

CHARTER OF FERGUS COUNTY, MONTANA

PREAMBLE WE, THE PEOPLE OF FERGUS COUNTY, STATE OF MONTANA, in accordance with Article XI, Section 5 of the Constitution of the State of Montana, do hereby adopt this Charter.

ARTICLE I POWERS OF THE COUNTY

Section 1.01 Powers of Fergus County

Fergus County shall have all powers not prohibited by the Constitution of the State of Montana, the laws of Montana, or this Charter.

Section 1.02 Interpretation of Powers

The self government powers and authority of this government 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 county power or authority.

Section 1.03 Restriction on Powers

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 election.

Section 1.04 Charter Supremacy

As provided by Article XI, Section 5 of the Constitution of the State of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

ARTICLE II LEGISLATIVE BRANCH

Section 2.01 Legislative Body

The elected legislative body of Fergus County shall be the board of county commissioners which shall have the power to set policy by adoption of lawful ordinances and resolutions.

Section 2.02 Governing Body

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

Section 2.03 Composition

The board of county commissioners shall be composed of three (3) commissioners, one elected from each of three (3) districts.

Section 2.04 Qualifications for Office

Every resident of Fergus County who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution is eligible to hold the office of commissioner for the district in which he or she resides.

Section 2.05 Term of Office

Members of the commission shall be elected for six (6) year overlapping terms of office. One commissioner shall be elected every two years.

Section 2.06 Election

Local government elections shall be conducted on a nonpartisan basis. The commission, shall be elected at large and the candidates for the commission shall reside in the commission district they seek to represent.

Section 2.07 Division of the County into Commissioner Districts

Following each federal decennial census the commission shall cause the county to be divided into three commissioner districts, as compact and equal in population and area as possible.

Section 2.08 Vacancy in Office

The office of commissioner 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 two (2) commission members, that the office has become vacant as prescribed by law, or by the recall of the commissioner by the electors of Fergus 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, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election the commission shall appoint, by the affirmative vote of two (2) commission members, a person possessing the qualifications for office required by law and this Charter within 30 days of the vacancy to hold office until the successor is elected and qualified.

Section 2.11 Chairman of the Commission

The commission shall have a chairman who shall be elected by the members of the commission from their own number for a term established by ordinance. The chairman of the commission shall be its presiding officer and shall vote as other commissioners.

Section 2.12 Powers and Duties

All powers of the county shall be vested in the 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.

Section 2.13 Rules of Procedure

The commission shall establish its rules of procedure and time and place of meetings by resolution. There shall be a minimum of one meeting of record each month properly noticed and with a published agenda.

Section 2.14 Legislative Action

The adoption of any resolution or ordinance by the commission shall require the affirmative vote of not less than (2) two commission members.

Section 2.15 Compensation

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

Section 2.16 Community Councils

Community councils comprised of three members to advise commissioners shall be elected on a non partisan basis for a two year term from each commissioner district.

II. Said council shall meet on a quarterly basis with no compensation.

ARTICLE III EXECUTIVE BRANCH

Section 3.01 Executive and Administrative Functions

The chief executive and chief administrative functions of Fergus County government shall be vested in the three elected members of the board of county commissioners whose term of office and method of selection are set forth in Article II of this Charter.

Section 3.02 Powers and Duties

The board of county commissioners shall:

1. enforce laws, this Charter, ordinances, and resolutions and carry out policies established by the commission;
2. perform the duties required by law, Charter, ordinance, or resolution;
3. administer the affairs of Fergus County government;
4. direct, supervise, and administer all departments, agencies, and offices of the Fergus County government except as otherwise provided by law, ordinance or this Charter;
5. prepare a commission meeting agenda;
6. execute bonds, notes, contracts, and written obligations of the county;
7. prepare, adopt and administer the county budget;
8. appoint all members of boards and committees;
9. appoint and remove all department heads who are not elected, and appoint and remove all other employees not serving under elected department heads;
10. exercise direct control and supervision of departments not headed by elected officials or boards.

Section 3.03 Terms of Appointed Boards

All county appointed board members shall serve not more than two terms consecutively.

ARTICLE IV JUDICIAL BRANCH

Section 4.01 County Courts

There shall be such county courts as prescribed by law.

ARTICLE V DEPARTMENT STRUCTURE

Section 5.01 Elected Department Heads - County Officers

The following county officers, who may be called elected department heads, who shall have the powers and duties prescribed by law, shall be elected:

1. county attorney
2. sheriff
3. clerk and recorder
4. clerk of district court
5. treasurer
6. superintendent of schools
7. coroner
8. public administrator

Section 5.02 Qualifications for Office

Every resident of Fergus County who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to -Article IV, Section 2 of the Montana Constitution, is eligible for election to the office of an elected department head, enumerated in Section 5.01 above, except for the positions of county attorney and county superintendent of schools. Qualifications for the offices of county attorney and county superintendent of schools shall be those prescribed by law.

Section 5.03 Term of Office

Elected department heads shall be elected for a four (4) year term of office.

Section 5.04 Election

Elected department heads shall be nominated and elected at large on a non-partisan basis.

Section 5.05 Vacancy in Office

The office of an elected department head becomes vacant as prescribed by law.

Section 5.06 Removal from Office

An elected department head may be removed from office by a finding, adopted by the affirmative vote of two (2) commissioners, that his or her office has become vacant as prescribed by law, or by the recall of the elected department head by the electors of Fergus County, as prescribed by law.

Section 5.07 Filling Vacancy of Elected Department Head

When a vacancy occurs in the office of an elected department head, the position shall be considered open and subject to nomination and election at the next general county election, 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 appoint, by the affirmative vote of two (2) commission members, a person possessing the qualifications for office required by law and this Charter within 30 days of the vacancy to hold the office until the successor is elected and qualified.

Section 5.08 Consolidation of Offices

The commission shall have the authority in its discretion to consolidate any two or more offices included in Section 5.01 above and combine the powers and duties of the consolidated offices.

Section 5.09 Organization of Other Departments

The organization of all other county departments shall be prescribed by ordinance.

Section 5.10 Compensation

The compensation of department heads shall be set by resolution 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 1, 1997.

Section 6.03 Oath of Office

Before assuming 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 the State of Montana.

Section 6.04 Right of Initiative

The citizens of Fergus County retain the right of initiative as provided by law and the Montana State Constitution.

Section 6.05 Recall

The elected officers of county government may be recalled by the qualified electors of Fergus County as provided by law. No person may be recalled for performing a mandatory duty of the office he or she holds or for not performing any act that, if performed, would subject him or her to prosecution for official misconduct.

Section 6.06 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 TRANSITIONAL PROVISIONS

Section 7.01 General Transition

Transition to this charter form of government shall be as prescribed by law. The Fergus County Study Commission shall provide for such transition with an advisory plan consistent with law. Article VII and its transition provisions, shall not be published as part of the Charter after January 1, 1998.

Section 7.02 Continuation in Office

No county employee currently holding a county office will lose employment solely because of the adoption of this Charter. Elected officials holding office at the time this Charter is adopted may continue in office until the end of the term for which they were elected, at which time the offices of elected department heads not enumerated in Section 5.01 shall be vacated.

Section 7.03 Review of Existing Ordinances

All county ordinances, resolutions and rules of Fergus 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 or resolutions to provide for compliance and consistency with this Charter and state law no later than January 1, 1998.

SEAL ATTEST

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

In testimony whereof, we set our hands.

Done at Lewistown, this 18th day of March 1996.

Kathy Fleharty, County Clerk & Recorder

Edward B. Butcher, Chairman

Beth Bergum

Leroy Musick

Diana Pennell

Joy Reeder Wicks