

CHARTER OF MEAGHER COUNTY

PREAMBLE

WE, THE PEOPLE OF MEAGHER COUNTY, State of Montana, in accordance with Article XI, Section 5 of the Constitution of Montana, do adopt this charter.

ARTICLE 1

GENERAL PROVISIONS

Section 1.01 Powers of the County

Meagher County shall have all powers not prohibited by the Constitution of Montana, the laws of Montana, or this charter.

Section 1.02 Interpretation of Powers

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

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.

Section 1.04 Intergovernmental Cooperation

(1) As provided by Article XI, Section 7 of the Constitution of Montana, Meagher County, unless prohibited by law or this charter, may

(a) cooperate in the exercise of any function, power, or responsibility with;

(b) share the services of any officer or facilities with;

(c) transfer or delegate any function, power, responsibility, or duty of any officer to one or more other local government unity, school districts, the state, or the United States.

Section 1.05 Oath of Office

Before entering upon the duties of office, all elected county officials shall take and subscribe the oath of office as prescribed in Article III, Section 3 of the Constitution of Montana.

ARTICLE II

COUNTY COMMISSION

Section 2.01 Composition, Terms, Election, Qualifications, Compensation, Removal, Filling of Vacancies.

(1) Nominees for commissioner shall reside in their respective districts. The county commission shall consist of three (3) elected commissioners nominated by district.

(1) Commissioners shall be elected at large for terms of (4) years with overlapping terms.

(2) Commissioners shall receive \$35. per diem for meetings and administration of business and mileage from their homes for such meetings and business trips.

(3) (a) The office of commissioner shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office:

(b) A commissioner shall forfeit his office if he:

(i) loses his eligibility for election to his commission seat;

(ii) violated any express prohibition of this charter;

(iii) is convicted of a felony or other offense involving moral turpitude;

(iv) without commission approval, fails to attend two consecutive regular scheduled commission meetings or absents himself from the county continuously for thirty (30) days without consent of the commission.

(4) In the event of vacancy, the remaining commissioners shall appoint to fill the vacancy until the next regular county election at which time the remainder of the term shall be filled as provided by law. In the case of partisan election, the appointee shall be a qualified elector of same political party as the person who vacated the office.

(5) The commission shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.

(6) (a) There shall be a chairman, and a vice-chairman of the commission. The chairman shall be recognized as the head of the county and shall preside at the commission meetings. If, at any meeting the chairman is not present, or is unable to act, the vice-chairman shall preside at the meeting.

(b) The chairman shall be elected by the members of the commission from their own number for a term established by ordinance.

(c) The vice-chairman shall be elected by the members of the commission from their own number and shall serve at the commission's pleasure.

Section 2.02 Powers of County Commission

All legislative, executive and administrative powers of the county not specifically reserved by law, ordinance or this charter to other elected officials shall reside in the commission. These powers include, but are not limited to, the power:

- (a) to adopt and enforce ordinances and resolutions with proper public notice;
- (b) to establish departments offices or agencies in addition to those created by this charter and to prescribe their functions;
- (c) subject to the limitations provided by law, to raise and borrow money;
- (d) to make appropriations for county purposes;
- (e) to approve all contracts subject to bid;
- (f) to cooperated with other governmental agencies as prescribed in section 1.04 of this charter;
- (g) to provide for an annual independent audit of the finances of the county;
- (h) to prepare and approve the budget except as otherwise provided by law, ordinances, resolution or this charter;
- (i) to authorize community councils to advise the commission;
- (j) to apoint the members of all boards and commissions except as otherwise provided by law, ordinance, resolution or this charter;

(k) to appoint and remove the heads of departments and other employees except as provided by law, ordinance, resolution or this charter;

(l) to appoint one (1) or more administrative assistants to assist them in the supervision and operation of the county;

(m) to administer the affairs of the county;

(n) to enforce laws;

(o) to execute bonds, notes, contracts and other written obligations of the county;

(p) to provide by ordinances, all powers and duties of elected officials established by this charter;

(q) after the establishment of any office, to consolidate as provided by law, two or more of the offices, and

(r) to appoint a county coroner who may not be a member of the sheriff's department.

Section 2.03 Restriction on the County Commission

(1) Neither the commission nor any of its members may dictate the appointment or removal of any person under the authority of any elected official.

(2) Except for the purpose of inquiry or investigation under this charter or the code of local government, the commission or its members shall deal with the county employees who are subject to the direction and supervision of any elected official, solely through the elected official, and neither the commission nor its members may give orders to any such employees, either publicly or privately.

Section 2.04 Commission Procedure, Public Participation

(1) Commission procedure shall be as prescribed by state law.

(2) The commission shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings.

(3) All meetings shall be open to the public except in such circumstances as are prescribed by state law.

(4) All documents and records of the commission shall be public records and shall be made available for examining or copying.

ARTICLE III

CLERK AND RECORDER

Section 3.01 Election, Term, Compensation, Vacancy, and Removal

(1) The County Clerk and Recorder shall be nominated and elected at large by the qualified electors of the county.

(2) The Clerk and Recorder shall be elected for a term of four years.

(3) Elections for Clerk and Recorder shall be partisan.

(4) (a) The office of Clerk and Recorder shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.

(b) The Clerk and Recorder shall forfeit his office if he:

(i) loses his eligibility for election to the position of Clerk and Recorder;

(ii) violates any express prohibitions of this charter;

(iii) is convicted of a felony or other offense involving moral turpitude.

(5) The commission shall be the judge of the grounds of forfeiture of the office of Clerk and Recorder. A Clerk and Recorder charged with conduct constituting grounds for forfeiture shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.

(6) In the event of the vacancy in the office of Clerk and Recorder, the commission, by a majority vote of its member, shall appoint a person eligible to hold the position until the next regular county election, at which time the remainder of the term shall be filled as provided by law for the election of a Clerk and Recorder. In the case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office.

Section 3.02 Powers and Duties of Clerk and Recorder

The Clerk and Recorder shall perform all duties charged to him by this charter, law, ordinance, or resolution.

ARTICLE IX

ASSESSOR

Section 9.01 Election, Term, Compensation, Vacancy, and Removal

(1) The assessor shall be nominated and elected in the same manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter.

(2) The term of office, establishment of compensation, grounds for removal, vacancy of office, and filling of vacancies shall be in the same manner as prescribed for the chief law enforcement officer in section 6.01 of this charter.

Section 9.02 Powers and Duties of Assessor

The assessor shall perform all duties charged to him by this charter, law ordinance, or resolution.

ARTICLE X

PUBLIC ADMINISTRATOR

Section 10.01 Election, Term, Compensation, Vacancy, and Removal

(1) The public administrator shall be nominated and elected in the same manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter.

(2) The term of office, establishment of compensation, grounds for removal, vacancy of office, and filling of vacancies shall be in the same manner as prescribed for the chief law enforcement officer in section 6.01 of this charter.

Section 10.02 Powers and Duties of Public Administrator

The public administrator shall perform all duties charged to him by this charter, law, ordinance, or resolution.

ARTICLE XI

ADMINISTRATIVE DEPARTMENTS

Section 11.01 General

(1) The activities under the direction and supervision of the county commission shall be distributed among such departments, agencies and offices as are established by this charter or may be established thereunder by ordinance of the county commission in order to execute and enforce policies as are determined by the commission and to carry out obligations imposed on the county by state law.

(2) The commission shall appoint a Superintendent of roads and maintenance whose duty will be to oversee the regulated maintenance and construction of roads, bridges, culverts as prescribed in a county general road plan that has the approval of the commissioners.

ARTICLE

CHIEF LAW ENFORCEMENT OFFICER

Section 6.01 Powers and Duties of Sheriff

The sheriff shall be the chief law enforcement officer of the county. He shall perform all duties charged to him by this charter, law, ordinance, or resolution. His salary shall be established by the county commission.

Section 6.02 Qualification, Selection, Vacancy and Removal

COMMENT: One of the following provisions will become part of the charter depending upon approval of the people in a ballot suboption.

ALTERNATIVE #1

- (1) The sheriff shall be nominated and elected at large by the qualified electors of the county.
- (2) The sheriff shall be elected for a term of four (4) years.
- (3) Elections for the sheriff shall be partisan.
- (4) (a) The office of sheriff shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.
 - (b) The sheriff shall forfeit his office if he:
 - (i) Loses his eligibility for election to the position of sheriff;
 - (ii) Violated any express prohibition of this charter;
 - (iii) Is convicted of a felony or other offense involving moral turpitude.
- (5) The commission shall be the judge of the grounds of forfeiture of the office of sheriff. A sheriff charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.
- (6) In the event of a vacancy in the office of sheriff, the commission, by majority vote of all of its members, shall appoint a person eligible to hold the position of sheriff to fill the vacancy until the next regular county election, at which time the remainder of the term shall be filled as provided by law for the election of sheriff. In the case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office.

(7) In the event of temporary absence or disability, a deputy sheriff, previously designated by the sheriff as his substitute shall serve as acting sheriff.

ALTERNATIVE #2

(1) The sheriff shall be appointed by the Public Safety Commission for an indefinite term.

(2) The Public Safety Commission shall be composed of three (3) members nominated and elected in the same manner as county commissioners and not holders of other County Office. Vacancies on the Public Safety Commission shall be filled by the County Commissioners until the next regular county election.

ARTICLE VII

FINANCIAL OFFICER

Section 7.01 Election, Term, Compensation, Vacancy, and Removal

(1) The financial officer, who may be known as treasurer, shall be nominated and elected in the manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter.

(2) The term of office, establishment of compensation, grounds for removal, vacancy of office, and filling of vacancies shall be in the same manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter.

Articles V through XIII present the options of electing certain officials. If election of any or all of these officials is not desired, the Article (s) may be deleted and the power to appoint such official(s) will be given to the commission under article XIV.

Section 7.02 Powers and Duties of Financial Officer

The financial officer shall perform all duties charged to him by this charter, law, ordinance, or resolution.

ARTICLE VIII

SUPERINTENDENT OF SCHOOLS

Section 8.01 Election, Term, Compensation, Vacancy and Removal

(1) The superintendent of schools shall be nominated and elected in the same manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter.

(2) The term of office, establishment of compensation, grounds for removal, vacancy of office, and filling of vacancies shall be in the same manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter.

Section 8.02 Powers and Duties of Superintendent of Schools

The superintendent of schools shall perform all duties charged to him by this charter, law, ordinance, or resolution.

ARTICLE IV

COUNTY ATTORNEY

Section 4.01 Election, Term, Compensation, Vacancy, and Removal

(1) There shall be elected in the county a county attorney who shall possess the qualifications prescribed by state law, and who shall be nominated and elected in the same manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter.

(2) The term of office, establishment of compensation, grounds for removal, vacancy of office, and filling of vacancies shall be in the same manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter

Section 4.02 Powers and Duties

The county attorney shall be the chief legal advisor and criminal prosecutor of the county and shall perform such duties as may be prescribed according to this charter or by law.

ARTICLE V

CLERK OF THE DISTRICT COURT

Section 5.01 Election, Term, Compensation, Vacancy and Removal

(1) The clerk of the district court shall be nominated and elected in the same manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter.

(2) The term of office, establishment of compensation, grounds for removal, vacancy of office, and filling of vacancies shall be in the same manner as is prescribed for the chief law enforcement officer in section 6.01 of this charter.

Section 5.02 Powers and Duties of Clerk of the District Court

The clerk of the district court shall perform all duties charged to him by this charter, law, ordinance, or resolution.

Section 11.01 General

(1) The activities under the direction and supervision of the county commission shall be distributed among such departments, agencies and offices as are established by this charter or may be established there- under by ordinance of the county commission in order to execute and enforce policies as are determined by the commission and to carry out obligations imposed on the county by state law.

(2) The commission shall appoint a Superintendent of roads and maintenance whose duty will be to oversee the regulated maintenance and construction of roads, bridges, culverts as prescribed in a county general road plan that has the approval of the commissioners.

ARTICLE XII

CHARTER TAX PROVISIONS

Section 12.01 Charter All purpose Mill Levy:

(1) The County Commissioners may levy an all-purpose property tax so long as the total taxes expected to be collected pursuant to the levy does not increase the taxes levied on the same property listed on the tax rolls as of January 1, 1976, by more than five percent (5%) per year. The all-purpose mill levy shall not include levies imposed for bonded indebtedness, to pay judgments, local improvement district revolving funds, or premiums for comprehensive insurance.

(2) Property tax levies for payment of bonded indebtedness, judgments, local improvement district revolving funds, or premiums for comprehensive insurance may not exceed the limits imposed by the State of Montana on a County with general government powers.

(3) The County Commissioners may levy any other taxes as allowable by law to a County with general government powers in the manner provided.

Section 12.02 Reserve and the Budget:

In determining the budget, the County Commissioners shall set aside an adequate reserve to meet expenditures to be made during the months of July to November of the next fiscal year. In no event shall the budget for any tax year decrease the amount of the reserve budgeted for the preceding fiscal year.

ARTICLE XIII

NOMINATIONS AND ELECTIONS

Section 13.01 Elected County Offices

The procedure for the nomination and election of all elected county offices shall be as prescribed by state law for partisan elections.

Section 13.02 Districts

For purposed of representation on the county commission, Meagher County shall be divided into three (3) districts. Boundaries of commission districts may be changed in accordance with this charter.

Section 13.03 Reapportionment of Commission Districts

(1) Within six (6) months after an official United States census establishes that the population of any district differs in number from the average population of all districts by more than 10 percent (10%), the commission shall modify the boundaries of districts so that such difference is eliminated.

Section 13.04 Redistricting

District boundaries may be changed by ordinance, provided that such revised districts' boundaries must comply with the population standards prescribed in section 15.03 of this charter. In the event of judicial challenge to the ordinance, the burden of proving compliance shall rest upon the county.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 14.01 Amendment of Charter

This charter may be amended only as prescribed by State law.

Section 14.02 Effective Date

This charter shall become effective on May 2, 1977.

Section 14.03 Separability

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 XV

TRANSITIONAL PROVISIONS

Section 15.01 General Transition

Transition to this charter form of government shall be as prescribed by state law. The commission may provide for such transition by ordinance, rule, or resolution not inconsistent with state law. The provisions of this transition article shall not be published as part of the charter after July 1, 1978.

Section 15.02 Commission Districts

Commission districts will be as follows:

Section 15.03 Salaries and Expenses

(1) The initial expenses of the commission shall be paid by the county on claims signed by the chairman of the commission.

(2) Members of the commission shall receive a per diem in the amount of \$35. and mileage from their homes.

(3) Salaries of all other elected county officials and employees shall continue at their present level until the discontinuance of such office or position in accordance with the provisions of this charter, or the change in salary or employment of such officials and employees in accordance with the provisions of this charter.

Section 15.04 Commission Terms

Three commissioners shall be elected in 1977 and will draw lots for two terms of four years and one term of two years.