

ORDINANCE NO. 09-5485

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA, CITY CODE BE AMENDED BY REVISING SECTIONS 2-502, 2-503, 2-504, 2-505, 2-507, 4-201, 4-202, 4-204, 5-201, 5-202, 5-204, 9-201, 9-202, 9-204, 15-708, 15-709, 15-711, 2-721, 2-722, 2-724, 2-725, 2-726, 2-524, 2-525, 2-527, 16-201 THROUGH 16-204, 24-1101, 24-1102, 24-1104, 2-511, 2-512, 2-513, 2-515, 2-536, 2-537, 2-539, 24-201, 24-202, 24-204, AND BY ADDING SECTIONS TO BE NUMBERED 2-501, 2-501.1, 2-501.2, 2-503.1, 2-503.2, 2-506, 2-508, 2-509, 2-510, AND REPEALING SECTIONS 2-506, 4-203, 9-203, 15-710, 2-723, 2-526, 24-1103, 2-514, 2-538, AND 24-203; ESTABLISHING QUALIFICATIONS FOR APPOINTMENT; CLARIFYING TYPES OF BOARDS, APPOINTMENT, FORFEITURE, STAFF LIAISON, SETTING SPECIFIC RULES OF PROCEDURE, LIMITING POWERS OF MEMBERS, AND MOVING VARIOUS BOARDS AND COMMISSIONS' ORDINANCES TO ARTICLE 2-500.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That the Billings, Montana, City Code be amended by adding new sections, amending other sections, repealing some sections, and generally revising content and numbering of most ordinances related to boards, commissions and committees, as follows:

ARTICLE 2-500. BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. GENERALLY

Sec. 2-501 Permanent advisory boards, ad hoc council advisory committees or statutory boards

There are three (3) different types of advisory boards, committees or commissions. (1) Permanent advisory boards are established by ordinance. (Article 2-500, BMCC; Billings City Charter, Art. V). (2) Ad hoc council advisory committees (Section 2-224, BMCC) are created by council resolution, have a specific purpose, and have a limited duration. (3) Statutory boards are required by state or federal law. All boards, committees or commissions shall be governed by Article 2-500 except as otherwise provided by Charter, this Code, statute or interlocal agreement.

Sec. 2-501.1 Qualifications for Membership

All members of advisory boards, commissions or committees must hold the following qualifications, unless otherwise required by law:

- (1) resident of the City of Billings for at least 2 years;
- (2) qualified voter of the City of Billings;
- (3) resident of the state of Montana for at least 3 years; and
- (4) 18 years of age or older.

Sec. 2-501.2. Appointment

Members of advisory boards, commissions, and committees shall be appointed by the Mayor with the consent of the City Council, unless otherwise provided by federal or state law, or interlocal agreement.

- (1) Notice of a vacancy shall be published thirty (30) days prior to appointment.
- (2) Members of boards, commissions, or committees shall hold no elected city office unless required by federal or state law, or interlocal agreement.

Sec. 2-502 Compensation, expenses.

The members of advisory boards, committees, and commissions of the city shall serve without compensation, but shall be reimbursed their necessary expenses with prior authorization of the Mayor and City Council.

Sec. 2-503. Loss of membership.

If a member of any board, committee or commission of this city fails to attend three (3) consecutive scheduled meetings of such board, committee or commission without being excused from such attendance, such person shall no longer be considered a member of such board, committee or commission, and the position may be declared vacant by the mayor, unless otherwise provided by statute or interlocal agreement.

Sec. 2-503.1. Forfeiture of office.

(a) The position of advisory board, commission, or committee member is forfeited and becomes vacant for lack of qualification upon the occurrence of any of the following events prior to the expiration of the term:

- (1) The death of the member;
- (2) The member's resignation;
- (3) The member's conviction of a felony;

- (4) The member's ceasing to be a resident of the city; or
(5) The decision of a competent legal tribunal declaring void the member's appointment.

Sec. 2-503.2. Removal of any or all members.

Members of advisory boards, commissions and committees serve at the discretion of the Mayor and City Council. Upon two-thirds vote of the Mayor and City Council, any or all members of an advisory board, commission or committee may be removed.

Sec. 2-504. Filling unexpired term.

Vacancies occurring for any reason during the member's term shall be filled within sixty (60) days in the same manner as the original appointment. The appointment shall be for the remainder of the unexpired term. Upon loss of membership on a board or commission by default, the unexpired term shall be filled in the same manner as other vacancies.

Sec. 2-505. Terms of office.

Except as otherwise provided by Charter, this Code; statute or interlocal agreement:

The terms of members of a permanent advisory board or commission will run on a calendar year basis. During the transition to the calendar year terms, any member whose term expires prior to December 31 will holdover in office at least until December 31 or until his position is filled by appointment, whichever is later. All board and commission appointees after the initial appointments shall be appointed for four (4) years. Each member shall be limited to two (2) consecutive four (4) year terms.

Sec. 2-506. Staff liaison.

Each permanent advisory board shall have a designated staff liaison appointed by the City Administrator. The staff liaison shall be responsible for preparing the meeting agenda, advertising the meeting, taking minutes, and handling any communications between the board, the Mayor or City Council, or the City Administrator.

Sec. 2-506. Vacancies.

Vacancies occurring during the term shall be filled during the months of July or January, unless the mayor determines that the vacancy must be filled sooner due to lack of a quorum. The member shall be appointed for the balance of the term.

Sec. 2-507. Meetings, rules and procedure.

All boards, and commissions, and committees shall comply with this Article and the following rules of procedure. A board, commission or committee shall not establish its own bylaws or any other rules without the prior written approval of the City Council, unless otherwise required by law. All bylaws or rules of procedure existing on the effective date of this ordinance are void and shall be replaced with the rules of procedure set by ordinance. meet regularly as determined by the board or commission and at other times at the call of the presiding officer, secretary or city administrator. The board or commission shall establish its rules of procedure and the number constituting a quorum.

A. Election of chairperson and vice-chairperson; presiding officer.

At the first meeting of every calendar year, a chairperson and vice-chairperson shall be elected by a majority of members present at the meeting. The chairperson shall be the presiding officer and shall be responsible for recognizing those who would like to speak and generally enforcing a productive decorum. In the absence of the chairperson, the vice-chairperson shall be the presiding officer.

B. Location; calling to order; quorum.

The advisory boards, commissions or committees shall hold regular meetings for the transaction of city business as required. A majority of the meetings held by each board, commission or committee in any calendar year shall be located in a public facility owned by a governmental entity. Any regular meeting may be canceled or rescheduled by majority vote of the advisory board, commission or committee at any time prior to the last business day before the scheduled meeting. The presiding officer or any three (3) members may request that a special meeting be called. The request shall be submitted to the staff liaison who shall prepare the agenda and notice in writing, which notice shall be delivered or mailed to all members. All meetings shall be held in accordance with the public notice and public meeting laws.

At any regular or special advisory board, commission or committee meeting, the presiding officer shall call the roll, and the names of all members present shall be recorded in the Minutes. The presiding officer shall announce whether or not a quorum is present. Unless otherwise set by law, a simple majority of the members of the advisory board, commission or committee duly appointed and qualified is necessary to constitute a quorum. A meeting must have a quorum present in order to conduct business. Members must be physically present for meetings, and no proxy votes shall be allowed. Members shall vote on all agenda items unless prohibited by law.

C. Meetings open to the public.

All meetings of the boards, commissions, committees, subcommittees or other entities created by the city council shall be open to the public if required by state law. "Meeting" means the convening of a quorum of the membership of the boards, commissions or committees created by the city council, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the city council has supervision, control, jurisdiction, or advisory power.

A public comment period shall be provided at each meeting. The presiding officer may set time limits for the comments.

D. Proposed agenda.

(a) The presiding officer through the staff liaison shall prepare a draft regular meeting agenda and shall provide the same to the members in accordance with an agreed process designed to provide them with sufficient time and opportunity to review the draft agenda and request changes therein prior to its finalization.

(b) The staff liaison shall prepare the final agenda of business to be considered at the regular meeting and shall transmit copies of the same to the members on or before close of business on the Monday preceding the regular meeting at which the matters are to be considered. Agenda items may only be removed from the agenda by the consent of a three-fourths majority of the members present.

(c) Only matters that appear on the agenda shall be considered by the members at its regular meeting. Matters that are ministerial or deemed not of significant interest to the public may be added by consent of a three-fourths (3/4) majority of all members present.

E. Order of business for regular meetings.

At all regular meetings of the advisory boards, commissions and committees, the order of business shall be as follows:

(1) Call to Order;

(2) Roll call;

(3) Correcting, if necessary, and approving minutes of the last meeting or meetings;

(4) Staff liaison reports;

(5) Public comment on the published agenda or non-agenda items. Speakers are requested to indicate their desire to speak and which item or items on which they wish to offer comment by filling in their name, address and agenda item number or subject on a prepared "sign in" sheet. The length of time a speaker may speak is limited and is set by the presiding officer.

(6) Agenda. The agenda constitutes an individually numbered listing of business items either:

a. Requiring a public hearing prior to action,

b. Giving a special informational presentation, or

c. Any item that requires separate time by the board, commission or committee to fully discuss the matter prior to rendering a decision.

(7) Adjourn.

The order of business may be altered for any meeting by a majority vote of the members present. The order of business for any special meeting shall be specified in the notice calling for the special meeting.

F. Minutes.

(a) Appropriate minutes of all meetings of advisory boards, commissions and committees shall be kept by the staff liaison and shall be available for inspection by the public.

(b) Such minutes shall include without limitation:

(1) Date, time, and place of meeting;

(2) A list of the individual members of the board, commission or committee in attendance;

(3) The substance of all matters proposed, discussed, or decided; and

(4) At the request of any member, a record by individual members of any votes taken.

G. Distribution of minutes.

It shall be the duty of the staff liaison to see that copies of the minutes are transmitted to the members as soon after the original minutes are written as possible. The minutes must be finally approved at the next meeting and shall be posted on-line at the City's website within ten (10) business days after final approval. The minutes are permanent records of the City and must be retained indefinitely.

H. Rules of procedure for meetings.

The meetings of the advisory boards, commissions or committees shall in all cases be governed by the following rules, unless otherwise set by interlocal agreement, statute, or ordinance, or unless they are suspended pro tem by a majority vote:

(1) Decorum.

a. The presiding officer shall preserve order and decorum and shall decide all questions of order, subject to appeal to the board, commission or committee.

b. Every member, previous to speaking, shall address the presiding officer, but shall not proceed until recognized and named by the presiding officer. The provisions of Robert's Rules of Order Newly Revised concerning assigning the floor are superseded by this rule of procedure.

c. When two (2) or more members address the presiding officer, the first to have precedence shall be decided by the presiding officer. The provisions of Robert's Rules of Order Newly Revised concerning assigning the floor are superseded by this rule of procedure.

- d. While a question is being placed on the floor, no member shall speak or walk across the meeting room or leave the same.
- e. When any member is addressing the group, no other member shall engage in private conversation or do any other act to divert attention or interrupt the speaker.
- f. At meetings all questions relating to the priority of business shall be decided without debate.
- g. To preserve meeting decorum and minimize distractions, television cameras are to be confined to designated areas. Interviews in the chamber are permissible after meetings. No interview or live narration will be allowed in the chamber prior to or during the proceedings of a meeting.
- (2) Meeting protocol.
- a. A member shall not speak more than twice on the same subject without leave of a majority of the group, nor more than once until every member desiring to speak on the pending question has had an opportunity to do so.
- b. No motion shall be debated or put to a vote unless the same shall be seconded. The motion and second shall then be stated by the presiding officer.
- c. All motions shall be stated in clear, concise and definite terms, beginning with the language: "I move that . . . ". "I so move" or any other abbreviated language does not constitute correct form for a motion and is out of order.
- d. After a motion has been stated by the presiding officer it shall be deemed in possession of the group, but may be withdrawn at any time before amendment or decision, by the mover with consent of the second.
- e. If a question under consideration contains more than one distinct proposition any member may demand a division.
- f. When a question is under debate, no motion shall be entertained, except: First, to adjourn; second, to lay on the table; third, for the previous question; fourth, to postpone to a day certain; fifth, to refer to a committee; sixth, to amend; and seventh, to postpone indefinitely. These motions shall have precedence in the order stated.
- g. Amendment of a question may take the form of a motion to substitute. Adoption of a motion to substitute shall be deemed approval of the substitute motion itself and further debate and amendment of the adopted substitute motion are not in order. The provisions of Robert's Rules of Order Newly Revised concerning substitute motions are superseded by this rule of procedure.
- h. A motion to adjourn shall always be in order, except when a member is addressing the chair, or a vote is being taken. Motions to adjourn and lay on the table shall not be debatable.
- i. No motion on a subject different from that under consideration shall be permitted.
- j. After a vote is announced, no member shall change his vote without following the procedure for reconsideration.
- k. No motion for reconsideration shall be in order unless made at the same meeting or the meeting following that on which the decision was made, nor shall

such motion be made except by a member who voted with the majority. If the motion for reconsideration is approved by a majority vote of the board, commission or committee, then the decision on which the vote is to be reconsidered is placed back on the agenda at a location specified by the presiding officer for further consideration and another vote.

l. In case a voice vote is indeterminate, a roll call vote shall be taken.

m. In case of a tie vote on any proposal, the proposal shall be considered lost/failed.

n. The staff liaison shall rule on all questions of parliamentary procedure and the staff liaison's decision shall be final.

o. Every member present shall vote upon every question submitted, unless excused or unless the member has a financial or personal interest as defined in section 2-702. If a member has a financial or personal interest, the member shall, immediately after the motion has been made and seconded, or as soon thereafter as the member may be recognized by the presiding officer, publicly disclose the nature and extent of such interest and disqualify himself or herself from participation in the deliberation and voting on the question.

(3) Documentation of proceedings.

a. In all cases the name of the member proposing a motion and seconding the motion shall be entered in the minutes.

b. Any member may demand the roll call of ayes and noes upon any question pending. Except as provided in this subsection, a vote on all matters shall be by voice vote.

c. All reports or proposals shall be reduced to writing before being submitted to a vote.

d. Application of Robert's Rules of Order. In all parliamentary practice not herein prescribed, Robert's "Rules of Order Newly Revised" shall govern so far as applicable.

(4) Public hearings. Public hearings may be required by law or by council policy. Public hearings are held for the purpose of noticing legislative facts and receiving expressions of public opinion on a question, including views of interested parties. When public hearings are required by law, they shall be held as set out herein. At the commencement of any public hearing, the presiding officer may set time limits for the presentation of views of proponents and opponents of the measure. These time limits shall be adhered to strictly. At the conclusion of his testimony at a public hearing, any individual may be questioned by any member. The time involved in such question and reply shall not count against the time allowed for the presentation of views.

Sec. 2-508. Limitations of powers

A member of an advisory board, commission or committee, except as otherwise provided by law, shall not:

- (a) Incur city expense or obligate the city in any way without prior authorization of the mayor and city council.
- (b) Make any written or oral report of any board, commission or committee activity to any individual or body unless (1) to the mayor and city council, or (2) authorized to do so by majority vote of the entire membership of the board, commission or committee, or (3) allowed by law.
- (c) Independently investigate citizen complaints against departments or individual employees or volunteers by questioning witnesses or otherwise.
- (d) Conduct any activity which might constitute or be construed as establishment of city policy.

Sec. 2-509. Supervision by Mayor and City Council

The advisory boards, commissions or committees are established to advise and provide recommendations to the Mayor and City Council on particular issues. As such, the Mayor and City Council have the authority to direct, supervise, and oversee the activities of any board, commission or committee.

Sec. 2-510. Reports.

The presiding officer of each board, commission or committee shall report to the mayor and city council annually either in person or in writing. If the presentation is in person, it will be at a Council Work Session at a date and time arranged through the staff liaison.

DIVISION 2. PARKS, RECREATION AND CEMETERY BOARD ANIMAL CONTROL BOARD

Sec. 4-201 2-511. Created.

There is hereby created an animal control board.

Sec. 4-202 2-512. Composition, appointment.

~~The animal control board shall be composed of five (5) members who shall possess the qualification for office required for the office of mayor and shall be appointed by the mayor with the consent of the council.~~

Sec. 4-203. Organization.

~~The animal control board shall elect from its membership one person to serve as chairperson, and the city department head or his or her designee responsible for animal control shall serve as secretary.~~

Sec. 4-204 2-513. Powers and duties.

The animal control board shall serve in an advisory capacity to the city council and shall be for the purpose of providing citizen input to the policy decisions of the city council. The primary responsibilities of the board are to review existing and proposed city policies and to review city department activities to ensure that city policies are being implemented and carried out and further, to report any shortcomings and to make recommendations to the city council in the formulation of programs and policies to improve among others the following areas of concern:

- (1) Operation of the city animal shelter and pound, including sanitation and financial efficiency;
- (2) The humane disposition of all of the animals held in the animal shelter or pound;
- (3) The formulation of policies, regulations, implementation and control of animals within the city;
- (4) Solving the serious problem created by the uncontrolled reproduction of pet animals;
- (5) Cooperation with other municipal, county and state governments.

~~DIVISION 3. HUMAN RELATIONS COMMISSION~~ AVIATION/TRANSIT BOARD

Sec. 5-201 2-518. Created.

There is hereby created an aviation/transit board.

Sec. 5-202 2-519. Composition appointment.

(a) ~~The aviation/transit board shall be composed of seven (7) members, each of whom will possess the qualifications for office required for the office of mayor and shall be appointed by the mayor with the consent of the council.~~

(b) After June 20, 1983 at the time the first vacancy on the board occurs, that position will be filled by appointment of a person from an airport impact area. An airport impact area is defined as an area close to the airport that may in some way be impacted by activity at the airport. As the next vacancy occurs, it will be filled by a person with business management background not related to airport activities. Thereafter, one appointee to the aviation/ transit board shall be from an impact area and one shall be a person with a business management background not related to airport activity; provided, that the requirements as imposed herein shall be followed as closely as reasonably possible.

~~Sec. 5-203. Organization.~~

~~The aviation transit board shall elect from their number a new chairperson and a vice chairperson annually.~~

Sec. 5-204 2-520. Duties and responsibilities.

The aviation transit board shall be a citizens advisory board to the city council to aid the city council in formulating city policy in matters pertaining to the MET Transit System, the airport and the concomitant properties. The primary responsibility of the board is to review existing and proposed city policies and to review city department activities to ensure that city policies are being implemented and carried out and further, to report any shortcomings and make recommendations to the city council.

DIVISION 4. PUBLIC UTILITIES BOARD COMMUNITY DEVELOPMENT BOARD

Sec. ~~9-201~~ 2-525. Created.

There is hereby created a community development board.

Sec. ~~9-202~~ 2-526. Composition, appointment.

The community development board shall be composed of nine (9) members who will possess the qualification for office required for the office of mayor and shall be appointed by the mayor with the consent of the council. Six (6) members shall be appointed from lower-income neighborhoods of the city as defined by federal regulations for the community development block grant program and three (3) additional members from the community at large.

Sec. ~~9-203~~. Organization.

Annually, the community development board shall elect from its membership one (1) person to serve as chairperson. The city department head or his or her designee responsible for community development shall serve as secretary.

Sec. ~~9-204~~ 2-527. Powers and duties.

The community development board shall serve in an advisory capacity to the city council for the purpose of providing citizen input to the policy decisions of the city council. The primary responsibilities of the board are to review existing and proposed city policies and to review city department activities to ensure that city policies are being implemented and carried out and further, to report any shortcomings and make recommendations to the city council in the area of community development.

DIVISION 5. EMERGENCY SERVICES BOARD

Sec. ~~15-708~~ 2-533. Emergency medical service advisory board created.

There is hereby created an emergency medical service (EMS) advisory commission.

Sec. ~~15-709~~ 2-534. Composition, appointment, term.

The EMS advisory commission shall be composed of nine (9) members from the City of Billings and Yellowstone County, each of whom will be a registered voter.

All members shall be appointed by the mayor with the consent of the city council as follows: A senior citizen residing within the city and five (5) at-large citizens residing within the city. The remaining four (4) members of the commission shall consist of the following: The Billings City Fire Chief, who shall be a non-voting member, a Yellowstone County government representative, one (1) representative each from Deaconess Medical Center and St. Vincent Hospital and Health Center, one (1) city council member shall be appointed by the mayor as a liaison to the commission and shall report as necessary to the city council. Members shall serve for no more than two (2) consecutive four-year terms; however, the mayor shall limit the terms of the first members of the commission as follows: Two (2) members' terms will expire at the end of the first year; two (2) members' terms will expire at the end of the second year; two (2) members' terms will expire at the end of the third year; and three (3) members' terms will expire at the end of the fourth year.

~~Sec. 15-710.~~ Organization.

The first chairperson of the EMS advisory commission shall be appointed by the mayor to serve for the remainder of the calendar year. Thereafter, at the first meeting of each calendar year, the commission shall elect from its membership one (1) person to serve as chairperson and such other officers as the commission deems appropriate. A person designated by the city administrator shall serve as secretary to the commission and shall prepare all necessary minutes and other appropriate documents.

~~Sec. 15-711~~ 2-535. Powers and duties.

Pursuant to Article V, Section 5.01 of the Billings City Charter, the EMS commission shall serve in an advisory capacity to the city council in all aspects of formulating city policy and/or ordinances concerning emergency medical services. The primary, initial responsibility of the commission shall be to review existing city ordinances and policies and make recommendations to the mayor and city council that will improve the city's ability to provide the appropriate level of emergency medical services as required by community need. Additionally, the commission shall continuously review the current local organizations which provide emergency medical services and shall assess their ability to provide necessary and appropriate services to the community. The commission shall present an annual written status report to the city council summarizing the commission's on-going review and assessment.

DIVISION 6. ETHICS BOARD

~~Sec. 2-721~~ 2-540. Created.

There is hereby created a board of ethics.

~~Sec. 2-722~~ 2-541. Composition, appointment.

The board of ethics shall consist of five (5) persons who shall hold no other office or employment under the city. ~~Such members shall be required to be residents of the city. The mayor shall appoint the members of the board with the consent of the council.~~

~~Sec. 2-723. Organization; rules.~~

~~The members of the board of ethics shall elect a chairperson annually.~~

~~Sec. 2-724 2-542. Review of allegations.~~

(a) Any allegations that a city official has violated any part of this article may be referred in writing to any member of the board of ethics who shall then request the board to convene for the purpose of reviewing the allegation. If reasonable grounds are found by the board, it may call a hearing to dispose of the allegation.

(b) In addition, the board may hold a hearing after its own investigation if it finds that a person has failed to comply with the provisions of this article.

~~Sec. 2-725 2-543. Hearings.~~

All hearings of the board of ethics shall be conducted as follows:

- (1) A city official shall have the right of representation by counsel.
- (2) The board of ethics shall receive evidence from the city official alleged to have violated any section or sections of this Code, or from any person the accused city official feels may assist in such city official's defense, from the party accusing such city official and from any other person as the board deems necessary.
- (3) The board may request any witness to appear before them at a fixed time or to produce any records or documents required by the board.
- (4) The city attorney shall assign counsel to the board.

~~Sec. 2-726 2-544. Decisions.~~

The board of ethics, upon completion of any hearing, shall render a decision in writing to the city attorney and the party involved within fifteen (15) days, either determining no violation occurred, recommending prosecution, or setting forth requirements to be complied with in order that voluntary compliance may be had and final determination obtained.

DIVISION 7. HUMAN RELATIONS COMMISSION

~~Sec. 2-524 2-550. Created.~~

There is hereby created a human relations commission.

~~Sec. 2-525 2-551. Composition, appointment.~~

The human relations commission shall consist of nine (9) members ~~to be appointed by the mayor with the consent of the city council.~~ The members shall