

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO VOTING AND  
5 MUNICIPAL ELECTIONS; ALLOWING NONRESIDENT REAL PROPERTY OWNERS TO VOTE IN CERTAIN  
6 MUNICIPAL OR CONSOLIDATED CITY-COUNTY ELECTIONS UNDER CERTAIN CONDITIONS; ALLOWING  
7 CERTAIN NONRESIDENT REAL PROPERTY OWNERS TO BE APPOINTED OR ELECTED TO MUNICIPAL  
8 OR CONSOLIDATED CITY-COUNTY OFFICES; PROVIDING FEES FOR COUNTY CLERK RECORDING  
9 SERVICES RELATED TO A NONRESIDENT MUNICIPAL PROPERTY OWNER'S DESIGNATION OF ELECTOR  
10 FOR JOINTLY OWNED REAL PROPERTY; PROHIBITING A SELF-GOVERNING LOCAL GOVERNMENT  
11 FROM DENYING CERTAIN NONRESIDENT PROPERTY OWNERS ELIGIBILITY TO SERVE AS MUNICIPAL  
12 OFFICERS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 7-1-111, 7-1-4121, 7-2-4106, 7-3-704,  
13 7-3-1203, 7-3-1341, 7-3-4257, 7-3-4311, 7-3-4315, 7-4-2631, 7-4-4101, 7-4-4102, 7-4-4103, 7-4-4104, 7-4-4111,  
14 7-4-4301, 7-4-4401, 7-7-4103, 7-7-4221, 7-7-4226, 7-7-4235, 13-1-111, AND 13-13-301, MCA."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17  
18 NEW SECTION. **Section 1. Qualification of a nonresident municipal voter.** (1) (a) An individual who  
19 owns real property in a municipality may vote and must be considered a qualified elector in an election for a  
20 municipal officer, a referendum of the municipal governing body, a municipal initiative, a mill levy conducted  
21 pursuant to 15-10-425, an election conducted pursuant to 7-8-4201, or a bond issue conducted pursuant to Title  
22 7, chapter 7, parts 41 through 44, if the property owner:

- 23 (i) owns a minimum of 50% of the fee title interest in the real property;
- 24 (ii) is registered to vote in Montana; and
- 25 (iii) at least 40 days prior to each election in which the individual intends to vote, files with the election  
26 administrator:
  - 27 (A) a signed affidavit that the person is entitled to vote under the provisions of this section and is subject  
28 to the penalties provided in 13-35-207 if the information in the affidavit is untrue;
  - 29 (B) proof that the individual is registered to vote in Montana;
  - 30 (C) proof that the individual owns the required real property; and

1 (D) if applicable, a designation of elector as provided by subsection (2)(b).

2 (b) This section may not be construed to allow an entity other than an individual who owns real property  
3 to be considered a qualified elector.

4 (2) (a) An individual who votes as allowed in subsection (1) may only vote once in the election regardless  
5 of the number of properties the individual owns in the municipality.

6 (b) If there are two individuals who jointly own the same real property, only one individual is entitled to  
7 vote on behalf of the joint owners. The two individuals must jointly designate which elector is entitled to vote  
8 under this section in writing to the election administrator. The designation must be signed by both individuals and  
9 notarized. However, if the two individuals record a notarized designation of elector with the county clerk pursuant  
10 to [section 2], the individuals do not need to provide a new copy of the designation to the election administrator  
11 at each subsequent election, and the designation is presumed valid until an amendment is recorded in the same  
12 manner pursuant to [section 2] or the property ownership changes.

13 (3) A person convicted of a felony does not have the right to vote under this section while the person is  
14 serving a sentence in a penal institution.

15 (4) A person adjudicated to be of unsound mind does not have the right to vote under this section unless  
16 the person has been restored to capacity as provided by law.

17  
18 **NEW SECTION. Section 2. Nonresident designation of elector.** Two nonresident joint owners of real  
19 property who are entitled to vote in a municipal election pursuant to [section 1] may record a jointly signed and  
20 notarized designation of elector at the county clerk's office as provided in [section 1]. After payment of the fee  
21 pursuant to 7-4-2631, the clerk shall record the designation and forward a copy of the designation to the county  
22 election administrator. The recording of the designation is not a prerequisite for an otherwise qualified individual  
23 to vote as provided by [section 1(3)(b)].

24  
25 **NEW SECTION. Section 3. Nonresident municipal voting and candidacy for office in alternative**  
26 **forms of local government.** (1) Notwithstanding any other provision of this chapter and except as provided by  
27 subsection (3), if a municipality has adopted an alternative form of government, including the consolidation of a  
28 city or town with a county to form a single unit of local government, a nonresident real property owner is eligible  
29 to:

30 (a) participate in elections conducted by the municipality or the consolidated government pursuant to the

1 restrictions of [section 1]; and

2 (b) hold elected or appointed office in the municipality or consolidated government pursuant to the  
3 provisions of 7-4-4104.

4 (2) A nonresident real property owner qualifying under subsections (1)(a) and (1)(b) may use the location  
5 of the nonresident's real property and the length of time the person has owned the real property to be considered  
6 a resident for the purposes of voting and holding office under this chapter.

7 (3) This section does not apply to a county, other than a county that consolidates with a city or town to  
8 form a single unit of local government.

9

10 **Section 4.** Section 7-1-111, MCA, is amended to read:

11 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from  
12 exercising the following:

13 (1) any power that applies to or affects any private or civil relationship, except as an incident to the  
14 exercise of an independent self-government power;

15 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to  
16 those provisions, it may exercise any power of a public employer with regard to its employees;

17 (3) any power that applies to or affects the public school system, except that a local unit may impose an  
18 assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise  
19 any power that it is required by law to exercise regarding the public school system;

20 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public  
21 convenience and necessity pursuant to Title 69, chapter 12;

22 (5) any power that establishes a rate or price otherwise determined by a state agency;

23 (6) any power that applies to or affects any determination of the department of environmental quality with  
24 regard to any mining plan, permit, or contract;

25 (7) any power that applies to or affects any determination by the department of environmental quality  
26 with regard to a certificate of compliance;

27 (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense  
28 as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'  
29 imprisonment, or both, except as specifically authorized by statute;

30 (9) any power that applies to or affects the right to keep or bear arms, except that a local government

1 has the power to regulate the carrying of concealed weapons;

2 (10) any power that applies to or affects a public employee's pension or retirement rights as established  
3 by state law, except that a local government may establish additional pension or retirement systems;

4 (11) any power that applies to or affects the standards of professional or occupational competence  
5 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

6 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title  
7 75, chapter 7, part 1, or Title 87;

8 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended  
9 to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,  
10 chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords  
11 to comply with ordinances or provisions that are applicable to all other businesses or residences within the local  
12 government's jurisdiction.

13 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

14 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,  
15 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may  
16 enter into a cooperative agreement with the department of agriculture concerning the use and application of  
17 commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local  
18 government from adopting or implementing zoning regulations or fire codes governing the physical location or  
19 siting of fertilizer manufacturing, storage, and sales facilities.

20 (16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,  
21 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired  
22 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal  
23 communications commission of the United States;

24 (17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna  
25 at heights and dimensions sufficient to accommodate amateur radio service communications by a person who  
26 holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or  
27 higher class, issued by the federal communications commission of the United States;

28 (18) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load,  
29 object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway  
30 that is under the jurisdiction of an entity other than the local government unit;

1           (19) any power to deny a nonresident municipal real property owner qualified as a municipal elector  
2 pursuant to [section 1] from being eligible for a municipal office solely by virtue of their nonresident status."

3

4           **Section 5.** Section 7-1-4121, MCA, is amended to read:

5           **"7-1-4121. General definitions.** As used in 7-1-4121 through 7-1-4127 and 7-1-4129 through 7-1-4149,  
6 unless otherwise provided, the following definitions apply:

7           (1) "Charter" means a written document defining the powers, structure, privileges, rights, and duties of  
8 the government and limitations on the government.

9           (2) "Chief executive" means the elected executive in a government adopting the commission-executive  
10 form, the manager in a government adopting the commission-manager form, the presiding officer in a government  
11 adopting the commission-presiding officer form, the town presiding officer in a government adopting the town  
12 meeting form, the commission acting as a body in a government adopting the commission form, or the officer or  
13 officers designated in the charter in a government adopting a charter.

14           (3) "Elector" means:

15           (a) a resident of the municipality qualified and registered to vote under state law; and

16           (b) for the purposes of the elections referred to in [section 1], an individual who owns real property in a  
17 municipality and who meets the requirements of [section 1].

18           (4) "Employee" means a person other than an officer who is employed by a municipality.

19           (5) "Executive branch" means that part of the municipality, including departments, offices, and boards,  
20 charged with implementing actions approved and administering policies adopted by the governing body of the  
21 local government or performing the duties required by law.

22           (6) "Governing body" means the commission or town meeting legislative body established in the  
23 alternative form of local government.

24           (7) "Guideline" means a suggested or recommended standard or procedure to serve as an index of  
25 comparison and is not enforceable as a regulation.

26           (8) "Law" means a statute enacted by the legislature of Montana and approved and signed by the  
27 governor or a statute adopted by the people of Montana through statutory initiative procedures.

28           (9) "Municipality" means an entity that incorporates as a city or town.

29           (10) "Office of the municipality" means the permanent location of the seat of government from which the  
30 records administrator, or the office of the clerk of the governing body if one is appointed, carries out the duties

1 of the records administrator.

2 (11) "Officer" means a person holding a position with a municipality that is ordinarily filled by election or,  
3 in those municipalities with a manager, the manager.

4 (12) "Ordinance" means an act that is adopted and approved by a municipality and that has effect only  
5 within the jurisdiction of the local government.

6 (13) "Person" means any individual, firm, partnership, company, corporation, trust, trustee, assignee or  
7 other representative, association, or other organized group.

8 (14) "Plan of government" means a certificate submitted by a governing body that documents the basic  
9 form of government selected, including all applicable suboptions. The plan must establish the terms of all officers  
10 and the number of commissioners, if any, to be elected.

11 (15) "Political subdivision" refers to a local government, authority, school district, or multicounty agency.

12 (16) "Population" means the number of inhabitants as determined by an official federal, state, or local  
13 census or official population estimate approved by the department of commerce.

14 (17) "Printed" means the act of reproducing a design on a surface by any process as defined by  
15 1-1-203(4).

16 (18) "Public agency" means a political subdivision, Indian tribal council, state or federal department or  
17 office, or the Dominion of Canada or any provincial department, office, or political subdivision.

18 (19) "Public property" means any property owned by a municipality or held in the name of a municipality  
19 by any of the departments, boards, or authorities of the local government.

20 (20) "Real property" means lands, structures, buildings, and interests in land, including lands under water  
21 and riparian rights, and all things and rights usually included within the term "real property", including not only fee  
22 simple absolute but also all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all  
23 other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property.

24 (21) "Reproduced" means the act of reproducing a design on any surface by any process.

25 (22) "Resolution" means a statement of policy by the governing body or an order by the governing body  
26 that a specific action be taken.

27 (23) "Service" means an authorized function or activity performed by local government.

28 (24) "Structure" means the entire governmental organization through which a local government carries  
29 out its duties, functions, and responsibilities."  
30

1           **Section 6.** Section 7-2-4106, MCA, is amended to read:

2           **"7-2-4106. Election for officers -- special provisions for first election of officers.** (1) When the  
3 incorporation of a city or town is completed, the board of county commissioners shall give notice as prescribed  
4 in 13-1-108 of an election of officers.

5           (2) For the first election of officers, a primary election may not be held. The election must be conducted  
6 in accordance with Title 13, chapter 1, part 4. For each subsequent election of officers, the election must be  
7 conducted in accordance with Title 13 provisions applicable to primary and general elections.

8           (3) At an election for officers, all of the electors qualified by the general election laws of the state who  
9 have resided or owned real property under the provisions of [section 1] within the limits of the city or town for 6  
10 months and within the limits of the ward for 30 days preceding the election are qualified electors and may choose  
11 officers for the city or town, to hold office as prescribed in 7-2-4107.

12           (4) The offices filled in the first election for officers may be occupied only until the next general election  
13 for those offices."  
14

15           **Section 7.** Section 7-3-704, MCA, is amended to read:

16           **"7-3-704. Legislative body.** (1) The charter shall provide for an elected legislative body (called a  
17 commission or council) or shall provide for a legislative body comprised of all qualified electors. For elected  
18 legislative bodies, the charter shall specify the number of members thereof, their term of office, election on a  
19 partisan or nonpartisan basis, the grounds for their removal, and the method for filling vacancies.

20           (2) The charter shall provide for the nomination and election of commissions:

21           (a) at large;

22           (b) by districts in which candidates must reside or own real property as provided in [section 3] and which  
23 are apportioned by population;

24           (c) by a combination of districts, in which candidates must reside or own real property as provided in  
25 [section 3] and which are apportioned by population, and at large; or

26           (d) elected at large and nominated by a plan of nomination that may not preclude the possibility of the  
27 majority of the electors nominating candidates for the majority of the seats on the commission from persons  
28 residing or owning real property as provided in [section 3] in the district or districts where the majority of the  
29 electors reside."  
30

1           **Section 8.** Section 7-3-1203, MCA, is amended to read:

2           **"7-3-1203. General powers of consolidated government.** (1) The ~~inhabitants~~ residents of every  
3 consolidated municipality organized under the provisions of this part and part 13, as its limits are at the time of  
4 such organization or as they may be thereafter established as provided by law, shall be a body politic and  
5 corporate under the designation and name as adopted at the election providing for such consolidation and  
6 merging and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; may  
7 contract and be contracted with; may acquire property within or without the boundaries of the municipality for any  
8 municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, appropriation, lease, or  
9 lease with privilege of purchase and may sell, lease, hold, manage, and control such property as the interest of  
10 the municipality may require; may levy and collect such taxes as are authorized by this part or part 13 or by the  
11 general laws of the state; and except as otherwise provided in this part and part 13, such municipality shall have  
12 and may exercise all other powers that are now or hereafter may be conferred on counties, cities, and towns by  
13 the laws of this state.

14           (2) All powers of the municipality, whether expressed or implied, shall be exercised and enforced in the  
15 manner prescribed in this part and part 13 or in the general laws of the state or, when not so prescribed, then as  
16 may be prescribed by ordinance or resolution of the commission."

17

18           **Section 9.** Section 7-3-1341, MCA, is amended to read:

19           **"7-3-1341. Department of law.** (1) The department of law is in the charge of a director appointed by the  
20 commission without definite term who must be ~~a resident and~~ an elector of the municipality and who must  
21 possess all of the qualifications required of county attorneys.

22           (2) The director has all the powers and, either personally or through designated assistants, shall perform  
23 all the duties that are prescribed for county attorneys, city attorneys, and public administrators, and in addition,  
24 the director is chief legal adviser of and attorney for the municipality and of all departments and offices of the  
25 municipality. The director shall perform other duties that may be required by the commission.

26           (3) The director shall qualify by taking the oath of office prescribed by the constitution and by giving a  
27 bond in the amount required of a county public administrator. For all purposes in connection with criminal  
28 prosecutions, the director must be known and designated as "county attorney of the city and county of .....".

29

30           **Section 10.** Section 7-3-4257, MCA, is amended to read:



1           **"7-3-4257. Appointment of civil service commission.** (1) Immediately after organizing, the council  
 2 shall by ordinance appoint three civil service commissioners, who shall hold office, one until the first Monday in  
 3 April of the second year, one until the first Monday in April of the fourth year, and one until the first Monday in April  
 4 of the sixth year after appointment. Each succeeding council shall, as soon as practicable after organizing,  
 5 appoint one commissioner for 6 years, who shall take the place of a commissioner whose term of office expires.  
 6 The presiding officer of the commission for each biennial period must be the member whose term first expires.  
 7 A person while on the commission may not hold or be a candidate for any office of public trust. Two of the  
 8 members constitute a quorum to transact business. The commissioners must be citizens of Montana and  
 9 residents of the city for more than 3 years or owners of real property in the city who qualify pursuant to the  
 10 provisions of [section 3] for more than 3 years preceding their appointment.

11           (2) Before entering upon the duties of office, each of the commissioners shall take and subscribe an  
 12 oath, which must be filed and kept in the office of the city clerk, to support the constitution of the United States  
 13 and of the state of Montana, to obey the laws, to aid in securing and maintaining an honest and efficient force free  
 14 from partisan distinction or control, and to perform the duties of office to the best of the commissioner's ability.

15           (3) The council, by majority vote, may remove any of the commissioners during their term of office for  
 16 cause and shall fill any vacancy that occurs in the commission for the unexpired term. The city council shall  
 17 provide suitable rooms in which the civil service commission shall hold its meetings. The commission must have  
 18 a clerk, who shall keep a record of all its meetings. The city shall supply the commission with all necessary  
 19 equipment to properly attend to its business."  
 20

21           **Section 11.** Section 7-3-4311, MCA, is amended to read:

22           **"7-3-4311. Procedure for multimunicipality organization -- petition -- election -- elector**  
 23 **qualifications.** (1) Whenever the ~~inhabitants~~ residents of any community or group of communities in any county,  
 24 whether separately incorporated in whole or in part or unincorporated, desire to be organized into or annexed to  
 25 an incorporated city or town under the provisions of this part and part 44, the board of county commissioners of  
 26 the county may or, if presented a petition signed by at least 25% of the qualified electors in the community or  
 27 group of communities, shall issue a proclamation ordering an election to be held in accordance with Title 13,  
 28 chapter 1, part 4.

29           (2) At this election, the question of the organization of the community or group of communities as a  
 30 municipality under the provisions of this part and part 44 must be submitted to the qualified electors within the

1 proposed municipal district. The proclamation must specify the time when and the places where the election will  
 2 be held and must define the boundaries of the proposed municipal district, which must include all communities,  
 3 cities, and any additional adjacent territory that, in the judgment of the board of county commissioners, provides  
 4 for future urban growth.

5 (3) If a majority of the qualified electors at the election vote in favor of the organization of the municipal  
 6 district or in favor of annexation to an incorporated city or town, then the board of county commissioners shall  
 7 declare the result of the election.

8 (4) The commissioners shall also give notice as required in 13-1-108 for the first election for  
 9 commissioners of the municipal district under this section.

10 (5) The election for commissioners must be conducted in accordance with Title 13, chapter 1, part 4.  
 11 Persons qualified pursuant to 13-1-111 and who have resided within the limits of the municipal district for 6  
 12 months or who have owned real property within the limits of the municipal district pursuant to the provisions of  
 13 [section 3] for 6 months are qualified electors.

14 (6) The commissioners elected must qualify in the manner prescribed by law for county officers."  
 15

16 **Section 12.** Section 7-3-4315, MCA, is amended to read:

17 **"7-3-4315. Qualifications of commissioners.** Members of the commission shall be residents or owners  
 18 of real property as provided by [section 3] of the city or town and have the qualifications of electors."  
 19

20 **Section 13.** Section 7-4-2631, MCA, is amended to read:

21 **"7-4-2631. (Temporary) Fees of county clerk.** (1) Except as provided in 7-2-2803(4), 7-4-2632, and  
 22 7-4-2637, the county clerks shall charge, for the use of their respective counties:

23 (a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument  
 24 required by law to be filed and indexed, \$5;

25 (b) for filing of subdivision and townsite plats, \$25 plus:

26 (i) for each lot up to and including 100, 50 cents;

27 (ii) for each additional lot in excess of 100, 25 cents;

28 (c) for filing certificates of surveys and amendments to the certificates of surveys, \$25 plus 50 cents for  
 29 each tract or lot;

30 (d) for each page of a document required to be filed with a subdivision, townsite plat, or certificate of

- 1 survey for which a filing fee is not otherwise set by law, \$1;
- 2 (e) for a copy of a record or paper:
- 3 (i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and
- 4 (ii) for each certification with seal affixed, \$2;
- 5 (f) for searching an index record of files of the office for each year when required in abstracting or
- 6 otherwise, 50 cents;
- 7 (g) for administering an oath with certificate and seal, no charge;
- 8 (h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;
- 9 (i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed
- 10 under those sections;
- 11 (j) for recording each stock subscription and contract, stock certificate, and articles of incorporation for
- 12 water users' associations, \$3;
- 13 (k) for filing a copy of notarial commission and issuing a certificate of official character of such notary
- 14 public, \$2;
- 15 (l) (i) for each certified copy of a birth certificate, \$5;
- 16 (ii) for each certified copy of a death certificate, \$15, and for each additional certified copy of the same
- 17 record ordered at the same time as the first certified copy, \$6; and
- 18 (iii) for the filing of an original death certificate, an amount, if any, to be determined by the county by
- 19 resolution and deposited in the county general fund;
- 20 (m) for electronic storage of minutes of an administrative board, district, or commission pursuant to
- 21 7-1-204, 7-11-1030, 7-13-2350, 7-22-2113, 7-33-2112, or 76-15-324, no charge;
- 22 (n) for recording the nonresident designation of elector provided in [section 2] and forwarding a copy to
- 23 the county election administrator, \$10;
- 24 ~~(n)~~(o) for filing, recording, or indexing any other instrument not expressly provided for in this section or
- 25 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.
- 26 (2) The county clerks shall charge, for the use of their respective counties, the fee as provided in
- 27 7-4-2632 for recording and indexing the following:
- 28 (a) each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate
- 29 that the instrument has been recorded with the seal affixed; and
- 30 (b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has been

1 recorded with the seal affixed.

2 (3) State agencies submitting documents to be put of record shall pay the fees provided for in this  
3 section. If a state agency or political subdivision has requested an account with the county clerk, any applicable  
4 fees must be paid on a periodic basis.

5 (4) (a) A county shall transfer to the department of labor and industry for deposit as provided in  
6 37-19-203 \$3 of each fee collected under subsection (1)(l)(ii) of this section.

7 (b) The fees must be transferred monthly unless the department of labor and industry and the county  
8 have agreed to a different period. (Terminates June 30, 2017--sec. 6, Ch. 380, L. 2015.)

9 **7-4-2631. (Effective July 1, 2017) Fees of county clerk.** (1) Except as provided in 7-2-2803(4),  
10 7-4-2632, and 7-4-2637, the county clerks shall charge, for the use of their respective counties:

11 (a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument  
12 required by law to be filed and indexed, \$5;

13 (b) for filing of subdivision and townsite plats, \$25 plus:

14 (i) for each lot up to and including 100, 50 cents;

15 (ii) for each additional lot in excess of 100, 25 cents;

16 (c) for filing certificates of surveys and amendments thereto, \$25 plus 50 cents per tract or lot;

17 (d) for each page of a document required to be filed with a subdivision, townsite plat, or certificate of  
18 survey for which a filing fee is not otherwise set by law, \$1;

19 (e) for a copy of a record or paper:

20 (i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and

21 (ii) for each certification with seal affixed, \$2;

22 (f) for searching an index record of files of the office for each year when required in abstracting or  
23 otherwise, 50 cents;

24 (g) for administering an oath with certificate and seal, no charge;

25 (h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

26 (i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed  
27 under those sections;

28 (j) for recording each stock subscription and contract, stock certificate, and articles of incorporation for  
29 water users' associations, \$3;

30 (k) for filing a copy of notarial commission and issuing a certificate of official character of such notary

1 public, \$2;

2 (l) for each certified copy of a birth certificate, \$5, and for each certified copy of a death certificate, \$3;

3 (m) for electronic storage of minutes of an administrative board, district, or commission pursuant to

4 7-1-204, 7-11-1030, 7-13-2350, 7-22-2113, 7-33-2112, or 76-15-324, no charge;

5 (n) for recording the nonresident designation of elector provided in [section 2] and forwarding a copy to  
6 the county election administrator, \$10;

7 ~~(n)(o)~~ for filing, recording, or indexing any other instrument not expressly provided for in this section or  
8 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

9 (2) The county clerks shall charge, for the use of their respective counties, the fee as provided in  
10 7-4-2632 for recording and indexing the following:

11 (a) each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate  
12 that the instrument has been recorded with the seal affixed; and

13 (b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has been  
14 recorded with the seal affixed.

15 (3) State agencies submitting documents to be put of record shall pay the fees provided for in this  
16 section. If a state agency or political subdivision has requested an account with the county clerk, any applicable  
17 fees must be paid on a periodic basis."

18

19 **Section 14.** Section 7-4-4101, MCA, is amended to read:

20 **"7-4-4101. Officers of city of first class.** (1) The officers of a city of the first class consist of:

21 (a) one mayor;

22 (b) two city council members from each ward; and

23 (c) one city judge.

24 (2) The officers listed in subsection (1) must be elected by the qualified electors of the city, ~~as provided~~  
25 ~~in this part.~~

26 (3) There may also be appointed by the mayor, with the advice and consent of the council:

27 (a) one city attorney;

28 (b) one city clerk;

29 (c) one city treasurer or finance officer or one city clerk-treasurer;

30 (d) one chief of police;

- 1 (e) one assessor;  
2 (f) one street commissioner;  
3 (g) one city jailer;  
4 (h) one city surveyor; and  
5 (i) any other officers necessary to carry out the provisions of this title.

6 (4) The city council may by ordinance prescribe the duties of all city officers and fix their compensation."  
7

8 **Section 15.** Section 7-4-4102, MCA, is amended to read:

9 **"7-4-4102. Officers of city of second or third class.** (1) The officers of a city of the second or third  
10 class consist of:

- 11 (a) one mayor;  
12 (b) two city council members from each ward; and  
13 (c) one city judge.

14 (2) The officers listed in subsection (1), except the city judge for a city of the third class, must be elected  
15 by the qualified electors of the city, ~~as provided in this part.~~

16 (3) The governing body of a city of the third class may by ordinance determine whether the office of city  
17 judge must be filled by appointment by the governing body or by election or may appoint a justice of the peace  
18 or the city judge of another city as judge of the city court as provided in 3-11-205.

19 (4) There may also be appointed by the mayor, with the advice and consent of the council:

- 20 (a) one city attorney;  
21 (b) one city clerk, who is ex officio city assessor;  
22 (c) one city treasurer or one city clerk-treasurer;  
23 (d) one chief of police; and  
24 (e) any other officers necessary to carry out the provisions of this title.

25 (5) The city council may prescribe the duties of all city officers and fix their compensation."  
26

27 **Section 16.** Section 7-4-4103, MCA, is amended to read:

28 **"7-4-4103. Officers of towns.** (1) The officers of a town consist of:

- 29 (a) one mayor;  
30 (b) two city council members from each ward; and

1 (c) one city judge.

2 (2) The officers listed in subsection (1), except for the city judge, must be elected by the qualified electors  
3 of the town, ~~as provided in this part.~~

4 (3) The governing body of the town may by ordinance determine that the office of city judge must be filled  
5 either by election or by appointment or may appoint a justice of the peace or the city judge of another city to be  
6 judge of the city court as provided in 3-11-205.

7 (4) There may be appointed by the mayor, with the advice and consent of the council:

8 (a) one clerk, who may be ex officio assessor and tax collector and a member of the council;

9 (b) one marshal, who may be ex officio street commissioner; and

10 (c) any other officers necessary to carry out the provisions of this title.

11 (5) The town council may prescribe the duties of all town officers and fix their compensation, subject to  
12 the limitations contained in this title."

13

14 **Section 17.** Section 7-4-4104, MCA, is amended to read:

15 **"7-4-4104. General qualifications for municipal office.** ~~No person~~ (1) An individual is eligible ~~to any~~  
16 for a municipal office, elective or appointive, if the individual:

17 ~~(1)(a) who is not~~ a citizen of the United States; and

18 ~~(2)(b) who has not~~ met the qualifications prescribed by law or by ordinance adopted by the governing  
19 body of a city or town.

20 (2) Notwithstanding a provision that disqualifies an individual solely by virtue of the individual's status  
21 as a nonresident, an individual who qualifies to vote in a municipal election as provided in [section 1] and who  
22 otherwise meets the requirements of subsections (1)(a) and (1)(b) of this section is eligible for a municipal office."

23

24 **Section 18.** Section 7-4-4111, MCA, is amended to read:

25 **"7-4-4111. Determination of vacancy in municipal office.** An office becomes vacant on the ~~happening~~  
26 occurrence of any of the following events before the expiration of the term of the incumbent:

27 (1) the death of the incumbent;

28 (2) a determination pursuant to Title 53, chapter 21, part 1, that the incumbent is mentally ill;

29 (3) the incumbent's resignation;

30 (4) the incumbent's removal from office;

1 (5) the incumbent's absence from the city or town continuously for 10 days without the consent of the  
2 council;

3 (6) the incumbent's open neglect or refusal to discharge duties;

4 (7) the incumbent's ceasing to be a resident or real property owner of the city or town or, in the case of  
5 a city council member, ceasing to be a resident or real property owner of the city council member's ward. This  
6 subsection does not apply to an appointed municipal officer who resides outside the city or town limits with the  
7 approval of the city or town governing body and within a distance of the city or town approved by the governing  
8 body.

9 (8) the incumbent's ceasing to discharge the duty of office for a period of 3 consecutive months, except  
10 when prevented by illness or when absent from the city or town by permission of the governing body;

11 (9) the incumbent's conviction of a felony or of any offense involving moral turpitude or a violation of  
12 official duties;

13 (10) the incumbent's refusal or neglect to file an official bond within the time prescribed;

14 (11) the decision of a competent tribunal declaring void the incumbent's election or appointment."  
15

16 **Section 19.** Section 7-4-4301, MCA, is amended to read:

17 **"7-4-4301. Qualifications for mayor.** (1) A person is not eligible for the office of mayor unless the  
18 person:

19 (a) is at least 21 years old;

20 (b) has been a resident of the state for at least 3 years; and

21 (c) has been a resident for at least 2 years preceding the election to office of the city or town or an area  
22 that has been annexed by the city or town or has qualified to vote in municipal elections pursuant to [section 1]  
23 by virtue of the person's property ownership for at least 2 years.

24 (2) The office of mayor of a city or town is considered vacant if the individual elected as mayor ceases  
25 to be a resident of the city or town or ceases to be a property owner qualified as an elector under [section 1]."  
26

27 **Section 20.** Section 7-4-4401, MCA, is amended to read:

28 **"7-4-4401. Qualifications for city council member.** A person is not eligible for the office of city council  
29 member unless, for at least 60 days preceding the election to office, the person is:

30 (1) ~~a resident for at least 60 days preceding the election to office~~ of the ward electing the person or of



1 an area that has been annexed by the city or town and placed in the ward; or  
2 (2) qualified to vote in municipal elections pursuant to [section 1] by virtue of the person's property  
3 ownership in the ward."

4  
5 **Section 21.** Section 7-7-4103, MCA, is amended to read:  
6 **"7-7-4103. General qualifications to vote on questions of municipal indebtedness.** (1) Registered  
7 electors of the city, town, or other municipal corporation and owners of real property qualified as electors pursuant  
8 to [section 1] may vote upon any proposal to create or increase any indebtedness of the city, town, or other  
9 municipal corporation required by law to be submitted to a vote of the electors.

10 (2) An elector, otherwise qualified, may not be denied the right to vote because the polling place for a  
11 general election for the precinct in which the elector resides and is entitled to vote lies within another city, town,  
12 or other municipal corporation."

13  
14 **Section 22.** Section 7-7-4221, MCA, is amended to read:  
15 **"7-7-4221. Election on question of incurring indebtedness -- exception.** (1) Except as provided in  
16 subsection (2) and 15-1-402, whenever the governing body of any municipality considers it necessary to issue  
17 bonds pledging the general credit of the municipality for any purpose authorized by law, the question of issuing  
18 the bonds shall first be submitted to the registered electors of the city or town and owners of real property  
19 qualified as electors pursuant to [section 1].

20 (2) It is not necessary to submit to the electors the question of issuing refunding bonds to refund bonds  
21 issued and outstanding or the question of issuing revenue bonds not pledging the general credit of the  
22 municipality under any laws of this state."

23  
24 **Section 23.** Section 7-7-4226, MCA, is amended to read:  
25 **"7-7-4226. Resolution to submit question of issuing bonds to voters.** (1) When the governing body  
26 of any municipality considers it necessary to issue bonds pledging the general credit of the municipality pursuant  
27 to a statute of this state, the governing body shall pass and adopt a resolution.

28 (2) The resolution must:  
29 (a) recite the purpose or purposes for which it is proposed to issue the bonds;  
30 (b) fix the amount of bonds to be issued for each purpose;

1 (c) determine the number of years through which the bonds are to be paid, not exceeding the limits fixed  
2 in 7-7-4205; and

3 (d) unless the bonds are revenue bonds not pledging the general credit of the municipality, make  
4 provisions that are necessary for submitting the question to the registered electors of the city or town and owners  
5 of real property qualified as electors pursuant to [section 1] at an election conducted in accordance with Title 13,  
6 chapter 1, part 4.

7 (3) Whenever the bond issuance is proposed by petition, the governing body shall, before submitting the  
8 measure to the electors, pass a resolution containing the information required in this section and setting forth the  
9 essential facts in regard to the filing and presentation of the petition."  
10

11 **Section 24.** Section 7-7-4235, MCA, is amended to read:

12 **"7-7-4235. Percentage of electors required to authorize issuing of bonds.** Whenever the question  
13 of issuing bonds for any purpose is submitted to the registered electors of a city or town and owners of real  
14 property qualified as electors pursuant to [section 1], the determination of the approval or rejection of the bond  
15 proposition is made by a majority of the votes cast on the issue."  
16

17 **Section 25.** Section 13-1-111, MCA, is amended to read:

18 **"13-1-111. Qualifications of voter.** (1) A person may not vote at elections unless the person is:

19 (a) registered as required by law;

20 (b) 18 years of age or older;

21 (c) a resident of the state of Montana and of the county in which the person offers to vote for at least 30  
22 days, except as provided in 13-2-514 and [section 1]; and

23 (d) a citizen of the United States.

24 (2) A person convicted of a felony does not have the right to vote while the person is serving a sentence  
25 in a penal institution.

26 (3) A person adjudicated to be of unsound mind does not have the right to vote unless the person has  
27 been restored to capacity as provided by law."  
28

29 **Section 26.** Section 13-13-301, MCA, is amended to read:

30 **"13-13-301. Challenges.** (1) An elector's right to vote may be challenged at any time by any registered

1 elector by the challenger filling out and signing an affidavit stating the grounds of the challenge and providing any  
2 evidence supporting the challenge to the election administrator or, on election day, to an election judge.

3 (2) A challenge may be made on the grounds that the elector:

4 (a) is of unsound mind, as determined by a court;

5 (b) has voted before in that election;

6 (c) has been convicted of a felony and is serving a sentence in a penal institution;

7 (d) is not registered as required by law;

8 (e) is not 18 years of age or older;

9 (f) has not been, for at least 30 days, a resident of the county in which the elector is offering to vote,  
10 except as provided in 13-2-514 and [section 1];

11 (g) is a provisionally registered elector whose status has not been changed to a legally registered voter;

12 or

13 (h) does not meet another requirement provided in the constitution or by law.

14 (3) When a challenge has been made under this section, unless the election administrator determines  
15 without the need for further information that the challenge is insufficient:

16 (a) prior to the close of registration under 13-2-301, the election administrator shall question the  
17 challenger and the challenged elector and may question other persons to determine whether the challenge is  
18 sufficient or insufficient to cancel the elector's registration under 13-2-402; or

19 (b) after the close of registration or on election day, the election administrator or, on election day, the  
20 election judge shall allow the challenged elector to cast a provisional paper ballot, which must be handled as  
21 provided in 13-15-107.

22 (4) (a) In response to a challenge, the challenged elector may fill out and sign an affidavit to refute the  
23 challenge and swear that the elector is eligible to vote.

24 (b) If the challenge was not made in the presence of the elector being challenged, the election  
25 administrator or election judge shall notify the challenged elector of who made the challenge and the grounds of  
26 the challenge and explain what information the elector may provide to respond to the challenge. The notification  
27 must be made:

28 (i) within 5 days of the filing of the challenge if the election is more than 5 days away; or

29 (ii) on or before election day if the election is less than 5 days away.

30 (c) The election administrator or, on election day, the election judge shall also provide to the challenged

1 elector a copy of the challenger's affidavit and any supporting evidence provided.

2 (5) The secretary of state shall adopt rules to implement the provisions of this section and shall provide  
3 standardized affidavit forms for challengers and challenged electors."

4  
5 **NEW SECTION. Section 27. Codification instruction.** (1) [Section 1] is intended to be codified as  
6 an integral part of Title 13, chapter 1, part 4, and the provisions of Title 13, chapter 1, part 4, apply to [section 1].

7 (2) [Section 2] is intended to be codified as an integral part of Title 7, chapter 4, part 26, and the  
8 provisions of Title 7, chapter 4, part 26, apply to [section 2].

9 (3) [Section 3] is intended to be codified as an integral part of Title 7, chapter 3, part 1, and the provisions  
10 of Title 7, chapter 3, part 1, apply to [section 3].

11 - END -