

City of Livingston

Board and Commission Handbook



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Handbook Purpose and Use

This Handbook is intended for use by members of the City of Livingston's Advisory and Ad-Hoc Boards and Commissions. The Handbook provides members with an understanding of the City's structure and the role of their specific Board or Commission in supporting the City. This handbook will provide members a general understanding of expectations for how Boards and Commissions operate, including relevant statutory references. Members are encouraged to use additional resources including the Livingston Growth Policy, Montana Municipal Officials Handbook, the State Land Use Review Handbook and the Montana State University Local Government Center to develop a more complete understanding of specific issues.

The operation of the local government in the City of Livingston is governed by two principal documents: Montana Code Annotated (MCA) and the Livingston Municipal Code (LMC). These two documents provide the framework through which the City of Livingston operates. Certain functions have been delegated to the City to manage through Local Laws (LMC) while others are mandated by State Code (MCA). Within the handbook, there are many references to the Montana Code Annotated and Livingston Municipal Code. The excerpts from each are updated as frequently as possible. Before acting upon any reference, readers are encouraged to review the references to ensure the accuracy of the materials at the time of reading.

City of Livingston Board and Commissions

Purpose

The City of Livingston is governed by a Commission-Manager form of government pursuant to Title 2, Chapter 3, Part 3 of the Montana Code Annotated (MCA 7-3-301 et seq.). The City Commission appoints a Manager who is "responsible to the commission for the administration of all local government affairs placed in the manager's charge by law, ordinance, or resolution." (MCA 7-3-301).

Montana Code Annotated and the Livingston Municipal Code have established the authority or requirement for certain Boards and Commissions to be created by the City Commission. In the City of Livingston, these Boards include:

- Consolidated Land Use Board
- Historic Preservation Commission
- Urban Renewal Agency
- Board of Appeals

Additionally, the City is required by MCA to have representatives on the following joint City-County Boards:

- City-County Board of Health
- City-County Library Board
- City-County Airport Board

All Boards and Commissions exist to enhance public participation in local government. The City intends that Boards and Commissions are an avenue for the citizenry to express their desires in policy matters. These desires are expressed through recommendations to the City Commission.

Relation to City

The work of City Boards and Commissions shall always be in support of the Livingston City Commission. To ensure such alignment, the agenda and work plan of the City Boards and Commissions shall be created by the City staff member with City Commission priorities in mind. Board and Commission members are not agents of the City, and shall not take official actions on behalf of the City or direct City staff.

Relation to City Commission

Except for “temporary advisory committees established by the Manager,” members of the Boards and Commissions of the City of Livingston are appointed by the City Commission pursuant to MCA 7-3-312. Vacancies on Boards and Commissions will be filled through a process managed by the City Manager and appointments shall be for a definite term.

Members may be removed from Boards and Commissions by the City Commission for cause including for habitual absenteeism (defined as more than 25% unexcused absences from meetings in a 12-month period), inability to abide by rules, inability to work respectfully as part of the board or commission, improper conduct or failure to interact with the public in a productive manner. In such cases, the City Manager shall make a removal recommendation to the City Commission.

As detailed below, each Board or Commission exists to perform a function that is established in either Montana Code Annotated, Livingston Municipal Code or a combination of both. In all cases, the recommendations or actions of Board or Commission is expected to be in support of the work of the Livingston City Commission and in accordance with guiding documents including the Growth Policy and relevant plans adopted by the City Commission.

Relation to City Staff

Each Board or Commission of the City of Livingston shall have a City staff member assigned by the City Manager to support its function. The City staff member shall have responsibility for the posting of agendas, provision of materials and creation of minutes to support the function of the Board or Commission.

Board and Commissions do not have authority to direct the work of assigned staff or the City Manager. Members and the Presiding Officer of a Board or Commission are expected to consult with the City Manager and assigned staff regarding work assignments.

Role of Boards and Commission

The role of each City of Livingston Board or Commission is established by its authorizing statute, whether that is Montana Code Annotated, Livingston Municipal Code or a combination of both.

- Consolidated Land Use Board: The Consolidated Land Use Board functions as both the City Planning Board (MCA 76-1-101, et seq.) and Municipal Zoning Commission (MCA 76-2-307, et seq.) that are established in State Code. However, the Consolidated Land Use Board is also governed by the Livingston Municipal Code Chapter 27.

- Historic Preservation Commission: The Historic Preservation Commission is governed by Livingston Municipal Code Chapter 31.
- Urban Renewal Agency: The Livingston Urban Renewal Agency is governed by Title 7, Chapter 15, Part 42 of Montana Code Annotated. The goals of the Agency are also governed by the Urban Renewal Plan adopted pursuant to MCA requirements.

Actions of Boards and Commissions

Each Board or Commission acts as a body and actions are authorized through a voting process. Each vote requires a member to make a motion that is seconded by another member. A majority vote of the members present is required to approve any action. The regular actions of the Board or Commission most often take several forms: approval of minutes; recommendation to the City Commission for actions (including applications and ordinances); recommendation to the City Commission for setting of policy.

The function of each Board and Commission shall be governed according to the By-Laws adopted by the City Commission for each Board.

Members shall not perform work tasks to support the function of their Board or Commission. Any action of the Board or Commission that requires a subsequent task to be performed will be done so with the expectation that the assigned City staff member will accomplish the task. Therefore, Board and Commission members shall consult with the assigned staff and City Manager regarding work assignments.

Board and Commission Meetings

Place and Time

The City of Livingston Boards and Commissions meet according to protocols established by the City Commission and Manager. The time and place of the meetings is included in these protocols with the expectation that meetings will be held in a manner which maximizes opportunities for public participation.

Public Participation

Meetings of City of Livingston Boards and Commissions, including subcommittees thereof, are subject to Montana Open Meeting Laws. Montana law requires that open meeting statutes be interpreted liberally. MCA 2-3-201 provides that public boards, commissions, councils, and agencies exist to conduct the people's business, and that their actions and deliberations must be carried out openly. The law makes clear that public agencies serve the people and that transparency is fundamental to maintaining that trust.

There are four essential elements to Montana's open meetings requirements:

1. A quorum—meaning the number of members legally required to conduct business—is convened, either through physical presence or electronic means (2-3-202, MCA);
2. The members hear, discuss, or act upon matters within the agency's jurisdiction (2-3-202, MCA);

3. The meeting is open to the public, and members of the press must be allowed to record the proceedings (2-3-211, MCA);

4. Minutes of all meetings are kept and made available to the public (2-3-212, MCA).

In addition, the public's right to know and right to participate provisions may apply to organizations outside of government if they are supported wholly or partly by public funds. Section 2-3-203, MCA, extends transparency expectations to such entities.

Public Records

The records of the City of Livingston are generally open and available for public inspection at any time. The Montana Secretary of State has promulgated regulations for record retention that the City adheres to. Documents that are not available to the public include: closed meeting minutes; criminal justice information; attorney-client work product; and personnel records. Members should understand that their communications and documents are generally available for public inspection regardless of the device or program used to create, share or store them.

Ex Parte Communications

Ex Parte communications are private conversations between a decision maker and a party or person concerning issues before the decision maker. Board and Commission members will declare any conversations about specific issues before the Board or Commission and relay the information and parties involved in the conversation.

Procedures

The conduct of meetings of the Livingston City Boards shall adhere to the following provisions:

A. Procedure to Conduct Business.

1. The Chair shall clearly announce the agenda item to be considered and ask other members for conflicts or ex parte disclosures.
2. Following announcement of agenda item, the Chair shall invite the City staff member to report on the item, including any recommendation that they might have.
3. The Chair shall ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.
4. The Chair shall invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input on the agenda item being considered. The Chair may limit the time of public speakers to four minutes. To be recognized, each person desiring to give comment, testimony or evidence shall proceed to the podium provided and after being recognized, give his or her name and address before testifying, commenting or presenting other evidence. All comments, testimony and evidence shall be directed to the presiding officer. No questions shall be asked of a Commission member except through the presiding

officer. At the conclusion of the public comments, the Chair shall announce that public input has concluded (or the public hearing as the case may be is closed).

5. The Chair shall invite a motion. The Chair shall announce the name of the member of the body who makes the motion.
6. The Chair shall determine if any member of the body wishes to second the motion. The Chair shall announce the name of the member of the body who seconds the motion. No motion shall be debated or put to a vote unless the same shall be seconded. If the motion is made and seconded, the Chair should make sure everyone understands the motion. This is done in one (1) of three (3) ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the City staff assigned to the meeting to repeat the motion.
7. The Chair shall now invite discussion/debate of the motion by the body. Every member desiring to speak shall address the presiding officer, and upon recognition, shall confine themselves to the question under debate, avoiding all personalities and indecorous language.
 - a. A member, once recognized, shall not be interrupted when speaking unless it is to call them to order or as herein otherwise provided.
 - i. If a member, while speaking is called to order, they shall cease speaking until the question of order is determined, and, if in order, they shall be permitted to proceed.
 - b. Order of rotation in matters of debate or discussion shall be at the discretion of the presiding officer.
 - i. A member shall not speak more than twice on the same subject without leave of the Chair, nor more than once until every member desiring to speak on the pending question has had an opportunity to do so.
8. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.
9. The Chair shall direct that the vote be taken by a roll call vote. If members of the body do not vote, then they "abstain". Unless the rules of the body provide otherwise (or unless a super-majority is required as delineated in these rules) then a simple majority determines whether the motion passes or is defeated.
10. The Chair should announce the result of the vote and should announce what action (if any) the body has taken.

B. Motions, Majority Approval, Debatable or not and Exceptions.

1. The Basic Motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a 5-member committee to

plan and put on our annual fundraiser."

2. The Motion to Amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a ten-member committee." A motion to amend takes the basic motion which is before the body and seeks to change it in some way. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way.
3. Order of Consideration of Motions. There can only be one (1) motion on the floor at a time. During the discussion of this motion, a member might make a second motion to "amend the main motion."
 - a. First, the Chair would deal with the motion to amend. After discussion and debate, a vote would be taken on the motion to amend.
 - b. Second, if the motion to amend passed the Chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed the Chair would now move to consider the main motion (the first motion) in its original format, not amended.
4. Motions Debatable, Exceptions. The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions and motions to amend are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Chair that it is time to move on and take action.
 - a. Exceptions. There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion):
 - i. A Motion to Adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.
 - ii. A Motion to Recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.
 - iii. A Motion to Fix the Time to Adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.
 - iv. A Motion to Postpone Consideration. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold". The motion can contain a specific time in which the item can come back to the body: "I move we postpone consideration of this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to consider the item and bring it back to the body will have to be taken at a future meeting. A motion to postpone consideration an item (or to bring it back to the body) requires a simple majority vote.

- v. A Motion to Limit Debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote". When such a motion is made, the Chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds (2/3) vote of the body. Note: that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds (2/3) vote of the body.
- vi. Motion to Object to Consideration of an Item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds (2/3) vote.

City of Livingston Conflict of Interest Policy

General

The City of Livingston has adopted a Conflict of Interest Policy that applies to members of its Boards and Commissions. The Conflict of Interest Policy exists in the Chapter 2 of the Livingston Municipal Code. Each member of a City of Livingston Board or Commission is expected to know and understand the Policy. Questions on the policy or its implementation shall be directed to the City Manager.

In addition to the Policy, the City also has a Disclosure Form that is included as Exhibit A. Each Board or Commission member shall submit a Disclosure Form to the City Manager at the time of appointment.

LMC 2-24 Purpose of Conflict of Interest Policy

It is the intent of the City of Livingston to establish a Conflict of Interest Policy. This policy protects and encourages impartial and independent judgment ensuring that the private conduct and financial interest of public officials do not present a real conflict of interest in their responsibilities to serve the public.

The Policy, as enshrined in Livingston Municipal Code Sections 2-24 through 2-34, establishes minimum standards of conduct and is designed to assist public officials in understanding their obligations. This Policy applies to all elected officials and community or advisory board members.

Public confidence in government is essential and the City can help sustain it by establishing and enforcing rules to assure the impartiality and honesty of officials in all public discussions, decisions and transactions. Each affected advisory and community board of City government should inform its members of the provisions of this chapter and strive to effectively enforce its requirements by seeking appropriate assistance from the City Attorney, or City Manager.

LMC 2-25 Organizational Responsibility for Conflict of Interest Policy

The legislative affairs of the City shall be conducted in a manner free from influences and/or activities that compromise the integrity of the process. It is the responsibility of each public official to ensure their compliance with this Policy.

In the event of a perceived Conflict of Interest, Officials may rely upon the advice of the City Attorney as to whether the official has a conflict of interest pursuant to law. In matters where a conflict of interest exists, the Official shall excuse themselves from the dais, and refrain from discussion and vote except when the Official's participation is necessary to obtain a quorum or otherwise enable action. In such a case, the official shall disclose the interest creating the appearance of impropriety and comply with the disclosure requirements of MCA 2-2-101 et seq., prior to performing the official act.

LMC 2-26 Conflict of Interest Policy Definitions

Unless the context specifically indicates otherwise, the meanings of terms used in this ordinance shall be as follows:

1. Gift shall mean any benefit, favor, service, privilege, or thing of value which could be interpreted as influencing a public official's impartiality. Gifts include, but are not limited to: trips, money, merchandise, foodstuffs, and tickets to sports, civic or cultural events; services or work provided by City suppliers and offers of future employment from City suppliers. Gifts do not include items that would not ordinarily be interpreted as affecting an official's impartiality; such as an occasional business lunch, potted plants or flowers, boxes of candy for office personnel, or advertising office supplies, such as pencils, calendars, or pens, or other token gifts of small value.
2. Immediate and direct official action shall mean any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.
3. Official shall mean and include any person who serves on the City Commission or any advisory or community board or commission created by the Commission.
4. Substantial conflict of interest shall mean a situation, which is likely to affect the judgment or actions of an official in the performance their duties for the City.
5. Financial Interest shall mean any interest which shall yield, directly or indirectly, a monetary or other material benefit (other than duly authorized salary or compensation for services to the City) to the official, their family members and cohabitants, or any person retaining the services of the official.

LMC 2-27 Just and equitable treatment

- A. Use of Public Property. No official shall request or permit the use of City-owned vehicles, equipment, materials or property or the expenditure of City funds for personal convenience or profit unless authorized by other agreement. Use or expenditure is to be restricted to such services as are available to the public generally or for such employee in the conduct of official business.
- B. Obligations to Citizens. No official shall grant any special consideration, treatment or advantage beyond that which is available to every other citizen.
- C. Except as authorized by law and in the course of his or her official duties, no official shall use the power or authority of his or her office or position with the City in a manner intended to induce

or coerce any other person to provide such official or any other person with any compensation, gift, or other thing of value directly or indirectly.

D. No official may ask for or receive, directly or indirectly, any compensation, gift, or thing of value, or promise thereof, for performing or for omitting or deferring the performance of any official duty, or action by the City other than the compensation, costs or fees provided by law.

LMC 2-28 Campaign activities

City officials are encouraged to participate in the political process on their own time, with their own personal resources, and outside of the workplace by working on campaigns for the election of any person to any office or for the promotion of or opposition to any ballot proposition. Officials shall not use or authorize the use of the facility of the City of Livingston for such purposes except as authorized by law. See subsection 2 –2-121 MCA which applies to public officials.

LMC 2-29 Gifts and Things of Value

Officials may not accept gifts or other things of value when given by anyone who does business or seeks to do business with the City, if the gift is given for performance, or the failure to perform, one's duty; or when the gift could appear to be for the purpose of obtaining special consideration or to influence a City action. Pursuant to subsection 45-7-104 (5)(b) MCA, this section does not apply to trivial benefits incidental to personal, professional, or business contacts and involving no substantial risk of undermining official impartiality. A hosting government or agency may sometimes pay for other costs, such as travel expense and hotel accommodation, associated with government-related activities. Gifts of this nature are not a violation of this policy.

Gifts do not include items for which fair market value is paid or which are reimbursed by the City, or items received but donated to a charitable organization within 30 days of receipt of the gift. Meals are not considered gifts or items of value.

LMC 2-30 Conflicts of Interest

In addition to conflicts of interest identified above, the following rules apply to all officials of the City. No official shall engage in any act that is in conflict with the performance of official duties. An official shall be deemed to have a conflict of interest if he or she directly or indirectly:

1. Receives or has any financial interest in any purchase, sale or lease to or by the City of any service or property when such financial interest was received or obtained with the prior knowledge that the City intended to purchase, sell or lease such property or service;
2. Is beneficially interested in any contract, sale, lease, option or purchase that may be made by, through, or under the supervision of the official, in whole or in part, or accepts, directly or indirectly, any compensation, gift or thing of value from any other person beneficially interested therein;

3. Accepts or seeks for others any employment, travel expense, service, information, compensation, gift or thing of value on more favorable terms than those granted to the public generally. These favorable terms may not be solicited from any person doing business, or seeking to do business with the City in an area for which the employee has responsibility or with regard to which he or she may participate. This subsection shall not apply to the receipt by elected officials of meals, refreshments or transportation within the boundaries of the City when given in connection with meetings with constituents or meetings which are informational or ceremonial in nature.

LMC 2-31 Prior employment

No official shall be disqualified from service solely because of his or her prior employment; however such official shall be disqualified from taking any immediate and direct official action with respect to his or her prior employer for a period of two (2) years from the date of termination of employment.

LMC 2-32 Contemporaneous employment

Under no circumstances shall any official engage in a decision that may cause a conflict of interest with his or her outside employment or financial interest. No use should be made of City-owned materials or facilities in performing such outside work.

LMC 2-33 New Official training

Every official, upon initiating service with the City, shall receive a copy of the Conflict of Interest Policy as part of the service's orientation.

LMC 2-34 Violation of Conflict of Interest Requirements

Violation of this ordinance shall be ground for discharge or other disciplinary action. Disciplinary action and grievance procedures will be conducted according to the City Commission Handbook and Montana Code Annotated where appropriate.

Exhibit A: Disclosure Form

City of Livingston

Disclosure Form

This form is provided to all Livingston City Board and Commission members to assist City Staff in identifying potential conflicts of interest. Commissioners and Board Members complete the form upon taking office and at update yearly throughout their term. The completed form must be returned to the City Manager.

Member Name: _____

Address: _____

Employer: _____

Spousal Employer: _____

Other Employers of Household Members: _____

Association Memberships: _____

Please identify any other potential conflicts that you may have: _____
