

OFFICE OF THE CITY ATTORNEY

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Legal Opinion 2019-033

TO: Mayor John Engen, City Council, Dale Bickell, Marty Rehbein, Kirsten Hands, Kelly Elam, Steve Johnson, Kathy Crego, Leigh Griffing, Scott Paasch

CC: Department Attorney, Department Mayor's Office, Department Human Resources

FROM: Jim Nugent, City Attorney

DATE November 6, 2019

RE: The terms of all municipal officers elected at a municipal election are to commence on the first Monday in January after the municipal election.

FACTS:

Tuesday November 5, 2019 there were Missoula City Council elections for six (6) city council positions.

ISSUE:

When do the persons elected at the November 5, 2019 City of Missoula municipal election commence their terms of office?

CONCLUSION:

Pursuant to section 7-4-4107 MCA the terms of the Missoula City Council members elected at the November 5, 2019 municipal election commence on the first Monday in January after such election, which is Monday January 6, 2020.

LEGAL DISCUSSION:

Section 7-1-114 MCA pertaining to Montana self-government local governments is entitled "MANDATORY PROVISIONS". Pursuant to subsection 7-1-114(1)(e) MCA it is mandatory that Montana local governments with self-government powers be subject to all Montana state laws regulating the election of local officials.

Subsection 7-1-114(1)(e) MCA provides as follows:

"7-114. MANDATORY PROVISIONS. (1) A local government with self-government powers is subject to the following provisions:

.....
(e) all laws regulating the election of local officials."

Section 7-4-4107 MCA statutorily establishes the commencement date for those persons elected at a municipal election as the first Monday of January after the municipal election occurs. Subsection 7-4-4107(1) MCA provides:

“7-4-4107. COMMENCEMENT OF TERM OF OFFICE. (1) The terms of all officers elected at a municipal election are to commence on the first Monday in January after such election.”

CONCLUSION:

Pursuant to section 7-4-4107 MCA the terms of the Missoula City Council members elected at the November 5, 2019 municipal election commence on the first Monday in January after such election, which is Monday January 6, 2020.

OFFICE OF THE CITY ATTORNEY

/s/

Jim Nugent, City Attorney

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