	2,610	Commission-Executive
Rexford	86	Commission-Executive
Richey	164	Commission-Executive
Ronan	2,172	Commission-Executive
Roundup	1,960	Commission-Executive
Ryegate	225	Commission-Executive
Saco	161	Commission-Executive
Scobey	983	Commission-Executive
Shelby	3,270	Commission-Executive
Sheridan	761	Commission-Executive
Sidney	6,112	Commission-Executive
St. Ignatius	820	Commission-Executive
Stanford	410	Commission-Executive
Stevensville	2,210	Commission-Executive
Sunburst	351	Commission-Executive
Superior	925	Commission-Executive
Terry	574	Commission-Executive
Thompson Falls	1,472	Commission-Executive
Three Forks	1,986	Commission-Executive
Townsend	2,133	Commission-Executive
Troy	899	Commission-Executive
Twin Bridges	385	Commission-Executive
Valier	551	Commission-Executive
Virginia City	242	Commission Presiding Officer
Walkerville	659	Commission-Executive
West Yellowstone	1,222	Manager
Westby	165	Commission-Executive
White Sulphur Springs	1,093	Commission-Executive
Whitefish	9,163	Manager
Whitehall	1,080	Commission-Executive
Wibaux	449	Commission-Executive
Winifred	174	Commission-Executive
Winnett	209	Commission-Executive
Wolf Point	2,517	Commission-Executive

Power

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