

CHARTER OF THE CITY OF LEWISTOWN

WE, THE PEOPLE OF THE CITY OF LEWISTOWN, MONTANA, in order to form a more responsive and orderly government, establish separate legislative and administrative branches, insure responsibility and accountability, enable effective citizen participation, conserve a healthy environment and secure the benefits of local self government powers, in accordance with the Constitution of the State of Montana, do adopt this charter.

ARTICLE I

GENERAL PROVISIONS

Section 1.01 Powers of the City

The City of Lewistown 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 city 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

As provided by Article XI, Section 7 of the Constitution of Montana, the City of Lewistown unless prohibited by law or this charter, may:

- (1) Cooperate in the exercise of any function, powers or responsibility with,
- (2) Share the services of any officer or facilities with,
- (3) 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.

Section 1.05 Oath of Office

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

ARTICLE II

MAYOR AND CITY COUNCIL

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

(1) There shall be a city council of the City of Lewistown composed of seven (7) voting members, consisting of a mayor and six (6) council persons, at least three (3) of whom shall be elected every two years.

(2) Council persons, including the mayor, shall be elected for overlapping terms of four (4) years.

(3) Elections for the city council, including the mayor, shall be non-partisan.

(4) As provided in Article VI of this charter, three (3) council persons shall be nominated and elected by district and three (3) council persons shall be elected at large. Nominees for city council elected by district shall reside in such district. The mayor shall be elected at large.

(5) By ordinance adopted at least six (6) months prior to the next city general election, the city council may determine the annual salary of council persons and the mayor, but no ordinance increasing such salary shall become effective until the date or commencement of the terms of council persons elected at the next general city election. In no event will the salary of the mayor be increased during the term of office.

(6) Council persons, including the mayor, may receive actual and necessary expenses incurred in the performance of their duties of office, subject to approval of the city council.

(7) (a) The office of a council person, including the mayor, shall become vacant upon the death, resignation, removal from office in any manner authorized by law, or forfeiture of the office.

(b) A council person, including the mayor, shall forfeit the office if the member:

- (i) Loses eligibility for election to the office;
- (ii) Violates any express prohibition of this charter;
- (iii) Is convicted of a felony or other offense involving moral turpitude; or
- (iv) Without city council approval, fails to attend consecutive regularly scheduled council meetings or absent from the city continuously for sixty (60) days with the consent of the city council.

(8) In the event of vacancy in the office of any council person or the mayor, the city council shall by majority vote of the remaining members, appoint a person, eligible to hold such office, to fill the vacancy until the next regular election at which time the remainder of the term shall filled as provided by law.

(9) The city council shall be the judge of the election qualifications of its members and of the grounds for forfeiture of their office. A council person or the mayor charged with conduct constituting grounds for forfeiture of the 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 city council shall elect from its members a president who shall serve at its pleasure. If at any meeting the mayor is not present, or is unable to act, the president shall preside at the meeting.

Section 2.02 Powers of the City Council

The city council shall be the legislative and policy determining body of the city. Except as otherwise provided by this charter, all powers of the city shall be vested in the city council, and the city council shall provide for the exercise and performance of all duties and obligations imposed upon the city by law and this charter.

Section 2.03 Restriction on the Mayor and City Council

(1) Neither the mayor nor the city council nor any of its members may dictate the appointment or removal of an employee whom the city manager or any of his subordinates are empowered to appoint.

(2) Except for the purpose of inquiry or investigation under this charter or the city ordinance, the mayor and council persons shall deal with the city employees who are subject to the direction and the supervision of the city manager, solely through the city manager, and neither the mayor nor the council persons may give orders to any such employee, either publicly or privately.

Section 2.04 City Council Procedure, Public Participation

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

(2) The city council 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 in state law.

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

Section 2.05 Mayor — Powers and Duties

(1) The mayor shall be the official head of the city government for the purposes of presiding at city council meetings, service of civil processes and performance of ceremonial functions, and shall exercise such powers conferred and perform all duties imposed upon the office by this charter and law.

(2) The mayor shall appoint, with the approval of a majority of the city council, all members of boards and committees established by this charter, ordinance or law.

(3) The mayor shall vote as a member of the city council and shall not have the power of veto.

ARTICLE III

CITY MANAGER

Section 3.01 Qualifications, Compensation, Appointment and Removal

(1) The city manager shall be appointed by the city council for an indefinite term on the basis of executive and administrative qualifications and experience only. The ci

council shall fix his compensation.

(2) The city manager need not be a resident of the city at the time of his appointment but shall reside within the city while employed.

(3) The city council may remove the manager from office at any time by a majority vote of all members of the council.

Section 3.02 Acting City Manager

By letter filed with the city council, the city manager shall designate, subject to the approval of the city council, an acting city manager to exercise the powers and perform the duties of city manager during his temporary absence or disability. During periods of suspension or vacancy of the office of city manager, the city council shall appoint an acting city manager.

Section 3.03 Members of City Council Not Eligible

No member of the city council, including the mayor, shall be appointed city manager during either the term of office for which elected, or within one (1) year after the expiration of the term of office.

Section 3.04 Duties and Responsibilities of City Manager

(1) The city manager shall be the chief administrative officer of the city, and shall be responsible to the city council for the administration of all city affairs placed in charge of that office by this charter, law, ordinance or resolution.

(2) The city manager shall:

- (a) Enforce laws, ordinances and resolutions;
- (b) Perform the duties required of him by this charter, law, ordinance or resolution;
- (c) Administer the affairs of the city government;
- (d) Direct, supervise and administer all departments, agencies and offices of the city except as otherwise provided by this charter or law;
- (e) Carry out policies established by the city council;
- (f) Prepare the city council agenda;
- (g) Recommend measures to the city council;
- (h) Report to the city council on the affairs and financial condition of the city;
- (i) Execute bonds, notes contracts and written obligations of the city council, subject to the approval of the city council;
- (j) Report to the city council as the city council may require;
- (k) Attend city council meetings and may take part in the discussion, but may not vote;
- (l) Prepare and present the annual budget to the city council for its approval, and execute the budget adopted by the city council;
- (m) Prepare, or have prepared, a program of needed capital improvements on budget, subject to the approval of the city council;
- (n) Appoint, suspend and remove all employees of the city except as otherwise provided by law or ordinance. Employees appointed by the city manager and his subordinates shall be administratively responsible to the city manager;
- (o) Appoint members of temporary advisory committees established by the city manager.

ARTICLE IV

CITY ATTORNEY

Section 4.01 Appointment, Duties of City Attorney

The city manager shall appoint and may remove, with approval of the city council, a city attorney whose duties shall be as prescribed by ordinance. Compensation of the city attorney shall be determined by the city council.

ARTICLE V

ADMINISTRATIVE ORGANIZATION

Section 5.01 Administrative Departments

The activities and functions under the direction and supervision of the city manager shall be assigned and distributed to and among such departments, agencies and offices as are established by this charter or may be established thereunder by ordinance of the city council in order to execute and to carry out policies established by the city council and to carry out duties and obligations imposed by law and this charter.

Section 5.02 Boards and Committees

The city council may establish advisory boards and committees as it deems necessary. Administrative boards

shall not be created except:

(1) As required by law of cities with self-government powers;

(2) As required to execute policies and functions to be performed jointly with other units of government as authorized in Section 1.04 of this charter.

Section 5.03 Personnel Merit System

The city council shall by ordinance establish and maintain a system of personnel administration based upon merit. The system shall include:

(1) A plan for classification and compensation of employees based upon duties and responsibilities.

(2) Procedures, rules, regulations and policies of personnel administration.

(3) A personnel advisory and appeals board which shall advise the city council and the city manager on personnel matters and hear appeals of grievances of employees from administrative actions relating to suspension, dismissal, demotion or disciplinary actions. Such decisions on appeals shall be advisory only, except as provided by law.

(4) All employees of the city shall be included within the provisions of the merit system except city council appointees, city attorney, department heads, members of appointed boards and committees, and persons employed to make or conduct a special inquiry, investigation, examination, review or audit.

ARTICLE VI

NOMINATIONS AND ELECTIONS

Section 6.01 Elected City Offices

The procedure for the nomination and election of the mayor and council persons shall be as prescribed by law for non-partisan elections. Nominees for the officers elected shall be qualified electors of the city.

Section 6.02 Districts

For purposes of representation on the city council, the city shall be divided into three (3) districts, apportioned by population. Boundaries of council districts may be changed in accordance with this charter.

Section 6.03 Reapportionment of Council Districts

Within six (6) months after availability of data of an official decennial United States census establishes that the population of any district differs in number from the average population of all districts by more than ten percent (10 percent,) the city council shall by ordinance modify the boundaries of districts so that such difference is eliminated. Said districts may be reapportioned at other times by population in accordance with law.

ARTICLE VII

NEIGHBORHOOD COUNCILS

Section 7.01 Neighborhood Councils to be Established. Procedure.

As a means of providing organized citizen participation in city affairs, the city council shall by ordinance establish a neighborhood council for each council district. Each said council shall consist of at least three (3) members to be nominated, elected and serve terms of office in accordance with qualifications and procedures established by ordinance. Functions, activities, duties and organization of the neighborhood councils shall also be established by ordinance.

ARTICLE VIII

INITIATIVE, REFERENDUM AND RECALL

Section 8.01 Initiative and Referendum

Initiative and referendum shall be in accordance with law.

Section 8.02 Recall

Recall of the mayor and council persons shall be in accordance with law.

ARTICLE IX

FINANCE

Section 9.01 Tax Levy

The city council may levy property tax in an amount not to exceed the maximum, including the all-purpose mill levy and special levies, allowable to a city with general government powers.

Section 9.02 Additional Taxes

Additional types or new sources of taxes shall not be imposed by the city council except upon approval by
(continued on page 4)

referendum in accordance with law. Nothing in this charter shall be interpreted to prevent the use of service or utility charges or fees or occupational licenses or similar charges or fees.

Section 9.03 Financial Procedures and Indebtedness

Financial procedures and obligations of city indebtedness shall be in accordance with law.

Section 9.04 Annual Audit

The city council shall provide for an annual audit of the financial transactions and condition of the city. This shall be performed by a firm of certified public accountants.

ARTICLE X GENERAL PROVISIONS

Section 10.01 Amendment of Charter

This charter may be amended 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, section or article 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 Continuity of Government

The city council may provide for continuity of government of the city in event of enemy-caused or natural disaster. Such action shall be established in a manner which will preserve representative government in the city, and which will provide an orderly line of succession of offices, notwithstanding the provision of this charter or law.

ARTICLE XI DEFINITIONS

Section 11.01 Definitions

As used in this charter, the following words and phrases shall have the following meaning:

- (1) "Council" or "City Council" — Means the mayor and council persons of the City of Lewistown.
- (2) "His" — Means male or female
- (3) "Law" — Means the constitution and statutes of the State of Montana applicable to the city with self-government powers.
- (4) "Qualified Elector" — Means resident who is qualified to vote under the constitution and statutes of the State of Montana.
- (5) "Taxes" — Means levies or rates applied to property, sales and use, and similar bases. Taxes shall not be interpreted to include service or utility charges or fees or occupational licenses or fees or similar charges or fees.

ARTICLE XII TRANSITIONAL PROVISIONS

Section 12.01 General Transition

Transition to this charter form of government shall be as prescribed by state law. The city 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 once they have been implemented.

Section 12.02 Initial Terms of Office of Mayor and Council Persons

Pursuant to a city primary election, if one be required, on February 8, 1977, and a city general election on April 5, 1977, initial terms of office of mayor and council persons shall be as follows:

- (1) The mayor shall be elected for a term of four (4) years.
- (2) Council persons elected by district shall draw lots for two four (4) year terms and one two (2) year term.
- (3) Council persons elected at large shall draw lots for two two (2) year terms and one four (4) year term.

Section 12.03 Council Districts

Until modified in accordance with provisions of this charter, council districts shall be as they exist at the time of adoption of this charter.

Section 12.04 Acting City Manager and Custodian of City Funds

At its first meeting on May 2, 1977, the city council shall appoint:

(1) An acting city manager to serve at its pleasure in the office until such time as a city manager is duly appointed.

(2) A city treasurer, to have custody of city funds, and to serve in that capacity, at the pleasure of the city manager or acting city manager, until otherwise provided by ordinance.

Section 12.05 Existing Employees

Upon the effective date of this charter, employees of the city shall continue in their existing positions and a compensation currently provided until otherwise determined pursuant to provisions of this charter and rules, regulations and ordinances of the city council.

Section 12.06 Existing Policies, Rules, Regulations, Resolutions and Ordinances

Rules, regulations, policies, resolutions and ordinances of the city which are not inconsistent with this charter and which are in force and effect at the effective date of this charter shall continue in full force and effect until superseded, amended or repealed.

Section 12.07 Establishing a Personnel Merit System

Within one year after the effective date of this charter the city council shall by ordinance establish a system of personnel administration based upon merit.

Section 12.08 Establishing the Annual Salary of Council Persons, Including the Mayor

The annual salary of each council person shall be six hundred dollars (\$600.00) and the annual salary of the mayor shall be fifteen hundred dollars (\$1,500.00).

Certificate

Establishing the Existing Plan of Government

If retained by the voters, the government of the city of Lewistown shall be organized under the following provision of Section 47A-3-203: Revised Codes of Montana, 1946 Commission-executive form.

- (1)
- (2)
- (3) (a) (ii)
- (3) (b) (iii)
- (3) (c) (ii)
- (3) (d) (ii)
- (3) (e) (ii)
- (3) (f) (i)
- (3) (g) (ii)
- (3) (h) (i)
- (3) (i) (i)
- (3) (j) (iii)
- (3) (k) (ii)
- (3) (l) (ii)
- (3) (m)
- (4) (a)

47A-3-203. Commission-executive form.

(1) The commission-executive form (which may be called the "council-executive," the "council-mayor," or the "commission-mayor" form) consists of an elected commission (which may be referred to as the "council" and one elected executive (who may be referred to as the "mayor") who is elected at large.

- (2) The executive shall:
 - (a) enforce laws, ordinances, and resolutions;
 - (b) perform duties required of him by law, ordinance or resolution;
 - (c) administer affairs of the local government;
 - (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 local government;
 - (g) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
 - (h) report to the commission as the commission may require.
- (continued on page 5)