

## CHARTER OF THE CITY OF WHITEFISH

### PREAMBLE

We, the people of the city of Whitefish, Montana, in accordance with article XI, section 5 of the Montana Constitution, and in accordance with title 7, chapter 3, part 7 Montana Code Annotated 1979, in order to modernize our form of local government, increase its efficiency and to provide for local self-determination, do hereby adopt this charter.

### Article I

#### GENERAL PROVISIONS

Section 1.01: Powers Of The City: The city of Whitefish shall possess self-government powers and 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 the city of Whitefish 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.

Section 1.03: Charter Supremacy: As provided in article XI, section 5 of the constitution of Montana, and title 7, chapter 3, part 701(2), Montana Code Annotated 1979, provisions herein establishing an 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, unless prohibited by law or this charter, the city of Whitefish may:

1. Delegate any of its power to;
2. Delegate any of its functions to; or
3. Cooperate in the financing of any services with any one or more 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. (January 5, 1981)

### Article II

#### CITY COUNCIL

Section 2.01: Composition, Election, Qualifications, Compensation, Removal, Filling Of Vacancies:

1. There shall be a city council of six (6) members, three (3) of whom shall be elected every two (2) years. (January 5, 1981)

2. All council members shall be elected at large and be a qualified voter of the city of Whitefish and that the three (3) candidates for council receiving the most votes at each biannual election shall be elected to the office of city council. (Amended November 1985)

3. Members of the council shall be elected for terms of four (4) years on a nonpartisan basis.

4. Members of the council shall receive no salary. As provided by ordinance, they shall receive per diem and mileage allowances for expenses incurred in the performance of their duties of office.

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

b. A council member shall forfeit his office 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;

iv. Without council approval, fails to attend three (3) consecutive regularly scheduled council meetings.

#### Section 2.02: Powers And Duties Of The Council:

1. The city council shall be the legislative and policy determining body of the city of Whitefish. Except as prohibited by the constitution of the state of Montana, the laws of the state of Montana or this charter, the council shall provide for the exercise of all powers of the city and for performance of all duties and obligations of the city.

2. The council shall appoint or remove the city administrator with the concurrence of four (4) of its members.

3. The council shall adopt an annual budget by ordinance.

4. The council shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

5. The council shall adopt by ordinance and maintain an administrative code and a personnel system as provided in article IV of this charter.

6. The council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

7. In the event of vacancy, the council shall, within thirty (30) days, by majority vote of the remaining members, appoint a person, eligible to hold such council seat, to fill the vacancy until the next regular city election at which time the remainder of the terms shall be filled as provided by law.

8. The council shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. 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. (Effective 1-5-1981)

9. A mayor shall be elected every four (4) years, at large on a nonpartisan basis. The mayor shall preside at meetings of the council, shall be recognized as the head of the city government for all ceremonial purposes (or may delegate this duty) and by the governor for the purposes of military law. The mayor shall have no administrative duties. The mayor shall vote in the case of tie votes on the council. (Effective 1-5-1981; amd. Approved by voters 11-7-2006, eff. 1-2-2007)

10. The council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs in the office of the mayor, shall become mayor for the remainder of the unexpired term. (Effective 1-5-1981)

11. The council shall appoint a citizen's standing committee or board of three (3) to five (5) members who shall serve at the will of the council for the purpose whereby citizens or other interested parties may first submit or present their proposals for action of the city council for study, review and recommendations by the committee or board to the council as a whole. This provision shall not prohibit the appointment of ad hoc committees by the mayor or council.

12. The council shall create and establish a board of park commissioners pursuant to and subject to all the provisions of MCA sections 7-16-4201 through 7-16-4226. (Amended by voters 11-1985, eff. 1-1-1986)

#### Section 2.03: Restrictions On The Council:

1. Except where authorized by law, no council person shall hold any other city office or city employment for compensation.

2. Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative offices or employees whom the administrator or any of his subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the administrator anything pertaining to appointment and removal of such officers and employees.

3. Except for the purpose of inquiries and investigations under article II, section 2.02 of this charter, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the administrator solely through the administrator, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

#### Section 2.04: Council Procedure, Public Participation:

1. Council procedure shall be as prescribed by state law.

2. The council shall meet at least once per month in regular session.
3. The council shall determine its own rules and order of business and shall provide for the keeping of minutes of its proceedings.
4. All meetings shall be open to the public except in such circumstances as are prescribed by state law.
5. All documents and records of the council shall be public records and shall be made available for examining or copying. (January 5, 1981)

### Article III

#### CITY ADMINISTRATOR

##### Section 3.01: Appointment And Removal, Qualifications, Compensation:

1. The city administrator shall be appointed by the council for an indefinite term on the basis of merit only. The council shall fix his compensation.
2. The city administrator need not be a resident of the city at the time of his appointment but may reside outside the city while employed only with the approval of the council.
3. The council may remove the city administrator from office at any regularly scheduled or special meeting.

Section 3.02: Acting City Administrator: By letter filed with the mayor, the administrator shall designate, subject to approval of the council, a qualified city administrative officer to exercise the powers and perform the duties of administrator during his temporary absence or disability. During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the administrator shall return or his disability shall cease.

##### Section 3.03: Duties Of The City Administrator:

1. The city administrator shall be the chief administrative officer of the city. He shall be responsible to the council for the administration of all city affairs.
2. The city administrator shall:
  - a. Direct, supervise and administer all departments, agencies and offices of the local government unit except as otherwise provided by this charter, law or ordinance;
  - b. Carry out policies established by the council;
  - c. Prepare the council agenda;

- d. Report to the council and recommend measures on the affairs and financial condition of the local government as the council may require;
  - e. Execute bonds, notes, contracts and written obligations of the council, subject to the approval of the council;
  - f. Attend council meetings and may take part in the discussion, but may not vote;
  - g. Prepare and present the budget to the council for its approval and execute the budget adopted by the council; (January 5, 1981)
  - h. Except for city attorney and municipal court judge, appoint, suspend and remove all employees of the city unless otherwise provided by law or ordinance; provided, however, that in the case of the appointment of chief of police for the city, the police commission of the city shall review all applicants for the position and make its recommendations to the city administrator; (Amended November 1985; effective January 1, 1986; amd. Approved by voters 11-3-2009)
  - i. Attend meetings of planning boards on which the city is represented;
  - j. Submit recommended changes in the administrative code or the personnel system to the council.
3. The city administrator shall not delegate any of the duties and responsibilities in this section without consent of the council. (January 5, 1981)

#### Article IV

#### ADMINISTRATIVE DEPARTMENTS

##### Section 4.01: General:

1. The council may establish city departments, offices or agencies in addition to those created by this charter, and may prescribe the functions of all departments, offices and agencies.
2. All departments, officers and agencies under the direction and supervision of the administrator shall be administered by an officer appointed by and subject to the direction and supervision of the administrator. With the consent of the council, the administrator may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two (2) or more of them.

Section 4.02: Legal Officer: There shall be a legal officer of the city, appointed by the city council, who shall serve as chief legal advisor to the council, the administrator and all city departments, offices and agencies, shall represent the city in all legal proceedings and shall perform any other duties prescribed by ordinance.

Section 4.03: Administrative Code: The administrative code shall provide the complete plan of organization and structure of the city government and shall include:

1. The departmental organization of the government, the nature and scope of each department and all required rules and procedures for department operation.
2. Comprehensive budget procedures for the government.
3. Procedures regarding boards, commissions or any other government activities.

Section 4.04: Personnel System: The city personnel system shall include a salary schedule, provisions for vacations, sick leaves, insurance and other benefits for all persons in accordance with the provisions of this charter; procedures for employees to have an opportunity to be heard upon their request pending discharge, suspension or any designated disciplinary action and shall provide for such other procedures as necessary for an efficient personnel system. (January 5, 1981)

#### Article V

##### NOMINATIONS AND ELECTIONS, INITIATIVE AND REFERENDUM

Section 5.01: Elected Offices: The procedure for the election of all elected city officials shall be as prescribed by law for nonpartisan elections. The procedure for recall of all elected city officials shall be as provided by law.

Section 5.02: Initiative And Referendum: The procedure for initiative and referendum shall be as provided by law. (January 5, 1981)

Section 5.03: Reapportionment Of Wards: (Repealed November 1985; effective January 1, 1986)

Section 5.04: Redistricting: (Repealed November 1985; effective January 1, 1986)

#### Article VI

##### MISCELLANEOUS PROVISIONS

Section 6.01: Amendment Of Charter: This charter may be amended only as provided by state law.

Section 6.02: Effective Date: This charter shall become effective on January 5, 1981.

Section 6.03: 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 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. (January 5, 1981)