

**CERTIFICATE OF THE PROPOSED
SELF-GOVERNMENT CHARTER
OF
THE COUNTY OF TOOLE**

PREAMBLE

WE, THE PEOPLE OF TOOLE COUNTY, STATE OF MONTANA, grateful to God for the vast beauty of our state, mindful of the contributions made by those who came before us, desiring to improve the quality of life, liberty and the pursuit of happiness, in accordance with Article XI, Section 5 of the Constitution of Montana, do hereby adopt this Charter.

**ARTICLE I
POWERS OF THE COUNTY**

Section 1.01 Powers of Toole County

Toole 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 of this self-government unit shall be broadly 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 Restrictions

The mill levy shall be limited to that of Montana county governments with general government powers, except with the prior approval of a majority of the electors voting on the question in a general or special county election.

Section 1.04 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.

**ARTICLE II
LEGISLATIVE BRANCH**

Section 2.01 County Commission

The elected legislative body of Toole County shall be the board of county commissioners.

Section 2.02 Governing Body

The governing body of Toole County shall be the board of county commissioners which may be called the county commission or the commission.

Section 2.03 Composition

Toole County shall have a county commission of five (5) members who shall serve on a part time basis.

Section 2.04 Qualifications for Office

Every resident of Toole County who is 18 years of age or older and a citizen of Montana is eligible to hold the office of commissioner.

Section 2.05 Term of Office

Members of the commission shall be elected for four (4) year overlapping terms of office.

Section 2.06 Election

Commissioners shall be elected on a nonpartisan basis. Two (2) commissioners shall be elected at large and three (3) commissioners shall be elected by district in each of three districts in which candidates must reside and which are apportioned by population.

Section 2.07 Division of the County into Commissioner Districts

Following each decennial federal census, the board of county commissioners shall divide the county into three (3) commissioner districts, as compact and equal in population as possible.

Section 2.08 Vacancy in Office

The office of commissioner under this Charter becomes vacant as prescribed by law.

Section 2.09 Removal from Office

A commissioner may be removed from office by a finding, adopted by the affirmative vote

of three (3) commission members, that the office has become vacant as prescribed by law, or by the recall of the commissioner by the electors of Toole County, as prescribed by law.

Section 2.10 Filling Vacancy on Commission

When a vacancy occurs in the office of commissioner, the position shall be considered open and subject to nomination and election at the next general county election in the same manner as the election of any other person holding the same office, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification the commission shall, by the affirmative vote of (3) three commission members, appoint a person within 30 days of the vacancy to hold the office until the successor is elected and qualified.

Section 2.11 Chairman of the Commission and Presiding Officer

The commission shall have a chairman of the commission who shall be elected by the members of the commission from their own number for a term established by resolution. The chairman of the commission shall be the presiding officer of the commission and vote as other members of the commission. In the absence of the chairman, the commission shall designate one of their number to serve as presiding officer.

Section 2.12 Powers and Duties

1. The Commission shall be the legislative and policy determining body of the county. All powers of the county shall be vested in the county commission except as otherwise provided by law or this Charter, and the commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the county by law.

2. All members of boards, other than temporary advisory committees established by the manager, shall be appointed by the commission.

3. The commission shall exercise its governing power through the adoption of ordinances and resolutions.

Section 2.13 Legislative Action

The affirmative vote of three members (3) of the commission shall be required for all official actions of the commission. A minimum of three (3) commission members must be present when official actions are taken by the commission.

Section 2.14 Procedure

The commission shall establish its rules of procedure and time and place of meetings by resolution.

Section 2.15 Compensation

The compensation of commission members shall be set by ordinance of the commission.

ARTICLE III EXECUTIVE BRANCH

Section 3.01 The Manager

The manager shall be appointed by the commission for an indefinite term on the basis of merit only and removed only by the affirmative vote of three (3) members of the commission.

Section 3.02 Duties of the Manager

The manager shall:

1. enforce laws, Charter, ordinances, and resolutions;
2. perform the duties required of him by law, Charter, ordinance, or resolution;
3. administer the affairs of the county;
4. direct, supervise, and administer all departments, agencies, and offices of the county except as otherwise provided by law or ordinance or this Charter;
5. carry out policies established by the commission;
6. prepare the commission agenda;
7. recommend measures to the commission;
8. report to the commission on the affairs and financial condition of the county;
9. execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
10. report to the commission as the commission may require;
11. attend commission meetings and may take part in the discussion, but may not vote;
12. prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;
13. appoint, suspend, and remove all employees of the local government except those who serve under an elected department head, and except as otherwise provided by law, ordinance or this Charter;
14. appoint members of temporary advisory committees established by the manager.

Section 3.03 Administrative Duties

Employees appointed by the manager and his or her subordinates shall be administratively responsible to the manager. Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of his or her subordinates are empowered to appoint. Except for the purpose of inquiry or investigation under this Charter, the commission or its members shall deal with the local government employees who are subject to the

direction and supervision of the manager solely through the manager, and neither the commission nor its members may give orders to any such employee, either publicly or privately.

Section 3.04 Compensation

The compensation of the manager shall be set by ordinance of the county commission.

**ARTICLE IV
JUDICIAL BRANCH**

Section 4.01 County Court

There shall be such county courts as are provided by law.

**ARTICLE V
DEPARTMENT STRUCTURE**

Section 5.01 County Officers - Elected Department Heads

The county attorney and sheriff, shall serve as elected department heads and have the powers and duties prescribed by law, this Charter and ordinance.

Section 5.02 Qualifications for Office

Qualifications for the offices of county attorney and sheriff shall be as prescribed by law.

Section 5.03 Term of Office

County officers shall be elected for a four (4) year term of office.

Section 5.04 Election

County officers shall be nominated and elected at large on a nonpartisan basis.

Section 5.05 Vacancy in Office

The offices of county attorney and sheriff become vacant as prescribed by law.

Section 5.06 Removal from Office

A county officer may be removed from office by a finding, adopted by the affirmative vote of three (3) commission members, that the office has become vacant as prescribed by law, or by the recall of the county officer by the electors of Toole County, as prescribed by law.

Section 5.07 Filling Vacancy of Elected Officials

When a vacancy occurs in the office of a county officer, the position shall be considered open and subject to nomination and election at the next general county election in the same manner as the election of any other person holding the same office, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification the commission shall, by the affirmative vote of three (3) commission members, appoint a person within 30 days of the vacancy to hold the office until the successor is elected and qualified.

Section 5.08 Organization of Other Departments

The organization of county departments shall be prescribed by ordinance.

Section 5.09 Compensation

The compensation of county officers and all other department heads shall be set by ordinance of the commission.

**ARTICLE VI
GENERAL PROVISIONS**

Section 6.01 Amendment of Charter

This Charter may be amended only as prescribed by law.

Section 6.02 Effective Date

This Charter shall become effective on January 4, 1999.

Section 6.03 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.

Section 6.04 Recall

Elected officials may be recalled by the qualified electors of Toole County as provided by law. No elected official may be recalled for performing a mandatory duty of the office or for not performing any act that, if performed, would subject him or her to prosecution for official misconduct.

Section 6.05 Severability

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 VII TRANSITION PROVISIONS

Section 7.01 General Transition

Transition to this charter form of government shall be as prescribed by law. The Toole County Study Commission shall provide for such transition with an advisory plan consistent with law. The provisions of this transition article shall not be published as part of the Charter after January 1, 2000.

Section 7.02 Continuation in Office

1. The members of the governing body holding office on the date the new plan of government is adopted by the electors of Toole County may continue in office and in the performance of their duties until the governing body authorized by the plan has been elected, qualified, and sworn into office, whereupon the prior governing body is abolished.

2. All employees may continue in the performance of the duties of their respective offices and positions until provisions are made for the performance or discontinuance of the duties or the discontinuance of the offices or positions.

3. Existing elected officers not enumerated in Section 5.01 may continue in office until January 1, 1999 at which time the offices are discontinued as separately elected offices.

Section 7.03 Review of Existing Ordinances

All county ordinances, resolutions and rules of Toole County shall remain in effect until reviewed, revised or repealed by the county commission. The county commission shall review and, where necessary, revise or repeal all county ordinances and resolutions to provide for compliance and consistency with this Charter and law no later than January 1, 2000.

We, the Study Commission of Toole County do hereby certify that this is the proposed plan of government approved by the Study Commission of Toole County.

SEAL

In testimony whereof, we set our hands.

Done at Shelby, Montana this ___ day of _____, 1996.

Melodee A. Robins, Clerk & Recorder

Linda Lee, Chair

John Alstad

Debra J. Clark

Barbara Iverson

Kneelon Teague