OPEN MEETINGS IN MONTANA

MONTANA STATE UNIVERSITY
EXTENSION
Local Government Center



LOCAL GOVERNMENT CENTER

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MONTANA'S UNIQUE CONSTITUTIONAL PROVISIONS

Montana is the only state whose citizens have chosen to constitutionally require that 1) the public has the right to view public documents and observe deliberations of governmental bodies and 2) the public has the right to engage in meaningful participation with the decision-making body prior to final action.

MONTANA CONSTITUTION – ARTICLE II:

Section 8. Right to Participation. The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law.

Section 9. Right to Know. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

Section 10. Right of Privacy. The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.

KEY MCA STATUTES FOR OPEN MEETINGS

The commission must develop procedures for permitting and encouraging the public to participate in agency decisions that are significant interest to the public (2-3-103(1), MCA).

The procedures must ensure adequate notice and assist public participation before a final agency action is taken (2-3-103(1), MCA).

Meetings must be noticed electronically either on the local newspaper's website if they will allow it free of charge OR on the agency's website or social media page (2-3-103(1), MCA).

Each meeting agenda must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the agency conducting the meeting. However, the agency may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter (2-3-103(1), MCA).

A meeting is defined as convening of a quorum of the constituent membership of a public agency or association described in 2-3-203, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power (2-3-202, MCA).

All meetings of a public or governmental body must be open to the public (2-3-203, MCA).

The two exceptions to the open meeting law are:

- When the discussion of the body relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open (2-3-203(3), MCA).
- To discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency (2-3-203(4), MCA).

Any committee or subcommittee appointed by a public body or an association described in subsection (2) for the purpose of conducting business that is within the jurisdiction of that agency is subject to the requirements of this section (2-3-203(6), MCA).

Any person may record and/or transmit live audio/video of any public meeting (2-3-211, MCA). The person does not need to be a member of the press and, as there is no expectation of privacy of conversation during a public meeting, the individual is not required to inform others of the recording or transmission (45-8-213(2)(a), MCA)

Appropriate minutes of all meetings must be kept and must be available for inspection by the public (2-3-212, MCA). Minutes must include without limitation:

- the date, time, and place of the meeting;
- a list of the individual members of the public body, agency, or organization who were in attendance;
- the substance of all matters proposed, discussed, or decided; and at the request of any member, a record of votes by individual members for any votes taken.
- In the event of a closed meeting, separate meeting minutes are to be recorded and kept in protective custody of the body, not to be released except pursuant to a court order.

When a public hearing is required, additional public notice requirements must be met including two notices in the local newspaper, 5+ days apart for municipalities (7-1-4127, MCA) and 6+ days apart for counties (7-1-2121, MCA).

Certain boards must record their meetings and post them within either 1 business day, 5 business days, or 14 business days, respectively, on the agency website and/or social media page. Those recordings must be available on that site for 1 year. They may be destroyed after 1 year and are not subject to the MT SOS records retention schedule (2-3-214, MCA).

- If there is a technological failure the board does not need to postpone or end the meeting, but they do need to post notice and an explanation of steps taken to avoid such issue again in the future.
- Unless otherwise designated by the governing body, the recording is NOT the official record of the meeting. Standard written minutes shall still be written, approved, and stored per the state records retention schedule.
- Boards that must have audio and video recording include:
    - Board of investments
    - PERS board
    - Teachers' retirement board
    - Board of public education
    - Board of regents

    ---------- (1 day posting requirement above line, 5 days below line)
    - County commission in counties with population greater than 4,500 people
    - First and second-class city council
    - Local board of health

    ---------- (14 day posting requirement below line)

    Boards that may have audio only recording include:
    - County commission in counties with population less than 4,500 people
    - Third-class city council
    - Town (only those with 300+ citizens) council

Administrative boards, districts, or commissions shall submit minutes to the appropriate office for electronic storage within 30 days of approval of the minutes by the body (7-1-204, MCA).

ESTABLISHING A COUNTY BOARD (7-1-201, MCA)

Montana law gives county commissioners the authority to create and manage various administrative boards, districts, and commissions to help deliver public services. These boards can oversee everything from parks and cemeteries to mosquito control and solid waste management.

A board of county commissioners may pass a resolution to establish a board or commission. This resolution must clearly define:

- The number of members.
- Their terms of service.
- Whether they receive compensation or reimbursement.
- Any special qualifications required for membership.

Boards may be assigned to oversee specific departments or service districts. They can adopt policies, administer programs, and make rules, however they cannot impose taxes or pledge county credit unless state law explicitly allows it.

ADMINISTRATIVE OR ADVISORY BOARDS

Boards can be either administrative or advisory in scope and authority. If a board is made up of elected members per the resolution of creation adopted by the county commission, the election process must follow Montana's election laws. Vacancies are filled by the county commissioners, and all appointments must be publicly posted at least one month in advance unless otherwise defined.

BOARD MEMBERSHIP AND OPERATIONS

- Boards must have at least three members, and the total number must be odd.
- Members must be U.S. citizens and residents of the county.
- Terms may not exceed four years and typically begin on July 1.
- Boards must keep written minutes and file meeting schedules with the county.
- A majority of members constitutes a quorum, and decisions are made by majority vote unless otherwise specified.

Boards may include nonvoting ex officio members and can be formed jointly by multiple local governments through interlocal agreements.

ACCOUNTABILITY AND OVERSIGHT

Boards are accountable to the county commissioners, especially in matters of budgeting and financial reporting. Commissioners also maintain a public register of all board appointments and may remove members for cause.

TYPES OF BOARDS THAT CAN BE CREATED (7-1-202, MCA)

Counties may establish a variety of boards, including but not limited to:

- Cemetery districts
- County fair commissions
- Mosquito and rodent control boards
- Museum and park boards
- Road, solid waste, and television districts
- Weed management districts

TIMELY RECORDKEEPING: BOARD MINUTES (7-1-204, MCA)

To ensure transparency and public access to government proceedings, all administrative boards, districts, or commissions created under Montana law (7-1-201 through 7-1-203, MCA) are required to submit their approved meeting minutes within 30 days. These minutes must be stored electronically in accordance with state records laws and submitted to the county clerk and recorder in each county where the board operates.

SERVING ON MULTIPLE BOARDS IN SMALL COMMUNITIES (7-1-205, MCA)

In Montana's smaller communities, defined as areas with fewer than 500 registered voters and encompassing more than one special purpose district, residents may serve on multiple special purpose district boards, whether elected or appointed.

However, if someone wants to run for more than one board position, they may only do so if all positions are unopposed at the time of filing. If a race later becomes contested, the candidate must choose one board to run for and withdraw from the others.

Key definitions:

- **Small community:** Fewer than 500 electors and more than one special purpose district.
- **Special purpose district:** As defined in 13-1-101, MCA.
- **Unopposed:** The number of candidates does not exceed the number of available positions.

ACCOUNTABILITY THROUGH CITIZEN PETITIONS (7-1-206, MCA)

Montana law empowers citizens to hold local boards accountable. If at least 5% of qualified voters served by a local government entity believe a board has violated its legal duties—such as failing to follow public meeting laws or appointment procedures—they may file a petition with the governing body that created the board.

The process includes:

1. Review by the county attorney, who must determine whether the petition has merit.
2. If valid, the board must undergo training provided by the Local Government Center at Montana State University.
3. The board must pay for the training and comply fully.
4. The Local Government Center must report all such cases to the Local Government Interim Committee.

This process ensures that local boards remain accountable and that citizens have a structured way to seek redress when governance standards are not met.

MONTANA'S CODE OF ETHICS: UPHOLDING PUBLIC TRUST IN LOCAL GOVERNMENT

As an elected or appointed public official in Montana, you hold a position of public trust. This trust is grounded in the confidence that citizens place in your integrity and commitment to serve the public good. The Montana Code of Ethics, outlined in Title 2, Chapter 2, MCA, provides the framework for ethical conduct in public service. Understanding and adhering to these standards is essential to maintaining that trust.

WHY ETHICS MATTER

The Montana Constitution (Article XIII, Section 4) prohibits conflicts between public duty and private interests. The Code of Ethics exists to:

- Preserve public confidence in government.
- Prevent misuse of public office for personal gain.
- Provide clear consequences for ethical violations.

Each local government must adopt the state's ethics code as a minimum standard and may implement additional rules. Always consult your legal counsel for local requirements.

GIFTS AND ECONOMIC BENEFITS (2-2-104, MCA)

Public officials may not accept gifts or economic benefits that could influence their decisions:

- Do not accept gifts or benefits valued over $100.
- Do not accept gifts or benefits that could be perceived to influence the average person to depart from impartial performance of their official duties.
- Bribes, regardless of value, are criminal offenses.
- Statutorily defined exceptions include:
- Unused gifts returned or donated within 30 days.
- Modest meals at civic or other events within your role as a public official.
- Educational materials or awards related to public service.

SELF-DEALING (2-2-104, 2-2-105, AND 2-2-121, MCA)

It is unlawful for a public official to use their role or position for personal financial gain. This includes:

- Using confidential information for personal benefit.
- Gaining interests in businesses affected by your decisions.
- Assisting others for compensation in dealings with your agency.
- Taking actions that benefit businesses you're financially tied

UNWARRANTED PRIVILEGES (2-2-105 AND 2-2-121, MCA)

Public officials may not:

- Lobby or act on behalf of organizations during work hours.
- Influence proceedings involving organizations you lead.
- Accept employment within 12 months of leaving office if it relates to matters you influenced.
- Receive overlapping public salaries unless specific conditions are met.

USE OF PUBLIC RESOURCES (2-2-121(3)(A), AND 2-2-122, MCA)

- Public officials may not use public time, equipment, or funds for private business.
- Public officials may not use public time, equipment, or funds to support or oppose a candidate or ballot issue.
- If the public official is a member of a governing body, they may act if necessary to have a quorum but must disclose the conflict of interest before performing the act.
- Expressing personal political views is allowed, but not on public time or with public resources. Public officials should be diligent in ensuring there is no appearance of them representing their official role or organization when engaging in the democratic process as an individual citizen.

DISCLOSURE REQUIREMENTS (2-2-131 AND 2-2-106, MCA)

Public officials must disclose:

- Any job negotiations with entities he or she regulates.
- Conflicts of interest before participating in decisions.
- Details of private interests in writing to the Commissioner of Political Practices.
- Disclosure alone is not a defense, specific conditions must be met to comply with statutes.

ENFORCEMENT AND PENALTIES (2-2-136 AND 2-2-144, MCA)

Violations may be reported to the county attorney, who can:

- Impose civil fines ($50–$1,000).
- Pursue criminal charges.
- Refer cases to court or a local ethics panel.

Local governments may also:

- Discipline employees.
- Establish independent panels to review complaints.

PROTECTION AGAINST RETALIATION (2-2-145, MCA)

It is illegal to retaliate against individuals who report ethical violations in good faith. Violators may face civil liability.

YOUR ROLE IN ETHICAL GOVERNANCE

Every decision made as a public official should reflect a commitment to public duty and trust. When in doubt, ask yourself:

- Does this action benefit the public or me personally?
- Would this erode public confidence if made public?

For guidance, consult your supervisor, HR department, legal counsel, or the Commissioner of Political Practices.

NEPOTISM IN MONTANA PUBLIC SERVICE

In Montana, appointment to a public service role is expected to be based on merit, not personal relationships. The law defines nepotism as the act of granting political favors or appointments based on family ties rather than qualifications or merit (2-2-301, MCA).

To uphold fairness and public trust, Montana law prohibits public officials from appointing close relatives to positions of trust or financial benefit. Under (2-2-302(1)), it is unlawful for any person in a position of authority such as a board member, department head, or commission official to appoint a relative within the **fourth degree of blood relation (consanguinity) or second degree of marriage relation (affinity)** to a public position.

SHOWING DEGREE OF RELATIONSHIP

				4 Great-Great Grandparents
			3 Great Grandparents	5 Great-Grand Uncles/Aunts
		2 Grandparents	4 Great Uncles/Aunts	6 First Cousins Twice Removed
	1 Parents	3 Uncles/Aunts	5 First Cousins Once Removed	7 Second Cousins Twice Removed
Person of Authority	2 Brothers/Sisters	4 First Cousins	6 Second Cousins	8 Third Cousins
1 Children	3 Nephews/Nieces	5 First Cousins Once Removed	7 Second Cousins Once Removed	9 Third Cousins Once Removed
2 Grand Children	4 Grand Nephews/ Nieces	6 First Cousins Twice Removed	8 Second Cousins Thrice Removed	10 Third Cousins Twice Removed
3 Great-Grand Children	5 Great-Grand Nephews/Neices	7 First Cousins Thrice Removed	9 Second Cousins Thrice Removed	11 Third Cousins Thrice Removed

SECOND DEGREE

Spouse's Grandfather

Spouse's Grand Daughter

Spouse's Brother (Brother-in-Law)

Spouse's Sister (Sister-in-Law)

FIRST DEGREE

Father-in-Law

Son-in-Law

Person of Authority

Spouse

Mother-in-Law

Daughter-in-Law

Sister's Spouse (Brother-in-Law)

Brother's Spouse (Sister-in-Law)

Spouse's Grandmother

Spouse's Grandson

PARLIAMENTARY MOTIONS GUIDE

The motions below are listed in order of precedence. Any motion can be introduced if it is higher on the chart than the pending motion.

YOU WANT TO:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?	RECONSIDER?
Adjorn	"I move to **adjourn**"	NO	YES	NO	NO	MAJORITY	YES
Take a break	"I move to **recess** for..."	NO	YES	NO	YES	MAJORITY	NO
Register complaint	"I rise to a **question of priviledge**"	YES	NO	NO	NO	NONE	NO
Orders of the day	"I call for the **orders of the day**"	YES	NO	NO	NO	NONE	NO

SUBSIDIARY MOTIONS

YOU WANT TO:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?	RECONSIDER?
Lay aside temporarily	"I move to **lay the question on the table**"	YES	YES	NO	NO	MAJORITY	NEGATIVE VOTE ONLY
Close debate	"I move the previous question"	NO	YES	NO	NO	2/3	YES
Limit/extend debate	"I move that **debate be limited to...**"	NO	YES	NO	YES	2/3	YES
Postpone to a certain time	"I move to **postpone** the motion to... "	NO	YES	YES	YES	MAJORITY	YES
Refer to a committee	"I move to **refer** the motion to..."	NO	YES	YES	YES	MAJORITY	YES
Amend a motion	"I move to **amend** the motion by..."	NO	YES	YES	YES	MAJORITY	YES
Kill main motion	"I move that the motion be **postponed indefinitely**"	NO	YES	YES	NO	MAJORITY	AFFIRMATIVE VOTE ONLY

MAIN MOTIONS

YOU WANT TO:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?	RECONSIDER?
Bring business to motion	"**I move that** (or to)... "	NO	YES	YES	YES	MAJORITY	YES

No order of precedence. Arise incidentally and decided immediately.

INCIDENTAL MOTIONS

YOU WANT TO:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?	RECONSIDER?
Enforce rules	"**Point of order**"	YES	NO	NO	NO	NONE	NO
Submit a matter to assembly	"I **appeal** from the decision of the chair"	YES	YES	VARIES	NO	MAJORITY	YES
Suspend the rules	"I move to **suspend the rules** which..."	NO	YES	NO	NO	2/3	NO
Avoid main motion all together	"I **object to the consideration** of the question... "	YES	NO	NO	NO	2/3	NEGATIVE VOTE ONLY
Divide motion/ question	"I move to **divide the question**"	NO	YES	NO	YES	MAJORITY	NO
Demand rising vote	"I call for a **division**"	YES	NO	NO	NO	NONE	NO
Parlimentary law question	"**Parliamentary inquiry**"	YES (If urgent)	NO	NO	NO	NONE	NO
Request information	"A **point of information** please"	YES (If urgent)	NO	NO	NO	NONE	NO

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EXTENSION

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