

**MEETING AGENDA**  
**CITY OF EAST HELENA**  
**CITY HALL – 306 EAST MAIN - ROOM 110**  
**COUNCIL MEETING: 6:30 PM**  
**DATE: TUESDAY, JUNE 17, 2025**  
**JOIN ZOOM MEETING: <https://us06web.zoom.us/j/3787705872>**  
**CONFERENCE CALL-IN: 1-253-205-0468 MEETING ID: 378 770 5872**

**MEETING CALLED TO ORDER:** Mayor Harris

**PLEDGE OF ALLEGIANCE:** Councilmember Feist

**PUBLIC COMMENTS:** Note: This time is set aside for comments from the public on matters that are not on the meeting agenda. Public comments will be taken on agenda items prior to a motion. All public comments will be limited to a reasonable duration. Prior to your comments, please state your name and address in an audible tone of voice for the record.

**APPROVAL OF MINUTES:** June 3, 2025

**CITY COURT REPORT:** City Judge Dennis Loveless

**DEPARTMENTAL REPORTS:**

Administration – Clerk/Treasurer Amy Thorngren  
Police Department – Police Chief Mike Sanders  
Public Works - Public Works Director Kevin Ore  
Volunteer Fire Department - Fire Chief Roger Campbell

**NEW BUSINESS:**

1. Plant Road Right-of-Way for Vigilante West Subdivision – Mayor Harris  
Action: Approve/Deny/Table
2. Discussion on Recruitment of Members for the Planning Board, Zoning Commission, & Police Commission - Mayor Harris  
Action: Information Only

**MAYOR’S REPORT:** Mayor Harris

**COUNCILMEMBERS’ REPORTS:**

Don Dahl  
Judy Leland  
Wesley Feist  
Suzanne Ferguson

**LEGAL REPORT:** City Attorney Elverum

**PAYMENT OF BILLS:** Action: Approve/Deny/Table

**MEETING SCHEDULE:**

1. East Helena City Council Meeting, Tuesday, July 1, 6:30 p.m., City Hall Room 110
2. East Helena City Council Meeting, Tuesday, July 15, 6:30 p.m., City Hall Room 110

**ADJOURNMENT:** Mayor Harris

**ADA NOTICE**

The City of East Helena is committed to providing access to persons with disabilities for its meetings, in compliance with Title II of the Americans with Disabilities Act and the Montana Human Rights Act. The city will not exclude people with disabilities from participating in its meetings, or otherwise deny them the City's services, programs, or activities. Persons with disabilities requiring accommodations to participate in the City's meetings, services, programs, or activities should contact the City Clerk as soon as possible to allow sufficient time to arrange for the requested accommodation, at any of the following:

(406) 227-5321 or TTY Relay Service 1-800-253-4091 or 711

[cityclerk@easthelenamt.us](mailto:cityclerk@easthelenamt.us) - 306 East Main Street, P.O. Box 1170, East Helena, MT 59635

**MEETING MINUTES**  
**CITY OF EAST HELENA**  
**CITY HALL – 306 EAST MAIN - ROOM 110**  
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**JOIN ZOOM MEETING: <https://us06web.zoom.us/j/3787705872>**  
**CONFERENCE CALL-IN: 1-253-205-0468 MEETING ID: 378 770 5872**

**MEETING CALLED TO ORDER:** Mayor Harris called the meeting to order at 6:30 p.m. Councilmember Leland led the Pledge of Allegiance.

**CITY OFFICIALS & STAFF PRESENT:** Mayor Kelly Harris, Council President Don Dahl, Councilmember Judy Leland, Councilmember Wesley Feist, Councilmember Suzanne Ferguson, Clerk/Treasurer Amy Thorngren, City Attorney Pete Elverum, Police Chief Mike Sanders, Deputy Police Chief Ed Royce, and Patrol Officer Chris Kirkegaard

**PUBLIC PRESENT:** Jennifer McBroom and Duane Williams

**ABSENT/EXCUSED:** City Judge Dennis Loveless, Public Works Director Kevin Ore, and Fire Chief Roger Campbell

**PUBLIC COMMENTS:** There were no public comments on any non-agenda items.

**(0:00:45) APPROVAL OF MINUTES:** The draft minutes of the May 20, 2025 meeting were included in the council packet. There was no public comment. Councilmember Dahl made a motion to approve the minutes as presented. Councilmember Leland seconded the motion. The motion passed unanimously.

**CITY COURT REPORT:** City Judge Dennis Loveless was excused.

**DEPARTMENTAL REPORTS:**

**(0:00:20) Administration** – Clerk/Treasurer Amy Thorngren reported that the admin office had been busy with swimming lesson registrations, building permits, business licenses, notarizations and court business. She noted that the closing for the new wastewater loan would occur on June 12<sup>th</sup>.

**(0:04:25) Police Department** – Police Chief Mike Sanders reported that there had been 295 calls-for-service in May, the department coordinated with the county attorney's office regarding PMFA arrest paperwork protocol, he testified in district court regarding the theft of rodeo ticket proceeds, he and Deputy Chief Royce attended the Montana Association of Chiefs of Police meeting, and he attended the Criminal Justice Coordinating Committee meeting.

**Public Works** – A written report was included in the council packet. Public Works Director Kevin Ore was excused.

**Volunteer Fire Department** - Fire Chief Roger Campbell was excused.

**NEW BUSINESS:**

1. **(0:11:05) 2<sup>nd</sup> Annual East Helena Christmas Convoy** –Montana Trucking Association Executive Director Duane Williams requested Council's approval to once again hold the Christmas Convoy in East Helena on December 6<sup>th</sup>. He reported that the previous convoy had gone well and that this year's convoy was expected to be bigger. Council discussed the success of the city's first Christmas convoy and strategies to accommodate a second. There was no public comment. Councilmember Feist made a motion to approve the convoy. Councilmember Leland seconded the motion. The motion passed unanimously.
2. **(0:16:45) Update from the Water Quality Protection District** – WQPD Supervisor Jennifer McBroom updated Council on the progress and activities of the district including the Prickly Pear Creek Rewatering Project, Water Watchers, the Well and Septic Workshop, and the supervision of 160 monitoring wells. There was no public comment. This was an information-only item.
3. **(0:21:15) City of East Helena and METG Water System Improvements Agreement** – A copy of the updated agreement was included in the council packet. Mayor Harris noted that the agreement now included all the city's public wells. There was no public comment. Councilmember Feist made a motion to approve the agreement. Councilmember Ferguson seconded the motion. The motion passed unanimously.
4. **(0:24:00) COPS Grant Application** – Police Chief Sanders requested Council's approval to apply for a second COPS grant. He noted that if the award were made, the city would not be obligated to accept it if the new budget could not accommodate it. There was no public comment. Councilmember Ferguson made a motion to approve applying for the grant. Councilmember Leland seconded the motion. The motion passed unanimously.

**(0:29:40) MAYOR'S REPORT:** Mayor Harris reported that he had been preparing for the upcoming budget and that he attended the selenium and arsenic plume monitoring meeting.

**COUNCILMEMBERS' REPORTS:**

**Don Dahl** had nothing to report.

**(0:32:05) Judy Leland** reported that she participated in the lifeguard interviews.

**(0:32:50) Wesley Feist** reported that he had received some phone calls.

**Suzanne Ferguson** had nothing to report.

**(0:33:10) LEGAL REPORT:** City Attorney Elverum reported that he heard from bonding agency attorney Bob Murdo regarding the East Clark Street Sewer District and the letter sent by the district's attorney. An update is awaited.



**(0:35:15) PAYMENT OF BILLS:** Claims 298810 through 298866 were presented for Council's review. Councilmember Leland made a motion to pay the bills. Councilmember Feist seconded the motion. The motion passed unanimously.

**MEETING SCHEDULE:**

1. East Helena City Council Meeting, Tuesday, June 17, 6:30 p.m., City Hall Room 110
2. East Helena City Council Meeting, Tuesday, July 1, 6:30 p.m., City Hall Room 110

**ADJOURNMENT:** Mayor Harris adjourned the meeting at 7:08 p.m.

ATTEST:

\_\_\_\_\_  
Clerk/Treasurer

\_\_\_\_\_  
Mayor

CITY COURT REPORT FOR MAY, 2025

RECEIPTS \$4,678.00

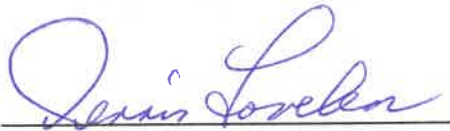
PAYMENTS

CITY TREASURER \$3,936.00

COUNTY TREASURER 742.00

RESTITUTION & OVERPMT

RESPECTFULLY SUBMITTED



DENNIS LOVELESS, CITY JUDGE

**RECEIVED**  
JUN 09 2025  
CITY CLERK/TREASURER  
EAST HELENA, MT



## Cities and Towns Collaboration Meeting

Montana State Fund is pleased to invite you to participate in the inaugural Montana Cities and Towns collaboration meeting. This initiative has been established to provide a consistent platform for safety leaders across Montana to network, engage in educational opportunities focused on identified safety priorities, and facilitate the exchange of knowledge regarding safety and risk management best practices relevant to our cities and towns.

To commence this collaborative effort, MSF will be hosting an introductory meeting. We value your insights and would appreciate your input on how to best utilize our time together to ensure this collaboration effectively meets your needs.

Thank you for your anticipated participation. We look forward to the opportunity to meet with you soon.

**WHEN: Wednesday, June 25<sup>th</sup> from 10 – 11 am**

Scan this QR code to register or register online at:  
<https://form.jotform.com/251527718269163>







THANK  
YOU

CSO CSO Thank you!  
- Mary Barry (LCCCAC)  
Janice Therapist  
Thank you!  
Mary Thompson  
CFSD  
Thank you!  
Tanya Mungel  
Kew Probation  
Thank you!  
Whitney Brummett  
St. Peter's Hosp.  
Thank you!  
Krista  
Westerkhold  
CFSD

RECEIVED  
JUL 03 2025  
CITY OF  
EAST HELENA, MT

East Helena Mayor Harris and City Council members - Judy Leland, Wesley Feist, Don Dahl and Suzanne Ferguson -

We are grateful for your partnership in serving our community. Thank you for investing in the Lewis & Clark County Child Advocacy Center (LCCCAC) and multidisciplinary team!

With Appreciation -  
Paula Samms, LPC  
Director, LCCCAC

We appreciate you. Thank you!  
Matt Begni, CEO

Thank you  
Mike Pelt  
HPD





# **Public Works Department**

*Proud to serve our Community*

**June 17th, 2025**

## **1.) WWTP Report**

- Prospect Construction is continuing headworks construction. Lots of concrete.
- Shane has been working on floc rake again, bearing failed on the motor, took 4 days to get parts, may cause us to have violation as the clarifier did float the sludge blanket during this shut down. (Discuss)
- Responded to DEQ for March's copper & nitrogen violation at wastewater plant. This was due to the clarifier freezing in late February.
- Crews got all the scrape equipment hauled out of plant.
- Working on a com-loss issue with K&R lift station.

## **2.) Metal Removal Building**

- New reject pump is still on order.
- Flooring installation in the upstairs office is completed and looks very nice.

## **3.) Source Water Report**

- Shipped the mixer back to the manufacturer for warranty repairs.
- Montana materials is completing water main replacement in the 400 block of Lewis. The intersection of Valley and Lewis will be closed for the week of June 16<sup>th</sup>. Thanks to Lewis and Clark County for allowing us to use road reader boards.
- Crews have been working on tightening barb wire fence around M.C. Creek well Property.

## **4.) Solid Waste Report**

- The garbage truck has been working as designed.

## **5.) Parks**

- Installed new reservation signs for both pavilions, hopefully this helps people recognize that the facility is reserved. (Discuss)
- Parks have been crazy busy.

## **6.) Pool**

- Lifeguard training is going well.
- Still waiting on est. for roof repair.
- The new pool vacuum is working great.
- A/C is installed in pool house.

## **7.) Streets**

- All city right-of-way areas have been mowed, just in time for grass to grow and need it again. (Thanks, Torrey)
- Still no update on Raise Grant for Valley Drive.
- Lewis and Clark County completed street line painting on Valley, Wyle, Hwy 282.
- Crews will be repainting crosswalks and curbs in next couple of weeks.

## **8.) Facilities**

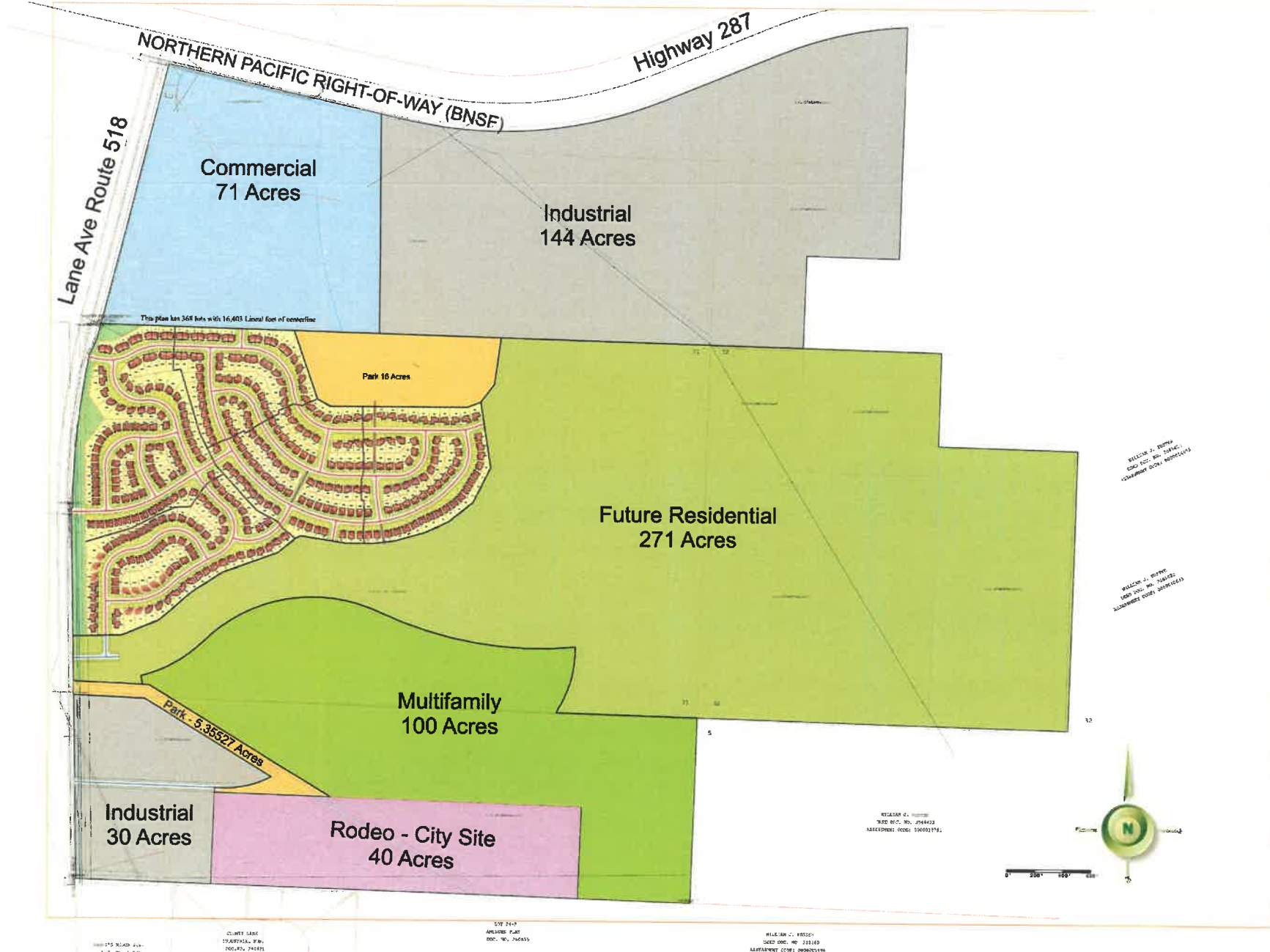
- Working on getting the roof repairs scheduled at City Hall, estimate of \$12K.

## **9.) Resident/City Information and Events**

- Spring clean up went well, 6900lbs picked up from a total of 36 residents.
- Had subdivision pre-application meeting with Prickly Pear Development. See included draft subdivision concept plan. (Discuss)



## CONCEPT PLAN





CITY OF EAST HELENA  
306 E MAIN ST / PO BOX 1170  
EAST HELENA, MT 59635  
(406) 227-5321

ORIGINAL COUNCIL MEETING DATE: 06/17/2025

Agenda item:

Plant Road Right-of-Way for Vigilante West Subdivision

From:

Vigilante Developers

Initiated by City:     ☐ YES            ☒ NO            (check one)

Department:

Planning & Zoning

Presented by:

Mayor Harris

Action requested:

Approve/Deny/Table

PLEASE PROVIDE A NARRATIVE BACKGROUND OF THE PROPOSED AGENDA ITEM:

Attachments:

Quit claim deed

Certificate of survey

Attachments:            ☒ YES            ☐ NO            (check one)

Date submitted:

June 11, 2025

RECOMMENDATIONS:

Approve for agenda:

☐ YES

☐ NO

Initial:

Referred to Dept. Head for resolution:

☐ YES

☐ NO

Referred to \_\_\_\_\_:

☐ YES

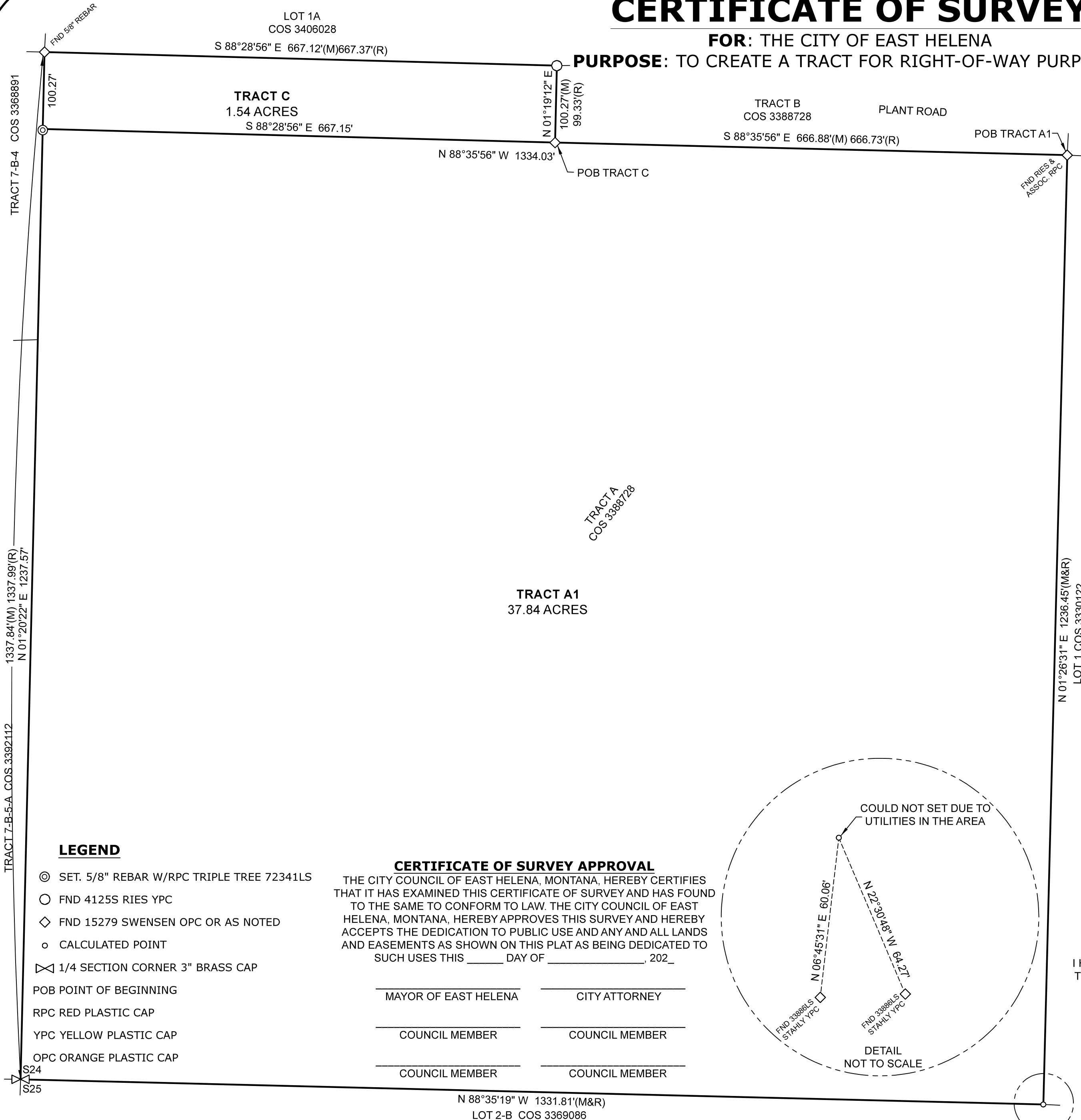
☐ NO

Agenda requests must be submitted to East Helena City Hall by noon the Wednesday prior to the Tuesday council meeting.

CERTIFICATE OF SURVEY

FOR: THE CITY OF EAST HELENA

PURPOSE: TO CREATE A TRACT FOR RIGHT-OF-WAY PURPOSES



**TRACT A1**  
A TRACT OF LAND LOCATED IN THE SE1/4 OF SECTION 24, TOWNSHIP 10 NORTH, RANGE 3 WEST, P.M.M, LEWIS AND CLARK COUNTY, MONTANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF TRACT B OF COS 3388728, THENCE S 01°26'31" W, 1236.45 FEET ALONG THE WEST LINE OF LOT 1 OF COS 3330122; THENCE N 88°35'19" W, 1331.81 FEET ALONG THE NORTH LINE OF LOT 2-B OF COS 3369086 TO THE SOUTH 1/4 CORNER OF SECTION 24; THENCE N 01°20'22" E, 1237.57 FEET ALONG THE EAST LINE OF TRACTS 7-B-5-A OF COS 3392112 AND TRACT 7-B-4 OF COS 3368891; THENCE S 88°28'56" E, 667.15 FEET TO THE SOUTHWEST CORNER OF SAID TRACT B; THENCE S 88°35'56" E, 666.86 FEET ALONG THE SOUTH LINE OF SAID TRACT B TO THE POINT OF BEGINNING. THE TRACT OF LAND CONTAINS 37.84 ACRES, MORE OR LESS AND IS SUBJECT TO ALL EXISTING EASEMENTS AND DOCUMENTS OF RECORD AS SHOWN ON THIS SURVEY.

**TRACT C**  
A TRACT OF LAND LOCATED IN THE SE1/4 OF SECTION 24, TOWNSHIP 10 NORTH, RANGE 3 WEST, P.M.M, LEWIS AND CLARK COUNTY, MONTANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF TRACT B OF COS 3388728, THENCE N 88°28'56" W, 667.15 FEET TO THE EAST LINE OF TRACT 7-B-4 OF COS 3368891; THENCE N 01°20'22" E, 100.27 FEET ALONG THE EAST LINE OF SAID TRACT 7-B-4; THENCE S 88°28'56" E, 667.12 FEET ALONG THE SOUTH LINE OF LOT 1A OF SURVEY 3406028; THENCE S 01°19'12" W, 100.27 FEET ALONG THE WEST LINE OF SAID TRACT B TO THE POINT OF BEGINNING. THE TRACT OF LAND CONTAINS 1.54 ACRES, MORE OR LESS AND IS SUBJECT TO ALL EXISTING EASEMENTS AND DOCUMENTS OF RECORD AS SHOWN ON THIS SURVEY.

**SUBDIVISION EXEMPTION**  
TRACT A1 AND TRACT C ARE EXEMPT FROM SUBDIVISION REVIEW IN ACCORD WITH 76-3-201(1)(h) OF MCA AS TRACT C IS CREATED FOR RIGHTS-OF-WAY. UNLESS THE METHOD OF DISPOSITION IS ADOPTED FOR THE PURPOSE OF EVADING THIS CHAPTER, THE REQUIREMENTS OF THE CHAPTER MAY NOT APPLY TO ANY DIVISION OF LAND THAT IS CREATED FOR RIGHTS-OF-WAY OR UTILITY SITE. A SUBSEQUENT CHANGE IN USE OF THE LAND TO A RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL USE IS SUBJECT TO THE REQUIREMENTS OF THIS CHAPTER.

**DEQ EXEMPTION**  
**TRACT A1**  
WE, THE UNDERSIGNED, HEREBY CERTIFY THAT TRACT A1 IS EXEMPT FROM DEQ REVIEW IN ACCORD WITH MCA 76-4-103, BECAUSE THIS IS A PARCEL 20 ACRES OR GREATER, EXCLUSIVE OF PUBLIC ROADWAYS.

**TRACT C**  
WE, THEUNDERSIGNED, HEREBY CERTIFY THAT TRACT C IS EXEMPT FROM DEQ REVIEW IN ACCORD WITH MCA 76-4-125(1)(a) A SUBDIVISION EXCLUDED FROM PROVISIONS OF CHAPTER 3 MUST BE SUBMITTED FOR REVIEW ACCORDING TO THE PROVISION OF THIS PART, EXCEPT THAT THE FOLLOWING DIVISION OR PARCELS, UNLESS THE EXCLUSIONS ARE USED TO EVADE THE PROVISIONS OF THIS PART ARE NOT SUBJECT TO REVIEW:(a) THE EXCLUSION CITED IN 76-3-201(h) AS THIS TRACT IS BEING CREATED FOR RIGHTS-OF-WAY.

DATE \_\_\_\_\_, 20\_\_\_\_.

CITY OF EAST HELENA

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_,

\_\_\_\_\_, PERSONALLY APPEARED BEFORE ME AND DID HEREIN EXECUTE THE ABOVE

INSTRUMENT  
FOR THE PURPOSES STATED.

LEWIS & CLARK COUNTY, MONTANA

NOTARY'S SEAL/STAMP

\_\_\_\_\_  
NOTARY PUBLIC FOR THE STATE OF MONTANA

PRINTED NAME \_\_\_\_\_  
NOTARY PUBLIC FOR THE STATE OF \_\_\_\_\_  
RESIDING AT \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_, 20\_\_\_\_

**CERTIFICATE OF COUNTY TREASURER**  
I HEREBY CERTIFY, PURSUANT TO SECTION 76-3-207 (3) OF MCA, THAT ALL REAL PROPERTY TAXES AND SPECIAL ASSESSMENTS ASSESSED AND LEVIED ON THE LAND DESCRIBED ON THIS CERTIFICATE OF SURVEY ARE PAID IN FULL.  
GEO CODE 05-1888-24-4-03-01-0000  
TAX CODE 38628  
DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
TREASURER, LEWIS & CLARK COUNTY, MONTANA

**LEGEND**

- ⊙ SET. 5/8" REBAR W/RPC TRIPLE TREE 72341LS
- FND 4125S RIES YPC
- ◇ FND 15279 SWENSEN OPC OR AS NOTED
- CALCULATED POINT
- ⊠ 1/4 SECTION CORNER 3" BRASS CAP

POB POINT OF BEGINNING

RPC RED PLASTIC CAP

YPC YELLOW PLASTIC CAP

OPC ORANGE PLASTIC CAP

**CERTIFICATE OF SURVEY APPROVAL**  
THE CITY COUNCIL OF EAST HELENA, MONTANA, HEREBY CERTIFIES THAT IT HAS EXAMINED THIS CERTIFICATE OF SURVEY AND HAS FOUND TO THE SAME TO CONFORM TO LAW. THE CITY COUNCIL OF EAST HELENA, MONTANA, HEREBY APPROVES THIS SURVEY AND HEREBY ACCEPTS THE DEDICATION TO PUBLIC USE AND ANY AND ALL LANDS AND EASEMENTS AS SHOWN ON THIS PLAT AS BEING DEDICATED TO SUCH USES THIS \_\_\_\_ DAY OF \_\_\_\_\_, 202\_\_.

_____ MAYOR OF EAST HELENA	_____ CITY ATTORNEY
_____ COUNCIL MEMBER	_____ COUNCIL MEMBER
_____ COUNCIL MEMBER	_____ COUNCIL MEMBER

**DOCUMENTS USED**  
3388728 COS

**BASIS OF BEARING**  
MONTANA STATE PLANE GRID NORTH  
WITH GROUND DISTANCES  
**JOB:** 19-86

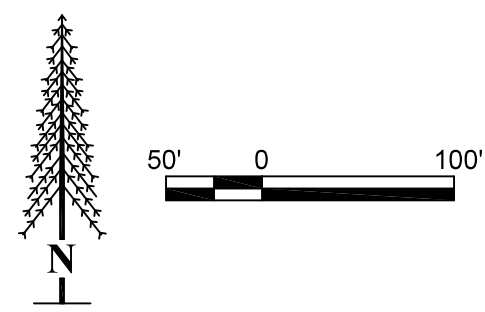
**SURVEYED BY:** AL

**FIELD WORK DATE:** MARCH 01, 2024

**DATE:** NOVEMBER 25, 2024

**CERTIFICATE OF LAND SURVEYOR**

\_\_\_\_\_  
ADRIAN L. LARGENT P.L.S. (72341LS)  
PROFESSIONAL LAND SURVEYOR



**CERTIFICATE OF EXAMINING LAND SURVEYOR**  
REVIEWED FOR ERRORS AND OMISSIONS IN CALCULATIONS AND DRAFTING THIS 25th DAY OF Nov, 2024 PURSUANT TO SECTION 76-3-611(2)(a), MCA.

\_\_\_\_\_  
EXAMINING LAND SURVEYOR  
LICENSE No. 12249LS



**TRIPLE TREE**  
ENGINEERING  
1145 CAP ROAD HELENA, MT 59602 (406) 461-0692

1/4	SEC.	T.	R.
<input checked="" type="checkbox"/>	24	10N	3W

P.M. MONTANA, LEWIS AND CLARK COUNTY

Return to:  
City of East Helena  
306 East Main  
East Helena, MT 59635

### **QUITCLAIM DEED**

City of East Helena, 306 East Main, East Helena, MT 59635, herein referred to as Grantor, in consideration of ten dollars and other valuable consideration (\$10.00/OVC), hereby grants and forever quitclaims unto City of East Helena, 306 East Main, East Helen, MT 59635 herein referred to as Grantee, and to Grantee's heirs and assigns forever, all of the following real property in Lewis and Clark County, State of Montana:

A tract of land in the SE 1/4, Section 24, Township 10 North, Range 3 West, M.P.M., Lewis and Clark County, Montana more particularly described as Tract A1 on Certificate of Survey \_\_\_\_\_, records of Lewis and Clark County, Montana.

together with all tenements, hereditaments and appurtenances thereto, and reversions and remainders, and all rents, issues, and profits thereof, and all right, title and interest of the Grantor therein.

TO HAVE AND TO HOLD all and singular the said premises together with appurtenances unto the Grantee and to the Grantee's heirs and assigns forever.

IN WITNESS WHEREOF, this instrument is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

CITY OF EAST HELENA

Quitclaim Deed right of way City of East Helena to City of East Helena - p. 1

MAYOR

STATE OF MONTANA )

**: SS**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, the Mayor of East Helena, MT and the Grantor herein, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Printed Name: \_\_\_\_\_

NOTARY PUBLIC FOR THE STATE OF MONTANA

Residing at: East Helena, Montana

My commission expires: \_\_\_\_\_

CITY OF EAST HELENA  
306 E MAIN ST / PO BOX 1170  
EAST HELENA, MT 59635  
(406) 227-5321

ORIGINAL COUNCIL MEETING DATE: 06/17/2025

Agenda item:

Discussion on Recruitment of Members for the Planning Board, Zoning Commission, & Police Commission

From:

Mayor Harris

Initiated by City:     ☐ YES            ☒ NO            (check one)

Department:

Executive

Presented by:

Mayor Harris

Action requested:

Information only

PLEASE PROVIDE A NARRATIVE BACKGROUND OF THE PROPOSED AGENDA ITEM:

Attachments:

Planning Board/Zoning Commission roster

Planning Board by-laws

MCA 76-1-221 regarding planning boards

Zoning Commission by-laws

Police Commission roster

References to MCA regarding police commissions

Police Commission Handbook

Attachments:            ☒ YES            ☐ NO            (check one)

Date submitted:

June 11, 2025

RECOMMENDATIONS:

Initial:

Approve for agenda:

☐ YES

☐ NO

\_\_\_\_\_

Referred to Dept. Head for resolution:

☐ YES

☐ NO

\_\_\_\_\_

Referred to \_\_\_\_\_:

☐ YES

☐ NO

\_\_\_\_\_

Agenda requests must be submitted to East Helena City Hall by noon the Wednesday prior to the Tuesday council meeting.



City of East Helena  
306 East Main  
PO Box 1170  
East Helena, MT 59635  
(406) 227-5321

## Planning Board & Zoning Commission Members

Effective June 12, 2025

### City of East Helena Planning Board:

<u>Member:</u>	<u>Type:</u>	<u>Term Expires:</u>
<vacant>	City Council App.	
Councilmember Don Dahl (Vice Chair)	City Council Rep.	12/31/2025
Terrie Casey	Citizen Member	6/30/2027
<vacant>	Citizen Member	
Jean Riley	Lewis & Clark County	6/30/2027
Kaila Matteson	Citizen Member	6/30/2026
<vacant>	Citizen Member	

### City of East Helena Zoning Commission:

<u>Member:</u>	<u>Term Expires:</u>
Councilmember Don Dahl (Chair)	12/31/2025
Councilmember Suzanne Ferguson	12/31/2027
Terrie Casey	6/30/2027
<vacant>	
Luke Serati	6/30/2026

# **BY-LAWS OF THE CITY OF EAST HELENA PLANNING BOARD**

## **ARTICLE I - AUTHORIZATION AND CREATION**

The City of East Helena Planning Board (hereinafter referred to as the Board) is authorized under MCA § 76-1-101, *et seq.* and was created by Ordinance No. 239, which was approved and adopted on February 17, 2009.

## **ARTICLE II – OBJECTIVES**

The objectives of the Board are to advise and assist the East Helena City Council in improving the health, safety, convenience and general welfare of the residents living within the City of East Helena and to plan for the future development of East Helena, as provided for by MCA § 76-1-101, *et seq.*

## **ARTICLE III - JURISDICTION**

The Board shall have planning jurisdiction within the incorporated limits of the City of East Helena as they currently exist and as they subsequently change over time through annexation.

## **ARTICLE IV - POWERS AND DUTIES**

The Board shall have such powers and duties as are provided in Title 76, Montana Code Annotated. The Board shall also have such duties as set forth in the Growth Policy, applicable Subdivision Regulations, and other applicable regulations. Regulation proposals shall be made to carry out the objectives in accordance with the Growth Policy and designed to insure a rational, orderly, and efficient plan for the future development of the East Helena Planning Area.

1. If requested by the City Council to review the growth policy for their jurisdictional area, the Board shall make recommendations to the City Council regarding the adoption or amendment of the growth policy for their jurisdictional area, as provided by MCA § 76-1-601, *et seq.* This shall include a review of the Growth Policy at least once every five (5) years in accordance with MCA § 76-1-601(3)(f)(iii).
2. The Board shall act in an advisory capacity, and recommend to the City Council the approval, conditional approval, or denial of proposed plats and subdivisions, as provided by MCA § 76.1-101, *et seq.*
3. The Board shall make an annual report to the City Council concerning the operation of the Board and the status of planning within its jurisdiction in accordance with MCA § 76-1-305(4).

## **ARTICLE V - FUNDS FOR OPERATION**

The City Council shall have the power and duty to supervise the fiscal affairs and responsibilities of

the Board. The Board may prepare and submit to the City Council an annual budget in the same manner as City departments, and shall be limited in all expenditures to the provisions made therefore by the City Council.

## **ARTICLE VI – OFFICE**

The Board shall maintain its offices In the East Helena City Hall, 306 East Main Street, East Helena, MT 59635.

## **ARTICLE VII - MEMBERSHIP**

### **A. SELECTION**

The Board shall consist of not less than seven (7) members and shall be appointed in accordance with MCA § 76-1-221, *et seq.*

### **B. REMOVAL FROM OFFICE**

1. Any appointee may be removed from office by the appointing body.
2. Three unauthorized consecutive absences from Board meetings shall be reported to the appropriate governing body by the Board Secretary. Absences shall be authorized by the President/Chair or Vice-President/Vice-Chair.

### **C. TERMS OF GOVERNMENTAL MEMBERS**

1. The terms of the members who are officers of any governmental unit represented on the Board shall be coextensive with their respective terms of office to which they have been elected or appointed.
2. The terms of the other members shall be two years, except that the terms of the first member appointed shall be fixed by the City Council for 1 or 2 years in order that a minimum number of terms shall expire in any year; terms shall expire on June 30<sup>th</sup>.

### **D. RESIGNATION AND VACANCIES**

1. Vacancies occurring on the Board shall be filled for the unexpired term by the City Council.
2. Resignations from the Board shall be made in writing to the City Council and Board Secretary.

### **E. COMPENSATION**



Members of the Board shall receive no salary for serving on the Board, but may be reimbursed for transportation and actual expenses for board activities as provided by Statute and with prior approval of the City Council.

#### **ARTICLE VIII - BOARD SECRETARY AND PROFESSIONAL SERVICES**

A Board secretary shall be provided by the City Council and shall generally be an employee within the City. The City Council may provide for special, temporary, and professional services as it deems appropriate and necessary.

#### **ARTICLE IX - OFFICERS AND THEIR DUTIES**

- A. At its first regular meeting of a newly seated Board, the Board shall elect from its members a President/Chair and Vice-President/Vice-Chair. The Vice-President/Vice-Chair shall have authority to act as President /Chair of the Board during the absence or disability of the President/Chair.
- B. The President/Chair shall preside at all meetings and hearings of the Board and shall have the duties normally conferred by parliamentary practice to this office, call special meetings, and generally perform other duties as may be prescribed in these By-Laws or by Board action. The President/Chair shall have the privilege of discussing all matters before the Board, and shall have the privilege of voting on all matters.
- C. In the event of the absence of the President/Chair or Vice-President/Vice-Chair, the members of the Board shall select an acting President/Chair.

#### **ARTICLE X – MEETINGS**

##### **A. MEETINGS**

The Board shall by majority vote fix the time for holding regular monthly meetings. However, the Board shall meet at least once in the months of January, April, July and October. Agendas for meetings shall be made available to the public. Special meetings of the Board may be called by the President/Chair or by two members upon written request to the Secretary. The Secretary shall post and send to all members at least two days in advance of a meeting, a written notice fixing the time and place of the meeting. Written notice of a meeting is not required if the meeting has been fixed in a regular meeting or if all members are present at a meeting.

##### **B. QUORUM**

A majority of members shall constitute a quorum. No action of the Board is official, however, unless authorized by a majority of members of the Board present at a regular or properly called special meeting

C. OPEN MEETINGS AND DOCUMENTS

All meetings of the Board and its committees shall be open to the public. Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion 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 shall be open. A meeting may also be closed 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.

D. RULES OF ORDER

Meetings of the Board shall be conducted according to the current edition of Robert's Rules of Order unless otherwise specified in these By-Laws. A member of the Board may be designated by the President/Chair to serve as parliamentarian.

F. CONFLICT OF INTEREST

The planning process exists to serve the public interest. The public interest is a question of continuous debate requiring a conscientious regard for the policies and actions that best serve the entire community. These policies are encompassed by the growth policy, zoning and subdivision regulations, and applicable state law. Planning issues may involve a conflict of values. Planning board decisions require the highest standards of fairness and honesty among participants. Everyone who appears before the planning board has a right to unbiased decisions.

Any member(s) having a financial or personal interest in any matter before the Board for discussion or vote shall publicly disclose the nature and extent of such interest and, if warranted, recuse and remove themselves from the meeting room until discussion on the matter has ended and a vote, if any, is taken. In such circumstances, the secretary shall note in the minutes that a conflict of interest was acknowledged, and whether the Board member(s) was absent during the discussion and voting.

"Personal interest" shall be broadly construed and shall include any benefits or advantages, financial or non-financial, that they, a spouse, family member or person living in their household might obtain from a planning decision.

Whether a member has a personal interest in an item of consideration by the Board may also be raised by another member of the Board at any time during a hearing. The President/Chair shall then suspend discussion of the current pending matter and the Board shall discuss and resolve by motion and vote immediately whether said conflict of interest exists, with the member subject of said motion not voting. Should the Board determine that a conflict exists, said member shall be treated as if he had

declared said conflict and shall not participate any further in the discussion and vote taken on the item.

A member who has declared a conflict of interest or whom the Board determines has such a conflict of interest shall still be counted as a member of the Board for constituting a quorum.

## **ARTICLE XI - ORDER OF BUSINESS**

- A. Unless otherwise determined by the President/Chair, the order of agenda business at regular meetings shall be:
  - 1. Call to order and roll call.
  - 2. Public comment other than comments related to public hearings.
  - 3. Approval of Minutes of previous meetings and actions thereon.
  - 4. Old business continued or tabled/postponed/public hearing.
  - 5. New business/public hearings.
  - 6. Informal/Pr-application plat reviews.
  - 7. Special committee and other Board reports.
  - 8. Communications.
  - 9. Staff Report.
  - 10. President/Chair's Report.
  - 11. Other Business.
  - 12. Adjournment.
- B. A motion from the Board must be made and passed in order to dispense with any item on the Agenda or change the order of business.
- C. No special committee reports or communications submitted for action by the Board shall be acted upon unless it is submitted five (5) days prior to a regular meeting date. New business may be introduced without five (5) days notice for the purpose of Board action at a future meeting or referral to a committee or staff for study or consideration. Provisions of this section may be waived by the unanimous vote of the members present.

## **ARTICLE XII – HEARINGS**

### **A. PUBLIC HEARINGS**

Public hearings may be scheduled in accordance with state law or when the Board decides that such hearings will be in the public interest.

### **B. NOTICE**

Notice of public hearings shall be given as required by MCA § 7-1-4127 and in conformance with Title 76, Montana Code Annotated, the Montana Subdivision and Platting Act, the East

Helena Subdivision Regulations, and the East Helena Zoning Ordinance.

C. PROCEDURES FOR PUBLIC HEARINGS

1. The President/Chair shall preside at the public hearings.
2. A secretary shall take the Minutes, or the proceedings shall be recorded by a sound recording device. Proceedings of the hearings shall be incorporated into the Minute Book of the Board to become a part of that record.
3. The President/Chair shall describe the method of conduct of the hearing. The hearing shall be conducted for the purpose of taking testimony to be considered in the deliberations of the Board regarding the subject of the hearing.
4. A summary of the question at issue shall be stated by the President/Chair at the opening of the hearing. Comments will be limited to the subject advertised for hearing.
5. It shall be made clear at the hearing that all questions and comments must be directed through the President/Chair only after being properly recognized by the President/Chair.
6. All persons recognized shall give their name and address, and if applicable, the name of the person, firm, or organization they represent.
7. Copies of prepared statements shall be given to the secretary and the President/Chair and shall become a part of the record.
8. The applicant or his or her representative must be in attendance to respond to questions that might arise. Failure to attend will result in postponement of the hearing.
9. The order of presentation after introduction of an item by the President/Chair will be:
  - a. Consent Calendar procedure, if applicable.
  - b. Presentation of Staff Report.
  - c. Presentation by the applicant.
  - d. Questions by Board members.
  - e. Comments by interested citizens.
  - f. Questions by Board members to address public comments.
10. The President/Chair shall ask if all who wish to speak have spoken. If there are no others to speak, the public testimony will be closed and the matter will return to the Board for discussion and action.
11. The President/Chair shall assure an orderly hearing and shall reserve the right to

terminate the hearing in the event the discussion becomes unruly or unmanageable.

### **ARTICLE XIII – COMMITTEES**

Special committees may be appointed by the President/Chair for purposes and terms, which the Board approves.

#### **A. COMMITTEE REPORTS**

In referring items to committees, the President/Chair shall stipulate a deadline for the report back to the Board. Copies of the committee report, if in written form, shall be submitted to the President/Chair and shall become a part of the permanent records of the Board.

#### **B. COMMITTEE ORGANIZATIONS**

Committee members shall elect a Chairperson at the first meeting of the committee and will report to the Board at the next regular meeting.

#### **C. STAFF ATTENDANCE**

City staff may attend committee meetings and participate in discussion, presenting alternatives and factual information relevant to the issue under consideration.

### **ARTICLE XIV - LEGAL ASSISTANCE**

Legal assistance shall be provided to the Board by the City Attorney.

### **ARTICLE XV – AMENDMENTS**

By-Law amendments may be introduced in writing by any member of the Board at a regular meeting. Action by a majority of the Board on the amendments may be taken on second reading at any future regular meeting.

# Montana Code Annotated 2023

TITLE 76. LAND RESOURCES AND USE

CHAPTER 1. PLANNING BOARDS

Part 2. Membership

## Membership Of City Planning Board

**76-1-221. Membership of city planning board.** (1) A city planning board shall consist of not less than seven members to be appointed as follows:

- (a) one member to be appointed by the city council from its membership;
- (b) one member to be appointed by the city council, who may in the discretion of the city council be an employee or hold public office in the city or county in which the city is located;
- (c) one member to be appointed by the mayor upon the designation by the county commissioners of the county in which the city is located;
- (d) four citizen members to be appointed by the mayor, two of whom shall be resident freeholders within the urban area, if any, outside of the city limits over which the planning board has jurisdiction under this chapter and two of whom shall be resident freeholders within the city limits.

(2) The clerk of the city council shall certify members appointed by its body. The certificates shall be sent to and become a part of the records of the planning board. The mayor shall make similar certification for the appointment of citizen members.

**History:** (1)En. Sec. 4, Ch. 246, L. 1957; amd. Sec. 1, Ch. 271, L. 1959; Sec. 11-3804, R.C.M. 1947; (2)En. Sec. 7, Ch. 246, L. 1957; Sec. 11-3807, R.C.M. 1947; R.C.M. 1947, 11-3804(part), 11-3807.

BY-LAWS  
CITY OF EAST HELENA ZONING COMMISSION

ARTICLE I - AUTHORIZATION AND CREATION

The City of East Helena Zoning Commission (hereinafter referred to as the Commission) is authorized under MCA § 76-2-307 and was created by Ordinance No. 239, which was approved and adopted on February 17, 2010.

ARTICLE II - OBJECTIVES

The objectives of the Commission are to advise and assist the East Helena City Council in improving and protecting the health, safety, convenience, and general welfare of the residents living within the City of East Helena through recommendations on the boundaries of zoning districts and appropriate zoning regulations to be enforced in East Helena, as provided for by MCA § 76-2-307.

ARTICLE III - JURISDICTION

The Commission shall have zoning jurisdiction within the incorporated limits of the City of East Helena as they currently exist and as they subsequently change over time through annexation.

ARTICLE IV - POWERS AND DUTIES

The Commission shall have such powers and duties as are provided in MCA § 76-2-307, and as may be set forth in the East Helena Zoning Ordinance. Boundaries and regulations shall be made to carry out these objectives in accordance with the East Helena Growth Policy, requirements of the East Helena Zoning Ordinance, and in compliance with MCA § 76-2-301, et seq.

1. The Commission shall act in an advisory capacity, and recommend to the City Council the approval, conditional approval, or denial of proposed Zone Map Amendments and Zoning Ordinance Text Amendments as provided by MCA § 76-2-307.
  - A Zone Map Amendment is a proposed modification to the zoning map that either changes or initiates an

initial municipal zoning designation on a particular parcel of land. Zone map amendments can be run concurrently with annexations ("initial municipal zoning designation") or may be "stand-alone amendments" if the land is already within city limits.

- A Zoning Ordinance Text Amendment is a proposed change in the regulations governing the division, use, placement, spacing, or size of land and buildings. A Zoning Ordinance Text Amendment is applicable to all land within the city limits, not just a particular parcel of land.
2. Whenever requested by the City Council, the Commission shall make a report to the City Council concerning the operation of the Commission and the status of zoning within its jurisdiction.

#### ARTICLE V - FUNDS FOR OPERATION

The City Council shall have the power and duty to supervise the responsibilities of the Commission and its fiscal affairs. The Commission may prepare and submit to the City Council an annual budget in the same manner as City departments, and shall be limited in all expenditures to the provisions made therefore by the City Council.

#### ARTICLE VI - OFFICE

The Commission shall maintain its offices in the East Helena City Hall, 306 East Main Street, East Helena, MT 59635.

#### ARTICLE VII- MEMBERSHIP

##### A. SELECTION.

The Commission shall consist of not more than five (5) members appointed by the Mayor with concurrence of the City Council.

1. Members may hold concurrent as a member of the East Helena Planning Board.



2. All members must be residents of the City of East Helena.

B. REMOVAL FROM OFFICE

1. Any appointee may be removed from office by the appointing body.
2. Three unauthorized consecutive absences from Commission meetings shall be reported to the appropriate governing body by the Commission Secretary. Absences shall be authorized by the President/Chair or Vice-President/Vice-Chair.

C. TERMS OF GOVERNMENTAL MEMBERS

1. The terms of the members who are officers of any governmental unit represented on the Commission shall be coextensive with their respective terms of office to which they have been elected or appointed.
2. The terms of the members shall be three years, terms shall expire on June 30.

D. RESIGNATION AND VACANCIES

1. Vacancies occurring on the Commission shall be filled for the unexpired term by the City Council.
2. Resignations from the Commission shall be made in writing to the City Council and Commission Secretary.

E. COMPENSATION

Members of the Commission shall receive no salary for serving on the Commission, but may be reimbursed for transportation and actual expenses for Commission activities as provided by Statute and with prior approval of the City Council.

## ARTICLE VIII - COMMISSION SECRETARY AND PROFESSIONAL SERVICES

A Commission secretary shall be provided by the City Council and shall generally be an employee within the City. The City Council may provide for special, temporary, and professional services as it deems appropriate and necessary.

## ARTICLE IX - OFFICERS AND THEIR DUTIES

- A. At its first regular meeting of a newly seated Commission, the Commission shall elect from its members a President/Chair and Vice-President/Vice-Chair. The Vice-President/Vice-Chair shall have authority to act as President/Chair of the Commission during the absence or disability of the President/Chair.
- B. The President/Chair shall preside at all meetings and hearings of the Commission and shall have the duties normally conferred by parliamentary practice to this office, call special meetings, and generally perform other duties as may be prescribed in these By-Laws or by Commission action. The President/Chair shall have the privilege of discussing all matters before the Commission, and shall have the privilege of voting on all matters.
- C. In the event of the absence of the President/Chair or Vice-President/Vice-Chair, the members of the Commission shall select an acting President/Chair.

## ARTICLE X - MEETINGS

### A. MEETINGS

The Commission shall by majority vote fix the time for holding meetings. The Commission shall meet at least once in the month of January. Agendas for meetings shall be established, posted, and made available to the public. Special meetings of the Commission may be called by the President/Chair or by two members upon written request to the Secretary. The Secretary shall post and send to all members at least two days in advance of a meeting, a written notice fixing the time and place of the meeting. Written notice to members of a meeting is not required if the meeting has been fixed in a regular meeting or if all members are present at a meeting.

B. QUORUM

A majority of members shall constitute a quorum. No action of the Commission is official, however, unless authorized by a majority of members of the Commission present at a regular or properly called special meeting.

C. OPEN MEETINGS AND DOCUMENTS

All meetings of the Commission and its committees shall be open to the public. Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion 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 shall be open. A meeting may also be closed 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.

D. RULES OF ORDER

Meetings of the Commission shall be conducted according to generally accepted rules of parliamentary procedure under Robert's Rules of Order unless otherwise specified in these By-Laws. A member of the Commission may be designated by the President/Chair to serve as parliamentarian.

E. CONFLICT OF INTEREST

The zoning process exists to serve the public interest. The public interest is a question of continuous debate requiring a conscientious regard for the policies and actions that best serve the entire community. These policies are encompassed by the growth policy, zoning regulations, and applicable state law. Zoning issues may involve a conflict of values. Commission decisions require the highest standards of fairness and honesty among participants. Everyone who appears before the Commission has a right to unbiased decisions.

Any member(s) having a financial or personal interest in any matter before the Commission for discussion or vote shall publicly disclose the nature and extent of such interest and, if warranted, recuse and remove themselves from the meeting room until discussion on the matter has ended and a vote, if any, is taken. In such circumstances, the secretary shall note in the minutes that a conflict of interest was acknowledged, and whether the Commission member(s) was absent during the discussion and voting.

"Personal interest" shall be broadly construed and shall include any benefits or advantages, financial or non-financial, that they, a spouse, family member, or person living in their household might obtain from a zoning decision.

Whether a member has a personal interest in an item of consideration by the Commission may also be raised by another member of the Commission at any time during a hearing. The President/Chair shall then suspend discussion of the current pending matter and the Commission shall discuss and resolve by motion and vote immediately whether said conflict of interest exists, with the member subject of said motion not voting. Should the Commission determine that a conflict exists, said member shall be treated as if he had declared said conflict and shall not participate any further in the discussion and vote taken on the item.

A member who has declared a conflict of interest or whom the Commission determines has such a conflict of interest shall still be counted as a member of the Commission for constituting a quorum.

#### ARTICLE XI - ORDER OF BUSINESS

- A. Unless otherwise determined by the President/Chair, the order of agenda business at regular meetings shall be:
1. Call to order and roll call.
  2. Public comment other than comments related to public hearings.
  3. Approval of Minutes of previous meetings and actions thereon.
  4. Old business continued or tabled/postponed/public hearing.

5. New business/public hearings.
  6. Informal/Pre-application reviews.
  7. Special committee and other Commission reports.
  8. Communications.
  9. Staff Report.
  10. President/Chair's Report.
  11. Other Business.
  12. Adjournment.
- B. A motion from the Commission must be made and passed in order to dispense with any item on the Agenda or change the order of business.
- C. No special committee reports or communications submitted for action by the Commission shall be acted upon unless it is submitted five (5) days prior to a regular meeting date. New business may be introduced without five (5) days notice for the purpose of Commission action at a future meeting or referral to a committee or staff for study or consideration. Provisions of this section may be waived by the unanimous vote of the members present.

#### ARTICLE XII - HEARINGS

A. PUBLIC HEARINGS

Public hearings shall be scheduled and held in accordance with state law. Public hearings may also be scheduled whenever the Commission decides that such hearings will be in the public interest.

B. NOTICE

Notice of public hearings shall be given as required by MCA § 7-1-4127 and in conformance with Title 76, Montana Code Annotated, and the East Helena Zoning Ordinance.

C. PROCEDURES FOR PUBLIC HEARINGS

1. The President/Chair shall preside at the public hearings.
2. A secretary shall take the Minutes, or the proceedings shall be recorded by a sound recording device. Proceedings of the hearings shall be incorporated into

the Minute Book of the Commission to become a part of that record.

3. The President/Chair shall describe the method of conduct of the hearing. The hearing shall be conducted for the purpose of taking testimony to be considered in the deliberations of the Commission regarding the subject of the hearing.
4. A summary of the question at issue shall be stated by the President/Chair at the opening of the hearing. Comments will be limited to the subject advertised for hearing.
5. It shall be made clear at the hearing that all questions and comments must be directed through the President/Chair only after being properly recognized by the President/Chair.
6. All persons recognized shall give their name and address, and if applicable, the name of the person, firm, or organization they represent.
7. Copies of prepared statements shall be given to the secretary and the President/Chair and shall become a part of the record.
8. The applicant or his or her representative must be in attendance to respond to questions that might arise. Failure to attend will result in postponement of the hearing.
9. The order of presentation after introduction of an item by the President/Chair will be:
  - a. Consent Calendar procedure, if applicable.
  - b. Presentation of Staff Report.
  - c. Presentation by the applicant.
  - d. Questions by Commission members.
  - e. Comments by interested citizens.
  - f. Questions by Commission members to address public comments.

10. The President/Chair shall ask if all who wish to speak have spoken. If there are no others to speak, the public testimony will be closed and the matter will return to the Commission for discussion and action.
11. The President/Chair shall assure an orderly hearing and shall reserve the right to terminate the hearing in the event the discussion becomes unruly or unmanageable.

#### ARTICLE XIII - COMMITTEES

Special committees may be appointed by the President/Chair for purposes and terms, which the Commission approves.

##### A. COMMITTEE REPORTS

In referring items to committees, the President/Chair shall stipulate a deadline for the report back to the Commission. Copies of the committee report, if in written form, shall be submitted to the President/Chair and shall become a part of the permanent records of the Commission.

##### B. COMMITTEE ORGANIZATIONS

Committee members shall elect a Chairperson at the first meeting of the committee and will report to the Commission at the next regular meeting.

##### C. STAFF ATTENDANCE

City staff may attend committee meetings and participate in discussion, presenting alternatives, and factual information relevant to the issue under consideration.

#### ARTICLE XIV - LEGAL ASSISTANCE

Legal assistance shall be provided to the Commission by the City Attorney.

#### ARTICLE XV - AMENDMENTS

By-Law amendments may be introduced in writing by any member of the Commission at a regular meeting. Action by a majority of the Commission on the amendments may be taken on second reading at any future regular meeting.







City of East Helena  
306 E Main St  
PO Box 1170  
East Helena, MT 59635  
406-227-5321

## East Helena Police Commission

Effective June 12, 2025

Member:	Term Expires:
Denise Feller	5/2/2026
Kit Johnson	11/18/2027
<open>	

## MCA

**7-32-4111. Examination of applicants for position on police force.** (1) All applicants for positions on the police force whose applications are referred to the police commission must be required to successfully undergo an examination before the police commission and to receive a certificate from the commission that the applicant is qualified for appointment for the probationary period to the police force.

(2) An applicant who makes any false statement to the police commission as to the applicant's age or other required qualifications at an examination before the police commission is subject to suspension or dismissal from the police force after trial.

**7-32-4112. Qualifications of police officers.** A member of a police department on the active list of any city at the time of appointment under this part may not be less than 18 years of age, must be a citizen of the United States, and must meet the minimum qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in 2-15-2029.

**7-32-4151. Police commission required in all cities and some towns.** (1) In all cities and some towns, the mayor, or the manager in those cities operating under the commission-manager plan, shall nominate and, with the consent of the city council or commission, appoint three residents of such city or town who shall have the qualifications required by law to hold a municipal office therein and who shall constitute a board to be known by the name of "police commission".

(2) This section shall apply to organized police departments in every city and town of the state which have three or more full-time law enforcement officials, regardless of the form of government under which said city or town may be operating or may at any time adopt.

**7-32-4154. Role of police commission in examination of applicants for police force.** It shall be the duty of the police commission to examine all applicants whose applications have been referred to the commission as to their age, legal, mental, moral, and physical qualifications and their ability to fill the office as a member of the police force. It shall also be the duty of the police commission, subject to the approval of the mayor, to make such rules regarding such examinations not inconsistent with this part or the laws of the state.

# **MONTANA POLICE COMMISSION HANDBOOK**

**Prepared by the Public Safety Officer  
Standards and Training (POST)**



**In Cooperation with the Montana Attorney  
General's Office**



**Fourth Edition-2010**

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## **INTRODUCTION**

*Police Commissions were established by Montana law to assist mayors or other chief executives of cities and towns in making decisions concerning the operation of local police departments. The statutes that govern Police Commissions are Sections 7-32-4151 through 7-32-4164 of the Montana Code Annotated (MCA).*

*One of the most important functions of a Police Commission is to provide a forum that is separate and independent from the police department to act as an appeal board for police officers. The Montana Supreme Court has described a Police Commission as a “quasi-judicial body.” This is because the commission is not obligated by all of the rules governing courts, but still has many of a court’s powers.*

*The purpose of this handbook is to acquaint Police Commissioners with the powers and recommended procedures of the Commission as well as to explain the duties of a Police Commissioner.*

*Relevant Montana statutes as well as a summary of various interpretations by the Montana Supreme Court of those statutes are the basis for the guidelines contained and the procedures recommended. Commissioners should read and become acquainted with the statutes that govern their work.*

*Commissioners are advised to consult with the city attorney on all matters of law including appropriate forms.*

*Please note that the duty to hear citizen complaints against police personnel is no longer included in the statute. However, Commissions that believe this is an important function for the community may seek to arrange with the Mayor to act on behalf of the Mayor in hearing or reviewing these complaints after they have been investigated and decided on by the Chief of Police. Reports from the Commission in these matters are sent to the Mayor.*

## Part I

### **THE POLICE COMMISSION PURPOSE AND ORGANIZATION**

#### **A. PURPOSE.**

Police Commissions were authorized by the Montana legislature to assist Mayors with the operation of police departments. A Police Commission is very limited in its powers and duties. It is not authorized to run a police department or even to suggest what policies should be followed by the department. Neither is the Police Commission a branch of the police department nor is it subject in any way to the control of the police department. Some state laws refer to the power of the "city council or commission" over the police department, but, the word "commission" in those provisions does not refer to the Police Commission but rather to the local governing body such as a city commission.

The Police Commission as limited by state law to very specific duties which- are as follows:

1. To examine all applicants for a police force (7-32-4154, MCA); and
2. To serve as an appeal board for an officer (7-32-4155, MCA).
3. To examine police officers for disability, retirement (19-19-402, MCA).

A Police Commission examines all police force applicants to ensure the applicants are qualified and able to carry out the duties of police officers.

When deciding appeal issues, a Police Commission acts much like that of a judge and jury. Its purpose is to make certain that there exists an independent and impartial forum where the appeal will be fairly and fully heard, and where a fair decision will be reached.

#### **B. MEMBERSHIP AND ELECTION OF OFFICERS.**

A Police Commission must be appointed in every city or town that has 3 or more full-time law enforcement officers. It is optional in other places. (7-32-4151, MCA)

A Police Commission consists of three residents who serve three year terms and who must be confirmed by the city council or commission. (7-32-4151, MCA) One member is to be appointed by the mayor at the first regular meeting of the city council or commission in May of each year. (7-32-4152, MCA) However, a member whose term has expired may continue to serve on the commission for the purpose of making a decision in a case already heard by that member. (7-32-4152, MCA)

## Police Commission Handbook

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Each person appointed to the Police Commission must be a United States citizen and meet the qualification for municipal office adopted by the city or town. (7-32-4151, 7-4-4104, MCA)

Compensation of members is not to exceed \$10 per day or more than \$50 in any one month. (7-32-4152 (2), MCA)

The term Mayor is intended to include a city manager, city commissioner, or any other name or designation used to identify the chief executive of any city or town.

Although not required by law, the Police Commission should select one member to serve as chair to preside over all meetings and hearings. A vice-chair should also be selected as well as a secretary who is responsible for the taking of the minutes at all meetings and hearings. The secretary should also be responsible for the keeping of the Police Commission records and files. All records and files should be kept at the City Hall in the office of either the city clerk or the mayor.

Sections 7-32-4107, 7-32-4108, and 7-32-4154, MCA, grant the Police Commissioners power to make rules governing proceedings before the Police Commission. Most of the information in this handbook concerns procedures that are required by state law to make such procedures part of the Police Commission "rules," it is recommended that the entire handbook be adopted as part of the Commission's rules.

### PART II

## DUTY TO EXAMINE APPLICANTS FOR POLICE FORCE

### A. INTRODUCTION.

One of the duties that the Police Commission is required to perform is the examination of applicants for vacancies that exist in the police department. (7-32-4152 MCA)

State law provides that the Police Commission must examine all applications referred by the mayor to the Commission. No one, not even the Police Commission, can compel a mayor to forward an application to the Commission. The mayor has the right to screen applicants and reject those who are believed to be unqualified.

Once an application is referred by the mayor the Police Commission must examine the applicant as to age, legal, mental, moral, and physical qualifications and ability to fill the office as a member of the police force. No one, not even the mayor, can compel the Police Commission to qualify an applicant. The Police Commission has the right to examine all referred applicants and reject those who are believed to be unqualified. Except for a few matters mentioned below, state law does not specify how the examination should be conducted or under what particular circumstances an applicant should be considered suitable. These are matters for the Police Commission to decide, and, it may do so by adopting procedures, subject to the approval of the mayor. The basic requirements for all applicants which are specified by state law include:



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1. Age not less than 18 years of age as set forth in section 7-32-4112, MCA;
2. United States citizenship (7-32-4112 MCA);
3. Minimum qualifying standards for employment pursuant to statute and Administrative Rule promulgated by the Peace Officer Standards and Training Council (7-32-303, MCA & 23.13.201 ARM);
4. State residency requirements (7-32-301, 7-32-302, MCA);
5. Special requirements for applicants who are seeking reinstatement (7-32-4110, MCA).

In order for the Police Commission to determine if an applicant meets the minimum standards for employment pursuant to statute and Administrative Rule promulgated by the Peace Officer Standards and Training Council (7-32-303, MCA & 23.13.201 ARM); such as being of good moral character, having no felony convictions or criminal record; the Police Commission may need to examine the applicant's criminal history record. Dissemination of criminal history record information that is not public criminal justice information is allowed if the applicant has consented and given a notarized authorization for the release of the information. (44-5-302, 44-5-214, MCA)

Every applicant deemed qualified by the Police Commission must be issued a certificate to that effect. (7-32-4108(2), MCA)

In addition to the requirements of state law for police applicants, many city ordinances impose other requirements which must be followed by the Police Commission. A city ordinance may not change state law, but the ordinance may expand on state law and cover matters not included in or inconsistent with state law. Legal advice should be sought before suggesting additional requirements for police applicants, such as local residency.

How should the examination of applicants be conducted? First of all, it is necessary that the applicant be present during the examination. The applicant should be given an opportunity to respond to any information about the applicant received by the Commission.

Because an applicant can be discharged for false statements made to the Commission concerning their qualifications (7-32-4111, MCA), some Police Commissions record the interview, although it is not required by law. Others require written answers be provided, either on the application or as part of a written test.

### PART III

## DUTY TO DETERMINE ELIGIBILITY OF AN OFFICER FOR DISABILITY RETIREMENT

It may be necessary for the Police Commission to consider whether or not an officer is disabled in the active discharge of their duties. (19-19-402, MCA) This responsibility arises either upon request of the officer or the chief executive of the municipality (7-32-



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4135, MCA), or when an appeal is filed alleging that they are incapacitated due to disabilities. (7-32-4155, MCA)

When a request is filed by either the officer or the chief executive of a city, the Police Commission or the city council is given the authority to determine whether the disability is of such character as to impair the officer's ability to discharge their duties. If so, the officer is to be placed on the retired list of the city or town. Written evidence should be presented with the request. The evidence could consist of medical reports and reports from the chief of police. However, if the Police Commission has any questions regarding the request for disability retirement an informal hearing should be scheduled to allow all parties to explain the reports or offer additional information if the request is not made by the officer involved, due process of law requires that the officer be given every opportunity to respond to the allegations of disability.

When the disability question arises by virtue of charges being filed against an officer, the procedure to be followed is as set out in Part IV of this manual.

Whenever a disability retirement question is presented to the Police Commission, it should consider the question of whether or not the officer could be assigned light duty or transferred to another agency of the municipality as provided for under Section 7-32-4136, MCA.

### PART IV

## DUTY TO SERVE AS AN APPEAL BOARD FOR OFFICERS

*7-32-4155, MCA, Role of police commission in hearing and deciding appeals brought by policemen. (1) The police commission has jurisdiction and it is its duty to hear and decide appeals brought by any member or officer of the police department who has been disciplined, suspended, removed, or discharged by an order of the mayor, city manager, or chief executive.*

*(2) It is the duty of the police commission at the time set for hearing an appeal of a police officer, to hear and determine the appeal according to the rules of evidence applicable to courts of record in the state.*

An officer making an appeal to the Police Commission should be required to set forth, in writing, the reasons for the appeal. The Police Commission should then examine the request to see if the alleged facts indicate that there may be an abuse of discretion on the part of the mayor or chief of police. If the request does not contain facts that allege such an abuse, the appeal should be dismissed. If the Commission believes that the mayor or the chief of police has abused their discretion, a hearing should be scheduled. The mayor and the chief of police should each be served with a copy of the written appeal so that they have an opportunity to respond. The Police Commission should not reverse the decision of the mayor or chief of police unless it satisfactorily appears that discretion was abused in ordering the action taken.

An officer can be charged with conduct that, although not a crime, may be improper because of the trust imposed in the officer. Misconduct has been defined by the Montana Supreme Court to include "any act which is contrary to justice, honesty, principle or good

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morals” (State ex. re Wynne, v. Examining and Trial Board, 117 P. 77, 78 (1911). The conduct should arise out of the duties or responsibilities of the office. State v. Judicial Standards Commission 643 P.2d 210, 222 (1982).

Appeals may be taken through a grievance procedure when covered by a collective bargaining agreement or to the Police Commission. (7-32-4164, MCA)

## **A. GENERAL RULES**

Section 7-32-4155(2), MCA, requires the Police Commission to hear an appeal “according to the rules of evidence applicable to courts of record in the state.” These rules of evidence are used by all Montana courts. The rules are found in Title 26, Chapters 1 and 10, MCA. They are meant to ensure a fair hearing and the pursuit of the truth. The rules of evidence are based on common sense and they allow the consideration of only those matters that are actually relevant to the appeal brought by the officer. Many of the rules are mentioned in this manual.

City law is applicable to a Police Commission hearing. If city law conflicts with state law, state law must be followed, although city law may explain or expand upon state law, it may not change it. The Montana Administrative Procedure Act does not apply to a city agency like the Police Commission unless the city has adopted the Act as local law.

An orderly hearing requires that one person be in charge. The chair responds to any objections to the evidence and keeps the proceeding on course. Another alternative, if there is a lawyer on the commission, is to designate that member as the one responsible for ruling on evidence questions.

The chair has the power to issue subpoenas, to compel witnesses to attend the hearing, and to hold in contempt those who do not obey a subpoena.

The holding of an orderly hearing and the handling of the hearing requires proper groundwork. The first step in any hearing is to have the position of each of the parties clearly defined. That is the reason section 7-32-4156, MCA, requires that charges against an officer be made in writing. The Police Commission should require that all charges against an officer give all necessary information, and that such information on its face allege improper conduct on the part of the officer. Remember that the law sets forth the grounds on which charges may be brought. (See section 7-32-4155(1) and (2), MCA). If the written charge does not show such misconduct, the Police Commission should prepare a written order of dismissal of the charges for the failure to state a valid charge against an officer. If the charges are dismissed, no hearing is necessary. The Police Commission, like a court, is not obligated to provide a forum merely for the purpose of allowing one person to state his dislike for or disagreement with a police officer.

A police officer may be suspended from duty pending an appeal before the Police Commission.

## **B. PLACE AND TIME OF HEARING**

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Because it is so important to demonstrate that the Police Commission is not a part of the police department, the hearing should never be held in the police department quarters, but in some other location such as the city court room or the city council chambers.

Notice of the appeal should include the time and place of the hearing.

The only Montana Code provision relating the time of the hearing is Section 7-32-4156 MCA, which provides that a copy of the appeal must be served upon the mayor, city manager, or chief executive at least 30 days prior to the time set for the hearing of the appeal.

### **C. CONTINUANCE OF HEARING**

Whenever one party asks for a continuance (a postponement of the hearing), it is within the discretion of the Police Commission to grant the request. The request should be for a valid reason and should be in writing. It is the responsibility of the Police Commission to notify all parties of any continuance.

### **D. RIGHTS OF THE POLICE OFFICER**

The appealing officer has all the rights of any person accused of a crime or wrongdoing. That includes the right to be advised of the charges, the right to meet face-to-face the witnesses against them, the right to be represented by counsel, the right to call witnesses on their behalf, the right for time to prepare for the hearing, the right to refuse to testify without the refusal being considered an admission of wrongdoing, and the right to require that the charges be proven, by a preponderance of competent evidence, and to the satisfaction of the Police Commission. Section 7-32-4157, MCA specifically gives the officer the right to be represented by an attorney at the hearing.

The appealing officer has the right to be present at the hearing, but this does not mean that the hearing cannot be held if they are not present. The officer may waive the right to appear. All that is required is that they receive proper notice of the hearing. The officer is presumed to be innocent and every presumption of law is in favor of his innocence.

### **E. PUBLIC HEARING**

Section 7-32-4158, MCA, requires that the hearing be open to the public. However, under the rules of evidence, either party in a criminal type action can ask to have the witnesses excluded from the trial until they are called to testify. The Police Commission should observe this rule of evidence. Of course, it may be necessary for the Chief to be present at all times.

### **F. WITNESSES**

Evidence is offered during the hearing through witnesses who are called to testify and documents received by the Commission. Witnesses can be ordered to attend a hearing by

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a subpoena. Section 7-32-4159 MCA, grants the Police Commission the power to issue a subpoena. The subpoena should be signed by the chair of the Police Commission.

Either the complaining party or the accused officer has the right to ask for a witness to be subpoenaed. The Police Commission need not issue a subpoena just because a party asks for one. The Police Commission can inquire into the need for the witness and the purpose to be served by the testimony to be given by the witness. The witness may not be essential to the hearing. This is especially true for witnesses who do not reside in the city, or for “character witnesses” who are called to testify on behalf of the character of one of the parties. A party may want a blank subpoena, which is not directed to any named person. The Police Commission does not have to issue such a subpoena. Either party in the action should have the right to know the names of the witnesses subpoenaed by the other.

When a witness has certain documents that will be relevant at the hearing, that witness can be compelled to bring those documents. This is done with a “subpoena duces tecum”.

The statute gives the Police Commission the power to punish a person for refusal to obey a subpoena. The Police Commission is given the same power to punish as is given to a District Judge. (See Title 3, Chapter 1, Part 5, MCA.) When a person does not obey the command of a subpoena, it is necessary to prepare “charges” in about the same form as a “complaint” and have the person brought before the Police Commission to explain the contempt charges. If the disobedience is not explained to the satisfaction of the Police Commission, the person may be punished by jail time not to exceed 5 days or a fine not to exceed \$500, or both. A judgment must be prepared in about the same form as the “final order or decision” mentioned later in this handbook. Caution should be exercised with contempt charges. As contempt is a serious matter, the Police Commission should ask the city attorney to examine the charges and prepare the necessary paper work.

A witness at a Police Commission hearing should have the same right to fees and mileage as does a witness called to city court. A witness may demand the fees in advance and if they are not paid, that witness cannot be held in contempt. (See Title 26, Chapter 2, Part 5, MCA).

The examination of a witness in court is done through a question and answer process, and both the questions and answers are restricted to relevant matters. When an attorney is not present, it is best just to let the witness tell their story. If the witness begins to ramble, the chair may remind the witness to adhere to testimony that is relevant to the charges being heard.

Witnesses should be required to testify under oath. A sample oath is as follows:

“Do you solemnly swear or affirm that the testimony you are about to give at this hearing is the truth, the whole truth, and nothing but the truth?”

A witness is entitled to be treated in a civil manner when on the witness stand. The Police Commission should require proper conduct on the part of any person cross examining the witness.

A witness cannot be required to relate the contents of a privileged communication, such as a conversation the witness has had with a husband or wife, attorney or client, clergyman or parishioner. A witness has a constitutional right to refuse to answer any

question on the grounds that the answer might require self incrimination. However, once an accused officer takes the witness stand, they do not have the right to refuse to answer a question that might incriminate them. Their right is limited to a refusal to take the witness stand at all.

### **G. RECORD OF TESTIMONY**

The law does not require that a stenographic record or tape of the hearing testimony be made. However, the Montana Supreme Court in a case entitled City of Helena v. District Court, 530, P 464, 166 Mont. 74 (1975) urged all Police Commissions to memorialize, in some form, the hearing. This is because section 7-32-4164, MCA, provides for an appeal of the facts and the law to the District Court and, if necessary, to the Montana Supreme Court.

### **H. JURY**

An appealing officer is not entitled to a jury trial before the Police Commission, nor is he or she entitled to a jury trial if the case is appealed to the District Court.

### **I. PARTICIPATION IN THE FINAL DECISION**

Section 7-32-4152, MCA, permits a member of the Police Commission whose term has expired to continue to serve in a case where the member participated in the hearing. A Police Commission member who is absent during part of the hearing, however, may not take part in the making of the final decision.

The Montana Supreme Court has held that members of a Police Commission who had been appointed by the mayor but not yet confirmed by the city council were the “de facto Police Commission” and actions they had taken in holding a hearing were valid. The Supreme Court also held that Police Commission members whose terms have expired may remain in office until their successors are appointed and qualified.

There may be a request to disqualify a member of the Police Commission from participating in a particular case. However, a Police Commissioner need not be removed from a case unless he or she is one of the parties involved in the matter or otherwise violates local conflict of interest rules.

### **J. THE FINAL WRITTEN DECISION**

The Police Commission’s final decision should be rendered after the hearing on the appeal. The decision should be put in writing. The decision should start out with a statement of the issues of appeal filed, the time and place for the hearing, the fact that the appealing officer and Administrator were served with notice of the appeal, the hearing date, and the fact that the hearing was held.



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The decision should also include **Findings of Fact**. This means that the written decision must contain a recitation of the facts which the Police Commission believes to be true in relation to the appeal. These findings of fact are very important for the judicial review. They will be examined to see if they support the final decision under applicable law

Next, the Commission's decision should include **Conclusions of Law**. Possible conclusions of law are as follows

1. The charges are unfounded, i.e., a statement or conclusion to the effect that the charges are either false or not supported by the true facts;
2. The charges are not sustained, i.e., a statement or conclusion to the effect that there is insufficient evidence or such conflicting evidence that the Police Commission cannot determine whether the charges were true or not;
3. The acts occurred but the officer was justified in his conduct and is therefore exonerated, i.e., statement or conclusion to the effect that the acts or conduct on the part of the officer did in fact occur but that it was not improper under the circumstances or there was lawful justification;
4. The charges are sustained, i.e., a statement or conclusion to the effect that the act or conduct on the part of the officer did occur without any lawful justification. This conclusion should further state whether the acts were a violation of some specific section of the criminal code or that it was misconduct on the part of the officer.

Finally, there should be a written **Conclusion Order** which includes any discipline recommendation that clearly states the decision of the Police Commission. The wording of the conclusion may be as follows:

It is the decision of the Police Commission that Officer \_\_\_\_\_ is ("guilty" or "not guilty") of the charges filed against him.

It is further the decision of the Police Commission that ("the action is dismissed") or ("the officer is to be disciplined as follows").

The discipline authorized by section 7-32-4160, MCA, includes "sustains, modifies, or overrules" the disciplinary order. If discipline is to be carried out, the Commission should spell out how it is to be done. If punishment is suspension, the decision should mention whether it is to be with or without pay and for what length of time. The final statement of the written decision should refer the decision to the mayor for his enforcement.

A copy of the decision should be given to the appealing officer, the mayor, and the Chief of Police

### **K. DISTRICT COURT REVIEW**

The appealing officer may appeal a Police Commission decision to the district court within 60 days after the decision of the Police Commission is filed with the city clerk

PART V  
STATUTES

THE POLICE COMMISSION:

**7-32-4151. Police commission required in all cities and some towns.** (1) In all cities and some towns, the mayor, or the manager in those cities operating under the commission-manager plan, shall nominate and, with the consent of the city council or commission, appoint three residents of such city or town who shall have the qualifications required by law to hold a municipal office therein and who shall constitute a board to be known by the name of "police commission".

(2) This section shall apply to organized police departments in every city and town of the state which has three or more full-time law enforcement officials, regardless of the form of government under which said city or town may be operating or may at any time adopt.

**History:** En. Sec. 4, Ch. 136, L. 1907; Sec. 3307, Rev. C. 1907; re-en. Sec. 5098, R.C.M. 1921; amd. Sec. 1, Ch. 119, L. 1923; re-en. Sec. 5098, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1939; amd. Secs. 4, 5, Ch. 152, L. 1947; amd. Sec. 1, Ch. 194, L. 1975; R.C.M. 1947, 11-1804(part).

**7-32-4152. Term and compensation of members of police commission.** (1) The appointees to the police commission shall hold office for 3 years, and one member must be appointed annually at the first regular meeting of the city council or commission in May of each year. However, a member serving on the commission during the hearing or deciding of an appeal under 7-32-4155 shall continue to serve on the commission for that appeal until a decision has been made; a new member may not sit on the commission for business.

(2) The compensation of the members of a board must be fixed by the city council or commission, not to exceed \$10 per day or more than \$50 per month for any month for each member in cities of the first and second class.

**History:** En. Sec. 4, Ch. 136, L. 1907; Sec. 3307, Rev. C. 1907; re-en. Sec. 5098, R.C.M. 1921; amd. Sec. 1, Ch. 119, L. 1923; re-en. Sec. 5098, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1939; amd. Secs. 4, 5, Ch. 152, L. 1947; amd. Sec. 1, Ch. 194, L. 1975; R.C.M. 1947, 11-1804(part); amd. Sec. 1, Ch. 453, L. 1979; amd. Sec. 3, Ch. 468, L. 1993.

**7-32-4153. Meaning of word mayor.** Wherever the word "mayor" is used in 7-32-4109, 7-32-4160, and 7-32-4161, it is intended to include "city manager", "city commissioner",

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or any other name or designation used to identify or designate the chief executive of any city or municipality.

**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(11); amd. Sec. 27, Ch. 370, L. 1987; amd. Sec. 4, Ch. 468, L. 1993.

## **7-32-4154. Role of police commission in examination of applicants for police force.**

It shall be the duty of the police commission to examine all applicants whose applications have been referred to the commission as to their age, legal, mental, moral, and physical qualifications and their ability to fill the office as a member of the police force. It shall also be the duty of the police commission, subject to the approval of the mayor, to make such rules regarding such examinations not inconsistent with this part or the laws of the state.

**History:** En. Sec. 5, Ch. 136, L. 1907; Sec. 3308, Rev. C. 1907; amd. Sec. 2, Ch. 198, L. 1921; re-en. Sec. 5099, R.C.M. 1921; amd. Sec. 3, Ch. 119, L. 1923; re-en. Sec. 5099, R.C.M. 1935; R.C.M. 1947, 11-1805(part)

## **7-32-4155. Role of police commission in hearing and deciding appeals brought by police officers.**

(1) The police commission shall hear and decide appeals brought by any member or officer of the police department who has been disciplined, suspended, removed, or discharged by an order of the mayor, city manager, or chief executive.

(2) The police commission shall, at the time set for hearing an appeal of a police officer, hear and determine the appeal according to the rules of evidence applicable to courts of record in the state.

**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(part); amd. Sec. 5, Ch. 468, L. 1993; amd. Sec. 721, Ch. 61, L. 2007.

**7-32-4156. Appeals to be in writing.** An appeal brought by any member of the police force must be in writing in the form required by the police commission, and a copy must be served upon the mayor, city manager, or chief executive at least 30 days before the time fixed for the hearing of the appeal.

**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(2); amd. Sec. 6, Ch. 468, L. 1993.

**7-32-4157. Rights of police officer.** The appealing police officer has the right to be present at the hearing in person and by counsel and to be heard and to give and furnish evidence in the police officer's appeal.

**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(part); amd. Sec. 7, Ch. 468, L. 1993.



**7-32-4158. Police commission hearings open to public.** All hearings must be open to the public.

**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(part); amd. Sec. 8, Ch. 468, L. 1993.

**7-32-4159. Subpoena authority of police commission.** The presiding officer or acting presiding officer of the police commission may issue subpoenas, attested in its name, to compel the attendance of witnesses at the hearing, and any person served with a subpoena is bound to attend in obedience to the subpoena. The police commission has the same authority to enforce obedience to the subpoena and to punish the disobedience to the subpoena as is possessed by a judge of the district court in similar cases. However, punishment for disobedience is subject to review by the district court of the proper county.

**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(4); amd. Sec. 722, Ch. 61, L. 2007.

**7-32-4160. Decision by police commission.** The police commission shall, after the conclusion of the hearing, decide the appeal and must have the power, by a decision of a majority of the commission, to sustain, modify, or overrule the disciplinary order of the mayor, city manager, or chief executive.

**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(5), (6); amd. Sec. 9, Ch. 468, L. 1993.

**7-32-4161. Enforcement of decision.** The mayor shall make an order enforcing the decision of the police commission. The decision or order is subject to review by the district court of the proper county on all questions of fact and all questions of law.

**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(7); amd. Sec. 10, Ch. 468, L. 1993.

**7-32-4164. Right to appeal.** A member of the police force who is disciplined, suspended, removed, or discharged as a result of a decision by the mayor, city manager, or chief executive has a right of appeal:

(1) pursuant to the terms of a grievance procedure contained in a collective bargaining agreement if the member is covered by a collective bargaining agreement; or

(2) to the police commission. A final decision of the police commission may be appealed to the district court of the proper county. The district court has jurisdiction to review all questions of fact and all questions of law in a suit brought by any officer or member of the police force. A suit to review a decision or an order or for reinstatement to office may not be maintained unless the suit is begun within a period of 60 days after the decision by the police commission has been filed with the city clerk.

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**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(8); amd. Sec. 11, Ch. 468, L. 1993.

## QUALIFICATIONS OF LAW ENFORCEMENT OFFICERS:

**7-32-301. Residency requirements.** A sheriff of a county, mayor of a city, or other person authorized by law to appoint special deputies, marshals, or police officers in this state to preserve the public peace and prevent or quell public disturbance may not appoint as a special deputy, marshal, or police officer any person who has not resided continuously in this state for a period of at least 1 year and in the county where the appointment is made for a period of at least 6 months prior to the date of appointment.

**History:** En. Sec. 4598, Pol. C. 1895; re-en. Sec. 3124, Rev. C. 1907; re-en. Sec. 4879, R.C.M. 1921; re-en. Sec. 4879, R.C.M. 1935; amd. Sec. 1, Ch. 257, L. 1967; amd. Sec. 2, Ch. 66, L. 1971; amd. Sec. 1, Ch. 81, L. 1971; amd. Sec. 1, Ch. 62, L. 1973; amd. Sec. 2, Ch. 188, L. 1975; R.C.M. 1947, 16-3705(part); amd. Sec. 687, Ch. 61, L. 2007.

**7-32-302. Waiver of residency requirements.** The person or body authorized by law to appoint special deputies, marshals, or police officers may in its discretion waive residency requirements.

**History:** En. Sec. 4598, Pol. C. 1895; re-en. Sec. 3124, Rev. C. 1907; re-en. Sec. 4879, R.C.M. 1921; re-en. Sec. 4879, R.C.M. 1935; amd. Sec. 1, Ch. 257, L. 1967; amd. Sec. 2, Ch. 66, L. 1971; amd. Sec. 1, Ch. 81, L. 1971; amd. Sec. 1, Ch. 62, L. 1973; amd. Sec. 2, Ch. 188, L. 1975; R.C.M. 1947, 16-3705(part); amd. Sec. 688, Ch. 61, L. 2007.

**7-32-303. Peace officer employment, education, and certification standards -- suspension or revocation -- penalty.** (1) For purposes of this section, unless the context clearly indicates otherwise, "peace officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

(2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person authorized by law to appoint peace officers in this state may not appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in 2-15-2029:

- (a) be a citizen of the United States;
- (b) be at least 18 years of age;
- (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;
- (d) not have been convicted of a crime for which the person could have been imprisoned in a federal or state penitentiary;

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(e) be of good moral character, as determined by a thorough background investigation;  
(f) be a high school graduate or have passed the general educational development test and been issued an equivalency certificate by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;

(g) be examined by a licensed physician, who is not the applicant's personal physician, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect performance by the applicant of the duties of a peace officer;

(h) successfully complete an oral examination conducted by the appointing authority or its designated representative to demonstrate the possession of communication skills, temperament, motivation, and other characteristics necessary to the accomplishment of the duties and functions of a peace officer; and

(i) possess or be eligible for a valid Montana driver's license.

(3) At the time of appointment, a peace officer shall take a formal oath of office.

(4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written notice of the event must be given to the Montana public safety officer standards and training council by the employing authority.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified by the Montana public safety officer standards and training council. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this subsection (5)(a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

(b) A peace officer who has been issued a basic certificate by the Montana public safety officer standards and training council and whose last date of employment as a peace officer was less than 36 months prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace officer may satisfy the basic educational requirements as set forth in subsection (5)(c).

(c) A peace officer referred to in subsection (5)(b) or a peace officer who has completed a basic peace officer's course that is taught by a federal, state, or United States military law enforcement agency and that is reviewed and approved by the Montana public safety officer standards and training council as equivalent with current training in Montana and whose last date of employment as a peace officer or member of the military law enforcement was less than 60 months prior to the date of present appointment as a peace officer may, within 1 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy the basic educational requirements by successfully completing a basic equivalency course administered by the Montana law enforcement academy. The prior employment of a member of the military law enforcement must be reviewed and approved by the Montana public safety officer standards and training council. If the peace officer fails the basic equivalency course, the peace officer shall complete the appropriate basic equivalency course within 120 days of the date of the failure of the equivalency course.

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(6) The Montana public safety officer standards and training council may extend the 1-year time requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. Factors that the council may consider in granting or denying the extension include but are not limited to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the basic equivalency course, and an unreasonable shortage of personnel within the department. The council may not grant an extension to exceed 180 days.

(7) A peace officer who has successfully met the employment standards and qualifications and the educational requirements of this section and who has completed a 1-year probationary term of employment must, upon application to the Montana public safety officer standards and training council, be issued a basic certificate by the council, certifying that the peace officer has met all the basic qualifying peace officer standards of this state.

(8) It is unlawful for a person whose certification as a peace officer, detention officer, or detention center administrator has been revoked or suspended by the Montana public safety officer standards and training council to act as a peace officer, detention officer, or detention center administrator. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both.

**History:** En. Sec. 4598, Pol. C. 1895; re-en. Sec. 3124, Rev. C. 1907; re-en. Sec. 4879, R.C.M. 1921; re-en. Sec. 4879, R.C.M. 1935; amd. Sec. 1, Ch. 257, L. 1967; amd. Sec. 2, Ch. 66, L. 1971; amd. Sec. 1, Ch. 81, L. 1971; amd. Sec. 1, Ch. 62, L. 1973; amd. Sec. 2, Ch. 188, L. 1975; R.C.M. 1947, 16-3705(part); amd. Sec. 1, Ch. 191, L. 1983; amd. Sec. 1, Ch. 714, L. 1985; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 9, Ch. 662, L. 1991; amd. Sec. 2, Ch. 437, L. 1993; amd. Sec. 12, Ch. 506, L. 2007; amd. Sec. 13, Ch. 2, L. 2009; amd. Sec. 1, Ch. 75, L. 2009.

**7-32-304. Exception for organizing posse.** The provisions of this part shall not apply in cases of the officers listed in 7-32-301 summoning a posse forthwith to quell public disturbance or domestic violence.

**History:** En. Sec. 4598, Pol. C. 1895; re-en. Sec. 3124, Rev. C. 1907; re-en. Sec. 4879, R.C.M. 1921; re-en. Sec. 4879, R.C.M. 1935; amd. Sec. 1, Ch. 257, L. 1967; amd. Sec. 2, Ch. 66, L. 1971; amd. Sec. 1, Ch. 81, L. 1971; amd. Sec. 1, Ch. 62, L. 1973; amd. Sec. 2, Ch. 188, L. 1975; R.C.M. 1947, 16-3705(part).

### MUNICIPAL POLICE FORCE:

**7-32-4101. Police department authorized and required.** There shall be in every city and town of this state a police department which shall be organized, managed, and controlled as provided in this part.

**History:** En. Sec. 1, Ch. 136, L. 1907; Sec. 3304, Rev. C. 1907; re-en. Sec. 5095, R.C.M. 1921; re-en. Sec. 5095, R.C.M. 1935; amd. Sec. 1, Ch. 152, L. 1947; amd. Sec. 1, Ch. 72, L. 1949; R.C.M. 1947, 11-1801(part).

**7-32-4102. Applicability of part.** (1) This part shall in all respects be applicable to and shall govern and control police departments in every such city or town organized under any form of municipal government except where this part is in conflict with the commission form of government provided for in part 42 of chapter 3 and amendments thereto.

(2) Where the provisions of this part do conflict with the provisions of said part 42 and the amendments thereto pertaining to the commission form of government, the provisions pertaining to the commission form of government shall prevail.

**History:** En. Sec. 1, Ch. 136, L. 1907; Sec. 3304, Rev. C. 1907; re-en. Sec. 5095, R.C.M. 1921; re-en. Sec. 5095, R.C.M. 1935; amd. Sec. 1, Ch. 152, L. 1947; amd. Sec. 1, Ch. 72, L. 1949; R.C.M. 1947, 11-1801(part).

**7-32-4103. Supervision of police department.** The mayor in all cities and towns or the manager in those cities operating under the commission-manager plan has charge of and supervision over the police department. The mayor or manager shall appoint all the members and officers of the department. Subject to the provisions of this part, the mayor or manager may suspend or remove any member or officer of the force. The mayor or manager shall make rules, not inconsistent with the provisions of this part, the other laws of the state, or the ordinances of the city or town council, for the government, direction, management, and discipline of the police force.

**History:** En. Sec. 2, Ch. 136, L. 1907; Sec. 3305, Rev. C. 1907; re-en. Sec. 5096, R.C.M. 1921; re-en. Sec. 5096, R.C.M. 1935; amd. Sec. 2, Ch. 152, L. 1947; R.C.M. 1947, 11-1802; amd. Sec. 710, Ch. 61, L. 2007.

**7-32-4104. Additional regulations by city council.** In addition to the provisions herein contained, the city or town council may make any ordinances, not inconsistent with this part or any law of the state, for the government of the police department and for regulating the powers and duties of its officers and members.

**History:** En. Sec. 11, Ch. 136, L. 1907; Sec. 3314, Rev. C. 1907; re-en. Sec. 5105, R.C.M. 1921; re-en. Sec. 5105, R.C.M. 1935; R.C.M. 1947, 11-1813.

**7-32-4105. Duties of chief of police.** (1) The chief of police:

(a) shall execute and return all process issued by the city judge or directed to the chief of police by any legal authority and must be present and shall assist the city court regularly;

(b) shall arrest all persons guilty of a breach of the peace or for the violation of any city or town ordinance and bring them before the city judge for trial;

(c) must have charge and control of all police officers, subject to rules that may be prescribed by ordinance, and report to the council all delinquencies or neglect of duty or official misconduct of police officers for action of the council;

(d) shall perform other duties that the council may prescribe.

(2) The chief of police has the same powers as a constable in the discharge of duties, but the chief of police may not serve a process in a civil action or proceeding except when a city or town is a party.



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(3) Quotas for investigative stops, citations, or arrests may not be established and may not be used in evaluating police officers.

**History:** En. Sec. 4785, Pol. C. 1895; re-en. Sec. 3254, Rev. C. 1907; re-en. Sec. 5037, R.C.M. 1921; re-en. Sec. 5037, R.C.M. 1935; R.C.M. 1947, 11-810; amd. Sec. 711, Ch. 61, L. 2007; amd. Sec. 3, Ch. 244, L. 2007.

**7-32-4106. List of active and eligible police officers.** (1) The city council has exclusive power to determine and limit the number of police officers and members to comprise the police force of any city, to reduce the number of the police force at any time, and to divide the police membership into two lists:

(a) one list is an active list containing the names of individuals who are to be actually employed and receive pay while employed; and

(b) one list is an eligible list containing the names of individuals who may not receive pay while not actually employed as an officer or member.

(2) Officers or members of the active list temporarily relieved from duty must become members of the eligible list without pay and must be first entitled to reinstatement on the active list in case of vacancy, according to their seniority in the service, and all others on the eligible list must be entitled to fill a vacancy in the order of their appointment.

(3) The action of the council under this section is not subject to review by any court.

(4) Officers or members may not be placed on the eligible list, except in case of temporary reduction of the police force, when the number already on the eligible list is equal to 20% of the active list.

**History:** En. Sec. 7, Ch. 136, L. 1907; Sec. 3310, Rev. C. 1907; re-en. Sec. 5101, R.C.M. 1921; amd. Sec. 5, Ch. 119, L. 1923; re-en. Sec. 5101, R.C.M. 1935; R.C.M. 1947, 11-1807; amd. Sec. 712, Ch. 61, L. 2007.

**7-32-4107. Utilization of retired officers.** Police officers on the retired list of a city or town shall retire from the active list of police officers of the city or town but must be subject to call for police service or active duty whenever an emergency requires or the active list is temporarily insufficient for proper policing of the city or town, all under the rules that the board of police commissioners or city council prescribe.

**History:** En. Sec. 3, Ch. 100, L. 1927; amd. Sec. 3, Ch. 120, L. 1929; re-en. Sec. 5108.3, R.C.M. 1935; amd. Sec. 3, Ch. 489, L. 1977; amd. Sec. 6, Ch. 85, L. 1977; R.C.M. 1947, 11-1819; amd. Sec. 713, Ch. 61, L. 2007.

**7-32-4108. Appointment to police force.** All appointments to the police force must be made by the mayor or, in those cities operating under the commission-manager plan, by the manager and must be confirmed by the city council or commission. An appointment may not be made until:

(1) an application for a position on the police force has been filed with the mayor or, in those cities operating under the commission-manager plan, with the manager and referred to the police commission, when a commission exists; and

(2) the applicant has successfully passed the examination required to be held by the police commission and a certificate from the police commission that the applicant has qualified for the appointment has been filed with the mayor or, in those cities operating under the commission-manager plan with the manager.

**History:** En. Sec. 3, Ch. 136, L. 1907; Sec. 3306, Rev. C. 1907; amd. Sec. 1, Ch. 198, L. 1921; re-en. Sec. 5097, R.C.M. 1921; amd. Sec. 2, Ch. 119, L. 1923; re-en. Sec. 5097, R.C.M. 1935; amd. Sec. 3, Ch. 152, L. 1947; amd. Sec. 1, Ch. 160, L. 1973; R.C.M. 1947, 11-1803(part); amd. Sec. 714, Ch. 61, L. 2007.

**7-32-4109. Temporary employment for persons doing police work.** The mayor of a city may, at any time when considered expedient, employ not to exceed two persons at one time for a period not to exceed 30 days to do police duty who are not members of the police department.

**History:** En. Sec. 6, Ch. 136, L. 1907; Sec. 3309, Rev. C. 1907; re-en. Sec. 5100, R.C.M. 1921; amd. Sec. 4, Ch. 119, L. 1923; re-en. Sec. 5100, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1955; amd. Sec. 1, Ch. 28, L. 1959; R.C.M. 1947, 11-1806(part); amd. Sec. 715, Ch. 61, L. 2007.

**7-32-4110. Procedure for reinstatement on police force.** (1) An applicant for a position on the police force who has already served 20 years or more in the aggregate on the police force of the city or town to which the person is applying for reinstatement may make application within 1 year from the date on which the person's name was removed from the active list of police officers to the police commission of that city or town in which the person last served, and the application must be considered by the police commission within 30 days after receipt of the application.

(2) The commission may not require the applicant to have a physical examination or other examination required of applicants for a position on the police force. If the police commission recommends the reinstatement of the applicant as a member of the police force, the probationary term required of applicants for positions must be dispensed with for the applicant for reinstatement. The mayor shall submit to the city council of the city at its next regular meeting the recommendation of the police commission. If a majority of the city council vote in favor of adopting the recommendation of the commission, the applicant must be immediately reinstated as a police officer in the city or town.

**History:** En. Sec. 1, Ch. 205, L. 1939; R.C.M. 1947, 11-1808; amd. Sec. 716, Ch. 61, L. 2007.

**7-32-4111. Examination of applicants for position on police force.** (1) All applicants for positions on the police force whose applications are referred to the police commission must be required to successfully undergo an examination before the police commission and to receive a certificate from the commission that the applicant is qualified for appointment for the probationary period to the police force.

(2) An applicant who makes any false statement to the police commission as to the applicant's age or other required qualifications at an examination before the police commission is subject to suspension or dismissal from the police force after trial.

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**History:** En. Sec. 5, Ch. 136, L. 1907; Sec. 3308, Rev. C. 1907; amd. Sec. 2, Ch. 198, L. 1921; re-en. Sec. 5099, R.C.M. 1921; amd. Sec. 3, Ch. 119, L. 1923; re-en. Sec. 5099, R.C.M. 1935; R.C.M. 1947, 11-1805(part); amd. Sec. 717, Ch. 61, L. 2007.

**7-32-4112. Qualifications of police officers.** A member of a police department on the active list of any city at the time of appointment under this part may not be less than 18 years of age, must be a citizen of the United States, and must meet the minimum qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in 2-15-2029.

**History:** (1)En. Sec. 1, Ch. 100, L. 1927; amd. Sec. 1, Ch. 16, L. 1929; amd. Sec. 1, Ch. 120, L. 1929; re-en. Sec. 5108.1, R.C.M. 1935; amd. Sec. 1, Ch. 93, L. 1947; amd. Sec. 12, Ch. 94, L. 1973; Sec. 11-1817, R.C.M. 1947; (2)En. Sec. 12, Ch. 136, L. 1907; Sec. 3315, Rev. C. 1907; re-en. Sec. 5106, R.C.M. 1921; amd. Sec. 6, Ch. 119, L. 1923; re-en. Sec. 5106, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1959; amd. Sec. 1, Ch. 47, L. 1971; amd. Sec. 1, Ch. 66, L. 1971; amd. Sec. 1, Ch. 56, L. 1973; amd. Sec. 1, Ch. 60, L. 1973; amd. Sec. 12, Ch. 335, L. 1974; Sec. 11-1814, R.C.M. 1947; R.C.M. 1947, 11-1814, 11-1817; amd. Sec. 8, Ch. 263, L. 1979; amd. Sec. 1, Ch. 150, L. 1995; amd. Sec. 13, Ch. 506, L. 2007.

**7-32-4113. Probationary period and confirmation of appointment.** (1) Every applicant who has passed the examination and received the certificate referred to in 7-32-4108 must first serve for a probationary term of not more than 1 year. At any time before the end of such probationary term, the mayor, or the manager in those cities operating under the commission-manager plan, may revoke such appointment.

(2) After the end of such probationary period and within 30 days thereafter, the appointment of such applicant must be submitted to the city council or commission, and if such appointment is confirmed by the city council or commission, such applicant becomes a member of the police force and shall hold such position during good behavior unless suspended or discharged as provided by law.

**History:** En. Sec. 3, Ch. 136, L. 1907; Sec. 3306, Rev. C. 1907; amd. Sec. 1, Ch. 198, L. 1921; re-en. Sec. 5097, R.C.M. 1921; amd. Sec. 2, Ch. 119, L. 1923; re-en. Sec. 5097, R.C.M. 1935; amd. Sec. 3, Ch. 152, L. 1947; amd. Sec. 1, Ch. 160, L. 1973; R.C.M. 1947, 11-1803(part).

**7-32-4114. Restrictions on activities of police officers.** (1) Except as provided in subsection (2), a member of the police force may not hold any other office or be employed in any other department of the city or town government. A member of the police force may not strike, as provided in 39-31-501.

(2) A member of the police force of a third-class city or of a town may be employed in another department of the city or town government. However, the member may not hold political office in the city or town government.

(3) The fact that a person is an officer or member of the police department does not deprive the person's spouse or any member of the person's family of the right to participate in political activity or to hold public or political office.

(4) An officer or member of the police department may participate in political activity if the officer does not do so while on duty or in uniform or if the activity does not otherwise interfere with the performance of duties.



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**History:** En. Secs. 8, 9, 10, Ch. 136, L. 1907; Secs. 3311, 3312, 3313, Rev. C. 1907; re-en. Secs. 5102, 5103, 5104, R.C.M. 1921; re-en. Secs. 5102, 5103, 5104, R.C.M. 1935; R.C.M. 1947, 11-1810(part), 11-1811, 11-1812; amd. Sec. 1, Ch. 385, L. 1981; amd. Sec. 1, Ch. 124, L. 1993; amd. Sec. 6, Ch. 225, L. 2005.

**7-32-4115. Exemptions of members of police force.** No member of the police force shall be liable to military or jury duty or to arrest on civil process while actually on duty.

**History:** En. Sec. 8, Ch. 136, L. 1907; Sec. 3311, Rev. C. 1907; re-en. Sec. 5102, R.C.M. 1921; re-en. Sec. 5102, R.C.M. 1935; R.C.M. 1947, 11-1810(part).

**7-32-4116. Minimum wage of police in first- and second-class cities.** (1) Each duly confirmed member of a police department of cities of the first and second class of Montana is entitled to a minimum wage for a daily service of 8 hours' work of at least \$750 per month for the first year of service and thereafter at least \$750 a month plus 1% of the minimum base monthly salary of \$750 for each additional year of service up to and including the 20th year of additional service.

(2) This section applies to cities and towns not of the first class which have elected to come under the provisions of Chapter 120, Laws of 1929, as amended, or Chapter 335, Laws of 1974, as amended.

(3) Added salary for years of service will be based on the base monthly salary as established in this section and not on the actual current salary.

**History:** (1)En. Sec. 1, Ch. 55, L. 1935; re-en. Sec. 5108.16, R.C.M. 1935; amd. Sec. 2, Ch. 96, L. 1939; amd. Sec. 1, Ch. 294, L. 1947; amd. Sec. 1, Ch. 47, L. 1951; amd. Sec. 1, Ch. 28, L. 1957; amd. Sec. 1, Ch. 266, L. 1967; amd. Sec. 1, Ch. 298, L. 1969; amd. Sec. 1, Ch. 314, L. 1973; amd. Sec. 2, Ch. 438, L. 1975; Sec. 11-1832, R.C.M. 1947; (2)En. Sec. 2, Ch. 55, L. 1935; re-en. Sec. 5108.17, R.C.M. 1935; Sec. 11-1833, R.C.M. 1947; (3)En. Sec. 2, Ch. 266, L. 1967; Sec. 11-1832.1, R.C.M. 1947; R.C.M. 1947, 11-1832, 11-1832.1, 11-1833; amd. Sec. 9, Ch. 263, L. 1979; amd. Sec. 35, Ch. 575, L. 1981.

**7-32-4117. Group insurance for police officers -- funding.** (1) Cities of all classes, if they provide insurance for other city employees under Title 2, chapter 18, part 7, shall:

- (a) provide the same insurance to their respective police officers;
- (b) notwithstanding Title 2, chapter 18, part 7, pay no less than the premium rate in effect as of July 1, 1980, for insurance coverage for police officers and their dependents;
- (c) provide for collective bargaining or other agreement processes to negotiate additional premium payments beyond the amount guaranteed by subsection (1)(b).

(2) Subject to 15-10-420, the administration of this section is declared a public purpose of a city, which may be paid out of the general fund of the governing body and financed by a levy on the taxable value of all taxable property within the city or town.

**History:** En. 11-1024.3, 11-1024.4 by Secs. 1, 2, Ch. 308, L. 1975; R.C.M. 1947, 11-1024.3, 11-1024.4; amd. Sec. 1, Ch. 88, L. 1981; amd. Sec. 69, Ch. 584, L. 1999; amd. Sec. 78, Ch. 574, L. 2001.

**7-32-4118. Work period -- days off duty without loss of compensation.** (1) The chief of police may establish the work period for officers and other personnel in the department and may establish a work period other than that provided in 39-3-405 for determining when an employee must be paid overtime compensation. The total hours in all work

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periods in a calendar year may not exceed 2,080.

(2) Each officer or other employee of the police force in every city of the first and second class shall, in each calendar year, be given a minimum of 104 days off duty without loss of compensation, not including holidays, sick leave, vacation leave, or other types of compensated time off duty.

**History:** En. Sec. 1, Ch. 53, L. 1931; re-en. Sec. 5108.15, R.C.M. 1935; amd. Sec. 1, Ch. 65, L. 1957; R.C.M. 1947, 11-1831; amd. Sec. 1, Ch. 562, L. 1983.

**7-32-4119. Overtime compensation.** Members of police departments of cities of the first and second class, except those officers holding the rank of captain or above, are entitled to overtime compensation for hours worked in excess of the work period established by the chief of police under 7-32-4118.

**History:** En. 11-1832.2 by Sec. 1, Ch. 333, L. 1973; R.C.M. 1947, 11-1832.2; amd. Sec. 2, Ch. 562, L. 1983.

**7-32-4120. Expenditure of state payments by municipality not having police retirement system -- annual report.** (1) As used in this section, "employee" means a person employed by a municipal police department, including police officers.

(2) A city or town not governed by the provisions of chapter 9 or 19 of Title 19 shall only expend the payment received pursuant to 19-19-305 for police department employee training, for equipment and personnel relating to substance abuse enforcement, or to purchase pensions for employees of its police department.

(3) The city treasurer or town clerk of the cities or towns shall, on or before April 1 of each year, report to the state auditor as to the expenditures of all funds received pursuant to 19-19-305.

**History:** En. Sec. 4, Ch. 261, L. 1965; R.C.M. 1947, 11-1837; amd. Sec. 36, Ch. 575, L. 1981; amd. Sec. 1, Ch. 60, L. 1991.

**7-32-4121. Action to recover salary.** (1) Actions to recover salaries by members of the police departments of cities must be commenced within 6 months after the cause of action shall have accrued.

(2) No action for unpaid salary can be maintained by members of the police department of cities except for service actually rendered and, if suspended or placed on the eligible list, then only for the days the member of the police department reports for duty.

(3) The word "action", as used in this section, is to be construed, whenever it is necessary to do so, as including a special proceeding of a civil nature.

**History:** (1)En. Sec. 1, Ch. 11, Ex. L. 1919; re-en. Sec. 9036, R.C.M. 1921; re-en. Sec. 9036, R.C.M. 1935; Sec. 93-2610, R.C.M. 1947; (2)En. Sec. 2, Ch. 11, Ex. L. 1919; re-en. Sec. 9037, R.C.M. 1921; re-en. Sec. 9037, R.C.M. 1935; Sec. 93-2611, R.C.M. 1947; (3)En. Sec. 559, C. Civ. Proc. 1895; re-en. Sec. 6476, Rev. C. 1907; re-en. Sec. 9066, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 363; re-en. Sec. 9066, R.C.M. 1935; Sec. 93-2720, R.C.M. 1947; R.C.M. 1947, 93-2610, 93-2611, 93-2720.

**7-32-4122. Contributions for group life insurance and representation.** (1) Unless the police protective association of the city or town chooses not to participate, as provided in 7-32-4123, an employer shall deduct from each police officer's monthly compensation, except that of a police chief, assistant chief, or captain, an amount equal to 1% of the base salary paid to newly confirmed police officers in the city or town. The employer shall pay this amount on a monthly basis to the treasurer of the Montana police protective association to be used to pay premiums on a group life insurance policy for contributing police officers of participating city and town associations and to defray expenses incurred by the association when representing members of the plan.

(2) An employer may not deduct the amount provided for in subsection (1) from the monthly compensation of a police chief, assistant chief, or captain unless that person notifies the person's employer in writing to make the deduction.

(3) A person who contributes under this section is a full member of the Montana police protective association and is entitled to all membership rights and benefits, including those benefits provided in subsection (1).

(4) For the purposes of this section, "police officer" means an officer who participates in the police officers' retirement system under Title 19, chapter 9.

**History:** En. Sec. 1, Ch. 403, L. 1989; amd. Sec. 1, Ch. 179, L. 2005.

**7-32-4123. Nonparticipation.** (1) The members of a city or town police protective association may by a vote of three-fourths of the membership cease the participation of all the members in the provision of group life insurance through salary deductions. Salary deductions for payment of group life insurance premiums and representation may not be made by the city or town of the nonparticipating association. An association may resume participation by a vote of three-fourths of the membership of the city or town police protective association.

(2) Notice of nonparticipation or resumption of participation must be provided to the governing body of the city or town and to the Montana police protective association.

**History:** En. Sec. 2, Ch. 403, L. 1989.

**7-32-4131. Compensation and allowance for sick or injured police officers.** Whenever a member of a police department in a city or town is, on account of sickness or disability suffered or sustained while a member of the police department and not caused or brought on by dissipation or abuse, confined to any hospital or the officer's home and requires medical attention and care, the police officer may be allowed, by the city council, the police officer's salary during the absence and an amount equal to the police officer's expenses while confined for the injury or sickness.

**History:** En. Sec. 6, Ch. 100, L. 1927; amd. Sec. 6, Ch. 120, L. 1929; re-en. Sec. 5108.6, R.C.M. 1935; R.C.M. 1947, 11-1822; amd. Sec. 718, Ch. 61, L. 2007.

**7-32-4132. Payment of partial salary amount of officer injured in performance of duty.** (1) A member of a municipal law enforcement agency of a municipality contracting for retirement coverage pursuant to 19-9-207 who is injured in the performance of the member's duties and who requires medical or other remedial treatment for injuries that

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render the member unable to perform the member's duties must be paid by the municipality the difference between the member's net salary, following adjustments for income taxes and pension contributions, and the amount received from workers' compensation until the disability has ceased, as determined by workers' compensation, or for a period not to exceed 1 year, whichever occurs first.

(2) To qualify for the partial salary payment provided for in subsection (1), the member of the law enforcement agency must be unable to perform the member's duties as a result of the injury.

**History:** En. 11-1822.1 by Sec. 1, Ch. 451, L. 1977; R.C.M. 1947, 11-1822.1; amd. Sec. 1, Ch. 290, L. 1979; amd. Sec. 1, Ch. 251, L. 1993; amd. Sec. 2, Ch. 562, L. 1999.

**7-32-4135. Discontinuation of salary when retirement allowance granted.** Payment of a partial salary amount under 7-32-4132 shall be discontinued if the officer is disabled for an undetermined duration and is granted a disability retirement allowance under Title 19, chapters 9 and 19. If an application for such a retirement allowance is not made by the officer, application therefore may be made by the chief executive officer of the municipality by which such officer is employed.

**History:** En. 11-1822.4 by Sec. 4, Ch. 451, L. 1977; R.C.M. 1947, 11-1822.4; amd. Sec. 2, Ch. 290, L. 1979.

**7-32-4136. Assignment to light duty or another agency.** (1) Whenever, in the opinion of the municipality and supported by a physician's opinion, the officer is able to perform specified types of light police duty, payment of the officer's partial salary amount under 7-32-4132 must be discontinued if the officer refuses to perform the light police duty when it is available and offered. The light duty must be consistent with the officer's status as a law enforcement officer.

(2) With the officer's consent, the officer may be transferred to another department or agency within the municipality.

**History:** En. 11-1822.5 by Sec. 5, Ch. 451, L. 1977; R.C.M. 1947, 11-1822.5; amd. Sec. 3, Ch. 290, L. 1979; amd. Sec. 719, Ch. 61, L. 2007.

**7-32-4137. Effect on probationary status.** If the injured officer is on probationary status at the time of injury, the balance of the probationary time must be suspended until the officer returns to regular duty or is discharged for cause.

**History:** En. 11-1822.6 by Sec. 6, Ch. 451, L. 1977; R.C.M. 1947, 11-1822.6; amd. Sec. 720, Ch. 61, L. 2007.

**7-32-4138. Subrogation.** The municipality has a cause of action for reimbursement of sums it has paid to an officer as salary and for medical treatment against any third party

against whom the officer has a cause of action for the injury which necessitated the payments by the municipality.

**History:** En. 11-1822.7 by Sec. 7, Ch. 451, L. 1977; R.C.M. 1947, 11-1822.7.

### **DISABILITY RETIREMENT:**

**19-19-402. Eligibility for disability retirement.** When a police officer receives injuries or disabilities in the active discharge of duties as a police officer and the injuries or disabilities are, in the opinion of the board of police commissioners or city council of the city or town, of a character that impairs the officer's ability to discharge the duties of an active police officer, the officer must be placed on the retired list of the city or town.

**History:** En. 11-1843 by Sec. 13, Ch. 335, L. 1974; amd. Sec. 11, Ch. 224, L. 1977; amd. Sec. 3, Ch. 489, L. 1977; R.C.M. 1947, 11-1843(1)(d); Sec. 19-10-402, MCA 1991; redes. 19-19-402 by Code Commissioner, 1993; amd. Sec. 248, Ch. 56, L. 2009.

### **CRIMINAL HISTORY RECORD:**

**44-5-302. Dissemination of criminal history record information that is not public criminal justice information.** (1) Criminal history record information may not be disseminated to agencies other than criminal justice agencies unless:

(a) the information is disseminated with the consent or at the request of the individual about whom it relates according to procedures specified in 44-5-214 and 44-5-215;

(b) a district court considers dissemination necessary;

(c) the information is disseminated in compliance with 44-5-304; or

(d) the agency receiving the information is authorized by law to receive it.

(2) The department of justice and other criminal justice agencies may accept fingerprints of applicants for admission to the state bar of Montana and shall, with respect to a bar admission applicant whose fingerprints are given to the department or agency by the state bar, exchange available state, multistate, local, federal (to the extent allowed by federal law), and other criminal history record information with the Montana supreme court and its commission on character and fitness for licensing purposes.

**History:** En. Sec. 11, Ch. 525, L. 1979; amd. Sec. 1, Ch. 15, L. 1989; amd. Sec. 1, Ch. 229, L. 2003.



**44-5-214. Inspection or transfer of criminal history records.** (1) An individual or the individual's agent may inspect any criminal history record information maintained about the individual or transfer copies of that information to any other person upon the presentation of satisfactory identification to the criminal justice agency maintaining the criminal history record information. Fingerprints may be required for identification. An agent must also submit a notarized authorization from the agent's principal or an authorization order from a district court.

(2) If an individual's criminal history record information is maintained in the state repository, copies of the records shall be transferred to the local agency for inspection upon proper request of the individual or the individual's agent. A local agency shall honor a verified affidavit accompanying a request by an individual for a transfer of copies of criminal history record information concerning that individual to a criminal justice agency of another state for the purpose of complying with this chapter.

(3) (a) An individual may request inspection or transfer of copies, or both, of criminal history record information only during normal working hours.

(b) Copies of records may be made by or at the request of a properly identified individual or the individual's authorized agent. If a machine for making copies is not reasonably available, the individual or the individual's agent may make handwritten copies. A charge may be made by the agency for the cost of supplying the copies. Each copy must be clearly marked to indicate that it is for inspection only.

(c) An agency employee should be available to answer questions concerning record content. A record of each request to inspect records under this section must be maintained.

**History:** En. Sec. 19, Ch. 525, L. 1979; amd. Sec. 3, Ch. 603, L. 1993.