

CHAPTER IV

PUBLIC INFORMATION/RECORDS

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4.1 Records Recorded with County Clerk and Recorder

Certain records must be filed and/or recorded with the county clerk and recorder. Whenever you take original documents to the clerk and recorder's office make a copy of the document and place in your file pending the return of the original by the clerk and recorder. The document that is taken to the county clerk and recorder must be the original, have original signatures and be notarized. The following documents must be filed and/or recorded with the county clerk and recorder:

- Oath of Office
- Annexations [7-2-4407](#), [7-2-4607](#), and [7-2-4714, MCA](#)
- Exclusion of Land [7-2-4808, MCA](#)
- Waivers of Annexation
- Waivers of Special Improvement District (SID)
- Resolution of intent to create Special Improvement District (SID)
- Resolution creating Special Improvement District (SID)
- Easements
- Final Plats (developer actually records, just check)
- Variances
- Interlocal agreements [7-11-107 \(1\), MCA](#) Also with Secretary of State)
- Deeds and quit claim deeds
- Change of name of street [7-14-4112, MCA](#)
- Certificate of Survey
- Developers extension agreements
- Zone changes
- Satisfaction of loan or conditional grant agreements
- Assessment Agreements
- Encroachment permits
- Conditional use permits
- Payback Resolution
- Budget Resolution
- Resolution for ROW Abandonment
- Ordinances for Sale or Lease of property
- Resolution of Exclusion (de-annexation)
- Findings of Fact

Documents that affect a piece of property should always be recorded. This ensures that when the property exchanges hands, the new owner has prior knowledge of fees, rules, etc. applied to their property. [7-4-2636, MCA](#) gives the required format for documents to be recorded by the clerk and recorder.

4.2 Clerk Certification of Records

In some instances, the clerk will need to certify certain documents such as minutes of meetings, minutes of public hearings, etc. Clerks may use and adjust the following draft certification form as necessary.

STATE OF MONTANA }	
	SS. CERTIFICATION OF MINUTES
County of _____ }	
JANE SMITH , being duly sworn, deposes and says that she is and was at the time of preparation of the attached minutes the City/Town Clerk of the City/Town of _____; that the attached minutes of July 1, 2013 are correct and true copies of the minutes of the public hearing of the City/Town council (Commission) of the City/Town of _____, MT.	
	Jane Smith, MMC City/Town Clerk/Treasurer
Subscribed and sworn to before me this _____ day of _____, 2013.	
	Notary Public for the State of Montana Residing in _____ My Commission expires _____

4.3 Notary Public

The clerk may be required to be a Notary Public for the State of Montana. The requirements to become a notary and any questions may be directed to the office of the Secretary of State or visit their website at <http://sos.mt.gov/Notary/index.asp>. The Notary Public certification is valid for four years at which time re-certification is necessary. The application may be downloaded from the Secretary of State website at <http://sos.mt.gov/Notary/index.asp>. The clerk should also apply for surety bond and errors and omissions insurance. The following information should be included in the notary block:

State of:	Montana
County of:	<i>County in which notarial act is being performed</i>
Signed and sworn to before me this _____ day of _____, 20____; by (<i>name of person(s) appearing before the notary public</i>) .	
Signature of notary public:	
	<i>Typed, stamped or printed name of notary.</i>
Notary Public for the State of Montana Residing in _____ My Commission expires _____ (SEAL)	

A notary public may not notarize his or her own signature or any document in which he/she may have a direct or financial interest. Consider these points:

- Always obtain proper identification
- Do not post or predate your notarization
- Do not perform an acknowledgement without a signature
- Do not certify an affidavit that a person has not signed in front of you.
- State law requires that notaries keep and maintain an official notary journal recording the details of each notarial act performed. More information about the journal is available on the Secretary of State website.

4.4 Public Information

Public inspection of public information is permitted during regular office hours. Records are to remain in the clerk's office at all times. In order to ensure integrity of the information, a city/town employee must be present while information is being inspected. *The clerk should always consult with the city attorney with questions concerning a request for public information.*

Your city/town may charge for copies of information. Fees and rules should be indicated in your policy manual or in pertinent resolutions. The following public information are exempt from public disclosure unless required by court order or dissemination is required pursuant specific statutory authorization:

- Library patron information [22-1-1103, MCA](#);
- Medical information [2-6-1002, MCA](#);
- Personnel Information concerning a current or former employee or applicant for employment that would disclose the individual's home address, home telephone number, social security number, marital status, payroll deductions, insurance coverage, or other privacy information;
- Performance evaluations [2-6-1002, MCA](#);
- Certain donor information including financial or physical donations where the donor requests to remain anonymous;
- Ownership or pledge of public obligations [17-5-1106, MCA](#);
- Criminal justice information or Municipal Court Records [4-5-301, MCA](#) and [44-5-311, MCA](#);
- Vehicle accident reports [61-7-114, MCA](#);
- Insurance information [50-63-403, MCA](#);
- Information related to medical marijuana registry information [50-46-332, MCA](#);
- Information pertaining to juveniles;
- Information required to be kept confidential by federal law or regulation or by state law;
- Utility customer information (consult city attorney);
- Documents containing legal questions or information concerning potential, pending or actual litigation;
- Any other information held or maintained by the City made confidential by law.

If the release of a record is denied and the person is not satisfied, he/she may contact the mayor and city attorney. Inform the mayor and city attorney that they will be contacted regarding the denial of a record and why access was denied. Use caution if you have any questions about releasing a record or document and contact the city attorney for legal advice.

[2-6-1003, Montana Code Annotated \(MCA\)](#) states every person has a right to examine and obtain a copy of any public information of this state. In consultation with your city attorney, the city/town may withhold from public scrutiny information relating to individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information jeopardizes the safety of facility personnel, the public, students in a public school, or inmates of a facility. A public officer may not withhold from public scrutiny any more information than is required to protect individual or public safety or the security of public facilities.

[2-6-1006, Montana Code Annotated \(MCA\)](#)

A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons. Upon receiving a request for public information, the city/town shall respond in a timely manner to the requesting person by:

- making the public information maintained by the public agency available for inspection and copying by the requesting person; or

- providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered and any fees that may be charged.

The city/town may charge a fee for fulfilling a public information request. The fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. In other words, this is not an excuse to charge the public to organize your files or clean your office. The cost should reflect the time it would take to reasonably find the information. Also, if by law, there is already a fee attached to the information requested, the city cannot double charge for the information.

The fee must be documented. The fee may include the time required to gather public information. The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information.

In addition, the law does not require the city/town to alter or customize public information to meet the needs of the individual requesting the information. However, if the city/town agrees to customize an information request, the costs of the customization may be included in the fees charged by the agency.

Your city/town may have policies or procedures relating to providing information to the public. A request for public information may be made in person, via phone or e-mail. Make a copy of the request form or appropriate e-mail and attach to the copies as a receipt for the person requesting the information. These request forms should be filed and maintained.

Examples of Standard Charges:

Charges for paper copies of *non-routine* (the city's policy should liberally define non-routine public information) public information shall be charged at the rate of \$0.25/page for material that can be found and copied in ten minutes or less. Material which take more than ten minutes to located and copy shall be charged at the rate of \$0.50/page. Items that take over 30 minutes to locate and copy shall be charged upon the hourly market rate at the time of the request for an administrative assistant.

Below are some typical procedures for providing information that some cities and towns have adopted.

For a request made in person:

- Person requesting must complete the "Request for Public Information Form"
- Pay the fees (if necessary)

For a request made via phone:

- Person receiving request should ask if the requestor can fax or e-mail their request, if not
- Person receiving request can fill out the "Request for Public Information Form"
- Requestor must agree to pay the fees (if necessary)

For a request made via e-mail:

- The e-mail can be used in place of the "Request for Public Information Form"
- The e-mail must be filed with the other "Request for Public Information Forms"
- Requestor must agree to pay the fees (if necessary)

Routine Public Information (can be modified by Municipality)

This material is prepared for the public and made available to them on a regular basis. The information is often

prepared for promotional or advisory reasons and prepared for general distribution. No request form is required for these materials.

Examples: City Charter, Ordinance, Resolutions, Minutes, City Commission Agendas, Meeting Packets, Board and Commission Agendas, Neighborhood Council Agendas, Brochures, Pamphlets, Applications, and Blank Bid Packets.

Non-Routine Public Information

Materials prepared in the regular course of City business (i.e. regular departmental business records) that document regular business transactions by each department but are not prepared for mass distribution.

SAMPLE REQUEST FOR PUBLIC INFORMATION FORM

I, _____ (Applicant), do hereby make application for inspection and/or copying of the following public information of the City/Town of _____, Montana.	
<i>Please be as specific as possible to assist us in locating the information as quickly as possible.</i>	
Applicant Signature:	Date:
<i>Fill out only if request cannot be filled right away, so that you can contact applicant when the copies are made.</i>	
Name:	
Address:	
Daytime Phone:	
INTERNAL USE ONLY	
TO APPLICANT: THE ABOVE REQUESTED INFORMATION ARE: (check one)	
<input type="checkbox"/> Available for inspection immediately upon processing your request.	
<input type="checkbox"/> To be copied at your expense and will be made available to you on the _____ day of _____, 20____, at _____ o'clock _____ M.	
<input type="checkbox"/> Not subject to disclosure pursuant to MT Public Information Statutes, Art. II, Sec. 9, Mont.Const., 7---1---4144, MCA.	
<input type="checkbox"/> The subject of a written request for a determination from the Attorney General as to whether they are subject to disclosure.	
<input type="checkbox"/> Not in existence, due to "vagueness" of request. (Not enough information to process request).	
<input type="checkbox"/> Not in existence due to the fact that it requires the creation of documents.	
Dept. Head Authorization:	Date:
I approve and agree to pay the copy fees associated with this request:	
Applicant Signature:	Date:
_____	Initials of Person Filling Request
_____	Department
\$ _____	Total Charge

4.5 Utilities Records

Procedures for Delinquency Letters

By state law, sewer delinquency letters are to be prepared and sent to the property owners on or before the 7th of July each year [7-13-4309, MCA](#). These letters will include the following:

- The customer's name and address
- The sewer assessment, plus the penalty and interest
- The fiscal year that it is charged against
- The property description, ie: block, lot and addition to the city/town
- The date payment is due
- The total amount to be levied as a tax against the property
- If property is rental, send a copy of the letter to the property owner.

Put the past due utility billing sheets of June 30th in the Sewer Delinquency file. Keep a copy of all letters sent. If they are paid before August 15th, remove those letters from the file. A list of the sewer delinquencies remaining will be sent to the Department of Revenue office to be placed as a lien on the property taxes that are sent from the county treasurer's office at the end of October. A copy of this list will also be kept in the Sewer Delinquency file. The delinquency list sent to the assessor's office shall include the following:

- Name and address of property owner
- Property description, ie: block, lot and addition to the city/town
- The principal amount, penalty amount and total owing
- Total the amount of principal, penalty and total of both.

SAMPLE DELINQUENCY LETTER

<p>Date</p> <p>Mr. John Doe PO Box 197 Nice City/Town, MT 59800</p> <p>Dear Mr. Doe:</p> <p>You are hereby notified that a delinquent sewer assessment in the amount of <u>\$197.64</u> Dollars, plus penalty and interest in the amount of <u>\$7.12</u>, is charged against the following Fiscal Year 2012-2013:</p> <p>Block 6 Lot 7 Old City/Townsite</p> <p>Unless the account is paid in full by August 15, 2013 in the amount of <u>\$204.76</u> the same will be levied as a tax against the real estate to which the sewer service was furnished.</p> <p>Sincerely, City/ Town Clerk/Treasurer</p>

Forms for Utilities

Tenant/Landlord Form – The Landlord must complete the Tenant/Landlord form and sign and date. The account will not be changed until the form is completed. Complete the bottom of the form with:

- Former owner/tenant
- Account No.
- Final reading

Property Change of Ownership – The Title Company will call and request a final bill for the property. They will deliver the payment after closing. Request the name and address of the new property owner from the Title Company. Mail a property owner change form, with a self-addressed stamped envelope, to the new owner. When the form is returned complete the bottom of the form with the former owner's account number and final reading. Place completed forms in the respective files.

SAMPLE WATER/SEWER UTILITY SERVICE CHANGE LANDLORD/TENANT

IN AGREEMENT: The undersigned agrees to pay for the water/sewer utility in accordance with the policies of the City/Town of _____. Charges for service are due by the 20th of each month. There is a notice mailed on past due accounts giving the account holder 10 days to pay the past due amount or service will be disconnected. The balance in full and a disconnect/reconnect fee of \$92.66 must be paid before water service will be reinstated. Interest of 1.5% is charged on any unpaid balance after the due date.

TENANT:			
First Name:	MI:	Last Name:	
Physical Address:			
Mailing Address:			
Home Phone:			
Employer:			
Employer's Address:			
Employer's Phone:			
OWNER:			
The tenant is responsible for:	<input type="checkbox"/> Water	<input type="checkbox"/> Sewer	<input type="checkbox"/> Water/sewer
Owner's Name:			
Owner's Mailing Address			
Owner's Phone:			
<i>The undersigned owner(s) of the premises stated above are responsible/liable for payment of the water use and debt service charges for the above---said premises, _____ . I (WE) give permission to have the water bill for the above premises sent to the above renter at the mailing address listed. In the event of nonpayment of charges for water service and benefits to any premises water service will be disconnected until such charges are paid.</i>			
Effective date for this change is:	in/out		
Signed:	Date:		
*****OFFICE USE ONLY*****			
Beginning/Ending Read:			
Effective Date:			
Previous Customer Name:			
Special Notes:			

SAMPLE WATER UTILITY SERVICE PROPERTY OWNER CHANGE

IN AGREEMENT: The undersigned agrees to pay for the water and sewer utility in accordance with the policies of the City/Town of _____. Charges for service are due by the 20th of each month. There is a notice mailed on past due accounts giving the account holder 10 days to pay the past due amount or service will be disconnected. The balance in full and a disconnect/reconnect fee of \$92.66 must be paid before water service will be reinstated. Interest of 1.5% is charged on any unpaid balance after the due date.

First Name:	MI:	Last Name:
Physical Address:		
Mailing Address:		
Home Phone:		
Employer:		
Employer's Address:		
Employer's Phone:		
<i>The undersigned owner(s) of the premises stated above are responsible/liable for payment of the water and sewer use and debt service charges for the above---said premises, _____. In the event of nonpayment of charges for water service and benefits to any premises water service will be disconnected until such charges are paid.</i>		
Effective date for this change is:	in/out	
Signed:	Date:	
*****OFFICE USE ONLY*****		
Beginning/Ending Read:		
Effective Date:		
Previous Customer Name:		
Special Notes:		

4.6 Records Management*

**The following section is a suggested method modeled after a system in place in one municipality in Montana. This is above and beyond what is required but may lend assistance in the management of required retained records.*

Filing System Design and Maintenance

Arrange material that is significant for its content by subject, rather than by the names of correspondents. The subjects are arranged in alphabetical order. Filing by name should be done only if the subject cannot be used. Keep records retention in mind when setting up filing systems. For example, if you have to retain claims by the fiscal year, it makes sense to keep the claims for one fiscal year separate from another.

Do not make more files than necessary, use existing files whenever possible. Group together all documents pertaining to a particular project or case. Arrange documents chronologically in the folder with the most current date in front of the file folder. Do not use post-it notes to label documents, file folders or as actual documents. Request a memorandum be prepared in lieu of the “little” slips of paper, napkins or notes written on the file folder. Mend all torn documents before placing them in a file folder.

File the most active records in the most easily reached parts of the file cabinets. Active records belong in the top drawers, less active records in the bottom drawer, and least active records are stored elsewhere. Once a year, plan to spend some time moving your least active files into your storage area. Separate those records that must be maintained for long periods of time from those of temporary value. Review contents of file before re-filing. This is a check for lost or misfiled documents. It is important to keep all filing up to date, preferably as soon as records are completed.

Indexing

- Index by subject
- Use 3x5 cards in the colors described below:

COLOR	SUBJECT
Green	Sewer & contracts
Blue	Closures & Exclusions
Pink	Annexations
Orange	Ordinances
Yellow	Resolutions
White	Cross Reference

White index cards will be used for subjects that cannot be color coded to the above colors. Color coded cards in the Filing Index should correspond to colors used in the Minutes Index. Type the card with the main subject in CAPITALS. Type sub-headings in upper and lower case. Indicate on the main subject card only:

- Subject
- Location information

Cross reference cards should be used liberally. The cross-reference card is a sign that points to the correct location of a record. In cross referencing on the white cards use *See* or *See also*. Proofread all cards before interfiling in the index card file alphabetically.

- *See* means nothing here, look elsewhere.
- *See also* means something here and allied material elsewhere.

File Purge

Shred duplicate records and discard non-essential record paperwork items including old magazines, brochures and catalogs.

Project Files – Water/Sewer Building

Grant programs usually require specific files for water, sewer, building projects, etc. Normally, these files are created and maintained in the front of the file drawer for the duration of the project, and boxed for storage after the project is closed out and audited. Consult the grant administration manuals to determine the files to be created and their content. Review the contents of the files for accuracy and completeness prior to the monitoring by the funding agency.

- Only one project per storage box. Mark each box clearly with the project name and date.
- Refer to the retention schedule for disposal of project files.

Financial Records

At the end of each fiscal year put the following in a storage box::

- Claims and claim approval reports.
- Bank statements.
- Deposit books, receipt books.
- Anything that relates to the fiscal year financials.

Clearly mark the box with the fiscal year and a list of records in the box. Keep the box in the office until the Audit has been completed, at which time the box may be stored elsewhere.

Definitions

Vital Records: Records which are irreplaceable and are essential to the continuity of operations and can be replaced or reproduced only at significant expense. These records are permanent.

Important Records: Loss of these records presents a high level of inconvenience; however, the continuity of operations can resume without them.

Useful Records: Loss of these records present some inconvenience, but operations can continue without them. These records are easily replaced.

Non-Essential Records: These records are listed on retention schedules for routine destruction. Loss of these records presents no obstacle whatsoever to restoring daily operations. Examples include duplicate copies, drafts and miscellaneous correspondence.

Take Out File

The Take Out File is used for information requested from another department, other entity, the public, etc. and will be picked up later. The information may be from the clerk's office or other departments. The *Call Waiting File* and the *Take Out File* both allow for quick easy access to the information gathered and needed for returning telephone calls, departmental requests, other entities requests, or public access.

Indexing Council Minutes

The index file for council minutes remains in the city/town clerk's office. Changes should not be made to subject headings without approval by the clerk. The subject arrangement is for material significant for its content. The subjects are arranged in alphabetical order and should be classified by one of the headings found in the list of subject headings below. It is important to keep up to date all indexing of council minutes, at least monthly if possible. Use 3x5 index cards in the colors described below:

COLOR	SUBJECT
Green	Sewer & contracts
Blue	Closures & Exclusions
Pink	Annexations
Orange	Ordinances
Yellow	Resolutions

White	Cross Reference

White index cards will be used for subjects that cannot be color coded to the above colors. Type the card with the main subject heading in CAPITALS and underlined. Type sub---headings in upper and lower case. Indicate on the main subject heading card only, brief summary of the action taken, and the date the action was taken on the subject.

SAMPLE MAIN CARD MINUTES	
<u>ORDINANCE 2</u> License dogs, Duties of Marshall, Disposal of dogs	Moved by Harry Jones, Seconded by Mary Black that we adopt an ordinance to license dogs at \$2.00 for males and spayed females. Motion carried

The Index file should contain only one main card for each issue discussed at the meeting; however, the main card should contain the continuous story of actions taken; i.e. the original ordinance plus any amending or repealing ordinances, etc. Color coded cards in the Minutes index should correspond to colors used in the Filing index, when possible. In cross referencing on the white cards use *See* or *See also*.

- *See* means nothing here, look elsewhere.
- *See also* means something here and allied material elsewhere.

Cross Reference Card

SAMPLE CROSS REFERENCE CARD	
License Dogs See ORDINANCE #2	

Notice that License Dogs is not typed in capital letters, as it is a sub-title. Proof-read all cards before interfiling in the index card file alphabetically. Do not type index cards for the following items:

- Approval of Minutes
- Regular reports or correspondence (unless something unusual reported or action was taken)
- Consent Agenda
- Adjournment

SAMPLE INDEX OF COUNCIL MINUTES

--A--	--D--	--I--
Administrator	Deeds	Injuries, personal
Agreements/Contracts	Dedications	Insurance
Air Pollution	Demolition	Interlocal Agreements
Airports	Depositories	Investigations
Alleys	Dogs	
Animals	Donations	--J--
Annexation	Drainage	Jail
Appointments		
Audit	--E--	--K--
Awards	Easements	Kennels
Attorney	Economic Development	
	Education- see schools	--L--
--B--	Elections	Labor Relations
Banks	Emergency Plan	Landscaping
Bicycles	Environment	Law Enforcement
Bid Procedures	Ethics	Leases
Bids		Legal
Board of Health	--F--	Library
Boards	Fees	Liquor Licenses
Bonds Budget	Federal Government	Local Improvements
Building Code	Finance	
Business Licenses	Fines	--M--
	Fire Contracts	Maintenance Agreements
--C--	Fire Departments	Mayor
Cats	Flood Control	Municipal Building Bonds
Census	Forestry	Montana League of Cities/Towns
Chamber of Commerce		Montana Municipal Clerks Assoc.
Charitable Organization	--G--	
City Clerk	Garbage	--N--
City Code	Grants	Noise
City Council (Commission)	Growth Policy	Non-profit Organizations
Civil Defense		Nuisances
Commissions and Boards	--H--	
Committees	Health	--O--
Compensation Plan	Historical Society	Ordinances
Computer Systems	Holidays	
Contracts/Agreements	Hospital	
Covenants	Housing Act	
--P--	--S--	Transportations
Parades	Salaries	Trees
Parking	Sales	
Parking Regulations	School Districts	--U--
Parks	Sewer	United States
Pedestrian Crossings	Sidewalks	Utilities
Permits	Signs	
Planning	Special Assignments	--V--
Pool	Speed Limits	Vacations
Policies	Sports	Variances-Subdivisions
Pollution Control	Streets	
Public Works Department	-lighting	--W--
	-Name Change	Water
--Q--	-Paving Plans	Water Agreements
	State of Montana	Wells
--R--	Subdivisions	
Railroads		--Y--
Real Estate	--T--	Youth
Resignations	Taxes	
Resolutions	Traffic	--Z--
		Zoning

Agenda Subject Index

The Agenda Subject Index is a quick reference for looking up a subject and action at a particular council meeting. Each month the Agenda Subject Index will be updated. The Agenda Subject Index is for each calendar year. One year will be in the computer for reference.

Everything that is acted upon at a meeting will be indexed. Also index items that will be referred to for background information. The optional items indexed are at the discretion of the clerk. The Agenda and completed Minutes are used to update the Agenda Subject Index. The items *not* indexed will be:

- Approval of Minutes
- Regular reports or correspondence (unless something unusual reported or action was taken)
- Consent Agenda
- Adjournment

There will be up to 5 columns:

1. Date of meeting- example 032513
2. Subject
3. Action taken- Approval, Adoption, Denial, Table, Discussion
4. Book # Page # - example B13 Pg270
5. Resolution of Ordinance Number (if applicable)

DATE	SUBJECT	ACTION	BOOK #, PAGE #	RES OR ORD #
032513	Engineer Services---Sewer Mixing Zone Study	Approve	B13Pg267	
032513	Special Events Insurance	Discussion	B13Pg269	
032513	Growth Policy Update	Discussion	B13Pg269	
032513	Subdivision Rules—Lot Size	Discussion	B13Pg270	
032513	Alley Closure Request—Ward/Calhoun	Discuss/Set Hearing	B13Pg270	
032513	Judge James—Court Clerk Position	Approve hire	B13Pg270	
032513	Elect council (Commission) President(s)	Elect Davis/Greene	B13Pg271	

4.7 Records Retention and Disposition

Much of the information you need for records retention and disposition is located on the Secretary of State website at <http://sos.mt.gov/Records/index.asp>. Check to see if your city/town has a resolution, ordinance, policy or procedure about records management and become familiar with it. The Secretary of State’s website contains the following:

General Information

- What is a Public Record
- Privacy vs. the Right to know
- Glossary of Terms
- Managing Public Records
- Disposing of Public Records
- Essential Records (also called “Vital Records” for business continuity in the event of a disaster)

Forms and Procedures

- Form and instructions to request a change to the retention schedule
- Procedures to follow before destroying or disposing of town records
- Acceptable ways to store long term records storage
- Form and instructions to request disposal or transfer authorization

Resources

- **Record Retention Schedule for Cities and Towns** – see Schedule 8, the Retention Schedule for cities and towns.
- **Local Government Record Committee** – [2-6-403. Duties and responsibilities.](#) (1) The local government records committee shall approve, modify, or disapprove proposals for local government records retention and disposition schedules. (2) The local government records committee shall appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist and a representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, **a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee.**
- **Montana E-mail guidelines** – the State of Montana developed some guidelines for the use of their e-mail system.
- **City/Town ordinances** –establishing records management programs.

Lawsuits and Records Management

When a lawsuit is filed, it is very important that you stop the destruction of records that might be pertinent to the lawsuit, even if the records have already met their scheduled retention period. If you continue with the destruction, it may appear to a judge that you intentionally disposed of records that could be needed in the lawsuit. If the judge thinks you intentionally destroyed records, your local government entity could be sanctioned or face other court action.

If your local government is presented with a subpoena, immediately tell your attorney. Get an explanation from the attorney about what is involved in the case so you know what records should not be destroyed and can help advise the attorney about what records exist. Coordinate with your attorney about what records are needed and when and contact your liability coverage provider for coverage determination.

Helpful Records Management Advice

- **Office of Record** – This is the office in the city/town that is responsible for keeping a record for its entire retention period. Other copies of the record may be destroyed sooner than the expiration of the retention period. Copies should not be kept longer than the office of record copy.
- **Records document records disposition** – Maintain your finalized record disposal/transfer forms. You should be able to tell someone why the city no longer has a record and prove that it was handled in accordance with the laws.
- **Retention of financial records** – If a retention period is “Retain 5 years after end of official year...,” the retention clock starts ticking when you receive the final copy of your audit, not the end of the fiscal year.
- **Retention periods are minimums** – If you have a business need, it is acceptable to retain records longer than the retention period on the retention schedule. For example, if you have a union contract that is still being negotiated, you may need to retain time card records longer than the retention period so you can calculate the retro pay owed to each employee once the contract is settled.