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FINAL

CHARTER OF EUREKA

PREAMBLE:

This Charter and all amendments hereto shall constitute the form of government for the Town of Eureka. Among the purposes of this Charter are: to establish the Town Meeting Override of the Mayor-Council (Commission-Executive) form of government; to secure all possible municipal home rule; to provide municipal services and facilities with the highest degree of efficiency and economy; and to provide for the health, safety and well-being of its citizens.

ARTICLE I GENERAL PROVISIONS:

Section

1.01

Eureka shall have all powers not prohibited by the Constitution of Montana, the laws of Montana, this Charter, or the Constitution of the United States.

1.02

Eureka's self-government powers shall be liberally construed. Every reasonable doubt as to the existence of a power or authority shall be resolved in favor of the existence of that power or authority.

1.03

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.

1.04

The people of Eureka retain the right to amend provisions of this Charter as provided in state law. A proposal for Charter amendment shall be presented to the voters for approval or rejection as the sole ballot issue.

1.05

The municipal corporation now known as the "Town of Eureka" shall continue to be a municipal corporation under the same name and with the actual boundaries of the municipality at the time this Charter takes effect and as lawfully changed thereafter.

1.06

EXERCISE OF POWER:

All self-government powers of the Town of Eureka belong to the people of the Town of Eureka. Exercise of those powers shall be by their elected representatives on the Council and by the Primary Town Meeting and any Special Town Meetings.

1.07

EXISTING OBLIGATIONS:

Any bond, debt, contract, obligation, or cause of action already accrued or established by the Town of Eureka shall be unaffected by this Charter.

1.08

OATH OF OFFICE:

Before entering upon official duty, the Mayor and Council members shall take and subscribe to the oath of office as follows: "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, and the Eureka Charter, and I will faithfully and honorably discharge the duties of my office."

1.09

POWER LIMITATIONS:

A. The Council may impose no new form of taxation nor modification of current taxation without prior approval by the Primary Town Meeting.

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ARTICLE I GENERAL PROVISIONS: cont'd.

Section

- 1.09 C. The Council shall not obligate the Town government to match funds with any other level of government without the express approval of the Primary Town Meeting. This shall not be a restriction on any agreement between the Town of Eureka and Lincoln County for the provision or exchange of services.

ARTICLE II THE TOWN MEETINGS:

Section

- 2.01 The Town Meeting: Primary and Special.
- A. The Primary Town Meeting and any Special Town Meetings shall consist of an assembly of the qualified electors of Eureka, each of whom has one vote at any Town Meeting.
1. Proxy: If, on account of illness, or absence from Eureka for a medical or emergency medical cause or a ceremonial cause, a voter cannot attend a Primary or a Special Town Meeting, that voter may assign his vote by proxy to another qualified voter. The absent voter shall indicate on the proxy whether it is to be used for all votes taken at the Meeting (a blanket proxy), or whether it is to be used to vote on one or two issues, as a limited proxy.
 - a. A limited proxy shall state clearly which issues are to be voted, and how: aye or nay on the fundamental issues. Fundamental issues shall be construed as favoring change or not favoring change, since an absent voter cannot know the precise manner in which a resolution might be presented.
 - b. A person voting by proxy may leave the choice of aye or nay to the voter who bears his proxy: if he is leaving the choice to the proxy bearer, he must indicate so on the face of the ballot.
 - c. Both limited and blanket proxies are to be signed by the voter himself, and he must indicate the name of the person to whom he is delegating his vote.
 - d. If the Town Moderator determines that there is no illness, accident or ceremonial occasion involved in the absence of a voter, he shall disallow the proxy subject to consultation with the Council and Mayor. Their combined decision shall be final.
 2. No qualified voter may bear more than one (1) proxy for another voter unless they are his legal dependants, older or younger, living under his own roof or away at school.
 3. A proxy bearer must announce to the Town Meeting Moderator immediately on commencement of the Meeting or upon his arrival at the Meeting that he is bearing a proxy, for whom, and why. If the bearer fails to so announce his proxy, it becomes invalid. So that the person giving his proxy is aware of this provision, it shall be printed in bold face type on all proxy forms.
 4. A proxy shall be obtained only at the Eureka City Hall, or the main place of business of the Town, within thirty (30) days of the Meeting for which it is designated.

ARTICLE II THE TOWN MEETINGS:

Section
2.01

- B. The Primary Town Meeting shall convene each year within thirty (30) days before the adoption of the final annual Town budget; at that time, the Town Meeting shall elect a Town Meeting Moderator.
- C. The Mayor with the consent of the Council shall set the time of the Primary Town Meeting at a place large enough to accommodate at least five hundred persons (500 persons).
- D. A quorum of the Primary Town Meeting shall consist of at least ten (10) percent of the qualified electors of the Town. A quorum of any Special Town Meetings shall consist of at least fifteen (15) percent of the qualified electors of the Town.
 - 1. In the event that a quorum cannot be assembled, no meeting can be held.
 - 2. In the event that a quorum cannot be assembled, the Mayor and the Council may take the absence of a quorum to imply consent to any proposals that the Mayor or Council placed on the agenda.
- E. Special Town Meetings may be called by:
 - 1. The Mayor
 - 2. The Council
 - 3. Any fifteen (15) percent of the qualified electors petitioning the Mayor or the Town Meeting Moderator.
 - a. Any petition so presented must be the third (3rd) order of business on any agenda, following only financial business or business presented by the Mayor and/or Council; unless the business of the petition concerns use of Town funds, in which case it will take first (1st) order along with all other financial business.

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POWERS OF TOWN MEETINGS:

- A. A Town Meeting resolution is that decision agreed to by a majority of the qualified electors present and voting; all proxies voting on the issue must be included.
- B. Town Meeting resolutions proposing ordinances, ordinance changes, and budgetary changes are to be considered binding. The Town Council shall enact ordinances which embody both the spirit and the intent of Town Meeting binding resolutions.
- C. A binding resolution of a Town Meeting shall be effective for one (1) year, or until another Town Meeting alters the resolution.
- D. Town Meeting procedures other than those prescribed by this Charter shall be adopted by each Town Meeting itself.
- E. Any qualified elector of the Town Meeting may initiate from the floor a procedural motion.
- F. All voting may be open, except for the election of the Town Meeting Moderator as provided below, but shall be by secret ballot upon the request of at least five (5) members of the Town Meeting.

ARTICLE II THE TOWN MEETINGS:

Section
2.03

THE MAYOR AND TOWN MEETINGS:

A.

A. The Mayor shall attend all Town Meetings.

B. The Mayor shall present the following at each Primary Town Meeting:

1. a summary of the annual budget, which shall be published in a prominent public place and in the local newspaper (S) for two (2) consecutive issues immediately prior to the Primary Town Meeting;
2. an explanation of any increases or any decreases in budgetary allotments from the preceding year;
3. a simple outline for discussion for each proposal to use Town funds on a matching basis with either the State or Federal governments or their agencies; such contracts now in force shall continue until altered by a Primary Town Meeting, or until the Council votes to discontinue;
4. any proposals that would change the structure of the permanent Town government boards, commissions, committees or agencies;
5. any additional proposals the Mayor and/or a majority of the Council chooses to submit for debate or vote;
6. any petition presented by at least ten (10) percent of the qualified voters in the case of a Primary Town Meeting, or by fifteen (15) percent of the qualified voters in the case of a Special Town Meeting.

C.

The Mayor shall present an explanation of any use made of emergency budgetary adjustment powers by the Council in the interim between Town Meetings. The Town Meeting shall vote a resolution to:

1. continue the emergency action;
2. modify the emergency action;
3. repeal the emergency action;
4. or agree upon a different method to gain the necessary end.

2.04

TOWN MEETING AGENDA:

A. The Primary Town Meeting agenda shall include the following items in the following order:

1. election of the Town Meeting Moderator as provided below;
2. the Mayor's required reports;
3. any business proposed by the Mayor or a majority of the Council;
4. any business proposed in the prescribed manner by written petition of at least ten (10) percent of the voters;
5. at the discretion of the Town Moderator, any business proposed by any qualified elector from the floor of the Town Meeting, except business dealing with Town funds.

2.04

TOWN MEETING AGENDA:

- B. The Special Town Meeting agenda shall be set by the person or persons responsible for calling the special meeting.
1. Other items of business introduced from the floor may be considered by the Special Town Meeting at the discretion of the Town Meeting Moderator.
 2. The Mayor shall post notice of the agenda of each Special Town Meeting in a prominent public place one (1) week prior to the scheduled Meeting, and shall make every effort to place the special agenda in the local newspaper (s) if that is feasible. This notice shall contain all fixed agenda items, and shall also advise voters that additional agenda items may be introduced from the floor of the Special Town Meeting.
 3. Business dealing with finance and taxation shall be clearly labeled in the agenda, and shall be the first (1st) order of business.

2.05

TOWN MEETING MODERATOR:

- A. The Town Meeting Moderator shall be elected by the Primary Town Meeting for a term of one (1) year and shall serve no more than two (2) consecutive terms.
- B. The Moderator shall be elected by a majority of the qualified voters after open nominations and by secret ballot.
1. In the event of illness or incapacitation, the Town Meeting shall nominate and elect a temporary Moderator.
- C. The Town Meeting Moderator shall:
1. be the presiding officer of all Town Meetings, but shall not hold other governmental office or duties;
 2. maintain an atmosphere conducive to open discussion and debate; hold time for debate and discussion of all issues evoking interest from the floor;
 3. make every reasonable effort to assure that all parties to a discussion are heard and understood;
 4. receive the same financial remuneration as that received by the Mayor and Council members combined for one (1) meeting, or at least sixty-five dollars (\$65.00).

ARTICLE III

THE MAYOR AND COUNCIL:

Section
3.01

FORM OF GOVERNMENT:

Eureka's form of government shall consist of an elected Council of four (4) members and a Mayor. Elections shall be conducted on a nonpartisan basis, as provided by Montana law.

3.02

DUTIES OF THE MAYOR:

The Mayor shall be elected at large for a term of four (4)

ARTICLE III
Section
3.02

THE MAYOR AND COUNCIL:

- B. enforce laws, ordinances, and Council resolutions;
- C. perform duties required of the Mayor by law, ordinance, or Council resolution;
- D. administer affairs of the local government;
- E. carry out policies established by the Council and the Town Meetings;
- F. recommend measures to the Council and/or the Town Meetings;
- G. report to the Council and Town Meetings on the affairs and financial condition of the local government; and as they require
- H. execute bonds, notes, contracts, and written obligations of the Town government, subject to the approval of the Council and the Town Meeting.
- I. execute the budget adopted by the Town government;
- J. appoint, with the consent of the Council, all members of boards; except, the Mayor may appoint without consent of the Council temporary advisory committees;
- K. present a summary of the annual Town budget to the Primary Town Meeting;
- L. possess only a tie-breaking vote on the Council.

3.03

DISCRETIONARY POWERS OF THE MAYOR:

The Mayor may:

- A. appoint one or more administrative assistants if the majority of the Council determines that the administrative business of the Town requires it. Such assistants shall be answerable solely to the Mayor, and their employment shall cease upon the expiration of the Mayor's term of office;
- B. appoint, with the consent of the Council all department heads. The mayor may remove department heads;
- C. exercise control and supervision of all departments and boards to the degree authorized by ordinance of the Council;
- D. prepare the budget in consultation with the Council and department heads;
- E. initiate, at any time, a Special Town Meeting.

3.04

THE TOWN COUNCIL:

The Town Council consists of two (2) council members nominated and elected from each of two (2) wards in which the candidates shall reside, and which are apportioned by population. The Council shall:

- A. be elected for overlapping terms of four (4) years;
- B. have ordinance-making powers; all votes taken shall be

Section

3.04 THE TOWN COUNCIL: cont'd.

Without that member's written consent recording how his vote is to be cast.

- C. In the event that the chairman of the Council must assume the duties of the Mayor, the chairman will have no vote on the Council while functioning as the executive officer, but he may vote to take no action until the Mayor returns.

3.05 The activities of the Town government shall be distributed among such departments and agencies as are established by ordinance of the Council.

3.06 All elected offices shall become vacant upon the death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

A. An elected official shall forfeit office if he:

1. loses his eligibility for election to the position;
2. violates any express prohibition of this Charter;
3. is convicted of a felony;
4. is convicted of having been party to a bribe, a fraud, or of conspiracy to commit fraud;
5. is found by the Town Meeting to have used his office for private enrichment or the enrichment of his immediate family.

B. An elected official under indictment for a felony shall be suspended from office by a Town Meeting if the Meeting determines that the ability to perform official duties is impaired.

3.07 In the event of a vacancy in any elected office, the Council shall, by a majority vote, appoint a person eligible to hold such office until the next regular Town election, at which time the remainder of the term shall be filled as provided by law.

3.08 The salaries and reimbursement for expenses of all elected and appointed officials shall be established by ordinance of the Council; salaries shall be reviewed every two (2) years and adjustment made for annual cost of living increases, at the discretion of the majority of the Council.

ARTICLE IV MISCELLANEOUS PROVISIONS:

Section

4.01 REAPPORTIONMENT AND REDISTRICTING OF WARDS:

The Council shall make every effort to keep the voting wards as nearly equal in population as possible, as determined by the most recent United States Census of population.

- A. District or ward boundaries shall be adjusted when one district exceeds the other by ten (10) percent or more.
- B. Ward boundaries may be changed by ordinance, except that the resulting wards must comply with the population standards of this Charter. In the event of a judicial challenge to the ordinance, the burden of proof shall rest upon the Town.

4.02 If any provision of this Charter is held invalid, the other provisions

Section

5.01

General Transition

Transition to the charter form of government shall be as prescribed by state law. The Council 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

5.02

Council Wards

Until modified, in accordance with the provisions of this Charter, as a result of future population changes, the Ward boundaries shall remain as defined in Town ordinance as of the effective date of this Charter.

5.03

Continuation of Employment

All Town employees shall continue in the performance of their duties. Adoption of this Charter shall not affect the status of present Town employees.

5.04

Commission Terms

The two (2) Council members of each Ward shall draw lots to establish their respective terms of office at the first meeting of the Council. One (1) Council member from each Ward shall serve a first term of four (4) years, and the other Council member from that Ward shall serve a first term of two (2) years, thus establishing staggered terms of office.

5.05

First Town Meeting

The Mayor shall set the time and place of the first Primary Town Meeting, in accordance with this Charter. As the first order of business at the meeting, the Mayor will conduct an election for the Town Meeting Moderator.