ALTERNATIVE FORMS OF LOCAL GOVERNMENT

Adoption of Alternative Form of Government

MCA 7-3-102

Each local government in the state shall adopt one of the alternative forms of government:

1. The commission-executive form (which may also be called the council-executive, the council-mayor, or the commission-mayor form);
2. The commission-manager form (which may also be called the council-manager form);
3. The commission form;
4. The commission-presiding officer form;
5. The town meeting form; or
6. The charter form.

General Powers
Article XI, Section 4, Montana Constitution
MCA 7-1-4124

- A local government unit without self-government powers has general powers:
  - An incorporated city or town has liberally construed powers of a municipal corporation and legislative, administrative and other powers provided or implied by law Art XI, sec 4, Montana Constitution MCA 7-1-4124

Self Governing Powers
Article XI, Section 4 and 5, Montana Constitution

- A local government unit adopting a self-governing charter may exercise any power not prohibited by the Montana Constitution or charter.
- Self-governing form of government may be initiated by petition; or called by the governing body of the current government unit; or by charter provisions.

Self-governing Charter
Article XI, Section 6, Montana Constitution
MCA 7-3-701 – MCA 7-3-709

- May exercise any executive legislative, administrative power not prohibited by the Montana Constitution, law, or charter.
- Charter shall define powers, structures, privileges, rights, duties and limitations of the local government.

Commission – Executive
(Council – Mayor, Commission – Mayor)

- Government Plan: *Self-governing* or *General Government Powers* MCA 7-3-202
- Elected Commission (Council) and Elected Executive (Mayor) MCA 7-3-201
- Structural Options (voted by qualified electors when form of government adopted) MCA 7-3-211:
  - Executive *shall* or *may* appoint direct report assistant(s) MCA 7-3-212
  - Executive has *final*, *shared*, or *no* Executive Veto power MCA 7-3-214
  - Executive *presents to* or *develops with* the Commission a budget MCA 7-3-215
  - Executive has *exclusive supervision* over boards and departments or *limited by ordinance* MCA 7-3-216
  - Financial officer (Treasurer) is *elected*, *appointed*, or *selected* MCA 7-3-217
  - Commission members *elected at large*, *by districts* or *combination* MCA 7-3-218
  - *Partisan* or *non partisan* local government elections MCA 7-3-219
  - *Elected* Commission Chair (by commission) or *selected by ordinance* MCA 7-3-220
  - Commission presiding officer as *voting*, *non voting*, or *tie-vote only chair* or *executive* MCA 7-3-221
  - Elect commission for *concurrent* or *overlapping* terms in office MCA 7-3-223
  - Commission size determined by vote, minimum of three (3) commissioners MCA 7-3-222
  - Elected office terms may not exceed four (4) years, established by voters MCA 7-3-224
- See also MCA Title 7, Ch. 3, part 41-44

Commission – Manager
(Council – Manager)

- Government Plan: *Self-governing* or *General Government Powers* MCA 7-3-302
- Elected Commission (council) MCA 7-3-301
- Commission appoints Manager, indefinite term, basis or merit, removed by commission majority vote MCA 7-3-303
- Manager is the chief administrative officer responsible to the commission for government issues by law, ordinance, or resolution MCA 7-3-301
- Structural options (voted by qualified electors when form of government adopted) MCA 7-3-311:
  - Members of all boards (except temporary advisory committees) shall be appointed by *chairman/manager with commission consent* or *by commission* MCA 7-3-312
  - Commission members *elected at large*, *by districts*, *or combination* MCA 7-3-313
  - *Partisan* or *nonpartisan* local government elections MCA 7-3-314
  - Commission Chair shall be *elected by commission members from their own for a term established by ordinance*, or *elected by qualified electors for a term*, or *by ordinance* MCA 7-3-315
  - Elect commission for *concurrent* or *overlapping* terms in office MCA 7-3-316
  - Commission size determined by vote, minimum of three (3) Commissioners MCA 7-3-317
  - Community Councils that advise the commissioners may be *authorized by ordinance* or *a minimum of three (3) members elected from each district* MCA 7-3-317
  - Elected office terms may not exceed four (4) years, established by voters MCA 7-3-318
- See also MCA Title 7, Ch. 3, part 41-44

Commission Government
(Commission – Council)

- Government Plan: *General Government Powers* MCA 7-3-402
- Elected Commission (council) MCA 7-3-401
- The Commission has all legislative, executive, and administrative duties of local government not reserved by law or ordinance to other elected officials MCA 7-3-303
- Commission appoints the heads of departments, except those appointed by other elected officials. May transfer executive and administrative powers/duties to departments headed by individual commissioners MCA 7-3-401
- Commission Chair may be referred to as Mayor, presides over commission and appoints all board and committee members MCA 7-3-303
- Commission Chair has same weight vote as all other commission members MCA 7-3-403
- Structural Options (voted by qualified electors when form of government adopted) MCA 7-3-411:
  - Commission members *elected at large, by districts in which candidates must reside and which are apportioned by population, or combination* MCA 7-3-412
  - *Partisan* or *non partisan* local government elections MCA 7-3-413
  - Commission Chair shall be *elected by commission members from their own for a term established by ordinance*, or *elected by qualified electors for a term*, or *by ordinance* MCA 7-3-414
  - Elect commission for *concurrent* or *overlapping* terms in office MCA 7-3-416
  - Commission *size determined by vote*, minimum of three (3) Commissioners MCA 7-3-417
  - Community Councils that advise the commissioners may be *authorized by ordinance* or *a minimum of three (3) members elected from each district* MCA 7-3-417
  - Elected office terms may not exceed four (4) years, established by voters (except from under Article XI, section 3 (2) – not to exceed six years) MCA 7-3-418
- See also MCA Title 7, ch. 3, part 41-44

Commission - Presiding Officer Government

- Government Plan: *Self-governing* or *General Government Powers* MCA 7-3-502
- Elected Commission (council) and a commission chair (presiding officer, mayor or president) MCA 7-3-501
- Commission elects Chair from their own MCA 7-3-502.
- Commission chair is the presiding officer of the commission and head of the local government; appoints and removes department heads (with commission approval) MCA 7-3-503
- Commission Chair has same weight vote as all other commission members MCA 7-3-503
- Structural Options (voted by qualified electors when form of government adopted) MCA 7-3-511:
  - Commission members *elected at large, by districts in which candidates must reside and which are apportioned by population,* or *combination* MCA 7-3-512
  - *Partisan* or *non partisan* local government elections MCA 7-3-513
  - Commission Chair *shall* or *may* appoint one (1) or more administrative assistant to assist in supervision and operation and answer directly and exclusively to the Chair MCA 7-3-514
  - Elect commission for *concurrent* or *overlapping* terms in office MCA 7-3-515
  - Commission *size determined by vote*, minimum of three (5) Commissioners MCA 7-3-516
  - Community Councils members that advise the commissioners may be *authorized by ordinance* or *a minimum of three (3) members elected from each district* MCA 7-3-516
  - Elected office terms may not exceed four (4) years MCA 7-3-418

Town Meeting Government

- Government Plan: *Self-governing* or *General Government Powers* MCA 7-3-602
- Consists of an assembly of the qualified electors of a town (a town meeting an elected town chair, and an optional elected town mediator MCA 7-3-601(1)
- Form may only be adopted by an incorporated city of less than 2,000 persons and may maintain this form after population increases MCA 7-3-601(2)
- All legislative powers of the town shall vest in the town meeting. The town meeting may enact rules, resolutions, and ordinances MCA 7-3-601(3)
- Shall convene annual town meeting on the first Tuesday in March. Special town meetings may be called by the chair or by a minimum 10% qualified electors MCA 7-3-603(1)
- Only and all qualified electors may attend meetings, participate in discussion, and vote. A
- quorum is 10% of the qualified electors MCA 7-3-603(2,3)
- Election of town officials shall be by secret ballot, nonpartisan and by plurality by those qualified voters present. All other voting is by simple majority of those qualified electors present and voting MCA 7-3-603(4,5)
- An agenda of the annual and special town meeting and a list of the elective and appointive offices to be filled must be prepared by the town presiding officer and is published two weeks in
- advance. A particular item may be included to the agenda upon written petition by a minimum of
- 10% of the qualified electors MCA 7-3-604
- First agenda of the first town meeting following adoption of this form shall be conducted by the local study commission chair and shall preside over election of town officers MCA 7-3-605
- The town meeting elects a chair for not less than one (1) year and not more than two years. As chief executive officer, the chair enforces the laws, administers the affairs of the town, reports and makes recommendation at the town meetings MCA 7-3-606(1)
- The chair appoints members of all boards, and appoints and removes all employees of the town.
- Chair supervises all departments and boards MCA 7-3-606(2)
- Compensation of town chair shall be established by ordinance MCA 7-3-606 (2i,k), (3)
- Permanent committees to advise the town chair may be established by ordinance. Temporary advise committees may be established by chair MCA 7-3-607
- Structural Options (voted by qualified electors when form of government adopted) MCA7-3-611:
    - Town meeting shall *elect* a town meeting moderator for one (1) year term or designate town chair to preside over meeting MCA 7-3-612
    - Town Chair shall or may appoint an administrative assistant answerable solely to the town chair with powers delegated by the town chair MCA 7-3-613

Charter Government

- Government Plan: *Self-governing powers* MCA 7-3-702
- Charter form of government shall be established by a charter which is a written document defining the powers, structure, privileges, rights, and duties of the local government and shall not limit the self-governing powers granted by the constitution and a commission chair (mayor or president) MCA 7-3-703
- The Legislature provides that procedures for a local government unit to adopt a self-government charter with the approval of a majority of those voting on the question MCA 7-3-701
- Charter provisions establishing executive, legislative, and administrative structure and organization are superior to statutory provisions MCA 7-3-701(2)
- Charter may provide that the executive and administrative functions will be performed by one or all members of the legislative body (commission or council) as specified in the voter approved charter 46 A.G. Op. 14(1996)
- Charter provides for an *elected body* (council or commission) or a legislative body consisting of
- *all qualified electors* MCA 7-3-704
- Popular vote determines the Charter and it specifies which official of government will be chief administrative and executive officer, method of election, term, powers, duties and grounds for removal MCA 7-3-705(1)
- A charter form of government shall have officers, departments, boards, commissions, and agencies as required in the charter, local ordinance, or required by state law MCA 7-3-705(2)
- Charter specifies effective date and may use partial effectiveness for transition period MCA 7-3-707
- Charter may not modify local court systems MCA 7-3-708
- Charter must comply with state established procedures for elections, initiatives, and referendums
- MCA 7-3-708(2)