

WHO PUBLISHES PUBLIC NOTICES?

BACKGROUND

Not only are local governments and other public agencies required to publish public notice of certain actions, but they also must ensure their publication meets certain criteria.

The Montana Code Annotated does not designate a "publication of record" but outlines strict parameters a local government must consider when designating a publication to publish its public notices. If multiple publications meet the criteria, a local government is free to choose a publication considered best for its use and budget.

To meet statutory requirements, a local government must publish public notice in a newspaper that meets certain criteria.

PUBLICATION CRITERIA

COUNTY REQUIREMENTS:

7-1-2121. Publication and content of notice — proof of publication. (1) Unless otherwise specifically provided by law and except as provided in 13-1-108, whenever a local government unit other than a municipality is required to give notice by publication, this section applies.

(2) Publication must be in a newspaper meeting the qualifications of subsections (3) and (4), except that in a county where a newspaper does not meet these qualifications, publication must be made in a qualified newspaper in an adjacent county. If there is no qualified newspaper in an adjacent county, publication must be made by posting the notice in three public places in the county, designated by resolution of the governing body.

(3) (a) The newspaper must:

(i) be of general circulation;

(ii) be published at least once a week;

(iii) be published in the county where the hearing or other action will take place; and

(iv) have, prior to July 1 of each year, submitted to the clerk and recorder a sworn statement that includes:

- (A) circulation for the prior 12 months;
- (B) a statement of net distribution;
- (C) itemization of the circulation that is paid and that is free; and
- (D) the method of distribution.

(b) A newspaper of general circulation does not include a newsletter or other document produced or published by the local government unit.

(4) In the case of a contract award, the newspaper must have been published continuously in the county for the 12 months preceding the awarding of the contract.

(5) If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.

(6) The notice must be published twice, with at least 6 days separating each publication.

(7) The published notice must contain:

(a) the date, time, and place of the hearing or other action;

(b) a brief statement of the action to be taken;

(c) the address and telephone number of the person who may be contacted for further information on the action to be taken; and

(d) any other information required by the specific section requiring notice by publication.

(8) A published notice required by law may be supplemented by a radio or television broadcast of the notice in the manner prescribed in 2-3-105 through 2-3-107.

(9) Proof of the publication or posting of any notice may be made by affidavit of the owner, publisher, printer, or clerk of the newspaper or of the person posting the notice.

(10) If the newspaper fails to publish a second notice, the local government unit must be considered to have met the requirements of this section as long as the local government unit submitted the required information prior to the submission deadline and the notice was posted in three public places in the county that were designated by resolution and, if the county has an active website, was posted on the county's website at least 6 days prior to the hearing or other action for which notice was required.

MUNICIPAL REQUIREMENTS:

7-1-4127. Publication of notice — content — proof. (1) When a municipality is required to publish notice, publication must be in a newspaper, except that in a municipality with a population of 500 or less or in which a newspaper is not published, publication may be made by posting in three public places in the municipality that have been designated by ordinance.

(2) The newspaper must:

- (a) be of general circulation;
- (b) be published at least once a week;
- (c) be published in the county where the municipality is located; and
- (d) have, prior to July 1 of each year, submitted to the city clerk a sworn statement that includes:
 - (i) circulation for the prior 12 months;
 - (ii) a statement of net distribution;
 - (iii) itemization of paid circulation and circulation that is free; and
 - (iv) the method of distribution.

(3) A newspaper of general circulation does not include a newsletter or other document produced or published by the municipality.

(4) In the case of a contract award, the newspaper must have been published continuously in the county for the 12 months preceding the awarding of the contract.

(5) In a county where a newspaper does not meet the qualifications in subsection (2), publication must be made in a qualified newspaper in an adjacent county.

(6) If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.

(7) The notice must be published twice, with at least 6 days separating each publication.

(8) The published notice must contain:

- (a) the date, time, and place of the hearing or other action;
- (b) a brief statement of the action to be taken;
- (c) the address and telephone number of the person who may be contacted for further information on the action to be taken; and
- (d) any other information required by the specific section requiring notice by publication.

(9) A published notice required by law may be supplemented by a radio or television broadcast of the notice in the manner prescribed in 2-3-105 through 2-3-107.

(10) Proof of the publication or posting of any notice may be made by affidavit of the owner, publisher, printer, or clerk of the newspaper or of the person posting the notice.

(11) If the newspaper fails to publish a second notice, the municipality must be considered to have met the requirements of this section as long as the municipality submitted the required information prior to the submission deadline and the notice was posted in three public places in the municipality that were designated by ordinance and, if the municipality has an active website, was posted on the municipality's website at least 6 days prior to the hearing or other action for which notice was required.

WHAT IF THERE IS NO QUALIFIED PUBLICATION IN THE AREA?

Both [7-1-2121](#), MCA (county requirements) and [7-1-4127](#) (municipal requirements), contemplate the event that a local area is not serviced by a publication meeting the criteria. [7-1-2121](#)(1) and [7-1-4127](#)(2) state:

"...publication may be made by **posting in three public places** in the [county or municipality] that have been designated by [city ordinance or resolution of the governing body]."

Additionally, both statutes¹ address steps a local government can take if its chosen publication fails to publish the requisite number of notices:

"...if the newspaper fails to publish a second notice, the [local government] must be considered to have met the requirements of this section as long as the [local government] submitted the required information prior to the submission deadline and the notice was **posted in three public places** in the [local area] that were designated in the [ordinance or resolution] and, if the [county or municipality] has an active website, was **posted on the [county or municipality's] website** at least 6 days prior to the hearing or other action for which the notice was required."

¹ Language is mirrored in both [7-1-2121](#)(10) and [7-1-4127](#)(11).