City Commission Handbook

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Purpose and Use

This Handbook for the Livingston City Commission is intended to provide Commissioners an understanding of the City and the role of the Commission in guiding the City. By reading this handbook, Commissioner's will gain a general understanding of the form and function of government in the City of Livingston. Commissioners are encouraged to use additional resources including the Montana Officials Handbook, State Land Use Review Handbook and Montana State University Local Government Center to provide a more complete understanding of certain issues.

The operation of the local government in the City of Livingston is governed by two principal documents: Montana Code Annotated (MCA) and the Livingston Municipal Code (LMC). These two documents provide the framework through which the City of Livingston operates and certain functions have been delegated to the City to manage through Local Laws (LMC) while others are mandated by the State Code (MCA). Within the handbook, there are many references to the Montana Code Annotated and Livingston Municipal Code. The excerpts from each are updated as frequently as possible. Before acting upon any reference, readers are encouraged to review the references to ensure the accuracy of the materials at the time of reading.

About the City of Livingston

History

The City of Livingston was incorporated as a Montana Municipal Corporation in 1889. While the city had previously been home to various populations and communities for several millennia, the creation of the State of Montana in 1889 enabled the incorporation of a local government. The City of Livingston is approximately 6.5 square miles in area.

The City of Livingston is a distinct political subdivision of the State of Montana managed separately from Park County, the Livingston Public Schools and similar government entities in the area.

Classifications

With a population of approximately 8,489 as of the 2022 American Community Survey, the City of Livingston is classified as a Class 2 City pursuant to Montana Code Annotated. Once the population exceeds 10,000, as measured by the US Census, the City will advance to Class 1. In Montana, Class 1 Cities have additional requirements on their form and function of government including, but not limited to: composition and size of boards and commissions; creation of electoral wards; housing authority funding; treatment of storm-water; and provision of fire protection.

Montana Code Annotated also allows electors to select the form and nature of government. While the basic form of government in Montana is the Council-Mayor form, the City of Livingston has adopted an alternative form of local government pursuant to MCA 7-3-102. The City of Livingston has specifically adopted the Commission-Manager form of government as defined in Section 3 of Chapter 3 of Title 7 of Montana Code Annotated (MCA 7-3-301 to 318). The nature of government in the City of Livingston is general powers as City electors have not decided to pursue self-governing powers as allowed by MCA 7-3-302 and described by MCA 7-1-101 and its subparts.

Commission-Manager Form of Government

In the Commission-Manager form of government, the elected Commission appoints a professional Manager to implement its policies. The Manager serves at the pleasure of the elected governing body and has responsibility for preparing the budget, directing day-to-day operations, hiring and firing personnel, and serving as the Commission's policy advisor.

The City Commission serves as the legislative branch of the City of Livingston and is responsible for: passing local laws (ordinances) and orders (resolutions); adopting and amending a budget; awarding contracts; and hiring and firing the City Manager. The Commission acts as a body and actions are authorized through a voting process. While a presiding officer is named annually, each Commissioner has the same stature and no one Commissioner can direct the City Manager independently.

The City Manager serves as the head of the executive branch of the City of Livingston and is responsible for administering the affairs of the City including, but not limited to: managing all City staff; enforcing laws and ordinances; recommending a budget to the Commission; creating meeting agendas; and managing contractors.

Relevant Statutory References

MCA 7-1-4111. Classification of municipalities.

(1) Every city having a population of 10,000 or more is a city of the first class.

(2) Every city having a population of less than 10,000 and more than 5,000 is a city of the second class.

(3) Every city having a population of less than 5,000 and more than 1,000 is a city of the third class.

(4) Every municipal corporation having a population of less than 1,000 and more than 300 is a town.

MCA 7-3-302. Nature of government.

The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing:

(1) general government powers; or

(2) self-government powers.

MCA 7-3-102. Adoption of alternative form.

Each local government in the state shall adopt one of the alternative forms of government provided for in parts 1 through 7, including one of each sub-option authorized:

(1) the commission-executive form (which may also be called the council-executive, the council-mayor, or the commission-mayor form);

(2) the commission-manager form (which may also be called the council-manager form);

(3) the commission form;

(4) the commission-presiding officer form;

(5) the town meeting form; or

(6) the charter form.

MCA 7-3-301. Commission-manager form.

The commission-manager form, which may be called the council-manager form, consists of an elected commission, which may be called the council, and a manager appointed by the commission, who is the chief administrative officer of the local government. The manager is responsible to the commission for the administration of all local government affairs placed in the manager's charge by law, ordinance, or resolution.

MCA 7-5-4101. General powers of municipal council.

The city or town council has power to make and pass all bylaws, ordinances, orders, and resolutions not repugnant to the constitution of the United States or of the state of

Montana or to the provisions of this title, necessary for the government or management of the affairs of a city or town, for the execution of the powers vested in the body corporate, and for carrying into effect the provisions of this title.

MCA 7-3-304. Duties of manager.

The manager shall:

(1) enforce laws, ordinances, and resolutions;

(2) perform the duties required by law, ordinance, or resolution;

(3) administer the affairs of the local government;

(4) direct, supervise, and administer all departments, agencies, and offices of the local government unit except as otherwise provided by law or ordinance;

(5) carry out policies established by the commission;

(6) prepare and publish the commission agenda pursuant to 2-3-103;

(7) recommend measures to the commission;

(8) report to the commission on the affairs and financial condition of the local government;

(9) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

(10) report to the commission as the commission may require;

(11) attend commission meetings and may take part in the discussion but may not vote;

(12) prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;

(13) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance;

(14) appoint members of temporary advisory committees established by the manager.

Livingston City Commission

Role of the Commission

As the legislative branch of the City of Livingston, the Livingston City Commission is responsible for two primary functions of government: passing local laws (ordinances) and adopting a budget. These two basic powers are derived from Montana Code Annotated sections 7-5-4101 and 7-6-4006, respectively. The Commission is also responsible for appointing a City Manager (MCA 7-3-303) and setting policies that the City Manager shall execute. The Commission acts as a body and actions are authorized through a voting process. While a presiding officer is named annually, each Commissioner has the same stature and no one Commissioner may direct the City Manager independently.

The City Commission is not responsible for the day-to-day management of the City government. In fact, MCA 7-3-305(3) provides that "the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor its members may give orders to the employee, either publicly or privately."

Commission Officers and Appointments

The Livingston City Commission annually appoints a Chair and Vice Chair to serve as the presiding officer. The appoint of such officers occurs at the first regularly scheduled meeting of the Commission each calendar year. The appointments are made in accordance with the requirements of LMC Section 2-14.

In addition, the Livingston City Commission appoints its members to serve on certain City and community advisory boards. These appointments also occur at the first regularly scheduled meeting of the Commission each calendar year.

Actions of the Commission

The Commission acts as a body and actions are authorized through a voting process. Each vote requires a Commissioner to make a motion that is seconded by another Commissioner. A majority vote of the members present is required to approve any action. The regular actions of the Commission take several forms: adoption of resolutions; approval of minutes; approval of claims; approval of land use applications; approval of contracts; passage of ordinances; and setting of policy.

Official Misconduct

Each Commissioner is bound by statutory limitations on their conduct while serving. Specifically, MCA 45-7-401 (Entitled: Official misconduct) provides that a City Commissioner commits the offense of official misconduct when, in an official capacity, commits any of the following acts:

> (a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;

(b) knowingly performs an act in an official capacity that the public servant knows is forbidden by law;

(c) with the purpose to obtain a personal advantage or an advantage for another, performs an act in excess of the public servant's lawful authority;

(d) solicits or knowingly accepts for the performance of any act a fee or reward that the public servant knows is not authorized by law; or

(e) knowingly conducts a meeting of a public agency in violation of 2-3-203.

Official misconduct is punishable by a fine not to exceed $500 or imprisonment in the county jail for a term not to exceed 6 months, or both. MCA 45-7-401(4) provides that a Commissioner may be required to forfeit their position upon conviction.

Advisory and Statutory Boards and Commissions

In addition to the City Commission, the City of Livingston maintains several boards that are either advisory or statutorily required. Each board is composed of volunteers from the community that are appointed by the City Commission. A Commissioner is appointed to each board with an asterisk at the first meeting of each calendar year.

The statutory and advisory boards of the City of Livingston currently include:
City-County Airport Board
City-County Board of Health *
City-County Library Board *
Consolidated Land Use Board *
Historic Preservation Board
Livingston Community Trust *
Urban Renewal Agency *

The meetings for each are advertised on the City and County websites.

City Commission Meetings

The Livingston City Commission conducts its business in accordance with the provisions of both the MCA and LMC Chapter 2. The LMC 2-15 stipulates that the presence of three (3) Commissioners constitutes a quorum of the Commission and is a public meeting that must be properly noticed and open to the public. All meetings of the City Commission are open to the public unless closed pursuant to the allowances of MCA 2-3-203. Importantly, serial meetings of Commissioners which result in more than two (2) total Commissioners discussing an item may be considered to be a violation of the open meetings statute based on Attorney General opinions. The Montana Code Annotated stipulates that the City Commission must meet in open session

except for limited circumstances as outlined in MCA 2-3-203, which include: consideration of matters of individual privacy and litigation not involving another public agency.

The Commission regularly meets on the first and third Tuesday of each month at 5:30 p.m. In addition to these regularly scheduled meetings, special meetings of the City Commission may be called as necessary. Commissioners are encouraged to attend all meetings in-person. However, recognizing the benefits of participation, remote participation of Commissioners will be enabled by technological means. If a Commissioner expects to be absent from the meeting, a notification shall be provided to the City Manager and Commission Chair not less than 24 hours before the meeting, as practicable.

In accordance with LMC 2-16, the City Manager prepares the agenda for City Commission meetings. The agenda and supporting documentation are emailed to Commissioners and generally available in hard copy format for pick up by the close of business on the Thursday before a City Commission meeting. The Commission agenda and accompanying packet is available on the city's website at www.livingstonmontana.org in the Meeting Information section.

Pursuant to LMC 2-16, members of the Commission may add items to the agenda in two ways: (1) a Commissioner can ask the City Manager to place an item on the agenda; or (2) items must be added to the agenda if they are requested by one Commissioner and the request is seconded by a second Commissioner during a meeting.

City Commission Meeting Procedures

The conduct of meetings of the Livingston City Commission shall adhere to the following provisions:

1. Order of business

   The City Manager shall prepare the Commission agenda, which shall be in substantially the following form:

   A. Call to Order
   B. Roll call
   C. Pledge of Allegiance
   D. Public Comment
   E. Consent agenda (no discussion should be necessary) *
      - Approval of minutes
      - Approval of claims (payment of bills)
      - Renewal of licenses
      - Applications for special licenses
      - Simple Contracts

      * Consent items are those upon which the City Manager anticipates that no discussion should be necessary, however, by placing an item on the consent agenda does not limit the ability of a Commissioner from asking questions or making comments thereon. Items may be removed from the consent calendar upon request of any Commissioner.

F. Proclamations
G. Scheduled Public Comment
H. Action items
- Ordinances
- Resolutions
- Complex Contracts
- Policy Direction

I. City manager's report.
J. Commissioner's comments (e.g. reports, introduction of measures, concerns and proposals by members of the Commission.)
K. Adjournment.

2. Procedure to conduct business and motions.

A. Procedure to Conduct Business.

1. The Chair shall clearly announce the agenda item to be considered.

2. Following announcement of agenda item, the Chair shall invite the City Manager to report on the item, including any recommendation that they might have. The City Manager may invite a staff member or other person to present to the Commission on the agenda item.

3. The Chair shall ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions through the Chair to the City Manager who shall be given time to respond. The City Manager may invite staff members or other persons to respond to the questions, as necessary.

4. The Chair shall invite a motion. The Chair shall announce the name of the member of the body who makes the motion.

5. The Chair shall determine if any member of the body wishes to second the motion. The Chair shall announce the name of the member of the body who seconds the motion. No motion shall be debated or put to a vote unless the same shall be seconded. If the motion is made and seconded, the Chair should make sure everyone understands the motion. This is done in one (1) of three (3) ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the City Clerk to repeat the motion.

a. The Chair shall invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input on the agenda item being considered. The Chair may limit the time of public speakers to four minutes. To be recognized, each person

desiring to give comment, testimony or evidence shall proceed to the podium provided and after being recognized, give his or her name and address before testifying, commenting or presenting other evidence. All comments, testimony and evidence shall be directed to the presiding officer. No questions shall be asked of a Commission member except through the presiding officer. At the conclusion of the public comments, the Chair shall announce that public input has concluded (or the public hearing as the case may be is closed).

b. The Chair shall now invite discussion/debate of the motion by the body. Every member desiring to speak shall address the presiding officer, and upon recognition, shall confine themself to the question under debate, avoiding all personalities and indecorous language.

c. A member, once recognized, shall not be interrupted when speaking unless it is to call him to order or as herein otherwise provided.

   i. If a member, while speaking is called to order, they shall cease speaking until the question of order is determined, and, if in order, they shall be permitted to proceed.

d. Order of rotation in matters of debate or discussion shall be at the discretion of the presiding officer.

   i. A member shall not speak more than twice on the same subject without leave of the Chair, nor more than once until every member desiring to speak on the pending question has had an opportunity to do so.

6. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

7. The Chair shall direct that the vote be taken by a roll call vote. If members of the body do not vote, then they "abstain". Unless the rules of the body provide otherwise (or unless a super-majority is required as delineated in these rules) then a simple majority determines whether the motion passes or is defeated.

8. The Chair should announce the result of the vote and should announce what action (if any) the body has taken.

B. Motions, Majority Approval, Debatable or not and Exceptions.

1. The Basic Motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a 5-member committee to plan and put on our annual fundraiser."

2. The Motion to Amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a ten-member committee." A motion to amend takes the basic motion which is before the body and seeks to change it in some way. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way.

3. The Substitute Motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year." A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it.

4. Order of Consideration of Motions. There can only be three (3) motions on the floor at the same time. The Chair can reject a fourth motion until the Chair has dealt with the three (3) that are on the floor and has resolved them. When there are two (2) or three (3) motions on the floor (after motions and seconds) at the same time, the vote should proceed first on the last motion that is made. So, for example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a ten-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year."

    a. First, the Chair would deal with the third (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion passed, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) failed then the Chair would proceed to consideration of the second (now, the last) motion on the floor, the motion to amend.

b. Second, if the substitute motion failed, the Chair would now deal with the second (now, the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee by five (5) members or ten (10) members). If the motion to amend passed the Chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed the Chair would now move to consider the main motion (the first motion) in its original format, not amended.

c. Third, the Chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or, if amended, would be in its amended format (ten-member committee), and the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

5. Motion to Reconsider. A motion to reconsider requires a majority vote to pass, but there are two (2) special rules that apply only to the motion to reconsider.

a. First, is timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body following due notice. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and by a two-thirds (2/3) majority, can allow a motion to reconsider to be made at another time following due notice.)

b. Second, a motion to reconsider can only be made by certain members of the body. Accordingly, a motion to reconsider can only be made by a member who voted in the majority on the original motion. If such a member has a change of heart, they or she can make the motion to reconsider (any other member of the body may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again. That would defeat the purpose of finality.

c. If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is then in order. The matter can be discussed and debated as if it were on the floor for the first time.

6. Simple Majority and Exceptions. All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which, effectively, cuts off the ability of a minority of the body to take an action or discuss and item. These extraordinary motions require a two-thirds (2/3) vote of the entire Commission (a super-majority) to pass:

   a. Motion to Limit Debate. Whether a member says "I move the previous question" or "I move the question" or "I call the question" or "I move to limit debate", it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds (2/3) vote of the entire Commission to pass.

   b. Motion to Close Nominations. When choosing officers of the body (like the Chair) nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds (2/3) vote of the entire Commission to pass.

   c. Motion to Object to the Consideration of a Question. Normally, such a motion is unnecessary since the objectionable item can be tabled, or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds (2/3) vote of the entire Commission to pass.

   d. Emergency Measures. In the case of emergency measures, the emergency must be expressed in the preamble or in the body of the measure and the measure must receive a two-thirds (2/3) vote of the entire Commission. In emergency ordinances, the resolutions shall include only such measures as are immediately necessary for the preservation of peace, health, and safety and shall not include a franchise to a corporation or individual, any provisions for the sale of real estate, any lease or letting of any property for a period exceeding one (1) year, or the purchase or sale of personal property exceeding five thousand dollars ($5,000.00) in value. (7-5-4204 MCA)

   e. Motion to Punish and Expel. The Commission may punish a member and expel any member for the improper conduct upon a two-thirds (2/3) vote of the entire Commission members. (7-5-4103 MCA).

7. Motions Debatable, Exceptions. The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Chair that it is time to move on and take action.

   a. Exceptions. There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion):

      i. A Motion to Adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

      ii. A Motion to Recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

      iii. A Motion to Fix the Time to Adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

      iv. A Motion to Postpone Consideration. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold". The motion can contain a specific time in which the item can come back to the body: "I move we postpone consideration of this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to consider the item and bring it back to the body will have to be taken at a future meeting. A motion to postpone consideration an item (or to bring it back to the body) requires a simple majority vote.

      v. A Motion to Limit Debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call the question." When a member of the body makes such a motion, the member is really saying:

"I've had enough debate. Let's get on with the vote". When such a motion is made, the Chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds (2/3) vote of the body. Note: that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds (2/3) vote of the body.

vi. Motion to Object to Consideration of an Item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds (2/3) vote.

3. Addressing the Commission.

A. The City will provide sign-up sheets at each meeting. Anyone addressing the City Commission shall sign the appropriate sheet which shall be collected by the City at the end of the meeting.

1. At the appropriate time on the agenda, the Chair will invite the person(s) who wish to address the Commission to come to the podium. Each person shall than be given the opportunity to make his or her presentation. The Chair may limit each person’s comment period to not less than three (3) minutes.

   The Chair shall have the discretion to solicit comments from the public in the following order: (1) residents of the City, (2) business owners or operators in the City, (3) other organizations conducting operations in the City, and (4) residents, businesses or organizations from outside the City.

2. Following the statements, the Chair may ask for additional public comment from those who have not done so.

3. Once a person has made his presentation, that person shall not speak on the same subject unless granted permission by the presiding officer and then only if the presentation provides new information not previously presented.

B. The public is invited to speak on any item under discussion by the Commission after recognition by the presiding officer.

C. The speaker should step to the front of the room, and stand at the podium provided, provide the speaker's name and address on the signup sheet located at

the table, and for the record, give his/her name and address and, if applicable, the person, firm or organization represented.

D. Prepared statements are welcomed and should be given to the City Clerk of the Commission. All prepared statements shall become a part of the permanent record.

E. While the Commission is in session, the members must preserve order and decorum. A member shall not delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Commission or its presiding officer.

F. Any person making personal, impertinent or slanderous remarks or who shall become boisterous or disruptive during the Commission meeting shall be forthwith barred from further presentation to the Commission by the presiding officer, unless permission to continue be granted by a majority vote of the Commission.

Relevant Statutory References

2-3-203. Meetings of public agencies and certain associations of public agencies to be open to public -- exceptions.

(1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds, including the supreme court, must be open to the public.

(2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public.

(3) The presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

(4) (a) Except as provided in subsection (4)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.

MCA 7-5-4101. General powers of municipal council.

The city or town council has power to make and pass all bylaws, ordinances, orders, and resolutions not repugnant to the constitution of the United States or of the state of

Montana or to the provisions of this title, necessary for the government or management of the affairs of a city or town, for the execution of the powers vested in the body corporate, and for carrying into effect the provisions of this title.

MCA 7-3-315. Presiding officer of commission.

The presiding officer of the commission must be:

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

(2) elected by the qualified electors for a term of office; or

(3) selected as provided by ordinance.

MCA 7-3-303. Appointment of manager.

The manager shall be appointed by the commission for an indefinite term on the basis of merit only and removed only by a majority vote of the whole number of the commission.

MCA 7-6-4006. Appropriation power -- requirements.

(1) A governing body may appropriate money and provide for the payment of the debts and expenses of the local government.

(2) Money may not be disbursed, expended, or obligated except pursuant to an appropriation for which working capital is or will be available.

(3) Appropriations may be adjusted according to procedures authorized by the governing body for:

(a) debt service funds for obligations related to debt approved by the governing body;

(b) trust funds for obligations authorized by trust covenants;

(c) any fund for federal, state, local, or private grants and shared revenue accepted and approved by the governing body;

(d) any fund for special assessments approved by the governing body;

(e) the proceeds from the sale of land;

(f) any fund for gifts or donations; and

(g) money borrowed during the fiscal year.

(4) The governing body may amend the budget during the fiscal year by conducting public hearings at regularly scheduled meetings. Budget amendments providing for additional appropriations must identify the fund reserves, unanticipated revenue, or previously unbudgeted revenue that will fund the appropriations.

MCA 7-3-305. Employees of commission-manager government.

(1) Employees appointed by the manager and the manager's subordinates must be administratively responsible to the manager.

(2) Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of the manager's subordinates are empowered to appoint.

(3) Except for the purpose of inquiry or investigation under this title, the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor its members may give orders to the employee, either publicly or privately.

MCA 7-3-312. Appointment to boards.

All members of boards, other than temporary advisory committees established by the manager, must be appointed by:

(1) the presiding officer with the consent of the commission;

(2) the manager with the consent of the commission; or

(3) the commission.

MCA 45-7-401. Official misconduct.

(1) A public servant commits the offense of official misconduct when in an official capacity the public servant commits any of the following acts:

(a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;

(b) knowingly performs an act in an official capacity that the public servant knows is forbidden by law;

(c) with the purpose to obtain a personal advantage or an advantage for another, performs an act in excess of the public servant's lawful authority;

(d) solicits or knowingly accepts for the performance of any act a fee or reward that the public servant knows is not authorized by law; or

(e) knowingly conducts a meeting of a public agency in violation of 2-3-203.

(2) A public servant convicted of the offense of official misconduct shall be fined not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) The district court has exclusive jurisdiction in prosecutions under this section. Any action for official misconduct must be commenced by an information filed after leave to file has been granted by the district court or after a grand jury indictment has been found.

(4) A public servant who has been charged as provided in subsection (3) may be suspended from office without pay pending final judgment. Upon final judgment of conviction, the public servant shall permanently forfeit the public servant's office. Upon acquittal, the public servant must be reinstated in office and must receive all backpay.

(5) This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect an impeachment or removal.

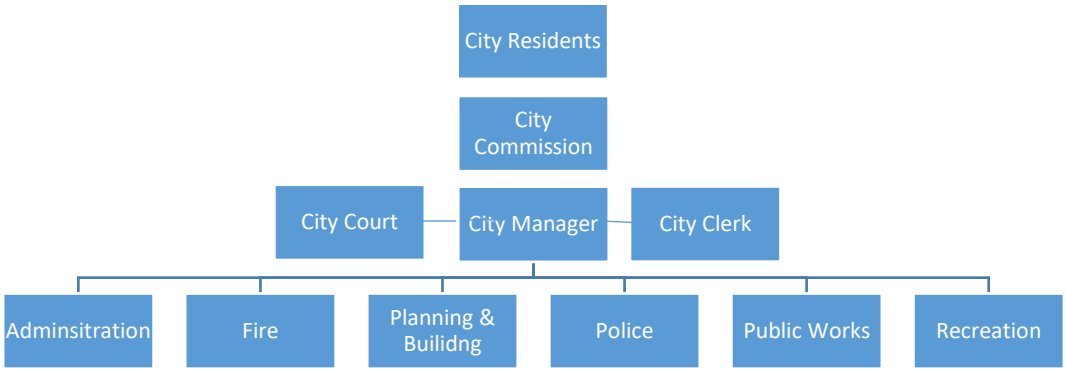
City Manager and City Government

Role of the City Manager

The City Manager serves as the head of the executive branch of the City of Livingston and is responsible for administering the affairs of the City including, but not limited to: managing all City staff; enforcing laws and ordinances; recommending a budget to the Commission; creating meeting agendas; and managing contractors.

Organization of the City

The City is divided into several distinct departments that each perform a function to support the community. The City Manager delegates the responsibilities of the City to the various departments of the City who manage and perform the necessary tasks to serve the community.



City Calendar

The City of Livingston operates on a fiscal year that runs from July 1 through June 30. The fiscal year is named for the year in which it ends. So, for example, Fiscal Year (FY) 2024 begins on July 1, 2023, ends on June 30, 2024. The fiscal year timing is established in MCA 7-3-1302 and is shared by all political subdivisions of the State.

City Budget

Pursuant to MCA 7-3-304, the City Manager is required to "prepare and present the budget to the commission for its approval and execute the budget adopted by the commission." It is the Commission's responsibility to approve the final budget (MCA 7-6-4006), which needs to be adopted no later than the first Thursday after the first Tuesday in September, pursuant to MCA 7-6-4036.

The City of Livingston budget includes a general fund which funds the operations of many departments including Administration, Finance, Fire, Judicial, Police and Recreation. Additionally, the budget includes enterprise funds to manage the business-type activities of the City such as water, wastewater and solid waste. Certain special revenue funds exist to manage revenue sources that have specific uses including bond sales, grants and loans.

The budget is a management tool that sets out a plan for operating the City. While the City Manager expects to operate the City according to that plan, operational realities often require departures from the plan. For that reason, the level of control is set at the fund level and not at each department or line item. That is, a specific line item or department may over-spend according to the budget as long as savings are identified elsewhere in the fund to offset those increased expenditures. This is reflected in the appropriation resolution which identifies revenue and expenditure levels of each fund but not more specific detail on the funding of each department. If a fund requires greater expenditures than budgeted, the budget must be amended through a revised appropriation resolution.

Relevant Statutory References

MCA 7-3-304. Duties of manager.

The manager shall:

(1) enforce laws, ordinances, and resolutions;
(2) perform the duties required by law, ordinance, or resolution;
(3) administer the affairs of the local government;
(4) direct, supervise, and administer all departments, agencies, and offices of the local government unit except as otherwise provided by law or ordinance;
(5) carry out policies established by the commission;
(6) prepare and publish the commission agenda pursuant to 2-3-103;
(7) recommend measures to the commission;
(8) report to the commission on the affairs and financial condition of the local government;
(9) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
(10) report to the commission as the commission may require;
(11) attend commission meetings and may take part in the discussion but may not vote;
(12) prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;
(13) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance;
(14) appoint members of temporary advisory committees established by the manager.

MCA 7-3-305. Employees of commission-manager government.

(1) Employees appointed by the manager and the manager's subordinates must be administratively responsible to the manager.

(2) Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of the manager's subordinates are empowered to appoint.

(3) Except for the purpose of inquiry or investigation under this title, the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor its members may give orders to the employee, either publicly or privately.

MCA 7-6-4006. Appropriation power -- requirements.

(1) A governing body may appropriate money and provide for the payment of the debts and expenses of the local government.

(2) Money may not be disbursed, expended, or obligated except pursuant to an appropriation for which working capital is or will be available.

(3) Appropriations may be adjusted according to procedures authorized by the governing body for:

(a) debt service funds for obligations related to debt approved by the governing body;

(b) trust funds for obligations authorized by trust covenants;

(c) any fund for federal, state, local, or private grants and shared revenue accepted and approved by the governing body;

(d) any fund for special assessments approved by the governing body;

(e) the proceeds from the sale of land;

(f) any fund for gifts or donations; and

(g) money borrowed during the fiscal year.

(4) The governing body may amend the budget during the fiscal year by conducting public hearings at regularly scheduled meetings. Budget amendments providing for additional appropriations must identify the fund reserves, unanticipated revenue, or previously unbudgeted revenue that will fund the appropriations.

MCA 7-6-4013. Fees for services -- hearing and resolution.

(1) If a local government has the authority to regulate, establish, and change fees, rates, charges, and classifications that are imposed for services to its inhabitants and other persons served by the local government, the fees, rates, charges, and classifications must be reasonable and related to the cost of providing the service.

(2) Charges for services must comply with Title 17, chapter 2, part 3, and other applicable statutes.

(3) In order to establish or change fees, rates, charges, or classifications imposed for services, the governing body shall order a hearing to be held as provided in 7-1-4131,

unless a special hearing process is provided by law. Municipal utility rate hearings must be held as provided in 69-7-112.

(4) Notice of a hearing must be published as provided in 7-1-2121 for a county and as provided in 7-1-4127 for a municipality.

(5) After a hearing, the fees, rates, charges, or classifications must be established by resolution of the governing body.

Livingston Municipal Code

General

The Livingston Municipal Code is a compilation of ordinances that serves as the local laws of the City of Livingston. As ordinances are passed by the City Commission, the provisions of each become enshrined in the Livingston Municipal Code (LMC). The provisions of the LMC may be updated from time to time through the passage of ordinances.

Table of Contents

The various chapters of the LMC provide constitute the local laws of the City of Livingston. The Chapters of the LMC include:

Chapter 1 – General Provisions
Chapter 2 – Government and Administration
Chapter 3 – Alcoholic Beverages
Chapter 4 – Animals
Chapter 5 – Taxation and Finance
Chapter 6 – Uniform Building Code
Chapter 7 – Police Department
Chapter 8 – City Court
Chapter 9 – Traffic and Vehicles
Chapter 10 – Miscellaneous Offenses
Chapter 11 – Fire Protection and Prevention
Chapter 12 – Garbage, Trash and Weeds
Chapter 13 – Water
Chapter 14 – Health and Sanitation
Chapter 15 – Gambling
Chapter 16 – Library
Chapter 17 – Safety Inspection Certificate, Special Business License and Alcohol Beverage License
Chapter 18 – Night Sky Protection
Chapter 21 – Pawnbrokers and Junk Dealers
Chapter 22 – Cemeteries
Chapter 23 – Trees
Chapter 24 – Development Impact Fee
Chapter 25 – Solicitors, Peddlers and Iterant Merchants
Chapter 26 – Streets and Sidewalks
Chapter 27 – Consolidated Land Use Board
Chapter 28 – Subdivision Regulations
Chapter 29 – Floodplain Regulations
Chapter 30 – Zoning
Chapter 31 – Historic District Overlay Zoning
Chapter 33 – Source Water and Aquifer Protection Plan

Relevant Statutory References

MCA 7-5-107. Register of ordinances and codification.

(1) There shall be maintained a register of ordinances in which all ordinances are entered in full after passage and approval, except when a code is adopted by reference. When a code is adopted by reference, the date and source of the code shall be entered.

(2) (a) No later than 1980 and at 5-year intervals thereafter, appropriate ordinances shall be compiled into a uniform code and published.

(b) The recodification is not effective until approved by the governing body.

General Rules on Conduct of Public Officers and Public Business

General Background

Elected, appointed and hired public officials have a unique responsibility to the community that they serve. As stewards of public resources, we have a duty to ensure that those resources are responsibly deployed. To ensure that we do so, both the MCA and LMC include provisions to regulate the conduct of public officials including Codes of Ethics, open meetings laws and public records rules.

To facilitate the compliance of the City of Livingston with these responsibilities, the City provides Commissioners with tools including phones, email accounts and computer systems. City Commissioners are encouraged to exclusively use City provided systems for all City business and communications. In the event of a public records request or legal action relating to City business, a Commissioner's use of City-provided systems will make responses easier and less disruptive to that Commissioner. It is important to remember that the conduct of city business is available for disclosure regardless of the device or system that is used. So, to the extent that private hardware and accounts are used to conduct city business, they are accessible public records.

To further facilitate compliance, the City of Livingston requires that each Commissioner complete a disclosure form upon taking office. The form will assist the City Manager in identifying potential conflicts of interest as matters are brought before the Commission. That form is included in Appendix A.

State Code of Ethics

The integrity of public officials is critical to the successful function of government. Recognizing this, Montana Code Annotated contains a Code of Ethics in Part 1 of Chapter 2 of Title 2. That Code of Ethics acknowledges that "The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of judicial officers, public officers, legislators, and public employees. A judicial officer, public officer, judge, legislator, or public employee shall carry out the individual's duties for the benefit of the people of the state."

Montana Code Annotated specifically forbids certain behavior by public officials including the disclosure or use of confidential information acquired in the course of official duties to further the individual's personal economic interests or accepting a gift of substantial value or a substantial economic benefit. Substantial value is defined as $100 in MCA 2-2-102.

The Code of Ethics also requires that elected officials disclose certain conflicts and, in certain cases, abstain from action. MCA 2-2-105 provides that a public employee shall disclose interests creating a conflict prior to participating in any official action. MCA 2-2-121(2)(e) additionally provides that a public officer may not perform an official act directly and substantially affecting a business or other undertaking in which the public officer either has a substantial financial interest or is engaged as an employee, consultant, representative, or agent.

In addition, the use of public resources for private businesses is also prohibited by MCA 2-2-121(2)(a) which provides that public officials may not "use public time, facilities, equipment, state letterhead, supplies, personnel, or funds for the officer's or employee's private business purposes."

Commissioners Conflict of Interest

On April 1, 2025, by Ordinance No. 3057, the City Commission of the City of Livingston adopted a Conflict of Interest Policy for Livingston City Commissioners. The Policy protects and encourages impartial and independent judgment ensuring that the private conduct and financial interest of public officials do not present a real conflict of interest in their responsibilities to serve the public.

The Policy, as enshrined in Livingston Municipal Code Sections 2-24 through 2-34, establishes minimum standards of conduct and is designed to assist public officials in understanding their obligations. This Policy applies to all elected officials and community or advisory board members. Public confidence in government is essential and Commissioners are encouraged to understand the Conflict of Interest Policy.

LMC 2-24 Purpose of Conflict of Interest Policy

It is the intent of the City of Livingston to establish a Conflict of Interest Policy. This policy protects and encourages impartial and independent judgment ensuring that the private conduct and financial interest of public officials do not present a real conflict of interest in their responsibilities to serve the public.

The Policy, as enshrined in Livingston Municipal Code Sections 2-24 through 2-34, establishes minimum standards of conduct and is designed to assist public officials in understanding their obligations. This Policy applies to all elected officials and community or advisory board members. Public confidence in government is essential and the City can help sustain it by establishing and enforcing rules to assure the impartiality and honesty of officials in all public discussions, decisions and transactions. Each affected advisory and community board of City government should inform its members of the provisions of this chapter and strive to effectively enforce its requirements by seeking appropriate assistance from the City Attorney, or City Manager.

LMC 2-25 Organizational Responsibility for Conflict of Interest Policy

The legislative affairs of the City shall be conducted in a manner free from influences and/or activities that compromise the integrity of the process. It is the responsibility of each public official to ensure their compliance with this Policy.

In the event of a perceived Conflict of Interest, Officials may rely upon the advice of the City Attorney as to whether the official has a conflict of interest pursuant to law. In matters where a conflict of interest exists, the Official shall excuse themselves from the dais, and refrain from discussion and vote except when the Official's participation is necessary to obtain a quorum or

otherwise enable action. In such a case, the official shall disclose the interest creating the appearance of impropriety and comply with the disclosure requirements of MCA 2-2-101 et seq., prior to performing the official act.

LMC 2-26 Conflict of Interest Policy Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this ordinance shall be as follows:

1. Gift shall mean any benefit, favor, service, privilege, or thing of value which could be interpreted as influencing a public official's impartiality. Gifts include, but are not limited to: trips, money, merchandise, foodstuffs, and tickets to sports, civic or cultural events; services or work provided by City suppliers and offers of future employment from City suppliers. Gifts do not include items that would not ordinarily be interpreted as affecting an official's impartiality; such as an occasional business lunch, potted plants or flowers, boxes of candy for office personnel, or advertising office supplies, such as pencils, calendars, or pens, or other token gifts of small value.
2. Immediate and direct official action shall mean any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

3. Official shall mean and include any person who serves on the City Commission or any advisory or community board or committee created by the Commission.

4. Substantial conflict of interest shall mean a situation, which is likely to affect the judgment or actions of an official in the performance their duties for the City.

5. Financial Interest shall mean any interest which shall yield, directly or indirectly, a monetary or other material benefit (other than duly authorized salary or compensation for services to the City) to the official, their family members and cohabitants, or any person retaining the services of the official.

LMC 2-27 Just and equitable treatment

A. Use of Public Property. No official shall request or permit the use of City-owned vehicles, equipment, materials or property or the expenditure of City funds for personal convenience or profit unless authorized by other agreement. Use or expenditure is to be restricted to such services as are available to the public generally or for such employee in the conduct of official business.

B. Obligations to Citizens. No official shall grant any special consideration, treatment or advantage beyond that which is available to every other citizen.

C. Except as authorized by law and in the course of his or her official duties, no official shall use the power or authority of his or her office or position with the City in a manner intended to induce

or coerce any other person to provide such official or any other person with any compensation, gift, or other thing of value directly or indirectly.

D. No official may ask for or receive, directly or indirectly, any compensation, gift, or thing of value, or promise thereof, for performing or for omitting or deferring the performance of any official duty, or action by the City other than the compensation, costs or fees provided by law.

LMC 2-28 Campaign activities

City officials are encouraged to participate in the political process on their own time, with their own personal resources, and outside of the workplace by working on campaigns for the election of any person to any office or for the promotion of or opposition to any ballot proposition. Officials shall not use or authorize the use of the facility of the City of Livingston for such purposes except as authorized by law. See subsection 2 –2-121 MCA which applies to public officials.

LMC 2-29 Gifts and Things of Value

Officials may not accept gifts or other things of value when given by anyone who does business or seeks to do business with the City, if the gift is given for performance, or the failure to perform, one's duty; or when the gift could appear to be for the purpose of obtaining special consideration or to influence a City action. Pursuant to subsection 45-7-104 (5)(b) MCA, this section does not apply to trivial benefits incidental to personal, professional, or business contacts and involving no substantial risk of undermining official impartiality. A hosting government or agency may sometimes pay for other costs, such as travel expense and hotel accommodation, associated with government-related activities. Gifts of this nature are not a violation of this policy.

Gifts do not include items for which fair market value is paid or which are reimbursed by the City, or items received but donated to a charitable organization within 30 days of receipt of the gift. Meals are not considered gifts or items of value.

LMC 2-30 Conflicts of Interest

In addition to conflicts of interest identified above, the following rules apply to all officials of the City. No official shall engage in any act that is in conflict with the performance of official duties. An official shall be deemed to have a conflict of interest if he or she directly or indirectly:

1. Receives or has any financial interest in any purchase, sale or lease to or by the City of any service or property when such financial interest was received or obtained with the prior knowledge that the City intended to purchase, sell or lease such property or service;

2. Is beneficially interested in any contract, sale, lease, option or purchase that may be made by, through, or under the supervision of the official, in whole or in part, or accepts, directly or indirectly, any compensation, gift or thing of value from any other person beneficially interested therein;

3. Accepts or seeks for others any employment, travel expense, service, information, compensation, gift or thing of value on more favorable terms than those granted to the public generally. These favorable terms may not be solicited from any person doing business, or seeking to do business with the City in an area for which the employee has responsibility or with regard to which he or she may participate. This subsection shall not apply to the receipt by elected officials of meals, refreshments or transportation within the boundaries of the City when given in connection with meetings with constituents or meetings which are informational or ceremonial in nature.

LMC 2-31 Prior employment

No official shall be disqualified from service solely because of his or her prior employment; however such official shall be disqualified from taking any immediate and direct official action with respect to his or her prior employer for a period of two (2) years from the date of termination of employment.

LMC 2-32 Contemporaneous employment

Under no circumstances shall any official engage in a decision that may cause a conflict of interest with his or her outside employment or financial interest. No use should be made of City-owned materials or facilities in performing such outside work.

LMC 2-33 New Official training

Every official, upon initiating service with the City, shall receive a copy of the Conflict of Interest Policy as part of the service's orientation.

LMC 2-34 Violation of Conflict of Interest Requirements

Violation of this ordinance shall be ground for discharge or other disciplinary action. Disciplinary action and grievance procedures will be conducted according to the City Commission Handbook and Montana Code Annotated where appropriate.

Commissioners Code of Conduct

On February 20, 2007, by Resolution No. 3826 the City Commission of the City of Livingston adopted Rules of Conduct for Livingston City Commissioners. The purpose of the code of conduct was to define the role of the City Commissioners in the governance of the City of Livingston and by establishing guidelines for City Commissioners when dealing with city staff and members of the public, both in the public process and outside thereof.

RULES OF CONDUCT
FOR THE LIVINGSTON CITY COMMISSION

Pursuant to 7-5-4103 Montana Code Annotated (MCA) the City Commission of the City of Livingston, Montana, hereby adopts rules of conduct for members of the City Commission. [7-5-4103-53-MCA provides as follows: "The Council may determine the rules of its proceedings, punish its members for improper conduct, and expel any member for the same by 2/3 vote of the members elected."]

Introduction

The purpose of this Code of Conduct (Code) is to define the role of City Commissioners in the governance of this City. This code consists of policies and implementing rules is intended to advance the City's goals of providing efficient and high quality services to its residents through its staff, providing a productive work environment for City staff all the while furthering public participation in fair and open public proceedings of the City Commission.

Background

The City of Livingston is a general power city governed by a commission/ manager form of government. The City Commission exercises legislative powers set forth in 7-1-4123-MCA. The City Manager is charged with implementing the policies and decisions of the City Commission, enforcing laws, ordinances and resolutions and administering the day to-day affairs of the city with the assistance of city staff. The City Commission has direct authority over the City Manager; all other city staff are under the direct authority and supervision of the City Manager. This Code of Conduct establishes rules that contribute to the success of this basic structure and to maintaining positive and effective working relationships between City Commissioners, City Manager, staff and the public.

Limitations

This Code of Conduct addresses selective aspects of the governance of the City and supplements, but does not supplant other laws and rules that prescribe the legal responsibilities of City Commissioners, including the Montana State Constitution, laws of the State of Montana, the Standards of Conduct and Code of Ethics (2-2-101et seq. MCA) for public officers and employees and the Livingston Municipal Code.

It is not possible for a code of this kind to anticipate and provide a rule of conduct for all Situations. All City Commissioners are expected to manage their behavior in a manner consistent with the rules that follow, respect the chain of command and behave within the bounds of their authority. All City Commissioners are expected to treat each other, city staff, residents, business people and the public with courtesy and respect in a manner that reflects well on the City.

Policies and Rules

The Code of Conduct consists of general policies governing the conduct of City Commissioners and following each policy is a set of rules that give specific application to the policy.

Policy 1. City Commissioners shall deal with the administration and staff solely through the City Manager or his/her designee. (7-3-305-Montana Code Annotated MCA)

Explanation. City staff is organized in a hierarchical structure, and work under the direction and control of several layers of management culminating with the City Manager. City Manager is responsible for hiring and supervising staff. Individual City Commissioners are not part of that management structure and have no authority to direct employees. City Commissioners are not authorized directly to give work assignments to staff. City Staff has been instructed not to take directions or work assignments from City Commissioners and to report any such attempt to their Department Head. When any City Commissioner attempts to give an employee directions, the employee is put in an awkward position and the management structure is undermined. In addition, a City Commissioner may be exposed to personal liability by acting outside the course and scope of his/her duties. City Commissioners are immune from damages for legislative acts, a legislative act does not include administrative actions. (2-9-111-MCA).

Rule 1.1: A City Commissioner shall not direct, order or make demands on city staff. When any City Commissioner attempts to give an employee directions, the employee is put in an awkward position and the management structure is undermined.

Rule 1.2: A City Commissioner having a question concerning city business shall direct such question to the city manager for an answer. The city manager after consultation with staff shall provide an answer within a reasonable time.

Rule 1.3: A City Commissioner shall not attempt to reorganize staff's priorities or influence the manner by which city staff performs their assigned functions and duties.

Rule 1.4: A City Commissioner shall not retaliate, threaten to retaliate, discipline or threaten to discipline city staff.

Rule 1.5: A City Commissioner shall not interfere with the manner by which the City Manager performs his or her duties.

Rule 1.6: A City Commissioner shall not interfere with the implementation by staff of approved projects and programs.

Policy 2: City Commissioners shall only act collectively as a body in a properly noticed and constituted public meeting.

Rule 2.1: A City Commissioner shall not take action on behalf of the City Commission unless expressly authorized to do so by the City Commission in a duly noticed and constituted public meeting.

Rule 2.2: A City Commissioner shall not use his or her official office as a means of advancing personal opinions through public statements whereby an inference can be drawn that they are speaking on behalf of the City Commission as a whole.

Rule 2.3: A City Commissioner shall make no promises or representations on behalf of the City Commission or City unless expressly authorized to do so by the City Commission in a duly noticed and constituted public meeting.

Rule 2.4: To ensure fairness and due process, all decisions made by a city commissioner must be based solely upon the record presented in an open meeting of the city commission wherein the public, following due notice, has had the opportunity to participate in the process and to be heard prior to the final decision.

Rule 2.4. (a) Except as provided for in quasi-judicial proceedings as set forth in Policy No. 5, should a City Commissioner receive information concerning a City Commission agenda matter from a source who is unable to attend the meeting of the City Commission, the information should be placed into the public record by the City Commissioner prior to any decision being made by the City Commission in order to allow public comment on the information and discussion by the City Commission.

Rule 2.5: City Commissioners shall respect the public process including the right to know and the right to participate as established by the Montana Constitution, the laws of the State of Montana and rules adopted by the City Commission to ensure public participation in matters of significant interest to the public (widespread public interest) prior to final decision.

Rule 2.6: A City Commissioner shall perform his/her duties in accordance and with respect to the rules of procedure established by the City Commission to allow meaningful involvement of the public and debate between the Commissioners prior to final decision.

Policy 3: A City Commissioner shall conduct themself in a public meeting with civility and with proper decorum.

Rule 3.1: To retain order, a City Commissioner must first be recognized by the Chair, and once recognized, shall limit comments to the matter currently before the City Commission.

Rule 3.2: A City Commissioner shall not interrupt another City Commissioner who has the floor, nor make personal comments not germane to the business under discussion or otherwise interfere with the orderly conduct of meetings.

Rule 3.3: A City Commissioner shall honor the efforts of the Chair to keep comments of City Commissioners on track with the agenda item Disagreements with the Chair's decision shall be voiced politely and stating the reasons, and following a duly seconded motion may be overruled by majority vote of the entire Commission.

Rule 3.4: City Commissioners shall prepare for the public meetings, listen courteously and attentively to all public discussions, treat the public with respect and courtesy and focus on the business at hand.

Rule 3.5: While it is acceptable to publicly disagree on issues, a City Commissioner shall not make derogatory comments about other City Commissioners, or their opinions and actions.

Rule 3.6: A City Commissioner shall not directly enter into debate with a member of the public or staff. All comments shall be directed through the Chair.

Policy 4: An individual City Commissioner in dealing with the public outside of a duly noticed meeting shall conduct themself in a manner so as not to bring reproach upon the City Commission or the public process.

Rule 4.1: An individual City Commissioner shall make no promises or representations on behalf of the Commission or City.

Rule 4.2: When making public comment, a City Commissioner shall make it clear whether they are authorized to speak on behalf of the City Commission as a whole, or whether they are presenting their own personal view.

Policy 5: In quasi-judicial matters, the City Commission shall comply with the fairness doctrine and due process requirements of due notice of hearing and provide an opportunity to be heard.

NOTE: The City Commission exercises a quasi-judicial function when it exercises judgment and discretion in determining the legal rights, duties or privileges of specific parties in a hearing or contested proceeding before the City Commission. Whenever exercising quasi-judicial authority, due process and the appearance of fairness doctrine requires the hearing to be held in a public forum, where the parties have been provided with adequate notice and an opportunity to be heard prior to the final decision. Most notably, the City Commission exercises quasi-judicial authority in rendering land use decisions, including the zoning or rezoning of specific pieces of property, in the granting of variances or special exceptions, and in the approval or denial of subdivisions. A City Commission does not act in a quasi-judicial manner when engaged in legislative matters. Example: In enacting zoning laws, the City Commission exercises its legislative powers as the zoning law would have general effect throughout the community; however, when the City Commission is applying the zoning law to a specific piece of property, i.e. the granting of a variance, the city commission is exercising quasi-judicial authority as the decision affects a specific party The City Commission also exercises quasi-judicial authority in the discipline or termination of a firefighter pursuant to 4712-343-MCA.

Rule 5.1: When a quasi-judicial proceeding is pending before the City Commission, a City Commissioner shall avoid ex pane communications in connection to any issue of fact or law with any party or a party's representative.

NOTE: An ex parte communication is an oral or written communication not on the public record to which reasonable prior notice to all parties has not been given. Fairness and due process requires a City Commissioner, sitting as a quasi-judicial officer, to make his or her decision based solely upon the information presented in the public forum which has been duly noticed and where the parties have been provided an opportunity to be heard prior to final decision.

Rule 5.2: If a City Commissioner is approached by a member of the public or a party concerning a quasi-judicial matter, the City Commissioner should advise the individual that the proper forum for such communication is at the public hearing and that it is improper for the City Commissioner to discuss the matter outside of the public hearing.

Rule 5.3: If an ex-parte communication which is unavoidable is made to a City Commissioner concerning a quasi-judicial matter, the City Commissioner at the beginning of the hearing shall disclose the content of the communication, as well as the person who made the communication so that the parties may address such communication in the hearing prior to final decision. If necessary, additional time maybe allotted for the parties to address the ex-parte communication.

Enforcement

The City Commission is committed to maintain a productive work environment and to that end, every City Commissioner is expected to observe these policies and rules when engaged in City business. The goal of enforcement of this Code of Conduct is corrective, rather than penal, and a progressive approach to curing violations shall be employed, beginning with informal methods and proceeding to more formal methods as necessary.

Violations of this code of conduct, may be enforced as follows:

1. Informal counseling means a decision by the City Commission, while the City Commission is in session, that a City Commissioner is out of order or is in violation of the Code of Conduct. Any member may be determined to be out of order by a motion duly seconded and approved by a majority of the Commissioners present;
2. Formal discipline means a decision by the City Commission as a body concerning a violation of the Rules of conduct by a City Commissioner which is formalized by a public reprimand (oral) or by public censure (written) as hereinafter set forth, or
3. Expulsion from the public meeting by 2/3 vote of the elected membership of the City Commission during which the Rules of Conduct are violated.

Violations of this code that require formal discipline or which occur outside of a public meeting may be handled as follows:

1. The City Commission may determine in a public meeting whether there is a reasonable ground to believe that a violation of this Code of Conduct has occurred. If so, the City Commissioner accused of said violation shall be advised of the nature of the violation in writing and that the matter will be heard before the City Commission at a specific time and place.
2. If the City Commissioner admits that allegation is true, the City Commission may impose one or more of the following sanctions:
   i, Public reprimand (oral) by vote of Commission
   ii. Public censure (written) formalized by a resolution

iii. Removal from committee/board assignments

3. Should the City Commissioner deny the allegations, following due notice, a public hearing on the charge will be held wherein evidence and testimony will be presented, to the City Commission as a whole. If the City Commission as a body finds by a preponderance of the evidence that the violation is substantiated, the City Commission may impose one or more of the following sanctions:
   i. Public reprimand (oral) by vote of Commission
   ii. Public censure (written) formalized by a resolution
   iii. Removal from committee/board assignments.

State Open Records Laws

The records of the City of Livingston are generally open and available for public inspection at any time. The Montana Secretary of State has promulgated regulations for record retention that the City adheres to. Documents that are not available to the public include: closed meeting minutes; criminal justice information; attorney-client work product; and personnel records. Commissioners should understand that their communications and documents are generally available for public inspection regardless of the device or program used to create, share or store them. Commissioners are encouraged to review the Secretary of State website to learn more.

Procedure to Replace Commissioners

Both Montana Code Annotated and the Livingston Municipal Code provide a framework for the removal of Commissioners. While such an action is unusual and should only be contemplated in the most dire of circumstances, Commissioners should understand the provisions of MCA 7-4-4113, LMC 2-43 and the Code of Conduct in this document.

Relevant Statutory References

MCA 2-2-103. Public trust -- public duty.

(1) The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of judicial officers, public officers, legislators, and public employees. A judicial officer, public officer, judge, legislator, or public employee shall carry out the individual's duties for the benefit of the people of the state.

(2) A judicial officer, public officer, judge, legislator, or public employee whose conduct departs from the person's public duty is liable to the people of the state and is subject to the penalties provided in this part for abuse of the public's trust.

(3) This part sets forth various rules of conduct, the transgression of any of which is a violation of public duty, and various ethical principles, the transgression of any of which must be avoided.

(4) (a) The enforcement of this part for:

(i) judicial officers, state officers, judges, legislators, and state employees is provided for in 2-2-136;
(ii) legislators, involving legislative acts, is provided for in 2-2-135 and for all other acts is provided for in 2-2-136;
(iii) local government officers and employees is provided for in 2-2-144.

(b) Any money collected in the civil actions that is not reimbursement for the cost of the action must be deposited in the general fund of the unit of government.

MCA 2-2-105. Ethical requirements for public officers and public employees.

(1) The requirements in this section are intended as rules of conduct, and violations constitute a breach of the public trust and public duty of office or employment in state or local government.

(2) Except as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

(3) A public officer or public employee may not, within 12 months following the voluntary termination of office or employment, obtain employment in which the officer or employee will take direct advantage, unavailable to others, of matters with which the officer or employee was directly involved during a term of office or during employment. These matters are rules, other than rules of general application, that the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the officer or employee was an active participant.

(4) When a public employee who is a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority is required to take official action on a matter as to which the public employee has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter, the public employee shall disclose the interest creating the conflict prior to participating in the official action.

(5) A public officer or public employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the officer or employee has a substantial personal interest in a competing firm or undertaking.

MCA 7-5-4103. Council rules and discipline.

The council may determine the rules of its proceedings, punish its members for improper conduct, and expel any member for the same by a two-thirds vote of the members elected.

MCA 7-1-4141. (Effective July 1, 2024) Public meeting required.

(1) All meetings of municipal governing bodies, boards, authorities, committees, or other entities created by a municipality must be open to the public except as provided in 2-3-203.

(2) Subject to the requirements of 2-3-212, appropriate minutes must be kept of all public meetings and must be made available to the public for inspection and copying and meet the requirements of 2-3-214(2)(b).

7-1-4142. Public participation. Each municipal governing body, committee, board, authority, or entity, in accordance with Article II, section 8, of the Montana constitution and Title 2, chapter 3, shall develop procedures for permitting and encouraging the public to participate in decisions that are of significant interest to the public.

Appendix A: Disclosure Form

Livingston City Commission

Disclosure Form

This form is provided to all Livingston City Commissioners to assist City Staff in identifying potential conflicts of interest. Commissioners are required to complete the form upon taking office and at any time throughout their term that information changes. The completed form shall be returned to the City Manager.

Commissioner Name: _____

Address: _____

Employer: _____

Spousal Employer: _____

Other Employers of Household Members: _____

Association Memberships: _____

_____

_____

_____

Please identify any other potential conflicts that you may have: _____

_____

_____

_____

Appendix B: Application for City Commissioner

Livingston City Commission

APPLICATION FOR CITY COMMISSIONER

1. Name: _____

2. Address: _____

3. How long have you resided in Livingston? _____

4. Are you at least 18 years of age? Yes _____ No _____

5. Are you a citizen of the United States? Yes _____ No _____

6. Have you resided in the State of Montana for more than 30 days? Yes _____ No _____

7. Have you resided in Park County for more than 30 days? Yes _____ No _____

8. Have you ever been convicted of a felony? Yes _____ No _____

9. Why do you want to be a City Commissioner? _____

10. Do you have any prior experience in local government? If so, please describe? _____

11. Do you have any special qualifications which you believe would be an asset to the City Commission? _____

12. What do you see as the most important needs facing the City of Livingston? _____

Appendix C: Threat Response

While members of the public generally have a First Amendment right, they do not have the right to threaten or incite violence. As public officers, the Livingston City Commission may be subject to intimidation or threats from community members. Similarly, as the head of the executive branch, the City Manager may be subject to intimidation or threats.

In such instances, affected Commissioners will work with the City Manager and Police Chief to identify the level of security that is needed based on the threat level for the city and Commissioners and develop a strategy to provide it. That strategy could include:

- a protective detail;
- security at public events;
- residential security assessments;
- additional neighborhood patrols; and
- other procedures

In certain situations, it may be necessary for City Commissioners to work directly with the Police Chief to manage a threat response. In such cases, the affected City Commissioners shall provide notice to the City Manager for such action, which may otherwise violate the provisions of this handbook.

In all situations, the cost of providing the required security will be the responsibility of the City of Livingston.