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# Governing Montana at the Grass Roots

Local Government Structure, Process and Politics

Third Edition



*County and Municipal Government Forms,  
Finances, Powers and Politics*

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## PART II

### THE ARCHITECTURE OF LOCAL GOVERNANCE

The chair of the county commission asked those present at the 6:30 A.M. meeting to get a second cup of coffee and settle down so that they could get through their discussion agenda before the regular work day started. Joining the commissioner at the table were her two colleagues on the board of county commissioners, the school district superintendent and presiding officer of the school board, as well as the mayor and two members of the city council. Also participating was the president of the Chamber of Commerce, a reporter from the local paper and one or two colorful citizens who were considering running for local elected office.

This meeting of local government leaders was not unusual in this particular Montana community. The idea of a monthly get-together among representatives of the local governing bodies had been initiated several years earlier in an effort to coordinate their appeal to the state legislature concerning the adverse budget impacts of the property tax freeze. Their legislative effort had been unsuccessful but the habit of regular communication and program coordination stuck. The focus of this particular meeting was their shared concern about gaining voter support for two competing bond referenda. One was being considered by the school board to fund new classrooms and the other by the city council to build a new fire station. They concluded their vigorous discussions by agreeing to recommend to their respective governing bodies that it would be best to delay the vote on the school bonds for one more year and to take the firehouse bonds to the local voters in the fall. The Chamber president warmly supported the compromise and agreed to brief his executive board on the outcome soon. The participants set the time and date for the next meeting and adjourned by 7:45 so they could get on to work.

The significance of this hypothetical meeting of local leadership is that it occurs far too seldom in Montana despite the fact that local government in a typical Montana county includes a roster of at least 20 or so local officials who are *separately* elected but *collectively* responsible for the health, safety and well-being of their community. The elected officials encountered in most of Montana's 56 counties include:

- A county commission typically comprised of three county commissioners and as many as ten other elected county officials;

- A mayor and a city or town council with at least four council members in each incorporated municipality; and,
- A school board of at least three but commonly five or more elected members.

The combined budget responsibilities of these units of local government could easily exceed \$10 million for a county with a total population of 10,000. Moreover, the expanding menu of costly and complex local government responsibilities, combined with the realities of budget austerity and a remote legislature, leave little room for “go-it-alone” government by the elected leadership of most Montana counties and communities. The emerging fiscal and political realities of the 21st century now confronting Montana’s local officials will probably require better communication, closer coordination and even collaboration if the architecture of local governance is to continue meeting the needs of the citizens it serves. An overview of this architecture and the processes of local government is, therefore, an appropriate first step in understanding the forms, functions and powers of county and municipal government.

Government at the grassroots is about the delivery of essential services and the management of local conflict. While essential services, such as safe water distribution, garbage collection, traffic safety, and filling the potholes are the local government functions that most readily come to mind, the local government role in conflict resolution enables people of different races, religions, economic interests and life-styles to live together safely, even if not always harmoniously.<sup>1</sup> To perform these community-sustaining functions, local governments have been created and empowered by their parent states to exercise *limited governing authority within a limited geographic area*.

Local governments in Montana and generally in the United States have three distinctive characteristics that set them apart from other local institutions. *First*, those who serve in local government must be locally elected or must be appointed to their positions by a locally elected governing body. *Second*, a local government is subject by law and custom to a high degree of public accountability, including the right of public access to virtually all local governmental processes and records and the right of direct public participation in a wide range of local government decision-making. *Third*, local governments exist primarily, if not exclusively, for the purpose of providing those essential services, which will protect the public health and safety and enhance public well-being.<sup>2</sup>

The local government landscape in Montana includes three general categories of governing and service delivery organizations: *county governments*, *municipal governments* and *special districts*. Montana’s 56 county governments and 129 municipal governments (including the two consolidated city-county governments of

Anaconda-Deer Lodge and Butte-Silver Bow) are *general purpose* governing structures that perform a wide range of public purposes such as law enforcement, regulatory functions and direct service delivery. The several thousand special districts in the state are, on the other hand, *single-purpose* governmental organizations that perform a specific function, such as a local school district, or provide a specific service such as a rural water district. In the United States there are about 3,000 county governments, 19,000 or so municipal governments and perhaps as many as 50,000 special districts.<sup>3</sup> Additionally, there are some 10,000 townships providing limited service delivery functions, such as road maintenance, in the suburban areas of some states, however, no townships exist in Montana.

Meeting the public's health, safety and welfare needs and expectations is the job of those elected and appointed officials who serve in county and municipal governments and special districts. These three governmental structures comprise the architecture of Montana's local governance and are described in some detail in the chapters included in Part II which commences with a description of Montana county governments.

#### 4. Montana County Government

members of the *county tax appeal board*. The board's purpose is to hear taxpayer protests of the assessed value of their property, which is fixed each year by the Montana Department of Revenue. The assessed value is the starting point upon which the annual property tax assessment is made. Upon filing a written application with the county tax appeal board for reduction of the assessed valuation of taxable property, the property owner is then notified of a hearing date at which the taxpayer or representative must appear. The board reviews the application and examines the applicant under oath concerning the value of the property and may then change the assessed valuation or "...fix the assessment at some other level." The decision of the county tax appeal board may be appealed by the applicant (or by the state or local government) to the state tax review board at the Montana Department of Revenue.

**Other Boards and Commissions.** In addition to the several boards described above, the board of county commissioners may also appoint a number of other administrative boards, districts or commissions to perform specific county functions. (7-1-201, M.C.A.) Notable among these are: the *county weed board* – responsible for the development of a noxious weed program in every county; the *county fair commission*; *cemetery districts*; *solid waste districts*; *mosquito and rodent control districts*; and *park commissions*. Each of these administrative entities created by the board of county commissioners has specific statutory authority to perform its county functions.

The elected and appointed officers and the boards and commissions, described above, which together form the structure of county government, must perform the duties required by state law but may exercise only those governing powers permitted by state law, as described briefly below.

#### County Governing Powers

All but three of Montana's 56 counties have *general government powers*, which means that they have only those governing powers delegated to them by the Montana State Constitution and by legislative enactment. Unlike any one of Montana's 129 incorporated municipalities, county governments with general powers have very narrowly defined authority to enact ordinances with the force of law. Rather, the 53 general power county governments interpret and apply state law. The two city-county consolidated governments acquired *self-government powers* in 1976 at the time their voters approved the self-government charters that created the consolidated governments. Both have made considerable use of their broader municipal powers as consolidated city-county governments but have exercised their *self-government powers* infrequently. Fergus County acquired self-government powers for its traditional commission form when its charter was approved by the voters in 1996 but, as yet, has made no specific application of its recently acquired self-governing powers.

In general, Montana counties remain dependent upon the state legislature to define their county government structure, their roles and responsibilities and the scope of their authority to perform any governmental function, provide any governmental service or exercise any governmental responsibility. As a result, a great deal of county "housekeeping" legislation is still required each biennial, ninety-day session of the Montana State Legislature just to enable Montana's county governments to respond to local needs. This pattern of dependency continues despite the opportunity provided to local governments and their citizens by the 1972 Constitution to adopt self-governing powers and thereby reduce their day-to-day operational and fiscal dependency upon state government. The nature and significance of self-government powers is reviewed at length in Chapter 9.

### Funding County Government

Of the more than \$1 billion in property tax revenue collected annually in Montana about 18 percent is allocated to pay for county government operations. Another 12 percent is disbursed to support the annual budgets of Montana's cities and towns but the majority (64 percent) of the property tax revenue goes to fund K-12 and higher education.<sup>16</sup>

These property tax dollars are the primary funding source for Montana counties, often comprising as much as 60-65 percent of a county's operating budget to fund county services. Additional county revenues are derived from intergovernmental transfer payments from the federal and state governments, such as annual payments-in-lieu-of-taxes (PILT) from the federal government and the annual *guaranteed entitlement distribution* to local governments from the State of Montana, described in Chapter 8. Some counties may generate significant local revenues such as traffic fines but, in general, a county government's property tax base determines its ability to meet the service delivery expectations of its county residents. It therefore makes some sense that all Montana county governments are categorized by state law in one of seven county classifications depending upon the dollar valuation of the county's property tax base.<sup>17</sup> Thus, a county with substantial taxable value in the form of commercial property or industrial plant, for example, will probably have relatively lower residential property taxes yet be able to afford relatively advantageous service delivery programs. Conversely, residents of a county with little or no industry are likely to experience relatively high property taxes on their residences while receiving only minimum essential county services. There are at present seven county classes ranging from the ten Class 1 counties with a taxable value greater than \$50 million to a single Class 7 county with a taxable value of less than \$5 million.

The wide variance in the available property tax resources between the most prosperous counties and the least prosperous counties perennially raises the question

## MONTANA MUNICIPAL GOVERNMENT

When large numbers of people occupy a relatively small geographic space they soon discover that the health and safety of their community require some agreed-upon rules of conduct and a plumbing system. Thus, while county government was created by the state primarily to meet the needs of the state, a municipal corporation and its governing structures are the creation of a community to meet community needs. In short, Montana's 129 incorporated cities and towns exist, under Montana law, primarily to *protect the public health and public safety* of the citizens living within the city or town limits of their respective jurisdictions.

An attentive tourist traveling across the Big Sky State would soon discover that each of these 129 communities seems to have its own distinctive personality. Certainly Butte, Philipsburg and Virginia City retain the flavor of their hard rock mining origins whereas Fort Benton (probably the oldest existing city in Montana) nurtures its aura of an 1850s Upper Missouri trading post.<sup>1</sup> Browning and Poplar are not only incorporated towns but also serve as the centers of their respective tribal governments. Miles City's annual "Bucking Horse Sale" celebrates that community's long and colorful history as an important center on the Montana cattle frontier while Hamilton, Harlowton and Havre all honor their somewhat more tranquil beginnings as homestead era, agricultural market centers.<sup>2</sup> However distinctive the origins of these unique communities may be, today they share with all of Montana's cities and towns a common agenda of issues and problems that may place at risk the well-being of their citizens.

Clean water, clean air, safe streets, fire protection, drug-free and violence-free schools, potholes, barking dogs, affordable housing and main street prosperity are issues that regularly show up on the council agenda of every incorporated city and town in Montana. From Billings (population 100,000) to Ismay (population 25), the mayor and council not only have to deal with these issues; they must find ways to pay for solutions that their communities can afford.

If not before, certainly since the mid-1980s, the affordability of community services and facilities has become the single-most important concern of municipal officials. For example, as a community's water and waste water systems gradually and inevitably deteriorate, residential water and sewer rates must be increased to provide the revenues to pay for the repair and replacement of the pipes, wells and filtration plants. However, a mayor or council member who too vigorously advocates

5. Montana Municipal Government

an increase in utility rates or property taxes to pay for needed repairs may well find that he or she is soon voted out of office. Since most mayors and council members receive little or no compensation for their public service, an election loss is seldom the equivalent of the loss of a job, however difficult it may be to suffer the rejection of the voters who are also one's friends and neighbors. The continuing turnover of elected municipal officials which, every two years exceeds 30 percent of the more than 740 elected mayors and council members, means that in many communities there is an understandable tendency to put off dealing with the tough problems of affordable public facilities and services. Nevertheless, those communities, which fail to address these issues in a timely fashion put the well-being of their citizens at risk, discourage new business investment and may well jeopardize the survival of the community itself.<sup>3</sup>

One, but by no means the only way to deal with the increasingly difficult issues and problems confronting Montana's cities and towns, is to alter the familiar council-mayor form of municipal government. Some 90 alterations, in the structures and powers of municipal government in Montana, have been adopted by local voters since the Local Government Review process was initiated in 1974. In addition to a host of relatively modest structural changes to the familiar council-mayor form of government, a number of communities have adopted an entirely new form of municipal government to cope with community governance problems. For example, there are now eleven communities with the "commission-manager" form of municipal government, while two towns have adopted the relatively unfamiliar "commission-presiding officer" form and, as of 1996, one community has adopted the "town meeting" form to reflect more nearly its unique cultural character. See Table 5-1 for the forms of municipal government found in Montana.

**TABLE 5-1**

**Forms of Municipal Government in Montana**

Form of Government	With Charter	Without Charter	Total
Town Meeting	1	0	1
Commission-Presiding Officer	0	2	2
Commission-Executive (Council-Mayor) Includes the two consolidated governments	24	90	114
Commission-Manager	9	3	12
<b>TOTAL</b>	<b>34</b>	<b>95</b>	<b>129</b>

Source: Montana Local Government Profiles-2007, Local Government Center, Montana State University.



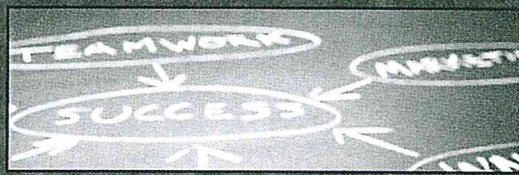
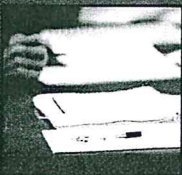
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Montana Local Government  
Board Handbook

# Montana Local Government Board Handbook

*A Guide to Serving on Boards, Districts, Commissions and Committees*

2016 Edition



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EXTENSION

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The information presented here attempts to describe and clarify many of the complex issues confronting boards in Montana. This document applies to those boards and membership thereof that are:

1. appointed and/or with oversight by local governments and,
2. open to membership to citizens in addition to local government officials and,
3. authorized and described in the Montana Code Annotated (MCA).

Serving on or interacting with the myriad boards, districts, commissions and committees in Montana offers some of the best opportunities to practice and nurture the democratic ideals we all hold dear. Understanding how to more effectively serve on a board will allow board members, local government officials and citizens to better interact and cooperate and in so doing, sow the seeds of good governance.

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## 1. OVERVIEW OF BOARDS, DISTRICTS, COMMITTEES, OR COMMISSIONS IN MONTANA

In contrast to county or municipal forms of local government (that are multi-purpose governing structures performing a wide range of direct service delivery and regulatory functions), most boards, districts, commissions and committees are single-purpose entities that perform a specific function or provide a particular service. Boards can also consolidate different government responsibilities to increase efficiency. In addition, two or more local governments may provide for joint boards to be established by interlocal agreements. Many boards are mandatory while others are created at the discretion of the governing body.

There are 1,265 distinct local governments in Montana as defined by the US Census.<sup>3</sup> These entities include county, municipal, school district, and special district governments.<sup>4</sup> School districts and certain special districts can function with many of the same powers of local governments. Some districts are special taxing areas and may be governed by an appointed or elected board.<sup>5</sup> However, most boards, districts, committees, or commissions have more limited responsibility or authority and thus are considered subordinate agencies of the state or of local governments.

There are 763 special districts in Montana.<sup>6</sup> Many special districts are counted as local governments by the U.S. Census Bureau with three attributes:

1. Organized entity (possession of some corporate powers such as the right to sue and be sued),
2. Governmental character (requirements for public reporting or for accessibility of records to public inspection) and,
3. Substantial autonomy (considerable fiscal and administrative independence such as determining taxes to be levied and using debt without review by another local government).<sup>7</sup>

Some districts have autonomous governing boards, but their funding may depend on approval by the appropriate governing authority. If districts are not governed by an appointed or elected board, the local government officials *ex officio* administer board duties. Table 1 presents information on the principal boards, districts, commissions and committees in Montana.

<sup>3</sup> U.S. Census Bureau. 2012. Census of Governments <http://www2.census.gov/govs/cog/2012isd.pdf>

<sup>4</sup> There are two consolidated city-county government structures that operate as one government; Anaconda-Deer Lodge and Butte-Silver Bow are classified under Montana law both as counties and as municipalities. However, Anaconda Deer Lodge and Butte-Silver Bow are each counted only once for census purposes as municipal governments rather than as county governments.

<sup>5</sup> A special district is defined in 2-2-102(9) as a unit of local government, authorized by law to perform a single function or a limited number of functions. The term also includes any district or other entity formed by interlocal agreement. For more detail of special districts, see 7-11-1001.

<sup>6</sup> U.S. Census Bureau. 2012. Census of Governments <http://www2.census.gov/govs/cog/2012isd.pdf>

<sup>7</sup> Ibid

**Table 1: Principal Boards, Districts, Committees, or Commissions in Montana**

Name	Montana Code Annotated (Title-Chapter-Part)	Name	Montana Code Annotated (Title-Chapter-Part)
<b>Airport</b>		<b>Land Use and Planning</b> <i>(continued)</i>	
Airport Appeals Board	67-7-302	County Tax Appeal Board	15-15-101
Airport Board	67-10-201	County Planning Board	76-1-101
Municipal Airport Authority	67-11-102	City Planning Board	76-1-101
Regional Airport Authority	67-11-103	City-County Planning Board	76-1-101
<b>Economic Development / Infrastructure</b>		Joint or Consolidated Planning Boards	76-1-112
Business Improvement Districts	7-12-1111	County Planning and Zoning Commission	76-2-101
Rural Improvement Districts	7-12-2101	County Zoning Commission	76-2-201
Special Improvement Districts	7-12-4101	County Zoning Board of Adjustment	76-2-221
Television District	7-13-2501 (Repealed)	Municipal Zoning Commission	76-2-301
Local Port Authority	7-14-1101	Municipal Zoning Board of Adjustment	76-2-321
Regional Port Authority	7-14-1102	Open Space Commission	76-6-101
Local Improvement Districts	7-14-2710 (Repealed, see 7-11-1001)	Conservation District	76-15-101
Technology District	7-15-4295 (Repealed, see 7-15-4279)	<b>Library</b>	
Industrial Districts	7-15-4299 (Repealed, see 7-15-4279)	Library Board	22-1-308
Museum and Facilities for the Arts Board	7-16-2201 (Repealed, see 7-11-1001)	Public Library District	22-1-701
<b>Elections</b>		<b>Livestock and other Animals</b>	
Board of County Canvassers	13-15-401	Rodent Control District	7-22-2210 (Repealed, see 7-11-1001)
<b>Fair</b>		Mosquito Control Board	7-22-2411 (Repealed, see 7-11-1001)
Fair Commission	7-21-3401 (Repealed, see 7-11-1001)	Grazing District	76-16-101
Multi-County Fair Districts	7-21-3421 (Repealed, see 7-11-1001)	Livestock Protective Committee	81-6-101
Joint Fair and Civic Center Commission	7-21-3451 (Repealed, see 7-11-1001)	Cattle Protective District	81-6-201
<b>Fire</b>		<b>Schools</b>	
Fire Hydrant Maintenance Districts	7-12-4601	Elementary School Districts	20-6-201
Rural Fire Districts	7-33-2101	High School Districts	20-6-301
Fire Service Area	7-33-2401	K-12 School Districts	20-6-701
<b>Governance</b>		<b>Taxation</b>	
Community Councils	7-3-223, 317, 417, and 516	Resort Area District	7-6-1532
County Compensation Board	7-4-2503	County Land Advisory Board	7-8-2701
<b>Health</b>		<b>Transportation</b>	
Solid Waste Management District	7-13-201 (Repealed, see 7-11-1001)	Urban Transportation District	7-14-201
Hospital Districts	7-34-2101	Transportation Improvement Authority	7-14-1001
Health Care Facilities Commission	7-34-2202	Railway Authority	7-14-1601
County Boards of Health	50-2-104	Parking Commission	7-14-4601
City Boards of Health	50-2-105	Aerospace Transportation and Technology District	7-15-4296 (Repealed, see 7-15-4279)
City-County Boards of Health	50-2-106	County Transportation Committee	20-10-131
District Boards Of Health	50-2-107	<b>Water</b>	
<b>Housing and Building</b>		Regional Resource Authority	7-10-101
County Building Commission	7-8-2103	Metropolitan Sanitary and/or Storm Sewer District	7-13-101
County Housing Authority	7-15-2101	County Water and/or Sewer District	7-13-2203
Municipal Housing Authority	7-15-4401	Local Water Quality District	7-13-4504
<b>Land Use and Planning</b>		Regional Water and Wastewater Authority	75-6-302
County Board of Park Commissioners	7-16-2301	Irrigation District	85-7-101
County Park District	7-16-2411 (Repealed, see 7-11-1001)	Drainage District	85-8-101
Municipal Board of Park Commissioners	7-16-4201	Conservancy District	85-9-101
Cemetery Districts	7-35-2101 (Repealed, see 7-11-1001)	<b>Weed</b>	
		Weed District	7-22-2102