



## HAPPY NEW YEAR!!!

The MSU Local Government Center wants to wish everyone serving in Montana's local government an *effective* and *productive* New Year. Last January, the Local Government Center made a New Year's resolution to send out a weekly e-Brief titled "**The Handbook Highlights**". After 52 "Highlights" and one year, it is time now to say good bye to this tradition.

The **Municipal Officials Handbook** is a treasure trove of useful information designed to assist municipal officials become more *effective* and *productive* in their local government service. I hope this weekly e-Brief has helped you become more familiar with the content and information found in the Handbook and thus make it a more effective tool in your tool box of governing resources. We hope you have enjoyed receiving these weekly messages.

For your convenience the LGC has archived all [The Handbook Highlights](#) on the LGC website. Just click on the banner at the top of this email and it will take you directly to our website. Click on the "Resources" link on the left side navigation bar to find a folder named "Handbook Highlight e-Brief Archive."

If you would like to purchase a copy of the Handbook, please contact Jen Blessum at 994-6694 or email her at [jennifer.blessum@montana.edu](mailto:jennifer.blessum@montana.edu).

If you have any questions you can send an email to [msulocalgov@montana.edu](mailto:msulocalgov@montana.edu).

Have a great New Year!

Sincerely,

Dan Clark, Director

Local Government Center

## 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-chairman 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 chairman). The structural

characteristics and the varying relationship between the legislative and executive branches of each of these forms of government are summarized below.

**Table 1.3**

**Forms of Municipal Government in Montana**

<b>Form of Government</b>	<b>With Charter</b>	<b>Without Charter</b>	<b>Totals</b>
Town Meeting	1		1
Commission-Chairman		2	2
Commission-Executive (Council-Mayor) Includes the two consolidated governments.	24	90	114
Commission-Manager	9	3	12
<b>TOTALS</b>	<b>34</b>	<b>95</b>	<b>129</b>

**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 chairman* 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-Chairman Form**

The commission-chairman 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 chairman from among its own members* to serve as the chief-executive for a term determined by the commission. The chairman, 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-chairman 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-chairman 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. At present, there are only two municipal governments conducting partisan municipal elections in Montana. 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, 114 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, twelve 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 twelve commission-manager form 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 34 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 a 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:

- o Provide for a legislative body and, if other than the town meeting form, the method of election of the members;



- o 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
- o 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.

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