Scope of Montana’s Local Government Review

Power

In Montana (Shared Powers):

**General (default):** Able to exercise the power and authority explicitly granted by the legislature.

*MT Constitution, Article XI, Section 4.* General-governing powers. An incorporated city or town has the powers of a municipal corporation and legislative, administrative, and other powers provided or implied by law.

**Self:** Able to exercise any power and authority not explicitly denied by the legislature.

*MT Constitution, Article XI, Section 6.* Self-government powers. A local government unit adopting a self-government charter may exercise any power not prohibited by this constitution, law, or charter.

*Examples of authority available under self-governing powers, but not general-governing powers:*

- Provide additional services not permitted by the legislature, such as an electric or natural gas utility
- Lawfully acquire and operate utilities (gas, electric) within and outside the boundaries of its jurisdiction
- Greater authority to dispose of public lands
- Mandatory Seatbelt Ordinance
- Local Development Code to Regulate Sale of Alcoholic Beverages
- Require All Residents to Connect to City Water Supply
- Finance Future Expansion of City Water and Sewer System through System Development Fees
- Power to Prohibit Door-to-Door Solicitation

Form

1. **the Commission-Executive form (council-mayor)** *Title 7, Chapter 3, Part 2*
   - a. Council/commission elected directly by the citizens
   - b. Executive (mayor) elected directly by the citizens
   - c. Co-equal branches of government

2. **the Commission-Manager form** *Title 7, Chapter 3, Part 3*
   - a. Council/commission elected directly by the citizens
   - b. Council/commission hires professional manager based on knowledge, skills, and experience to serve as the chief executive of the local government
   - c. Council supervises manager

3. **the Commission form/ Elected County officials Form** *Title 7, Chapter 3, Part 4/ 7-3-111, MCA*
   - a. Commission elected directly by the citizens
   - b. Commission serves in both legislative and executive roles
(4) **the Commission-Presiding Officer form** *Title 7, Chapter 3, Part 5*
   a. Commission elected directly by the citizens
   b. Commission elects presiding officer from its own number
   c. Presiding officer retains all legislative duties during meetings, also operates as executive outside of meetings

(5) **the Town Meeting form** *Title 7, Chapter 3, Part 6*
   a. Electorate is the legislative branch, 10% of population constitutes a quorum
   b. Citizens elect a town presiding officer who serves as the chief executive officer
   c. Only available to incorporated cities and towns of less than 2,000 people

(6) **the Charter form** *Title 7, Chapter 3, Part 7*
   a. Written document establishing executive, legislative, and administrative structure and organization of the local government and are superior to statutory provisions
   b. Can look like any of the other forms or be a structure unique to the local government
   c. Must adopt self-governing powers with Charter form

**Plan**

There are several areas of consideration that can be customized to meet the local needs of a community under the plan of government. The plan allows choice of sub-options depending on the form of government.

Examples of areas of consideration with the plan of government (*this is not an exhaustive list*):

- **Elections are held**
  - By wards
  - At large
- **Elections are**
  - Partisan
  - Non-partisan
- **The terms of office are**
  - Concurrent
  - Overlapping
- **The executive:**
  - May veto an ordinance or resolution, subject to override by the council
  - Shall sign all ordinances and resolutions passed by the council with no veto power
- **The executive may appoint and remove employees:**
  - Without consent of the council
  - With consent of the council when hiring department heads
  - Only with consent of the council

**Example topics NOT included in the scope of the local government review**

- Removing or disciplining staff members or individuals serving in elected office
- Adding, changing, or removing services, programs, policies, or ordinances
- Changing the elections process
- Fees, assessments, taxes, or other service funding mechanisms

*Prepared by the MSU Local Government Center for educational use only. For interpretation of the law, please seek legal counsel. Updated 2024*