

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF ADOPTION
RULE I pertaining to local government)
public meeting recordings)

TO: All Concerned Persons

1. On April 26, 2024, the Department of Administration published MAR Notice No. 2-12-646 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 781 of the 2024 Montana Administrative Register, Issue Number 8.

2. On May 21, 2024, a public hearing was held on the proposed adoption of the above-stated rule in person, by videoconference, and by telephone. Testimony was provided at the public hearing and comments were received by the deadline.

3. The department has adopted NEW RULE I (ARM 2.12.208) as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (2.12.208) LOCAL GOVERNMENT PUBLIC MEETING RECORDINGS (1) and (2) remain as proposed.

(3) How should we record video during a meeting?

(a) To record video, you will need cameras. Ensure the camera setup adequately covers all meeting participants the governing body and persons communicating with the body adequately. Cameras should have a minimum resolution of 720 pixels (HD) and a minimum frame rate of 30 frames per second (fps) for smooth video.

(4) through (7) remain as proposed.

AUTH: 2-17-518, MCA

IMP: 2-3-214, MCA

4. The department has considered the comments and testimony received. A summary of the comments received, and the department's responses are as follows:

Comment 1: A comment suggested clarifying the guidance in (3)(a) to indicate the camera should cover the governing body and anyone who interacts with the body rather than all participants in the meeting. The proposed "all participants" language could be interpreted to include people in attendance who are only observing the meeting.

Response 1: The department appreciates this comment and has amended (3)(a) to clarify that the focus of the camera should be on the governing body and persons communicating with the body.

Comment 2: A comment was submitted seeking clarification regarding the retention requirements for meeting recordings, as outlined in (7)(a). The commenter noted when a meeting recording is not designated as the official record of the meeting, pursuant to 2-3-214(3), MCA, effective July 1, 2024, the recording may be destroyed after being kept for one year.

Response 2: The department appreciates the comment but does not believe amendment is necessary. The statute describes when and how long recordings may need to be stored online and where recordings must be made available to the public. The rule does not address any of those statutory requirements. Instead, (7)(a) is intended to recommend best practices regarding the manner of storing recordings when recordings are required to be kept. Cloud storage accessible by more than one person is the practice recommended by the department.

/s/ Misty Ann Giles
Misty Ann Giles, Director
Department of Administration

/s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State June 25, 2024.