

CHAPTER 1

COUNCIL (COMMISSION) PROCEDURES

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1.1 Meeting Agenda

The purpose of an agenda is to provide a framework within which a meeting can be conducted. Except in the commission--manager form of municipal government wherein the manager prepares the agenda, the council agenda is usually developed by the presiding officer with the assistance of the clerk. A request for an item to be on the agenda usually comes from the mayor, council (commission) members, department heads, and the public. The agenda is finalized and *must be posted on the designated posting board at least 48 hours before the meeting.*

Items that are typically included on an agenda are as follows:

- **Minutes:** These are the minutes from the previous meeting. The council should vote to approve without changes or approve with changes.
- **Correspondence:** This is for correspondence (such as letters, emails or telephone calls) that does not coincide with another agenda item. Most correspondence will coincide with another agenda item.
- **Public Comment: Two types of public comment must be on the agenda. 1) the public has the right to comment prior to final action by the commission; 2) public to comment on any subject over which the municipality has jurisdiction.** The subject does not have to be on the agenda, but the council cannot act on anything during public comment. If council action is required, the item must be placed on the next meeting agenda. Some cities and towns include a statement on the agenda that public comment may only be for items not included on the agenda. It is also common to include a statement that public comment may be limited due to time constraints. Some specify a limit of three or five minutes for public comment per individual, others include a general statement that indicates that the length of individual public comment may be limited due to time constraints.
- **Council Reports:** Each month department heads may submit a report of activities. Council members or department heads may read the monthly report at the meeting.
- **Council Concerns:** This is a time when council members or mayor can bring a concern before the council that is not otherwise listed on the agenda. No action can be taken at this time. If action is necessary, the item is put on the next meeting agenda.
- **Unfinished Business:** Items under this heading are matters previously introduced and have been carried over from the previous meeting including items requiring final action. The council may include items under this heading if they need more information or want to take more time to consider the matter prior to the final decision. Some items may need to be on this section of the agenda for several meetings.
- **New Business:** Items that have not been on the agenda before.
- **Legal:** City attorney's time, if needed.
- **Clerk's Business:** Time for clerks to report on month's activities and make requests.
- **Consent Agenda:** Routine items that are voted on in a single motion as a way to make meeting shorter and less tedious. For the consent agenda to pass, the vote must be unanimous. Consent agendas typically include claims, financial reports, journal vouchers, and pledged securities report.

COUNCIL MEETING AGENDA

CITY/TOWN OF _____
(Date) _____

MINUTES

CORRESPONDENCE

PUBLIC COMMENT

COUNCIL REPORTS

COUNCIL CONCERNS

UNFINISHED BUSINESS

NEW BUSINESS

LEGAL

CLERK'S BUSINESS

CONSENT AGENDA

1.2 Council Packet Preparation

Council packets are assembled and delivered no later than 48 hours prior to the council meeting. This allows the mayor and council time to review the agenda and the supporting documents prior to the meeting. Make sure the packet includes all the supporting information the council needs to make an informed decision on the items on the agenda. Usually the council packets contain:

- Agenda
- Minutes
- Notes from the clerk
- Council Reports
- Proposed resolutions and/or ordinances
- Financial reports
- Any supporting information (correspondence, reports, etc.)
- Other useful documents

When preparing the council packets, use the agenda as the guide for the order of the packets. Place the contents of the packet into a manila envelope (or your preferred delivery method). The name of the mayor or council members should be on the front of the envelope with the date of the meeting. In the case of a public hearing to be conducted during the meeting, list both the hearing and the regular meeting on the envelope and the times.

The clerk, deputy clerk or a police officer usually deliver the packets or they are picked up by the mayor and council members. Contents of the council packets are public information. If the press or a citizen requests a copy of the information in the council packet, make copies of the packet.

1.3 Staff Reports

Staff reports serve four main functions:

1. Help the mayor and council define projects, understand complex problems, consider alternative solutions and determine courses of action.
2. Forward recommendations involving public assets and assure that decision processes are managed in a fair and open manner.
3. Serve as a resource for the public to understand and participate in the decision-making process of the government.
4. Provide a structure to ensure city/town council members have all relevant information. Information

to be included in a Staff Report:

1. **Subject:** Provide a short description of purchases, services agreement, etc. Include a project name if applicable.
2. **Fiscal Impact:** When preparing the fiscal impact section of Staff Reports, keep the information in the "Summary" section brief. As an example, it should include the following items:
 - a. Clearly state the dollar amount of the impact, the name of the account being charged with the expenditure, and the account number.
 - b. In the body of the Staff Report, additional narrative explaining the implications and/or justifications of the fiscal impact is warranted. Include the current balance of the account that will be used to show that there are enough funds available for the contract/purchase/request/etc.
3. **Alternatives:** Be sure that your "Alternatives" are real alternatives. It may be helpful to include language related to the consequence of alternatives: e.g. "If this alternative is chosen, then...."

4. **Recommendation:** The recommendation should state the recommended city/town council action: e.g. “approve contract.”

1.4 Council Meetings

Time of Meeting – City/town councils usually meet at a regular time on certain days, which are specified by council resolution. The date, time and place of the meeting should be included with the posting of the agenda.

On the Day of the Meeting – Make copies of any information that has come in after the packets are delivered for the council and make sure that a copy of the agenda is posted near the entrance to the meeting room for the audience.

Regular Meeting – A regular meeting of the council is held at the time and place designated for the usual transaction of the business of the governing body. If a regular meeting is to be held on a different date or at a different time or location, adequate notice (48 hours) is required but the meeting is still a regular, not a special, meeting.

Special Meeting – A special meeting of the council may be called by the mayor [7-5-4102\(1\)\(c\), MCA](#). The mayor must state by message to the council the purpose of the meeting, which should be included in the minutes. The special meeting is restricted to the purpose stated [7-5-4122, MCA](#).

Public Hearing – Public hearings are used to provide reasonable opportunity for citizen participation prior to final decisions. Examples of required public hearings include utility rate increase, land use issues, annexations, and street and alley vacation. State funded grant programs or projects usually require public hearings as part of the application process. The public hearing can be held at a special meeting or during a regular meeting.

- Notice of the hearing must be published [7-1-4127, MCA](#) and for utility rates [69-7-111, MCA](#). The public hearing is restricted to the purpose of the hearing.
- *Discussion of or action on other subjects at a special meeting or a public hearing will violate the open meeting law and the right of the public to participate.*

1.5 Minutes

Council meeting minutes are required by law [2-3-212, MCA](#) and may one day be read in court to support or defend some claim against the city/town. Therefore, an accurate record of what the substance of all matters proposed, discussed or decided is essential.

Usually the clerk takes minutes at the meeting. This can be done by hand or use of a recording device for later transcription. See the Local Government Schedule 8 document on the Montana Secretary of State’s website for specific requirements for retaining recordings of meetings. The clerk will later prepare the minutes of each meeting (regular, special, or public hearing). The minutes should be prepared as soon as is practical after each meeting.

The minutes should start with a heading that includes the type of meeting, the place, and the date and time of the meeting. Minutes must list the members of the government who are present at the meeting, i.e., mayor, council members, clerk and department heads. A “sign in” sheet for those citizens attending is not required. A majority of the whole number of the members of the council constitutes a quorum and must be present to conduct business. The minutes should follow the agenda of each meeting. A short description of the agenda items is helpful with only as much information as may be necessary for clarity. *A verbatim transcript of the discussions is not required.* All motions made by a member of the council require a second and a roll call vote. The mayor will call for the vote. The clerk records each council member’s vote as aye, nay, abstain or absent.

Example: Moved by council member Jones that . . . (body of the motion). Second by council member Smith. Motion passed, Record of the roll call votes. (See Attachment 2.5, Chapter II, Part 1 for a model voting record.)

Prepare a sign-in sheet for those present *at public hearings*. The sign in sheet should include:

- Heading --- reason for meeting, date and time
- Signature
- Printed Name
- Physical address

Minutes, ordinances and resolution are required to be retained permanently (See Municipal Records Retention Schedule 8.) To ensure your minutes remain readable long into the future, a best practice is to print them on acid free paper and store them in a secure location where they are not at risk of damage by fire, water, vermin or other types of damage. Minutes should include page numbers for easy reference. Have someone proof read the draft minutes, for typos, understanding, clarity, etc. Minutes should be made available within a reasonable time after the meeting. Minutes circulated before approval by the council should be identified as “DRAFT”, as they can be changed by the council (prior to approval). The minutes of the meeting do not need to be read aloud prior to approval because they are in the council packet prior to the meeting.

The council will approve the minutes at the next regular meeting. If there are any changes approved, handwrite the changes in the margins in ink. After approval the mayor and clerk will sign the minutes. Stamp the signature page of the approved minutes with the city/town seal. Insert the minutes in the record or minute book. When the minute book is full make sure to secure the book, so pages cannot be removed. In some instances, you will have more than one set of minutes that need to be approved. They should be considered in the same order as the meeting occurred.

1.6 Correction of Minutes

The council may amend the minutes prior to approval. The amendment should be made in the form of a motion that clearly states the correction to be made. The amendment should be included in the meeting minutes. The clerk will make the correction to the minutes by lining through deletions by hand in ink. Then write or print clearly in ink in the margin of the minutes the correction, amendment, or addition. *Do not erase the original minute entry.*

1.7 Public Hearing Minutes

A complete audio recording should be made of the entire public hearing. However, it isn't necessary for the clerk to prepare a verbatim paper transcript of the recording unless required for a trial. The minutes of a public hearing should include:

- **Written evidence produced at hearing:** Make appropriate reference to any written evidence in the form of statements, affidavits, reports, photographs, maps, correspondence, or other objects filed with the clerk prior to the hearing or at the hearing, and included as part of the record. Place the written evidence in the corresponding public hearing file.
- **Oral testimony:** Identify by name all persons who testify and whether testimony was FOR or AGAINST the hearing subject.
- **Arguments and debates:** Briefly note arguments and debates.

1.8 Closed Meeting (Executive Session)

There are only two lawful reasons for a closed meeting: [2-3-203, MCA](#)

1. Litigation—Discuss a lawsuit against the city/town
2. Issue of Privacy—The individual must waive the right to privacy if he/she wants the issue discussed at an open meeting. *If the individual waives their right to privacy, the meeting must be open to the public.*

After declaring that the individual's right of privacy clearly exceeds the public's right to know (document that this is true in the minutes), the mayor closes the meeting and states the purpose of the closed session. The clerk must note the date, time the meeting was closed, and the time the meeting is reopened. The council has discussion during a closed meeting and the clerk is required to take minutes of the discussion, though those minutes are not to be made available except if required by a court order, [2-3-212\(4\)](#), MCA. The council may reach a consensus in a closed meeting, but the formal vote must be taken in the open meeting to allow the public the opportunity to know the result of the discussion, which took place in closed session. Consult with legal counsel prior to initiating any closed session.

1.9 Agenda Subject Index

A subject index is a quick reference of council actions or major discussions for each year. After the minutes are completed, the clerk should use the minutes to update the Agenda Subject Index. At the end of each year the index is printed for the year and placed in a notebook. (*See Records Management Section for details*). Minute Books should be kept in a secure fireproof file cabinet. Written minutes printed on paper are a permanent record and should NEVER be destroyed.

1.10 Ordinances

Ordinances are the laws of the city/town and must be read at two separate meetings that are held no less than 12 days apart prior to a vote; [7-5-103](#), MCA. If approved, the ordinance will become effective 30 days after the second reading [7-5-4203](#), ; MCA. Ordinances are usually developed by the city attorney but may be prepared by the clerk for review by the attorney before presentation to the council for adoption. An ordinance should not contain more than one subject. All ordinances should include the following:

- Number
- A preamble listing the major sections of the ordinance
- An ordaining clause which states *“Be it ordained by the City/Town Council (Commission) of the City/Town of _____, Montana”*
- The body or subject of the ordinance stated in sections. Usually, but not always, a paragraph constitutes a section. Include a head note indicating the content of the section at the beginning of each section (i.e. Section 1. Definitions).
- A section indicating the penalty for violation of the ordinance, if appropriate
- A section regarding severability which is the last section of all ordinances
- A sentence with the date of the first reading
- Mayor/presiding officer and clerk signature lines
- A sentence with the date of the second reading
- Mayor/presiding officer and clerk signature lines

A roll call is required for each vote on an ordinance; [7-5-4121](#), MCA. The clerk must record the vote of each council as AYE, NAY, ABSTAIN or ABSENT. After the ordinance is adopted (first reading) the clerk should print the ordinance on the paper used for the ordinance book. The mayor/presiding officer and clerk will sign the ordinance after each reading. The clerk must stamp the signature sections with the city/town seal.

The clerk will put the ordinance in the Ordinance Book in chronological order and include an index in each Ordinance

Book. An index will be in the front of the Ordinance Book.

An ordinance can only be amended or repealed by an ordinance. An ordinance which amends another ordinance should state the entire section being amended. An amending ordinance should not merely state that a sentence is added or that a word is changed in a particular line of a sentence. In such a case, the entire section should be stated with the sentence added and the word changed. The amending ordinance must also be filed chronologically in the Ordinance Book.

1.11 Codification of Ordinances

The clerk will codify or cause to be codified the ordinance as soon as possible into the City/Town Code Book and thereafter every five years, as required by law [7-5-107, MCA](#). Ordinances are a permanent record and should NEVER be destroyed. If the ordinance is amending a previous ordinance, update the existing code in the code book to reflect the amendments. If the ordinance is new, determine which Code Book chapter is appropriate for the new ordinance.

A clear format for the City/Town code book makes the codes easy to reference. The standard format is to start a new page with the chapter and section number such as "Chapter 8.04". Next, include the title of the code such as "NUISANCE AND VICIOUS ANIMALS". Codes typically are made up of a number of sections that address individual parts of the larger topic such as "Number of Dogs", "Nuisance Animals" and "Vicious Animals." Include a list of all the sections that make up the code with the corresponding code number and title. Finally, include the full language of the individual codes in order.

1.12 Emergency Ordinances

Sometimes it is necessary that an emergency ordinance be passed to protect the public health or safety. An emergency ordinance is effective upon passage of the first reading and shall remain effective for no more than 90 days.

1.13 How to Write an Ordinance

See MCA [7-5-102](#) through 7-5-140 for legal requirements for the construction of Ordinances. The following steps will also serve as a guide:

1. **Determine the purpose of the ordinance.** Usually, the need for an ordinance is in response to a specific need of the city/town. Give careful consideration to the purpose of the ordinance in order to develop an ordinance that adequately addresses the city/town's needs.
2. **List all points that need to be covered** in the ordinance. After the purpose of the ordinance is determined, think of all aspects of the issue that will have to be covered to address the problem.
3. **Research the different points.** This may be research into the extent of the issue within the community. Other municipalities are a good source of information if they have dealt with a similar problem through an ordinance that may be adapted to the situation. Check with the League of Cities and Towns or MSU Extension Local Government Center for information. There is a clerk list serve that is often utilized for the gathering of such information.
4. **Write a first draft of the ordinance.** The draft should cover each of the points that have been determined to be included in the ordinance. The ordinance should address only one general subject area. Use simple language that everyone will understand. Include a definition section for technical terms. Refer to ordinances that have been previously adopted for examples of form.
5. **Review each sentence carefully.** Does it make sense? Are there typos? Is the meaning clear and not subject to

misinterpretation? Have the penalty and enforcement procedures been stated?

6. **Review the ordinance as a whole.** Does the draft address all the points necessary to deal with the issue? Does it follow the requirements of form used by the city/town? It is clear and easily understood.
7. **Have the city attorney review** the final draft.

SAMPLE ORDINACE

ORDINANCE NO. 205

AN ORDINANCE DEFINING WEEDS, ESTABLISHING THE DUTY OF A PROPERTY OWNER TO REMOVE WEEDS, AUTHORIZING THE CITY/TOWN TO CUT WEEDS AND CHARGE THE OWNER, AND PROVIDING PENALTIES.

BE IT ORDAINED BY THE CITY/TOWN COUNCIL (COMMISSION) OF THE CITY/TOWN OF _____, MONTANA:

Section 1. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Weeds: includes all vegetable growth that is unsightly, troublesome, useless, or noxious. It shall include all weeds and vegetable growth that has been declared noxious, destructive and detrimental to the agricultural interest or any similar unwanted vegetation or grass over eight inches (8") in height as determined by city/town employees.

Section 2. Cutting or Removing Required. Owner or owners of any lot, place or area within the c/Town, or agent of such owner or owners, are hereby required to cut or remove all weeds from said property under their control and one--half (½) of any road or street abutting said property. It shall be the duty of the owner, or owners, or agent of such owner or owners to maintain their property so that it shall not be considered a fire hazard, or a public or private nuisance.

Section 3. Violation and Procedure in Case of Noncompliance. Where a complaint has been made or the City/Town of _____ has reason to believe, after inspection, that weeds, as defined herein, are present upon a person's land within the city/town limits of the city/town of _____, in violation of the law, the owner, owners or agent of the owner or owners must be notified by mail, telephone, or in person, of the complaint or condition.

The notice must specify:

- a. the complaint or condition that is in violation of the law;
- b. the geographic location of the area of noncompliance, by legal description or other reasonably identifiable description;
- c. measures needed in order to comply with the law;
- d. a reasonable period of time, but not more than ten (ten) days from the date of such notice in which compliance procedures must be initiated;
- e. the right of the person to request, within said ten (10) day time period, an informal hearing with the city/town officer, employee, or agent providing such notice. If such a request is made, it shall not extend the ten (10) day time period within which compliance procedures must be initiated.

If corrective action is not taken within the ten (10) day period, the city/town may forthwith enter upon the property and institute appropriate control measures. In such case, the city/town shall submit a bill to the owner or owners, or agent of the owner or owners in the amount of \$125.00 per hour with a minimum charge of \$250.00. Bills must specify and order a payment due date of thirty (30) days from the date the bill is sent. If the amount billed is not paid when due, the city/town shall proceed in any lawful manner to collect the amount billed.

Section 4. Disposition of Monies Received by city/town. All money received for payment of the cutting or removal of weeds by city/town maintenance department shall go into the General Fund.

Section 5. Penalties. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punishable as provided in Section 1.08.010 of the City/Town Code.

Section 10 Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council (Commission) hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason any provisions of this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provision will be in full force and effect.

FIRST passed and approved by the Council (Commission) of the City/Town of _____, Montana this _____ day of _____, 20____.

_____, Mayor/Presiding Officer

Attest:

_____, City/Town Clerk

FINALLY passed and approved by the Council (Commission) of the City/Town of _____, Montana this _____ day of _____, 20____.

_____, Mayor/Presiding Officer

Attest:

_____, City/Town Clerk

1.14 Resolutions

A resolution is not law but usually sets policy for the city or town government. There are resolutions that set budgets, tax and special assessment levies, water and sewer rates and fees, personnel policies, rules for use of city/town property and for applying for grants. There are resolutions used as proclamations to honor people or organizations for outstanding service or accomplishments. Most resolutions are prepared by the clerk. Resolutions require only one reading and become effective immediately upon passage or at the time specified in the resolution. A resolution should not contain more than one subject. The wording of the resolution is drawn up in the same fashion as an ordinance and should include the following:

- Number
- Preamble stating the reason for the resolution
- Clause or clauses that explain the need, list pertinent statutes, etc. Each clause begins with “WHEREAS,”.
- A resolving clause which states *“Be it resolved by the City/Town Council (Commission) of the City/Town __, Montana”*
- The body of the resolution
- A statement indicating the effective date of the resolution
- A sentence with the date of passage
- Mayor/presiding officer and clerk signature lines

A roll call is required for each vote on a resolution. The clerk must record the vote of each council as AYE, NAY, ABSTAIN, or ABSENT. After the resolution is adopted, the clerk should print the resolution on the paper used for the Resolution Book. The mayor and clerk will sign the resolution and the clerk will stamp the signature section with the city/town seal.

A resolution can only be amended or repealed by a resolution. A resolution which amends another resolution should state the entire section being amended. An amending resolution should not merely state that a sentence is added or that a word is changed in a particular line of a sentence. In such a case, the entire section should be stated with the sentence added and the word changed. Resolutions are permanent records and should NEVER be destroyed.

SAMPLE RESOLUTION

CITY/TOWN OF _____

RESOLUTION NO. 14 _____

A RESOLUTION AMENDING SECTION 1 OF RESOLUTION NO. 210 ENTITLED "A RESOLUTION ESTABLISHING POLICIES IN REVIEWING AND GRANTING APPLICATIONS OF INDIVIDUALS OR GROUPS DESIRING TO UTILIZE CITY/TOWN--- OWNED PROPERTY".

WHEREAS, the City/Town Council (Commission) has determined that it is in the best interest of the City/Town of _____ to require special events insurance coverage for events held in city/town parks,

NOW, THEREFORE BE IT RESOLVED BY THE CITY/TOWN COUNCIL (COMMISSION) OF THE CITY/TOWN OF _____, MONTANA THAT SECTION 1 OF RESOLUTION NO. 210 BE AMENDED AS FOLLOWS:

8) The User (Permitee) shall indemnify the CITY/TOWN and hold it harmless from and against all claims, damages, losses and expenses arising out of or resulting from the USER's (Permitee's) negligent acts or omissions.

The USER (Permitee) shall carry Special Events Insurance liability insurance in the amount of Seven Hundred and Fifty Thousand and No/100 Dollars (\$750,000) for each accident, and One Million Five Hundred Thousand and no/100 Dollars (\$1,500,000) aggregate [MCA Section 2-9-108\(1\)](#) (1997).

Prior to USE, the USER (Permitee) shall provide the CITY/TOWN a Certificate of Insurance made out to the City/Town of _____ and naming the City/Town of _____, as an additional party insured.

PASSED AND APPROVED by the city/town council (commission) and approved by the Mayor/Presiding Officer this _____ day of _____, 20____.

_____, Mayor/Presiding Officer

Attest:

_____, City/Town Clerk

1.15 Public Hearings

A Public Hearing is an open consideration within a regular meeting or a special meeting of the city/town council for which special notice has been given and may be required. During a hearing a resident, citizen or concerned individual may present protests or offer support for the subject under consideration.

Public hearings may be required by law. For example, public hearings are required for utility rate increases, annexations and other land use issues. The council may also decide to hold a public hearing to gather community input on a local issue of concern to the council. Also, some funding agencies require public hearings as part of the application process.

The council usually sets the date, time and place for a public hearing. The clerk prepares the notice that must be published, posted, or mailed depending upon the legal requirements for the notice. The Notice includes:

- Heading— “Notice of Public Hearing”
- Purpose of the hearing
- Time, date and location of the hearing
- Statement “At that time oral and written testimony for and against the request will be heard by the council.”
- Contact for more information—name, phone number, address
- Clerk’s name and title (can also use mayor’s name and title)

Publish the notice according to [7-1-4127, MCA](#), or other specific statutes, e.g. water and sewer rate changes. Mail notices according to [7-1-4129, MCA](#). Always check the law for accuracy prior to publishing the notice. After publication or mailing of notices, the clerk will prepare an Affidavit of both Publication and Mailing. Include the notice and the affidavit in the file relating to the hearing. The clerk must post the hearing notice on the city/town posting board.

SAMPLE PUBLIC HEARING CHECKLIST

Hearing Date: _____

Prepare notice for publication or mailing

Email Notice to the newspaper

Newspaper _____ Date emailed _____
_____ Date to be published _____

Send copy of notice to mailing list. Date mailed _____

Prepare Affidavit of _____ publication _____ mailing

Post Notice on bulletin Board. Date posted _____

Include copy of notice in council packets

STATE OF MONTANA, }

SS. AFFIDAVIT OF PUBLICATION

County of _____, }

JANE SMITH, being duly sworn, deposes and says that she is a citizen of the United States and a resident of said county; that she is and was at the time of publishing, over the age of twenty---one (21) years; that xx she is not interested in the matter to which the annexed notice refers to and is in no way disqualified from testifying therein; that on the Thirty first day of January, and the seventh day of February, 2008 she published correct and true copies of the annexed NOTICE in the local newspaper, the (name of newspaper), in the City/Town of _____, County of _____

State of Montana.

Jane Smith, MMC/CPFA City/Town
Clerk/Treasurer

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public for the State of Montana

Printed Name

Residing in _____ My

Commission expires _____

**CITY/TOWN OF NOTICE OF PUBLIC
HEARING
WATER BASE RATE**

NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING WILL BE HELD AT THE COUNCIL CHAMBERS,
_____, CITY/TOWN HALL, 100 MAIN STREET, _____, MONTANA ON
_____, (date) AT _____ (time), FOR THE PURPOSE OF INCREASING THE WATER BASE RATES \$4.50 PER MONTH IN
INCREMENTS OF \$1.50 PER MONTH FOR THE NEXT THREE YEARS FOR THE CITY/TOWN OF _____
_____, MONTANA.

THE NEW BASE RATES WILL BE AS FOLLOWS BEGINNING July 1, 2012, 2013 & 2014 :

BASE RATE 2012		
SIZE	MULTIPLIER	EDU COST MONTH
0.5 INCH	1	24.63
1 INCH	1.79	44.09
1.5 INCH	4	98.52
2 INCH	7.14	175.86
3 INCH	16	394.08

BASE RATE 2013		
SIZE	MULTIPLIER	EDU COST MONTH
0.5 INCH	1	26.13
1 INCH	1.79	46.77
1.5 INCH	4	104.52
2 INCH	7.14	186.57
3 INCH	16	418.08

BASE RATE 2014		
SIZE	MULTIPLIER	EDU COST MONTH
0.5 INCH	1	27.63
1 INCH	1.79	49.46
1.5 INCH	4	110.52
2 INCH	7.14	197.28
3 INCH	16	442.08

FOR FURTHER INFORMATION CONTACT CITY/TOWN CLERK JANE SMITH AT CITY/TOWN HALL, 100 MAIN
STREET, PO BOX 100, _____, MONTANA, TELEPHONE NUMBER
999---1111 BETWEEN THE HOURS OF 8:00 AM AND 12:00 NOON AND 1:00 PM AND 5:00 PM MONDAY THROUGH
FRIDAY.

Jane Smith, MMC City/Town
Clerk/Treasurer

Publish April 23, April 30 and May 7, 2020

1.16 Public Notice

The purpose of a published notice is to keep the public informed and to meet the requirements of the open meeting and public participation laws.

Examples: public hearings, project bids, special meetings, annexation, vacation of streets and alleys, budget, land use issues and others.

A public notice must be published twice, with at least 6 days separating each publication [7-1-4127, MCA](#). The public notice (published, mailed or posted) must contain:

- Date, time and place of the hearing or other action
- A brief statement of the action to be taken
- The address and telephone number of the person who may be contacted for further information
- Any other information required by a specific section of state law (water/sewer rate increases, etc.)

Request an affidavit of publication from any newspaper in which a notice is published. The affidavit and a copy of the notice should be filed in the appropriate subject matter file. Always check the laws regarding any specifics required on certain subjects prior to publishing, mailing or posting any notice. If an error has occurred, one publication was missed, date or time error, etc., the hearing must be cancelled and rescheduled. The notice must again be published with new times.

The information to include on a public notice includes:

- Heading— “Notice of Public Hearing”
- Purpose of the hearing
- Time, date and location of the hearing
- Statement “*At that time oral and written testimony for and against the request will be heard by the city/town council.*”
- Contact for more information
- Clerk’s name and title (can also use mayor’s name and title)
- Publish dates

If the governing body of a municipality considers it advisable to regulate, establish, or change rates, charges or classifications imposed upon its customers, a hearing shall be held at a specified time and place. Notice of the hearing shall be published in the newspaper *three times* with at least 6 days separating each publication [69-7-111, MCA](#).

1.17 Elections

The city/town may use mail ballot elections with concurrence of the county election administrator. The county clerk and recorder is the elections administrator for municipalities. The clerk reviews the mayor and council (commission) positions that are up for election with the elections administrator. The elections administrator takes care of all aspects of the city/town election. The city/town pays the expenses of the election. The clerk reminds the mayor and council (commission) of the election and which positions are up for election.

1.18 Oath of Office

The clerk or any elected officer may administer the oath of office for the mayor and council. The oath of office should be administered prior to the first meeting or special meeting in January for those who were elected in November. The oath of office for municipal officers required by [7-1-4137, MCA](#) is set forth at Article III, Section 3 of the Montana

Constitution and in Part I of this Handbook. No other oath is permitted. The clerk must file the oath of office with the county clerk and recorder and keep one copy in the city/town records.

1.19 Committees and Boards

Except for committees of the council (e.g. budget committee) whose members are usually appointed by the council, the mayor appoints committee and board members with council approval. The clerk should:

- **Record membership**
 - Keep track of the appointments to a committee or board.
 - If necessary, advertise a vacancy on a committee or board. Keep a list of interested individuals. The mayor will review the list and appoint the member with council approval.
 - The clerk usually notifies the individual of the appointment.
- **Give notice of meetings**
 - Open meeting requirements apply to committees and boards.
 - Notify committee or board members of meetings.
 - Publish and post the meeting notices.
- **Attend and take minutes**
 - Usually the clerk or deputy clerk will attend committee and board meetings to take minutes.
 - Prepare the minutes as soon as possible after the meeting. When completed the minutes are provided to the committee members and placed in the appropriate file.
 - Include a copy of committee and board meeting minutes in the council packet for the next meeting.

CHAPTER II

OTHER ADMINISTRATIVE DUTIES

- 2.1 Newsletter
- 2.2 Contracts and Agreements
- 2.3 Bidding Procedures
- 2.4 Grants
- 2.5 Insurance

2.1 Communicating with the Public

The clerk may be asked by the mayor to prepare a quarterly (or another timeframe) newsletter or some other form of communication. Information may be gathered from the mayor and council members, city/town departments, the library, senior citizens center and other civic organizations. If preparing a newsletter, print mailing labels for the newsletter from the utility billing software. Place extra copies of the newsletter in a display rack in city/town hall, the library and post on the city/town website.

2.2 Contracts and Agreements

Municipalities engage in contracts or formal agreements for a variety of services such as professional services, purchase of goods, construction of facilities, acquisition of property, inter---local agreements, and inter---governmental agreements. These contracts are written agreements that are binding on the parties involved. Contracts and agreements are usually prepared by the city attorney and *must be approved by the council for execution by the mayor.*

The clerk usually attests the signatures on the contract by signing and affixing the city/town seal and maintains the contract or agreement in the city/town records. The clerk monitors the contract by noting time frames and deadlines and offers reminders to those implementing the contract or agreement.

2.3 Bidding Procedures

Competitive bid/proposals are required for any purchase in excess of \$80,000 [7-5-4302, MCA](#). Always check the statute for specifics. Advertise the bid/proposal in newspapers and include:

- Heading-----“Request for Proposals, “Invitation to Bid”
- Description of service or purchase
- Date and time the sealed bids must be received
- Name, address and phone number of the contact person
- Items to be included in the sealed bid proposal

Because there are specific requirements for water and sewer projects that must be followed, always check with the engineer, state, etc. to insure accuracy. Water and wastewater project bids should be maintained in the appropriate utility or project files.

The Clerk’s office receives the bid or proposal, which must be in a sealed envelope, with the type of bid/proposal on the front (end loader bid, engineer proposal, etc.). Some bids/proposals are accompanied by a security deposit, such as a cashier’s check, bond, etc. When received, the envelopes should be marked with a date and time stamp (or handwritten). Consider having the person who received the envelope add their initials next to the date and time stamp, so it is clear who received the bid in case the clerk is not available. The bid envelopes must not be opened when they are received, rather, they should be placed in the safe until the scheduled bid opening.

Give public notice of the date and time when the bids will be opened. All bids/proposals must be opened at a time and place specified in the notice. Attach the envelope to each bid. Staff will review the bid/proposal and report to the council and give their recommendation to the council. Only the council may select the winning bid/proposal for award of the contract.

The clerk notifies the successful bidder/proposer. Notify the unsuccessful bidders/proposers and return their deposits/bonds AFTER the successful bidder/proposer has signed a contract. Make a copy of the cashier check or

bond for the file prior to returning it to the unsuccessful bidder(s). Maintain a file for bids. The file should include:

- Description of equipment, project or service
- Request for proposal if used
- Proof of advertisement from the newspaper
- Bid award recommendation
- Notice of award
- Successful bid on top
- Unsuccessful bids in order of bid award recommendation: bottom of file

SAMPLE INVITATION FOR BIDS

Notice is hereby given that the City/Town of _____ will accept bids for the following described street overlay project until June 30, 2010 at 5:00 p.m.

Bid Specifications

2" overlay of City/Town streets

The bids should be directed to the City/Town of _____, PO Box 100, _____, MT 59999.

The bids must be clearly marked "Street Paving bid". The bids will be opened July 1, 2013 at 9:00 a.m. in the City/Town Clerk's Office at 100 Main Street.

For more information contact Mayor John Doe, 100 Main Street _____, MT 59999. Telephone Number: 406---555---1111.

The City/Town of _____ reserves the right to reject any or all bids, to waive any informality in bids, to accept in whole or part such bid or bids as may be deemed in the best interest of the purchaser.

, Mayor

Attest:
Jane Smith, MMC City/Town
Clerk/Treasurer

Publish June 1 and June 8, 2020 as a legal notice

SAMPLE REQUEST FOR PROPOSALS FOR ENGINEERING SERVICES

The City/Town of _____ has tentatively been awarded a Treasure State Endowment Program (TSEP) grant in the amount of \$600,000 and a DNRC grant in the amount of \$100,000 by the Montana Legislature for water system improvements including the replacement of undersized water mains, installation of new hydrants and valves, road restoration and other appurtenances located in the City/Town of _____. The water system improvements will be designed in 2012 and will be constructed in 2013. The Facility Plan is available at the City/Town of _____ Offices.

Contingent upon this award, the City/Town Council (Commission) of _____ is soliciting proposals for engineering services to assist the City/Town _____ in designing and supervising construction of this project in compliance with all applicable requirements under the Montana TSEP Program. Payment terms will be negotiated with the selected offer. The fee for engineering services will be paid with TSEP funds.

The services to be provided will include:

- Designing system improvements and construction engineering;
- Preparing the construction bid package in conformance with applicable TSEP requirements and supervising the bid advertising, tabulation, and award process, including preparing the advertisements for bid solicitation, conducting the bid opening, and issuing the notice to proceed;
- Conducting the preconstruction conference;
- Field staking, on-site inspection of construction work, and preparing inspection reports;
- Reviewing and approving all contractor requests for payment and submitting approved requests to the governing body;
- Providing reproducible plan drawings to the City/Town (or County) upon project completion;
- Conducting final inspection and testing;
- Submitting certified "as built" drawings to the Montana Department of Environmental Quality;
- Preparing an operation and maintenance manual; and
- Administering grant and general project management services.

Responses should include:

1. The firm's legal name, address, and telephone number;
2. The principal(s) of the firm and their experience and qualifications;
3. The experience and qualifications of the staff to be assigned to project;
4. A description of the firm's prior experience, including any similar projects (in particular those funded by TSEP), size of community, location, total construction cost, and name of a local official who has knowledge of the firm's performance;
5. A description of the firm's current work activities and how these would be coordinated with the project, as well as the firm's anticipated availability during the term of the project; and
6. The proposed work plan for activities to be performed.

SAMPLE BID EVALUATION AND SCORING FORM

Respondents will be evaluated according to the following criteria:

The qualifications of the professional personnel to be assigned to the project	25%
The consultant's capability to meet time and project budget requirements	10%
Location	5%
Present and projected workloads	10%
Related experience on similar projects	25%
Recent and current work for the entity issuing the RFP	25%

The selection of finalists to be interviewed will be based on an evaluation of the written responses. The award will be made to the most qualified offeror whose proposal is deemed most advantageous to the City/Town of __, all factors considered. Unsuccessful offerors will be notified as soon as possible.

Questions and responses should be directed to Mayor John Smith, P.O. Box 100, _____, Montana, 59000. Telephone Number: 406, 999-1111.

Submit five (5) copies of the proposal and five (5) copies of any supportive materials to the City/Town of, 100 Main Street, P.O. Box 100, _____, MT 59999. All responses must be postmarked no later than 5:00pm July 1, 2010. Please state "TSEP Engineering Services Proposal" on the outside of the response package.

Respondents may review the TSEP application, which includes a description of the proposed project including activities, budget, schedule, and other pertinent information by visiting the City/Town of _____ offices during regular office hours. A copy of the application is also available for review at the offices of the Community Development Division, Montana Department of Commerce, 301 S. Park Ave., Helena, MT 59620-0523.

This solicitation is being offered in accordance with state statutes governing procurement of professional services. Accordingly, the City/Town of _____ reserves the right to negotiate an agreement based on fair and reasonable compensation for the scope of work and services proposed, as well as the right to reject any and all responses deemed unqualified, unsatisfactory or inappropriate.

2.4 Grants

Municipalities may receive grants from various sources and for various projects and also may serve as a pass-through conduit for grants for other organizations (Ambulance Company, Human Resource Development Council etc.). The clerk may research and write grant applications and inform other organizations of grant information that may pertain to them. The clerk must:

- **Follow all reporting requirements** very carefully ensuring that reports are filed on time and filled out completely.
- **Document everything** done in connection with a grant and maintain a file(s) for the project.
- **Set up fund/accounts** specific to BARS to match grant type.
- **Ensure that grant funds are used for the purpose intended.** Any questions should be referred to the granting agency.

2.5 Insurance

Municipalities have several types of insurance to cover losses from claims that are made against the city/town. The most common insurance coverage includes:

1. Workers' Compensation
2. Liability
3. Property (including Boiler & Machinery and Pollution Control)
4. Health Insurance
5. Crime and Fidelity
6. Employment Practices Liability
7. Accidental Death/Dismemberment for Volunteer Firemen

To administer the insurance program:

- Keep policies available for use and review
- Keep lists of current buildings and contents, equipment, vehicles, and other assets
- Respond to update request from the insurance carriers such as MMIA
- Promptly process and maintain a file on all claims
- Order, receive, use and return training/safety videos provided as part of the insurance company's risk management program.
- Advise insurance carrier immediately of newly acquired or sold property/equipment.

CHAPTER III

LICENSES AND PERMITTING PROCEDURES

- 3.1 Business Licenses
- 3.2 Dog Licenses
- 3.3 Park Permits and Fees
- 3.4 Streets and Alleys Excavations Permits

3.1 Business Licenses

The lawful purpose of a business license is NOT to increase municipal revenues. The appropriate purpose of a business license is to help protect the public health and safety. To accomplish that purpose a licensed business must be regularly inspected by local officials (such as fire department or building department staff) to ensure that the physical facility and the business operations do not constitute a hazard to the public. The fee collected for the issuance of a business license must be reasonably proportional to the costs of conducting the required inspections otherwise the fees may be considered an unlawful tax. Additionally, failure to conduct inspections of licensed businesses may result in substantial liability exposure for injuries sustained by a person who might reasonably expect that the facility had been inspected by the city.

New Applicant

When an applicant wishes to apply for a business license, he or she should fill out the city/town Business License Application form. This form should include:

- Name of the applicant
- Permanent address
- Business, home and emergency phone numbers
- Name of the business
- Physical address of the business
- Mailing address of the business
- Type of license applied for
- Brief description of the nature of the business
- Agent or representative, name, address and phone number of the principal
- Name of rental agency, manager, or owner of apartment house, trailer court, mobile home park and number of units
- Space for any other information that may be needed
- Applicant's signature and date

When an applicant has completed the application, verify the applicant portion and then complete the office portion of the application, which should have the following information. Make sure that all requirements are met prior to issuing a license. The office portion of the form should include:

- Information such as approved, denied, resident license, non---resident license, annual fee, full or prorated, license number
- Council action such as revoked, suspended and the date, also space for the reason of the action
- Space for reinstatement of license and date of council action of reinstatement.

This completed form should then be kept on file. After receiving the completed application form, the business license itself should be completed and issued. This form should include:

- Business name
- Name & mailing address of applicant
- Description of business
- Business location
- Date license was issued
- Date license expires
- Signature of city/town clerk and city/town seal

SAMPLE BUSINESS LICENSE APPLICATION

CITY/TOWN OF _____, MONTANA 59999 406---
555---1111

Date: _____

Name: _____

Permanent Address: _____ Phone

Numbers:

Business _____ Home

Emergency _____

Business

Name: _____ Physical

Address: _____ Mailing

Address: _____

Type of License Applying For: _____

A brief description of the nature of the business: _____

If an agent or representative, the name and address and phone number of the principal: Name:

_____ Address: _____

Phone #: _____

Name of Rental Agency, Manager, or Owner of an Apartment House, Trailer Court or Mobile Home Park:

Name: _____

Number of Units:

Other: _____

Applicant signature: _____ Date: _____

FOR OFFICE USE ONLY

<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Resident License	<input type="checkbox"/> Non---resident License
Annual Fee:	<input type="checkbox"/> Full	<input type="checkbox"/> Prorate	
License Number:			
Council Action:	<input type="checkbox"/> Revoke	<input type="checkbox"/> Suspension	Date:
Reason:			
<input type="checkbox"/> Re---instate		Date:	
Action:			

Business License Renewal

In December prepare a list of all businesses using the previous year's licenses. Once the list is completed prepare and mail reminder cards to each licensed business. The list should include:

- Business name
- Business mailing address
- Amount of license
- Date paid
- License number

As the business licenses are paid record the date and license number on the list. Business licenses are usually due by January 15 of each year. After January 15, review the business license list for the ones that have not paid and send a second notice as follows:

CITY/TOWN OF P.O. BOX 100 _____, MT 59999
January 31, 2020
SECOND NOTICE
To: ABC Company
License Fee: \$30.00
<i>This is a reminder that your City/Town Business License has not been purchased for the present year. We would appreciate receiving your remittance before February 15, 2013.</i>
IF NO LONGER IN BUSINESS PLEASE CALL 406---999---11111 OR RETURN THIS NOTICE STATING NO LONGER IN BUSINESS AND YOUR SIGNATURE.
Signature:
Sincerely, Jane Smith, MMC City/Town Clerk/Treasurer

After the due date established in the second notice passes, check the list for business that have not paid and send Third/Final Notice as follows:

<p>CITY/TOWN OF P.O. BOX 100 _____, MT 59999</p>
<p>February 20, 2020</p>
<p>THIRD AND FINAL NOTICE!</p>
<p>To: ABC Company</p>
<p>License Fee: \$40.00</p>
<p><i>This is the THIRD AND FINAL NOTICE that your city/town business license has not been purchased for 2013. Please send your remittance by February 28, 2013.</i></p>
<p>On March 3, 2013 this matter will be turned over to the city/town Judge for collection. If you are no longer in business, you must call 406--999--1111 or return this notice stating NO LONGER IN BUSINESS and your signature.</p>
<p>Signature:</p>
<p>Thank you for your prompt attention to this matter.</p>
<p>Sincerely, Jane Smith, MMC City/Town Clerk/Treasurer</p>

If a business does not respond to the notice it may be appropriate to file a complaint with the City/Town Court.

3.2 Dog Licenses

In most municipalities, dogs are required to be licensed by the city/town. When an applicant comes in to license a dog, he/she must provide proof of current rabies vaccination. The clerk or assistant clerk fills out the license form, which has the following information:

- Tag number
- Date of licensing
- Name of owner
- Physical address, city/town, zip code and telephone number
- Type of license (annual, lifetime or lifetime renewal)
- Name of the dog
- Breed of the dog
- Color description of the dog
- Male unneutered or male neutered
- Female unsprayed or female spayed
- Proof of spay or neuter (with name of veterinarian and address)
- Proof of rabies vaccination (with name of veterinarian and address)
- Date license expires
- License fee

One half of the form goes to the owner and one remains in the file. The owner receives a tag (there are two kinds; one for lifetime and one for annual) and a link. A special permit may be required for more than 2 dogs. The special permit must be approved by the city/town council for 3--5 dogs.

A kennel license may be required for 5 or more dogs and must be approved by the city/town council. The issuance of a special permit or kennel license should require a public hearing before approval is given by the city/town council.

3.3 Park Permits and Fees (Exclusive use of the park)

Cities and towns may require groups to complete a permit and/or pay a fee for exclusive use of park facilities. As part of the permit application, the user agrees to comply with all laws, rules and regulations of the city/town, the State of Montana, and the United States applicable to the use of park facilities. The user, as an individual or on behalf of a group or organization, must agree in writing that the permit shall not be used in any manner that would discriminate against any person or persons on the basis of sex, marital status, age, physical or mental handicap, race, creed, religion, color or national origin. The user, individual, group or organization may be required to pay a reasonable deposit fee (for example, \$150) for the use of the park. This deposit may be refundable, in whole or part, upon inspection of the park by city/town staff.

The user may be required to provide proof of special events liability insurance in an amount sufficient to cover the exposure of the activities. Prior to the event, the user shall provide the city/town a Certificate of Insurance made out to the city/town naming the city/town as an additional insured party. Attach the insurance certificate to the completed park permit. (See following sample park use permit.) Maintain a file of park permits. After the event the public works staff should inspect the park facilities and report the condition to the clerk who may then return the deposit fee.

SAMPLE PARK PERMIT

Name of Organization:			
Contact Person:			
Phone:			
Description of Facilities:			
Dates:			
Times:	From:		To:
Reason for Use:			
Deposit Fee:			
<i>The Deposit is refundable, in whole or part, upon inspection of the park by the Maintenance Supervisor.</i>			
<p><i>User agrees to comply with all laws, procedures and policies of the City/Town, the State of Montana, and the United States applicable to the use of said described facilities.</i></p> <p><i>The undersigned, either as an individual or on behalf of a group or organization, hereby agrees that this permit shall not be used in any manner that would discriminate against any person or persons on the basis of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin.</i></p> <p><i>OPEN BURNING is prohibited; the use of Barbeques is permitted.</i></p> <p><i>Users that have participants camping overnight must provide portable toilet facilities in the area occupied by campers.</i></p> <p><i>Users must provide garbage service for large or multi-day events. The area must be clean, and trash picked up prior to leaving the park.</i></p> <p><i>Any damage incurred shall be promptly repaired or replaced within 10 days by approved licensed contractor with contractual approval by the City/Town Maintenance Department.</i></p> <p><i>Make no alterations or additions in or to said premises without express written consent of the City/Town. For and in consideration of the use of the above-named park for the purpose of the above identified use, the above-named applicant/group does hereby agree to indemnify and hold the City/Town of _____, Montana, harmless from any and all claims, demands, or liability for personal injury or property damage arising out of the aforesaid use on the designated public premises.</i></p> <p><i>The USER shall carry special events insurance liability insurance in the amount of One Million Dollars (\$1,000,000) for each accident, and Two Million Dollars (\$2,000,000) aggregate MCA Section 2-9-108(1) (1997). Prior to use, the USER shall provide the CITY/TOWN a Certificate of Insurance made out to the City/Town of _____ and naming the City/Town of _____ as an additional party insured. Special Events insurance information is attached.</i></p>			
I understand and agree to the above.			
Signature:			Date:

3.4 Streets and Alleys Excavation Permits

A permit should be required to excavate in any city/town street, avenue or alley. The person requesting permission to excavate or dig in a street, avenue or alley should be required to complete a Street Excavation Permit. The permit should include:

- Purpose of excavation
- Location of excavation
- Size of excavation
- Time of excavation

Proof of liability insurance should be submitted with the application. Attach the proof of insurance to the permit. Deposit fees should be submitted with the application. Check with the city/town engineer for an estimate of the cost of the repair or at a minimum, use the following guidelines to ensure that the excavation is properly repaired:

- 1.5 times the cost of the repair for any excavation of any kind, either part way or all the way across the street, avenue, or paved alley in the city/town.
- \$200.00 for any excavation of any kind part way or all the way across any graveled alley in the city/town.

Attach the deposit fee to the permit. The deposit fee is held for 30 days. After 30 days ask the public works supervisor to inspect the repair. Upon satisfactory inspection, return the deposit to the permit holder. If the excavation is not refilled satisfactorily, the deposit is forfeited to pay for the repair. The clerk reviews the application and the public works supervisor grants approval.

SAMPLE STREET EXCAVATION PERMIT

PERMIT NO.		
Applicant Name:		
Business Name:		
Address:		
Phone No:		
Fax No:		
Location of Excavation:		
Date(s) of Excavation:	From:	To:
Reason for Excavation:		
Attach a map of area and the excavation to be done:		
Deposit Fee:	<i>The Deposit is refundable, in whole or part, upon a satisfactory inspection of the street repair by the Maintenance Supervisor.</i>	
<ol style="list-style-type: none"> 1. <i>Proof of liability insurance is required at the time of application.</i> 2. <i>Compliance with the Uniform Traffic Safety Codes is required.</i> 		
I understand and agree to the above:		
Signature:	Date:	
Application Approved by:		
Signature:	Date:	

CHAPTER IV

PUBLIC INFORMATION/RECORDS

- 4.1 Records Recorded with County Clerk and Recorder
- 4.2 Clerk Certification of Records
- 4.3 Notary Public
- 4.4 Public Information
- 4.5 Utilities Records
- 4.6 Records Management
- 4.7 Records Retention and Disposition

4.1 Records Recorded with County Clerk and Recorder

Certain records must be filed and/or recorded with the county clerk and recorder. Whenever you take original documents to the clerk and recorder's office make a copy of the document and place in your file pending the return of the original by the clerk and recorder. The document that is taken to the county clerk and recorder must be the original, have original signatures and be notarized. The following documents must be filed and/or recorded with the county clerk and recorder:

- Oath of Office
- Annexations [7-2-4407](#), [7-2-4607](#), and [7-2-4714, MCA](#)
- Exclusion of Land [7-2-4808, MCA](#)
- Waivers of Annexation
- Waivers of Special Improvement District (SID)
- Resolution of intent to create Special Improvement District (SID)
- Resolution creating Special Improvement District (SID)
- Easements
- Final Plats (developer actually records, just check)
- Variances
- Interlocal agreements [7-11-107 \(1\), MCA](#) Also with Secretary of State)
- Deeds and quit claim deeds
- Change of name of street [7-14-4112, MCA](#)
- Certificate of Survey
- Developers extension agreements
- Zone changes
- Satisfaction of loan or conditional grant agreements
- Assessment Agreements
- Encroachment permits
- Conditional use permits
- Payback Resolution
- Budget Resolution
- Resolution for ROW Abandonment
- Ordinances for Sale or Lease of property
- Resolution of Exclusion (de-annexation)
- Findings of Fact

Documents that affect a piece of property should always be recorded. This ensures that when the property exchanges hands, the new owner has prior knowledge of fees, rules, etc. applied to their property. [7-4-2636, MCA](#) gives the required format for documents to be recorded by the clerk and recorder.

4.2 Clerk Certification of Records

In some instances, the clerk will need to certify certain documents such as minutes of meetings, minutes of public hearings, etc. Clerks may use and adjust the following draft certification form as necessary.

STATE OF MONTANA }	
	SS. CERTIFICATION OF MINUTES
County of _____ }	
JANE SMITH , being duly sworn, deposes and says that she is and was at the time of preparation of the attached minutes the City/Town Clerk of the City/Town of _____; that the attached minutes of July 1, 2013 are correct and true copies of the minutes of the public hearing of the City/Town council (Commission) of the City/Town of _____, MT.	
	Jane Smith, MMC City/Town Clerk/Treasurer
Subscribed and sworn to before me this _____ day of _____, 2013.	
	Notary Public for the State of Montana Residing in _____ My Commission expires _____

4.3 Notary Public

The clerk may be required to be a Notary Public for the State of Montana. The requirements to become a notary and any questions may be directed to the office of the Secretary of State or visit their website at <http://sos.mt.gov/Notary/index.asp>. The Notary Public certification is valid for four years at which time re-certification is necessary. The application may be downloaded from the Secretary of State website at <http://sos.mt.gov/Notary/index.asp>. The clerk should also apply for surety bond and errors and omissions insurance. The following information should be included in the notary block:

State of:	Montana
County of:	<i>County in which notarial act is being performed</i>
Signed and sworn to before me this _____ day of _____, 20____; by (<i>name of person(s) appearing before the notary public</i>) .	
Signature of notary public:	
	<i>Typed, stamped or printed name of notary.</i>
Notary Public for the State of Montana Residing in _____ My Commission expires _____ (SEAL)	

A notary public may not notarize his or her own signature or any document in which he/she may have a direct or financial interest. Consider these points:

- Always obtain proper identification
- Do not post or predate your notarization
- Do not perform an acknowledgement without a signature
- Do not certify an affidavit that a person has not signed in front of you.
- State law requires that notaries keep and maintain an official notary journal recording the details of each notarial act performed. More information about the journal is available on the Secretary of State website.

4.4 Public Information

Public inspection of public information is permitted during regular office hours. Records are to remain in the clerk's office at all times. In order to ensure integrity of the information, a city/town employee must be present while information is being inspected. *The clerk should always consult with the city attorney with questions concerning a request for public information.*

Your city/town may charge for copies of information. Fees and rules should be indicated in your policy manual or in pertinent resolutions. The following public information are exempt from public disclosure unless required by court order or dissemination is required pursuant specific statutory authorization:

- Library patron information [22-1-1103, MCA](#);
- Medical information [2-6-1002, MCA](#);
- Personnel Information concerning a current or former employee or applicant for employment that would disclose the individual's home address, home telephone number, social security number, marital status, payroll deductions, insurance coverage, or other privacy information;
- Performance evaluations [2-6-1002, MCA](#);
- Certain donor information including financial or physical donations where the donor requests to remain anonymous;
- Ownership or pledge of public obligations [17-5-1106, MCA](#);
- Criminal justice information or Municipal Court Records [4-5-301, MCA](#) and [44-5-311, MCA](#);
- Vehicle accident reports [61-7-114, MCA](#);
- Insurance information [50-63-403, MCA](#);
- Information related to medical marijuana registry information [50-46-332, MCA](#);
- Information pertaining to juveniles;
- Information required to be kept confidential by federal law or regulation or by state law;
- Utility customer information (consult city attorney);
- Documents containing legal questions or information concerning potential, pending or actual litigation;
- Any other information held or maintained by the City made confidential by law.

If the release of a record is denied and the person is not satisfied, he/she may contact the mayor and city attorney. Inform the mayor and city attorney that they will be contacted regarding the denial of a record and why access was denied. Use caution if you have any questions about releasing a record or document and contact the city attorney for legal advice.

[2-6-1003, Montana Code Annotated \(MCA\)](#) states every person has a right to examine and obtain a copy of any public information of this state. In consultation with your city attorney, the city/town may withhold from public scrutiny information relating to individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information jeopardizes the safety of facility personnel, the public, students in a public school, or inmates of a facility. A public officer may not withhold from public scrutiny any more information than is required to protect individual or public safety or the security of public facilities.

[2-6-1006, Montana Code Annotated \(MCA\)](#)

A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons. Upon receiving a request for public information, the city/town shall respond in a timely manner to the requesting person by:

- making the public information maintained by the public agency available for inspection and copying by the requesting person; or

- providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered and any fees that may be charged.

The city/town may charge a fee for fulfilling a public information request. The fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. In other words, this is not an excuse to charge the public to organize your files or clean your office. The cost should reflect the time it would take to reasonably find the information. Also, if by law, there is already a fee attached to the information requested, the city cannot double charge for the information.

The fee must be documented. The fee may include the time required to gather public information. The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information.

In addition, the law does not require the city/town to alter or customize public information to meet the needs of the individual requesting the information. However, if the city/town agrees to customize an information request, the costs of the customization may be included in the fees charged by the agency.

Your city/town may have policies or procedures relating to providing information to the public. A request for public information may be made in person, via phone or e-mail. Make a copy of the request form or appropriate e-mail and attach to the copies as a receipt for the person requesting the information. These request forms should be filed and maintained.

Examples of Standard Charges:

Charges for paper copies of *non-routine* (the city's policy should liberally define non-routine public information) public information shall be charged at the rate of \$0.25/page for material that can be found and copied in ten minutes or less. Material which take more than ten minutes to located and copy shall be charged at the rate of \$0.50/page. Items that take over 30 minutes to locate and copy shall be charged upon the hourly market rate at the time of the request for an administrative assistant.

Below are some typical procedures for providing information that some cities and towns have adopted.

For a request made in person:

- Person requesting must complete the "Request for Public Information Form"
- Pay the fees (if necessary)

For a request made via phone:

- Person receiving request should ask if the requestor can fax or e-mail their request, if not
- Person receiving request can fill out the "Request for Public Information Form"
- Requestor must agree to pay the fees (if necessary)

For a request made via e-mail:

- The e-mail can be used in place of the "Request for Public Information Form"
- The e-mail must be filed with the other "Request for Public Information Forms"
- Requestor must agree to pay the fees (if necessary)

Routine Public Information (can be modified by Municipality)

This material is prepared for the public and made available to them on a regular basis. The information is often

prepared for promotional or advisory reasons and prepared for general distribution. No request form is required for these materials.

Examples: City Charter, Ordinance, Resolutions, Minutes, City Commission Agendas, Meeting Packets, Board and Commission Agendas, Neighborhood Council Agendas, Brochures, Pamphlets, Applications, and Blank Bid Packets.

Non-Routine Public Information

Materials prepared in the regular course of City business (i.e. regular departmental business records) that document regular business transactions by each department but are not prepared for mass distribution.

SAMPLE REQUEST FOR PUBLIC INFORMATION FORM

I, _____ (Applicant), do hereby make application for inspection and/or copying of the following public information of the City/Town of _____, Montana.	
<i>Please be as specific as possible to assist us in locating the information as quickly as possible.</i>	
Applicant Signature:	Date:
<i>Fill out only if request cannot be filled right away, so that you can contact applicant when the copies are made.</i>	
Name:	
Address:	
Daytime Phone:	
INTERNAL USE ONLY	
TO APPLICANT: THE ABOVE REQUESTED INFORMATION ARE: (check one)	
<input type="checkbox"/> Available for inspection immediately upon processing your request.	
<input type="checkbox"/> To be copied at your expense and will be made available to you on the _____ day of _____, 20____, at _____ o'clock _____ M.	
<input type="checkbox"/> Not subject to disclosure pursuant to MT Public Information Statutes, Art. II, Sec. 9, Mont.Const., 7---1---4144, MCA.	
<input type="checkbox"/> The subject of a written request for a determination from the Attorney General as to whether they are subject to disclosure.	
<input type="checkbox"/> Not in existence, due to "vagueness" of request. (Not enough information to process request).	
<input type="checkbox"/> Not in existence due to the fact that it requires the creation of documents.	
Dept. Head Authorization:	Date:
I approve and agree to pay the copy fees associated with this request:	
Applicant Signature:	Date:
_____	Initials of Person Filling Request
_____	Department
\$ _____	Total Charge

4.5 Utilities Records

Procedures for Delinquency Letters

By state law, sewer delinquency letters are to be prepared and sent to the property owners on or before the 7th of July each year [7-13-4309, MCA](#). These letters will include the following:

- The customer's name and address
- The sewer assessment, plus the penalty and interest
- The fiscal year that it is charged against
- The property description, ie: block, lot and addition to the city/town
- The date payment is due
- The total amount to be levied as a tax against the property
- If property is rental, send a copy of the letter to the property owner.

Put the past due utility billing sheets of June 30th in the Sewer Delinquency file. Keep a copy of all letters sent. If they are paid before August 15th, remove those letters from the file. A list of the sewer delinquencies remaining will be sent to the Department of Revenue office to be placed as a lien on the property taxes that are sent from the county treasurer's office at the end of October. A copy of this list will also be kept in the Sewer Delinquency file. The delinquency list sent to the assessor's office shall include the following:

- Name and address of property owner
- Property description, ie: block, lot and addition to the city/town
- The principal amount, penalty amount and total owing
- Total the amount of principal, penalty and total of both.

SAMPLE DELINQUENCY LETTER

<p>Date</p> <p>Mr. John Doe PO Box 197 Nice City/Town, MT 59800</p> <p>Dear Mr. Doe:</p> <p>You are hereby notified that a delinquent sewer assessment in the amount of <u>\$197.64</u> Dollars, plus penalty and interest in the amount of <u>\$7.12</u>, is charged against the following Fiscal Year 2012-2013:</p> <p>Block 6 Lot 7 Old City/Townsite</p> <p>Unless the account is paid in full by August 15, 2013 in the amount of <u>\$204.76</u> the same will be levied as a tax against the real estate to which the sewer service was furnished.</p> <p>Sincerely, City/ Town Clerk/Treasurer</p>

Forms for Utilities

Tenant/Landlord Form – The Landlord must complete the Tenant/Landlord form and sign and date. The account will not be changed until the form is completed. Complete the bottom of the form with:

- Former owner/tenant
- Account No.
- Final reading

Property Change of Ownership – The Title Company will call and request a final bill for the property. They will deliver the payment after closing. Request the name and address of the new property owner from the Title Company. Mail a property owner change form, with a self-addressed stamped envelope, to the new owner. When the form is returned complete the bottom of the form with the former owner's account number and final reading. Place completed forms in the respective files.

SAMPLE WATER/SEWER UTILITY SERVICE CHANGE LANDLORD/TENANT

IN AGREEMENT: The undersigned agrees to pay for the water/sewer utility in accordance with the policies of the City/Town of _____. Charges for service are due by the 20th of each month. There is a notice mailed on past due accounts giving the account holder 10 days to pay the past due amount or service will be disconnected. The balance in full and a disconnect/reconnect fee of \$92.66 must be paid before water service will be reinstated. Interest of 1.5% is charged on any unpaid balance after the due date.

TENANT:			
First Name:	MI:	Last Name:	
Physical Address:			
Mailing Address:			
Home Phone:			
Employer:			
Employer's Address:			
Employer's Phone:			
OWNER:			
The tenant is responsible for:	<input type="checkbox"/> Water	<input type="checkbox"/> Sewer	<input type="checkbox"/> Water/sewer
Owner's Name:			
Owner's Mailing Address			
Owner's Phone:			
<i>The undersigned owner(s) of the premises stated above are responsible/liable for payment of the water use and debt service charges for the above---said premises, _____ . I (WE) give permission to have the water bill for the above premises sent to the above renter at the mailing address listed. In the event of nonpayment of charges for water service and benefits to any premises water service will be disconnected until such charges are paid.</i>			
Effective date for this change is:	in/out		
Signed:	Date:		
*****OFFICE USE ONLY*****			
Beginning/Ending Read:			
Effective Date:			
Previous Customer Name:			
Special Notes:			

SAMPLE WATER UTILITY SERVICE PROPERTY OWNER CHANGE

IN AGREEMENT: The undersigned agrees to pay for the water and sewer utility in accordance with the policies of the City/Town of _____. Charges for service are due by the 20th of each month. There is a notice mailed on past due accounts giving the account holder 10 days to pay the past due amount or service will be disconnected. The balance in full and a disconnect/reconnect fee of \$92.66 must be paid before water service will be reinstated. Interest of 1.5% is charged on any unpaid balance after the due date.

First Name:	MI:	Last Name:
Physical Address:		
Mailing Address:		
Home Phone:		
Employer:		
Employer's Address:		
Employer's Phone:		
<i>The undersigned owner(s) of the premises stated above are responsible/liable for payment of the water and sewer use and debt service charges for the above---said premises, _____. In the event of nonpayment of charges for water service and benefits to any premises water service will be disconnected until such charges are paid.</i>		
Effective date for this change is:		in/out
Signed:		Date:
*****OFFICE USE ONLY*****		
Beginning/Ending Read:		
Effective Date:		
Previous Customer Name:		
Special Notes:		

4.6 Records Management*

**The following section is a suggested method modeled after a system in place in one municipality in Montana. This is above and beyond what is required but may lend assistance in the management of required retained records.*

Filing System Design and Maintenance

Arrange material that is significant for its content by subject, rather than by the names of correspondents. The subjects are arranged in alphabetical order. Filing by name should be done only if the subject cannot be used. Keep records retention in mind when setting up filing systems. For example, if you have to retain claims by the fiscal year, it makes sense to keep the claims for one fiscal year separate from another.

Do not make more files than necessary, use existing files whenever possible. Group together all documents pertaining to a particular project or case. Arrange documents chronologically in the folder with the most current date in front of the file folder. Do not use post-it notes to label documents, file folders or as actual documents. Request a memorandum be prepared in lieu of the “little” slips of paper, napkins or notes written on the file folder. Mend all torn documents before placing them in a file folder.

File the most active records in the most easily reached parts of the file cabinets. Active records belong in the top drawers, less active records in the bottom drawer, and least active records are stored elsewhere. Once a year, plan to spend some time moving your least active files into your storage area. Separate those records that must be maintained for long periods of time from those of temporary value. Review contents of file before re-filing. This is a check for lost or misfiled documents. It is important to keep all filing up to date, preferably as soon as records are completed.

Indexing

- Index by subject
- Use 3x5 cards in the colors described below:

COLOR	SUBJECT
Green	Sewer & contracts
Blue	Closures & Exclusions
Pink	Annexations
Orange	Ordinances
Yellow	Resolutions
White	Cross Reference

White index cards will be used for subjects that cannot be color coded to the above colors. Color coded cards in the Filing Index should correspond to colors used in the Minutes Index. Type the card with the main subject in CAPITALS. Type sub-headings in upper and lower case. Indicate on the main subject card only:

- Subject
- Location information

Cross reference cards should be used liberally. The cross-reference card is a sign that points to the correct location of a record. In cross referencing on the white cards use *See* or *See also*. Proofread all cards before interfiling in the index card file alphabetically.

- *See* means nothing here, look elsewhere.
- *See also* means something here and allied material elsewhere.

File Purge

Shred duplicate records and discard non-essential record paperwork items including old magazines, brochures and catalogs.

Project Files – Water/Sewer Building

Grant programs usually require specific files for water, sewer, building projects, etc. Normally, these files are created and maintained in the front of the file drawer for the duration of the project, and boxed for storage after the project is closed out and audited. Consult the grant administration manuals to determine the files to be created and their content. Review the contents of the files for accuracy and completeness prior to the monitoring by the funding agency.

- Only one project per storage box. Mark each box clearly with the project name and date.
- Refer to the retention schedule for disposal of project files.

Financial Records

At the end of each fiscal year put the following in a storage box::

- Claims and claim approval reports.
- Bank statements.
- Deposit books, receipt books.
- Anything that relates to the fiscal year financials.

Clearly mark the box with the fiscal year and a list of records in the box. Keep the box in the office until the Audit has been completed, at which time the box may be stored elsewhere.

Definitions

Vital Records: Records which are irreplaceable and are essential to the continuity of operations and can be replaced or reproduced only at significant expense. These records are permanent.

Important Records: Loss of these records presents a high level of inconvenience; however, the continuity of operations can resume without them.

Useful Records: Loss of these records present some inconvenience, but operations can continue without them. These records are easily replaced.

Non-Essential Records: These records are listed on retention schedules for routine destruction. Loss of these records presents no obstacle whatsoever to restoring daily operations. Examples include duplicate copies, drafts and miscellaneous correspondence.

Take Out File

The Take Out File is used for information requested from another department, other entity, the public, etc. and will be picked up later. The information may be from the clerk's office or other departments. The *Call Waiting File* and the *Take Out File* both allow for quick easy access to the information gathered and needed for returning telephone calls, departmental requests, other entities requests, or public access.

Indexing Council Minutes

The index file for council minutes remains in the city/town clerk's office. Changes should not be made to subject headings without approval by the clerk. The subject arrangement is for material significant for its content. The subjects are arranged in alphabetical order and should be classified by one of the headings found in the list of subject headings below. It is important to keep up to date all indexing of council minutes, at least monthly if possible. Use 3x5 index cards in the colors described below:

COLOR	SUBJECT
Green	Sewer & contracts
Blue	Closures & Exclusions
Pink	Annexations
Orange	Ordinances
Yellow	Resolutions

White	Cross Reference

White index cards will be used for subjects that cannot be color coded to the above colors. Type the card with the main subject heading in CAPITALS and underlined. Type sub---headings in upper and lower case. Indicate on the main subject heading card only, brief summary of the action taken, and the date the action was taken on the subject.

SAMPLE MAIN CARD MINUTES	
<u>ORDINANCE 2</u> License dogs, Duties of Marshall, Disposal of dogs	Moved by Harry Jones, Seconded by Mary Black that we adopt an ordinance to license dogs at \$2.00 for males and spayed females. Motion carried

The Index file should contain only one main card for each issue discussed at the meeting; however, the main card should contain the continuous story of actions taken; i.e. the original ordinance plus any amending or repealing ordinances, etc. Color coded cards in the Minutes index should correspond to colors used in the Filing index, when possible. In cross referencing on the white cards use *See* or *See also*.

- *See* means nothing here, look elsewhere.
- *See also* means something here and allied material elsewhere.

Cross Reference Card

SAMPLE CROSS REFERENCE CARD	
License Dogs See ORDINANCE #2	

Notice that License Dogs is not typed in capital letters, as it is a sub-title. Proof-read all cards before interfiling in the index card file alphabetically. Do not type index cards for the following items:

- Approval of Minutes
- Regular reports or correspondence (unless something unusual reported or action was taken)
- Consent Agenda
- Adjournment

SAMPLE INDEX OF COUNCIL MINUTES

--A--	--D--	--I--
Administrator	Deeds	Injuries, personal
Agreements/Contracts	Dedications	Insurance
Air Pollution	Demolition	Interlocal Agreements
Airports	Depositories	Investigations
Alleys	Dogs	
Animals	Donations	--J--
Annexation	Drainage	Jail
Appointments		
Audit	--E--	--K--
Awards	Easements	Kennels
Attorney	Economic Development	
	Education- see schools	--L--
--B--	Elections	Labor Relations
Banks	Emergency Plan	Landscaping
Bicycles	Environment	Law Enforcement
Bid Procedures	Ethics	Leases
Bids		Legal
Board of Health	--F--	Library
Boards	Fees	Liquor Licenses
Bonds Budget	Federal Government	Local Improvements
Building Code	Finance	
Business Licenses	Fines	--M--
	Fire Contracts	Maintenance Agreements
--C--	Fire Departments	Mayor
Cats	Flood Control	Municipal Building Bonds
Census	Forestry	Montana League of Cities/Towns
Chamber of Commerce		Montana Municipal Clerks Assoc.
Charitable Organization	--G--	
City Clerk	Garbage	--N--
City Code	Grants	Noise
City Council (Commission)	Growth Policy	Non-profit Organizations
Civil Defense		Nuisances
Commissions and Boards	--H--	
Committees	Health	--O--
Compensation Plan	Historical Society	Ordinances
Computer Systems	Holidays	
Contracts/Agreements	Hospital	
Covenants	Housing Act	
--P--	--S--	Transportations
Parades	Salaries	Trees
Parking	Sales	
Parking Regulations	School Districts	--U--
Parks	Sewer	United States
Pedestrian Crossings	Sidewalks	Utilities
Permits	Signs	
Planning	Special Assignments	--V--
Pool	Speed Limits	Vacations
Policies	Sports	Variances-Subdivisions
Pollution Control	Streets	
Public Works Department	-lighting	--W--
	-Name Change	Water
--Q--	-Paving Plans	Water Agreements
	State of Montana	Wells
--R--	Subdivisions	
Railroads		--Y--
Real Estate	--T--	Youth
Resignations	Taxes	
Resolutions	Traffic	--Z--
		Zoning

Agenda Subject Index

The Agenda Subject Index is a quick reference for looking up a subject and action at a particular council meeting. Each month the Agenda Subject Index will be updated. The Agenda Subject Index is for each calendar year. One year will be in the computer for reference.

Everything that is acted upon at a meeting will be indexed. Also index items that will be referred to for background information. The optional items indexed are at the discretion of the clerk. The Agenda and completed Minutes are used to update the Agenda Subject Index. The items *not* indexed will be:

- Approval of Minutes
- Regular reports or correspondence (unless something unusual reported or action was taken)
- Consent Agenda
- Adjournment

There will be up to 5 columns:

1. Date of meeting- example 032513
2. Subject
3. Action taken- Approval, Adoption, Denial, Table, Discussion
4. Book # Page # - example B13 Pg270
5. Resolution of Ordinance Number (if applicable)

DATE	SUBJECT	ACTION	BOOK #, PAGE #	RES OR ORD #
032513	Engineer Services---Sewer Mixing Zone Study	Approve	B13Pg267	
032513	Special Events Insurance	Discussion	B13Pg269	
032513	Growth Policy Update	Discussion	B13Pg269	
032513	Subdivision Rules—Lot Size	Discussion	B13Pg270	
032513	Alley Closure Request—Ward/Calhoun	Discuss/Set Hearing	B13Pg270	
032513	Judge James—Court Clerk Position	Approve hire	B13Pg270	
032513	Elect council (Commission) President(s)	Elect Davis/Greene	B13Pg271	

4.7 Records Retention and Disposition

Much of the information you need for records retention and disposition is located on the Secretary of State website at <http://sos.mt.gov/Records/index.asp>. Check to see if your city/town has a resolution, ordinance, policy or procedure about records management and become familiar with it. The Secretary of State’s website contains the following:

General Information

- What is a Public Record
- Privacy vs. the Right to know
- Glossary of Terms
- Managing Public Records
- Disposing of Public Records
- Essential Records (also called “Vital Records” for business continuity in the event of a disaster)

Forms and Procedures

- Form and instructions to request a change to the retention schedule
- Procedures to follow before destroying or disposing of town records
- Acceptable ways to store long term records storage
- Form and instructions to request disposal or transfer authorization

Resources

- **Record Retention Schedule for Cities and Towns** – see Schedule 8, the Retention Schedule for cities and towns.
- **Local Government Record Committee** – [2-6-403. Duties and responsibilities.](#) (1) The local government records committee shall approve, modify, or disapprove proposals for local government records retention and disposition schedules. (2) The local government records committee shall appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist and a representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, **a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee.**
- **Montana E-mail guidelines** – the State of Montana developed some guidelines for the use of their e-mail system.
- **City/Town ordinances** –establishing records management programs.

Lawsuits and Records Management

When a lawsuit is filed, it is very important that you stop the destruction of records that might be pertinent to the lawsuit, even if the records have already met their scheduled retention period. If you continue with the destruction, it may appear to a judge that you intentionally disposed of records that could be needed in the lawsuit. If the judge thinks you intentionally destroyed records, your local government entity could be sanctioned or face other court action.

If your local government is presented with a subpoena, immediately tell your attorney. Get an explanation from the attorney about what is involved in the case so you know what records should not be destroyed and can help advise the attorney about what records exist. Coordinate with your attorney about what records are needed and when and contact your liability coverage provider for coverage determination.

Helpful Records Management Advice

- **Office of Record** – This is the office in the city/town that is responsible for keeping a record for its entire retention period. Other copies of the record may be destroyed sooner than the expiration of the retention period. Copies should not be kept longer than the office of record copy.
- **Records document records disposition** – Maintain your finalized record disposal/transfer forms. You should be able to tell someone why the city no longer has a record and prove that it was handled in accordance with the laws.
- **Retention of financial records** – If a retention period is “Retain 5 years after end of official year...,” the retention clock starts ticking when you receive the final copy of your audit, not the end of the fiscal year.
- **Retention periods are minimums** – If you have a business need, it is acceptable to retain records longer than the retention period on the retention schedule. For example, if you have a union contract that is still being negotiated, you may need to retain time card records longer than the retention period so you can calculate the retro pay owed to each employee once the contract is settled.

CHAPTER V BUDGET AND FINANCE

- 5.1 Introduction to Budgeting
- 5.2 Budget Process
- 5.3 Cash and Investments
- 5.4 Journal Vouchers
- 5.5 Monthly Financial Reports
- 5.6 Year---End Accounting Procedures
- 5.7 Annual Report
- 5.8 Audit Preparation
- 5.9 Reports to City/Town Council
- 5.10 Payroll Procedures
- 5.11 Payroll Reports
- 5.12 Payroll Quarterly Reports
- 5.13 Payroll Annual Report
- 5.14 Accounts Payable (Claims)
- 5.15 Revenue (Receipts)
- 5.16 Utility Procedures
- 5.17 Capital Assets Inventory
- 5.18 Volunteer Firemen’s Relief Association
- 5.19 Miscellaneous Tasks
- 5.20 Checklist for End---of---Year Entries
- 5.21 Special Assessment Districts
- 5.22 Special Improvement Districts
- 5.23 Debt Management

5.1 Introduction to Budgeting

The development and implementation of the city/town's annual budget is one of the most important policies established by the council as it creates the annual plan of action. It provides revenue sources and annual expenditure/expense appropriations for all activities of the city/town. The city/town's elected officials and staff work together to develop priorities and plans for city/town operations in the coming year. This section includes a step-by-step process for development of the Annual City/Town Budget.

5.2 Budget Process

Local Government Budget Act [7-6-4001, MCA, et seq](#)

Budget Calendar

Council/officials should develop a Budget Calendar for the city/town. Two important dates for the municipal budget calendar are set forth at sections [7-6-4410](#) and [7-6-4036, MCA](#). On or before the first Monday in August the Department of Revenue shall furnish a certified copy of the property tax record to all cities and towns. August. The governing body shall fix the levy by the later of the first Thursday after the first Tuesday in September or within 30 days after receiving the certified taxable values. The Department of Revenue shall certify to each taxing authority the total taxable value by the first Monday in August. State law requires that the final budget must be adopted within 30 days after receipt of the certified mill value.

Preliminary Budget

By Statute, [7-6-4020, MCA](#), the preliminary annual operating budget for each fund must include, at a minimum:

- a. a listing of all revenue and other resources for the prior budget year, current budget year and proposed budget year.
- b. a listing of all expenditures for the prior budget year, the current budget year, and the proposed budget year. All expenditures must be classified under one of the following categories:
 - i. salaries and wages;
 - ii. operations and maintenance;
 - iii. capital outlay;
 - iv. debt service; or
 - v. transfers out.
- c. a projection of changes in fund balances or cash balances available for governmental fund types and a projection of changes in cash balances and working capital for proprietary fund types. This projection must be supported by a summary for each fund or group of funds listing the estimated beginning balance plus estimated revenue, less proposed expenditures, cash reserves, and estimated ending balances.
- d. a detailed list of proposed capital expenditures and a list of proposed major capital projects for the budget year;
- e. financial data on current and future debt obligations;
- f. schedules or summary tables of personnel or position counts for the prior budget year, current budget year, and proposed budget year. The budgeted amounts for personnel services must be supported by a listing of positions, salaries, and benefits for all positions of the local government. The listing of positions, salaries and benefits is not required to be part of the budget document.
- g. all other estimates that fall under the purview of the budget.

Local Government Services has a downloadable budget document on the State of Montana website that meets the statutory criteria. Many software programs, such as Black Mountain Software, are available to assist in the preparation of the required information.

Budget Worksheets

Budget preparation begins with the preparation of the salary and benefit information by the clerk/finance department based on current labor contracts, wage schedules or ordinances. The clerk/finance department then distributes budget worksheets to appropriate department heads and officials. Budget worksheets include capital outlay worksheets, and preliminary salary worksheets. The budget worksheets are often distributed with a budget memo from the elected officials or administration setting the budgetary guidelines or expectations for the year, i.e. 3% increase, 5% decrease, same budgetary level, etc.

Expenditure Estimates

Clerk/finance department tabulates and enters the budget expenditure estimates from department heads/city officials for the operation and maintenance functions (#200's through 900's) into preliminary budget worksheets or software program. The preliminary payroll information determined from worksheets or software program should be updated for any additions or deletions of personnel, rate changes or benefit changes. Expenditure estimates are usually based on previous year's expenditures and adjusted for any changes such as rate increases.

Revenue Estimates

Clerk/finance department prepares revenue estimates based on last year's revenues, and any changes in revenue structures established for the year, such as rate increases, fee increases, anticipated loans, grants awarded, or other one-time revenue sources.

Tax revenues are calculated using the worksheet and formulas provided by the Department of Administration, Local Government Services, in compliance with state statute. The worksheet is made available on the State of Montana website usually in June. Tax revenues should be conservatively estimated until receiving the certified tax valuation from the MT Department of Revenue. The "Determination of Tax Revenue and Mill Levy Limitations under Section [15-10-420, MCA](#)" and "Certified Taxable Valuation Information" must be included in the city/town budget document.

Special assessment revenues for Special Improvement Districts such as Lighting Districts, Street Maintenance Districts, or Fire Hydrant Districts are determined by the provisions creating the District. Special assessment revenue estimates should be based on the annual resolution(s) assessing the property within the District. Lighting Districts are created under the provisions of [Title 7, Chapter 12, Part 43, MCA](#). Lighting assessments may be based on area, taxable valuation or frontage, as set by the governing body upon creation of the District. Street Maintenance Districts are created under the provisions of [Title 7, Chapter 12, Part 44, MCA](#). Street Maintenance assessments may be based on area, frontage, taxable valuation, and/or equal assessment of costs as set by the governing body upon creation of the District. Fire Hydrant Districts are created under the provisions of [Title 7, Chapter 12 Part 46, MCA](#). Other special improvement districts are created under the provisions of [Title 7, Chapter 12, Part 41, MCA](#).

Tax Levy Requirement Schedule and Non-Tax Levy Requirement Schedule

The cash balance as of June 30th is vital to the completion of the Tax Levy and Non-Tax Levy Requirements Schedules. As soon after June 30th as possible, prepare the year-end journal entries that affect Revenues, Expenditures, Cash, Short-term Receivables, such as Due from other Governments and Interest, and Short-term payables, such as Accounts Payable, Due to Other Governments, Wages and Benefits Payable.

The Tax Levy and Non-Tax Levy Requirement schedules are then prepared entering the estimated revenues, expenditures, resources available (cash plus short-term receivables less short-term payables), and cash reserve.

Pursuant to Section [7-6-4034, MCA](#), the city/town shall determine the property tax levy needed for each fund by adding the total amount of appropriations and authorized expenditures for the budget year, adding an additional amount as a reserve to meet expenditures made from the fund during the months of July to November for the next fiscal year [7-6-4034, \(2\)\(b\)](#), a city's or town's fund may not exceed one-half of the total amount appropriated and authorized to be spent from the fund during the current fiscal year), subtracting the working capital (Resources Available); and subtracting the estimated non-tax revenue for the budget year. Note that the 50% reserve limitation applies specifically to funds requiring a property tax levy.

These forms are available in the Montana Department of Administration, Local Government Services downloadable budget document.

Preliminary Budget to Council

The preliminary budget is presented to the council by the administrator or mayor, as applicable, as determined by the city/town's budget calendar and the availability of required information, such as certified taxable valuation.

Public Hearing

Upon acceptance by council, a public hearing is set and noticed on the preliminary budget. The notice must:

- Provide that the governing body has completed its preliminary annual budget for the ensuing fiscal year.
- State that the budget has been placed on file and is open to inspection in the municipal office designated in the notice, usually the city clerk or finance department.
- Designate the date, time and place of the meeting at which the governing body will meet for approving the final budget and make appropriations.

State that any taxpayer or resident may appear at the meeting and be heard for or against any part of the proposed budget. Public hearing notices must be published according to the provisions of [7-1-4127, MCA](#). The public hearing must be held prior to final adoption of the budget. The city/town usually holds the public budget hearing early enough to assure final adoption of the budget by the first Thursday after the first Tuesday in September or within 30 days of receipt of certified taxable valuation from the Department of Revenue.

Council Approval of Final Budget

The governing body may amend the preliminary budget after the public hearing and after considering any public comment. The amended budget constitutes the final budget. The final budget must be balanced so that appropriations and reserves do not exceed the projected beginning balance (resources available) plus the estimated revenue of each fund for the fiscal year [7-6-4030, MCA](#).

The governing body shall adopt the final budget by resolution. The effective date of the resolution is July 1 of the fiscal year, even if the resolution is adopted after that date. The resolution must:

- (a) authorize appropriations to defray the expenses or liabilities for the fiscal year; and
- (b) establish legal spending limits at the level of detail in the resolution (i.e. fund, function, etc.).

The final budget resolution may authorize the governing body or a designated official to transfer appropriations between items within the same fund [7-6-4031, MCA](#). A local government may receive and expend money between July 1 of the fiscal year and date the final budget resolution is adopted [7-6- 4025, MCA](#).

Submit Budget to State

The final budget document must be submitted to the Montana Department of Administration, Local Government Services by October 1st or within 60 days of receiving the certified taxable values from the Department of Revenue [7-6-4003, MCA](#). The city/town shall use standard forms prescribed by the Department of Administration or may use an alternative budget format as long as they provide equivalent information and are acceptable to the Department

of Administration. *Local government budgets must conform to the fund structure prescribed by the Department of Administration (i.e. Budgetary, Accounting and Reporting System (BARS) for Montana Cities, Towns and Counties) [7-6-4004, MCA](#).*

5.3 Cash and Investments

See: Title 7, Chapter 6, Parts 2 and 6, MCA Sections [7-6-4602](#), [7-6-4603](#), [7-7-4102](#), [17-6-103](#), and [17-6-204](#).

The municipal treasurer shall:

- Receive, disburse, and serve as the custodian of all public money
- Provide for accountability of all local government cash receipts and for deposits and investments of all departments, offices and boards
- Pay out, in the order registered, all warrants presented for payment when there are funds in the treasury to pay warrants
- Require periodic departmental reports of money receipts and their disposition on forms that the municipal treasurer prescribes [7-6-612, MCA](#).

A city or town may only invest in the investments authorized in [7-6-202](#), [7-6-206](#), [7-6-213](#), and [17-6-204, MCA](#). A city or town may require pledged securities for that portion of the deposits in financial institutions that are not guaranteed or insured according to law, i.e. in excess of FDIC [7-6-207, MCA](#).

A city or town may maintain a *petty cash fund* for the purposes of paying incidental expenses, such as freight charges, express charges, postage and other similar expenses that must be immediately paid in cash pursuant to [7-6-615, MCA](#). The fund is maintained on an “imprest” basis, i.e. the fund is only reimbursed for cash paid out. If the fund was established by the governing body at \$100, the total cash and unreimbursed vouchers should always total \$100.

Monthly Reports and Reconciliation:

- Make sure all receipts have been posted.
- Make sure all journal vouchers have been posted.
- Redeem checks/warrants.
- Prepare monthly reconciliation and cash/investment report using manual or Excel format or software, such as Black Mountain Software. Report, by fund, includes beginning balance, plus cash receipts and transfers in, less disbursement and transfers out and ending balance. The total ending balance is reconciled to the bank balance: *bank statement(s) balance plus outstanding deposits less outstanding checks/warrants, including electronic payments such as payroll deposits, plus or minus other reconciling items, such as NSF checks or bank fees*. Adjusted bank balances plus petty cash and investments should agree with total cash/investment balance report.

5.4 Journal Vouchers

Certain monthly, quarterly and annual transactions can only be done by a manual Journal Voucher. These typically pertain to transfers to reserves, bank charges, or other charges, corrections and transfers. Note that cash can only be transferred to other funds pursuant to [7-6-613, MCA](#).

Water/Sewer Transfers – Review the previous month’s Journal voucher. In July and January determine the monthly

transfer amount for debt service. In July review the allocation for replacement and depreciation. This voucher can be done monthly, quarterly or annually.

Bank Charges – A Journal voucher is needed for bank charges and fees. The monthly service charges, wire fees, etc. are found on the bank statements.

Correcting Entry Errors – Other Journal Vouchers are needed for correcting entries that were input in error. These are normally found through reconciliation procedures, and through review of the initial Revenue and Expense reports done at the end of the month.

Interest Allocation – Interest earned is allocated to the fund that provides the funds for investment. An Interest Allocation voucher is prepared and posted in finance. These are typically done monthly. Interest is allocated according to [7-6-204, MCA](#).

Property Taxes and Assessment Charges – Once a year, a Journal Voucher is prepared to record the city/town's property taxes and assessment charges. These figures originate from the city/town, are transmitted to the county treasurer by means of the tax or assessment resolutions, and then are confirmed by the trial balance reports from the county treasurer. Property taxes are billed in October each year and are payable and due in two equal installments on November 30 and May 31 of each year [15-16-101](#) and [102, MCA](#). Taxes on mobile homes, manufactured homes and house trailers not taxed as an improvement to real property are billed as personal property. The first payment is due May 31st or within 30 days from the date of tax notice; and the second payment is due no later than November 30th of the year in which the property is assessed. The city clerk/finance department records the monthly receipts as received from the county treasurer. The city clerk/finance department reconciles the taxes/assessments receivable with the county's Trial Balance each month. Any voids, abatements or protests are vouchered by the city clerk/finance department when reported to the city/town by the county treasurer.

Capital Assets – Annually, the clerk or finance department will prepare the necessary vouchers adding assets, disposing of assets and recording annual depreciation expense. Cities/towns may use spreadsheets or software programs to track additions, disposals and depreciation expense. The Local Government Service annual report includes a Capital Asset tab that tracks the required information and calculates depreciation expense. The city/town should record capital assets according to adopted criteria. Typically, it is recommended that a capital asset have a value of at least \$5,000 and have a useful life of 5 years. Care must be taken to ensure that only bona fide assets are recorded.

Maintenance and repair items may exceed the \$5,000 threshold but are an operating cost and not a new capital asset. Additionally, the General Capital Asset Account Group can be maintained to track the additions, deletions and depreciation expense adjustments posted each year. The account group is no longer reported in the general-purpose financial statements, but the information is included and reported in the Statement of Net Position and Statement of Activities.

5.5 Monthly Financial Reports

The Monthly Financial Reports are prepared after the bank reconciliation is complete. They are presented to the city/town council at the council meeting each month or as set by city/town ordinance.

Preparation of Reports

After all transactions have been posted, and the cash is balanced, the following monthly reports should be prepared and submitted to the governing body:

- Cash/Bank Reconciliation
- Budget vs. Actual for Expenditures

- Budget vs. Actual for Revenues Trial Balance/General Ledger
- Any other reports required by governing body

Financial Statements

The Financial Statement package, subject to council approval on a monthly basis, includes the Cash/Bank Reconciliation Report, Financial Report of Revenue and Expenditure/Expenses at the detail level set by the governing body, i.e. Fund, Source, Activity, or Object.

5.6 Year End Accounting Procedures

A city/town's fiscal year is July 1st through June 30th of any given year as set by [7-6-610, MCA](#). Therefore, in July following the June 30th end date for a fiscal year, the following steps should be taken for year---end closing entries:

1. Properly record and report any short---term receivables or payables as of June 30th.
2. Review the June financial statements for accuracy and make journal entries as needed.
3. Make annual transfers, by journal voucher, to capital improvement funds. Make sure annual transfers to the water and sewer replacement and depreciation reserve funds have been made, if necessary.
4. Follow the instructions for year---end closing entries prepared by the Local Government Services Section of the Department of Administration.
5. In Capital Assets add new capital items and dispose of any items. Prepare the depreciation schedule.
6. Prepare the compensated absences worksheet for employees and record the necessary adjustment.
7. Prepare the Annual Financial Report format as prescribed by the State of Montana. Use the instructions included with the report. This report is due by December 31st. Typically, this report needs to be complete prior to the audit. A filing fee form and a filing fee, if applicable, must accompany the report when submitting to the state.
8. Schedule the annual Audit as soon as possible after closing the books for the year and completing the annual report.
9. Once the final audit report is issued to the city/town, a response to their findings must be submitted to the state within 30 days. Also, a notice in the newspaper must be published that the audit is available for public inspection.

5.7 Checklist for Year-End-Year Closing Entries

General

Review year---end budget to actual expenditure report for budget overdrafts. Cover budget overdrafts pursuant to a resolution of the governing body authorizing the transfer of appropriations per Section [7-6-4031\(1\), MCA](#). However, total budget appropriations should remain the same within each fund.

Verify the following:

- Operating Transfers In (383XXX) equal Operating Transfers Out (521XXX) within all funds.
- Interfund loans receivable (13XXXX) equal interfund loans payable (211XXX or 233XXX).
- The trial balance for each fund is in balance.
- The expenditure detail is equal to the expenditure control (242000), and that the revenue detail is equal to the revenue control (172000) in those systems where control accounts are used.

Taxes/Assessments Receivable:

- Reconcile all taxes/assessment receivable accounts (11XXXX) with the county treasurer's receivables, including protested taxes.
- Adjust deferred inflow of tax revenue accounts (223XXX) to the corresponding receivable accounts for real, personal, protested and special assessments, and offset to the appropriate revenue accounts. (Do not defer

taxes for proprietary funds.)

- Reconcile the deferred inflows of assessment receivable account (119000) for each S.I.D. district with the future year's principal assessments. (Verify that all prepaid assessments have been deducted from the deferred inflows of assessment receivable account.)

Governmental Funds and Account Groups

Review payroll and claims expenditures for possible accruals, if deemed material. This would include any goods or services received prior to the end of the fiscal year. Also, review debt service funds for accruing any bond interest payable at year-end or for bond principal payable within the next fiscal year. (Reclassify principal from general long-term debt account group to short-term payable of debt service fund.)

Review revenue accounts for possible accruals, if deemed material. Keep in mind that these revenues must meet the revenue recognition criteria of measurable and available. Revenue for federal and/or state grants that are reimbursed upon expenditure, should be recognized when the expenditure is made. (Some revenue susceptible to accrual may be interest on investments, state shared revenue, P & I on delinquent taxes, etc.)

If inventory of supplies is deemed material, establish or adjust inventory account (15XXXX) and offset to reserve for inventory of supplies (250100).

Capital assets purchased by governmental funds, including infrastructure, should be added to the general capital asset account group (GCAAG). Any assets traded-in or disposed of should be deleted. The balance in this account group should be reconciled with the capital asset inventory. Depreciation is required to be recorded in the GCAAG for all assets other than land and construction in progress at the functional level if possible. **Note: The GCAAG is no longer required to be reported under GASB #34 but is maintained to generate information for the government-wide statements.**

Prepare worksheet on unused vacation, sick leave, compensatory time and employer's related payroll obligation. Adjust compensated absences payable account within the general long-term debt account group (GLTDAG). **Note: The GLTDAG is no longer required to be reported under GASB #34 but is maintained to generate information for the government-wide statements.**

Adjust the appropriate long-term liability account (GLTDAG) for principal paid from governmental funds on contracts, loans, lease-purchase agreements, general obligation bonds and/or special improvement district (S.I.D.) bonds. This is also applicable to revenue bonds, if payments are made from governmental funds.

Adjust the appropriate amount available account (173XXX) in GLTDAG to the corresponding fund balance in the debt service fund types (3XXX) for general obligation bonds and special improvement district (S.I.D.) bonds. Adjust appropriate amount to be provided account (174XXX) for all long-term liability accounts within GLTDAG. This includes contracts, notes, lease purchases, compensated absences, G.O. bonds and S.I.D. bonds payable. Close out revenue and expenditure accounts to fund balance (271000).

Proprietary Funds

If interim revenue accounts are used for bond/loan proceeds and/or capital grants, close these accounts to the appropriate general ledger account. (23XXXX for bond/loan proceeds and 26XXXX for contributions.)

If interim expense accounts are used for capital asset acquisition or principal payments, close these accounts to the appropriate general ledger account. (18XXXX for capital asset purchases and 23XXXX for principal payments.)

Prepare Journal Vouchers for accrual of revenue and/or expenses, if deemed material.

- Utility charges
- Interest receivable on investments
- Other revenue accruals
- Claims payable
- Payroll payable
- Interest payable
- Reclassify long-term payable to short-term
- Prepaid expenses

Reconcile accounts receivable and deposits payable with detail of customer records. If inventory of supplies is deemed material, adjust inventory and offset to supply expense account(s). Reconcile appropriate capital asset account with capital asset schedules. Adjust for assets traded in, sold or disposed of. Adjust restricted net position accounts (25XXXX) to agree with appropriate restricted cash accounts (102XXX).

Prepare depreciation schedule for fiscal year. Prepare journal voucher for depreciation expense for each proprietary fund.

Determine the changes in closure and post closure costs and liability for the solid waste fund and adjust the necessary accounts appropriately. (Determined from a new engineer's estimate).

If interest expense is to be capitalized for assets constructed with tax exempt borrowings, close appropriate interest earnings/interest expense on borrowings to the appropriate asset account. (Limited to construction period only.) Adjust compensated absences payable per schedule and offset to payroll expense.

5.8 The Annual Report

The Annual Financial Report (AFR) is a thorough and detailed presentation of the city/town's financial condition. It reports on the city/town's activities and balances. The report is presented in three sections: Introductory, Financial, and General Information.

1. **The Introductory Section** includes the transmittal letter and a list of Elected and Appointed Officials.
2. **The Financial Section** consists of the Basic Financial Statements which include the Management's Discussion and Analysis (MD&A), government-wide financial statements, fund financial statements, and notes to the financial statements. Required supplementary information includes combining fund financial statements, schedule of federal/state grants, schedule of cash receipts and disbursements, all funds, and cash reconciliation.
3. **The General Information Section** includes levy information and other information about the city/town.

The annual report must be submitted to the Montana Department of Administration, Local Government Services by December 31 of each year on the form prescribed by the Bureau [2-7-503, MCA](#). Use the previous year's annual report as a guide for the current year. Some software programs assist in the substantial completion of the AFR. Depending on the software used, the clerk/finance department must utilize additional worksheets or programs to complete the Statement of Net Position and Statement of Activities. Local Government Services has provided a report format to assist in the preparation of the AFR, including the reconciliation from fund financial statements to Net Position and Statement of Activities.

5.9 Audit Preparation

The city/town must file an audit report with the Department of Administration within 12 months of the end of the

audited period per [7-6-611, MCA](#). An audit is an examination of the financial statements of the city/town resulting in the issuance of an independent opinion on whether the financial statements are fairly stated according to generally accepted accounting principles. The audit also reports any federal, state or local compliance issues as well as a report on internal control. The city/town contracts with a Certified Public Accountant for the audit. The CPA must be on the State of Montana's approved auditors list. The city/town council approves the contract each year. The contract, signed by the mayor/administrator and CPA, is then sent to the Montana Department of Administration for review, approval, signatures, and filing. The Montana Department of Administration will notify the city/town and CPA firm of its approval of the contract and will file the contract on the Department's online document web-portal so that the parties to the contract may retrieve it at their convenience.

The Auditor will soon thereafter request copies of accounting and reporting information to verify the information reported and to test for statutory compliance. Information to have available includes, but is not limited to:

- Annual Report
- Annual Report Worksheets
- Annual & Sick Leave Worksheets
- Budget Resolutions
- Budget Amendment(s)
- Capital Asset Reports
- Certified Valuations
- Claim Approval list for July
- Compensated Absences Worksheets
- Contract documents
- Final Budget
- Finance Detail Ledger
- Grant documents
- Insurance coverage---liability & property
- June & July Bank Statements
- June financial Report
- Minutes since last Audit to date
- New Loans or Bonds
- New or updated Policies
- Resolution(s)
- Quarterly Payroll reports—workers comp, unemployment insurance, 941s
- Utility Aging Report

Near completion of the audit, the auditor will prepare a Management Representation Letter from the city/town to the auditor, which is to be signed and returned to the auditor. Also, the auditor will send a letter to the city/town attorney asking for disclosure of any significant legal issues. The Auditor will also schedule an exit conference to discuss many of the audit's significant conclusions and findings with governing officials and management. The governing body may or may not, depending on the status of the audit, receive a final copy of the audit report at the exit conference.

Thirty days after receiving the audit, the city/town is required to publish a summary of the audit in its local newspaper. See the attached letter below from the Montana Department of Administration.

**MONTANA DEPARTMENT OF ADMINISTRATION
LOCAL GOVERNMENT SERVICES - AUDIT REVIEW PROGRAM**

TO: City/Town Clerk/Treasurers and City/Town Officials
FROM: Montana Department of Administration
RE: Requirements Regarding:
1. Audit Report Publishing
2. Responses to Audit Report Findings and Recommendations

1. Audit Report Publishing Requirements

The Montana Single Audit Act [Title 2, Chapter 7, Part 5, MCA](#) requires each audited city or town to send a copy of their annual or biennial audit report to a newspaper of general circulation in their area. Entity officials will want to request their independent auditor to provide them with an additional copy of the audit report.

In addition, the law requires each audited city or town to send to their appropriate newspaper a Summary of Significant Findings, as prepared by the independent auditor. This summary must contain a statement indicating that it is only a summary and is not intended to be used as an audit report. The summary, which is not to exceed 800 words, must be published, along with a statement to the effect that the audit report is on file in its entirety and open to public inspection.

Publication is required to be done 30 days after you receive the audit report. Enclosed is a sample letter to the newspaper, and a sample publication.

2. Responses to Audit Report Findings and Recommendations

Local government entities are required to notify the Department of Administration in writing as to the actions they plan to take on any deficiencies or recommendations contained in their audit report. This response or corrective action plan is required to be submitted to the Department of Administration within 30 days of receipt of the audit report.

If you have any questions on the entity response requirements, please contact our office at 406-444-9101.

Enclosures: Sample Letter to Newspaper Regarding Audit Publication Sample Publication

AUDIT PUBLICATION

An audit of the affairs of _____ [Name of City/Town] has been conducted by _____ [Name of Auditor]. The audit covered the fiscal year(s) ended June 30, 20 _____ [and 20 _____]. Section [2-7-521, MCA](#), requires the publication of the following summary of significant findings.

Summary of Significant Findings

The audit report for _____ [Name of City/Town] for the fiscal year(s) ended June 30, 20 _____ [and 20 _____], contains an Independent Auditor's Report on the city's/town's basic financial statements. The report issued for the fiscal year(s) ended June 30, 20 _____ [and 20 _____] contains _____ [unqualified][qualified][adverse] opinion(s).

The audit report also contains several other auditor's reports. Following is a listing of the reports and a summary of the findings included in each. This is only a summary and is not intended to be used as an audit report.

1. Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards. *This report contains the following findings: (OR This report contains no findings.)*
2. [If applicable] Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A---133. *This report contains the following findings: (OR This report contains no findings.)*
3. [If applicable] Management letter to city/town officials or Report on Other Matters. *This letter/report contains the following other matters not included in the above two reports.*
4. Report on Prior Audit Report Recommendations. *This report summarizes the findings from the prior audit report (and management letter, if applicable), and the status of those findings.*

The complete audit report is on file in its entirety and is open to public inspection at the _____ City/Town Hall.

Sincerely,

[Name and Title of City/Town Official or Representative]

PUBLIC INSPECTION OF AUDIT REPORT

Date

Name of Newspaper Address
City, MT 59-----

RE: Audit Report Publication

Section [2-7-521, MCA](#), provides that thirty days after a city/town audit report is forwarded to the city/town officials, the city/town shall send to the official newspaper of the city/town for publication:

1. A summary of significant findings, including a statement indicating that it is only a summary and is not intended to be used as an audit report, and
2. A statement that the audit report is on file in its entirety and open to public inspection.

All publication costs are required by statute to be borne by the [name of city/town], so please bill us for those costs.

Enclosed for your information, as required by statute, is a complete copy of the audit report. The audit report is not required by law to be published. Only the Summary of Significant Findings should be published.

Thank you for your cooperation.

Sincerely,

[Name and title of City/Town of official/representative]

Pages enclosed to be published _____page(s) Billing Address:
[name of City/Town and mailing address]

5.10 Reports to the City/Town Council

The clerk/treasurer is required to report to the council as set by ordinance, on the financial state of the city/town [7-6-612, MCA](#). The governing body determines which reports they want to see on a monthly, quarterly or semi-annual basis.

5.11 Payroll Procedures

Employees should complete their time sheet/card. Department heads/supervisors review and approve the time sheets. The supervisor and the employee should both sign and date the time sheet/card. The time sheets/cards are turned into the clerk/payroll department to review for accuracy and compliance. Be sure to check for holidays, sick and annual leave, and overtime.

Enter the time sheet/card information into the city/town's Payroll Program or spreadsheet. Review all entries on the payroll worksheet, comparing data entered with the timesheet. Make sure everything balances. After balancing, complete payroll processing, including printing checks or preparing automatic deposits.

5.12 Payroll Reports

Montana State Income Tax – The city/town may pay either electronically or by filling out a state coupon in black ink from the check amount and mailing payment and coupon in the envelope provided. Contact MT Department of Revenue to determine how your city/town should file.

PERS – Effective July 1, 2013, the total contribution for local government employers to the Public Employee's Retirement System is 8.07%. The employee contribution rate is 7.90%. The report is submitted monthly online. Gross wages are used to calculate PERS.

MPERA Online Reporting (Employer/Web Reporting)

1. Go to internet www.mt.gov and find Montana Public Employees Retirement Administration under agencies.
2. Click on Employer Web Reporting
 - a. Enter Username:
 - b. Enter Password:
3. Go to employer box and enter: CI0371 for PERS
4. There may be messages from PERS, read them and follow thru with them.
5. Go to box that says "Payroll"
 - a. Choose Copy from Previous Report Period
 - b. Update employee, wages, hours and employee share
 - c. Click on payroll Summary Messages. Warning can be processed but critical messages need to be cleaned up, edits can be done from this screen.
 - d. Payroll Summary tab
 - i. Verify amounts & enter total amt. remitted
 - ii. Validate Payroll
 - iii. Submit ACH Deposit
 - iv. Print Payroll Report
6. The reports remain unbalanced until the pay date, which is usually the next day. Then you submit the address file and there is a new employee, you need to delete them from the address file the first time because that payroll has not been "balanced", and it doesn't recognize that employee yet.

Federal, FICA, Medicare – Fill out the coupon in pencil from the check amount. Mark 941 and the appropriate quarter and then enter amount in the worksheet in the corresponding file.

Monthly Insurance Premium Checks and Changes in Insurance Benefits ---

1. Complete during the last week of the month along with payroll. Keep copies of any changes (i.e. health, life changes or additions) in the file during the course of the month.
2. Review changes (additions, deletions, new hires, status changes, etc.)
3. Reconcile each insurance invoice with the Payroll Register. The payroll register must match the invoice.
4. City/town retirees can continue to be on the health plan and the life plan. Some retirees choose to pay the premiums through their PERS retirement plan. If so, the State of Montana issues a check at the end of the month. PERS must be notified of any premium changes, by following their guidelines. Other retirees choose to pay the city/town by personal check once a month.
5. Once the invoices have been reconciled then the check needs to be issued through the finance program. Attach the invoice to the claim.
6. Checks need to be mailed on or before the last day of the month. Notes and Information: Insurance Benefits Administration.

Health Coverage – Your community may or may not provide access to benefits for employees. In addition, your community may also provide a contribution toward employee benefits. This will vary from group to group. You may get your coverage through an insurance company, or you may participate in the MMIA’s self-funded Employee Benefits Program.

Benefits for New Employees – Whatever benefits you provide for employees, you need to notify them of their options and required eligibility and waiting periods, which are defined by your city/town. Typically, an enrollment form must be filled out by the employee and sent on to your coverage provider.

Termination of Benefits – When an employee is terminating benefits (whether due to ineligibility or termination of employment) notice must be sent to your coverage provider in a timely manner. Federal law states that COBRA continuation of coverage must be offered within a specific time frame. You should contact your coverage provider to see what their requirements are.

For MMIA EB participants, please submit a termination form to MMIA within 30 days of the date of benefit termination. The participant’s health coverage will extend to the end of the month in which the qualifying event occurred. The participant will then receive COBRA information from the MMIA to notify them of their opportunity to continue coverage.

5.13 Payroll Quarterly Reports

941 Report

This report is for the filing of FIT, FICA and Medicare taxes. Make sure the payroll summary worksheet is finished. This is the one done every payday to figure social security and Medicare taxable wages and deductions.

Make sure the quarterly payroll summary worksheet is complete and balances with the three-monthly payroll summary worksheets. Complete the 941 report. Review for accuracy. When finished, sign, date and make copies of the originals for the files. Submit the report to the IRS. File the copies.

Workers’ Compensation

Requirements for reporting do differ based on who the Workers' Compensation coverage is through. Both MMIA and the State Fund do require rate reporting including for volunteers. Below are instructions for MMIA Workers' Compensation reporting, however, the State Fund plans also require it and it is recommended to read the instructions that accompany the report prior to filing.

- Read the instructions for the report. This should be reviewed for changes upon each report submission.
- Get volunteer information for any outside groups such as, Friends of the Library and Court community service workers including hours and rate if any.
- Put Volunteer firemen on the report as volunteers. They are reported at \$50.00 per month that they are active for a total of \$ 150.00 per quarter.
- Determine the correct class code for each employee and volunteers.
- On the quarterly payroll summary worksheet calculate each employee's W/C. Gross wage times the appropriate class code rate. This needs to be done for the volunteers, etc. **Note:** The Fire Chief is paid a wage and is not included with the Volunteers.
- Fill out the report, using the gross wages for each class code from the quarterly payroll summary worksheet for all employee and volunteers. Total the rates from all class codes and figure the MOD factor.
- Complete the employee and volunteer sheets and attach to the report.
- Review the report for accuracy sign and date the report.
- Make copies of originals for the files. Submit the report with a check to MMIA.

Unemployment and Montana Employer's Quarterly

Unemployment wage includes overtime, but it does not include elected officials. On the quarterly payroll summary worksheet calculate the unemployment insurance for each employee using the gross wages x the rate. The rate is located on the form from the state or in the file. Follow directions and fill out report. Make copies of all reports for the files.

Taxes Medicare

Gross Wage (This will differ for those with health insurance; it will be Gross wage minus the employee share of health insurance).

Medicare Base Wage x .0145 = Medicare withholding for employees

Social Security

Gross Wage (This will differ for those with health insurance; it will be Gross wage minus the employee share of health insurance).

Social Security Base x .062 = SS withholding for employees

State Unemployment

Elected officials do not pay unemployment. Gross Wage

State Unemployment Base Wage

FIT/SIT Base (Federal & State)

Gross Wage

(Deferred Comp. Health insurance premium)

(PERS)

FIT/SIT Base

Workers' Compensation

Gross wage x Class Code Rate

5.14 Payroll Annual Reports

W-2/W-3 – An IRS W-2 form must be prepared for each employee. Using the quarterly payroll worksheets prepare the annual payroll worksheet. Use the information in the W2 file and file the W2's online at www.irs.gov. Print the W2's and W3. One copy for city/town file and one copy to State of Montana. Mail the employees copies prior to January 31 of each year.

5.15 Accounts Payable (Claims)

Accounts Payable are the municipality's unpaid expenditures, expenses or bills. Invoices are either received by mail or turned in by the department heads. All invoices are reviewed by the department head with final approval by the city/town clerk or finance director pursuant to [7-6-4301\(3\)](#). Each claim is reviewed for accuracy and coding. Claims are processed according to city/town policy and [7-6-4301, MCA](#).

5.16 Revenue (Receipts)

A municipality receives cash, checks and direct deposits from various sources throughout the month such as taxes, licenses, donations, fines, grants, loans, interest, fees, etc. Write a receipt for all monies received.

5.17 Utility Procedures

Utility Procedures can vary depending upon the software being utilized to maintain the information. Most popular in Montana is Black Mountain Software (BMS) which comes with an instruction manual. This includes setting up and changing accounts, reports, billing, receipting, etc. Regardless of the software each municipality utilizes, clear written procedures should be developed.

Utility issues that may require the development of local policies for approval by the mayor and council include the following:

- Delinquency Letters
 - Past Due Notice
 - Remaining Balance Notice
- Shut-Off Procedure
- Meter Reading Process
- Setting Up New Accounts
- Special Billing Procedures
- Printing and Processing of Utility Bills
- Frozen or Damaged Meters or Damaged Remotes
- Turning Water on for Plumbing Inspections
- End of Month Procedure
- Service Work Order Procedures
- Changing Utility Rates
- Transferring Delinquent Utility Bills to Property Taxes
- Sewer Averaging for Residential Accounts
- Processing Payments

- State Department of Environmental Quality Annual Fee
- Consumer Confidence Report (CCR)—State

Mail **delinquent letters** approximately the 1st or 2nd of the month. On the morning of printing the letters, post all payments first. On tenant letters stamp “copy to landlord”. Make a copy for the landlord, address the landlord envelopes, stuff, and stamp. After three months if a tenant has not paid the bill, it is sent to the landlord for payment. As payments are received mark paid by the customer name on the past due report.

The state permits charging delinquent utility bills to the property owner’s property taxes, which helps keep the city/town losses to a minimum. For exact instructions on how to put delinquent utility bills on taxes, see MCA 7-13-4309. The city attorney should approve the notification letter that you must send. Check for payments periodically and mark off any who have paid. Normally this report is submitted to the Department of Revenue (DOR) by the 15th of August.

The **sewer average** is determined by the six winter months. Those winter months divided by 6 will be their average. Each account has its own average. Zeroes will not count. Five “0’s” and one “3” will average to 3. Use the appropriate software manual for the procedure for creating the sewer averages each May. Look at new accounts in May and any without a history. Look for 0’s or low consumption because of being off or vacant. “400” is the over---all city/town average for winter months.

The public works director will request preparation of the **Consumer Confidence Report (CCR)** by the lab that does the water tests. The Lab will send the report and invoice. Request the report be sent by email. Email the report to the local newspaper. The report must be published two times in the newspaper.

After the publication of the report, complete the form sent by the state and attached a copy of the report and originals of the ads.

5.18 Capital Assets Inventory

Yearly Inventory

On a yearly basis a capital asset inventory should be scheduled with the department heads. An inventory list should be printed for each department. Go into capital assets, reports, assets, and to assets by organization. An inventory is done with each department, checking off the items as they are found.

New Inventory

When an invoice comes through claims with an item to be inventoried, an inventory number is assigned to it and the inventory number is put on the item. The new items are added to an inventory list. Each inventory item is then put on as a new inventory item. Go to data, new item, and enter information. The new inventory item is identified with a type class and an item class code.

5.19 Volunteer Firemen’s Relief Association (VFRA)

The city/town is the custodian for the Volunteer Firemen’s Relief Association check book, files, records etc. On the first of March, June, September and December write checks for each name in the VFRA journal. DO NOT sign the checks. Prepare envelopes and put the stamps on them. Call the responsible official to pick up the checks for the required signatures and mailing. Enter the checks, deposits, etc. into the VFRA journal. Reconcile the bank statement monthly. Make sure the check book balances with the journal.

Once a year prepare the annual incorporation report for the Secretary of State and the \$15.00 check for the filing fee. Prepare two copies; one to mail and one for the file. Call the responsible official to pick up the checks for the required

signatures and mailing. This report must be filed before April 15 of each year.

The VFRA is on the same fiscal year as the city/town. At the end of the fiscal year prepare three copies of the Annual Report required by the State. Put the completed reports into a large envelope and mail to the responsible official for signatures. Also include a postage paid envelope addressed to the city/town to return the reports to the clerk's office. When the reports are returned place one copy in the file and send one copy to the State Auditor's Office and one copy to the Montana Department of Administration, Local Government Services.

State law requires the annual report be filed by December 31 of each year.

- Order 1099R forms and 1096 transmittal form from the IRS.
- Prepare the list of retirees and information for the 1099Rs. 1099R and 1099 are only required if it is over \$600 annually.
- Type the 1099R forms and 1096. The 1099Rs forms **must be mailed out** to the vendors by **January 31st**.

As soon as the forms are completed, send in the IRS copies and the summary form 1096 as per instructions on the form. Mail copies are to the state.

5.20 Miscellaneous Tasks

1099's – These are required by the IRS to be issued to vendors who were paid \$600 or more in the calendar year, AND are a sole proprietor, partnership, attorney, or other entity that fall under the IRS rules. Refer to Publication 15 for more information on who fits the criteria. The process begins with a W-9 form that the city/town issues to the vendor to determine the eligibility (i.e. sole proprietor, corporation, etc.), and the Federal Tax ID number.

- Order 1099 forms and 1096 transmittal form from the IRS.
- Print the vendor queries for vendors that qualify for a 1099.
- Type the 1099 forms and 1096. The 1099 forms **must be mailed out** to the vendors by **January 31st**.

As soon as the forms are completed, send in the IRS copies and the summary form 1096 as per instructions on the form. Mail copies to the State.

Grant Administration – The clerk's office usually administers the various grants for the city/town such as TSEP, CDBG, DNRC, WRDA and FEMA. Each grant program has its own rules and regulations for reimbursement and reporting which can be found in the manuals issued or information provided by the entity or agency awarding the grant.

Loan Payments – The city/town makes various loan/bond payments throughout the year. Any loans from the Montana Board of Investment and the Intercap Loan Program have payments due in February and August. Most revenue bond payments are due on January 1st and July 1st. Refer to the appropriate file for each loan or bond payment.

5.21 Special Assessment Districts

Certain public works functions can be funded by property owners through a special assessment district. Typical examples of this are Street Lighting Districts and Street Maintenance Districts. The cost of operations and maintenance of these functions is spread over all property owners that benefit from the service. These districts are separate from the General Fund and utilize a Special Revenue Fund designed for that particular purpose. Assessments are usually based on property size (square foot, or frontage foot) or property value.

Street Lighting Districts are usually broken out into two types: residential and commercial. The distinction is based on the density of lighting required (number of light poles). More lighting is typically required in a community's commercial areas, and less lighting for residential. There are "lighting standards" that are followed. Northwestern Energy or an electric cooperative usually owns the light poles. They invest in the construction of the system, and then "lease" it back to the community. An agreement needs to be in place for this arrangement.

Street Maintenance Districts (SMD) are usually broken out into types of street: paved or unpaved. There is more cost associated with maintaining an unpaved street versus a paved one. However, there is more initial construction cost of a paved street, which is usually done through a *Special Improvement District* (see below). Whether a community does their own maintenance (pot hole filling) or contracts it out to the private sector, it is a matter of dividing up that annual cost to all property owners that are adjacent to the streets.

These districts usually come after the improvement has been made. They require an annual resolution and public hearing to set the amounts to be assessed, and that is usually done in conjunction with the budget process. The statutes particular to these districts are found in [Parts 41 - 46 of Chapter 12, Title 7](#). The steps to create the "maintenance" districts are similar to the ones to create the "improvement" district and are outlined below.

5.22 Special Improvement Districts

In order to perform construction projects that "improve" a system, a community usually must find the funding to do so. Most of the time, the community must borrow the money, and therefore must have the means to pay back the loan. Special Improvement Districts (SID) are formed for that purpose and have been used extensively throughout the years to put in water lines, sewer lines, paved streets, curbs, gutters, sidewalks, etc. Certain steps and requirements must be followed and [Part 41 of Chapter 12 in Title 7](#) of Montana Code Annotated should be reviewed and followed.

The steps required to form an "SID" are as follows:

1. Define the purpose (construct/reconstruct a street, curb, gutters, sidewalk, water line, etc.)
2. Define the boundaries – which property owners benefit from the improvement
3. Determine the costs – construction, bond counsel, financing
4. Prepare Resolution of Intent, outlining the above
5. Conduct a Public Hearing
6. Prepare Resolution to Create the District, and levy the assessment
7. Send to county treasurer to be put on tax bills.

A SID can be requested either by the property owners, or by the city/town council (commission). If, during the public hearing portion of the process, 51% or more of the property owners protest the issue, it cannot proceed. Timing is important since the "financing" of these types of projects is through the taxation process.

5.23 Debt Management

Debt management is an intrinsic part of municipal finances. The council has the authority to contract indebtedness on behalf of the municipality, and borrowing has many forms: issuing bonds, issuing notes, leases, lease---purchase agreements, and installment purchase contracts. There are debt limitations in Montana Code Annotated, [Title 7, Chapter 7, Parts 41 through 46](#). Different funds have different forms of debt that can be issued.

The General Fund can issue debt up to 2.5% of the total assessed value of taxable property. The Department of Revenue determines a municipality's value and issues such through the Certified Taxable Valuation form in August. If a municipality chooses to simply get a loan through INTERCAP for a police car, for example, then the debt limitation

is required on the loan application. If a municipality chooses to build a new swimming pool, for example, then typically a General Obligation Bond would be required to raise a large amount of money for that purpose. This would first require a vote of the people. The municipality would then have to follow the process outlined in MCA and coordinate the effort with the county election administrator. A municipality can also go to their local bank for a loan.

The Enterprise Funds and Special Revenue Funds have different requirements for issuance of debt. Typically, a Revenue Bond is issued for purposes such as water line construction, street construction, and other revenue---generating functions. State agencies, such as the State Revolving Fund (SRF) loan program are of great assistance for funding water and sewer projects. The ability to pay the loan back is based on the fees charged by the municipality (water, sewer, garbage, etc.). In the case of a SID, the loan is based on the ability to assess the fee on a property owner's taxes. Typically, a legal opinion from a specialty attorney, called a bond counsel, is required for any bond issuance. This is to ensure the tax exempt status of bonds issued by a municipality and is an additional cost to the project. A bond reserve account, as well as a debt service account (sinking and interest) is needed.

Accounting for projects requires several steps. In general, the revenue from the loan offsets the cost of the project. This should be reflected in the fund where the work occurs. The debt service funds are needed for certain debt obligations: general obligations bonds, special improvement bonds, and a SID revolving fund. Please refer to the BARS chart of accounts.