



**BIG HORN COUNTY**  
**Local Government Study Commission**

Box Q  
Hardin, Montana 59034

**COMMISSIONERS**

Henry Ruegamer, Chairman  
George Miller  
E. W. MacClean

October 4, 1976

To The Citizens of Big Horn County:

The Big Horn County Study Commission, elected by the voters on November 5, 1974, presents this final report for your information and consideration.

The responsibility of the study commission, as defined in state law, is "to study the form and power of government and existing procedures for delivery of local government services and compare them with other forms available under the laws of the State of Montana." After completing these two phases of the study it is the responsibility of the study commission to submit an alternative form of government to the qualified electors.

The objective of the study commission is to present the most efficient form of government at the least cost to the tax-paying public. It is the belief that this can be done by the adoption of "Home Rule" or self-governing powers.

In every phase of this study, the study commission sought advice and information from as many people in the county as possible. Opinions and recommendations were solicited from local government officials, community organizations, and citizens. A survey of citizen attitudes was made. All meetings of the study commission were open to the public. Commission members appeared before various community organizations to explain the work of the commission and also to hear the viewpoints, ideas, and concerns of those present. Various forms of local government were printed in the **Hardin Herald** so that all voters would be informed of those options available.

Our recommendations reflect the thoughts and opinions of those who participated in public hearings, those who attended our regular meetings, and the independent efforts of this study commission.

In this report we present our recommendations for an alternative form of government, which we feel will provide the governmental services expected by the people - today and in the future. Our concern has been to provide a form of government that will be responsive to local citizens and provide the opportunity for devising solutions to local problems. We feel YOU, the citizens of Big Horn County, can achieve these goals by adopting the Commission-Manager form with self-government powers as set forth in this charter. You will vote for or against its adoption on November 2, 1976.

Respectfully submitted,

BIG HORN COUNTY STUDY COMMISSION

Members: **Henry S. Ruegamer**  
**George Miller**  
**E. W. MacClean**

CHARTER OF BIG HORN COUNTY, MONTANA

PREAMBLE

WE, THE PEOPLE OF BIG HORN COUNTY, State of Montana, in accordance with Article XI, Section 5, of the Constitution of Montana, do adopt this Charter which grants self-government powers to the people of Big Horn County.

ARTICLE I  
GENERAL PROVISIONS

Section 1.01 Powers of County

Big Horn 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 and authority of this self-government unit 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 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, Big Horn County, 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 county officials shall take and subscribe to the oath of office as prescribed in Article III, Section 3, of the Constitution of Montana.

ARTICLE II  
COUNTY COMMISSION

Section 2.01 Composition, Terms, Election, Qualifications, Compensation, Removal, Filling of Vacancies

- (1) There shall be a commission of Big Horn County composed of five members, at least two (2) of whom shall be elected every two years.
- (2) Members of the commission shall be elected for terms of four (4) years.
- (3) Elections for the commission shall be partisan.

(4) As provided in Article VI of this charter, three (3) commissioners shall be nominated and elected by district and two (2) commissioners shall be nominated and elected at large. Nominees for commissioner elected by district shall reside in such district.

(5) By ordinance adopted at least six (6) months prior to the next county general election, the commission may determine the per diem compensation of its members. Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office, or the commission may establish per diem and mileage allowances in lieu of such expenses.

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

(b) A commissioner shall forfeit his office if he:

- (i) loses his eligibility for election to his commission seat;
- (ii) violates any express prohibition of this charter;
- (iii) is convicted of a felony or other offense involving moral turpitude; or,
- (iv) without commission approval, fails to attend two (2) consecutive regularly scheduled commission meetings or absents himself from the county continuously for thirty (30) days without consent of the commission.

(7) In the event of vacancy, the commission shall by majority vote of the remaining members, appoint a person, eligible to hold such commission seat, to fill the vacancy until the next regular county election at which time the remainder of the term shall be filled as provided by law. In the case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office.

(8) The commission shall be the judge of the election and qualifications of its members and of the grounds of 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.

(9) The commission shall elect from its members a chairman and vice-chairman, each of whom shall serve at its pleasure. The chairman shall preside at the commission meeting. If at any meeting the chairman is not present, or is unable to act, the vice-chairman shall preside.

**Section 2.02 Powers of County Commissioners**

(1) The county commission shall be the legislative and policy determining body of the county. Except as otherwise provided by this charter, the commission shall have all powers of the county.

(2) The county commission shall appoint:

(a) A sheriff for Big Horn County;

(b) A surveyor for Big Horn County;

(c) A coronor for Big Horn County;

(d) A public administrator for Big Horn County;

(e) A manager for Big Horn County.

(3) Officials appointed by the county commission shall be appointed for an indefinite term on the basis of merit only. The commission shall fix the compensation for each appointive office.

(4) The commission may at any time remove any officer it appoints.

(5) The commission shall have the power to consolidate any offices within the county and may also enter into agreement with other counties for consolidation of offices of 1 or more counties. The commission shall enact the consolidation by either of two methods:

(a) The first method requires a written petition addressed to the board or boards of county commissioners bearing the signatures of fifteen (15) percent of the qualified electors in each of the counties affected.

(b) The second method of initiating consolidation involves merely the passage of a resolution of intent by the board or boards of county commissioners.

Upon presentation of a proper petition or following the passage of a resolution of intent, the board of county commissioners shall set a date for a public hearing on the matter. The date for the hearing shall be within twenty (20) days of the filing of the petition or the passage of the resolution of intent. Notice of the hearing is to be given in the county newspaper. In the event of inter-county office consolidation, joint hearings are authorized. Any qualified elector of any affected county may appear and be heard at the hearing on the matter.

Following the hearing, in the event that the board or boards of county commissioners shall order consolidation, such order must be published in the newspapers of the county or counties for at least two successive weeks following the date of the order.

Once the commissioners have agreed to consolidate offices the salary for the new position shall not exceed by more than twenty (20) percent the highest salary of any of the combined offices. The official assuming the consolidated position must post a bond equal to the highest bond required of any one of the consolidated offices. The board of county commissioners shall determine the number of employees the new officer may appoint.

**Section 2.03 Restrictions on the County Commission**

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

(2) Except for the purpose of inquiry or investigation under this charter or the code of local government, the commission or its members shall deal with the local government employees who are subject to the direction and the

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 2.04 Commission Procedure, Public Participation**

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

(2) The commission 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 commission shall be public records and shall be made available for examining or copying.

**ARTICLE III**

**COUNTY MANAGER**

**Section 3.01 Qualifications, Compensation, Appointment and Removal**

(1) The county manager shall be appointed by the commission for an indefinite term on the basis of merit only. The commission shall fix his compensation.

(2) The county manager may reside outside the county only with the approval of the commission.

(3) The commission may remove the manager from office at any time.

**Section 3.02 Acting County Manager**

By letter filed with the commission, the county manager shall designate, subject to the approval of the commission, an acting county manager to exercise the powers and perform the duties of county manager during his temporary absence or disability. During such absence or disability, the commission may revoke such designation at any time and appoint another officer of the county to serve until the manager shall return or his disability shall cease. During periods of suspension the commission shall appoint an acting county manager.

**Section 3.03 Powers and Duties of County Manager**

(1) The county manager shall be the chief administrative officer of the county; he shall be responsible to the commission for the administration of all county affairs placed in his charge by this charter, law, ordinance or resolution. He shall be the personnel director of all county employees.

(2) The county manager shall appoint a financial officer whose appointment shall be subject to the approval of a majority of all of the members of the county commission.

(3) Employees appointed by the manager and his subordinates shall be administratively responsible to the manager.

#### ARTICLE IV ELECTIVE OFFICES COUNTY ATTORNEY

##### Section 4.01 Election, Term, Compensation, Vacancy and Removal

(1) There shall be nominated and elected at large in the county, a county attorney who shall serve a term of four (4) years and who shall possess the qualifications prescribed by state law.

(2) Elections for the county attorney shall be partisan.

(3) The salary of the county attorney shall be established by the county commission. No change in compensation of the county attorney shall become effective during the term of office for which the county attorney is elected.

(4) (a) The office of county attorney shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.

(b) The county attorney shall forfeit his office if he:

(i) loses his eligibility for election to the position of county attorney;

(ii) violates any express prohibition of this charter; or  
(iii) is convicted of a felony or other offense involving moral turpitude.

(5) The commission shall be the judge of the grounds of forfeiture of the office of county attorney. A county attorney 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.

(6) In the event of a vacancy in the office of county attorney, the commission, by majority vote of all of its members, shall appoint a person eligible to hold the position of county attorney to fill the vacancy until the next regular county election, at which time the remainder of the term shall be filled as provided by law for the election of county attorney. In the case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office where appropriate or practical.

(7) In the event of temporary absence or disability, a deputy county attorney previously designated by the county attorney as his substitute, shall serve as acting county attorney.

##### Section 4.02 Powers and Duties

(1) The county attorney shall be the chief legal advisor and criminal prosecutor of the county and shall perform other duties as may be prescribed by this charter, law, ordinance or resolution. Such duties include, but are not limited to, the following:

(a) to attend the district court and conduct, on behalf of the state, all prosecutions for public offenses and represent the state in all matters and

proceedings to which it is a party, or in which it may be beneficially interested, at all times and in all places within the limits of the county;

(b) to institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that such offenses have been committed, and for that purpose, whenever not otherwise officially engaged, must attend upon the magistrate in cases of arrest, and attend before and give advice to the grand jury, whenever cases are presented to them for their consideration;

(c) to draw all indictments and informations, defend all suits brought against the state or the county, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties and forfeitures accruing to the state or the county;

(d) to deliver receipts for money or property received in his official capacity, and file duplicates thereof with the county financial officer;

(e) to file with the county clerk and recorder, on the first Monday of January, April, July and October, in each year, an account, verified by his oath, of all moneys received by him in his official capacity during the preceding three months, and at the same time pay it over to the county financial officer.

(f) to give when required, and without fee, his opinion in writing to the county officers, on matters relating to the duties of their respective offices;

(g) to act as counsel, without fee, for fire districts in unincorporated towns or areas within the county;

(h) to keep a register of all official business, in which must be entered a note of every action, whether criminal or civil, prosecuted officially, and of the proceedings therein;

(i) to institute promptly and prosecute diligently in the proper court and in the name of the State of Montana, any criminal or civil action or special proceeding, when so ordered or directed by the attorney general;

(j) act as legal advisor to the commission of the county, attend their meetings when required, and attend and oppose all claims and accounts against the county which are unjust or illegal;

(k) to institute an action if the commissioner, without authority of law, orders any money paid as a salary, fees, or for any other purposes, and such money has been actually paid; or if any other county officer has drawn any warrant or warrants in his own favor or in favor of any other person, without authorization by the commission or by law and the same has been paid. Such action shall be in the name of the county against such person or persons to recover the money so paid and twenty-five (25) percent damages for the use of such money. No order of the commission is necessary to maintain such a suit; but when the money has not been paid on such order or warrants, it is the duty of the county attorney, upon receiving notice thereof, to commence an action in the name of the county for restraining the payment of the same, and no order of the governing body of the county is necessary to maintain such action;

(2) to act as legal advisor to the county school districts, give opinions in writing to such school district officers who request it, and comply with all other requirements as are prescribed in Title 75.

(3) The county attorney, except for his own services, must not present any claim, account or other demand for allowance against the county, nor in any way advocate the relief asked on the claim or demand made by another.

# COMPARISON OF SPECIFIC CHARACTERISTICS

CHARACTERISTIC	PRESENT FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	EVALUATORY COMMENTS
Form of Government	COMMISSION FORM Merges legislative, administrative and executive functions in commission.	COMMISSION-MANAGER FORM Elected commission determines policy. Manager hired to do administrative policy.	Separation of legislative and administrative responsibilities. Manager appointed on basis of experience and training.
Powers	GENERAL GOVERNMENT POWERS State law defines what government may do and specifically how it shall do it. No power to pass ordinances.	SELF-GOVERNMENT POWERS County Government shall exercise any power which the State does not deny. Legislative power vested in the Council.	Self-Government Powers bring to the County the right to act in its own best interest, and great flexibility in shaping government structure.
Governing Body			
Size	3 Commissioners nominated by district, elected at-large	5 member Commission, 3 elected in district in which they reside, 2 elected at-large.	Increase in the size of the commission will allow greater representation.  District representation assures the Commission viewpoints from all sections of the county. At-large commission will offer county-wide perspective.
Election	Partisan	<del>To be determined by vote</del> <i>7 districts</i>	
Term	6 year Overlapping Terms	4 year Concurrent Terms <i>H</i>	Shorter terms on a concurrent basis should cause Commission to be more responsive to voters.
Presiding Officer	Chairman--elected from own members.	Chairman--Elected from own members.	
Duties	Commission is responsible for executive and many administrative functions. Administrative powers are shared with other elected officials.	Commission is the legislative policy making body. Hires a professional manager to administer all departments.	Frees commission from administration responsibilities to concentrate on policy-making role.
Other Elected Officials	11 separate elected officials: Clerk & Recorder County Attorney Sheriff Treasurer Assessor Clerk of the Court Coroner Superintendent of Schools Surveyor Auditor Public Administrator	5 separate elected officials: County Records Clerk Administrator <i>Records Clerk</i> Superintendent of Schools County Attorney County Assessor Clerk of Court <i>H</i>	County offices brought under supervision of manager. Qualifications for offices can be established.
Chief Administrative Officer	None Administrative responsibilities shared by Commissioners, elected officials, and various boards, etc.	COUNTY MANAGER Directs and supervises the administration of all departments.	Better overall coordination is possible. Clear lines of authority and responsibility.
Appointment Powers	Commission appoints department heads not elected, members of boards, commissions, special districts.	COMMISSION: Appoints and removes County Manager, members of boards and commissions.  COUNTY MANAGER: Appoints and removes all department heads and employees. Temporary Advisory Committees.	Department heads appointed on basis of qualifications. Responsible to County Manager. Members of boards and commissions continue to be appointed by the commission.
Budget Preparation	Clerk & Recorder prepares budget with officials and departments. Modified and /or approved by Commission.	Manager prepares budget. Commission modifies and/or approves.	Manager can balance priorities set by Commission with available county-wide resources, also balance needs of individual departments with overall needs and resources of county.
Service Deliver Structure	Performed by elected offices and appointed boards, commissions and special districts.	County activities could be grouped into a few departments on basis of function. Services performed by departments under supervision of County Manager.	Many functions now performed by independently elected offices or substantially independent boards are brought under supervision of a professional manager and commission control.
Citizen Participation			Should encourage citizen involvement by providing a structure for participation.

**COUNTY ASSESSOR**  
**Section 4.03 Election, Term, Compensation, Vacancy, Removal and Duties**

- (1) There shall be a county assessor who is nominated and elected at large and who shall serve a term of four (4) years and who shall possess the qualifications prescribed by state law.
- (2) The county assessor shall perform all duties charged to him by this charter, law, ordinance, or resolution.
- (3) Elections for the county assessor shall be partisan.
- (4) The salary of the county assessor shall be established by the county commission. No change in compensation of the county assessor shall become effective during the term of office for which the county assessor is elected.
- (5) The county assessor shall forfeit his office if he:
  - (i) loses his eligibility for election to the position of county assessor;
  - (ii) violates any express prohibition of this charter;
  - (iii) is convicted of a felony or other offense involving moral turpitude.
- (6) The commission shall be the judge of the grounds of forfeiture of the office of county assessor. A county assessor 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.
- (7) In the event of a vacancy in the office of county assessor, the commission, by majority vote of all of its members, shall appoint a person eligible to hold the position of county assessor to fill the vacancy until the next regular county election, at which time the remainder of the term shall be filled as provided by law for the election of a county assessor. In the case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office where appropriate or practical.
- (8) In the event of temporary absence or disability, a deputy county assessor previously designated by the county assessor as his substitute shall serve as acting county assessor.

**COUNTY SUPERINTENDENT OF SCHOOLS**

**Section 4.04 Election, Term, Compensation, Vacancy, Removal and Duties**

- (1) There shall be nominated and elected at large in the county, a county superintendent of schools who shall serve a term of four (4) years and who shall possess the qualifications prescribed by state law.
- (2) The county superintendent of schools shall perform all duties charged to him by this charter, law, ordinance, or resolution.
- (3) Election for the county superintendent of schools shall be partisan.
- (4) The salary of the county superintendent of schools shall be established by the county commission. No change in compensation of the

county superintendent of schools shall become effective during the term of office for which the county superintendent of schools is elected.

- (5) The county superintendent of schools shall forfeit his office if he:
  - (i) loses his eligibility for election to the position of county superintendent of schools;
  - (ii) violates any express prohibition of this charter; or
  - (iii) is convicted of a felony or other offense involving moral turpitude.
- (6) The commission shall be the judge of the grounds of forfeiture of the office of county superintendent of schools. A county superintendent of schools 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.
- (7) In the event of a vacancy in the office of county superintendent of schools, the commission, by majority vote of all of its members, shall appoint a person eligible to hold the position of county superintendent of schools to fill the vacancy until the next regular county election, at which time the remainder of the term shall be filled as provided by law for the election of a county superintendent of schools. In the case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office where appropriate or practical.
- (8) In the event of temporary absence or disability, a deputy county superintendent previously designated by the county superintendent of schools as his substitute shall serve as acting county superintendent of schools.

**COUNTY CLERK AND RECORDER**

**Section 4.05 Election, Term, Compensation, Vacancy, Removal and Duties**

- (1) There shall be nominated and elected at large in the county, a county clerk and recorder who shall serve a term of four (4) years and who shall possess the qualifications prescribed by state law.
- (2) The county clerk and recorder shall perform all duties charged to him by this charter, law, ordinance, or resolution.
- (3) Election for the county clerk and recorder shall be partisan.
- (4) The salary of the county clerk and recorder shall be established by the county commission. No change in compensation of the county clerk and recorder shall become effective during the term of office for which the county clerk and recorder is elected.
- (5) The county clerk and recorder shall forfeit his office if he:
  - (i) loses his eligibility for election to the position of county clerk and recorder;
  - (ii) violates any express prohibition of this charter; or
  - (iii) is convicted of a felony or other offense involving moral turpitude.
- (6) The commission shall be the judge of the grounds of forfeiture of the office of county clerk and recorder. A county clerk and recorder 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.

(7) In the event of a vacancy in the office of county clerk and recorder, the commission, by majority vote of all of its members, shall appoint a person eligible to hold the position of county clerk and recorder to fill the vacancy until the next regular county election, at which time the remainder of the term shall be filled as provided by law for the election of a county clerk and recorder. In the case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office where appropriate or practical.

(8) In the event of temporary absence or disability, a deputy county clerk and recorder previously designated by the county clerk and recorder as his substitute shall serve as acting county clerk and recorder.

#### COUNTY CLERK OF COURT

##### Section 4.06 Election, Term, Compensation, Vacancy, Removal and Duties

(1) There shall be nominated and elected at large in the county a county clerk of court who shall serve a term of four (4) years and who shall possess the qualifications prescribed by state law.

(2) The county clerk of court shall perform all duties charged to him by this charter, law, ordinance, or resolution.

(3) Election for the county clerk of court shall be partisan.

(4) The salary of the county clerk of court shall be established by the county commission. No change in compensation of the county clerk of court shall become effective during the term of office for which the county clerk of court is elected.

(5) The county clerk of court shall forfeit his office if he:

- (i) loses his eligibility for election to the position of county clerk of court;
- (ii) violates any express prohibition of this charter; or
- (iii) is convicted of a felony or other offense involving moral turpitude.

(6) The commission shall be the judge of the grounds of forfeiture of the office of county clerk of court. A county clerk of court 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.

(7) In the event of a vacancy in the office of county clerk of court, the commission, by majority vote of all of its members, shall appoint a person eligible to hold the position of county clerk of court to fill the vacancy until the next regular county election, at which time the remainder of the term shall be filled as provided by law for the election of a county clerk of court. In the case of partisan election, the appointee shall be a qualified elector of the same political party as the person who vacated the office where appropriate or practical.

(8) In the event of temporary absence or disability, a deputy county clerk of court previously designated by the county clerk of court as his substitute shall serve as acting county clerk of court.

## ARTICLE V ADMINISTRATIVE DEPARTMENTS

### Section 5.01 General

The activities under the direction and supervision of the county manager shall be distributed among such departments, agencies, and offices as are established by this charter or may be established thereunder by ordinance of the county commission in order to execute and enforce policies as determined by the commission and to carry out obligations imposed on the county by state law.

## ARTICLE VI NOMINATIONS AND ELECTIONS

### Section 6.01 Elected County Offices

The procedure for the nomination and election to all elected county offices shall be as prescribed by state law for partisan elections.

### Section 6.02 Districts

For purposes of representation on the county commission, Big Horn County shall be divided into three (3) districts. Boundaries of commission districts may be changed in accordance with this charter.

### Section 6.03 Reapportionment of Commission Districts

(1) Within six (6) months after an official United States census establishes that the population of any district differs in number from the average population of all districts by more than fifteen percent (15%), the commission shall modify the boundaries of districts that such difference be eliminated.

(2) For the purposes of this section the six (6) month period shall begin upon the availability of the census.

(3) If the commission fails to perform the modifications required by sub-section one (1) of this section within the specified time, the members of the commission shall forfeit all pay and allowances until they enact modifications, at which time their pay and allowances shall resume unaffected by court challenge to those modifications.

### Section 6.04 Redistricting

District boundaries may be changed by ordinance, provided that any district boundaries so changed comply with the population standards prescribed in Section 6.03 (1) of this charter. In the event of a judicial challenge to the ordinance, the burden of proving compliance shall rest upon the county.

## JUSTICE OF THE PEACE

### Section 4.07 Election, Term, Compensation, Vacancy, Removal and Duties

- (1) There shall be nominated and elected at large in the county at least one (1) justice of the peace who shall serve a term of four (4) years and who shall possess the qualifications prescribed by state law.
- (2) Elections for the justice of the peace shall be non-partisan.
- (3) The salary of the county justice of the peace shall be as prescribed by the Montana Judicial Code.
- (4) (a) The office of justice of the peace shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.
  - (b) The county justice of the peace shall forfeit his office if he:
    - (i) loses his eligibility for election to the position of justices of the peace;
    - (ii) violates any express prohibition of this charter; or
    - (iii) is convicted of a felony or other offense involving moral turpitude.

(5) The commission shall be the judge of the grounds of forfeiture of the office of justice of the peace. A justice of the peace 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.

(6) In the event of a vacancy in the office of justice of the peace, the commission, or majority vote of all of its members, shall appoint a person eligible to hold the position of justice of the peace to fill the vacancy until the next regular county election, at which time the remainder of the term shall be filled as provided by law for the election of a justice of the peace.

(7) In the event of temporary absence or disability, a deputy county justice of the peace previously designated by the justice of the peace as his substitute, shall serve as acting justice of the peace.

(8) The duties of the justice of the peace shall be as prescribed in Article VII, Section 5, of the Constitution of the State of Montana.

## ARTICLE VII

### MISCELLANEOUS PROVISIONS

#### Section 7.01 Amendment of Charter

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

#### Section 7.02 Effective Date

This charter shall become effective on May 2, 1977

#### Section 7.03 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 VIII

### TRANSITIONAL PROVISIONS

#### Section 8.01 General Transition

Transition to this charter form of government shall be as prescribed by state law. The commission 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 8.02 Commission Districts

Until modified in accordance with the provisions of Article VI of this charter, commission districts shall be as determined in the District Court of the Thirteenth Judicial District of the State of Montana, in and for the County of Big Horn, recorded and on file in the office of the Big Horn County Clerk and Recorder, instrument number 249647, dated January 29, 1976, which sets forth the exact boundaries of Districts number one, number two, and number three of Big Horn County, Montana.

#### Section 8.03 Salaries and Expenses

(1) The initial expenses of the commission, including the expense of advertising for applicants for the position of county manager and of interviewing and investigating such applicants in the county or elsewhere, shall be paid by the county on claims signed by the chairman of the commission.

(2) Members of the commission shall receive compensation in the amount of \$40.00 per diem, not to exceed \$3,000 per year for any one commissioner, until such amount is changed by the commission in accordance with the provisions of this charter.

(3) Salaries of all other elected county officials and employees shall continue at their present level until the discontinuance of such office or position, or the change in salary or employment of such officials and employees in accordance with the provisions of this charter.

#### Section 8.04 Commission Terms

(1) The county commissioner elected on November 7, 1972 shall continue to hold office as one of the at-large commissioners until his successor is elected in 1978 and qualified in 1979. Such commissioner retains his office under the provisions of Section 6 (3) of the transition schedule of the 1972 Montana Constitution.

(2) The commissioner elected at-large shall serve a term of four years and two (2) of the commissioners elected by district shall serve initial terms of two (2) years. The remaining one (1) commissioner shall serve a term of four (4) years. The three commissioners elected by district shall draw lots to establish their respective terms of office at the first meeting of the commission.