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CHARTER of Wheatland County

ARTICLE I

GENERAL PROVISIONS

Section 1.01 Powers of County

Wheatland County shall have all powers not prohibited by the Constitution of Montana, the laws of Montana and 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 existence of that 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, Wheatland County, unless prohibited by law or this charter, may

(a) cooperate in the exercise of any junction, 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 units, school districts, the state, or the United States.

(2) The qualified electors of the county may, by initiative or referendum, require it to do so.

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 of the Constitution of Montana.

ARTICLE II

County Commission

Section 2.01 Composition, terms, election, qualifications, compensation, removal, filling of vacancies.

(1) There shall be a commission of Wheatland County composed of five (5) members, at least three (3) of whom shall be elected every two years.

(2) Members of the commission shall be elected for terms of four (4) years.

(3) Elections for the commission shall be Partisan.

(4) As provided in Article IV of this charter, three (3) commissioners shall be nominated by district and elected at large, and two (2) shall be elected at-large. Nominees for commissioner nominated by district shall reside in such district.

(5) The commissioners shall receive a salary of \$40.00 (Forty Dollars) per regular meeting, at least one of which shall be held each month, not to exceed an annual salary of \$1000.00 (One Thousand Dollars). Commissioners shall receive their actual and necessary expenses plus a per diem of \$20.00 (Twenty Dollars) per day incurred in the performance of their duties of office outside of the county.

(6) By ordinance adopted at least six (6) months prior to the next county general election, the commissioners may determine the regular meeting salary, but no ordinance increasing such salary shall become effective until the date or commencement of the terms of commissioners elected at the next general county election. In no event will the salary of the commissioners be increased during their term of office.

(7) (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) violates 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 regularly scheduled commission meetings or absents himself from the county continuously for thirty (30) days without consent of the commission.

(8) In the event of 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 county election at which time the remainder of the term shall be filled as provided by law.

(9) 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 constitution 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.

(10) The commission shall elect from its members a chairman and vice-chairman, each of whom shall serve at its pleasure. The chairman shall preside at the

- (2) The Community Council shall receive only necessary and actual expenses.
- (3) The Community Council will act only in an advisory capacity with no vote in the commission proceedings.
- (4) The council members shall attend at least 1 (one) regularly scheduled meeting per month.

ARTICLE IV

COUNTY MANAGER

Section 4.01 Qualifications, Compensation, Appointment and Removal

- (1) The county manager shall be appointed by the commission for an indefinite term on the basis of merit only. The commission shall fix his compensation.
- (2) The county manager need not be a resident of the county at the time of his appointment, but may not reside outside the county while employed in the county.
- (3) The commission may remove the manager from office by a majority vote of the total number of the commission but must do so at a regularly scheduled meeting and must state their reasons for such removal.
- (4) After removal of the manager from office the commission shall appoint an acting manager to serve until another manager is appointed.
- (5) At no time shall a member of the board of county commissioners be appointed to serve as acting county manager.

Section 4.02 Acting County Manager

By letter filed with the commission, the county manager shall designate, subject to the approval of the commission, an acting county manager to exercise the powers and perform the duties of county manager during his temporary absence or disability. During such absence or disability, the commission may revoke such designation at any time and appoint another officer of

the county to serve until the manager shall return or his disability shall cease.

Section 4.03 Powers and Duties of County Manager

- (1) The county manager shall be the chief administrative officer of the county; he shall be responsible to the commission for the administration of all county affairs placed in his charge by this charter, law, ordinance or resolution.
- (2) The manager shall:
 - (a) see to the enforcement of laws, ordinances and resolutions;
 - (b) perform the duties required of him by this charter, law, ordinance or resolution;
 - (c) administer the affairs of the local government;
 - (d) direct, supervise and administer all departments, agencies and offices of the local government unit except as otherwise provided by state law, this charter or ordinance;
 - (e) carry out policies established by the commission;
 - (f) prepare the commission agenda;
 - (g) recommend measures to the commission;
 - (h) report to the commission on the affairs and financial condition of the local government;
 - (i) execute bonds, notes, contracts and written obligations of the commission, subject to the approval of the commission;
 - (j) report to the commission as the commission may require;
 - (k) attend commission meetings and may take part in the discussion, but he may not vote;
 - (l) prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;
 - (m) appoint, suspend and remove all employees of the county except as otherwise provided by law or ordinance. Employees appointed by the manager and his

subordinates shall be administratively responsible to the manager.

Section 4.04 Restrictions on the County Manager

(1) The manager shall have no authority over, or responsibility for, the county attorney or the operation of the county attorney's office, including the budget or employees for that office.

ARTICLE V

County Attorney

Section 5.01 Election, Qualifications, Term

There shall be elected in the county an attorney who shall serve a term of four (4) years and who shall possess the qualifications prescribed by state law.

Section 5.02 Powers and Duties

The county attorney shall perform all prosecutorial duties charged to him by this charter, law, ordinance or resolution to preserve the peace and dignity of the State of Montana. He may also serve as legal advisor to the county commission.

ARTICLE VI

Administrative Departments

Section 6.01 General

The activities under the direction and supervision of the manager shall be distributed among such departments and agencies as are established by this Charter or may be established thereunder by ordinance of the commission in order to execute and enforce policies as determined by the Commission and to carry out obligations imposed on Wheatland County by state law.

Section 6.02 Administrative Code

(1) The Administrative Code shall provide the complete plan of organization and structure of Wheatland County.

(2) The Administrative Code shall include:

- (a) the departmental organization of the government, the nature and scope of each department and rules and procedures for department operation;
- (b) comprehensive budget procedures for the government;
- (c) procedures regarding boards, commissions, advisors, studies and any other government activities.

Section 6.03 Personnel System

The Wheatland County Personnel System shall provide for hiring on the basis of merit and shall include a salary schedule, provisions for vacations, sick leaves, insurance and other benefits for all employees in accordance with provisions of this Charter; procedures for employees to have an opportunity to be heard upon their request pending discharge, suspension or any designated disciplinary action and shall provide for such other procedures as necessary for an equitable Personnel System including honoring of all collective bargaining agreements.

ARTICLE VII

Nominations and Elections

Section 7.01 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 7.02 Districts

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

Section 7.03 Reapportionment of Commission Districts

(1) Within six (6) months after the availability of the official U. S. Census the Commission shall modify the boundaries of districts so that they are as equal in population as is practicable.

(2) If the commission fails to perform the modifications required by subsection one (1) of this section within the specified time, the members of the commission shall forfeit all pay and allowances until they enact modifications, at which time their pay and allowances shall resume unaffected by court challenge to those modifications.

(3) District boundaries may be changed at any time by ordinance to comply with the equal population requirements of this section. In the event of a judicial challenge to the ordinance, the burden of proving compliance shall rest upon the county.

ARTICLE VIII

Name and Boundary of County

Section 8.04 Name and Boundary

The name and boundaries of the County shall be those designated by state law.

ARTICLE IX

Taxation Limitations

Section 9.01 Tax Levy, Property Taxes

(1) The commission may exceed the mill levy limit for a particular budget year upon the approval by an affirmative vote of the people in an election on this question.

Section 9.02 New Forms

The commission may impose no new form of taxation without approval by the people. Taxation allowed under any ordinance existing upon the effective date of this charter is not to be considered a new form of taxation. Nothing in this section shall be construed to prohibit the commission from charging license, user, service or other fees.

ARTICLE X

Miscellaneous Provisions

Section 10.01 Amendment of Charter

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

Section 10.02 Effective date

This charter shall become effective on May 2, 1977.

Section 10.03 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.

Section 10.04 Justice of the Peace

The office of Justice of the Peace shall be elected as provided by state law.

ARTICLE XI

Transitional Provisions

Section 11.01 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 this charter after July 1, 1978.

Section 11.02

(1) Within nine (9) months of the appointed of the Manager, the Manager shall prepare and submit an Administrative Code and Personnel System to the Commission for review, amendment, and adoption by ordinance. The Code and Personnel System shall not be in violation of any union collectively bargaining contract in force at the time of adoption of said Code and System.

(2) The Commission shall adopt the Administrative Code and Personnel System by ordinance as submitted or amended within nine (9) months.

(3) The method and schedule for implementation of the Administrative Code and Personnel System shall be provided in the ordinances adopting them.

(4) No later than March 1, 1979, the Manager shall submit a codification of ordinances and resolutions to the Commission for review, amendment and adoption by ordinance.

Section 11.03 Salaries and Expenses

(1) The initial expenses of the commission, including the expense of advertising for applicants for the position of county manager and interviewing and investigating such applicants in the county or elsewhere, shall be paid by the county on claims signed by the chairman of the commission.

(2) 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 11.04 Commission Terms

(1) The county commissioner elected on November 7, 1972 shall continue to hold office as a commissioner until his successor is elected in 1978 and qualified in 1979. Such commissioner retains his office under the provisions of Section 6 (3) of the transition schedule of the 1972 Montana Constitution. Such commissioner shall be designated commissioner at-large.

(2) The remaining four (4) commissioners shall draw lots to establish their respective terms of office at the first meeting of the commission. Two (2) of the four (4) commissioners shall serve terms of two (2) years and two (2) shall serve terms of four (4) years.

CERTIFICATE

**ESTABLISHING THE DATE OF THE GENERAL ELECTION
AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT SHALL
BE PRESENTED TO THE ELECTORS OF WHEATLAND COUNTY**

The alternative form of government proposed by the Local Government Study Commission shall be submitted to the voters of Wheatland County at the General Election to be held on November 2, 1976.

We, the Study Commissioners of Wheatland County do hereby certify that this is the date of the special election approved by the Study Commissioners of Wheatland County.

In testimony whereof, we set our hands.

**ATTEST: CAROL J. CLARK
CLERK & RECORDER
OF
WHEATLAND COUNTY**

7-30-76

Done at Harlowton, Montana, this 30th day of July, 1976.

**SIGNED: BLANCHE BLUM
SIGNED: DARREL COOMBS
SIGNED: MAC WHITE**

Local Government Study Commissioners

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