

Mayors—Cities and Towns—Council—Deputies—Assistants—Officers.

The mayor, with the consent of the council, may appoint deputies and assistants if the council has created such offices; otherwise not.

R. N. Hawkins, Esq.,
Assistant State Examiner,
Helena, Montana.

June 10, 1927.

My dear Mr. Hawkins:

You have requested my opinion whether under section 5030, R. C. M. 1921 the mayor must nominate, and the city council consent to the appointment of deputies and assistants in the office of the city treasurer.

This section empowers the mayor "to nominate, and, with the consent of the council, to appoint all non-elective officers of the city or town, provided for by the council, except as provided in this title."

By section 4995 the officers of a city of the first class consist of the officers therein named, "and any other officers necessary to carry out the provisions of this title."

By section 4996 the officers of a city of the second and third classes are those therein named, "and any other officer necessary to carry out the provisions of this title." The officers of a town are prescribed by section 4997 and consist of those therein named "and any other officers necessary to carry out the provisions of this title."

It is, therefore, my opinion that if the city council has provided for deputies or assistants, that the deputies and assistants are subject to the provisions of section 5030 and must be nominated by the mayor and secure the consent of the council to their appointment. On the other hand, if the city council has not created the offices of deputies or assistants that then they would not be officers within the meaning of section 5030.

Very truly yours,

L. A. FOOT,
Attorney General.