

CERTIFICATE OF PLAN OF PROPOSED FORM OF GOVERNMENT

CHARTER OF FALLON COUNTY

PREAMBLE

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

ARTICLE I

GENERAL PROVISIONS

Section 1.01 Powers of County

(1) Fallon County shall operate under general government powers, except as provided in Section 2.

(2) Any proposal which would exercise a self-governing powers beyond these general governing limits must be submitted to the electors and approved by a majority of those voting on the question.

(3) Initiative and referendum procedures as provided by state law for local government, shall apply to the exercise of self-government powers.

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 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) There shall be a commission of Fallon County composed of three (3) members, one (1) of whom shall be elected every two (2) years.

(2) Members of the commission shall be elected for terms of six (6) years.

(3) Elections for the commission shall be (non-partisan, partisan)*.

(4) Commissioners shall be nominated by district in which they must reside and which are apportioned by population, but shall be elected at large.

(5) Salaries of commissioners shall be determined in accordance with provisions of State law.

(6) (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;

(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.

(7) In the event of vacancy, the commission shall by unanimous 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. (The appointee shall be a qualified elector of the same political party as the person who vacated the office.)*

(8) The commission shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office as specified in Section 2.01 (6). 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.

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

(10) The commission shall appoint one (1) Road Supervisor to assist them in the supervision of construction and maintenance of county roads and bridges. The road supervisor shall serve at the pleasure of the commission and shall have such duties and powers as provided by ordinance.

(11) (a) Each commissioner district shall have an advisory board to meet with and advise the respective commissioner on any matters concerning that district or the county as a whole.

(b) This board shall consist of three (3) members elected on non-partisan basis for a four (4) year term. They shall reside in their respective commission districts and shall be elected by the qualified electors from their respective districts.

(c) The board shall meet at least once a month and public minutes shall be kept.

(d) The board members shall receive no salary.

Section 2.02 Powers of County Commission

(1) The Commission shall operate under general government powers in accordance with Article I, Section 1.

(2) The Commission may consolidate two (2) or more county offices in accordance with state law.

ARTICLE III

CHIEF LAW ENFORCEMENT OFFICER

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

(1) The chief law enforcement official, who may be known as 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) The question of (non-partisan, partisan)* elections will be presented to the voters as a sub-option to be voted on. The option approved by the voters will become part of the charter.

(4) The salary of the sheriff shall be determined in accordance with provisions of state law.

(5) (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) violates any express prohibition of this charter;

(iii) is convicted of a felony.

(6) 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.

(7) 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. (The appointee shall be a qualified elector of the same political party as the person who vacated the office.)*

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

Section 3.02 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, state 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 3.01 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 3.01 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 state law, ordinance, or resolution.

ARTICLE V

RECORDS ADMINISTRATOR

Section 5.01 Election, Term, Compensation, Vacancy, and Removal

(1) The records administrator, who may be known as county clerk and recorder, shall be nominated and elected in the same manner as is prescribed for the chief law enforcement officer in Section 3.01 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 3.01 of this charter.

Section 5.02 Powers and Duties of the Records Administrator

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

ARTICLE VI

CLERK OF THE DISTRICT COURT

Section 6.01 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 3.01 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 3.01 of this charter.

Section 6.02 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, state law, ordinance, or resolution.

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 same manner as is prescribed for the chief law enforcement officer in Section 3.01 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 3.01 of this charter.

Section 7.02 Powers and Duties of Financial Officer

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

ARTICLE VIII
ASSESSOR

Section 8.01 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 3.01 of this charter.

(2) The term of office, establishment of compensation, grounds for removal, vacancy of office, and filling vacancies shall be in the same manner as is prescribed for the chief law enforcement officer in Section 3.01 of this charter.

Section 8.02 Powers and Duties of Assessor

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

ARTICLE IX

SUPERINTENDENT OF SCHOOLS

Section 9.01 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 3.01 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 3.01 of this charter.

Section 9.02 Powers and Duties of Superintendent of Schools

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

ARTICLE X

CORONER

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

(1) The coroner shall be nominated and elected in the same manner as is prescribed for the chief law enforcement officer in Section 3.01 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 3.01 of this charter.

Section 1012 Powers and Duties of Coroner

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

ARTICLE XI

PUBLIC ADMINISTRATOR

Section 11.01 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 3.01 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 3.01 of this charter.

Section 11.02 Powers and Duties of Public Administrator

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

ARTICLE XII

Section 12.01 General

The activities under the direction and supervision of the county commission shall be distributed among such departments, agencies and officers 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.

ARTICLE XIII

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 non-partisan, partisan elections.)*

Section 13.02 Districts

For purposes of representation of the county commission

Fallon County shall be divided into three (3) districts in accordance with Appendix A. Boundaries of commission districts may be changed in accordance with state law.

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 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) Salaries of all 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 of salary or employment of such officials and employees in accordance with the provisions of this charter.

Section 15.03 Commission Terms

(1) The county commissioner~~s~~ elected on November 7, 1972 shall continue to hold office as the commissioner representing District No. 1 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.

(2) The remaining two (2) commissioners shall draw lots to establish their respective terms of office at the first meeting of the commission. One (1) commissioner shall serve an initial term of four (4) years and the other commissioner shall serve a regular six (6) year term.

Certificate of Proposed Form of Government.

This Charter is the Proposed Plan of Government approved by the Study Commissioners of Fallon County as authorized by section 47A-3-208-(1)-(18), Revised Codes of Montana, 1947, authorizing Charter form of Government.

In Testimony whereof, we set our hands.

Done at Baker, Montana this 2nd day of August, 1976.

Rolph Tunby

Low Steen

[Signature]

ATTEST: [Signature]
Clerk & Recorder of
Fallon County

* Inclusion in the charter of material in parentheses depends on the action taken by the voters on the sub-option offered.