



"THE OIL CITY"

OFFICE OF THE CITY MANAGER
PHONE (406) 768-3880

CITY OF POPLAR

BOX 638

POPLAR, MONTANA 59255

October 26, 1979

RECEIVED

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LOCAL GOVERNMENT SERVICES
HELENA

Mr. George H. Pendergast
Division of Local Government Services
Department of Community Affairs
Capitol Station
Helena, Montana 59601

Dear Mr. Pendergast:

Enclosed is a copy of the official Charter of the City of Poplar. At the present time, the City of Poplar is having it's ordinances recodified by the Montana League of Cities and Towns. When this is completed, the City Charter will become a part of the total City Codes. Should you desire to see how the City Charter has been placed within the City Codes, you may contact me in approximately six weeks at which time I will have the new codes in my office.

I am very interested in discussing with you when the City of Poplar could have an audit of it's books, and when the City of Poplar will have the BARS implemented in this community. I look forward to hearing from you in the near future on these two matters.

Sincerely,

Ralph Freedman
City Manager

Enclosure



CHARTER FOR THE CITY OF POPLAR

PREAMBLE

WE, THE PEOPLE OF THE CITY OF POPLAR, MONTANA, in accordance with Article XI, Section 5 of the Constitution of Montana, do adopt this Charter.

ARTICLE I

GENERAL PROVISIONS

Section 1.01 Powers of the City

The City of Poplar shall have all powers not prohibited by the Constitution of Montana, the laws of Montana, or this charter. These powers include, but are not limited to, the power:

- (1) to sue and be sued;
- (2) to buy, sell, lease, hold and dispose of any interest in real and personal property;
- (3) to contract with persons, corporations or any other government entity;
- (4) to pay debts and expenses;
- (5) to borrow money;
- (6) to accept donations of money, property, services or other advantages;
- (7) to require the attendance of witnesses and production of documents relevant to matters being considered by the city council;
- (8) to punish contempt and disorder in the council chambers;
- (9) to hire and discharge employees;
- (10) to ratify any action of the city or its officers which could have been approved in advance;
- (11) to have a corporate seal;
- (12) to execute such documents as are necessary to receive money, property, services or other advantages from the state government, the federal government or from any other source;

(13) to acquire any interest in property by eminent domain;

(14) to initiate a civil action to restrain (or enjoin) violation of an ordinance;

(15) (a) to join, pay dues and assessments and cooperate with organizations and associations of local governments of this state and other states for the advancement of good government and the protection of local government interests;

(b) elected officials of the city shall be allowed actual transportation expenses and per diem for attendance at the general meeting of the appropriate association of local government officials and the proportionate expenses and charges against the city as a member of the association shall be paid by the city;

(16) (a) to grant a franchise to any person for a term not to exceed twenty-five (25) years. The franchise may be granted, amended, extended or renewed only by ordinance;

(b) no ordinance granting, amending, extending or renewing a franchise shall be effective until approved by the qualified electors of the city;

(c) the question of granting, amending, extending or renewing a franchise shall be submitted to the qualified electors of the city in the same manner as other questions are submitted to the people;

(d) an ordinance granting a franchise shall state the duration of the franchise, the rights of the franchisee and conditions thereon, and the amount to be paid for the franchise or the method by which the amount to be paid is to be calculated;

(e) utilities regulated by the Public Service Commission have the right to use the streets and other public ways of the city, upon payment of a reasonable permit fee and subject to reasonable terms and conditions with reasonable exceptions as determined by the city council. A dispute as to whether the fees, terms, conditions or exceptions are reasonable shall be decided by the Public Service Commission;

(17) to adopt, amend and repeal ordinances and resolutions to:

(a) preserve and promote the general public health and welfare;

(b) preserve peace and order and secure freedom from dangerous or noxious activities;

(c) provide any service, perform any function, exercise any power and levy any tax authorized by state law;

(d) impose an assessment reasonably related to the cost of any special service or special benefit provided by the local unit or impose a fee for the provision of a service;

(e) provide for the organization and management of city affairs;

(18) to adopt or repeal an ordinance which incorporates by reference the provisions of any code or portions of any code, or any amendment thereof, properly identified as to date and source, without setting forth the provisions of such code in full. At least three (3) copies of such code, portion, or amendment which is incorporated or adopted by reference, shall be filed with the office of the city clerk and there kept available for public use, inspection and examination. The filing requirements herein prescribed shall not be deemed to be complied with unless the required copies of such codes, portion or amendment are filed with the city clerk for a period of ninety (90) days prior to the adoption of the ordinance which incorporates such code, portion or amendment by reference.

(19) to fix penalties for the violation of an ordinance which do not exceed a fine of one hundred dollars (\$100) or one (1) month imprisonment or both such fine and imprisonment;

(20) to exercise the powers necessary to provide the following services and facilities:

(a) Agriculture and home economic extension services and facilities;

(b) Livestock and inspection protection services and facilities;

(c) Fairs, exhibitions and shows services and facilities;

(d) Weed, insect, rodent and predator control services and facilities;

(e) Police protection, jails and juvenile detention services and facilities;

(f) Fire protection services and facilities;

(g) Nursing and extended care services and facilities;

(h) Health, hospital and ambulance services and facilities;

(i) Transportation services and facilities;

(j) Water course and flood control services and facilities;

(k) Community, child care, youth and senior citizen centers;

(l) Social and rehabilitative services and facilities;

(m) Libraries, museums, civic center auditoriums, theatres, art galleries and historic cultural or natural site services and facilities;

(n) Animal control services and facilities;

(o) Water supply and distribution services and facilities;

- 4.
- (p) Sanitary and storm sewers and sewage treatment services and facilities;
 - (q) Solid waste collection and disposal services and facilities;
 - (r) Parking services and facilities;
 - (s) Housing and urban renewal, rehabilitation and development services and facilities;
 - (t) Ferries, wharves, docks and other marine services and facilities;
 - (u) Public scales and loading and unloading services and facilities;
 - (v) Cemetery and memorial services and facilities;
 - (w) Natural or manufactured gas and electrical services and facilities;
 - (x) Airports and aviation services and facilities;
 - (y) Market and marketing services and facilities;
 - (z) Parks and recreational services and facilities;
 - (aa) Streets, roads, sidewalks, curbs, gutters, bridges, malls, bicycle paths and trails;
 - (bb) Musical, theatrical and other cultural services and facilities;
 - (cc) Zoo, aviary, aquarium and botanical services and facilities;
 - (dd) Open spaces; and
 - (ee) Civil defense services and facilities, as provided in state law.

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 city 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, the City of Poplar, unless prohibited by law or this charter, may

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(a) cooperate in the exercise of any function, powers or responsibility with,

(b) share the services of any officer or facilities with,

(c) 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 city officials shall take and subscribe the oath of office as prescribed in Article III, Section 3 of the Constitution of Montana.

ARTICLE II

CITY COUNCIL

Section 2.01 Composition, terms, election, qualifications, compensation, removal, filling of vacancies

* (1) Poplar's city council shall be composed of five (5) members, at least two (2) of whom shall be elected every two years.

OR

* (1) Poplar's city council shall be composed of five (5) members serving concurrent terms.

(2) Members of the council shall be elected for terms of four (4) years.

(3) Elections for the council shall be non-partisan.

(4) Commissioners shall be elected at large.

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

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

(b) A councilor 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 or other offense involving moral turpitude; or,

(iv) without council approval, fails to attend two consecutive regularly scheduled council meetings or absents himself from the city continuously for thirty (30) days without consent of commission.

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

Section 2.02 Powers of City Councilors

The city council shall be the legislative and policy determining body of the city. Except as otherwise provided by this charter, the council shall have all powers of the city which include, but shall not be limited to, the powers:

- (a) to adopt ordinances and resolutions;
- (b) to establish departments, offices or agencies in addition to those created by this charter and to prescribe their function;
- (c) to appoint and remove the city manager;
- (d) subject to the limitations provided by law, to raise and borrow money;
- (e) to make appropriations for city purposes;
- (f) to approve all contracts subject to bid;
- (g) to employ an attorney for purposes which the council feels necessary;
- (h) to cooperate with other governmental agencies as prescribed in section 1.04 of this charter;
- (i) to provide for an annual independent audit of the finances of the city;
- (j) to approve the budget;

(k) to authorize community councils to advise the council;

(1) to appoint the members of all boards and commissions except those temporary advisory committees established by the manager.

Section 2.03 Restriction on the City Council

(1) Neither the council nor any of its members may dictate the appointment of 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 council 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 council nor its members may give orders to any such 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 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 council shall be public records and shall be made available for examining or copying.

ARTICLE III

CITY MANAGER

Section 3.01 Qualifications, Compensation, Appointment and Removal

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

(2) The city manager 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 manager from office in accordance with the following procedures:

(a) the council shall adopt by affirmative vote of the majority of all its members a preliminary resolution which must state the reason for removal

and may suspend the manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the manager.

(b) Within five (5) days after a copy of the resolution is delivered to the manager, he may file with the council a written request for a public hearing. This hearing shall be held as a council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The manager may file with the council a written reply not later than five (5) days before the hearing.

(c) The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the council in suspending or removing the manager shall not be subject to review by any court or agency. During periods of suspension, the council shall appoint an acting city manager.

Section 3.02 Acting City Manager

By letter filed with the council, the city manager shall designate, subject to the approval of the council, an acting city manager to exercise the powers and perform the duties of city 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 city to serve until the manager shall return or his disability shall cease. During periods of suspension the council shall appoint an acting city manager.

Section 3.03 Powers and Duties of City Manager

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

(2) The manager shall:

(a) enforce laws, ordinances and resolutions;

(b) perform the duties required of him by this charter, law, ordinance or resolution;

(c) administer the affairs of the local government;

(d) direct, supervise and administer all departments, agencies and offices of the local government unit except as otherwise provided by this charter, law or ordinance;

- (e) carry out policies established by the council;
- (f) prepare the council agenda;
- (g) recommend measures to the council;
- (h) report to the council on the affairs and financial condition of the local government;
- (i) execute bonds, notes, contracts and written obligations of the council, subject to the approval of the council;
- (j) report to the council as the council may require;
- (k) attend council meetings and may take part in the discussion, but he may not vote;
- (l) prepare and present the budget to the council for its approval and execute the budget adopted by the council;
- (m) appoint, suspend and remove all employees of the city except as otherwise provided by law or ordinance. Employees appointed by the manager and his subordinates shall be administratively responsible to the manager;
- (n) appoint members of temporary advisory committees established by the manager;
- (o) appoint a city legal advisor who shall perform such duties as are prescribed by the manager.

ARTICLE IV

ADMINISTRATIVE DEPARTMENTS

Section 5.01 General

The activities under the direction and supervision of the city 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 city council in order to execute and enforce policies as determined by the council and to carry out obligations imposed on the city by state law.

ARTICLE VI

NOMINATIONS AND ELECTIONS

Section 6.01 Elected City Offices

The procedure for the nomination and election of all elected city offices shall be as prescribed by state law for non-partisan elections.

ARTICLE VI

MISCELLANEOUS 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 January 2, 1977.

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.

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 Salaries and Expenses

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

(2) Members of the council shall receive an annual salary in the amount of \$ _____ until such amount is changed by the council in accordance with the provisions of this charter.

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

Section 7.03 Council Terms

(1) The two city councilors elected in November, 1975, shall continue to hold office as councilors until successors are elected in April, 1979, and qualified in May, 1979. Such councilors retain office under the provisions of Section 6 (3) of the transition schedule of the 1972 Montana Constitution.

* (2) The remaining three (3) councilors shall continue to hold office until successors are elected in April, 1977, and qualified in May, 1977.

Section 7.04

Upon affirmative vote for adoption of this charter in November, 1976, the four present councilors and mayor shall hire a city manager in keeping with the provisions of this charter, and the present rules of procedure of the city council.

(1) The city manager shall be hired no later than May 1, 1977.

* If all councilors are to serve concurrent terms, subsection 7.03 (2) would be eliminated.