

CHARTER OF LAKE COUNTY

PREAMBLE

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

ARTICLE I

Section 1:01 Powers of County

Lake 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 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 Inter-governmental Cooperation

(1) As provided by Article XI, Section 7 of the Constitution of Montana, Lake 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 units, school districts, the State, or the United States.

(2) The people of Lake County may require, restrict or prohibit inter-governmental cooperation through the process of initiative as provided in Article VIII, Section 8:05 of this Charter.

Section 1:05 Oath of Office

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

6-23-73

ARTICLE II
COUNTY COMMISSION

Section 2:01 Composition, terms, election, qualifications,
compensation, removal, filing of vacancies

(1) There shall be a commission of Lake County, composed of five (5) members, at least two of which shall be elected every two (2) years.

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

(3) Three (3) commissioners shall be designated as district commissioners. Two (2) commissioners shall be designated at large. Nominees for district commissioners shall reside in such districts. All commissioners shall be elected at large.

(4) By ordinance adopted at least six (6) months prior to the next County general election, the commission may determine the annual salary of its members. Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office, or the commission may establish per diem mileage allowances in lieu of such expenses.

(5) 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;

(a) 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.

(6) 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.

(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.)

COMMENT: This provision shall be a part of the Charter, if partisan elections are adopted by the electors in the ballot sub-option.

(7) 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.

(8) 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 commission meetings. If at any meeting, the chairman is not present or is unable to act, the vice-chairman shall preside at the meeting.

Section 2:02 Powers of County Commission

The County commission shall be the legislative and policy determining body of the County. Except as otherwise provided by this Charter, the commission shall have all powers of the County, which include, but are not limited to, the power:

- (a) to adopt ordinances and resolutions;
- (b) to establish departments, offices, or agencies in addition to those created by this Charter and to prescribe their function;
- (c) to raise and borrow money, subject to the limitations provided by law;
- (d) to make appropriations for County purposes;
- (e) to approve all contracts subject to bid;
- (f) to employ an attorney for purposes which the commission feels necessary;
- (g) to cooperate with other governmental agencies as prescribed in Section 1:04 of this Charter;
- (h) to provide for an annual independent audit of the finances of the County;
- (i) to approve the budget;
- (j) to authorize community councils to advise the commission;

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 employee whom the executive or any of his subordinates are empowered to appoint;
- (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 county employees who are subject to the direction and the supervision of the executive, solely through the executive, and neither the commission nor its members may give orders to any such employee, either publicly or privately.
- (3) The commission shall impose no ad valorem taxes on real and personal property, in excess of the limits provided by law for counties with general government powers unless approved by a majority of those voting on the question in referendum.

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 current journal of its proceedings.
- (3) All meetings shall be open to the public except in such circumstances as are prescribed in State law.
- (4) All documents and records of the commission shall be public record and shall be made available for examining or copying.

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ARTICLE III

COUNTY EXECUTIVE

Section 3:01 Election, term, compensation, vacancy, removal and acting executive

- (1) The county executive shall be nominated and elected at large by the qualified electors of the county.
- (2) The county executive shall be elected for a term of four (4) years.
- (3) The salary of the county executive shall be established by the county commission. No change in compensation of the county executive shall become effective during the term of office for which the executive is elected.
- (4) The commission shall be the judge of the grounds of forfeiture of the office of county executive. A county executive charged with conduct constituting grounds of 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 county executive, the commission, by majority vote of all its members, shall appoint a person eligible to hold the position of county executive 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 the county executive.

(In case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office.)

COMMENT: This provision shall be a part of the Charter, if partisan elections are adopted by the electors in the ballot sub-option.

Section 3:02 Powers and duties of County Executive

- (1) The county executive shall be the chief executive and administrative officer of the county.
- (2) The county executive shall:
 - (a) enforce laws, ordinances, and resolutions;
 - (b) perform duties required of him by this Charter, law, ordinance or resolution;
 - (c) administer affairs of the county;
 - (d) carry out policies established by the commission;
 - (e) recommend measures to the commission;
 - (f) report to the commission on the affairs and financial condition of the county;
 - (g) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

Section 3:02 Powers and duties of the County Executive - (continued)

- (h) report to the commission as the commission may require;
- (i) attend commission meetings and may take part in discussion;
- (j) execute the budget adopted by the commission;
- (k) appoint, with the consent of the commission, all members of boards; except, the executive may appoint without consent of the commission temporary advisory committees established by the executive.

(3) The county executive:

- (a) may appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the executive;
- (b) shall appoint with the consent of the majority of the commission, all department heads. The executive may remove department heads. Department heads may appoint and remove all department employees.
- (c) may veto ordinances and resolutions, subject to override by a two-thirds vote of the whole commission.
- (d) shall prepare all budgets and present them to the commission for adoption.
- (e) shall exercise control and supervision of the administration of all departments and boards;

ARTICLE IV

SHERIFF

Section 4:01 Election, term, compensation, vacancy, and removal

- (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) The salary of sheriff shall be established by the commission, except no decrease shall be allowed during a term of office without approval of the sheriff.
- (4) 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.

(a) 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.

(5) The commission shall be the judge of the grounds for 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 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 case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office.)

COMMENT: This provision shall be a part of the Charter, if partisan elections are adopted by the electors in the ballot sub-option.

Section 4:02 Duties and Powers

The sheriff shall perform all duties charged to him by this Charter law, ordinances or resolutions.

Section 4:03 Administrative Accountability

The sheriff may appoint sheriffs and under-sheriffs. Then, in all other budgetary matters the sheriff shall be accountable to the county executive.

ARTICLE V

COUNTY ATTORNEY

Section 5:01 Election, term, compensation, vacancy, and removal

(1) The county attorney who shall possess the qualifications prescribed by State law shall be nominated and elected at large by qualified electors of the County.

(2) The county attorney shall be elected for a term of four (4) years.

(3) The salary of county attorney shall be established by the commission, except no decrease shall be allowed during a term of office without approval of the county attorney.

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

(a) The county attorney shall forfeit his office if he:

(i) loses his eligibility for election to the position of county attorney;

(ii) violates any express prohibition of this Charter;

(iii) is convicted of a felony.

(5) The commission shall be the judge of the grounds for forfeiture of the office of county attorney. A county attorney 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 event of a vacancy in the office of county attorney, the commission, by majority vote of all its members, shall appoint a person eligible to hold the position of county attorney 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 county attorney.

(In case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office.)

COMMENT: This provision shall be a part of the Charter, if partisan elections are adopted by the electors in the ballot sub-option.

Section 5:02 Duties and Powers

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 and by law and by the commission.

Section 5:03 Administrative Accountability

The county attorney may appoint an assistant county attorney. In all other administrative matters the county attorney shall be accountable to the county executive.

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ARTICLE VI

ADMINISTRATIVE DEPARTMENTS

The activities under the direction and supervision of the county executive shall be distributed among such departments, agencies, and offices as are established by this Charter, in order to executive and enforce policies as determined by the commission and to carry out obligations imposed on the County by State law. The county executive, may upon approval of the commission, reorganize departmental structure and reassign duties of administrative positions.

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ARTICLE VII

NOMINATIONS AND ELECTIONS

Section 7:01 Elected county offices

The procedure for the nomination and election of all elected County officials shall be as prescribed by State law for (PARTISAN) (NON-PARTISAN) election.

COMMENT: One of these two provisions will be included in the Charter, depending on which is adopted by the electors in the ballot sub-option.

Section 7:02 Districts

For purpose of representation on the county commission, Lake County shall be divided into three (3) apportioned districts. Boundaries of commission districts will be established by the County commission in accordance with State law.

ARTICLE VIIIMISCELLANEOUS PROVISIONSSection 8:01 Amendment to the Charter

- (1) The people of Lake County may amend this Charter as following except or unless as otherwise provided by State law.
- (2) An amendment to this Charter may be proposed by:
 - (a) a resolution of the governing body; or
 - (b) petition of ten percent (10%) of the qualified electors voting for the office of county executive at the last general election.
- (3) The resolution or petition shall set out fully the Article, Section or Sections sought to be amended and the proposed amendment.
- (4) An election on an amendment proposed by resolution or petition shall be held at the next general election of the local government, unless the petition or resolution calls for a special election. If a special election is called for, the governing body shall set a date for election no sooner than sixty (60) days or later than (90) ninety days after passage of the resolution or filing of the petition.
- (5) An election on an amendment shall be conducted and votes returned and canvassed in the manner provided by law for questions submitted to the electorate.
- (6) An amendment requires the affirmative vote of a majority of those voting on the question for passage.
- (7) An amendment becomes effective January 1st after the election results are officially declared.
- (8) Following the adoption of an amendment, the county executive shall file a copy of the amendment with the Department of Records.

Section 8:02 Effective Date

This Charter shall become effective on May 2, 1977.

Section 8:03 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 circumstances is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 8:04 Recall

The holder of any Lake County elective office may be removed at any time by the electors of the County in the manner provided by this Article, unless superseded by State law.

(1) A petition to remove any incumbent officer must be filed. The petition shall:

- (a) demand an election for recall of the officer sought to be recalled;
- (b) contain a statement of general grounds for which the recall is being sought;
- (c) be signed and dated by at least twenty-five percent (25%) of the registered electors of the County, who shall also signify their places of residence; and
- (d) contain a sworn statement by one (1) petitioner who shall swear before an officer competent to administer oaths, that he believes the contained statements to be true and the signatures on the petition to be genuine.

(2) The governing body shall, upon the reception of a petition, order and fix a date for an election on the question, not less than seventy (70) days nor more than eighty (80) days from the date the clerk certified the petition as adequate. Within five (5) days of fixing the election date, the governing body shall publish the purpose of the election, the reasons stated in the petition for recall and the date of the election.

(3) The election shall be conducted as provided by State law. A recall ballot shall contain:

- (a) the grounds stated in the recall petition;
- (b) the rebuttal to allegations of recall petition;
- (c) statements (a) and (b) of above shall be filed with the clerk for publication and public inspection within thirty (30) days before the election; and
- (d) both statements of paragraphs of (a) and (b) above shall be limited to 200 words or less.
- (e) a question stating:
"Shall (name of person) be recalled from the
office of (office)?"
Yes () No ()

(4) If a majority of those electors voting on the question favor the recall of the officer, the recall shall take place immediately upon official declaration of the election results. Any vacancy created as a result of recall election shall be filled in the same manner as any other vacancy in the same office.

Section 8:05 Initiative and Referendum

(1) The people of Lake County have every right of Initiative and Referendum as provided by State law. Veto power of the County Executive shall not extend to measures referred to the people by the County Commissioners or by initiative and referendum petitions.

ARTICLE IX
TRANSITIONAL PROVISIONS

Section 9:01 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 9:02 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) Members of the commission shall receive an annual salary in the amount of three thousand six hundred dollars (\$3,600.00) until such amount is changed by the commission in accordance with the provisions of this charter.

(3) The county executive shall receive an annual salary in the amount of nineteen thousand five hundred dollars (\$19,500.00) until such amount is changed by the commission in accordance with the provisions of this charter.

(4) 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 9:03 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 commissioners shall serve initial terms of two (2) years. The remaining two (2) commissioners shall serve terms of four (4) years.