

RESOLUTION NO. R24-05

RESOLUTION OF THE CITY COUNCIL CALLING FOR AN ELECTION ON THE QUESTION OF CONDUCTING A LOCAL GOVERNMENT REVIEW AND ESTABLISHING A STUDY COMMISSION.

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, 7-3-184 M.C.A. provides for the support of the study commission, for each fiscal year that the study commission is in existence, and the City shall appropriate Thirty-One Thousand Dollars and No Cents (\$31,000) to fund the study, and the local government may levy mills in excess of all other mill levies authorized by law to fund the appropriation for the support of the study commission. Upon termination of the study commission, unexpended money reverts to the general fund of the City of Laurel.

WHEREAS, the Laurel City Council is the governing body of the City of Laurel and therefore must call for the election required by Section 9, Article XI of the Montana Constitution and 7-3-173 M.C.A. on the question of conducting a local government review and establishing a study commission.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAUREL, MONTANA:

1. The City Council of Laurel 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 4, 2024.
2. If the voters decide in favor of conducting a local government review, a study commission comprised of three (3) members shall be elected at the general election of November 5, 2024.
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 the City of Laurel and the establishment and funding, not to exceed Thirty-One Thousand Dollars and No Cents (\$31,000), of a local

government study commission consisting of three (3) members to examine the government of the City of Laurel and submit recommendations on the government.

[] AGAINST the review of the government of the City of Laurel and the establishment and funding, not to exceed Thirty-One Thousand Dollars and No Cents (\$31,000), of a local government study commission consisting of three (3) members to examine the government of the City of Laurel and submit recommendations on the government.

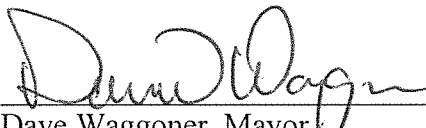
Introduced at a regular meeting of the City Council on the 23rd day of January, 2024 by Council Member Mize.

PASSED and APPROVED by the City Council of the City of Laurel, Montana on the 23rd day of January, 2024.

APPROVED by the Mayor on the 23rd day of January, 2024.



CITY OF LAUREL


Dave Waggoner, Mayor

ATTEST:


Kelly Strecker, Clerk-Treasurer

APPROVED AS TO FORM:


Michele L. Braukmann, Civil City Attorney

CITY HALL
115 W. 1st. St.
PUB WORKS: 628-4796
PWD FAX: 628-2241
WATER OFFICE: 628-7431
WTR FAX: 628-2289
MAYOR: 628-8456

City of Laurel

P.O. Box 10
Laurel, Montana 59044



City Attorney's Office

DEPARTMENT

Memorandum Re Local Government Study and Related Election

TO: City of Laurel City Council and Mayor

CC: City of Laurel Clerk-Treasurer/City Council Administrative Assistant

FROM: Michele Braukmann, Laurel Civil City Attorney

DATE: 2023.12.27

RE: Information Re Local Government Study and Related Election

This Memorandum serves to provide information regarding the required Local Government Study that has to be put on the 2024 Ballot for consideration by the electorate in the City of Laurel.

What is this about, and why is it required?

Pursuant to Article XI, section 9 of the Montana Constitution and section 7-3-173, MCA, local governments, including cities and counties, must place the local government review question on the ballot if 10 years have elapsed since voters have voted on the question. In June of 2014, the local government entities of Yellowstone County had the question on the ballot. Therefore, it is once again time to adopt a resolution to place on the June primary ballot the question of establishing a study commission that includes the number of commissioners and the amount of funding. *See 7-3-173, 7-3-174, 7-3-175, MCA.*

Pursuant to the Secretary of State's guidance, the deadline to call for the local government review is on or before March 11, 2024 (*See* 7-3-173, MCA). The following is the legal information related to the study commissions and the requirement to place this on the ballot every ten years.

7-3-173. Establishment of study commissions. (1) A study commission may be established by an affirmative vote of the people. An election on the question of conducting a local government review and establishing a study commission must be held if:

(a) the governing body of the local government unit calls for an election by resolution;

(b) a petition signed by at least 15% of the electors of the local government calling for an election is submitted to the governing body; or

(c) 10 years have elapsed since the electors voted on the question of conducting a local government review and establishing a study commission.

(2) The governing body shall call for an election on the question of conducting a local government review and establishing a study commission, as required by Article XI, section 9(2), of the Montana constitution, within 1 year after the 10-year period referred to in subsection (1)(c).

7-3-174. Election dates and procedures. (1) An election on the question of establishing a study commission under 7-3-173 must be held in conjunction with a primary election held on the date established in 13-1-107.

(2) An election of study commission members under 7-3-176 must be held in conjunction with a general election held on the date established in 13-1-104.

(3) The elections must be counted, canvassed, and returned as provided in Title 13 for general elections.

(4) The election administrator shall report the results of an election conducted under 7-3-171 through 7-3-193 to the secretary of state within 15 days of the date the election results become official.

Article XI, Section 9. Voter review of local government. (1) The legislature shall, within four years of the ratification of this constitution, provide procedures requiring each local government unit or combination of units to review its structure and submit one alternative form of government to the qualified electors at the next general or special election.

(2) The legislature shall require an election in each local government to determine whether a local government will undertake a review procedure once every ten years after the first election. Approval by a majority of those voting in the decennial

general election on the question of undertaking a local government review is necessary to mandate the election of a local government study commission. Study commission members shall be elected during any regularly scheduled election in local governments mandating their election.

7-3-175. Ballot form and question. The question of conducting a local government review and establishing a study commission must 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.

How do we determine the budget for the Study and Commission requirements?

It is up to City Council to determine the budget, but it should be based off a recommendation made by City Staff. The following is the information I have received in communications with the Local Government Center and the Elections Office in addressing how City Council should budget this Election.

Budget Framework: See attached document (2024 VR sample budget.pdf). City Staff recommends a budget consistent with the mid-tier City size (less than 10k in population).

Number of Study Commissioners: This is addressed in 7-3-177(1), MCA where it states, “the study commission shall consist of three members unless the local governing body by resolution declares that a larger number shall be elected”. During the 2016-18 voter review cycle, 38 municipalities elected to have a study commission. Of the 38 municipalities, 34 chose to have 3 study commissioners and 4 cities chose to have 5 study commissioners. The communities who chose 5 commissioners were Conrad, Dillon, Hot Springs, and Polson. City Staff recommends 3 Commissioners, if the City of Laurel elects to have a study commission.

Consulting Support: The MSU Local Government Center is planning to provide as

much support as possible given their Center size and the number of cities and counties participating in the voter review. They will focus their efforts on providing training and technical support to study commissioners and on a limited basis provided education and context to the electorate. In addition to in person support, they are planning to develop quality online resources for both study commissioners and the public to support the review. The League may also be available for limited support and other State agencies. There may also be other resources around the state that can aid the study commission with facilitating public engagement around proposed changes.

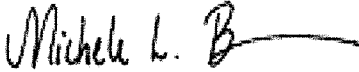
I am attaching a sample budget that was proposed by the MSU Local Government Center. I recommend a budget consistent with what other municipalities our size are being recommended.

What are the next steps?

By mid-February 2024, a Resolution needs to be placed in front of City Council to approve the ballot to be placed on the June 2024 Election cycle to ask the voters if they want to support appointing the study commission for local government review. If the voters decline to do so, then the ballot issue dies, and no further action needs to be taken. If the voters elect to do so, the study commission will be appointed, and its responsibility will be to examine the City of Laurel governance and submit recommendations to the City of Laurel. Any citizen may submit their request to be included on the commission. I will submit a proposed Resolution to City Council by mid-February of this year, in order to have City Council approve the proposed ballot language for the June 2024 election, as well as to set a budget included in the ballot.

In addition to a proposed sample budget, I am submitted materials herewith describing, in more details, the purpose of the study commission and intended format of governmental review. I will be happy to answer any questions in the upcoming City Council Meetings, during discussion, about this matter, before it is placed for consideration in front of you as a Resolution.

OFFICE OF THE CIVIL CITY ATTORNEY



Michele L. Braukmann, J.D.
CITY OF LAUREL
Civil City Attorney
civilattorney@laurel.mt.gov



Montana Secretary of State Christi Jacobsen
Elections and Government Services
2024 Local Government Review Information

Frequently Asked Questions

Q. What is the Local Government Review election?

A. Established as part of the 1972 Constitution, the Local Government Review election is to be held by each city and county government every 10 years. If your city or county government has held a Local Government Review election any time after the 2014 general election until now, you should consult with your county attorney regarding your responsibility.

Q. Where can I find the laws on the Local Government Review election?

A. The applicable laws, 7-3-171 through 7-3-193, MCA, are found at http://leg.mt.gov/bills/mca_toc/7_3_1.htm.

Q. Does the Local Government Review election apply only to city governments?

A. No, local governments have been defined to include *both* city and county governments.

Q. Is it a requirement that the governing body call for a local government review?

A. Yes. As required under 7-3-173(2), MCA, "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 " A governing body shall call for an election on Local Government Review by March 11, 2024.

Q. Who pays the cost of putting the local government review question on the ballot?

According to 13-1-302, MCA, each jurisdiction shall pay their proportionate cost. The county will bill the municipality for their proportionate cost, which cannot include the services of the election administrator or capital expenditures. The proportionate costs shall be only those **additional costs** incurred as a result of the political subdivision holding its election in conjunction with the primary or general election.

For uniformity purposes, those costs should be;

- any extra ballot costs,
- any extra equipment programming costs,
- any extra advertising costs, and;
- any other additional costs incurred because the municipal ballot issue appears on the primary ballot *and* the municipal local government review candidates appear on the general election ballot, if applicable.

Q. What exactly will voters be asked to decide at the June 4 Primary?

A. The ballot language is to be substantially as follows, under Section 7-3-175, MCA:

[] 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

Local Government Review Calendar

| DATE | ACTION | MCA SECTION |
|---------------------------------|---|-------------------|
| March 11, 2024 | Deadline for governing bodies to call for local government review | <u>7-3-173(2)</u> |
| June 4, 2024 | Primary election citizens vote on whether or not they want to conduct local government review | <u>7-3-173(2)</u> |
| No later than June 18, 2024 | Results canvassed and returned as provided in Title 13; beginning of study commission candidate filing (assuming vote is in favor of study commission) | <u>7-3-174(1)</u> |
| July 3, 2024 | Deadline for local government review results to be delivered to the Secretary of State (within 15 days of the date that the results become official) | <u>7-3-174(2)</u> |
| August 12, 2024 | Last day for local government review commission candidates to file declaration of nomination by 5:00 p.m. (assuming vote is in favor of study commission) **No filing fee **Nonpartisan declaration **No primary | <u>7-3-176(2)</u> |
| November 5, 2024 | Election for study commissioners | <u>7-3-176</u> |
| No later than November 19, 2024 | Results to be canvassed and returned as provided in Title 13 | <u>7-3-174(1)</u> |
| December 4, 2024 | Deadline for local government review results to be delivered to the Secretary of State (within 15 days of the official canvass) | <u>7-3-174(2)</u> |

MONTANA'S 6TH LOCAL GOVERNMENT REVIEW – TIMELINE
Montana Code Annotated Title 7, Chapter 3, Part 1 (MCA 7-3-171 – 7-3-193)

February/March 2024

Adopt resolution to place on the ballot the question of establishing a study commission that includes number of commissioners and amount of funding not to exceed \$X,XXX (MCA 7-3-173 & 7-3-175).

June 2024

Local Government Review election on the question of establishing a study commission (MCA 7-14-173). Ballot measure passes with a majority of those voting on the question.

July-August 2024

Citizens file with county election administrator to be a study commission candidates (MCA 7-3-174). MSU Local Government Center connects with mayor/manager or chair of county commission in jurisdictions that elect to conduct a Local Government Review to provide training and support.

November 2024

Election or appointment of Study Commissioners (MCA 7-3-174 & 7-3-176).
Study Commissioners take office the day the election is declared or certified (MCA 7-3-178) Ex-officio member is appointed by the governing body, must be a current elected official or employee of the local government (MCA 7-3-177).

November/December 2024

Within 10 days after taking office the Study Commission meets to organize. Date set by the presiding officer (mayor/manager or chair of board of county commission), swear in, elect temporary presiding officer until a permanent presiding officer is selected. Discuss when, where, how to meet, develop budget, decide whether to cooperate with another jurisdiction and consider consolidation or collaboration of services (MCA 7-3-179 & 7-3-180).

December 2024

MSU Local Government Center hosts study commissioner training.

December 2024 to November 2026

MSU Local Government Center, Montana Association of Counties, Montana League of Cities and Towns, etc. supports study commission with technical assistance, training and community engagement.

Study Commission reviews power, form, and plan of government. Either chooses "no change" or makes recommendation to voters by November election in 2026 (MCA 7-3-192 and 7-3-149). Within 60 days of adoption of the Local Government Review report, submits reports to appropriate agencies and publishes findings (MCA 7-3-187 through 191).

Passed and adopted by the City/Town Council of the City/Town of _____,
Montana meeting at regular session held on the _____ day of _____, 2024.

, Mayor

ATTEST:

, City/Town Clerk

*NOTE: For an alternative format see the model resolution at Attachment 2.1, Section 2.303, p. 44,
Montana Municipal Officials Handbook.*

Passed and adopted by the County Commissioners of the County of _____,
Montana meeting at regular session held on the _____ day of _____, 2024.

Presiding Officer

ATTEST:

Commissioner

Clerk and Recorder

APPROVED AS TO FORM:

Commissioner

County Attorney

Montana Local Governments with Self-Government Powers

| | City or Town | Class | Population 2019 | Type of Govt | Year of Incorporation | Year Adopted Self-Government Powers | Plan of Government | Charter |
|----|---------------------|-----------------------------------|-----------------|--------------|-----------------------|-------------------------------------|--------------------|---------|
| 1 | Anaconda/Deer-Lodge | 2nd (Consolidated City-County) | 9,131 | Self | 1888 | 1976 | Comm-Ex | Yes |
| 2 | Belgrade | 3rd | 8,993 | Self | 1906 | 1987 | Comm-Mgr | Yes |
| 3 | Billings | 1st | 109,550 | Self | 1885 | 1976 | Comm-Mgr | Yes |
| 4 | Bozeman | 1st | 48,532 | Self | 1883 | 2000 | Comm-Mgr | Yes |
| 5 | Bridger | Town | 754 | Self | 1907 | 1976 | Comm-Ex | Yes |
| 6 | Broadview | Town | 188 | Self | 1929 | 1976 | Comm-PO | No |
| 7 | Butte/Silver-Bow | 1st (Consolidated City-County) | 34,284 | Self | 1874 | 1976 | Comm-Ex | Yes |
| 8 | Choteau | 3rd | 1,713 | Self | 1913 | 2006 | Comm-Ex | Yes |
| 9 | Circle | Town | 608 | Self | 1929 | 1976 | Comm-Ex | Yes |
| 10 | Clyde Park | Town | 325 | Self | 1913 | 1976 | Comm-Ex | No |
| 11 | Colstrip | 3rd | 2,266 | Self | 1998 | 1998 | Comm-Ex | Yes |
| 12 | Conrad | 3rd | 2,500 | Self | 1909 | 2006 | Comm-Ex | Yes |
| 13 | Cut Bank | 3rd | 3,022 | Self | 1911 | 2006 | Comm-Ex | Yes |
| 14 | Darby | Town | 792 | Self | 1916 | 1996 | Comm-Ex | Yes |
| 15 | Dillon | 3rd | 4,261 | Self | 1885 | 1996 | Comm-Ex | Yes |
| 16 | Ennis | Town | 997 | Self | 1956 | 1976 | Comm-Ex | Yes |
| 17 | Fergus | County | 11,221 | Self | 1885 | 1996 | Comm | Yes |
| 18 | Forsyth | 3rd | 1,823 | Self | 1905 | 1996 | Comm-Ex | Yes |
| 19 | Fort Benton | 3rd | 1,443 | Self | 1883 | 1996 | Comm-Ex | No |
| 20 | Fort Peck | Town | 240 | Self | 1986 | 1986 | Comm-Ex | No |
| 21 | Fromberg | Town | 462 | Self | 1902 | 1976 | Comm-Ex | No |
| 22 | Glasgow | 3rd | 3,328 | Self | 1902 | 1976 | Comm-Ex | No |
| 23 | Great Falls | 1st | 58,701 | Self | 1888 | 1986 | Comm-Mgr | Yes |
| 24 | Havre | 1st | 9,715 | Self | 1893 | 2020 | Comm-Ex | Yes |
| 25 | Helena | 1st | 32,315 | Self | 1867 | 1976 | Comm-Mgr | Yes |
| 26 | Hingham | Town | 118 | Self | 1918 | 1976 | Comm-Ex | No |
| 27 | Laurel | 3rd | 6,766 | Self | 1908 | 2007 | Comm-Ex | Yes |
| 28 | Lewistown | 2nd | 5,818 | Self | 1901 | 1996 | Comm-Mgr | Yes |
| 29 | Libby | 3rd | 2,737 | Self | 1909 | 1989 | Comm-Ex | Yes |
| 30 | Lima | Town | 227 | Self | 1917 | 2006 | Comm-Ex | Yes |
| 31 | Manhattan | Town | 1,822 | Self | 1911 | 2006 | Comm-Ex | Yes |
| 32 | Missoula | 1st | 74,428 | Self | 1883 | 1996 | Comm-Ex | Yes |
| 33 | Neihart | Town | 49 | Self | 1891 | 1976 | Comm-Ex | No |
| 34 | Pinesdale | Town | 985 | Self | 1986 | 1996 | Town Mtg | Yes |
| 35 | Polson | 3rd | 5,018 | Self | 1910 | 2006 | Comm-Mgr | Yes |
| 36 | Red Lodge | 3rd | 2,294 | Self | 1892 | 1986 | Comm-Ex | Yes |
| 37 | Saco | Town | 193 | Self | 1918 | 2006 | Comm-Ex | Yes |
| 38 | Sunburst | Town | 341 | Self | 1923 | 1976 | Comm-Ex | Yes |

**TITLE 7. LOCAL GOVERNMENT
CHAPTER 3. ALTERNATIVE FORMS OF LOCAL GOVERNMENT**

Part 2. Commission-Executive Government

7-3-113. Statutory basis for municipal council-mayor government. (1) For the purpose of determining the statutory basis of existing units of local government, each unit of local government organized under the general statutes authorizing the municipal council-mayor form of government, which does not adopt a new form, shall be governed after May 2, 1977, by the following sections:

- (a) 7-3-201;
- (b) 7-3-202(1);
- (c) 7-3-203;
- (d) 7-3-212(2);
- (e) 7-3-213(3);
- (f) 7-3-214(2);
- (g) 7-3-215(2);
- (h) 7-3-216(2);
- (i) 7-3-217(1);
- (j) 7-3-218(2);
- (k) 7-3-219(1);
- (l) 7-3-220(1);
- (m) 7-3-221(3);
- (n) 7-3-222(2);
- (o) 7-3-223(2).

(2) This form has terms of 4 years for all elected officials. The size of the commission shall be established by ordinance, but it may not exceed 20 members.

7-3-201. Commission-executive form. The commission-executive form (which may be called the council-executive, the council-mayor, or the commission-mayor form) consists of an elected commission (which may be referred to as the council) and one elected executive (who may be referred to as the mayor) who is elected at large.

7-3-202. Nature of government. The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

- (1) **general government powers;** or
- (2) self-government powers.

7-3-203. Duties of executive. The executive shall:

- (1) enforce laws, ordinances, and resolutions;
- (2) perform duties required by law, ordinance, or resolution;
- (3) administer affairs of the local government;
- (4) carry out policies established by the commission;
- (5) recommend measures to the commission;
- (6) report to the commission on the affairs and financial condition of the local government;

**BOLD = Statutory basis for municipal council-mayor government. MCA 7-3-113
(The Recipe)**

7-3-216. Administrative supervision and control. The executive may:

(1) exercise control and supervision of the administration of all departments and boards; or

(2) exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

7-3-217. Financial officer. A financial officer (who may be called the treasurer):

(1) shall be elected;

(2) shall be appointed by the executive with the consent of the council;

(3) shall be selected as provided by ordinance; or

(4) may, at the discretion of the commission, be selected as provided by ordinance.

7-3-218. Selection of commission members. The commission shall be:

(1) elected at large;

(2) elected by districts in which candidates must reside and which are apportioned by population;

(3) elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside; or

(4) elected by any combination of districts, in which candidates must reside and which are apportioned by population, and at large.

7-3-219. Type of election. Local government elections shall be conducted on a:

(1) partisan basis; or

(2) nonpartisan basis.

7-3-220. Presiding officer of commission. The commission must have a presiding officer who must be:

(1) elected by the members of the commission from their own number for a term established by ordinance; or

(2) selected as provided by ordinance.

7-3-221. Presiding officer of commission. The presiding officer of the commission:

(1) may vote as other members of the commission;

(2) is the executive, who may vote as the commissioners;

(3) is the executive, who shall decide all tie votes of the commission but may not have another vote (the presiding officer of the commission shall preside if the executive is absent); or

(4) is the executive but may not vote.

7-3-222. Terms of commission members. Commission members shall be elected for:

(1) concurrent terms of office; or

(2) overlapping terms of office.

Statutory Basis for Elected County Official Government

7-3-105. Plan of government. The approved plan filed with the secretary of state pursuant to subsection (3)(a) of section 14, Chapter 513, Laws of 1975, shall be the official plan and shall be a public record open to inspection of the public and judicially noticeable by all courts.

7-3-111. Statutory basis for elected county official government. (1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government shall be governed by the following sections:

- (a) 7-3-401;
- (b) 7-3-402;
- (c) 7-3-412(3);
- (d) 7-3-413(1);
- (e) 7-3-414(1);
- (f) 7-3-415(2);
- (g) 7-3-416(2);
- (h) 7-3-417(2);
- (i) 7-3-418;
- (j) 7-3-432(1);
- (k) 7-3-433(1);
- (l) 7-3-434(1);
- (m) 7-3-435(1);
- (n) 7-3-436(1);
- (o) 7-3-437(1);
- (p) 7-3-438(1);
- (q) 7-3-439(1);
- (r) 7-3-440(1);
- (s) 7-3-441(1);
- (t) 7-3-442(1) if the county has elected an auditor;
- (u) 7-3-442(6) if the county has not elected an auditor.

(2) This form has terms of 4 years for all elected officials except commissioners who are elected to 6-year terms. The commission consists of three members.

TITLE 7. LOCAL GOVERNMENT CHAPTER 3. ALTERNATIVE FORMS OF LOCAL GOVERNMENT

Part 4. Commission Government

7-3-401. Commission form. The commission form consists of an elected commission (which may also be called the council) and other elected officers as provided in this part. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by

BOLD = Statutory basis for elected county official government as outlined in MCA 7-3-111

7-3-417. Size of commission and community councils. The size of the commission, which shall be a number not less than three, shall be established when the form is adopted by the voters, and:

(1) community councils of at least three members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at large shall district according to population for the purpose of electing community councils; or

(2) community councils to advise commissioners may be authorized by ordinance.

7-3-418. Terms of elected officials. The term of office of elected officials may not exceed 4 years, except the term of office for commissioners in counties adopting the form authorized by Article XI, section 3(2), of the Montana constitution may not exceed 6 years. Terms of office shall be established when the form is adopted by the voters.

7-3-431. Additional structural suboptions for county and consolidated governments. In county and consolidated local governments, the plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed in 7-3-432 through 7-3-442. The officers shall have the powers and duties established by ordinance. After the establishment of any office, the commission may consolidate, as provided by law, two or more of the offices.

7-3-432. Legal officer. A legal officer, who may be called the county attorney:

(1) may be elected;

(2) may be appointed by the local government commission;

(3) may be appointed by the presiding officer of the local government commission;

(4) may be selected as provided by ordinance;

(5) may at the discretion of the commission be selected as provided by ordinance; or

(6) may not be included in this form as a separate office.

7-3-433. Law enforcement officer. A law enforcement officer, who may be called the sheriff:

(1) may be elected;

(2) may be appointed by the local government commission;

(3) may be appointed by the presiding officer of the local government commission;

(4) may be selected as provided by ordinance;

(5) may at the discretion of the commission be selected as provided by ordinance; or

(6) may not be included in this form as a separate office.

7-3-434. Clerk and recorder. A clerk and recorder:

(1) may be elected;

(2) may be appointed by the local government commission;

(3) may be appointed by the presiding officer of the local government commission;

(4) may be selected as provided by ordinance;

(5) may at the discretion of the commission be selected as provided by ordinance; or

(6) may not be included in this form as a separate office.

- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) may not be included in this form as a separate office.

7-3-441. Public administrator. A public administrator:

(1) may be elected;

(2) may be appointed by the local government commission;

(3) may be appointed by the presiding officer of the local government commission;

(4) may be selected as provided by ordinance;

(5) may at the discretion of the commission be selected as provided by ordinance; or

(6) may not be included in this form as a separate office.

7-3-442. Auditor. An auditor:

(1) may be elected; (if the county has elected an auditor)

(2) may be appointed by the local government commission;

(3) may be appointed by the presiding officer of the local government commission;

(4) may be selected as provided by ordinance;

(5) may at the discretion of the commission be selected as provided by ordinance; or

(6) may not be included in this form as a separate office. (If the county has not elected an auditor.)

Attorney General's Opinions

Competitive Bidding Requirements Mandatory: A local government unit with self-government powers cannot supersede by the passage of a resolution or ordinance the competitive bidding requirements set forth in 7-5-4302. 37 A.G. Op. 175 (1978).

Self-Government Powers: Section 7-4-2503 does not apply to self-government units since it may be superseded by ordinance or resolution of the Commission and is not prohibited by 7-1-114(1)(g). 37 A.G. Op. 68 (1977).

7-1-106. Construction of self-government powers. The powers and authority of a local government unit with self-government powers shall be liberally construed. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.

History: En. 47A-7-106 by Sec. 1, Ch. 345, L. 1975; R.C.M. 1947, 47A-7-106.

7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

- (1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;
- (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;
- (3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;
- (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;
- (5) any power that establishes a rate or price otherwise determined by a state agency;
- (6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;
- (7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;
- (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;
- (9) any power that applies to or affects the right to keep or bear arms;
- (10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;
- (11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;
- (12) except as provided in 7-3-1105, 7-3-1222, 7-21-3214, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1, or Title 87;
- (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.
- (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;
- (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities.

7-1-112. Powers requiring delegation. A local government with self-government powers is prohibited the exercise of the following powers unless the power is specifically delegated by law:

(1) the power to authorize a tax on income or the sale of goods or services, except that, subject to 15-10-420, this section may not be construed to limit the authority of a local government to levy any other tax or establish the rate of any other tax;

(2) the power to regulate private activity beyond its geographic limits;

(3) the power to impose a duty on another unit of local government, except that nothing in this limitation affects the right of a self-government unit to enter into and enforce an agreement on interlocal cooperation;

(4) the power to exercise any judicial function, except as an incident to the exercise of an independent self-government administrative power;

(5) the power to regulate any form of gambling, lotteries, or gift enterprises.

History: En. 47A-7-202 by Sec. 1, Ch. 345, L. 1975; R.C.M. 1947, 47A-7-202; amd. Sec. 3, Ch. 584, L. 1999.

Attorney General Opinions:

City Authority to Enact Photo-Radar Ordinance: No state agency is given exclusive power to establish administrative rules governing speed of traffic in cities and towns, nor is the enforcement of speed regulations exclusively vested in a state agency. Therefore, the city of Billings, under its self-government charter, is not precluded by statute from enacting a photo-radar ordinance providing either for accountability on the part of the registered owner for illegal speeding by any person operating the vehicle with the owner's permission or for a permissive inference that the registered owner was the speeding violator. 45 A.G. Op. 7 (1993).

7-1-113. Consistency with state regulation required. (1) A local government with self-government powers is prohibited the exercise of any power in a manner inconsistent with state law or administrative regulation in any area affirmatively subjected by law to state regulation or control.

(2) The exercise of a power is inconsistent with state law or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation.

(3) An area is affirmatively subjected to state control if a state agency or officer is directed to establish administrative rules governing the matter or if enforcement of standards or requirements established by statute is vested in a state officer or agency.

History: En. 47A-7-203 by Sec. 1, Ch. 345, L. 1975; R.C.M. 1947, 47A-7-203.

Attorney General Opinions:

Municipal Authority to Set Water and Sewer Service Rates -- Applicability of Human Rights Act to Setting of Water and Sewer Rates: A provision in 7-13-4304 provides that the rates for municipal water and sewer charges may be fixed in advance and must be uniform for like services in all parts of the municipality. The city of Bozeman sought to provide discounts or preferential rates to senior citizens on water and wastewater charges. The question was whether the senior rates violated the statutory requirement for uniform or equitable rates. The Attorney General held that because water and sewer ratemaking is not an area affirmatively subject to state control, a local government with self-government powers may set rates for those services without regard to the requirements of 7-13-4304. However, the Attorney General noted that age discrimination does violate Title 49, ch. 2, commonly known as the Montana Human Rights Act, that Bozeman is subject to the Act despite its status as a self-governing municipality, and that discrimination in government services is affirmatively subject to state control. Without deciding whether Bozeman's proposed ordinance would meet the standard of strict construction of reasonable grounds based on age, the Attorney General nevertheless concluded that 49-2-308 of the Act did apply to the Bozeman ordinance setting senior rates for municipal water and sewer services. 50 A.G. Op. 10 (2004).

7-1-114. Mandatory provisions. (1) A local government with self-government powers is subject to the following provisions:

(a) all state laws providing for the incorporation or disincorporation of cities and towns, for the annexation, disannexation, or exclusion of territory from a city or town, for the creation, abandonment, or boundary alteration of counties, and for city-county consolidation;

(b) prohibits or restricts auxiliary containers; or

(c) imposes a fee, charge, or tax on auxiliary containers.

(3) The prohibitions in subsection (2) may not be construed to prohibit, restrict, or apply to any of the following:

(a) a curbside recycling program;

(b) a designated residential or commercial recycling location;

(c) a commercial recycling program;

(d) an ordinance that prohibits littering; or

(e) the use of auxiliary containers on property owned by a local unit of government.

(5) As used in this section, unless the context requires otherwise, the following definitions apply:

(a) "Auxiliary container" means a bag, cup, bottle, can, device, eating or drinking utensil or tool, or other packaging, whether reusable or single use, that is:

(i) made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or similar material or substrates, including coated, laminated, or multilayer substrates; and

(ii) designed for transporting, consuming, or protecting merchandise, food, or a beverage to or from, or at, a food service, manufacturing, distribution or processing facility, or retail facility.

(b) "Local unit of government" means any county, municipality, school district, special district or other political subdivision of the state, including any agency or governing body of a local unit of government as defined by 7-4-502, or a similar unit of government of another state or nation.

History: En. Sec. 1, Ch. 220, L. 2021.

city.

Section 2.02 Qualifications for Office

Every resident of the City of Choteau who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution is eligible to hold the office of council member.

Section 2.03 Composition

The City of Choteau shall have a city council of four (4) members.

Section 2.04 Term of Office

Members of the city council shall be elected for four (4) year, overlapping terms of office.

Section 2.05 Election

1. Local government elections shall be conducted on a nonpartisan basis.
2. The city shall be divided into two (2) electoral districts with two council members elected from each district. One (1) council member from each ward shall be elected every two (2) years.

Section 2.06 President of the Council

The council shall have a president who shall be elected by the members of the council from among their own number for a term established by resolution. The president of the council shall preside at council meetings when the mayor is absent, and shall vote as other members of the council.

Section 2.07 Vacancy in Office

The office of council member becomes vacant as prescribed by law.

Section 2.08 Removal from Office

A council member may be removed from office by a finding, adopted by the affirmative vote of three (3) council members, that the office has become vacant as prescribed by law, or by recall by the electors of Choteau, as prescribed by law.

Section 2.09 Filling Vacancy on Council

1. When a vacancy occurs in the office of council member, the position shall be considered open and subject to nomination and election at the next general municipal election, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy.

Section 3.02 Qualifications for Office

Every resident of the City of Choteau who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution is eligible to hold the office of mayor.

Section 3.03 Term of Office

The mayor shall be elected for a four (4) year term of office.

Section 3.04 Election

The mayor shall be nominated and elected at-large on a nonpartisan basis.

Section 3.05 Vacancy in Office

The office of mayor becomes vacant as prescribed by law.

Section 3.06 Removal from Office

The mayor may be removed from office by a finding, adopted by the affirmative vote of three (3) council members that the office has become vacant as prescribed by law, or by recall by the electors of the City of Choteau, as prescribed by law.

Section 3.07 Filling Vacancy in the Office of Mayor

When a vacancy occurs in the office of mayor the position shall be considered open and subject to nomination and election at the next general municipal election, except the term of office shall be limited to the unexpired term of the person originally creating the vacancy. Pending such election and qualification the council shall appoint, by the affirmative vote of three (3) council members, a person possessing the qualifications for office required by law and this Charter within 30 days of the vacancy to hold the office until the successor is elected and qualified.

Section 3.08 Powers and Duties

The mayor shall:

1. enforce laws, Charter, ordinances, and resolutions;
 2. perform the duties required by law, Charter, ordinance or resolution;
 3. administer the affairs of the city government;
 4. carry out policies established by the council;
 5. recommend measures to the council;
 6. report to the council on the affairs and financial condition of the city government;
 7. execute bonds, notes, contracts, and written obligations of the council, subject to the approval of the council;
-

ordinance. Nothing in this charter shall be construed as preventing the city council from employing in special cases on a contract basis additional or other counsel.

ARTICLE IV JUDICIAL BRANCH

Section 4.01 City Court

There shall be a city court as provided by law.

ARTICLE V DEPARTMENT STRUCTURE

Section 5.01 Organization of Departments

The organization of city departments shall be prescribed by ordinance or resolution.

ARTICLE VI GENERAL PROVISIONS

Section 6.01 Amendment of Charter

This Charter may be amended only as prescribed by law.

Section 6.02 Effective Date

This Charter shall become effective on January 1, 2006.

Section 6.03 Oath of Office

Before entering upon the duties of office, all elected city officials shall take and subscribe to the oath of office as prescribed in Article III, Section 3 of the Constitution of Montana.

Section 6.04 Severability

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE VII TRANSITION PROVISIONS

Section 7.01 General Transition

Transition to this charter form of government shall be as prescribed by law. The Study

2024-2026 Montana Local Government Review

Sample Budget

| | Small Community Population ~1,000 | Medium Community Population ~ 10,000 | Large Community Population ~ 30,000+ |
|---|--------------------------------------|---|---|
| Training | \$3,000 | \$4,000 | \$5,000 |
| Consulting | \$1,000 | \$3,000 | \$5,000 |
| Resource Materials | \$500 | \$1,000 | \$3,000 |
| Survey | \$500 | \$2,000 | \$5,000 |
| Community Engagement | \$1,500 | \$3,000 | \$5,000 |
| Advertising/Notices | \$500 | \$2,000 | \$3,000 |
| Support Staff | \$6,000 (\$20/hr x 300 hrs) | \$6,000 (\$20/hr x 300 hrs) | \$10,000 (\$20/hr x 500 hrs) |
| Election Expenses* | \$3,000 | \$8,000 | \$15,000 |
| Publication (reports, summary, etc.) | \$500 | \$1,000 | \$3,000 |
| Miscellaneous | \$500 | \$1,000 | \$3,000 |
| Total: | \$17,000 | \$31,000 | \$57,000 |

**Check with the local election administrator for accurate estimated cost*

This sample 2024-2026 Montana Local Government Review budget is for educational purposes only. Each jurisdiction should estimate costs based on local needs and develop a budget that reflects the expectations of the Local Government Review in that municipality or county.



Local Government Center