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ADMINISTRATION
AND
PERSONNEL

Title II

ADMINISTRATION AND PERSONNEL

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CHAPTER 2.04

MUNICIPAL OFFICERS IN GENERAL

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2.04. 010 Principal officers. The executive officers of the municipality are the mayor, marshal (chief of police), and such officers for the assessment, collection, auditing, safekeeping, and disbursing of the revenue, and keeping of the records and the journals of the municipality, as the council may provide.

The legislative officers are the alderman. There may be a judicial officer termed a police judge, or a justice of the peace may fill the office of police judge.

ALTERNATE FOR TOWNS

2.04. .020 Elective and appointive offices. The officers of the town consist of one mayor and two aldermen from the incorporated limits, who must be elected by the qualified electors of the town as provided in Ch. 1.08. There may be appointed by the mayor, with the advise and consent of the council, one clerk, who may be ex officio assessor and a member of the council, and one treasurer, who may be ex officio tax collector, and one Marshall (otherwise called police chief), who may be ex officio street commissioner, and any other officers necessary to carry out the provisions of the municipal ordinances and state law. (Derivation of section: MC.A. 7-4-44103)

2.04. 030 Eligibility to office. No person is eligible to any municipal office, elective or appointive, who is not a citizen of the United States, and who has not resided in

the municipality or an area which has been annexed thereto for at least two years immediately preceding his election or appointment, and is not a qualified elector thereof. (Derivation of section: M.C.A. 7-4-4104. Qualifications to hold office, see CONST. art. IX, §§ 7, 10, 11.)

2.04. 040 Commencement of term. The terms of all officers elected at a municipal election are to commence on the first Monday in January after such election. Appointive officers shall commence their employment within ten days after receiving notice of their appointment. (Derivation of section: M.C.A. 7-4-4107, 7-4-4107, For election dates and terms of office, see § 1.08. 010., Clerk to notify all persons of their election or appointment to office, see §2.08. 040.)

2.04. 050 Vacancy of office. If any officer, either elected to or appointed to office, fails for ten days to qualify as required by law, or enter upon his duties at the time fixed by law, then such office becomes vacant; or if any officer absents himself from the municipality continuously for ten days without the consent of the council, or openly neglects or refuses to discharge his duties, such office may be by the council declared vacant; or if any officer removes from the municipality, or any alderman from his ward, such office must be by council declared vacant. (Derivation of section: M.C.A. 7-4-4111)

2.04. 060 Filling vacancy in elective office. When any vacancy occurs in any elective office, the council, by a majority vote of the members, may fill the same for the un-expired term, and until the qualification of the successor. A vacancy in the office of alderman must be filled from the municipality of Browning, but if the council shall fail to fill such vacancy before time for the next election, the qualified electors of such municipality may nominate and elect a successor to such office. (Derivation of section: M.C.A.7-4-4112, Vacancies in non-elective offices may be filled by the mayor with the consent of the majority of the council, see State ex rel. Peterson v. Peck, 91 Mont. 5, 4 P. 2d 1086.)

2.04. 070 Removal of officer by council. The council, upon written charges, to be entered upon their journal, after notice to the party and after trial by the council, by vote of two-thirds of all the members elect, may remove any officer. (Derivation of section: M.C.A. 7-4-4113. Non-elective officers may be removed by the mayor, with consent of the council (§2.08. 020 (b)).

2.04. 080 Council may abolish office. The municipal council has the power to abolish any office, the appointment to which is made by the mayor with the advice and consent of the council, and discharge any officer so appointed, by a majority vote of the council; but no office created under Title 11 of the Revised Codes of Montana, 1947 must be abolished by the council. (Derivation of section: M.C.A. 7-4-4105, The elective offices listed in §2.04. 020 are the only ones created by Title 11 of the Revised Codes of Montana. All appointive offices are considered to be created by the municipality, rather than the state. See State ex rel. Quintin v. Edwards, 38 Mont. 250, 99 P. 940.)

2.04. 090 Consolidation of appointive offices. The municipal council may by ordinance, consolidate any of the offices, the appointment to which is made by the mayor with the advice and consent of the council, and may require any of the elected officers to perform any of the duties of an appointed officer whose office has been abolished. (Derivation of section: M.C.A. 7-4-4106)

2.04. 100 Salaries. The council shall, by ordinance, fix the salaries and the compensation of the municipal officers, policemen, and other employees, which must not exceed the amount specified in the Revised Codes of Montana. (Derivation of section: M.C.A. 7-4-4201(1))

2.04. 110 Salary to be changed during term. The salary and compensation of an officer can be increased or diminished during the term of office. (Derivation of section: M.C.A.7-4-4201)

2.04. 120 Oath and bond. Each officer of the municipality must take the oath of office. Any officer that is required to give bond shall file the same, duly approved, within ten days after receiving notice of his election or appointment; or, if no notice be received, then on or before the date fixed for the assumption by him of the duties of the office to which he may have been elected or appointed. (Derivation of section: M.C.A. 7-4-4108 Repealed, M.C.A. 7-4-4109)

2.04. 130 Bonding of municipal officers and employees. Elected or appointed municipal officers and employees shall be bonded in such sums as ordinance may require. The amount for which a municipal officer or employee shall be bonded shall be based on the amount of money or property handled and the opportunity for defalcation. The municipal council shall actively solicit offers on a competitive basis from available qualified insurance or surety companies before purchasing the bonds. (Derivation of section: M.C.A. 2-9-802)

2.04. 140 Purchase of bonds. The council shall purchase all surety bonds for municipal officers and employees. A bond may cover an individual officer or employee or a blanket bond may cover all officers and employees, or a group or combination of officers and employees. (Derivation of section: M.C.A. 2-9-804 (2))

2.04. 150 Bond conditions. The condition of every official bond must be that the principal shall well, truly and faithfully perform all official duties then required of him by law, and also such additional duties as may be imposed on him by any law of the state or the municipality subsequently enacted, and that he will account for and pay over and deliver to the person or officer, entitled to receive the same, all moneys or other property that may come into his hands as such officer. The principal and sureties upon any official bond are also in all cases liable for the neglect, default, or misconduct in office of any deputy, clerk, or employee, appointed or employed by such principal.

All official bonds must be signed and executed by the principal and two or more sureties, or by the principal and one or more surety companies organized as such under the

laws of this state, or licensed to do business herein. (Derivation of section: M.C.A. 2-9-504 (1))

2.04. 160 Liability bonds. Every such bond is in force and obligatory upon the principal and sureties therein for the faithful discharge of all duties which may be required of such officer by any law or ordinance enacted subsequently to the execution of such bond and such condition must be expressed therein. Every official bond executed by an officer pursuant to this ordinance is in force and obligatory upon the principal and sureties therein to and for the State of Montana, Town of Browning and to and for the use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of such officer in his official capacity; and any person so injured or aggrieved may bring suit on such bond in his own name without an assignment thereof. No such bond is void on the first recovery of a judgment thereon, but suit may afterwards be brought from time to time and judgment recovered thereon by the Town of Browning or by any person to whom a right of action has accrued against such officer and his sureties, until the whole penalty of the bond is exhausted.

2.04. 170 Additional Bonds Required. Whenever it is shown by the affidavit of a creditable witness, or otherwise, comes to the knowledge of the city council, that the sureties on any bond given pursuant to the provisions of this ordinance, or any of them, have since such bond was approved, died or removed from the state, become insolvent or from any other cause have become incompetent or insufficient sureties on such bond, the council may issue a citation to such officer requiring him on a day therein named not less than five days nor more than ten days after date, to appear and show cause why such office should not be vacated, which citation must be served and return thereof made before the time set to show cause. If the officer fails to appear or show cause why such office should not be vacated, on the day named, or fails to give amply additional security, the council must make an order vacating the office, and the same must be filed as provided by law.

The additional bond must be in such penalty as directed by the council and in all other respects similar to the original bond. Every such additional bond so filed and approved is of like force and obligation upon the principal and the sureties thereon from the time of its execution and subjects the officer and his sureties to the same liabilities, suits and actions as are prescribed respecting the original bonds of officers. In no case is the original bond discharged or affected when an additional bond has been given, but the same remains of like force and obligation as if such additional bond had not been given. The officer and his sureties are liable to the city and to the party injured by a breach of any condition of an official bond after the execution of the additional bond, upon either or both bonds.

2.04. 180 Officials Requiring Bonds. That except when otherwise provided by law or ordinance, the following named officers of the Town of Browning must execute official bonds to the Town of Browning in not less than the following amounts: The Town Treasurer in the sum of five thousand (\$5,000) dollars; The Town Clerk in the sum of one thousand (\$1,000) dollars; The Chief of Police in the sum of five thousand (\$5,000) dollars; The Police Magistrate in the sum of one thousand (\$1,000) dollars.

CHAPTER 2.05

CITY MANAGER

Sections: 2.05.10 Appointment-Generally

2.05.10 Appointment-Generally The provisions for the appointment of a City Manager and his/her powers and duties are established by the Town of Browning City Council.

CHAPTER 2.06

CITY COURT

Section:

2.06.10	City court established
2.06.20	Concurrent Jurisdiction
2.06.30	Exclusive jurisdiction
2.06.40	Exceptions to civil jurisdiction
2.06.50	City Judge
2.06.60	City Attorney
2.06.70	Collection of Fines

2.06.10 City court established The City Court of the Town of Browning, Montana is hereby established pursuant to Title 3, Chapter 11, Montana Code Annotated (MCA). The City Court shall be a court of record by electronic recording or stenographic transcription and shall assume continuing jurisdiction over all pending City Court cases from and after the adoption of these ordinances and this title.

2.06.20 Concurrent jurisdiction of city court. (1)The city court has concurrent jurisdiction with the justice's court of all misdemeanors and proceedings mentioned and provided for under 3-10, M.C.A. (2) Applications for search warrants and complaints charging the commission of a felony may be filed in the city court. When they are filed the city judge has the same jurisdiction and responsibility as a justice of the peace, including the holding of a preliminary hearing. The city attorney may file an application for a search warrant or a complaint charging the commission of a felony when the offense was committed within the city limits. The county attorney, however, must handle any action after a defendant is bound over to district court.

2.06.30 Exclusive jurisdiction Except as provided in 3-11-104, M.C.A. the city court has exclusive jurisdiction of:

1. Proceedings for the violations of an ordinance of the town, both civil and criminal;
2. When the amount of the taxes or assessments sought does not exceed \$5000.00, actions for the collection of taxes or assessments levied for any of the following purposes, except that no lien on the property taxed or assessed for the nonpayment of the taxes or assessments may be foreclosed in any such action;
 - (a) city or Town purposes;
 - (b) the erection or improvement of public buildings;
 - (c) the laying out, opening, or improving of a public street, sidewalk, alley or bridge;
 - (d) the acquisition or improvement of any public grounds; and
 - (e) Public improvements made or ordered by the Town within the limits;
3. Actions for the collection of money due to the town or from the town to any person when the amount sought exclusive of costs does not exceed \$5000.00;

4. when the amount claimed exclusive of costs, does not exceed \$5000.00, actions for:
 - (a) the breach of an official bond given by a town officer
 - (b) the breach of any contract when the town is a party or is in any way interested;
 - (c) damages when the town is a party or is in any way interested;
 - (d) the enforcement of forfeited recognizance's given to, for the benefit of, or on behalf of the town; and
 - (e) collection on bonds given upon an appeal taken from the judgment of the court in any action mentioned in subsections (4)(a) through(4)(d);
5. actions for the recovery of personal property belonging to the town when the value of the property, exclusive of the damages for the taking or detention, does not exceed \$5000.00 and
6. Actions for the collection of a license fee required by an ordinance of the town.

2.06.40 **Exceptions to civil jurisdiction** City courts do not have jurisdiction in civil actions that might result in a judgment against the state for the payment of money. (3-11-104 MCA)

2.06.50 **City judge** A. There shall be one City Court Judge appointed to a four year term pursuant to Title 3, Chapter, 11, M.C.A.
B. A justice of the peace designated to act as city judge for the Town under 3-11-205 MCA shall serve as city judge for the duration of the justice of the peace's term as justice of the peace or until the agreement provided for in 3-11-205 MCA.
C. The qualifications of a City Court Judge at the time of the appointment shall be:

1. meet the qualifications of a justice of the peace under 3-10-202;
2. be a resident of Glacier County; and
3. satisfy any additional qualifications prescribed by ordinance

D. The annual salary and compensation of the City Court Judge at the time of the appointment shall be set by resolution.
E. The City Court Judge shall receive his/her actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, incurred in the performance of his official duties.
F. (1) There shall be two (2) mandatory annual training sessions supervised by the supreme court for all elected and appointed city judges. One of the training sessions may be held in conjunction with the Montana magistrates' association convention. Actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503 and the costs of registration and books and other material shall be paid to the elected or appointed judge for attending the sessions. Whenever the office of city judge is held by justice of the peace, the costs imposed by this subsection are the joint responsibility of the county and the town, with the costs to be allocated and charged in proportion to the work done for each governmental entity. In all other cases, the costs shall be paid by the city or town in which he holds or will hold court and shall be charged against the town. (2) Each city judge shall attend the training sessions. Failure to attend disqualifies him/her from office and creates a vacancy in the office. However, the supreme court may excuse a town judge from attendance because of illness, a death in the family, or any other good reason.

- G. (1) the city judge or mayor may call in a city judge, a justice of the peace, or some qualified person to act in the judge's place whenever the judge is:
- (a) a party in a case;
 - (b) interested in a case;
 - (c) the spouse of or related to either party in a case by consanguinity or affinity within the sixth degree; or
 - (d) sick, absent, or unable to act.
- (2) The city judge may call in a city judge, justice of the peace, or some qualified person to act in his/her stead when disqualifying affidavit is filed against him pursuant to the supreme court's rules on disqualifying and substitution of judges.
- (3) A city judge of any city or a justice of the peace of any county may sit as city judge at the city judge's request.

2.06.60 **City attorney to prosecute** Except as provided in 46-17-203 MCA, the city attorney must prosecute all cases for the violation of any ordinance and prosecute, conduct, and control all proceedings in cases mentioned in 3-11-103 MCA, both in the city court and on appeal from the city court to the district court.

2.06.70 **Collection of Fines** The City judge shall collect all fines, costs and forfeitures that accrue to the town from all cases tried or disposed of in the city court. He/she shall file a receipt thereof to the person paying the same, and pay the collected moneys to the treasurer of the town.

All city court judges, attorneys and the courts themselves must follow all Montana Code Annotated laws as specified in Title 3, Chapter 11 parts 1,2 and 3.

CHAPTER 2.08

EXECUTIVE OFFICERS

Sections:

- 2.08. 010 Qualification of mayor.
- 2.08. 020 Powers of Mayor.
- 2.08. 030 Mayor to preside at council meetings, sign warrants, etc.
- 2.08. 040 Duties of Clerk.
- 2.08. 050 Duties of Treasurer.
- 2.08. 060 Chief of police.

2.08. 010 Qualification of mayor. No person shall be eligible to the office of mayor unless he shall be at least eighteen years old, and a resident of the state for at least three years, and a resident of the municipality or an area which has been annexed by the municipality two years next preceding his election to said office. The mayor shall reside in the municipality during his term of office. (Derivation of section: M.C.A. 7-4-4301)

2.08. 020 Powers of the mayor. The mayor is the chief executive officer of the municipality, and has the power:

- (a) To nominate and, with the consent of the council, to appoint all non-elective officers of the municipality, provided for by the council, except as provided in Title 11 of the Montana Revised Codes.
- (b) To suspend and, with the consent of the council, to remove any non-elective officer, stating in the suspension or removal the cause thereof.
- (c) To cause the ordinances of the municipality to be executed, and to supervise the discharge of official duty by all subordinate officers.
- (d) To communicate to the council, at the beginning of every session, and more often if deemed necessary, a statement of the affairs of the municipality, with such recommendations as he may deem proper.
- (e) To recommend to the council such measures connected with the public health, cleanliness, and ornament of the municipality, and the improvement of the government and finances, as he deems expedient.
- (f) To approve all ordinances and resolutions of the council adopted by it, and, in case the same do not meet his approbation, to return the same to the next regular meeting of the council, with his objections in writing. No ordinance or resolution so vetoed by the mayor shall go into effect unless the same be afterwards passed by two-thirds vote of the whole number of members of the council.
- (g) To veto any objectionable part of a resolution or ordinance, and approve the other parts. If the mayor fails to return any resolution or ordinance as aforesaid, the same takes effect without further action.

- (h) To call special meetings of the council, and when so called he must state by message the object of the meeting, and the business of the meeting must be restricted to the object stated.
- (i) To cause to be presented, once in three months, a full and complete statement of the financial condition of the municipality.
- (j) To bid in for the municipality any property sold at a tax or judicial sale, where the municipality is a party or interested.
- (k) To procure and have in his custody the seal of the municipality.
- (l) To take and administer oaths.
- (m) To call on every male citizen of the municipality, over the age of eighteen years, to aid in the enforcement of the laws and ordinances in case of riots; to call out the militia to aid him in suppressing the same or other disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the municipality, or for carrying into effect any law or ordinance; and any person who does not obey such call forfeits to the municipality a fine not exceeding twenty-five dollars.
- (n) To require of any of the officers of the municipality an exhibit of his books and papers.
- (o) To grant pardons and remit fines and forfeitures for offenses against municipal ordinances, when in his judgment public justice would be thereby sub-served; but he must report all pardons granted, with the reasons therefore, to the next council.
- (p) To perform such other duties as may be prescribed by law or by resolution or ordinance of the council.
- (q) He has such power as may be vested in him by ordinance of the municipality, in and over all places within five miles of the boundaries of the municipality, for the purpose of enforcing the health and quarantine ordinances and regulations thereof. (Derivation of section: M.C.A. 7-4-4303, 7-5-4205, 7-5-4102 (1))

2.08. 030 Mayor to preside at council meetings, sign warrants, etc. The mayor is the presiding officer of the council, must sign the journals thereof and all warrants on the municipal treasurer, and decide by his vote all ties, and has no other vote. (Derivation of section: M.C.A. 7-5-4102 (2))

- 2.08. 040 Duties of the clerk.** It is the duty of the clerk:
- (a) To attend all meetings of the council, to record and sign the proceedings thereof and all ordinances, by-laws, resolutions, and contracts passed, adopted or entered into, and to sign, number, and keep record of all licenses, commissions, or permits granted or authorized by the council.
 - (b) To enter in a book all ordinances, resolutions, and by-laws passed and adopted by the council. Such book is called “the ordinance book.”
 - (c) To enter in a book or electronic format kept for that purpose the date, amount, and person in whose favor and for what purpose warrants are drawn upon the municipal treasury; such book is called “the finance book.”
 - (d) To countersign and cause to be published or posted, as provided by law, all ordinances, by-laws or resolutions passed and adopted by the council.
 - (e) To file and keep all records, books, papers, electronic format or property belonging to the municipality, and to deliver the same to his successor when qualified.

- (f) To make and certify copies of all records, books, and papers in his possession, on the payment of like fees as are allowed county clerks, which fees must be paid into the municipal treasury.
- (g) To give notice of all elections as required by law, and to notify all persons of their election or appointment to office.
- (h) To make and keep a complete index of the journal ordinance book, finance book, and all other books and papers or electronic format on file in his/her office.
- (i) To perform such duties in and about the assessment, levy, and collection of taxes and assessment as may be prescribed by law or ordinance.
- (j) To take and administer oaths, but must not charge or receive any fees therefore.
- (k) To certify to the county clerk, within ten days after their election and qualification, the names and terms for which they are elected, of the mayor, municipal clerk, and municipal treasurer.
- (l) To perform such other and further duties as the council may prescribe. (Derivation of section: M.C.A. 7-4-4501, 7-4-4502, Clerk to prepare yearly financial, statement, see §3.04. 030.)

2.08. 050 Duties of the treasurer. It shall be the duty of the municipal treasurer:

- (a) To receive all moneys that come to the municipality, either from taxation or otherwise, and to pay the same out on the warrant of the mayor, countersigned by the clerk, drawn in accordance with law.
- (b) To perform such duties in the collection of taxes, licenses, or assessments as are or may be prescribed by law or ordinances.
- (c) To present on the first Monday of each month to the council a full and detailed statement of the amounts of money belonging to the municipality, received by him and by him disbursed during the preceding month, and the state of each particular fund, which statement must be verified by his oath.
- (d) To keep the books and accounts of the municipality in such manner as to correctly present the condition of the finances thereof, which must always be open to the inspection of the mayor, council, or any member thereof.
- (e) To keep a separate account of each fund or appropriation, and the debits and credits thereof.
- (f) To give every person paying to him money as treasurer, a receipt therefore, specifying the date of payment, the amount, and for what paid.
- (g) To render at any time an account to the council showing the money on hand and the condition of the treasury.
- (h) To keep a register of all warrants paid, called "the registry book," in hard format or electronic format which must show the date, amount and number, and the person to whom, and the fund from which the same was paid, and to deliver and file with the municipal clerk all vouchers, warrants, or orders paid by him.
- (i) To annually make out and submit to the municipal council, at its last meeting prior to May 1st, a detailed account of all receipts and expenditures during the past fiscal year, file the same with the clerk, and an abstract thereof must be published in some newspaper in the municipality, or, if none is published, such abstract must be posted in the room or building occupied by the council.

(j) To pay out, in the order which they are registered, all warrants presented for payment, when there are funds in the treasury to pay the same.

(k) To deposit all public moneys in his possession and under his control, excepting such as may be required for current business, in any solvent bank or banks located in the municipality, subject to national supervision or state examination, as the council shall designate, and no other, and the sums so deposited shall bear interest. (Derivation of section: M.C.A. 7-6-4104, 7-6-4402, 7-6-4105, 7-6-4106, 7-6-4601, 7-6-4603 (2(A), 2(B) 3) Reception of license applications by treasurer, see §5.04. 040; collection of license fees, see §5.04. 090.)

2.08. 060 Chief of police. The chief of police, or marshal, has the duty of supervision and control of the police force. When circumstances demand it, he is required to perform all the duties of the ordinary policeman. (Powers of the chief of police, see §2.20.040.)

CHAPTER 2.09

ADMINISTRATIVE DEPARTMENTS

Sections:

2.09.10	Establishment
2.09.20	City Clerk
2.09.30	Legal Department
2.09.40	Public Works Department
2.09.50	Fire Department
2.09.60	Police Department

2.09.10 **Establishment** The administrative departments of the Town of Browning are hereby established. Each department is subject to the control and supervision of the City Manager who may transfer, eliminate or add to department functions.

2.09.20 **City Clerk** A Town of Browning City Council shall appoint a City Clerk who shall keep a history of the Town of Browning, maintain public records and perform such other duties by direction of the City Manager or as required by law.

2.09.30 **Legal Department** A Department of Law is hereby created. The Town of Browning shall appoint a City Attorney, qualified under Montana Law, to administer the Department of Law. The Department shall render legal services in all civil and administrative matters for the Town and prosecute all charges in City Court, and perform such other duties by direction of the City manager, City council or as required by law.

2.09.40 **Public Works Department** A Public Work Department is hereby created. The City Manager shall appoint a Field Supervisor to administer the Public works Department. The Department shall administer capital improvements, maintenance, operations, and utilities and perform such other duties by direction of the City Manager or as required by law.

2.09.50 **Fire Department** A Fire Department is hereby created. The City Council shall appoint a Fire Chief to administer the Fire Department. The Department shall provide fire fighting, rescue operation, fire investigation and fire prevention service for the Town and perform such other duties by direction of the City Manager or as required by law.

2.09.60 **Police Department** A Police Department is hereby created. The City Council shall appoint a Police Chief to administer the Police Department. The Department shall enforce the laws of the Town and the State of Montana to protect life and property; to control traffic; and perform such other duties by direction of the City Manager or as required by law.

CHAPTER 2.12

COUNCIL

Sections:

- 2.12. 010 Qualifications of alderman.
- 2.12. 020 Regular and special meetings of council.
- 2.12. 030 What constitutes a quorum.
- 2.12. 040 Rules of council.
- 2.12. 050 Voting at council meetings.
- 2.12. 060 General powers of council.
- 2.12. 070 Prescribing duties and compensation of municipal officers.
- 2.12. 080 Obtaining reports from officers of municipality.
- 2.12. 090 Contracts.
- 2.12. 100 Arrest of persons.
- 2.12. 110 Imposition of penalties.
- 2.12. 120 Election of Council President.
- 2.12. 130 Call to order.
- 2.12. 140 Order of business.
- 2.12. 150 Regular meeting.

2.12. 010 Qualifications of alderman. No person shall be eligible to the office of alderman unless he or she is at least of the age of 18 years old, shall be a resident of the municipality or an area which has been annexed by the municipality sixty days preceding his election to said office. (Derivation of section: M.C.A. 7-4-4401)

2.12. 020 Regular and special meetings of council.

(a) The municipal council shall hold a regular meeting for the transaction of municipal business on the second Wednesday in each month, and such other meetings to which the council by order, may adjourn, or which may be called.

(b) Special meetings may be called by the mayor, or at the request of three members of the council. When special meetings are called, the clerk shall give reasonable notice thereof, in writing or by phone, to the mayor and all members of the council present in the municipality.

2.12. 030 What constitutes a quorum. Fifty percent of the members of the council constitute a quorum for the transaction of business providing the mayor or designated representative is present, but a less number may meet and adjourn to any time stated, and may compel the attendance of absent members under such rules and penalties as the council may prescribe. (Derivation of section: M.C.A. 7-5-4121 (1))

2.12. 040 Rules of the council. The council may determine rules of its

proceedings, punish its members for improper conduct, and expel any member for the same by a two-thirds vote of the members elected, and must cause to be kept a journal of the proceedings, which must be open to inspection. (Derivation of section: M.C.A. 7-5-4103, 7-5-4123)

2.12. 050 Voting at council meetings. The ayes and noes must be called and recorded on the final passage of an ordinance, by-law, or resolution, or making a contract, and the voting on the election or appointment of any officer must be viva voce, and a majority of the whole number of the members elected is requisite to appoint or elect an officer, and such vote must be recorded. (Derivation of section: M.C.A. 7-5-4121 (2) Vote of mayor decided all ties, see §2.08. 030.)

2.12. 060 General powers of council. The municipal council has power: To make and pass all by-laws, ordinances, orders and resolutions, not repugnant to the constitution of the United States or of the State of Montana, or of the provisions of state law, necessary for the government or management of the affairs of the municipality, for the execution of the powers vested in the body corporate, and for carrying into effect the provisions of Title11 of the Revised Codes of Montana. (Derivation of section: M.C.A. 7-5-4101)

2.12. 070 Prescribing duties and compensation of municipal officers. The municipal council has power: to fix compensation, and to prescribe the duties of all officers and other employees of the municipality, subject to the limitations mentioned in the Montana Code Annotated.

2.12. 080 Obtaining reports from officers of municipalities. The municipal council has power: To require from an officer at any time a report in detail of the transactions in his office, or any matter connected therewith. (Derivation of section: M.C.A. 7-5-4112)

2.12. 090 Contracts. The municipal council has power: To make any and all contracts necessary to carry into effect the powers granted by state law, and to provide for the manner of executing the same. (Derivation of section: M.C.A. 7-5-4301 (1)

2.12. 100 Arrest of persons. The municipal council has power: To make regulations authorizing the police of the municipality to make arrests of persons charged with crime, within the limits of the municipality and within five miles thereof, and along the line of water supply of the municipality. (Derivation of section: M.C.A. 7-32-4301)

2.12. 110 Imposition of penalties. The municipal council has power: To impose fines and penalties for the violation of any municipal ordinance, but no fine or penalty must exceed five hundred (\$500.00), and no imprisonment must exceed six months for any one offense. M.C.A. 7-5-4207

2.12. 120 Election of Council President. At the first meeting of the Council each year, they shall proceed to elect by ballot from their number a President. In the

absence of the Mayor, the president shall preside over the meetings of the Council, and during the Absence of the Mayor from the town or his inability from any cause to discharge the duties of his office, the said President shall exercise all the powers and discharge all the duties of the Mayor. The President of the Council while performing the duties of the Mayor shall be styled “Acting Mayor”, and acts performed by him as acting aforesaid shall have the same force and validity as though performed by the Mayor.

2.12. 130 Call to Order. The Council shall convene and be called to order at five (5) p.m. on the days designated for such meetings unless otherwise ordered. The Mayor or in his absence the President of the Council or in the absence of both of them, the Town Clerk shall call the meeting to order. As soon as the meeting is called to order the Clerk will proceed to call the roll, recording in the minutes, the names of all members present and the names of all members absent and announce whether or not a quorum is present. In case of the temporary absence of the Mayor and the President of the Council, if a quorum of Aldermen are present, they shall choose one of their members to act as Chairman of the meeting and proceed with the business.

2.12. 140 Order of business. Roberts Rules of Order will govern the meetings of the Council.

2.12. 150 Regular Meetings. Meetings held on dates fixed by this Ordinance will be “Regular Meetings.” Meetings held pursuant to adjournment from regular meetings will be “Adjourned Regular Meetings”. The Council may consider any or all regular business of the Town at any regular or any adjourned meeting. Special Meetings may be called as hereinbefore provided, but shall state in the call the purpose for which the meeting is to be convened and all actions by the Council shall be limited to the purposes to the purposes stated in the call. The council may by ordinance change the date of regular meetings.

CHAPTER 2.14
ETHICAL STANDARDS
OF
CONDUCT POLICY

Sections:

- 2.14.10 Ethical Standards of Conduct Policy
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- 2.14.100 Participant gifts or payments
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- 2.14.160 Drugs and Alcohol
- 2.14.170 Disclosure
- 2.14.180 Town council member involvement
- 2.14.190 Application to grantees, contractors and vendors

2.14.10 Ethical Standards of Conduct Policy Town of Browning has adopted a series of administrative and management policies. These policies are formally adopted by the Town Council (hereinafter called TC) of Town of Browning (hereinafter called ToB). Some of the provisions of this policy reflect requirements of Federal and or State (Montana) law. From this day forward, the employees of TC are required to follow this policy. This policy will remain in effect until such time the TC of ToB, by formal action, revises, changes or amends this policy.

ToB may in certain circumstances formally waive some Policy requirements on an individual basis, but in order to do so the Waiver procedure identified later in this Policy must be followed. ToB may also elect, by formal resolution to establish alternative policies for programs that are developed and operated with funding other than municipal tax dollars or municipal funds provided by the State of Montana. Such policies, if any, are not subject to this Policy. Furthermore, ToB may from time to time adopt other rules,

requirements and procedures to administer its programs but all of these practices must comply with ToB Policies.

2.14.20 Purpose of this policy. ToB is desirous of establishing ethical requirements and standards of conduct for elected officials, current and former employees, TC and contractors and vendors. ToB is a public entity, a Municipality as defined under the laws of the State of Montana. Elected officials and employees must function with high ethical standards to insure that the good and honest reputation of ToB is maintained and public funds are protected. The purpose of ToB is to serve the interests of the municipality, the general population that it services and not the personal interests of TC members, employees or the individual interests of elected or appointed officials. This Policy simply and in a straight forward manner establishes ethical standards so that these rules can be understood and adhered to.

2.14.30 Policy Format. This policy applies to all ToB programs that are assisted with public tax funds or State of Montana funds. Additional requirements may also be established for various individual ToB programs and this policy will make up the second part of the Policy.

2.14.40 Waivers. This Policy is intended to apply in all cases. However, in rare and unique circumstances a special Waiver of a particular requirement can be considered and approved by the TC of ToB. In the case of this particular Policy this may occur only where a waiver is expressly permitted elsewhere in this Policy. Such a Waiver may be made only if;

1. Town Council members with direct or indirect interests abstain from and are not present for both the TC deliberations and decision, and
2. Full and complete public disclosure of a Waiver request occurs before, during and after a vote, and
3. A two-thirds (2/3) favorable vote of all TC members is obtained, and
4. The waived Policy provision is not required by State of Montana or Federal law.

If the TC is unsure as to which provisions are required by State of Montana or Federal law, they may consult with legal counsel.

2.14.50 Definitions. Immediate Family or Family: A wife, husband, brother, sister, mother, father grandmother, grandfather, son, daughter, grandson, granddaughter and any relative or any other party that a person is living with or intends to live with in the same house of household, whether a relative or not.

Delinquent on Water/Sewer Utility Payments: For purposes of this Policy, whenever the

amount owing to ToB by a TC Member, employee, agent or grantee exceeds \$50.00 or two months payment (whichever is greater).

Individual Interest: includes but is not limited to an interest held by wife, husband, son or daughter or immediate family.

2.14.60 Requirements Where the ToB has established by law or resolution ethical and conflicts of interest requirements for the ToB, TC and employees, these standards shall apply. Furthermore, where those standards permit waivers of those standards such a waiver may only be entertained using the waiver procedures in the Policy. Regulation and enforcement of these ToB ethical standards shall be done by ToB so long as no State of Montana or Federal law dictates otherwise. These standards are only minimal standards and the following standards are additional. If a conflict arises between the ToB requirements and the following standards the most stringent or highest standard shall apply.

2.14.70 Conflicts of interest The duties and responsibilities of TC, employees, grantees and agents is to ToB. These interests are not to conflict with personal interests of TC members or employees nor shall there be the appearance of any conflicts of interest.

a. Town Council Members. TC Members, are prohibited from entering into, proposing or having a contract or any financial interest, direct or indirect, in any ToB project or activity. Former TC members are likewise prohibited from having such a contract or any financial interest, direct or indirect, in any ToB project or activity, for a period of one year after their tenure on the TC. This requirement may be waived in rare and unique cases, but only after full and public disclosure and assurance that this interest is not obtained because of non-public information obtained because of the prior position.

b. Employees. ToB employees are prohibited from entering into, proposing or having a contract or any other financial interest, direct or indirect, in any ToB project or activity. Except for subsequent employment arrangements, former employees are prohibited from having a contract or any financial interest, direct or indirect, in any ToB project or activity in which the former employee had a substantial interest, responsibility or involvement with during his or her position with ToB for a period of twelve (12) months after termination of their employment. This requirement may be waived in rare and unique circumstances but only after full and public disclosure and assurance that this interest is not obtained because of non-public information obtained because of the prior employment.

c. Award or Administration of Contracts. No employee, TC, officer or agent of ToB or any grantee shall participate in a decision, selection, award or administration of a contract if in fact or by appearance the TC, employee, officer, agent or any member of his or her immediate family, or his or her partner, or an organization which employs or is about to employ such a person, has a financial or other interest in the firm to be selected or

awarded. Any and all conflicts of interest shall be promptly, openly and publicly disclosed by both individuals and ToB.

Not participating in a decision, selection, award or administration of a contract shall mean not discussing the matter in or outside meetings, not being physically present for any discussions and neither voting on or being present for a vote. Furthermore, it means not using a ToB position to influence a decision in which you have a personal interest.

d. Program Participants. Nothing in this policy shall prohibit a community member, who is elected to the TC, employee, officer, agent or grantee from fully participating in ToB Activities and decision making so long as those activities and that decision making is not particular to their business, application, contract or ToB activity.

2.14.80 Gifts. ToB, TC, employees or any grantee's officers, employees or agents will not solicit any gift nor accept gratuities, favors or anything of monetary value from vendors, contractors, potential contractors or parties to agreements.

It is determined that providing meals, entertainment or gifts in an amount in excess of Twenty Dollars (\$20.00) per gift or meal, or a total per calendar year of meals, entertainment or gifts in excess of One Hundred Dollars (\$100.00) per individual by an individual company, including all related concerns and individuals, is determined to be of monetary value and is therefore prohibited.

All gifts shall be recorded in writing by the TC, officer, employee or agent and routinely disclosed to ToB.

2.14.90 Donations. ToB may solicit and accept donations to its programs, however, all such solicitations and donations shall be open and public and recorded and must be for the sole benefit of ToB and not its employees, contractors or members of the TC. Furthermore, no donations shall be solicited or made while the party donating is seeking or being considered for a contract and no donation shall be considered or accepted if it would influence the award of a contract or give the appearance of such a possible effect.

2.14.100 Participant gifts or payments. No employee or member of the TC or his or her spouse, who has any authority, control or influence in his/her official capacity shall accept any gift or money from a tenant, homebuyer, program participant or applicant if it would reasonably appear that such a gift was an attempt to influence that employee or TC Member's actions at ToB.

2.14.110 Additional Procurement and contract requirements. Special procurement and contracting practices are contained in the ToB Procurement Policy and in ToB standard contract documents.

2.14.120 Confidentiality ToB employees, agents and grantees may have acquired confidential and privileged information during their tenure with ToB. They are prohibited from publicly disclosing that information and from using that information for personal purposes. Former members of the TC and employees are prohibited from acquiring a contract or any other financial interest, direct or indirect, in any ToB project

or activity that is affected by that confidential or privileged information. This prohibition shall be for life. This prohibition however may be waived by the ToB TC but only if the TC in its sole discretion so chooses and does so in writing and on the record and if (1) the information remains no longer privileged or confidential, and (2) the information is provided to other competitors by ToB or potential competitors of the former employee or TC member. ToB may have other confidentiality requirements that are not contained in this particular policy that apply to members of the TC and employees, current and former, that are unrelated to confidentiality and conflicts of interest.

2.14.130 Political Activities prohibited. Members of the TC, staff, agents and grantees shall not use ToB resources, moneys, contracts, personnel or facilities for political purposes. ToB shall also restrain others from using ToB resources for political purposes.

2.14.140 Responsibilities regarding contractual obligations. Members of the TC, staff, agents or contractors shall not be “delinquent on payments” owed to ToB. Such delinquencies, unless immediately resolved after they have arisen, shall result in the termination of the employee or agent and removal of the TC Member. Furthermore, such individuals shall not violate any other contractual obligations that they might have with ToB.

2.14.150 Fiduciary Responsibility. All TC Members and employees have a fiduciary responsibility to take actions and do what is in the best interest of ToB.

2.14.160 Drugs and Alcohol All members of the TC and employees of ToB shall adhere to all ToB Drug and Alcohol rules and requirements including those set forth in the ToB personnel policies and procedures and set forth in the ToB drug policy.

2.14.170 Disclosure. All TC Members and employees are required to promptly disclose to ToB their acts or conduct and all acts or conduct by other ToB TC Members and employees, that are illegal or in violation of this Policy and other ToB Policies. Disclosure can be to supervisors, the Town Clerk, the Mayor, the TC and ToB Attorneys. There shall be no retaliation or other punitive action taken against anyone who makes a disclosure under this section when the activities disclosed turn out to be a true violation.

2.14.180 Town Council member involvement. ToB TC Member’s primary responsibilities are to establish goals, policies, and practices for ToB and to provide an overview direction and monitor for operations and activities. TC Members are to refrain from running the day to day activities of ToB and from individually interjecting themselves in individual management decisions except where authorized by ToB Policy or TC direction.

2.14.190 Application to Grantees, Contractors and Vendors. All of the requirements contained in this Policy shall additionally apply to all TC grantees, contractors and vendors. Where feasible these standards shall be included in grants and contracts and where appropriate repeated in the sub-grants and sub-contracts.