

# *CHARTER OF THE TOWN OF SUNBURST, MONTANA*

## PREAMBLE

We, the people of the town of Sunburst, county of Toole, state of Montana, in accordance with article XI, section 5 of the constitution of the state of Montana, do adopt this charter in the hope that it will give us greater control over our internal affairs and increased freedom to act in solving our own problems.

## ARTICLE I. SELF-GOVERNMENT POWERS

### Section 1.01. Powers Of The Town:

The powers of the government of the town of Sunburst shall be "self-government" powers as provided by the laws and constitution of the state of Montana. This government may exercise any power, or provide any service, or perform any function not expressly prohibited by the Montana state constitution, Montana state law or this charter. The powers, services, or functions granted under this charter include, but are not limited to, those which "general power" governments are granted or authorized. The limitations placed on "general power" governments shall not apply to the providing of any service or performance of any function, except such limitations as are contained in this charter and the laws of the state of Montana which are specifically applicable to self-government towns.

### Section 1.02. Interpretation Of Powers:

The powers of this charter shall be liberally construed. Every reasonable doubt as to the existence of a power or an 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 town of Sunburst, unless prohibited by law or this charter, may:

- (1) Cooperate in the exercise of any power or responsibility with,
- (2) Share the service of an 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 of Montana, or the United States.

Section 1.05. Oath Of Office:

Before entering upon the duties of office, all elected town officials shall take and subscribe the oath of office as prescribed in article III, section 3 of the constitution of Montana. (Charter eff. 5-2-1977)

## ARTICLE II. TOWN COUNCIL

Section 2.01. Composition, Terms, Election, Qualifications, Compensation, Removal, Filling Of Vacancies And Presiding Officer:

- (1) There shall be a council of the town of Sunburst composed of four (4) members, two (2) of whom shall be elected every two (2) years.
- (2) Members of the council shall be elected for terms of four (4) years.
- (3) Elections for the council shall be nonpartisan.
- (4) Council members shall be elected at large from within the town of Sunburst.
- (5) Council members must be:
  - (A) Citizens of the United States.
  - (B) Qualified electors.
  - (C) Excluding convicted felons, until final discharge from state supervision.
- (6) By ordinance adopted at least three (3) months prior to the next election of council members, the council may determine the salary of its members. The limitations on council members' salaries shall be the same as prescribed for councils under "general power" governments. Council members may receive their actual and necessary expenses incurred in the performance of their duties.

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

(A) A council member shall forfeit his seat if he:

(i) Loses his eligibility for election to his council seat.

(ii) Violates any express prohibition of this charter.

(iii) Is convicted of a felony or other offense involving moral turpitude.

(iv) Or by judicial proceedings as provided by the laws of the state of Montana.

(8) In the event of a vacancy, the council shall, by a majority vote of the remaining members, appoint a person eligible to hold such council seat, to fill the vacancy for the remainder of the term.

(9) The council shall be the judge of the election and qualifications of its members and of the grounds or 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.

(10) The presiding officer of the council shall be the mayor who shall decide all tie votes of the council, but shall have no other vote.

(11) The council shall elect a chairman from its own members for a term established by ordinance, who shall be the presiding officer in the absence of the mayor.

(12) In the event that the office of mayor becomes vacant, the council shall elect, by majority vote, one of its members to assume the office and duties of the mayor for the remainder of the unexpired term.

#### Section 2.02. Powers Of The Town Council:

(1) The town council shall be the legislative and policy determining body of the town. The powers of government, as provided under this charter and the laws of the state of Montana, are vested in the council and may be exercised only by ordinance or resolution unless state law provides otherwise.

- (2) The town council may override a mayor's veto by a two-thirds ( $\frac{2}{3}$ ) vote unless state law specifically provides otherwise.

Section 2.03. Town Employees:

- (1) The consent of the majority of the council must be given before any permanent employee may be appointed. Temporary or part time employees may be appointed by the mayor without the consent of the council.
- (2) The consent of the council shall not be needed for the removal of any appointed employee.
- (3) The definition of "permanent", "temporary", or "part time" shall be defined and established by ordinance.
- (4) Except for the purpose of inquiry or investigation under this charter or the code of local government, the council or its members shall deal with town employees who are subject to the direction and supervision of the mayor, solely through the mayor; and neither the council nor its members may give orders to any such employee either publicly or privately.
- (5) A council member, only with his consent, may be appointed the head of a department by the mayor if he deems it in the best interest of the town. He shall assume all duties and responsibilities of the position and shall be answerable to the mayor for the proper operation of the department. He shall receive no remuneration of any sort for this position except that which is due him for his normal duties.

Section 2.04. Council Meetings And Public Participation:

- (1) The council shall meet at least once a month on a day prescribed by ordinance. They shall consider any and all town business that may come before them.
  - (A) Special meetings may be called at any time; provided, that notices of such meetings be posted at least seventy two (72) hours in advance of such meetings in at least three (3) public places. The notices shall contain the time, date, and place of the meeting and the business to be considered at such meeting. No other business may be considered at this time.

(B) Unless otherwise provided by state law, emergency meetings may be called at any time, without notice to the public, but shall be limited to the item or business involved in the emergency.

- (2) The 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 by state law.
- (4) All documents and records of the council shall be public records and shall be made available for examining and copying except in such circumstances as are prescribed by state law. (Charter eff. 5-2-1977)

### ARTICLE III. THE MAYOR

Section 3.01. Election, Term, Compensation, Vacancy, Removal, Qualifications And Acting Executives:

- (1) The mayor shall be nominated and elected at large by the qualified electors of the town.
- (2) The mayor shall be elected for a four (4) year term.
- (3) The election for mayor shall be nonpartisan.
- (4) The mayor shall be:
  - (A) A citizen of the United States.
  - (B) A resident of the municipality.
  - (C) Age 21.
  - (D) A qualified elector.
  - (E) A resident of the state.
  - (F) Excluding convicted felons, until final discharge from state supervision.
- (5) The salary of the mayor shall be established by the council. No reduction in compensation of the mayor shall become effective during the term of office for which the mayor is elected.

- (6) The office of the mayor shall be deemed vacant or forfeit for the same reasons that a council member's seat shall be deemed vacant or forfeit as prescribed in section 2.01 of this charter.
- (7) The council shall be the judge of the grounds for forfeiture of the office of mayor. A mayor 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) In the event that the office of mayor becomes vacant, the council shall elect by majority vote one of its members to assume the office and duties of the mayor for the remainder of the unexpired term.
- (9) In the event of the temporary absence or disability, the chairman of the council shall assume the duties of the mayor.

Section 3.02. Powers And Duties Of The Mayor:

- (1) The mayor shall be the chief executive and administrative officer of the town.
- (2) The mayor shall:
  - (A) Enforce laws, ordinances, and resolutions.
  - (B) Perform duties required of him by this charter, law, ordinance or resolution.
  - (C) Administer the affairs of the town.
  - (D) Carry out policies of the council.
  - (E) Recommend measures to the council.
  - (F) Report to the council on the affairs and financial condition of the town.
  - (G) Execute bonds, notes, contracts, and written obligations of the council, subject to approval of the council.
  - (H) Report to the council as the council may require.
  - (I) Attend council meetings and may take part in discussions.
  - (J) Execute the budget as adopted by the council.

(K) Appoint, with the consent of the council, all members of appointive boards, except that the mayor may appoint, without the consent of the council, temporary advisory committees established by the mayor.

(L) May appoint one administrative assistant to assist in the supervision and/or operation of the local government. Such administrative assistant shall be answerable solely to the mayor. The administrative assistant shall be subject to the approval of the council and may serve with or without salary. The assistant may already be employed by the town and may serve in this capacity if it is deemed in the best interest of the town.

(M) Appoint, with the consent of the majority of the council, all permanent town employees. He may appoint temporary and part time employees without the consent of the council, subject to the ordinance establishing the definition of permanent, temporary and part time employees.

(N) Remove any town employees without the consent of the council.

(O) Veto ordinances and resolutions, subject to override of the council unless state law specifically provides otherwise.

(P) Prepare the budget and present it to the council for approval and adoption.

(Q) Exercise control and supervision of the administration of all departments, boards, and their employees. (Charter eff. 5-2-1977)

#### ARTICLE IV. TAXATION

##### Section 4.01. Taxing Authority:

The taxing authority of the town of Sunburst shall be the same as Montana law allows towns of the same class as Sunburst to levy under "general government powers" with the following exceptions:

- (1) The general all purpose levy shall have a maximum of 70 mills. The general all purpose levy's maximum may be increased if the increase is approved by a majority vote of those voting on the question. This increase shall be in effect until again changed by a vote of the people.

- (2) A special levy, in addition to the regular levy, may be levied for the purpose of raising additional money for a specific purpose, and may be levied for a period of up to two (2) years, provided it is first put to a vote of the people and approved by a majority of those voting on the question. This special levy shall have a maximum of 10 mills per year.
  - (A) The special levy maximum and the time limit may be increased only by a majority vote of those voting on the question.
- (3) Any new type of tax allowed towns of the same class as Sunburst shall first be approved by a majority vote of the qualified electors before being imposed. Any increase in any special tax shall also be approved by a majority vote of the qualified electors.
- (4) These prohibitions shall not apply to service, user, license, or other fees. (Charter eff. 5-2-1977)

## ARTICLE V. ORDINANCES AND RESOLUTIONS

### Section 5.01. Adoption And Repeal Of Ordinances And Resolutions:

- (1) Ordinances and resolutions shall be adopted and repealed by the council in accordance with Montana law unless otherwise provided by state law:
  - (A) Ordinances and resolutions may be adopted by reference, provided the material referred to is available in at least three (3) copies. One copy is to be designated with the resolution or ordinance number and to be filed as the official copy upon passage of the ordinance or resolution. A second copy, to be marked office copy, is to be kept available for public inspection, study, or copying at any time, but must not be removed from the town office. A third copy, to be marked "loan copy", shall be available to loan to any one who wishes it and may be removed from the town office. A deposit may be required upon removal of the third or "loan copy" before it is removed from the town office if the council deems it in the best interest of the town.
  - (B) All ordinances and resolutions shall be reviewed at least once every fifteen (15) years and updated, amended, or repealed as necessary.
- (2) All ordinances and resolutions in effect at the time of the adoption of this charter shall continue in effect as if adopted under this charter or



until such time as they are superseded by new ordinance or are repealed by the council. All state laws that now apply and that can be superseded by local ordinance shall apply until they are superseded by local ordinances.

- (3) All ordinances repealed shall have the word "repealed" stamped across them. (Charter eff. 5-2-1977)

## ARTICLE VI. MISCELLANEOUS PROVISIONS

### Section 6.01. Financial Officer:

A financial officer may, at the discretion of the council, be selected as provided by ordinance.

### Section 6.02. Budget:

The budget shall be balanced each fiscal year.

### Section 6.03. Amendment Of The Charter:

This charter may be amended only as prescribed by state law.

### Section 6.04. Effective Date:

This charter shall become effective May 2, 1977.

### Section 6.05. 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 this 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. (Charter eff. 5-2-1977)

## ARTICLE VII. TRANSITIONAL PROVISIONS

### Section 7.01. General Transition:

Transition to this 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.

Section 7.02. Election:

Nomination and election of mayor and council as prescribed by state law.

Section 7.03. Council Member's And Mayor's Term Of Office:

- (1) Council member's term of office under this charter shall begin May 2, 1977. On this day, a meeting shall be called by the council and lots drawn to determine which two (2) members shall serve a half term of two (2) years and which two (2) members shall serve a term of four (4) years.
- (2) The term of office for mayor shall commence on May 2, 1977.

Section 7.04. Ordinances:

- (1) The ordinance for the date and time of council meetings and the rules and order of business shall be drafted at the first meeting on May 2, 1977. The procedure for adoption shall be instituted at this time, also as required by article II, section 2.04, paragraph (2).
- (2) The ordinance to establish the term for the chairman of the council shall be drafted within sixty (60) days of the first meeting on May 2, 1977, as required by article II, section 2.01, paragraph (11).
- (3) The ordinance for the definition of "permanent", "temporary", and "part time", as required in article II, section 2.03, paragraph (3), shall be drafted within 90 days of the first meeting on May 2, 1977, and the procedure for adoption shall be instituted. (Charter eff. 5-2-1977)