

--- TENTATIVE ---

REPORT

of the

MILES CITY and CUSTER COUNTY

GOVERNMENT STUDY COMMISSIONS

--- TENTATIVE ---

REPORT

TO THE CITIZENS OF MILES CITY AND CUSTER COUNTY

SUBMITTED BY

MEMBERS OF THE MILES CITY STUDY COMMISSION

AND

MEMBERS OF THE CUSTER COUNTY STUDY COMMISSION

Approved March 28, 1996

Miles City Study Commission




Brent L. Christopherson, Chairman

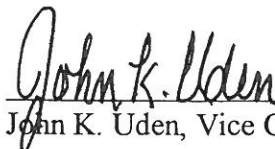


Al Homme, Vice Chairman

Custer County Study Commission



Vernon R. Kailey, Chairman



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I. LETTER TO CITIZENS OF MILES CITY AND CUSTER COUNTY

To the Citizens of Miles City and Custer County:

The Miles City and Custer County Study Commissions, elected by voters on November 8, 1994, or afterwards appointed, present this Final Report to the citizens of Miles City and Custer County.

The purpose of the study commissions, as defined in state law, is "to study the existing form and powers of a local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state." Upon completion of these two phases of the study, it is the responsibility of the study commissions to submit a final report recommending no change, propose an amendment to the existing form of government(s), or offer an alternative form of government to the qualified electors.

In every phase of this review the study commissions sought advice and information from as many people in the city and county as possible. Opinions and recommendations were solicited from local government officials, community organizations, and citizens. All meetings of the study commissions were open to the public. Commission members appeared before various community organizations to explain the work of the commissions and also to hear the viewpoints, ideas, and concerns of those present. Professional consultants were utilized throughout the process. Public hearings were held; a survey questionnaire of citizen attitudes was made.

Our recommendations reflect the thoughts and opinions of those who participated in public hearings, those who attended our regular meetings, and those who responded to our survey questionnaire, in addition to the independent efforts of members of the study commissions.

In this Final Report we present our recommendations for an alternative form of government that we feel will provide the governmental services expected by the people both today and in the future. Our concern has been to provide a form of government that will be responsive to local citizens and provide the opportunity for devising solutions to local problems. We feel the citizens of Miles City and Custer County can achieve these goals by adopting a consolidated Commission-Administrator form with self-government powers.

The question of adopting this alternative form of government will be placed on the ballot November 5, 1996. We solicit your consideration of its adoption.

Respectfully submitted,

Brent L. Christopherson, Chairman
Miles City Study Commission

Vernon R. Kailey, Chairman
Custer County Study Commission

II. SUMMARY OF RECOMMENDATIONS

The Miles City and Custer County Local Government Study Commissions, having thoroughly studied our present forms of city and county government and the alternative forms of government available under state law, and having studied our future governmental needs, recommend the following:

1. Miles City and Custer County should adopt a consolidated, commission-administrator form of government, with self-governing powers under a new Charter. A commission, or elected legislative body of six (6) members plus a chairperson, shall be elected for four (4) year terms of office. Commissioners shall be nominated from districts in which they reside and which are apportioned as compact and equal in population and area as possible. Commissioners shall be elected at large. The commission chairperson shall be nominated and elected at large for a four (4) year term.
2. The question on the alternative form of government shall be submitted to voters on November 5, 1996.

REVIEW PROCESS

Along with many other Montanans across the state, we have been involved in a 2-year process of reviewing our local governments as required by our State Constitution. This review process, as specified by the Legislature, involved a Study Commission for the City of Miles City, and another Study Commission for Custer County.

Initially, the two study commissions worked separately, each studying the present form and powers of its governmental unit. A thorough study was made of alternative local government forms detailed in a Local Government Review, 1994-1996 handbook provided to each study commission member.

In communication between the two study commissions, it soon became apparent that there was a strong feeling in both groups, supported by public hearings and citizen surveys, that consolidating the functions of the existing city and county governments under a Commission-Administrator form with self-government ("Charter") powers would best serve attainment of the following goals:

MAJOR GOALS

- (1) To give locally elected government officials more authority and flexibility in determining matters of local government concern than is currently possible under state statutes. We believe that local citizens are both more responsive and accountable to local needs than officials elected or appointed at the state level of government. The greater merit of local decision making is recognized in the broad grant of local government authority to those communities which organize themselves under the Charter provisions of Article XI of the State Constitution.
- (2) To provide for an improved combination of needful governmental services to our people as citizens, at the lowest possible cost to our people as taxpayers. We believe that there is wasteful cost in the duplication of services as currently exists in two separate local governments for our small population, and that our tax dollars can be put to more efficient use in providing necessary services under a consolidated city-county government.
- (3) To maintain the traditional close relationship between local citizens and their government -- by establishing a commission of six (6) members, plus a commission chairperson elected at large. We believe that the commission thus established will preserve the close personal ties that should exist between citizens and their local government representatives.

Toward these goals, the two study commissions determined to meet together in working toward the objective of a unified Charter form of consolidated government. Though meeting together to facilitate communication, members continued throughout the study to vote as the separate commissions to which they had been elected or appointed. In this way it was assured that both city and county study commissions approved the following recommendations for change:

KEY REVISIONS OF THE PROPOSED FORM

- (1) Acquisition of local self-government powers under a Charter.

Acquisition of self-government powers under a Charter enables locally elected government officials to function with more authority and flexibility in dealing with matters of local concern. The proposed Charter, which follows on pages 13-23, establishes a locally written document of government which best meets our local needs under state constitutional provisions while preserving legislative safeguards.

Under the 1972 State Constitution, the potential power and authority of local government has been changed. Traditionally, power over local governmental concerns has been the prerogative of the state legislature, which decided what local governments should do and how to do it.

The new constitution provides that "self-government powers" can be adopted by counties, along with an alternative form of government. With self-government power, certain areas of control would be transferred from the state legislature to the proposed Miles City-Custer County Commission. Many decisions that are now made on a state-wide basis by the legislature could be made at the county level. State wide uniformity, while still mandated in certain areas, could be replaced in other areas with procedures tailored to the particular needs of Miles City-Custer County. Self-government powers would mean greater flexibility in shaping our local governmental structure, greater power to solve our own problems, and more responsibility to recognize and deal with these problems.

- (2) Complete unification of the city and county under a consolidated local government.

Complete unification under a consolidated local government recognizes that there is one community of citizens within Miles City and Custer County. The small size of this community of citizens cannot long support the duplicative nature of two forms of local government and their personnel staffs without a serious diminishing of important services. Unification promises greater economy, efficiency, and tax and services equity among the citizens of this community.

The plan for consolidation grants the legislative body (commission) of the consolidated government authority to determine policy and provide for the implementation of its policies through the enactment of ordinances. The plan provides for the adjustment of existing bonded indebtedness and other obligations in a manner that assures a fair and equitable burden of taxation for debt service. It provides for the establishment of subordinate service and special improvement districts, and for the absorption of existing subordinate service and special improvement districts. The plan establishes the official name of the consolidated local government: "Miles City-Custer County."

- (3) Adoption of the Commission-Administrator form of administration for the consolidated government.

The goals of local government improvement are enhanced when unification and consolidation are coupled with a Commissioner-Administrator form of administration which combines competent, efficient, professional administration with responsive elected representative leadership.

The traditional structure of a three-member commission and seven separate elective offices places the commissioners in the awkward position of being responsible for county government, yet having no effective control over seven elected county officials who are not required to conform to recommendation, direction, or official action of the commission. The traditional structure also requires the three-member commission to act as both legislature and executive for county government, without the "checks and balances" that are elsewhere preserved as an important balance of governmental powers.

In the proposed form of government a commission of six members plus a commission chairperson will act as a legislative body with power to formulate policy, and will have authority to enact ordinances to carry out their policies. The responsibility of administering and enforcing these ordinances lies with the administrator.

The administrator, a professional hired by the commission "on the basis of merit only," is responsible for the administration of the programs and policies determined by the commission. Subject to the commission's general direction, the administrator controls the hiring and firing of county personnel, directs and supervises the administration of all departments, prepares the budget, and is in charge of the business affairs of the consolidated government. The administrator serves at the pleasure of the commission and may be replaced at any time.

The plan for a Commission-Administrator form of administration for the consolidated government provides for the adjustment of commissioner district boundaries to assure fair and equitable representation of the citizens of Miles City-Custer County.

SUMMARY COMMENTS

These goals and their related changes in our form of local government are not recommended lightly. Members of the study commissions have labored long and diligently, devoting many hours to detailed study and analysis to identify the form of government that would best serve our citizens into the 21st century and beyond.

We know that it is difficult to change tradition. The "traditional" forms of government in Miles City and Custer County are basically the same as described in the 1889 State Constitution, reflecting their "traditional" roles as administrative arms of the state government. Local government duties are detailed in state law, and authority to deal with local problems is limited.

We are also keenly aware that change in local government is "uncomfortable" unless there is a crisis of some sort that forces such change -- and that many feel that our current problems and challenges have not yet reached crisis proportion. However, it is not likely that a local government "crisis" will coincide with the opportunity to review and change our government form that comes only in 10-year cycles. But the potential for crisis looms ever closer, as the gap widens between

necessary or desired government services provided by duplicative personnel staffs and our ability to pay the increasing cost of such services and personnel staffs.

We strongly believe that the changes recommended herein are a responsible approach to enabling our citizens to deal with issues of local government concern before they reach crisis proportions, and that now is the time to prepare for those situations that will most certainly confront us in the not too distant future.

III. COMPARISON OF THE EXISTING FORMS OF GOVERNMENT AND THE PROPOSED FORM OF GOVERNMENT

Description of the General Characteristics of the Existing Form of Miles City Government

The City of Miles City operates under the form of government specified under the provisions of 7-3-113, MCA, with options detailed in Part 2, 7-3-201 through 7-3-224, MCA.

The City is governed by a Commission-Executive ("Council-Mayor") form. The City Council is comprised of eight (8) district ("Ward") Council members, with 2 council members representing each of four (4) districts, elected for four-year overlapping terms. The districts are apportioned by population, and Council members must reside in the districts from which they are elected. Council member elections are non-partisan.

A Chairman of the City Council is elected by members of the Council from their own number for a term established by ordinance.

Community councils to advise Council members may be authorized by ordinance.

The city exercises general government powers as defined in state statutes, with the Mayor responsible for carrying out the duties of the executive.

The Mayor is elected at large for a four-year term. From November 1986 to June 1992 the city was governed under a Council-Manager form, with five (5) council members, each representing a separate Ward. However, in June 1992, a special election resulted in a return to the former Council-Mayor form.

In the role of executive, the Mayor exercises the following functions and powers:

- (1) Serves as the presiding officer of the Council, decides all tie votes of the Council, but shall have no other vote.

- (2) May appoint one or more administrative assistants to assist him in the supervision and operation of the local government, with such assistants answerable solely to the Mayor.
- (3) May appoint, with the consent of a majority of the Council, all department heads and remove department heads and may appoint and remove all other department employees.
- (4) May veto ordinances and resolutions, subject to override by a two-thirds vote of the Council.
- (5) Prepares the city budget in consultation with the Council and department heads.
- (6) Exercises control and supervision of all departments and boards to the degree authorized by ordinance of the Council.

In addition to the Mayor and Council Members, a city financial officer ("City Treasurer") is also elected for a four-year term.

Appointed City Officers include:

- Chief of Police
- City Clerk
- Director of Public Works
- Director of Public Utilities
- Fire Chief
- Managerial Assistant
- Water/Waste Plant Supervisor

Description of the General Characteristics of the Existing Form of Custer County Government

Custer County operates under a form of government specified under the provisions of 7-3-111, MCA, with options detailed in Part 4, 7-3-401 through 7-3-442, MCA. This form is basically the same as described in the 1889 State Constitution. In structure and powers it reflects its role as an administrative arm of state government. The legislative function of county government essentially resides with the State Legislature.

A three (3) member Board of County Commissioners is elected by the voters of the county for four-year overlapping terms. Each commissioner must reside in the district he or she represents, but commissioners are elected at large. Commissioner elections are non-partisan elections.

The commissioners serve as the executive branch of the county government and are responsible for the administration of the business affairs of the county as outlined in state law. They also have the responsibility to appoint members of boards and commissions and any department heads who are not elected.

Under the existing form of government, county commissioners have rather limited authority to supervise officials and employees of the county government. They can supervise those whom they appoint, but the only control they have over departments headed by elected officials is through the county budget.

In addition to the three commissioners, there are seven other elected officials under the existing form of county government. They are:

Clerk and Recorder
Clerk of District Court
County Attorney
County Superintendent of Schools
Public Administrator
Sheriff/Coroner
Treasurer/Assessor

No qualifications
Note: Excepting for County Attorney and County Superintendent of Schools, there are no required qualifications for persons holding these elected offices.

The salaries as well as the powers and duties of these elected officials are determined by state law under the existing form, and each official is nearly independent from the supervision of the commissioners or any other central administrative authority.

Major services provided by the county under the existing form include:

Agricultural and rural services (county fairs, Cooperative Extension Service, weed, insect, rodent, and predator control programs, and rural fire protection)
Elections
Financial Administration
Parks
Planning and development
Public safety and judicial administration (law enforcement, county attorney, and justice courts)
Record keeping functions
Recreation
Roads and Bridges maintenance
Social Services (welfare, health, nursing home, ambulance services)

Under the existing form of government, Custer County operates with limited powers, having only those powers specifically granted to them by the state legislature. If there is any doubt as to the existence of a local government power, the power is denied.

Description of General Characteristics of the Proposed Form of City-County Government

Self-Government Powers under a Charter:

Under provisions of the 1972 Montana Constitution and state laws passed in 1975, voters in Montana counties, through proposals of their local government study commissions, can choose a different kind of power and authority for their county government. This arrangement of state-local power sharing is called "self-government powers." Self-government powers means that a local government with those powers can take any action or engage in any activity unless specifically prohibited by the state or U.S. Constitution, state law, or local charter. Essentially, this is a reversal of the old rules regarding local government powers. There is no need for a grant of powers, since the local government is free to act unless specifically prohibited.

In a law adopted in 1975, the state legislature reserved certain powers and functions to the state, mostly relating to the necessity of state-wide uniformity in such areas as the conduct of elections, law affecting private or civil relationships, fish and game, etc., or to safeguard "due process" and individual rights of citizens of the state.

But even with these limitations, local governments adopting self-government powers will have the freedom to determine their own internal structure, including: departments, boards, bureaus and commissions; and to determine the type, level, and method of providing services such as roads, health services, fire and police protection, libraries, parks, water and sewer services, and solid waste disposal.

Unification of the City and County under a Consolidated Government:

Under the proposed form, all functions of the former Miles City and Custer County governments would be consolidated under the Miles City-Custer County government.

Policy-making and Administrative Structure under a Commission-Administrator form:

Under the proposed form, the commission would make policy, pass ordinances and resolutions, review, modify, and approve the budget, determine the department structure of city-county government, appoint boards, and place their functions under direction of the administrator. The commission also appoints the administrator and can replace him or her at any time.

The administrator is responsible for carrying out the policies that are set by the commission. He/she would prepare the budget, hire and fire employees (except as provided by law or ordinance), and supervise all departments. The administrator would provide centralized administration and county-wide coordination of government operations.

Under the proposed form, administrative responsibility and authority are centralized under the office of the administrator. There are no elected administrators; only policy-makers are elected. The commissioners are the policy-makers and the legislative body of city-county government. They appoint the administrator and the administrator carries out and administers the policies and ordinances of the commission. The administrator has no vote on the commission and no veto authority over commission ordinances and resolutions. The administrator is responsible to the commission and may be replaced at any time by the commission. Accountability and responsibility to the public is thus pinpointed in the commission and its administrator.

Comparison of Specific Characteristics of Existing and Proposed Forms of Government

The chart on the following pages compares specific characteristics of the existing forms of city and county government with the proposed form of government.

COMMISSION AND MAYOR COUNCIL FORMS OF GOVERNMENT WITH CONSOLIDATED CITY-COUNTY ADMINISTRATOR FORM

**CUSTER COUNTY AND CITY OF MILES CITY
COMPARISON OF SPECIFIC CHARACTERISTICS OF THE**

CHARACTERISTIC	PRESENT COUNTY FORM OF GOVERNMENT	PRESENT CITY FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	EVALUATIVE COMMENTS
Form of Government	COMMISSION FORM Merges legislative, administrative and executive functions in commission.	COMMISSION EXECUTIVE FORM Elected commission (council) determines policy. Elected mayor administers policy.	CHARTER with CITY-COUNTY ADMINISTRATOR FORM Elected commission determines policy. Administrator hired to administer policy.	Separation of legislative and administrative responsibilities. Administrator appointed on basis of experience and training.
Powers	GENERAL GOVERNMENT POWERS State law defines what government may do and specifically how it shall do it. Little power to pass ordinances.	GENERAL GOVERNMENT POWERS State law defines what government may do and specifically how it shall do it.	SELF-GOVERNMENT POWERS City-county government shall exercise any power which the state does not deny. Legislative power is vested in the Commission.	Self-government powers bring to the county the power to act in its own best interest, and flexibility in shaping government structure.
Governing Body Size	3 commissioners nominated by district, elected at-large.	8 member council, 2 elected from each of 4 wards in which they reside.	6 member Commission, nominated from district in which each resides, elected at-large.	Increase in the size of the city-county commission will allow greater representation. District representation assures the commission viewpoints from all sections of the county. Commissioners elected at-large will offer county-wide perspective.
Election	Nonpartisan	Nonpartisan	Nonpartisan.	Local government issues tend to be non partisan. Commission can concentrate on efficient delivery of services.
Term	4-year overlapping terms	4-year overlapping terms	4-year overlapping terms	Continues 4-year terms previously approved by county voters.
Presiding Officer	Chairman--Elected from own members.	Mayor presides, has executive authority.	Chairman--Elected at large, votes only in case of a tie.	Chairman presides at commissions, has no executive authority.
Duties	Commission is responsible for executive and many administrative functions. Administrative powers are shared with other elected officials.	Council is the legislative/policy making body.	Commission is the legislative/policy making body. Hires a professional administrator to administer all departments.	Commission is freed from administrative responsibilities to concentrate on policy-making role.

COMPARISON OF SPECIFIC CHARACTERISTICS

CHARACTERISTIC	PRESENT COUNTY FORM OF GOVERNMENT	PRESENT CITY FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	EVALUATIVE COMMENTS
Other Elected Officials	COMMISSION FORM 7 elected officials Clerk & Recorder County Attorney Sheriff/Coroner Treasurer Clerk of Court Public Administrator Superintendent of Schools	COMMISSION EXECUTIVE One elected official: Treasurer	CHARTER with CITY-COUNTY ADMINISTRATOR FORM One elected official: County Attorney	Formerly independent offices are brought under the supervision of the administrator. Qualifications for offices can be established.
Chief Administrative Officer	None. Administrative responsibility shared by commissioners, elected officials, and various boards.	Directs and supervises the administration of all departments.	The hired administrator administers government on a full time basis.	Better overall coordination is possible with clear lines of authority and responsibility.
Appointment Powers	Commission appoints department heads who are not elected, members of boards, commissions, special districts.	The mayor appoints department heads and members of boards and commissions with the consent of the council.	Commission appoints and removes the administrator and members of boards and commissions. The administrator appoints and removes department heads (subject to commission approval) and employees and appoints temporary advisory committees.	Department heads are appointed on basis of qualifications. Responsible to city-county administrator. Members of boards and commissions continue to be appointed by the commission.
Budget Preparation	Clerk & Recorder prepares budget with officials and departments. It is modified and/or approved by commission.	Mayor prepares budget in cooperation with department heads. Budget is then modified and approved by the city council.	Administrator prepares the budget. Commission modifies and/or approves it.	Administrator can balance priorities set by commission with available county-wide resources, also balance needs of individual departments with overall needs and resources of county.
Service Delivery Structure	Performed by elected offices and appointed boards, commissions and special districts.	Performed by mayor, council and city departments.	Government activities could be grouped into fewer departments on the basis of function. Services performed by the departments are under the supervision of the city-county administrator.	Many functions now performed by independently elected offices or independent boards are brought under supervision of a professional administrator and commission control.

**CERTIFICATE
ESTABLISHING THE PROPOSED CHARTER PLAN OF GOVERNMENT
FOR
MILES CITY - CUSTER COUNTY**

PREAMBLE

We, the people of the City of Miles City and Custer County, state of Montana, to preserve equality of opportunity and freedom to determine our own destiny, and to enable future generations to maintain and improve upon the quality of life we have long enjoyed in the open spaces of this peaceful and beautiful portion of the state, do hereby adopt this Charter in accordance with Article XI, Section 5 of the Constitution of Montana.

**ARTICLE I
GENERAL PROVISIONS**

Section 1.01 Name

The name of this local government shall be Miles City-Custer County.

Section 1.02 Status

Miles City-Custer County shall have the status of an incorporated municipality and a county.

Section 1.03 Charter Supremacy

As provided by Article XI, Section 5 of the Constitution of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

**ARTICLE II
POWERS OF MILES CITY-CUSTER COUNTY**

Section 2.01 Powers of Miles City-Custer County

The consolidated government of Miles City-Custer County shall have and may exercise all powers that are conferred on cities and counties by the Constitution and laws of the state of Montana.

Section 2.02 Interpretation of Powers

The self-government powers of this consolidated government shall be liberally construed. Every reasonable doubt as to the existence of a city or county power or authority shall be resolved in favor of the existence of that power or authority.

Section 2.03 Restrictions

The mill levy shall be limited to that of Montana city and county governments with general government powers, except with the prior approval of a majority of the electors voting on the question in a general or special election.

ARTICLE III CITY-COUNTY COMMISSION

Section 3.01 Legislative Branch

The legislative branch shall consist of the commission which shall be the governing body of Miles City-Custer County.

Section 3.02 Composition

Miles City-Custer County shall have a commission of six (6) members and a Chairperson. Commissioners and the commission chairperson shall serve on a part-time basis only.

Section 3.03 Qualifications for Office

Every resident of Custer County who is 18 years of age or older and a citizen of Montana is eligible to hold the office of commission chairperson or commissioner for the district in which he or she resides..

Section 3.04 Term of Office

1. Members of the commission shall be elected for four-year overlapping terms of office.
2. The commission chairperson shall also be elected for a four-year term of office.

Section 3.05. Elections

1. Local government elections shall be conducted on a nonpartisan basis.
2. Candidates for the commission shall be nominated by district and shall reside in the commission district they seek to represent at the time of nomination and during the term of office.
3. Commissioners and the commission chairperson shall be elected at large.

Section 3.06. Commission Districts

Following each federal decennial census the commission shall cause the county to be divided into six (6) commissioner districts as compact and equal in population and area as possible.

Section 3.07 Vacancy in Office

The offices of Commissioner and commission chairperson become vacant as prescribed by law.

Section 3.08 Removal from Office

deleted
A commissioner or commission chairperson may be removed from office by a finding, adopted by the affirmative vote of four (4) commissioners, that his or her office has become vacant as prescribed by law, or by the recall of the commissioner or commission chairperson by the electors of Miles City-Custer County, as prescribed by law.

Section 3.09 Filling Vacancy on Commission

When a vacancy occurs in the office of commissioner or commission chairperson, the position shall be considered open and subject to nomination and election at the next general county election, except the term of office shall be limited to the remainder of the unexpired term. Pending such election and qualification the commission shall, within thirty (30) days of the occurrence of the vacancy, appoint, by the affirmative vote of four (4) commission members, a qualified citizen to serve until a successor is elected and qualified.

Section 3.10 Commission Chairperson

The commission chairperson shall be nominated and elected at large. The chairperson shall:

1. Preside at commission meetings, but shall not vote except in case of tie.
2. Represent the consolidated government of Miles City-Custer County at state and local meetings and functions as are appropriate and/or as requested by the commission.

removed for the determination of vacancy in municipal office

of 10 commissioners, 2 are recalled, 8 are vacancies

would be a joint meeting w/ council requested voters

Section 3.11 Powers and Duties

1. The commission shall be the legislative and policy determining body of Miles City-Custer County. All governing powers shall be vested in the commission except as otherwise provided by law or this Charter, and the commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed by law or this charter.

2. All members of boards, other than temporary advisory committees established by the administrator, shall be appointed by the commission.

3. The commission shall establish required qualifications for the administrator and shall approve the required qualifications of all appointed department heads of the government. The commission shall approve the appointment or removal of department heads.

4. The commission shall establish a process of performance review for the administrator and shall conduct such performance review annually. The commission shall annually report to the public its assessment of the administrator's performance, as permitted by law.

5. The commission shall review the annual administrator's performance evaluation of department heads.

Section 3.12 Legislative Action

The affirmative vote of four (4) members of the commission shall be required for all official actions of the commission. A minimum of four (4) commission members must be present when official actions are taken by the commission.

Section 3.13 Procedure

The commission, by resolution, shall establish its rules of procedure, set the time and place of regularly scheduled meetings, and provide for the calling of special meetings that may be required. The commission shall meet at least monthly.

Section 3.14 Compensation of Commission Members and Commission Chairperson

1. The compensation of commission members and the commission chairperson shall be commensurate with their part time role and functions, and shall be set by ordinance

2. Any increase in the compensation of commissioners, the commission chairperson, and elected officers shall take effect on the first day of the fiscal year following the next general election.

ARTICLE IV EXECUTIVE

Section 4.01 The Administrator

The administrator shall be appointed by the commission for an indefinite term on the basis of merit only, and shall only be removed by the affirmative vote of four (4) members of the commission.

Section 4.02 Duties of the Administrator

The Administrator shall:

1. Enforce laws, this charter, ordinances, and resolutions;
2. Perform the duties required by law, charter, ordinance, or resolution;
3. Administer the affairs of the consolidated government;
4. Direct, supervise, and administer all departments, agencies, and offices of the local government unit except as otherwise provided by law, charter or ordinance;
5. Carry out policies established by the commission;
6. Prepare the commission agenda;
7. Recommend measures to the commission;
8. Report to the commission on the affairs and financial condition of the consolidated government;
9. Execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
10. Report to the commission as the commission may require;
11. Attend commission meetings and may take part in the discussion, but may not vote;
12. Prepare and present the budget to the commission for its approval and execute the budget adopted by the commission.
13. Recommend the appointment, suspension, or removal of department heads to the commission.
14. Appoint, suspend, and remove all employees of the consolidated government as provided by law or ordinance; *other*
15. Appoint members of temporary advisory committees established by the administrator.
16. Conduct annual performance reviews of all department heads.

Section 4.03 Administrative Duties

Employees appointed by the administrator and his or her subordinates shall be responsible to the administrator. Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the administrator or any of his or her subordinates are empowered to appoint. Except for the purpose of inquiry or investigation under this charter, the commission or

its members shall deal with the employees who are subject to the direction and supervision of the administrator solely through the administrator, and neither the commission nor its members may give orders to any such employee, either publicly or privately.

Section 4.04 Compensation

The compensation of the administrator, department heads, and other government employees shall be set by ordinance.

ARTICLE V JUDICIAL

Section 5.01 City-County Courts

There shall be such City and County courts as are provided by law.

ARTICLE VI DEPARTMENT STRUCTURE

Section 6.01 Elected County Attorney

The county attorney, whose powers and duties are prescribed by law, shall be elected.

Section 6.02 Qualifications for Office of County Attorney

The qualifications for the office of county attorney shall be as prescribed by law.

Section 6.03 Vacancy in Office of County Attorney

The office of county attorney becomes vacant as prescribed by law. When a vacancy occurs in the office of county attorney the position shall be considered open and subject to nomination and election as prescribed by law. Pending such election and qualification the commission shall, by the affirmative vote of four (4) commissioners, appoint a person possessing the qualifications for office required by law and this charter within 30 days of the vacancy to hold office until a successor is elected and qualified.

Section 6.04 Removal of County Attorney from Office

An elected county attorney may be removed from office by a finding, adopted by the affirmative vote of four (4) commissioners, that his or her office has become vacant as prescribed by law, or by the recall of the county attorney by the electors of Miles City-Custer County, as prescribed by law.

Section 6.05 Organization of Other Departments

The organization of all other city-county departments shall be prescribed by ordinance. Qualifications of appointed department heads and other department employees shall be prescribed by ordinance.

Section 6.06 Compensation

Compensation of elected and appointed department heads and employees shall be set by ordinance.

ARTICLE VII OTHER PROVISIONS

Section 7.01 Amendment of Charter

This Charter may be amended only as prescribed by state law.

Section 7.02 Effective Date

This Charter shall become effective at the time the new officers of government are sworn into office.

Section 7.03 Recall

The elected officers of the consolidated government may be recalled by the qualified electors of Miles City-Custer County as provided by law. No person may be recalled for performing a mandatory duty of the office or for not performing any act that, if performed, would subject him or her to prosecution for official misconduct.

Section 7.04 Oath of Office

Before assuming the duties of office, all elected Miles City-Custer County officials shall take and subscribe to the oath of office as prescribed in Article III, Section 3 of the Constitution of Montana.

Section 7.05 Severability

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

**ARTICLE VIII
TRANSITIONAL PROVISIONS**

Section 8.01 General Transition

Transition to this charter form of government shall be as prescribed by law. The Custer County and Miles City Study Commissions may provide for such transition with an advisory plan consistent with law. Article VIII and its transition provisions shall not be published as a part of the Charter after one year from its effective date.

Section 8.02 Continuation in Office

1. All current Miles City or Custer County employees may continue in the performance of their duties according to existing personnel procedures or until their positions are terminated. Employees whose positions are terminated shall be given first consideration for other Miles City-Custer County employment. City and county employees initially will be assigned duties based on seniority except that seniority will not necessarily determine departments heads. Non-elected department heads shall be recommended by the administrator on the basis or merit, including knowledge and experience in the former city and county governments. All rights and benefits of city and county employees shall be recognized by this Charter.

2. Elected county officers other than the county commissioners and county attorney may continue in the performance of their duties until the expiration of their term of office, at which time their elected offices shall be abolished.

3. The Custer County commission and Miles City mayor and council members may continue in office and in the performance of their duties until the new city-county governing body is elected, qualified, and sworn into office, at which time the previous county and city governing bodies are abolished.

The County attorney may continue in office and the purpose of his duties until expiration of the term of office.

The election qualified and the successor is elected qualified and sworn into office as a result of 2019 general election.

Section 8.03 Review of Existing Ordinances

Each rule, ordinance, or resolution of the Miles City and Custer County governments shall remain in force within those former jurisdictions until superseded by action of the commission. The commission shall revise, repeal or reaffirm all such rules, ordinances, and resolutions within one year following the effective date of the charter.

Section 8.04 Control of Property

Miles City-Custer County shall be vested with and shall hold, own, and control all rights and property of every kind and nature, including claims and franchises owned or controlled by the former city and county governments on the effective date of this Charter. It shall be subject to all debts, obligations, contracts, and liabilities of the former city and county governments in force on the effective date of this Charter.

Section 8.05 General Obligation Bonded Indebtedness

All general obligation indebtedness shall remain payable from the jurisdiction subject to the indebtedness.

Section 8.06 Revenue Bond or Special Fund Indebtedness

Revenue bond or special fund indebtedness not involving a general obligation of the former city and county governments shall continue in effect and be payable according to the terms of such indebtedness.

Section 8.07 Initial Implementation Procedures

1. If the proposed government form is approved by electors on November 5, 1996, the following schedule of implementation processes shall obtain:

September 1997 ----- A primary election for commissioners and commission chairperson to be held concurrent with municipal primary elections.

November 1997 ----- The final election of commission members and the commission chairperson to be held concurrent with the general election.

January 1998 ----- On the first Monday of January, 1998, the newly elected commission members and the commission chairperson shall be sworn into office and conduct the first meeting of the commission to establish regular meeting dates, initiate the process for the appointment of an interim administrator, and set the agenda for the next meeting.

2. Notwithstanding the provisions of section 3.04 of the charter, the commissioners shall draw lots to establish three (3) initial terms of office of three (3) years and three (3) initial terms of five (5) years to establish a pattern of overlapping terms. Thereafter, terms of office shall be four (4) years.

3. Notwithstanding the provisions of section 3.04 of the charter, the commission chairperson shall serve an initial term of three (3) years. Thereafter, the term of office shall be four (4) years.

Section 8.08. Compensation of Commission Members and Commission Chairperson

Each newly elected commissioner shall receive an initial salary of \$300 per month, and the commission chairperson \$500 per month, until changed by ordinance.

Section 8.09. Appointment of Administrator and Preparation of Personnel System

1. The commission shall appoint an interim administrator within ninety (90) days of the first meeting of the commission.

2. The commission shall appoint an administrator at the earliest practical date.

3. Within one year of the appointment of the administrator, the administrator shall prepare and submit a personnel system to the commission for review, amendment, and adoption by ordinance. The personnel system shall not be in violation of any union collectively bargained contract in force at the time of adoption of said system. The method and schedule for implementation of the personnel system shall be provided in the ordinances adopting them.

Section 8.10 Service Districts

The service districts now established within the City of Miles City and within Custer County shall remain in effect until they are changed as provided in this Charter.

Section 8.11 Transitional Committee

To facilitate the orderly transition to the new charter government, it is recommended that a transition advisory committee be established to advise and assist the new charter government commission in needful transition matters not specified in the above paragraphs of Article VIII for a period not to exceed one (1) year from the effective implementation date. The transition advisory committee shall be appointed by the commission.

We the Study Commissioners of Custer County and the City of Miles City do hereby certify that this is the proposed plan of government approved by the Study Commissions of Custer County and the City of Miles City.

SEAL

In testimony whereof, we set our hands. Done at Miles City, Montana this _____ day of _____, 1996.

Miles City Study Commission

Custer County Study Commission

Brent L. Christopherson, Chairman

Vernon R. Kailey, Chairman

Al Homme, Vice Chairman

John K. Uden, Vice Chairman

Scott Elder

Karl J. Muri

Ernest M. (Mike) Metzenberg

Bill Bickle

Beth A. Wiedeman

William C. Nicol

ATTEST:

Patricia D. Huss, City Clerk

Beth Ann Milligan, County Clerk

SUMMARY OF CHARTER PROVISIONS BY ARTICLE

ARTICLE I: GENERAL PROVISIONS

- (1.01) Establishes the name Miles City-Custer County for the new charter government.
- (1.02) Defines the new charter government status as having the combined authority of both an incorporated city and a county.
- (1.03) Provides charter supremacy over state local government statutes as per Article XI, Section 5 of the Montana Constitution.

ARTICLE II: POWERS OF MILES CITY-CUSTER COUNTY

- (2.01) Establishes the consolidated charter government of Miles City-Custer County as having all powers and authority given to both cities and counties by the state constitution and legislative statutes.
- (2.02) Provides for the liberal interpretation of charter government powers; that the charter government has all local governmental powers and authority not specifically denied it by the state constitution or statutes; and that all questions arising will be resolved in favor of the local charter government authority.
- (2.03) Restricts the otherwise open-ended grant of local charter government authority by limiting mill levy/taxing levels to those established by the state for cities and counties; with continued options for voted levies as presently provided by law.

ARTICLE III: CITY-COUNTY COMMISSION

- (3.01) Establishes a commission as the governing body of the new charter government.
- (3.02) Defines the commission as having six (6) part-time commissioners and a part-time chairperson.
- (3.03) Defines every citizen of the county 18 years of age or older as eligible to be elected as commission chairperson or as a commissioner from the district in which they reside.
- (3.04) Establishes 4-year terms of office for commissioners; terms to be overlapping (staggered) to assure continuity of experience on the commission. The Commission chairperson also elected for a 4-year term.
- (3.05) Provides for non-partisan local government elections; commissioners to be nominated by district, with district residency requirements; commissioners and commission chairperson to be elected at large.
- (3.06) Establishes six commissioner districts as compact and equal in population and area as possible.

- (3.07) States that commissioner and commission chairperson vacancies occur as defined by state law.
- (3.08) Describes the process of removing a commissioner or commission chairperson from office under the provisions of state law.
- (3.09) Provides a process for temporarily filling a commissioner or commission chairperson vacancy by appointment.
- (3.10) Provides for the election and term of office of the commission chairperson, and specifies the functions of the office.
 - [1] Presides at commission meetings, but does not vote except in case of tie.
 - [2] Represents the consolidated government at meetings and other functions.
- (3.11) Lists and defines the powers and duties of the commission:
 - [1] Legislative and policy determining body; exercises governing powers established by the charter.
 - [2] Appoints members of boards.
 - [3] Establishes qualification of office for the administrator and approves the qualifications of all appointed government department heads; approves the appointment, suspension, or removal of appointed department heads..
 - [4] Establishes and conducts annual performance evaluations for the administrator and appointed department heads.
- (3.12) Requires four (4) affirmative votes for all actions of the commissioner; requires four (4) commissioners to be present when official actions are taken.
- (3.13) Provides for the commission to establish its rules of procedure; set the time and place of regular meetings; and call special meetings as required. The commission to meet at least monthly.
- (3.14) Compensation for commissioners set by ordinance; to be commensurate with their part-time role and function. Any increase in salaries do not take effect until the first day of the fiscal year following the next general election.

ARTICLE IV: EXECUTIVE

- (4.01) Provides that the administrator is appointed by the commission for an indefinite term on the basis of merit only, and is removed only by the affirmative vote of four (4) members of the commission.
- (4.02) Enumerates the specific duties and functions of the administrator.
- (4.03) Establishes the authority of the administrator over government employees.
- (4.04) Compensation of the administrator, department heads, and other government employees are set by ordinance.

ARTICLE V: JUDICIAL

- (5.01) Provides for the establishment of such City and County courts as are provided by law.

ARTICLE VI: DEPARTMENT STRUCTURE

- (6.01) Provides for the election of the County Attorney.
- (6.02) States that the qualifications for the office of county attorney are prescribed by law.
- (6.03) A vacancy in the office of county attorney occurs as prescribed by law. Provides for the filling of the vacancy by temporary appointment.
- (6.04) Provides for the removal of a county attorney as prescribed by law, or by recall by electors.
- (6.05) Provides for the organization of other city-county departments by ordinance, with qualifications of department heads and other employees also prescribed by ordinance.
- (6.06) Provides that compensation of elected and appointed department heads and employees shall be set by ordinance.

ARTICLE VII: OTHER PROVISIONS

- (7.01) Provides for the amendment of the Charter as prescribed by state law.
- (7.02) Establishes an effective date for the implementation of the Charter.
- (7.03) Provides for the recall of elected government officers as prescribed by law.
- (7.04) Requires all elected government officials to take and subscribe to the oath of office prescribed in the Montana Constitution.
- (7.05) Provides for “severability” of any provision of the Charter that may be determined to be invalid; such determination does not apply to other Charter provisions.

ARTICLE VIII: TRANSITIONAL PROVISIONS

- (8.01) Transition to the new Charter government shall be as prescribed by law; a transition advisory plan to be provided; transition provisions to expire one (1) year following the implementation of the Charter.
- (8.02) Existing city and county officials and employees, excepting the mayor, city council members, and county commissioners, shall continue in their positions until officially reassigned or terminated. All rights and benefits of city and county employees are recognized under the Charter.
- (8.03) Existing rules, ordinances, and resolutions of city and county governments remain in force within those former jurisdictions until superseded by action of the commission, which shall revise, repeal, or reaffirm all such rules, ordinances, and resolutions within one year of the effective date of the Charter.
- (8.04) The new Charter government shall hold, own, and control all rights and properties owned or controlled by the former city and county governments; and shall be subject to all debts, obligations, contracts, and liabilities of the former city and county governments.
- (8.05) All general obligation indebtedness remains payable from the jurisdiction subject to the indebtedness.

- (8.06) Revenue bonds or special funds indebtedness under the former city and county governments continue in effect and are payable according to the terms of such indebtedness.
- (8.07) Provides implementation procedures for the Charter government; establishes a calendar for the primary and final election of commissioners and commission chairperson and the implementation date of the new government. Provides for varying initial terms of commissioners and the commission chairperson to fix the pattern of overlapping terms thereafter.
- (8.08) Fixes the initial salaries of commission members and the commission chairperson, until changed by ordinance.
- (8.09) Provides for the appointment of an interim administrator within 90 days of the first commission meeting; for appointing an administrator at the earliest practical date; for the preparation by the administrator of a government personnel system; and for the adoption of a personnel system by the commission.
- (8.10) Provides that existing city and county service districts shall remain in effect until changed as provided in the Charter.
- (8.11) Recommends the establishment of a 1-year transition advisory committee to advise and assist the new charter government; such committee to be appointed by the commission.

MINORITY REPORT

The purpose of the Minority Report is to present the minority's view of the study commission process, the findings of the study commission, and the conclusions reached. Although there are areas of agreement between the majority and minority report, the minority report recommends that the voters do not support adoption of the proposed alternative form of government for the following reasons:

- (1) The proposed alternative requires the consolidation of Custer County and the City of Miles City.
- (2) The proposed alternative establishes a part-time council which selects a city/county administrator. The administrator has broad powers to run the city/county; i.e., weak council/strong administrator.
- (3) The proposed alternative removes the elected sheriff from county government. The proposed alternative replaces the office of sheriff with an official appointed by the administrator, subject only to commission approval, and accountable only to the administrator.

The work of the county study commission began with limited public hearings, meetings with county officials and a survey commissioned by the joint study commission. The initial research demonstrated, in the minority view, a general satisfaction with county government and its ability to operate efficiently and meet the community's expectations of service. Clearly, the survey commissioned by the study commission reported little public support to experiment again with an unelected city/county manager/administrator.

The county deserves a government that works well; a government that is both efficient and responsive to the wishes of the community. The traditional form of government should be discarded only if clearly persuasive and well-documented arguments can be made that it has ceased to work or is inefficient or unresponsive. The deficiencies of the present government should be documented in the public record of the study commission's work.

The study commission has failed in this respect. The majority report fails in this respect. The majority report asserts that the new form of government will be more responsive to the citizens, but it does not explain how this will be accomplished or why an appointed administrator is more responsive than an elected commissioner. The majority report asserts that the new form of government will be more efficient. However, the testimony heard and work done by the county study commission does not document how the county will be made more efficient or what implications this may have for the county employees or residents.

The majority report identifies three key changes. The minority position regarding these changes is described below.

(1) Acquisition of Local Self-Government Powers under a Charter.

The minority agrees that it is advantageous to the county for it to have self-government powers. Unfortunately, there is no way to support (or vote for) self-government powers without also voting for consolidation, city/county administrator, and the appointed versus elected sheriff. In the minority opinion, the advantages of self-government powers do not outweigh the disadvantages of the charters's provisions.

(2) Unification of the City and County under a Consolidated Government.

The minority does not support adoption of a consolidated city/county government for the following reasons:

(a) Special taxation districts allow property owners to only be taxed for services they have reasonable access to. The proposed charter does not provide for taxation districts; therefore, property in Kinsey or Volborg will be taxed just like property in Miles City to support Miles City services not realistically available in these areas. Although the proposed council would have the power to create special taxation districts, they are not required to do so under the charter; there are no guarantees they would do so.

(b) Zoning, planning, nuisance and similar ordinances will apply on a county-wide basis, not just to Miles City and its immediate area as is generally now the case. Although the council would have the ability to exempt rural areas, the charter does not require them to do so; there are no guarantees they will.

(c) Finally, consolidation raises many very complicated and important issues regarding personnel, eventual employment of department heads and supervisors, the salaries of displaced supervisors, and the equalization of city and county wage structures, all while protecting the terms of the city's union contracts. It is not the responsibility of the study commission to solve these issues. However, in the minority's opinion, the study commission has a duty to at least consider options to resolve these issues, their practicality and potential cost. To ask the voters to adopt consolidation without providing basic information of these issues is to ask the voters to make a decision based upon inadequate information.

(3) Adoption of the Commission-Administrator Form of Administration for the Combined Government.

The minority does not support adoption of an appointed administrator for the following reasons:

(a) The appointed administrator would not be as responsive to the public as the county's current structure of elected commissioners and elected officials.

(b) The study commission has not demonstrated that quality administrators can be recruited and retained by communities of our size and particularly at the salary suggested by some members of the majority.

(c) The people have clearly and decisively expressed their opinion on an appointed administrator. In the minority's opinion the survey, based largely on Miles City's prior experience, represents an informed opinion regarding the council-administrator form of government which should be respected by the study commission.

Finally, the charter calls for all currently elected county officials (except the county attorney) to be appointed and supervised by the administrator. This is of particular concern to the minority in the case of sheriff.

The sheriff has significant county-wide responsibilities to administer justice and outside the city limits of Miles City to enforce justice. In the minority opinion, the tradition of an elected sheriff has worked well for Custer County in part because the sheriff is directly accountable to the voters.

The proposed charter makes the office of sheriff accountable to the appointed administrator. The appointed administrator has the power to appoint, suspend, remove, and conduct performance reviews on the sheriff. The elected commission has the authority to approve the required qualifications for department heads including sheriff, and to approve the administrator's appointment. In the minority's opinion, the people lose any effective input into the operation of law enforcement in the consolidated government.

In closing, it has been a privilege to be part of this study process. It is regrettable that the final result of this process is not, in the minority's opinion, in the best interest of Custer County and its people. Therefore, this minority report recommends that the voters do not support the study commission recommendations.

I do hereby certify that this Minority Report has been prepared by me as a member of the Custer County Government Study Commission.

SEAL

In testimony whereof, I set my hand. Done at Miles City, Montana this ____ day of _____, 1996.

ATTEST:

Beth Ann Milligan, County Clerk

Bill Bickle, Minority Member
Custer County Study Commission

APPENDIX

CERTIFICATE ESTABLISHING THE EXISTING PLAN OF GOVERNMENT FOR THE CITY OF MILES CITY

If retained by the voters, the government of Miles City shall remain organized under the following provisions of 7-3-113, M.C.A. which authorizes the municipal council-mayor form of government.

7-3-113. Statutory basis for municipal council-mayor government.

(1) For the purpose of determining the statutory basis of existing units of local government, each unit of local government organized under the general statutes authorizing the municipal council-mayor form of government, which does not adopt a new form, shall be governed after May 2, 1977 by the following sections:

- (a) 7-3-201;
- (b) 7-3-202(1);
- (c) 7-3-203;
- (d) 7-3-212(2);
- (e) 7-3-213(3);
- (f) 7-3-214(2);
- (g) 7-3-215(2);
- (h) 7-3-216(2);
- (i) 7-3-217(1);
- (j) 7-3-218(2);
- (k) 7-3-219(2);
- (l) 7-3-220(1);
- (m) 7-3-221(3);
- (n) 7-3-222(2);
- (o) 7-3-223(2).

(2) This form has terms of 4 years for all elected officials. The size of the commission shall be established by ordinance, but it may not exceed 20 members.

These sections establish the following form of government which shall be called the COMMISSION-EXECUTIVE FORM.

7-3-201. Commission-executive form. The commission-executive form (which may be called the council-executive, the council-mayor, or the commission-mayor form) consists of an elected commission (which may be referred to as the council) and one elected executive (who may be referred to as the mayor) who is elected at large.

7-3-202. Nature of government. The plan of government submitted to the qualified electors shall determine the powers of the local government by authorizing general government powers.

7-3-203. Duties of the executive. The executive shall:

- (1) enforce laws, ordinances, and resolutions;
- (2) perform duties required of him by law, ordinance, or resolution;
- (3) administer affairs of the local government;
- (4) carry out policies established by the commission;
- (5) recommend measures to the commission;
- (6) report to the commission on the affairs and financial condition of the local government;
- (7) execute bonds, notes, contracts and written obligations of the commission, subject to the approval of the commission;
- (8) report to the commission as the commission may require;
- (9) attend commission meetings and may take part in discussions;
- (10) execute the budget adopted by the commission;
- (11) appoint, with the consent of the commission, all members of boards; except the executive may appoint without the consent of the commission temporary advisory committees established by the executive.

7-3-212. Administrative assistants. The executive may appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the executive.

7-3-213. Supervision of personnel. The executive may appoint, with the consent of a majority of the commission, all department heads and remove department heads and may appoint and remove all other department employees.

7-3-214. Veto power. The executive may veto ordinances and resolutions, subject to override by a two-thirds vote of the commission.

7-3-215. Preparation of budget. The executive may prepare the budget in consultation with the commission and department heads.

7-3-216. Administrative supervision and control. The executive may exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

7-3-217. Financial officer. A financial officer (who may be called the treasurer) shall be elected.

7-3-218. Selection of commission members. The commission shall be elected by districts in which candidates must reside and which are apportioned by population.

7-3-219. Type of election. Local government elections shall be conducted on a nonpartisan basis.

7-3-220. Chairman of commission. The commission shall have a chairman who shall be elected by the members of the commission from their own number for a term established by ordinance.

7-3-221. Presiding officer of the commission. The presiding officer of the commission shall be the executive, who shall decide all tie votes of the commission but shall have no other vote (the chairman of the commission shall preside if the executive is absent).

7-3-222. Terms of commission members. Commission members shall be elected for overlapping terms of office.

7-3-223. Size of commission and community councils. The size of the commission shall be eight (8), and community councils to advise commissioners may be authorized by ordinance.

7-3-224. **Terms of elected officials.** The term of office of elected officials shall be four (4) years.

We, the Study Commissioners of the City of Miles City do hereby certify that this is the existing Plan of Government as established by Section 7-3-113 M.C.A.

SEAL

In testimony whereof, we set our hands.

Done at Miles City, Montana this ____ day of _____, 1996.

ATTEST:

Patricia D. Huss, City Clerk

Brent L. Christopherson, Chairman

Al Homme, Vice Chairman

Scott Elder

Ernest M. (Mike) Metzenberg

Beth A. Wiedeman

**CERTIFICATE
ESTABLISHING THE EXISTING PLAN OF GOVERNMENT
FOR
CUSTER COUNTY, MONTANA**

If retained by the voters, the government of Custer County shall be organized under the following provisions of MCA 7-3-111 which authorizes the elected county official form of government;

7-3-111. Statutory basis for elected county official government.

(1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government shall be governed by the following sections:

- (a) 7-3-401;
- (b) 7-3-402;
- (c) 7-3-412(3);
- (d) 7-3-413(1);
- (e) 7-3-414(1);
- (f) 7-3-415(2);
- (g) 7-3-416(2);
- (h) 7-3-417(2);
- (l) 7-3-418;
- (j) 7-3-432(1);
- (k) 7-3-433(1);
- (l) 7-3-434(1);
- (m) 7-3-435(1);
- (n) 7-3-436(1);
- (o) 7-3-437(6);
- (p) 7-3-438(1);
- (q) 7-3-439(6); Coroner's office consolidated with Sheriff's office
- (r) 7-3-440(6);
- (s) 7-3-441(1);
- (t) 7-3-442(6).

(2) This form has terms of 4 years for all elected officials. The commission consists of three members.

These sections establish the following form of government which shall be called the COMMISSION FORM.

7-3-401. Commission form. The commission form consists of an elected commission (which may also be called the council) and other elected officers as provided in this part. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law of ordinance to other elected officers shall reside in the

commission. The commission shall appoint the heads of departments and other employees except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by ordinance the executive and administrative powers and duties into departments headed by individual commissioners.

7-3-402. Nature of government. Local governments that adopt this form shall have general government powers.

7-3-412(3). Selection of commission members. The commission shall be elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside.

7-3-413(2). Type of election. Local government elections shall be conducted on a nonpartisan basis.

7-3-414(1). Chairman of commission. The chairman of the commission shall be elected by the members of the commission from their own number for a term established by ordinance.

7-3-415(2). Administrative assistants. The commission may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.

7-3-416(2). Terms of the commission members. Commission members shall be elected for overlapping terms of office.

7-3-417(2). Size of commission and community councils. The size of the commission shall be three, and community councils to advise commissioners may be authorized by ordinance.

7-3-418. Terms of elected officials. The term of office of elected officials may not exceed 4 years, except the term of office for commissioners in counties adopting for form authorized by Article XI, section 3(2), of the Montana constitution may not exceed 6 years. Terms of office shall be established when the form is adopted by the voters.

7-3-432(1). Legal officer. A legal officer (who may be called the county attorney) shall be elected.

7-3-433(1). Law enforcement officer. A law enforcement officer (who may be called the sheriff) shall be elected.

7-3-434(1). Clerk and recorder. A clerk and recorder shall be elected.

7-3-435(1). Clerk of district court. A clerk of district court shall be elected.

7-3-436(1). Treasurer. A treasurer shall be elected.

7-3-427(6). **Surveyor.** A surveyor shall not be included in this form as a separate office.

7-3-438(1). **Superintendent of schools.** A superintendent of schools shall be elected.

7-3-439(6). **Assessor.** An assessor shall not be included in this form as a separate office.

7-3-440(6) **Coroner.** A coroner shall not be included in this form as a separate office.

7-3-441(1). **Public Administrator.** A public administrator shall be elected.

7-3-442(6). **Auditor.** An auditor shall not be included in this form as a separate office.

We, the Study Commissioners of Custer County do hereby certify that this is the existing Plan of Government as established by Section 7-3-111 M.C.A.

SEAL

In testimony whereof, we set out hands.

Done at Miles City, Montana this ___ day of _____, 1996.

ATTEST:

Beth Ann Milligan, Clerk and Recorder

Vernon R. Kailey, Chairman

John K. Uden, Vice Chairman

Karl J. Muri

Bill Bickle

William C. Nicol

**CERTIFICATE
ESTABLISHING THE DATE OF THE SPECIAL ELECTION
AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT
SHALL BE PRESENTED TO THE ELECTORS OF
CUSTER COUNTY, MONTANA**

The alternative form of government proposed by the Local Government Study Commissions shall be submitted to the voters of Custer County at a special election to be held with the general election on November 5, 1996.

SEAL

We, the Study Commissioners of the City of Miles City, and Custer County, Montana do hereby certify that this is the date of the special election approved by the Miles City and Custer County Local Government Study Commissions.

In testimony whereof, we set our hands.

Done at Miles City, Montana this ____ day of _____, 1996.

Miles City Study Commission:

Custer County Study Commission:

Brent L. Christopherson, Chairman

Vernon R. Kailey, Chairman

Al Homme, Vice Chairman

John K. Uden, Vice Chairman

Scott Elder

Karl J. Muri

Ernest M. (Mike) Metzenberg

Bill Bickle

Beth A. Wiedeman

William C. Nicol

ATTEST:

Patricia D. Huss, City Clerk

Beth Ann Milligan, County Clerk

**CERTIFICATE
ESTABLISHING THE OFFICIAL BALLOT FOR
THE NOVEMBER 5, 1996 SPECIAL ELECTION**

Instructions to voters: Place and "X" in the box which expresses your preference.

OFFICIAL BALLOT

BALLOT ON THE ALTERNATIVE FORM OF GOVERNMENT

Vote for One

- FOR adoption of the consolidation charter with the commission-administrator plan of government proposed for Miles City-Custer County by the Miles City and Custer County Local Government Study Commissions.

- FOR the existing forms of government.

We, the Study Commissioners of Miles City and Custer County do hereby certify that this is the official ballot approved by the Miles City and Custer County Local Government Study Commissions.

SEAL

In testimony whereof, we set our hands.

Done at Miles City, Montana this ___ day of _____, 1996.

Miles City Study Commission:

Custer County Study Commission:

Brent L. Christopherson, Chairman

Vernon R. Kailey, Chairman

Al Homme, Vice Chairman

John K. Uden, Vice Chairman

Scott Elder

Karl J. Muri

Ernest M. (Mike) Metzberg

Bill Bickle

Beth A. Wiedeman

William C. Nicol

ATTEST:

Patricia D. Huss, City Clerk

Beth Ann Milligan, County Clerk

**CERTIFICATE
ESTABLISHING THE DATES OF THE FIRST PRIMARY AND GENERAL ELECTIONS
FOR OFFICERS OF THE NEW GOVERNMENT OF MILES CITY-CUSTER COUNTY
IF THE ALTERNATIVE PROPOSAL IS APPROVED, AND ESTABLISHING
THE EFFECTIVE DATE OF THE PROPOSAL IF APPROVED**

The date of the primary election for officers of the new government of Miles City-Custer County, Montana shall be held at a special election on September 9, 1997.

The date of the general election for officers of the new government of Miles City-Custer County, Montana shall be held at a special election on November 4, 1997.

The effective date of the alternative plan of local government of Miles City-Custer County, Montana takes effect when the new officers take office at 10 a.m., January 5, 1998.

We, the Study Commissioners of Miles City and Custer County do hereby certify that these are the dates of the special primary and general elections and the effective date of the alternative plan of local government of Miles City-Custer County, Montana approved by the Miles City and Custer County Local Government Study Commissions.

In testimony whereof, we set our hands.

Done at Miles City, Montana this _____ day
of _____, 1996

SEAL

Miles City Study Commission

Brent L. Christopherson, Chairman

Al Homme, Vice Chairman

Scott Elder

Ernest M. (Mike) Metzenberg

Beth A. Wiedeman

ATTEST:

Patricia D. Huss, City Clerk

Custer County Study Commission

Vernon R. Kailey, Chairman

John K. Uden, Vice Chairman

Karl J. Muri

Bill Bickle

William C. Nicol

Beth Ann Milligan, County Clerk

**CERTIFICATE
FOR THE APPORTIONMENT
OF
COMMISSIONER DISTRICTS**

Districts described by census block with population and deviation from ideal are shown.

DISTRICT	1990 POPULATION	% DEVIATION FROM IDEAL POPULATION
1	1,919	-1.6
2	1,905	-2.3
3	1,919	-1.6
4	1,911	-2.0
5	2,045	+4.9
6	1,998	+2.5

NOTES:

1. Ideal population is calculated by dividing the total 1990 population of Custer County by the number of districts ($11,697/6 = 1,950$).
2. The 1990 population is derived from the U.S. Bureau of the Census 1990 TIGER and P.L. 94-171 Digital Data Files.
3. To comply with state law concerning the division of the county into commissioner districts, an effort was made to devise these commissioner districts as compact and equal in population and area as possible. Where a conflict existed in achieving numerical equality of population and numerical equality of area, due consideration was given to maintaining the integrity of established communities, city boundaries, historic electoral districts, cultural affinity and surface features.

We, the Study Commissioners of Miles City and Custer County do hereby certify that this is the official apportionment plan for commissioner districts approved by the Miles City and Custer County Local Government Study Commissions.

SEAL

In testimony whereof, we set our hands.

Done at Miles City, Montana this _____ day of

_____, 1996,

Miles City Study Commission

Brent L. Christopherson, Chairman

Al Homme, Vice Chairman

Scott Elder

Ernest M. (Mike) Metzenberg

Beth A. Wiedeman

ATTEST:

Patricia D. Huss, City Clerk

Custer County Study Commission

Vernon R. Kailey, Chairman

John K. Uden, Vice Chairman

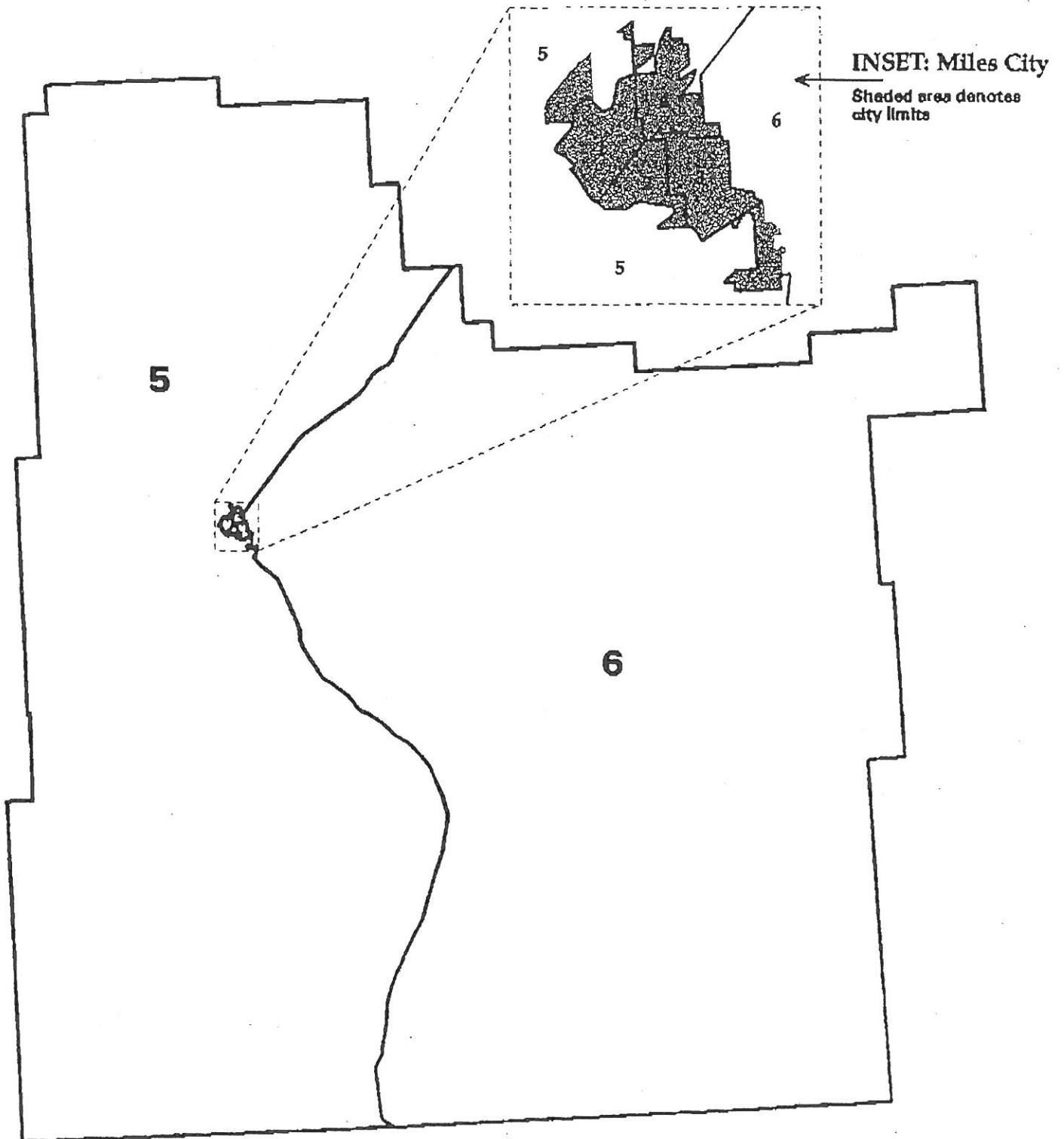
Karl J. Muri

Bill Bickle

William C. Nicol

Beth Ann Milligan, County Clerk

CUSTER COUNTY, MONTANA PROPOSED COUNTY COMMISSIONER DISTRICTS



MILES CITY DETAIL
Custer County, Montana
Proposed County Commissioner Districts

