

Amended By

19-5723

ORDINANCE NO. 03-5239

AN ORDINANCE OF THE CITY OF BILLINGS PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY PROVIDING FOR THE REPEAL OF SECTIONS 2-201, AND 2-211 THROUGH 2-225 OF THE BILLINGS, MONTANA CITY CODE, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT; AND BY ADDING NEW SECTIONS TO BE NUMBERED 2-201 THROUGH 2-207, 2-211 THROUGH 2-216, 2-221 THROUGH 2-225, AND 2-231 THROUGH 2-241; ESTABLISHING: THE MAYOR AND CITY COUNCILMEMBERS' COMPENSATION, DUTIES, POWERS, AND CONDUCT; THE MEETINGS, RULES OF ORDER, MINUTES, AND RULES OF PROCEDURE; COMMITTEES; AND, THE REQUIREMENTS FOR ORDINANCES AND RESOLUTIONS, THE PROCEDURE FOR ADOPTING AND RECORDING SAME, AND EFFECTIVE DATES.

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

Section 1. That Sections 2-201, and 2-211 through 2-225 of the Billings, Montana, City Code, are hereby repealed and declared null and void and of no effect.

Section 2. That the Billings, Montana, City Code be amended by adding Article 2-200 with sections to be numbered 2-201 through 2-207, 2-211 through 2-216, 2-221 through 2-225, and 2-231 through 2-241, to read as follows:

ARTICLE 2-200. MAYOR AND CITY COUNCIL

DIVISION 1. MAYOR AND CITY COUNCILMEMBERS

Sec. 2-201. Compensation.

- (a) Each member of the Council shall be paid as compensation six hundred dollars (\$600.00) per month.
- (b) The Mayor shall be paid as compensation eight hundred dollars (\$800.00) per month.

Sec. 2-202. Mayor's Powers and Duties

The Mayor shall be the presiding officer of the City Council and shall attend all Regular and Special Meetings and vote on all agenda items. The Mayor shall be recognized as the head of

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City government for all ceremonial purposes and by the Governor for purposes of military law, and shall execute ordinances, resolutions, contracts, deeds and other documents as authorized by the City Council. The Mayor shall have no administrative duties except as required to carry out the responsibilities herein set forth.

Sec. 2-203. City Councilmember's Powers and Duties.

The City Council of the City of Billings is composed of ten (10) Councilmembers, each of whom shall attend all Regular and Special Meetings, vote on all agenda items, and shall perform all duties and obligations imposed on them by law and the City charter.

Sec. 2-204. Election and duties of Deputy Mayor and Deputy Mayor Pro Tempore.

The City Council shall elect by voice vote at its first Regular meeting of the new year following each City general election from the Councilmembers a Deputy Mayor and a Deputy Mayor Pro Tempore, both of which shall serve two year terms. In the absence of the Mayor, or the Mayor's inability from any cause to discharge the duties of his or her office, the Deputy Mayor shall preside over meetings and exercise all the power and discharge all the duties of the Mayor. In case of the absence or inability of both the Mayor and the Deputy Mayor, the Deputy Mayor Pro Tempore, shall preside and discharge all of the duties of the Deputy Mayor. The Deputy Mayor or the Deputy Mayor Pro Tempore, while performing the duties of the Mayor, shall serve as the acting Mayor, and acts performed by such person while acting as Mayor shall have the same force and validity as if performed by the Mayor.

Sec. 2-205. Attendance at meetings required.

The Mayor and Councilmembers shall have a duty to attend all scheduled and appropriately noticed Regular and Special Meetings. An absence may be excused by the Mayor immediately following roll call. The City Clerk will note excused and unexcused absences in the official meeting minutes.

Sec. 2-206. Withdrawal from meeting without leave.

If the Mayor or any City Councilmember having appeared at any meeting of the City Council, without first duly obtaining leave to do so from the Mayor and Council, withdraws and absences himself or herself therefrom previous to the adjournment of such meeting, he or she shall be recorded in the minutes as absent.

Sec. 2-207. Forfeiture of office.

(a) The office of Mayor and the office of City Councilmember are forfeited and become vacant for lack of qualification for that office pursuant to Section 3.09(B)(1) of the Billings City Charter upon the occurrence of any of the following events prior to the expiration of the term of the incumbent:

- (1) the death of the incumbent;
- (2) the incumbent's resignation;
- (3) the incumbent's conviction of a felony;
- (4) the incumbent's ceasing to be a resident of the City or, in the case of a City Councilmember, ceasing to be a resident of the City Councilmember's ward; or
- (5) the decision of a competent legal tribunal declaring void the incumbent's election or appointment.

(b) Upon forfeiture of office, the vacancy shall be filled as set out in Section 3.09 of the Billings City Charter.

DIVISION 2. MEETINGS**A. *Meetings*****Sec. 2-211. Calling to order; quorum.**

The City Council shall hold a Regular Meeting for the transaction of City business on the second and fourth Mondays in each month. If the Regular Meeting falls on a day recognized as a holiday by the City, the meeting will not be held on that date but will be held on the following day. Any Regular Meeting may be canceled or rescheduled by majority vote of the Council at any time prior to the date scheduled for such meeting. Regular Meetings shall convene and be called to order by the Mayor at 6:30 p.m., unless otherwise ordered.

The Mayor or any three (3) Councilmembers may request that a Special Meeting be called. The request shall be submitted to the City Administrator who shall prepare the agenda and notice in writing, which notice shall be delivered or mailed to all City Councilmembers and the Mayor. The notice shall be delivered within a reasonable period of time prior to the meeting. If there is not sufficient time to prepare and deliver or mail the notice, the City Administrator, within his discretion, may use whatever means of notification available considering the circumstances. Notice of a Special Meeting shall be deemed sufficient if given at a Regular or Special Council meeting; provided, that notice in writing shall be delivered to any absent Councilmember and the Mayor, if absent. At any Regular or Special Council meeting, the City Clerk shall proceed to call the roll, and record in the minutes the names of all members present. The Mayor shall announce

whether or not a quorum is present. A simple majority of the members of the Council duly elected and qualified, is necessary to constitute a quorum.

B. Meetings Open to Public

Sec. 2-212. Meetings open to the public

All meetings of the City Council and its boards, commissions, committees, subcommittees or other entities created by the City Council shall be open to the public except as provided in Article 2-600 and state law. "Meeting" means the convening of a quorum of the ~~constituent~~ membership of the City Council ~~and its~~ or any boards, commissions, committees, subcommittees or other entityies 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 ~~it~~ has supervision, control, jurisdiction, or advisory power.

C. Agenda

Sec. 2-213. Proposed agenda.

(a) The City Administrator shall prepare a draft Regular Meeting agenda and shall provide the same to the Mayor and City Councilmembers 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 City Administrator shall prepare the final agenda of business to be considered at the Regular Meeting with recommendations and proposed ordinances and resolutions attached and shall transmit copies of the same to the Mayor and Councilmembers 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 Councilmembers present.

(c) Only matters that appear on the agenda shall be considered by the Council at its Regular Meeting; matters may be added by consent of a three-fourths majority of all Councilmembers present.

D. Rules of Order

Sec. 2-214. Order of business.

At all Regular Meetings of the City Council the order of business shall be as follows:

- (a) Call to Order;
- (b) Pledge of Allegiance;
- (c) Invocation;
- (d) Roll Call;

- (e) Correcting, if necessary, and approving Minutes of the last meeting or meetings;
- (f) Courtesies;
- (g) Proclamations;
- (h) Board, Commission, and Council Reports;
- (j) Administrator Reports;
- (k) Consent Agenda: This section of the agenda is used for items of a routine or non-controversial nature that do not statutorily require a public hearing, yet still require action by the City Council. The collective list of items on the Consent Agenda is considered by the City Council in one motion. Individual Consent Agenda items may be separated by request of a Councilmember for individual consideration by the City Council and subsequently voted upon individually.
- (l) Regular Agenda: This section of the agenda constitutes an individually numbered listing of business items either: (a) requiring a public hearing prior to Council action, (b) giving a special informational presentation, or (c) any item that may be either controversial in nature or requires separate time by the Council to fully discuss the matter prior to rendering a final and binding decision.
- (m) Council Initiatives: This section of the agenda is reserved for individual Councilmember requests for future legislative or staff action. These shall be limited to giving direction to staff to assist in formulating policies, work plans, etc. for future consideration of the City Council. An initiative moves forward by majority vote of the City Council.

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

E. Minutes

Sec. 2-215. Minutes.

- (a) Appropriate minutes of all meetings required by Section 2-3-203 MCA to be open to the public shall be kept 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 public body, agency, or organization 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.

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Sec. 2-216. Distribution of minutes.

It shall be the duty of the City Administrator to see that copies of the minutes of Council proceedings are transmitted to the Mayor and each member of the City Council as soon after the original minutes are written as possible.

DIVISION 3. RULES OF PROCEDURE**Sec. 2-221. Rules of procedure for regular and special meetings.**

The Regular and Special meetings of the City Council shall in all cases be governed by the following rules, unless the same are suspended, pro tempore by ~~the a majority vote of at least eight (8) members~~ of the Council:

(a) **Decorum**

- (1) The presiding officer shall preserve order and decorum and shall decide all questions of order, subject to appeal to the Council.
- (2) 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.
- (3) 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.
- (4) While a question is being placed on the floor, no member shall speak or walk across the Chambers or Council room or leave the same.
- (5) When any member is addressing the Council, no other member shall engage in private conversation or do any other act to divert attention or interrupt the speaker.
- (6) At Council meetings all questions relating to the priority of business shall be decided without debate.
- (7) To preserve Council Chamber decorum and minimize Council and audience 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.

(b) **Meeting protocol**

- (1) A member shall not speak more than twice on the same subject without leave of a majority of the Council, nor more than once until every member desiring to speak on the pending question has had an opportunity to do so.

- (2) 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 Mayor.
- (3) 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.
- (4) After a motion has been stated by the presiding officer it shall be deemed in possession of the Council, but may be withdrawn at any time before amendment or decision, by the mover with consent of the second.
- (5) If a question under consideration contains more than one distinct proposition any member may demand a division.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) No motion on a subject different from that under consideration shall be permitted.
- (10) After a vote is announced, no Councilmember shall change his vote without following the procedure for reconsideration.
- (11) 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 upon the adoption. If the Motion for Reconsideration is approved by a majority vote of the City Council, then the decision on which the vote is to be reconsidered is placed back on the agenda at a location specified by the Mayor for further consideration and another vote.
- (12) In case a voice vote is indeterminate, a roll call vote shall be taken.
- (13) In case of a tie vote on any proposal, the proposal shall be considered lost/failed.
- (14) The City Attorney shall rule on all questions of parliamentary procedure and the attorney's decision shall be final.
- (15) Every member of the Council present shall vote upon every question submitted to the Council, 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.

(c) Documentation of proceedings

- (1) In all cases the name of the member proposing a motion and seconding the motion shall be entered in the Council minutes.
- (2) Upon the final passage of any ordinance or resolution, the ayes and noes shall be entered in the Council minutes unless the same is unanimously adopted. 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 before the City Council shall be by voice vote.
- (3) All reports, petitions, ordinances or resolutions shall be reduced to writing before being submitted to the vote of the Council.
- (4) Application of Robert's Rules of Order. These rules shall not be repealed, amended or suspended, except by at least eight (8) members of the Council, and
In all parliamentary practice not herein prescribed, Robert's "Rules of Order Newly Revised" shall govern so far as applicable.

(d) 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. 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 of the Council. The time involved in such question and reply shall not count against the time allowed for the presentation of views.

Sec. 2-222. Rules of Procedure for Work Sessions.

The proceedings of the City Council while meeting in Work Sessions shall be governed by the following rules:

- (a) The meeting shall be convened and adjourned by the Mayor.
- (b) No motions will be entertained nor votes taken.
- (c) The Mayor shall be responsible for recognizing those who would like to speak and generally enforcing a productive decorum.
- (d) Presentations on agenda items will be provided by City staff.
- (e) No public comment or testimony will be taken.
- (f) No parties to decisions scheduled to come before the City Council for a vote will be recognized or otherwise provided an opportunity to engage the City Council in discussion.

Sec. 2-223. Council subcommittees.

The City Council may, by motion, create from its number such Ad Hoc Council Subcommittees as needed. The Mayor, with the consent of the Council, may also appoint Ad Hoc Council Subcommittees as may from time to time be necessary. All Ad Hoc Council Subcommittees must comply with all applicable open public meetings laws.

Sec. 2-224. Ad hoc council advisory committees.

The Mayor and City Council may, by resolution, create such Ad Hoc Council Advisory Committees as needed. Provided, however, that all such committees must be created pursuant to an adopted Council resolution establishing, at a minimum, the following:

- (a) The purpose or charge of the Committee;
- (b) The scope of its responsibilities;
- (c) The composition of the Committee; and
- (d) The duration of the Committee.

The City Administrator shall be charged with assigning appropriate staff to any committee created under this paragraph to ensure compliance with all applicable open public meetings law.

Sec. 2-225. Enforcement of order.

The Police Chief or his or her designee is appointed sergeant-at-arms and shall, by direction of the presiding officer, enforce order in Council meetings by any means necessary to restore and maintain order. The Police Chief or his or her designee shall attend all Council meetings.

DIVISION 4. ORDINANCES AND RESOLUTIONS

Sec. 2-231. Definitions.

“Ordinance” means an act adopted and approved by the City Council, having effect only within the jurisdiction of the City or its extended jurisdictional area.

“Resolution” means a statement of policy by the City Council or an order by the City Council that a specific action be taken.

Sec. 2-232. Ordinance requirements.

- (a) All ordinances shall be submitted in writing in the form prescribed by resolution of the City Council.
- (b) No ordinance passed shall contain more than one comprehensive subject, which shall be clearly expressed in its title, except ordinances for codification and revision of ordinances.
- (c) An ordinance must be read and adopted by a majority vote of members present at two meetings of the City Council not less than 12 days apart. After the first adoption and reading, it must be posted and copies made available to the public.

- (e) After passage and approval, all ordinances shall be entered into the minutes and signed by the Mayor and the City Clerk.

Sec. 2-233. Amendments of ordinances.

When a prior ordinance or Code section is amended, all new matter which is proposed to be enacted shall be underlined and all matter which is proposed to be omitted shall be set forth and structured in such manner as to remain legible. The validity of an ordinance shall not be affected by failure to comply with this provision.

Sec. 2-234. Public hearing on ordinances.

At the time appointed for the first reading and adoption of an ordinance, the public shall have the right to appear and present individual or collective views on the proposed adoption. This hearing shall be afforded during the Regular Meeting at the time that particular item is heard on the agenda.

Sec. 2-235. Emergency ordinance.

In the event of an emergency, the City Council may waive the second reading of an ordinance. An ordinance passed in response to an emergency shall recite the facts giving rise to the emergency and require a two-thirds vote of the whole City Council for passage. An emergency ordinance shall be effective on passage and approval and shall remain effective for no more than 90 days.

Sec. 2-236. Effective date of ordinance.

No ordinance other than an emergency ordinance shall be effective until 30 days after second and final adoption. The ordinance may provide for a delayed effective date or may provide for the ordinance to become effective upon the fulfillment of an indicated contingency.

Sec. 2-237. Resolution requirements.

- (a) All resolutions shall be submitted in the form prescribed by resolution of the City Council.
- (b) Resolutions may be submitted and adopted at a single meeting of the City Council.
- (c) After passage and approval, all resolutions shall be entered into the minutes and signed by the Mayor and the City Clerk.

Sec. 2-238. Effective date of resolutions.

All resolutions shall be immediately effective unless a delayed effective date is specified.

Sec. 2-239. Record of ordinances and resolutions.

All ordinances or resolutions shall be filed with the City Clerk. There shall be maintained registers of ordinances and resolutions in which all ordinances and resolutions are entered in full after passage and approval, except when a code is adopted by reference. When a code is adopted by reference, the date and source of the code shall be entered. The City Clerk shall assign each ordinance and resolution an identification number and shall keep a record of such numbers. The record shall be available to any interested person but shall remain in the custody of the City.

Sec. 2-240. Ordinance codification.

Each ordinance approved by the City Council shall be given a unique identifying number and entered into a register of ordinances. Individual ordinances shall serve as individual legislative items and will collectively be compiled and systematically classified into a published code of ordinances known as the Billings Montana City Code (BMCC). The City Code will restate verbatim the text of each adopted ordinance included in that version. Regular updates to the City Code will be prepared as new ordinances are adopted by the City Council and shall be published as supplements to the Billings Montana City Code.

Sec. 2-241. Clarification of procedure for adopting ordinances and resolutions.

- (a) The purpose of this section is to clarify the procedure for adopting city ordinances and resolutions and the effect of passage and effective time. Since May 1977 the city has used the legislative procedure set out and prescribed in MCA, Title 7, Chapter 5, Part 1. The 1981 legislature in adopting MCA 7-5-4208 introduced some confusion into the procedure and the city by this section is clarifying the procedure and effective times of ordinances and resolutions.
- (b) The provisions of MCA, Title 7, Chapter 5, Part 42, applicable to general government cities and towns are declared not to be applicable to the city. All provisions of MCA, Title 7, Chapter 5, Part 1, are hereby declared to be applicable to the city in accordance with provisions thereof.
- (c) The City Council hereby ratifies and confirms all legislative actions taken under MCA, Title 7, Chapter 5, Part 1 (section 7-5-101 et seq.) since the effective date of MCA 7-5-4208."

Section 3. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 4. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 5. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

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PASSED by the City Council on first reading this 27th day of January, 2003.

PASSED, ADOPTED and APPROVED on second reading this 24th day of February, 2003.

CITY OF BILLINGS



By Charles J. Tealby
Mayor

ATTEST:

By Susan Shucklin
City Clerk ~~Deputy City Clerk~~