

WE, the People of Colstrip . . .

**A PROPOSAL TO ADOPT A MUNICIPAL
SELF-GOVERNMENT CHARTER**

for the

City of Colstrip, Montana

***To be submitted to the Voters of Colstrip for their consideration and decision at
a regularly scheduled election to be conducted on November 4, 2003 pursuant to
law and Colstrip City Council Resolution Number 03-R20***

Contents:

- Message from the Colstrip Mayor and City Council
- Proposed Colstrip City Charter
- Present Plan of Colstrip City Government
- Comparison of the Proposed and Existing Forms of Government

• **CERTIFICATE OF THE PROPOSED PLAN OF GOVERNMENT** •

CHARTER OF THE CITY OF COLSTRIP, ROSEBUD COUNTY, MONTANA

PREAMBLE

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

**ARTICLE I
POWERS OF THE CITY OF COLSTRIP**

Section 1.01 Powers of the City

The City of Colstrip 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 city shall be liberally construed. Every reasonable doubt as to the existence of a city power or authority shall be resolved in favor of the existence of that power or authority.

Section 1.03 Restrictions

1. The mill levy shall be limited to that of Montana municipal governments with general government powers, except with the prior approval of the electors voting on the question in a general or special municipal election.
2. No change in any city license fee, user fee, permit fee or utility charge shall be made without prior public hearings, as prescribed by law.

Section 1.04 Charter Supremacy

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

Section 1.05 Oath of Office

Before entering upon the duties of office, all elected city officials shall take and subscribe to the oath of office as prescribed in Article III, Section 3 of the Constitution of Montana.

ARTICLE II CITY COUNCIL

Section 2.01 Legislative Branch

The legislative branch and governing body shall be the city council.

Section 2.02 Composition

1. The City of Colstrip shall have a city council of four (4) members, who must reside for at least one (1) year prior to election and during their entire term of office, within the City limits of the City of Colstrip.

Section 2.03 Powers and Duties

The council shall be the legislative and policy determining body of the city. All powers of the City shall be vested in the city council except as otherwise provided by law or this Charter. The council may override the mayor's veto of an ordinance or resolution with three (3) affirmative votes.

Section 2.04 Term of Office

Members of the council shall be elected for four (4) year overlapping terms of office with two council members elected every two years.

Section 2.05 Election

Council members shall be elected at-large and the election of council members shall be conducted on a nonpartisan basis.

Section 2.06 Chairman of the Council

The council shall have a chairman who shall be elected by the members of the council from their own membership for a term established by resolution. The chairman of the council shall preside when the mayor is absent.

Section 2.07 Presiding Officer of the Council

The presiding officer of the council shall be the mayor who shall decide all tie votes but who shall have no other votes except the mayor will vote at any council meetings, in which only two (2) city council members are present.

Section 2.08 Council Procedures

The council shall, by resolution, adopt its own rules of procedure. A quorum of the council shall consist of not less than three (3) council members present at a meeting of the council, or not less than

two (2) council members and the mayor present at the meeting of the council. Unless otherwise required by law, the affirmative vote of the majority of those physically present at a council meeting shall be sufficient to adopt an ordinance or resolution, except at the final reading of an ordinance. Three of the four council members must be present to vote for approval on any final reading of an ordinance

Section 2.09 Compensation of Council Members

The compensation of council members shall be set by resolution.

Section 2.10 Removal of Council Member

A member of the City Council can be removed for the violation or disregard of their duties as required by law, or by their inability to perform the function of their position. Removal of a council member may only be accomplished by a vote of the three (3) other council members and with the approval of the mayor.

**ARTICLE III
MAYOR**

Section 3.01 The Executive Branch

The mayor shall be the chief executive and chief administrative officer of the city.

Section 3.02 Term of Office

The mayor shall be elected for a four (4) year term of office.

Section 3.03 Election

The mayor, who must reside within the city limits for a period of at least two (2) years preceding the election and during their entire term of office, shall be nominated and elected on a nonpartisan basis.

Section 3.04 Powers and Duties

The mayor shall:

1. enforce laws, ordinances, and resolutions;
2. perform duties required of him by law, charter, ordinance or resolution;
3. administer affairs of the local government;
4. carry out policies established by the council;
5. recommend measures to the council;
6. report to the council on the affairs and financial condition of the city government;
7. execute bonds, notes, contracts, and written obligations of the council, subject to the approval of the council;

8. report to the council as the council may require;
9. chair council meetings and may take part in discussion;
10. execute the budget adopted by the council;
11. appoint, with the consent of the council, all members of boards, except the mayor may appoint without consent of the council temporary committees established by the mayor.

Section 3.05 Administrative Duties

The mayor may:

1. prepare the budget in consultation with the council and department heads;
2. appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the mayor;
3. appoint, with the consent of a majority of the council, all department heads and may remove department heads without the consent of the council and may appoint and remove all other city employees without the consent of the council;
4. exercise control and supervision of all departments and boards to the degree authorized by resolution of the council.

Section 3.06 Legislative Authority

1. The mayor shall decide all tie votes of the council, but shall have no other vote, except the mayor will vote at all council meetings, in which only two (2) council members are present.
2. The mayor may veto ordinances and resolutions, subject to council override by not less than three (3) affirmative votes. The mayors veto power will be more specifically set forth by ordinance.

Section 3.07 Compensation

The compensation of the mayor shall be set by resolution.

Section 3.08 Absence of Mayor

The mayor must receive the consent of the council for an absence from the city for fifteen (15) or more consecutive days.

Section 3.09 Grounds for Removal

The mayor may be removed from office by a finding of a majority of the entire council that, pursuant to law, there is a vacancy in the office of mayor, or by recall of the citizens of Colstrip pursuant to law.

Section 3.10 City Attorney

1. The legal officer of the city shall be the city attorney who shall be appointed by the mayor, with the

approval of the council, and who will serve as chief legal advisor to the council, the mayor, and all city departments, offices, and agencies.

2. The city attorney shall represent the city in all legal proceedings unless otherwise determined by the council, and shall perform any other duties prescribed by ordinance.

3. The qualifications, the term of office, and the grounds for removal or suspension of the city attorney are set forth by Montana State statute, but may be changed by the city council through ordinance. Nothing in this charter shall be construed as preventing the city council from employing in special cases on a contract basis additional or other counsel.

ARTICLE IV JUDICIAL

Section 4.01 City Court

There shall be a city court and a city judge as provided by law.

ARTICLE V DEPARTMENT STRUCTURE

Section 5.01 Organization of Departments

The organization of city departments shall be prescribed by ordinance.

ARTICLE VI GENERAL PROVISIONS

Section 6.01 Amendment of Charter

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

Section 6.02 Effective Date

This Charter shall become effective on July 1, 2004.

Section 6.03 Vacancy in Office

An elected office under this Charter becomes vacant as prescribed by law. When any vacancy occurs in any elective office, this position shall be considered open and subject to nomination and election at the next general municipal election in the same manner as the election of any person holding the same office, except the term shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification the council shall, by majority vote of the members, appoint a qualified person within 30 days of the vacancy to hold the office until the successor is elected and qualified.

Section 6.04 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 city council may provide for such transition by ordinance, rule, or resolution not inconsistent with law. The provisions of this transition article shall not be published as part of the Charter after July 1, 2006.

Section 7.02 City Employee

No city employee or elected city official currently holding a city office will lose employment or elected position solely because of adoption of this Charter. Existing elected city officials shall continue in office until the end of the term for which they were elected.

Section 7.03 Review of Existing Ordinances

All city ordinances, resolutions, and rules of the City of Colstrip shall remain in effect until reviewed, revised, or repealed by the city council. The city council shall review and, where necessary, revise or repeal all city ordinances to provide for compliance and consistency with this Charter and state law by July 1, 2005.

• **CERTIFICATE OF THE PRESENT PLAN OF GOVERNMENT** •

CITY OF COLSTRIP, MONTANA

If retained by the voters, the government of the City of Colstrip shall remain organized under the following provisions of 7-3-113, M.C.A., which authorizes the municipal council-mayor form of government.

7-3-113. Statutory basis for municipal council-mayor government.

(1) For the purpose of determining the statutory basis of existing units of local government, each unit of local government organized under the general statutes authorizing the municipal council-mayor form of government, which does not adopt a new form, shall be governed after May 2, 1977 by the following sections:

- (a) 7-3-201;
- (b) 7-3-202(2);
- (c) 7-3-203;
- (d) 7-3-212(2);
- (e) 7-3-213(2);
- (f) 7-3-214(3);
- (g) 7-3-215(2);
- (h) 7-3-216(1);
- (I) 7-3-217(2);
- (j) 7-3-218(1);
- (k) 7-3-219(2);
- (l) 7-3-220(1);
- (m) 7-3-221(3);
- (n) 7-3-222(2);
- (o) 7-3-223(2).

(2) This form has terms of 4 years for all elected officials. The size of the commission shall be established by ordinance, but it may not exceed 20 members.

These sections establish the following form of government, which shall be called the **COMMISSION-EXECUTIVE FORM**.

7-3-201. Commission-executive form. The commission-executive form (which may be called the council-executive, the council-mayor, or the commission-mayor form) consists of an elected commission (which may be referred to as the council) and one elected executive (who may be referred to as the mayor) who are elected at large.

7-3-202 (2). Nature of government. The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing self-government powers.

7-3-203. Duties of the executive. The executive shall:

- (1) enforce laws, ordinances, and resolutions;
- (2) perform duties required of him by law, ordinance, or resolution;

- (3) administer affairs of the local government;
- (4) carry out policies established by the commission;
- (5) recommend measures to the commission;
- (6) report to the commission on the affairs and financial condition of the local government;
- (7) execute bonds, notes, contracts and written obligations of the commission, subject to the approval of the commission;
- (8) report to the commission as the commission may require;
- (9) attend commission meetings and may take part in discussions;
- (10) execute the budget adopted by the commission;
- (11) appoint, with the consent of the commission, all members of boards; except the executive may appoint without the consent of the commission temporary advisory committees established by the executive.

7-3-204 through 7-3-219 reserved.

7-3-211. Structural Suboptions.

7-3-212 (2). Administrative assistants. The executive may appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the executive.

7-3-213 (2). Supervision of personnel. The executive may appoint and remove, with the consent of a majority of the commission, all employees of the local government.

7-3-214 (3). Veto power. The executive may sign all ordinances and resolutions with no veto power.

7-3-215 (2). Preparation of budget. The executive may prepare the budget in consultation with the commission and department heads.

7-3-216 (1). Administrative supervision and control. The executive may exercise control and supervision of the administration of all departments and boards.

7-3-217 (2). Financial officer. A financial officer (who may be called the treasurer) shall be appointed by the executive with the consent of the council.

7-3-218 (1). Selection of commission members. The commission shall be elected at large.

7-3-219 (2). Type of election. Local government elections shall be conducted on a nonpartisan basis.

7-3-220 (1). Chairman of 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.

7-3-221 (3). Presiding officer of the commission. The presiding officer of the commission shall be the executive, who shall decide all tie votes of the commission but shall have no other vote (the chairman of the commission shall preside if the executive is absent).

7-3-222 (2). Terms of commission members. Commission members shall be elected for overlapping terms of office.

7-3-223 (2). Size of commission and community councils. The size of the commission shall be four (4), and community councils to advise commissioners may be authorized by ordinance.

7-3-224. Terms of elected officials. The term of office of elected officials shall be four (4) years.

CITY OF COLSTRIP
COMPARISON OF SPECIFIC CHARACTERISTICS OF THE MAYOR-COUNCIL PLAN OF GOVERNMENT
WITH THE CHARTER FORM OF THE MAYOR-COUNCIL PLAN OF GOVERNMENT
2003

CHARACTERISTIC	PRESENT FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	COMMENTS
FORM OF GOVERNMENT	MAYOR-COUNCIL Elected council performs policy-making functions. Elected mayor administers government with the advice and consent of the council.	CHARTER Elected council performs policy-making functions. Elected mayor administers government with the advice and consent of council.	No change in the form of government, but the charter clarifies the governing roles of the mayor and council.
POWERS	Self-government powers	Self-government powers	No change except the charter limits the city=s taxing authority to that of a general powers government and requires public hearings be held for any increase in fees and utility rates.
GOVERNING BODY	Council and mayor responsible for all legislative, executive and administrative functions.	Council and mayor responsible for all legislative, executive and administrative functions.	No change.
Size	4 council members elected at-large in non-partisan elections.	4 council members elected at-large in non-partisan elections.	No change in number on council or method of election.
Term	Four year overlapping terms.	Four year overlapping terms.	No change.
Presiding Officer	Mayor	Mayor	No change.
CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER	The mayor is elected to a four-year term of office and administers the government on a part-time basis.	The mayor is elected to a four-year term of office and administers the government on a part-time basis.	No change.
Powers and Duties	The mayor carries out the policies of the council, advises the council, executes the budget, and enforces laws, ordinances and resolutions.	The mayor carries out the policies of the council, advises the council, executes the budget, and enforces laws, ordinances and resolutions.	No change.
Appointment Powers	The mayor appoints department heads and members of boards and commissions with the consent of the council.	The mayor appoints department heads and members of boards and commissions with the consent of the council.	No change.
Budget Preparation	Mayor prepares the budget in cooperation with department heads. Budget is then modified and approved by the city council.	Mayor prepares the budget in cooperation with department heads. Budget is then modified and approved by the city council.	No change.