

Scope of Montana's Local Government Review

Power

In Montana (Shared Powers):

General (default): Able to exercise the power and authority explicitly granted by the legislature.

MT Constitution, Article XI, Section 4. General-governing powers. An incorporated city or town has the powers of a municipal corporation and legislative, administrative, and other powers provided or implied by law.

Self: Able to exercise any power and authority not explicitly denied by the legislature.

MT Constitution, Article XI, Section 6. Self-government powers. A local government unit adopting a self-government charter may exercise any power not prohibited by this constitution, law, or charter.

Examples of authority available under self-governing powers, but not general-governing powers:

- Provide additional services not permitted by the legislature, such as an electric or natural gas utility
- Lawfully acquire and operate utilities (gas, electric) within and outside the boundaries of its jurisdiction
- Greater authority to dispose of public lands
- Mandatory Seatbelt Ordinance
- Local Development Code to Regulate Sale of Alcoholic Beverages
- Require All Residents to Connect to City Water Supply
- Finance Future Expansion of City Water and Sewer System through System Development Fees
- Power to Prohibit Door-to-Door Solicitation

Form

- (1) **the Commission-Executive form (council-mayor)** Title 7, Chapter 3, Part 2
 - a. Council/commission elected directly by the citizens
 - b. Executive (mayor) elected directly by the citizens
 - c. Co-equal branches of government
- (2) **the Commission-Manager form** Title 7, Chapter 3, Part 3
 - a. Council/commission elected directly by the citizens
 - b. Council/commission hires professional manager based on knowledge, skills, and experience to serve as the chief executive of the local government
 - c. Council supervises manager
- (3) **the Commission form/ Elected County officials Form** Title 7, Chapter 3, Part 4/ 7-3-111, MCA
 - a. Commission elected directly by the citizens
 - b. Commission serves in both legislative and executive roles

- (4) **the Commission-Presiding Officer form** *Title 7, Chapter 3, Part 5*
 - a. Commission elected directly by the citizens
 - b. Commission elects presiding officer from its own number
 - c. Presiding officer retains all legislative duties during meetings, also operates as executive outside of meetings
- (5) **the Town Meeting form** *Title 7, Chapter 3, Part 6*
 - a. Electorate is the legislative branch, 10% of population constitutes a quorum
 - b. Citizens elect a town presiding officer who serves as the chief executive officer
 - c. Only available to incorporated cities and towns of less than 2,000 people
- (6) **the Charter form** *Title 7, Chapter 3, Part 7*
 - a. Written document establishing executive, legislative, and administrative structure and organization of the local government and are superior to statutory provisions
 - b. Can look like any of the other forms or be a structure unique to the local government
 - c. Must adopt self-governing powers with Charter form

Plan

There are several areas of consideration that can be customized to meet the local needs of a community under the plan of government. The plan allows choice of sub-options depending on the form of government.

Examples of areas of consideration with the plan of government (*this is not an exhaustive list*):

- Elections are held
 - By wards
 - At large
- Elections are
 - Partisan
 - Non-partisan
- The terms of office are
 - Concurrent
 - Overlapping
- The executive:
 - May veto an ordinance or resolution, subject to override by the council
 - Shall sign all ordinances and resolutions passed by the council with no veto power
- The executive may appoint and remove employees:
 - Without consent of the council
 - With consent of the council when hiring department heads
 - Only with consent of the council

Example topics **NOT** included in the scope of the local government review

- Removing or disciplining staff members or individuals serving in elected office
- Adding, changing, or removing services, programs, policies, or ordinances
- Changing the elections process
- Fees, assessments, taxes, or other service funding mechanisms