

Statutory Basis for Elected County Official Government

7-3-105. Plan of government. The approved plan filed with the secretary of state pursuant to subsection (3)(a) of section 14, Chapter 513, Laws of 1975, shall be the official plan and shall be a public record open to inspection of the public and judicially noticeable by all courts.

7-3-111. Statutory basis for elected county official government. (1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government shall be governed by the following sections:

- (a) [7-3-401](#);
- (b) [7-3-402](#);
- (c) [7-3-412](#)(3);
- (d) [7-3-413](#)(1);
- (e) [7-3-414](#)(1);
- (f) [7-3-415](#)(2);
- (g) [7-3-416](#)(2);
- (h) [7-3-417](#)(2);
- (i) [7-3-418](#);
- (j) [7-3-432](#)(1);
- (k) [7-3-433](#)(1);
- (l) [7-3-434](#)(1);
- (m) [7-3-435](#)(1);
- (n) [7-3-436](#)(1);
- (o) [7-3-437](#)(1);
- (p) [7-3-438](#)(1);
- (q) [7-3-439](#)(1);
- (r) [7-3-440](#)(1);
- (s) [7-3-441](#)(1);
- (t) [7-3-442](#)(1) if the county has elected an auditor;
- (u) [7-3-442](#)(6) if the county has not elected an auditor.

(2) This form has terms of 4 years for all elected officials except commissioners who are elected to 6-year terms. The commission consists of three members.

TITLE 7. LOCAL GOVERNMENT CHAPTER 3. ALTERNATIVE FORMS OF LOCAL GOVERNMENT

Part 4. Commission Government

7-3-401. Commission form. The commission form consists of an elected commission (which may also be called the council) and other elected officers as provided in this part. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by

BOLD = Statutory basis for elected county official government as outlined in MCA 7-3-111

ordinance the executive and administrative powers and duties into departments headed by individual commissioners.

7-3-402. Nature of government. Local governments that adopt this form shall have general government powers.

7-3-403. Role of presiding officer of commission. The presiding officer of the commission may be referred to as the mayor. All members of boards and committees must be appointed by the presiding officer with the consent of the commission. The presiding officer must be recognized as the head of the local government unit and may vote as other members of the commission.

7-3-411. General structural suboptions. The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed in [7-3-412](#) through [7-3-418](#).

7-3-412. Selection of commission members. The commission shall be:

- (1) elected at large;
- (2) elected by districts in which candidates must reside and which are apportioned by population;
- (3) elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside; or**
- (4) elected by any combination of districts, in which candidates must reside and which are apportioned by population, and at large.

7-3-413. Type of election. Local government elections shall be conducted on a:

- (1) partisan basis; or**
- (2) nonpartisan basis.

7-3-414. 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) selected as provided by ordinance; or
- (3) elected directly by the voters for a term established by ordinance.

7-3-415. Administrative assistants. The commission:

- (1) shall appoint one or more administrative assistants to assist them in the supervision and operation of the local government; or
- (2) may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.**

7-3-416. Terms of commission members. Commission members shall be elected for:

- (1) concurrent terms of office; or
- (2) overlapping terms of office.**

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7-3-417. Size of commission and community councils. The size of the commission, which shall be a number not less than three, shall be established when the form is adopted by the voters, and:

(1) community councils of at least three members shall be elected within each district to advise the commissioner from that district. Local governments conducting elections at large shall district according to population for the purpose of electing community councils; or

(2) community councils to advise commissioners may be authorized by ordinance.

7-3-418. Terms of elected officials. The term of office of elected officials may not exceed 4 years, except the term of office for commissioners in counties adopting the form authorized by Article XI, section 3(2), of the Montana constitution may not exceed 6 years. Terms of office shall be established when the form is adopted by the voters.

7-3-431. Additional structural suboptions for county and consolidated governments. In county and consolidated local governments, the plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including one item from each of the choices listed in 7-3-432 through 7-3-442. The officers shall have the powers and duties established by ordinance. After the establishment of any office, the commission may consolidate, as provided by law, two or more of the offices.

7-3-432. Legal officer. A legal officer, who may be called the county attorney:

(1) may be elected;

(2) may be appointed by the local government commission;

(3) may be appointed by the presiding officer of the local government commission;

(4) may be selected as provided by ordinance;

(5) may at the discretion of the commission be selected as provided by ordinance; or

(6) may not be included in this form as a separate office.

7-3-433. Law enforcement officer. A law enforcement officer, who may be called the sheriff:

(1) may be elected;

(2) may be appointed by the local government commission;

(3) may be appointed by the presiding officer of the local government commission;

(4) may be selected as provided by ordinance;

(5) may at the discretion of the commission be selected as provided by ordinance; or

(6) may not be included in this form as a separate office.

7-3-434. Clerk and recorder. A clerk and recorder:

(1) may be elected;

(2) may be appointed by the local government commission;

(3) may be appointed by the presiding officer of the local government commission;

(4) may be selected as provided by ordinance;

(5) may at the discretion of the commission be selected as provided by ordinance; or

(6) may not be included in this form as a separate office.

7-3-435. Clerk of district court. A clerk of district court:

- (1) may be elected;**
- (2) may be appointed by the local government commission;
- (3) may be appointed by the presiding officer of the local government commission;
- (4) may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) may not be included in this form as a separate office.

7-3-436. Treasurer. A treasurer:

- (1) may be elected;**
- (2) may be appointed by the local government commission;
- (3) may be appointed by the presiding officer of the local government commission;
- (4) may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) may not be included in this form as a separate office.

7-3-437. Surveyor. A surveyor:

- (1) may be elected;**
- (2) may be appointed by the local government commission;
- (3) may be appointed by the presiding officer of the local government commission;
- (4) may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) may not be included in this form as a separate office.

7-3-438. Superintendent of schools. A superintendent of schools:

- (1) may be elected;**
- (2) may be appointed by the local government commission;
- (3) may be appointed by the presiding officer of the local government commission;
- (4) may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) may not be included in this form as a separate office.

7-3-439. Assessor. An assessor:

- (1) may be elected;**
- (2) may be appointed by the local government commission;
- (3) may be appointed by the presiding officer of the local government commission;
- (4) may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) may not be included in this form as a separate office.

7-3-440. Coroner. A coroner:

- (1) may be elected;**
- (2) may be appointed by the local government commission;
- (3) may be appointed by the presiding officer of the local government commission;
- (4) may be selected as provided by ordinance;

- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) may not be included in this form as a separate office.

7-3-441. Public administrator. A public administrator:

- (1) may be elected;**
- (2) may be appointed by the local government commission;
- (3) may be appointed by the presiding officer of the local government commission;
- (4) may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) may not be included in this form as a separate office.

7-3-442. Auditor. An auditor:

- (1) may be elected;** (if the county has elected an auditor)
- (2) may be appointed by the local government commission;
- (3) may be appointed by the presiding officer of the local government commission;
- (4) may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) may not be included in this form as a separate office.** (If the county has not elected an auditor.)

