

**BOZEMAN**  
**CITY GOVERNMENT STUDY COMMISSION**

**1994 - 1996**

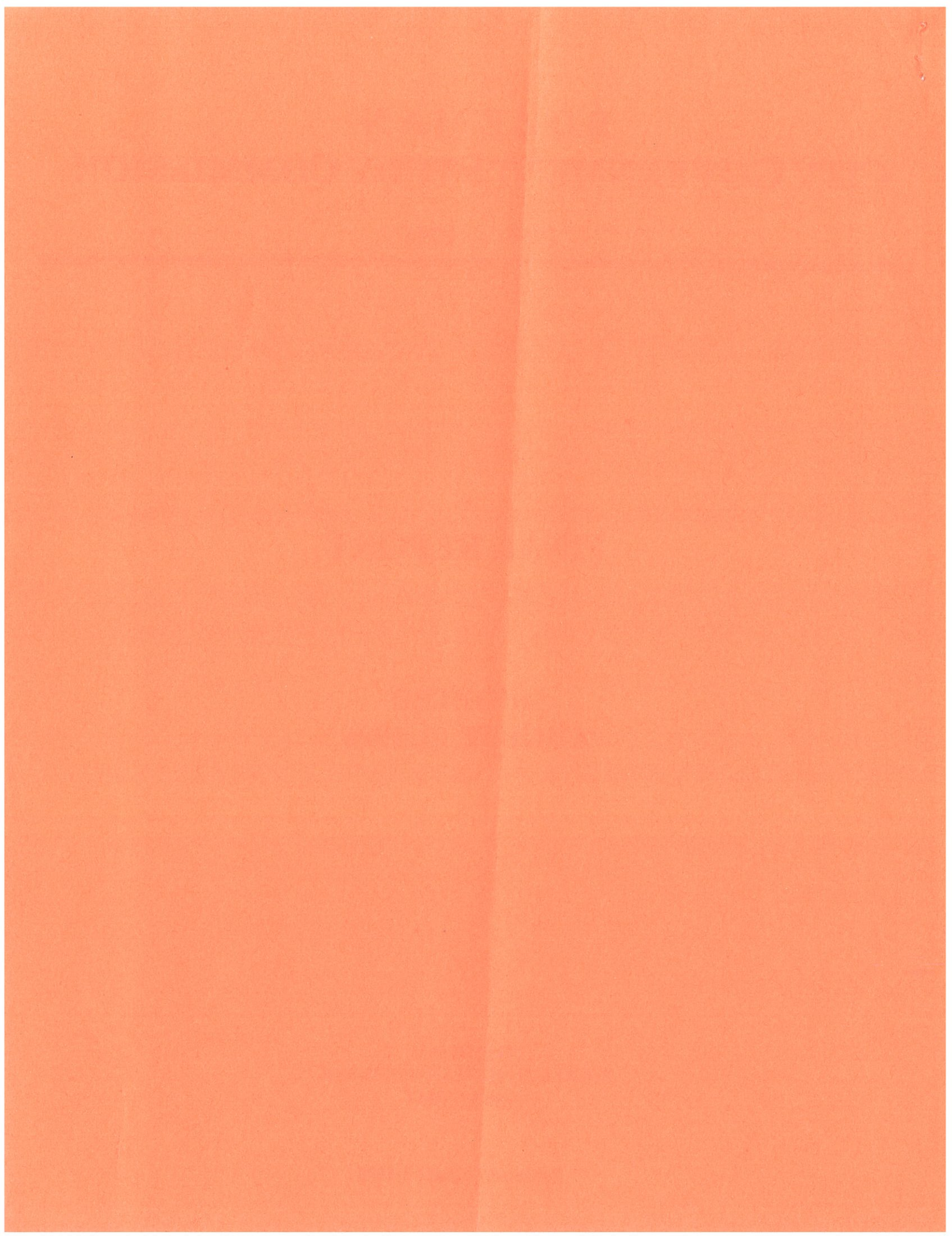
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**FINAL REPORT**

**ADOPTED**  
**AUGUST 13, 1996**

**PO BOX 6656**  
**BOZEMAN MONTANA 59771-6656**  
**(406) 587-2840**

**Executed August 19, 1996**



# TABLE OF CONTENTS

LETTER TO CITIZENS OF BOZEMAN .....	2
SUMMARY OF RECOMMENDATIONS .....	3
A. Findings of the Study Commission .....	3
B. Key Provisions of the Proposed Form .....	4
1. Self-Government Powers .....	4
2. Commission-Manager Structure .....	4
3. Increased Representation .....	4
4. Taxes & Fees .....	4
COMPARISON OF SPECIFIC CHARACTERISTICS .....	5
CERTIFICATE ESTABLISHING THE EXISTING PLAN OF GOVERNMENT .....	6
CERTIFICATE ESTABLISHING THE PROPOSED CHARTER .....	9
CERTIFICATE FOR THE APPORTIONMENT OF COMMISSIONER DISTRICTS .....	18
MAP OF COMMISSION DISTRICTS.....	20
CERTIFICATE ESTABLISHING THE DATE OF THE SPECIAL ELECTION .....	21
CERTIFICATE ESTABLISHING THE OFFICIAL BALLOT .....	22
CERTIFICATE ESTABLISHING THE DATES OF THE FIRST PRIMARY AND GENERAL ELECTIONS .....	23



## LETTER TO CITIZENS OF BOZEMAN

To the Citizens of Bozeman:

The Bozeman City Government Study Commission elected by the voters on November 8, 1994, or thereafter appointed, presents this tentative report to you, the citizens of Bozeman.

The purpose of the study commission, as defined in Montana 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." After completing these two phases of the study, it is the responsibility of the study commission to submit a tentative report recommending no change, propose an amendment to the existing form of government, or offer an alternative form of government to the qualified electors.

In every review phase this study commission sought advice and information from as many Bozeman citizens as possible. Our recommendations reflect the thoughts and opinions of the citizens who participated in this study process.

This tentative report presents our recommendations for an alternative form of government that will provide the present and future governmental services expected by the public, be more responsive to local citizens, and provide more opportunity for devising solutions to local problems. We feel the citizens of Bozeman can achieve these goals by adopting this Charter, which provides self-governing powers and retains the present commission-manager structure with some alterations.

The question of adopting this alternative form of government will be placed on the ballot November 5, 1996.

We solicit your support for its adoption.

Respectfully submitted,  
Bozeman City Government Study Commission

  
\_\_\_\_\_  
JENNIFER SMITH MITCHELL, Chair

  
\_\_\_\_\_  
JOANNE H. EATON

  
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ROBERT F. KERN

  
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JEFFREY K. KRAUSS

  
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CARROLL V. HENDERSON

## SUMMARY OF RECOMMENDATIONS

### A. Findings

Study Commission findings are based on:

- interviews with city department heads, manager, attorney, clerk, and commissioners;
- questionnaires sent to and received from city employees, former and current commissioners, and former and current advisory and administrative boards members;
- citizen opinions obtained from public hearings, joint meetings with the County Study Commission, public participation at our meetings, questionnaires, correspondence and focus groups;
- a scientific statistical telephone survey conducted by an independent professional firm; and
- study of alternative forms of government and individual study commissioner investigations and experience.

The Study Commission's findings are:

1. Bozeman's needs have changed since the approval of its current form of government in 1921. The city faces increased growth in and immediately outside its boundaries. This will continue to challenge the ability of government to meet demands for needed services and to replace its aging infrastructure. These problems might best be addressed by a consolidated city/county government. However, there is insufficient support for consolidation. As a result, Bozeman needs to anticipate and solve these problems itself, or cooperate in new ways with other local governments. Presently city government is little more than an administrative arm of the state government. Bozeman needs the ability to legislate its own solutions to its own problems.
2. Most voters surveyed felt the city commission understands the workings of the city and sets policy effectively. Most voters surveyed also felt city administration manages city operations effectively. However, at least one third of voters surveyed did not think the commission or the management treated the public like a valued customer. A large majority (86%) of surveyed voters wanted to be surveyed periodically about how the city is being managed and operated.
3. Many citizens do not feel represented by city commissioners. Voters have lost that "local" feeling which should be in local government. "At-large" elections inhibit adequate debate between individual candidates, decrease the ability of voters to differentiate between candidates, and increase the money and time needed to campaign. Historically, most commissioners have resided in one section of the city. Many commissioners do not choose to campaign for, or serve, a second term. When surveyed, voters felt lack of consistency was the biggest weakness of the commission.
4. Once elected, commissioners spend 20-30 hours a week at their part-time positions. Even with this large demand on their time, commissioners find it difficult to supervise their staff, coordinate with advisory and administrative boards, spend enough time in long range planning for the city, and meet other demands of the position. Many board members felt access to, and communication with, the commission was limited. A commissioner no longer serves on the city/county planning board. This board addresses the subject most surveyed voters felt was both a priority and the area needing most improvement.
5. Bozeman's present governmental structure does not allow voters to directly select their mayor. This critical leadership position has often been held by people not seeking that office. Most voters surveyed and most public input indicated that citizens want to directly elect their mayor.

6. A large majority of voters surveyed (85%) want to vote on all or some new taxes and fees. Some fees have increased drastically. The city has implemented many new taxes including impact fees, surcharges, garbage tag fees and city-wide special improvement maintenance districts. These new taxes appear to divide the city deeply and cause criticism and distrust of government, in addition to their obvious financial impacts on taxpayers.

In order to address these findings, the study commission recommends: a charter form of government with self-governing powers; maintaining the commission-manager structure; increasing the size of the commission; electing the commissioners by districts; directly electing the mayor; and setting limits on taxes and fees by requiring voter approval.

### **B. Key Provisions of the Proposal**

The proposed charter has the following key provisions:

1. Self-Government Powers: Adopting self-governing powers giving greater flexibility in shaping our governmental structure, more responsibility to recognize and deal with our own problems, and greater power to solve these problems. This option became available under the 1972 Montana Constitution.
2. Commission-Manager Structure: The current commission-manager structure will be maintained with the following minor adjustments. Subject to the commission's general direction, the manager controls the hiring and firing of city personnel, directs and supervises the administration of all departments, prepares the budget, and is in charge of the business affairs of city government. The city attorney shall be hired by the commission.
3. Increased Representation: Creating a commission of seven (7) part-time members will provide a legislative body large enough to insure adequate representation and yet small enough to be efficient. Electing the commission by district and directly electing the mayor at-large will encourage citizen participation and provide a city-wide perspective.
4. Taxes & Fees: Limit all city tax and fee increases to the Consumer Price Index unless approved by the voters. Put an expiration date on all new taxes and fees not approved by the voters.

**COMPARISON OF SPECIFIC CHARACTERISTICS**

<b>CHARACTERISTICS</b>	<b>PRESENT FORM OF GOVERNMENT</b>	<b>PROPOSED FORM OF GOVERNMENT</b>	<b>EVALUATIVE COMMENTS</b>
Form of Government	Commission-manager form; elected commission determines policy. Manager hired to administer policy.	Self-government charter form with altered commission-manager structure. Elected commission determines policy, mayor provides leadership and hired manager administers policies.	Modernizes form of government as allowed by the 1972 Montana Constitution. Transfers some legislative and administrative powers from the state to the city.
Powers	General government power. State law defines what city government may do and specifically how it shall do it.	Self-government powers; city government may exercise any power which the state does not deny. Legislative power vested in the commission.	Increases the ability of the city to adapt as local conditions change. Freedom to solve local problems with local solutions.
Governing Body: Size	5 commissioners, including the mayor.	7 commissioners, including the mayor.	Reduces individual commissioner work load. Increases the quality and variety of representation, without significantly increasing costs to the taxpayer.
Election	Non-partisan; nominated & elected at-large. Mayor is the commissioner receiving the most votes in the previous city election.	Non-partisan; 6 commissioners representing 3 districts, nominated & elected by district; mayor nominated and elected at-large.	Each citizen is represented by 2 commissioners, plus the mayor, (who seeks the position). Election by districts reduces election and campaign expenses and increases candidate pool.
Terms	4 year overlapping terms. Mayor chairs commission.	4 year overlapping terms in each district. Mayor chairs commission.	Provides continuity of commission. No Change.
Presiding Officer: Duties	Official head of city. City Manager. Hires/fires all city employees. Hires/fires all department heads.	Official head of city. Nominates all board members for the commission's approval. Chairs finance committee. Directs manager to prepare meeting agenda. City Manager. Hires/fires all city employees Hires/fires all department heads.	Mayor has all powers of a commissioner, plus a few more leadership duties and represents the whole city. Additional duties increase leadership role. No Change. No Change.
Appointment Powers	Commission appoints members of boards, city manager & clerk of the commission. Manager hires city attorney.	Commission appoints city manager, city attorney & clerk of the commission. Mayor nominates members of boards for commission approval.	Establishes client/attorney relationship between city attorney & commission. Increases commission's power, leadership role and involvement with city policies.
Taxes & Fees	Commission imposes with majority vote or places on the ballot.	Citizens vote on all increases greater than the consumer price index and all new taxes & fees imposed. Sunset non-approved taxes & fees.	More citizen involvement in tax increases; added predictability. Allows for growth and inflation, but encourages efficiency.
Budget Preparation	City manager prepares budget. Commission approves budget.	City manager prepares budget in consultation with the commission, department heads, boards and the finance committee. Mayor chairs finance committee. Commission approves budget.	Increases commission and public involvement in city budget. Boards more responsible for & more involved in their respective budgets.
Service Delivery Structure	Departments decreed by state law. Services performed by departments under the supervision of the city manager.	Commission determines the city organization and departments. Manager administers & supervises.	Allows for organizational structure beneficial to Bozeman's specific needs.
Citizen Participation: Boards Community Councils	Commission appoints board members. None.	Mayor nominates all board members for commission approval and appoints 2 positions on planning board per state law. Each citizen board will have a commissioner liaison. None.	Increases cooperation between citizen boards and the commission. No change.



**CERTIFICATE  
ESTABLISHING THE EXISTING PLAN OF GOVERNMENT  
FOR  
BOZEMAN, MONTANA**

If retained by the voters, the government of Bozeman shall be organized under the following provisions of MCA 7-3-4301 which authorizes the elected city official form of government;

**7-3-4301. Authorization for commission-manager form of municipal government.** (1) Any municipality may abandon its organization and reorganize under the provisions of this part and part 44 by proceeding as hereinafter provided. (2) The form of government provided for in this part and part 44 shall be known as the commission-manager plan and shall consist of a commission of citizens, who shall be elected at-large in the manner hereinafter provided by the following sections:

- (a) 7-3-4302 Construction;
- (b) 7-3-4303 Laws governing municipality;
- (c) 7-3-4304 Territorial limits and property;
- (d) 7-3-4305 Petition to organize under commission-manager form - election required;
- (e) 7-3-4306 Proclamation and notice of election;
- (f) 7-3-4307 Form of ballot;
- (g) 7-3-4308 Conduct of election;
- (h) 7-3-4309 Effect of vote on question of organization;
- (i) 7-3-4310 Special election for municipal officers;
- (j) 7-3-4311 Procedure for multimunicipality organization;
- (k) 7-3-4312 Effect of organization of communities into single municipal district;
- (l) 7-3-4313 Powers of municipalities under commission-manager plan;
- (m) 7-3-4314 Composition and general authority of commission;
- (n) 7-3-4315 Qualifications of commissioners;
- (o) 7-3-4316 Term of office for commissioners;
- (p) 7-3-4317 Vacancies;
- (q) 7-3-4319 Designation of mayor;
- (r) 7-3-4320 Role of mayor;
- (s) 7-3-4321 Compensation of commissioners and mayor;
- (t) 7-3-4322 Meetings of commission;
- (u) 7-3-4323 Conduct of commission business;
- (v) 7-3-4324 Procedure to enact ordinance or resolution;
- (w) 7-3-4325 Effective date of ordinance or resolution;
- (x) 7-3-4326 Emergency measures;
- (y) 7-3-4327 Petition for initiative;
- (z) 7-3-4341 General provisions relating to elections;
- (aa) 7-3-4361 Appointment of city manager;
- (bb) 7-3-4362 Role of city manager;
- (cc) 7-3-4363 Powers and duties of city manager;
- (dd) 7-3-4364 Compensation of city manager;
- (ee) 7-3-4365 Investigations by commission;
- (ff) 7-3-4366 Investigatory powers of city manager;
- (gg) 7-3-4367 Control of conflict of interest;
- (hh) 7-3-4368 Execution of conveyances of real property;
- (ii) 7-3-4369 Appropriation of property for public or municipal purposes;
- (jj) 7-3-4370 Use of county buildings;

- (kk) 7-3-4371 Estimate of expenditures and revenues - exception;
- (ll) 7-3-4372 Procedure to enact appropriate ordinance - exception;
- (mm) 7-3-4373 Financial administration;
- (nn) 7-3-4374 Details of public advertising or publication;
- (oo) 7-3-4401 Administrative departments;
- (pp) 7-3-4402 Appointment of department directors;
- (qq) 7-3-4403 Role of department director;
- (rr) 7-3-4404 Appointment of boards;
- (ss) 7-3-4405 Establishment of civil service board;
- (tt) 7-3-4406 Organization of board;
- (uu) 7-3-4407 Classification of civil service;
- (vv) 7-3-4408 Role of civil service board;
- (ww) 7-3-4409 Role of chief examiner;
- (xx) 7-3-4410 Probationary period;
- (yy) 7-3-4411 Procedure for discharge, demotion, or suspension of employee;
- (zz) 7-3-4412 Retention of existing positions;
- (ab) 7-3-4413 Certification required to receive salary;
- (ac) 7-3-4414 Investigatory powers of civil service board;
- (ad) 7-3-4415 Prohibition on discrimination in employment;
- (ae) 7-3-4416 Violation of civil service provisions;
- (af) 7-3-4417 Fixing compensation;
- (ag) 7-3-4418 Power to establish eight-hour day;
- (ah) 7-3-4431 Department of finance;
- (ai) 7-3-4432 Accounting procedures;
- (aj) 7-3-4433 Claims and issuance of warrants;
- (ak) 7-3-4434 Purchase and sale of supplies and property;
- (al) 7-3-4435 Approval required for certain contracts;
- (am) 7-3-4436 Sinking fund trustees;
- (an) 7-3-4441 Department of public service;
- (ao) 7-3-4442 Local improvements;
- (ap) 7-3-4443 Utility connections;
- (aq) 7-3-4444 Supervision of plats;
- (ar) 7-3-4445 Subdivided lands;
- (as) 7-3-4446 Acceptance of streets or alleys;
- (at) 7-3-4447 Supervision of public places;
- (au) 7-3-4448 Vacating or changing name of street;
- (av) 7-3-4449 Grant of right to use or occupy public places;
- (aw) 7-3-4450 Renewal of franchises;
- (ax) 7-3-4451 Prohibition on exclusive grant or franchise;
- (ay) 7-3-4452 Grant to operate public utility;
- (az) 7-3-4453 Assessments for snow, ice, weed, and rubbish removal;
- (ba) 7-3-4461 Department of law;
- (bc) 7-3-4462 Office of city judge;
- (bd) 7-3-4463 Department of public welfare;
- (be) 7-3-4464 Department of public safety;
- (bf) 7-3-4465 Police department; and
- (bg) 7-3-4466 Fire department.

We, the Study Commissioners of the City of Bozeman, do hereby certify this is the existing plan of government for the city of Bozeman.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19<sup>th</sup> day of August, 1996.

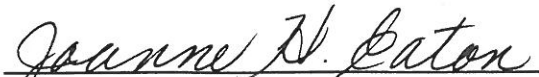
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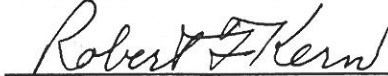
ROBIN L. SULLIVAN  
Clerk of the Commission



JENNIFER SMITH MITCHELL, Chair



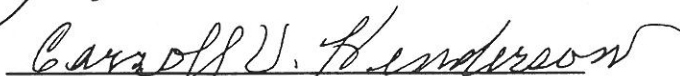
JOANNE H. EATON



ROBERT F. KERN



JEFFREY K. KRAUSS



CARROLL V. HENDERSON

**CERTIFICATE  
ESTABLISHING THE PROPOSED CHARTER  
FOR  
BOZEMAN, MONTANA**

PREAMBLE: We, the people of Bozeman, Montana, grateful for our past, confident of our future and having considered the form of government which will best maintain the health, safety and welfare of our citizenry, do adopt this charter to establish our self-determination as a city.

**ARTICLE I  
GENERAL PROVISIONS**

**Section 1.01 - Powers of the City**

The city shall have all powers possible for a self-government city not specifically prohibited under the Constitution, the laws of this State, and this charter.

**Section 1.02 - Taxes & Fees**

1. City fees and charges imposed on city residents or assessed on real or personal property within city limits shall increase no more than the percentage increase in the Consumer Price Index-Urban (CPI-U). The index used shall be the CPI-U (National) from the U.S. Department of Labor, Bureau of Labor Statistics for the twelve (12) month period ended in December of the previous year. However, at any city general election or by special election, the city commission may place on the ballot a measure to approve greater increases. If approved by a majority vote, the city commission shall then implement the increase the following fiscal year.
2. All new special taxes, fees, charges and assessments, however denominated, charged to city residents or upon real or personal property within the city of Bozeman, including, but not limited to, special maintenance district assessments, impact fees, surcharges for services, and permit fees, shall be submitted to city voters at the next city general election following the approval of such by the city commission. Should any such tax, levy, fee, charge or assessment not be approved by a majority of those voting, it shall be valid only for the period starting with commission approval up to the end of the fiscal year ending June 30 following said city general election, after which time it shall not be imposed, assessed, charged, or levied by city commission action without a prior vote of approval in a city general election. Existing taxes and/or fees shall not be considered "new" under this charter.
3. Paragraphs 1 & 2 above shall not apply to the all-purpose general fund mill levy.
4. All Montana statutory and constitutional limitations regarding the level of property taxes in Class I Cities with general government powers shall apply to the city of Bozeman.

**Section 1.03 - Oath of Office**

Before beginning the duties of office, all elected city officials shall take and subscribe to the following oath of office: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, the Constitution of the State of Montana, the Charter of the city of Bozeman and that I will discharge the duties of my office with fidelity (so help me God)."

**ARTICLE II  
LEGISLATIVE**

**Section 2.01 - Legislative Branch**

The legislative branch shall be the city commission and the mayor. A majority of the whole number of the commission shall constitute a quorum. A majority vote of the whole number of the commission is required to pass a motion.

### **Section 2.02 - Composition**

The city commission shall be comprised of seven (7) voting members: six (6) city commissioners and the mayor.

### **Section 2.03 - Election**

The procedure for the nomination and election of all city officials shall be as prescribed by state law for non-partisan elections.

### **Section 2.04 - Forfeiture of Office**

1. The office of commission member or mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.
2. A commission member or mayor shall forfeit office if the official:
  - a) lacks at any time during his/her term of office any qualification for the office prescribed by the charter or by law; or
  - b) violates any expressed prohibition of this charter; or
  - c) is convicted of a felony.

### **Section 2.10 - City Commission: Election, Terms, Vacancies and Qualifications**

1. Commissioners shall be elected from three (3) districts, only by the voters who reside in each district. Two (2) commission members shall be elected from each district.
2. Commissioners shall serve for terms of four (4) years. One (1) commissioner from each district shall be elected every two (2) years.
3. Commissioners shall reside within the district from which they are nominated and elected and shall be qualified voters of the city of Bozeman.
4. If there are more than two (2) candidates for any one commission seat, a primary election shall be held. The two (2) candidates receiving the highest number of votes in the primary shall advance to the general election.
5. Commissioners and the mayor shall take office the first Monday after January 1 in the year following the election.
6. The commission shall be the judge of the election, qualifications of its members, and the grounds of forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand.
7. In the event of a vacancy, the commission shall, by majority vote of the remaining members, appoint a person eligible to hold such commission seat to fill the vacancy until the next regular city election. At that time the remainder of the term shall be filled through the election procedure described in this charter.
8. If any elected city official runs for a different public office, that official must resign the city office presently held, unless the expiration of that official's present term ends on or before the commencement date of the office being sought.

### **Section 2.12 - Compensation**

The commission shall establish, by ordinance, the annual compensation of its members including the mayor. No commission member or mayor shall receive a salary increase in the same term that the increase was authorized.

### **Section 2.13 - City Commission: Powers & Duties**

1. The commission shall be the legislative and policy determining body of the city. All powers of the city shall be vested in the commission, except as otherwise provided by law or this charter. The commission shall provide for the exercise thereof and for the performance of all other duties and obligations imposed on the city by law.
2. Specific commission powers and duties include, but are not limited to:
  - a) appointing, supervising and removing the professional staff of the commission;
  - b) designating substitutes for the professional staff in case any member of the staff becomes incapacitated and is unable to perform their duties;
  - c) adopting an annual budget, levying taxes and special assessments, borrowing money, and issuing bonds subject to Montana law. Appropriations, exclusive of bond and loan indebtedness, shall not exceed anticipated revenue;
  - d) adopting an administrative and personnel code;
  - e) adopting procedures for contracting with private and public agencies;
  - f) approving citizens nominated by the mayor to boards, councils, special committees or any other body established pursuant to law;
  - g) serving as liaison to boards (every board shall have a commissioner liaison);
  - h) providing for a mandatory independent annual audit of all city accounts and more frequent audits as it deems necessary; and
  - i) meeting as often as necessary to conduct city business.

### **Section 2.20 - Mayor: Election, Terms and Qualifications**

1. The mayor shall be a resident and qualified voter of the city of Bozeman and shall be elected at-large for a term of four (4) years.
2. After every regular city election, the commissioners, no later than one month after taking office, shall elect the mayor pro tempore from among themselves. The mayor pro tempore shall serve as the presiding officer in the absence of the elected mayor.
3. If there are more than two (2) candidates for mayor, a primary election shall be held. The two candidates receiving the highest number of votes in the primary shall advance to the general election.

### **Section 2.21 - Mayor: Powers and Duties**

1. The mayor shall be the presiding officer of the commission and shall have full commissioner powers. The mayor shall be the official head of the government for the purposes of civil processes, State military law, all ceremonial occasions, and shall execute contracts, deeds and other documents approved by the commission.
2. Specific mayoral powers and duties include, but are not limited to:
  - a) exercising all powers and duties imposed by this charter, the ordinances of the city and the laws of the state, except that the mayor shall have no power to veto any measure;
  - b) directing the manager to set the agenda for commission meetings. The agenda shall include any item the mayor or any two commissioners direct the clerk of the commission to add upon written notice to the manager and the clerk of commission five (5) days prior to the meeting;
  - c) nominating all members of boards, commissions or special committees to the commission for its approval;
  - d) appointing two citizen members who reside within the city limits to the city-county planning board; and
  - e) chairing the finance committee.

### **Section 2.30 - Administrative Review**

On a majority vote of the whole number of the commission, the commission shall review, and/or investigate any operation, management decision, administrative function or other affairs of the city. The commission may compel, by subpoena, the attendance and testimony of witnesses and the production of books and records.

### **Section 2.31 - Appointment and Removal of Professional Staff and Prohibitions**

1. The manager, attorney and clerk of the commission shall be the professional staff and contractual employees of the commission.
2. The commission shall appoint and contract with its professional staff by a majority vote of the whole number of the commission and based on merit. The staff shall serve at the pleasure of the commission for an indefinite term.
3. The commission may remove a professional staff member by a majority vote of the whole number of the commission.
4. The commission shall set the salary of its professional staff.
5. Neither the commission, its members, nor the mayor shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the manager or any of the manager's subordinates are empowered to appoint.

### **Section 2.32 - Interference with Administration**

1. Except for purposes of review and investigation, the commission, its members and the mayor shall deal with the city officers and employees who are subject to the direction and supervision of the manager solely through the manager.
2. Neither the commission, its members, nor the mayor shall give orders to any city officer or employee either publicly or privately.
3. A department head, or the department head's designee, shall attend commission meetings as requested by the manager, mayor or commission.

## **ARTICLE III ADMINISTRATION**

### **Section 3.00 - City Manager**

The city manager shall be the chief administrative officer of the city and shall be responsible to the commission for the administration of all city affairs required by this charter, law, ordinance or resolution. The manager shall not be the mayor or a commission member at the time of employment. Once appointed, the manager shall reside in the city of Bozeman.

### **Section 3.01 - City Manager: Duties & Responsibilities**

1. The manager shall:
  - a) carry out policies established by the commission;
  - b) perform the duties as required by law, ordinance, resolution, or this charter;
  - c) enforce laws, ordinances and resolutions;
  - d) administer the affairs of the city;
  - e) direct, organize, supervise and administer all departments, agencies and offices of the city;
  - f) appoint, suspend and remove all employees of the city government except the commission's professional staff;
  - g) prepare the budget in consultation with the commission, department heads, representatives of

applicable advisory and administrative boards, and the finance committee of the commission. The manager shall submit the budget for commission approval and execute the budget adopted by the commission;

- h) report publicly to the commission at least quarterly on the financial condition of the city;
  - i) recommend measures to the commission;
  - j) attend commission meetings and take part in the discussion, but have no vote;
  - k) appoint, with the approval of the commission, an acting manager to exercise the powers and perform the duties of the manager during temporary absences; and
  - l) perform such other duties as the commission may prescribe.
2. The manager shall not delegate any of the duties and responsibilities in this section without consent of the commission.
  3. The manager may, without notice, examine the affairs of any department, division, office, agency or other city administrative unit or employee under the manager's authority.

### **Section 3.10 - City Attorney**

1. The city attorney is the chief legal adviser to the commission, the manager and all city departments, offices and agencies. The attorney shall maintain the client-attorney relationship with the commission. The attorney shall represent the city in all legal proceedings and shall perform any other duties prescribed by ordinance. The attorney shall not be the mayor or a commission member at the time of employment and need not be a resident of the city or state at the time of employment.
2. The attorney shall be licensed to practice as an attorney in the state of Montana.

### **Section 3.11 - City Attorney: Duties & Responsibilities**

The attorney shall:

1. attend before the city or municipal court and other courts, and prosecute on behalf of the city;
2. draft, for the use of the commission, contracts and ordinances for the government of the city;
3. give written opinions on questions pertaining to the duties and the rights, liabilities and powers of the city when requested by either the mayor or commission;
4. perform such other duties pertaining to the functions of the city as the commission may prescribe by resolution;
5. attend or send a qualified representative to all commission meetings; and
6. appoint assistant city attorneys with approval of the commission.

### **Section 3.12 - Employment of special or additional legal counsel**

Nothing in this charter shall prevent the commission from employing in special cases on a contract basis:

1. an attorney to perform services not specifically provided under MCA 7-4-4604; or
2. additional or other legal counsel.

### **Section 3.20 - Clerk of the Commission**

The clerk of the commission shall perform a variety of secretarial, clerical and managerial duties to ensure the effective and efficient operation of the legislative branch of the city of Bozeman.

**Section 3.21 - Duties of Clerk of the Commission related to administration:** In addition to those duties prescribed by MCA 7-4-4501, the clerk of the commission shall:

1. train the administrative and advisory board secretaries as requested by those boards;



2. process board minutes and distribute copies to commission members and manager; and
3. perform such other duties as the commission may prescribe.

**Section 3.22 - Duties of Clerk of the Commission related to city records and papers:** In addition to those duties prescribed by MCA 7-4-4502, the clerk of the commission shall index and retain all inter-local agreements.

**Section 3.30 - Administrative Code**

The commission shall adopt a written administrative code which shall provide the complete plan of organization of the city government and shall include, but not be limited to:

1. the function, organization, procedures and reporting relationships for each department;
2. comprehensive budget schedules and procedures for the government; and
3. operating procedures for boards, commissions and any other government bodies.

**Section 3.31 - Personnel Code**

The commission shall adopt a written comprehensive personnel code.

**ARTICLE IV  
CITIZEN INVOLVEMENT IN GOVERNMENT**

**Section 4.01 - Citizen Involvement**

The commission shall establish boards, councils, special committees, commissions and other bodies of an advisory or administrative nature to assist the commission in the exercise of its duties. The city of Bozeman encourages citizens to participate in these bodies by serving as members and attending meetings.

**Section 4.02 - Appointment, Compensation, Terms and Qualifications for Boards, Commissions or Special Committees**

1. The mayor shall nominate all members for appointment to boards, commissions or special committees for the commission's approval, unless otherwise provided by federal or state law, interlocal agreement, city ordinance or this charter.
  - a) The commission shall designate boards, commissions or special committees responsible for individual funds or trust accounts as administrative boards, commissions or special committees. All other boards, commissions or special committees shall be designated as advisory boards, commissions or special committees.
  - b) Notice of a vacancy shall be published fifteen (15) days prior to appointment.
  - c) Members of boards, commissions or special committees shall hold no elected city office unless required by federal or state law, interlocal agreement, city ordinance, or this charter.
  - d) Members of boards, commissions or special committees shall not be eligible for reappointment to the same board, commission or special committee at the end of their term after serving seven (7) years without a two (2) year recess.
2. Board, commission, or special committee members shall serve without compensation.

**Section 4.03 - Initiative, Referendum and Recall.**

The electors of the city of Bozeman may exercise the powers of the initiative, referendum and recall as provided by Montana law.

**Section 4.04 - Open Government**

All records of the city of Bozeman, including the commission and all boards, special committees and commissions, shall be open to the public as provided by Montana law. All meetings and hearings of such bodies shall be publicly announced in advance and shall be open to the public as provided by Montana law.

## ARTICLE V FINANCIAL ADMINISTRATION

### Section 5.01 - Budget

1. The manager shall prepare the budget in consultation with the applicable boards and department heads.
2. Each department head shall submit to the manager the full report of the department's anticipated revenues and expenditures in comparison to the previous year.
3. The manager shall present to the commission a comprehensive budget which shall detail:
  - a) all sources and uses of funds;
  - b) all revenues classified by source;
  - c) all expected expenditures classified by department, fund and object code; and
  - d) a comparison of actual prior year and anticipated revenues and expenditures by designated accounts.
4. The commission shall establish a finance committee to be chaired by the mayor. This committee:
  - a) shall participate in the budget process by examining all or part of the manager's proposed budget;
  - b) may authorize performance audits or other evaluations of individual departments or processes; and
  - c) shall receive applicable comments from boards, commissions or special committees.
5. The commission shall account separately for all trust and dedicated funds. Neither these funds nor their respective operations shall be intermingled with other city funds or operations.
6. The commission may authorize loans from trust funds to other city funds. These loans shall be repaid to the trust fund within ten (10) years of the initial loan. These loans from trust funds shall earn interest of not less than the effective yield on 5-year U.S. Treasury Notes, as of November 30 of the preceding year and adjusted every November 30 thereafter. Interest shall be paid semi-annually on December 31 and June 30 to the trust funds.
7. The commission may dissolve trusts and funds dedicated for future needs with values (including cash and/or property) of \$25,000 or less with a three-fourths ( $\frac{3}{4}$ ) majority vote of the whole number of the commission. Dissolving such funds in excess of \$25,000 in value requires voter approval.

## ARTICLE VI REAPPORTIONMENT

### Section 6.01 - Reapportionment of Districts

Within six (6) months after the release of the United States census data, the commission shall modify the boundaries of commission districts so no district differs in population from the average population of all districts by more than five percent (5%).

### Section 6.02 - Redistricting

District boundaries may be changed by ordinance. Revised district boundaries must comply with the population standard prescribed in this charter or by Montana law. In the event of a judicial challenge to the ordinance, the burden of demonstrating compliance shall rest upon the city.

### Section 6.03 - Annexation

1. Any newly annexed area that is in a precinct which is new to the city shall be included in the district with which it shares the largest boundary.
2. Any newly annexed area that is in a precinct already partially included in a district shall become part of that district.

**ARTICLE VII  
AMENDMENT OF CHARTER and SEVERABILITY**

**Section 7.01 - Amendment of Charter**

This charter may be amended only as provided by Montana law. A majority of those voting on the question shall be required for passage of a charter amendment.

**Section 7.02 - 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 circumstances is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

**ARTICLE VIII  
TRANSITION PROVISIONS**

**Section 8.01 - General Transition**

The current commission shall, by ordinance, provide for transition to the charter form of government consistent with Montana law, (MCA 7-3-157).

**Section 8.02 - Election Transition**

1. The present commission shall continue in office and govern until the new commission and mayor are elected and take office.
2. Following the adoption of this charter, and in keeping with the current city election schedule, a mayor and four (4) commission members shall be elected.
3. Present commission members shall represent the district in which they reside and shall serve to the end of their present terms.
  - a) District 1. The two commission members in district 1 shall serve to the end of their term in 2000. The commission members elected in the 1999 city general election shall draw lots to determine who will serve a four (4) year term and who will serve a two (2) year term.
  - b) District 2. The commission members elected in the 1997 city general election shall draw lots to determine who will serve a four (4) year term and who will serve a two (2) year term.
  - c) District 3. The commission members elected in the 1997 city general election will draw lots to determine who will serve a four (4) year term and who will serve a two (2) year term.
  - d) Mayor. Nominated and elected at-large in the 1997 city elections.
4. This transitional article shall become effective November 6, 1996, and shall expire on January 3, 2000.
5. This charter shall become effective January 5, 1998.
6. All city of Bozeman employees may continue in the performance of their duties according to existing personnel provisions, unless their positions are terminated by the administrative code. Employees whose positions are terminated by provisions of the administrative code shall be given first consideration for other city employment.
7. Salaries of all city employees shall not be less than their present level unless a change in salary of such employees is made in accordance with the provisions of the personnel code. Salaries for the commission and mayor shall remain at their present level.
8. Pension and retirement rights of city employees shall be unaffected by this charter.
9. By January 15, 1998, the manager shall submit the administrative code and the personnel code to the

commission for review. The commission shall adopt the administrative code and personnel code by ordinance as amended within three (3) months after their submission.

**Section 8.03 - Publishing of Transition Article**

This transition article shall be published with the charter until it expires on January 3, 2000.

**Section 8.04 - City Commission Districts**

The city commission districts for the first election shall be

District I: Precincts 9, 11, 13, 20, 26 & 49.

District II: Precincts 1, 2, 3, 4, 5, 14 in & 22 in.

District III: Precincts 6, 7, 8, 10, 12 & 19.

**Section 8.05 - Compliance of Ordinances**

1. The commission shall review, and where necessary, revise or repeal city ordinances to provide for their compliance and consistency with this charter no later than June 30, 1998.
2. All existing ordinances of the city of Bozeman, except those in conflict with provisions of this charter, shall remain in effect unless and until superseded by action of the commission.


We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the proposed plan of government approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19<sup>th</sup> day of August, 1996.

ATTEST:

  
 ROBIN L. SULLIVAN  
 Clerk of the Commission

  
 JENNIFER SMITH MITCHELL, Chair

  
 JOANNE H. EATON

  
 ROBERT F. KERN

  
 JEFFREY K. KRAUSS

  
 CARROLL V. HENDERSON

**CERTIFICATE  
FOR THE APPORTIONMENT  
OF COMMISSIONER DISTRICTS**

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

**TABLE 1.** Districts with 1990 Census Population, 1990 Ideal Population (Mean), Deviation from Ideal Population, and % Difference from the Ideal Population.

<b>DISTRICT</b>	<b>1990 CENSUS POPULATION</b>	<b>1990 IDEAL POPULATION (MEAN)</b>	<b>DEVIATION FROM IDEAL POPULATION</b>	<b>% DIFFERENCE FROM IDEAL POPULATION</b>
1	6,506	7,536	- 1030	-13.67%
2	8,172	7,536	+ 636	+ 8.44%
3	7,930	7,536	+ 394	+ 5.23%

Total Population Estimate = 22,608

Margin of Error at 5% = 1130.40

Table 1 displays preliminary results using information from 1990 census data to estimate the division of districts. Established voting precinct boundaries in Bozeman were taken into consideration when preliminary lines for these three districts were drawn. Precincts falling into District One are 9, 11, 13, 20, 22, 26, and 49; District Two are 1, 2, 3, 4, 5, and 14; and District Three are 6, 7, 8, 10, 12, and 19.

**TABLE 2.** Districts with 1995 Estimated Population, 1995 Estimated Ideal Population (Mean), Deviation From Ideal Population, and % Difference from the Ideal Population.

<b>DISTRICT</b>	<b>1995 ESTIMATED POPULATION</b>	<b>1995 ESTIMATED IDEAL POPULATION (MEAN)</b>	<b>DEVIATION FROM IDEAL POPULATION</b>	<b>% DIFFERENCE FROM IDEAL POPULATION</b>
1	8,638.13	8,487.58	+150.55	+1.77%
2	8,525.95	8,487.58	+ 38.37	+ .45%
3	8,298.67	8,487.58	- 188.91	- 2.23%

Total Population Estimate = 25,462.75

Margin of Error at 3% = 763.88

Table 2 displays the 1990 census data plus update information to the end of 1995, to determine if final districts are divided evenly. The Ideal Population (mean) is calculated by dividing the Total Population Estimate (1990 census data and 1991-95 population estimates) by the number of city commission districts ( $25,462.75/3 = 8487.58$ ). The % Deviation from the Ideal Population shows how closely districts are in population (divide the Estimated Population by the Estimated Ideal Population). Although the general rule in calculating the margin of error is within 5% of the ideal population, a margin of error of 3% was achieved. To remain within 3% of the mean, each district population must remain within 763.88 points of the mean.

Established voting precinct boundaries in Bozeman were used when lines for these three districts were finally drawn. Precincts falling into District One are 9, 11, 13, 20, 26, and 49; District Two are 1, 2, 3, 4, 5, 14, and 22; and District Three are 6, 7, 8, 10, 12, and 19.<sup>1</sup>


We, the Study Commission of the City of Bozeman, do hereby certify that this is the official apportionment plan for commissioner districts approved by the Bozeman City Government Study Commission.

In testimony whereof, we set our hands.

SEAL

Done at Bozeman, Montana this 19<sup>th</sup> day of August, 1996.

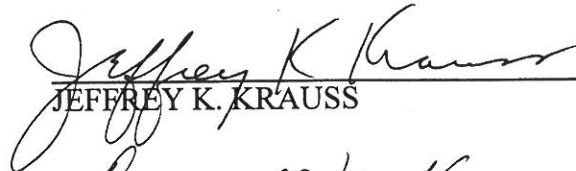
ATTEST:

  
ROBIN L. SULLIVAN  
Clerk of the Commission

  
JENNIFER SMITH MITCHELL, Chair

  
JOANNE H. EATON

  
ROBERT F. KERN

  
JEFFREY K. KRAUSS

  
CARROLL V. HENDERSON

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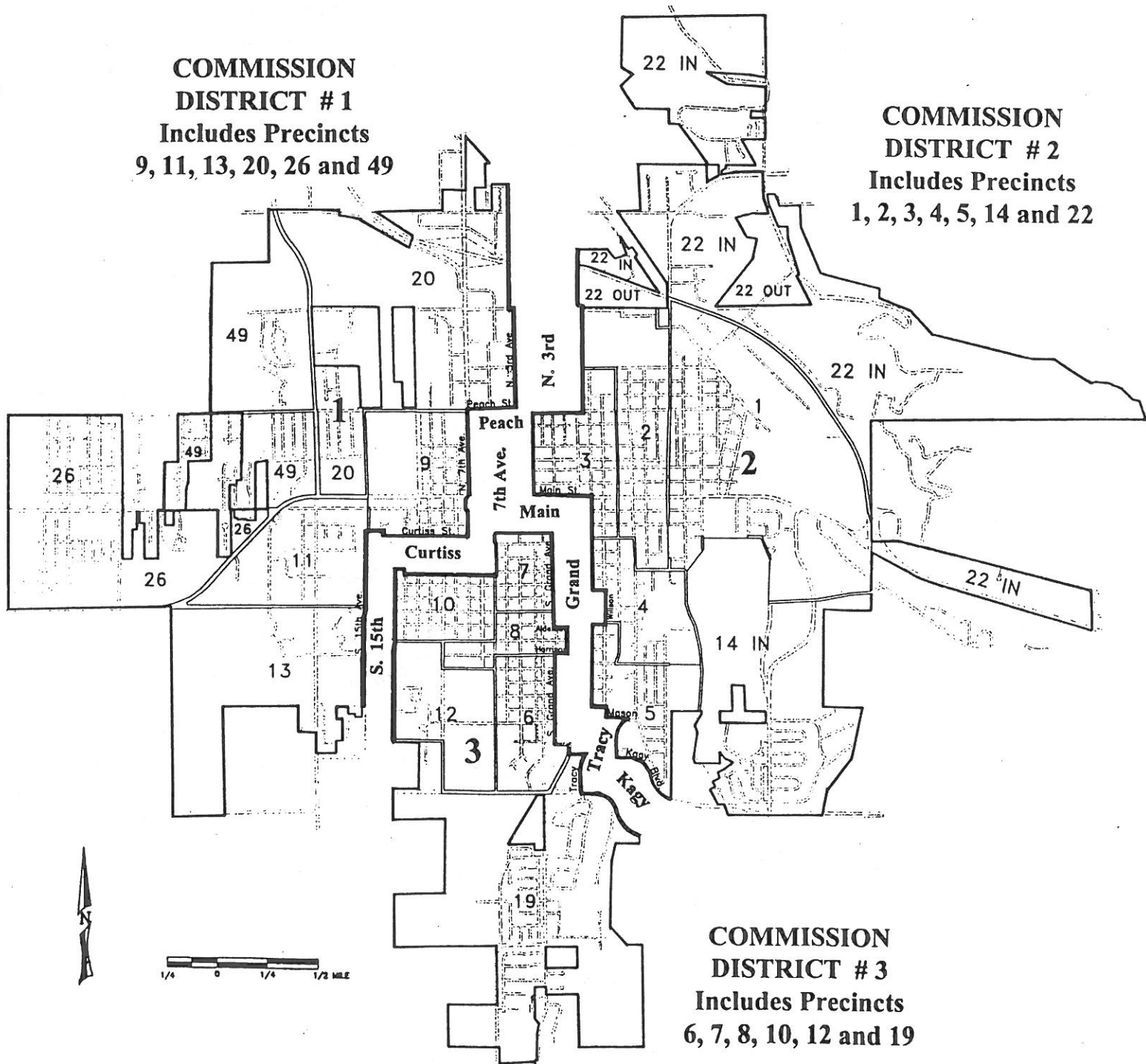
<sup>1</sup> This summary of population acquisition was performed by Heather Unger-Robertson. She holds a Masters Degree in Sociology from Mississippi State University and worked for two years as a Research Assistant at Mississippi State's Social Science Research Center. Her work involved professional writings and grant proposals, which required extensive work with census data. Heather has researched, written, and presented numerous professional papers.

# CITY of BOZEMAN

## PROPOSED COMMISSION DISTRICTS

**PROPOSAL:** 7 Part-time Commissioners: 1 Mayor Elected at-Large and 6 Commissioners, from 3 Districts with Alternating Terms.

**EXPLANATION:** 3 Districts, of Equal Population, divided along Voting Precinct Boundaries. These divisions are based on the 1990 Census, and estimated population increase through December 31, 1995.



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

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


We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the date of the special election approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19<sup>th</sup> day of August, 1996.

ATTEST:

  
ROBIN L. SULLIVAN  
Clerk of the Commission

  
JENNIFER SMITH MITCHELL, Chair

  
JOANNE H. EATON

  
ROBERT F. KERN

  
JEFFREY K. KRAUSS

  
CARROLL V. HENDERSON



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

Instructions to voters: Place an "X" in the boxes which express your preferences.

OFFICIAL BALLOT

BALLOT ON THE ALTERNATIVE FORM OF LOCAL GOVERNMENT

Vote for One.

- FOR adoption of the self-government charter as proposed for the city of Bozeman by the Bozeman City Government Study Commission.
  
- FOR the existing form of government.

We, the Study Commissioners of the City of Bozeman, do hereby certify that this is the official ballot approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19<sup>th</sup> day of August, 1996.

ATTEST:

  
\_\_\_\_\_  
ROBIN L. SULLIVAN  
Clerk of the Commission

  
\_\_\_\_\_  
JENNIFER SMITH MITCHELL, Chair

  
\_\_\_\_\_  
JOANNE H. EATON

  
\_\_\_\_\_  
ROBERT F. KERN

  
\_\_\_\_\_  
JEFFREY K. KRAUSS

  
\_\_\_\_\_  
CARROLL V. HENDERSON

**CERTIFICATE  
ESTABLISHING THE DATES OF THE  
FIRST PRIMARY AND GENERAL ELECTIONS  
FOR OFFICERS OF THE NEW GOVERNMENT  
OF BOZEMAN, MONTANA  
IF THE ALTERNATIVE PROPOSAL IS APPROVED  
AND ESTABLISHING THE EFFECTIVE DATE OF  
THE PROPOSAL IF APPROVED**

The primary election for officers of the new government of the City of Bozeman, Montana shall be held at a special election on September 9, 1997.

The general election for officers of the new government of the City of Bozeman, Montana shall be held at a special election on November 4, 1997.

The effective date of the alternative plan of local government of the City of Bozeman, Montana takes effect when the first elected officers take office on January 5, 1998.

We, the Study Commissioners of the City of Bozeman, 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 Bozeman approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this 19<sup>th</sup> day of August, 1996.


ATTEST:

  
ROBIN L. SULLIVAN  
Clerk of the Commission

  
JENNIFER SMITH MITCHELL, Chair

  
JOANNE H. EATON

  
ROBERT F. KERN

  
JEFFREY K. KRAUSS

  
CARROLL V. HENDERSON