

TABLE OF CONTENTS

LETTER TO CITIZENS OF BOZEMAN	2
SUMMARY OF RECOMMENDATIONS	4
A. Findings of the Study Commission	4
B. Key Provisions of the Proposed Form	6
1. Self-Government Powers	6
2. Taxes & fees	6
3. Representation	6
4. Leadership	7
5. Chief Administrative Officer	7
COMPARISON OF SPECIFIC CHARACTERISTICS	9
APPENDIX	10
CERTIFICATE ESTABLISHING THE EXISTING PLAN OF GOVERNMENT ..	10
CERTIFICATE ESTABLISHING THE PROPOSED CHARTER	13
CERTIFICATE FOR THE APPORTIONMENT OF COMMISSIONER DISTRICTS	22
CERTIFICATE ESTABLISHING THE DATE OF THE SPECIAL ELECTION ..	25
CERTIFICATE ESTABLISHING THE OFFICIAL BALLOT	26
CERTIFICATE ESTABLISHING THE DATES OF THE FIRST PRIMARY AND GENERAL ELECTIONS	27
RECOMMENDATIONS LIST	29

LETTER TO CITIZENS OF BOZEMAN

To the Citizens of Bozeman:

The Bozeman City Government Study Commission elected by the voters on November 8, 1994, or thereafter appointed, present this tentative report to you, the citizens of Bozeman.

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of a local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state." After completing these two phases of the study it is the responsibility of the study commission to submit a tentative report recommending no change, or propose an amendment to the existing form of government or offer an alternative form of government to the qualified electors.

In every phase of this review this study commission sought advice and information from as many Bozeman citizens as possible. Opinions and recommendations were solicited from local government officials, community organizations and citizens. 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. Public hearings were held; a survey of registered voters was conducted.

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

In this tentative report we present our recommendations for an alternative form of government that we feel will provide the governmental services expected by the people both today and in the future. Our concern has been to provide a form of government that will be more responsive to local citizens and provide more opportunity for devising solutions to local problems. We feel the citizens of Bozeman can achieve these goals by adopting a Charter providing self-governing powers and retaining the present

Commission-Manager structure.

The question of adopting this alternative form of government will be placed on the ballot November 5, 1996.

We solicit your support for its adoption.

Respectfully submitted,
Bozeman City Government Study Commission

Jennifer Smith Mitchell, Chair

Joanne Eaton

Robert F. Kern

Jeffrey Krauss

Carroll Henderson

II. SUMMARY OF RECOMMENDATIONS

Suggestion: Use Jeff's Speech

The Bozeman City Government Study Commission having thoroughly studied our present form of city government and the alternative forms of government available to Montana Class I cities under state law, and having studied the future governmental needs of this city, recommends the following:

1. Self-government powers. As provided by Article XI, section 6, of the Montana constitution, a local government unit with self-government powers may exercise any power not prohibited by the United States and Montana constitutions, United States and Montana law, or this Charter. These powers include but are not limited to the powers granted to general power governments.
2. Bozeman should adopt, effective April 1, 1997, the charter form of government with self-government powers. A commission, or elected legislative body, of seven (7) members: a Mayor to be elected at-large and 6 commissioners from 3 districts in which they reside and which are apportioned by population.
3. The question on the form of government shall be submitted to the voters of Bozeman on November 5, 1996.

A. Findings of the Study Commission

After an intensive study of almost two years, it is the decision of the study commission to recommend changes in the form and power of City government that will provide a governmental framework to meet Bozeman's changing needs. Problem areas that were identified during the course of the study by research, discussion, public hearings, testimony of public officials, and citizen surveys indicate that in exercising its traditional functions, City government lacks the authority it needs. If City government is to play a wider role, it must have adequate legal authority to act; it must also have more

control over its organizational structure so that it can act effectively, efficiently and oversee the performance of City functions.

The "traditional" form of City government in Bozeman was Mayor-council when the city was created in 1885, which is basically the same government as was originally described in the 1889 Constitution. In 1922 of 1923, Bozeman changed its form to commission-manager, and has followed this traditional form as described in 1917-1943 state statutes, which provided limited authority and flexibility to deal with local problems, in comparison to the new form of commission-manager as set in the 1972 state law.

Bozeman's needs have changed since 1923. Our population increase is placing heavy new demands on city government to provide services such as sewer, water, fire, police protection, streets and refuse disposal. To effectively respond to these growing needs, City government must modify its form, structure and authority.

Other areas of concern also emerged during the course of the study which affected the study commission's choice of an alternative form. Citizen response to the public opinion survey and testimony at the public hearing, indicated that citizens are concerned about local decisions not being made at the local level, the quality of city services, the severe increase in level of taxes, and the lack of leadership and citizen participation in city government. These frustrations and expectations of citizens and local officials alike, in addition to the changing role of city government, and growing needs of the city, led the study commission to identify five basic goals:

1. Local control over local problems;
2. Government that is responsive to citizens;
3. Leadership
4. Government that is efficient;
5. A government structure that allows maximum participation by citizens;

6. A government structure with adequate "checks and balances".

In order to achieve these goals, the study commission has recommended a charter form of government with a commission-manager structure with self-government powers, a larger commission which is elected by districts and a Mayor elected at-large.

B. Key Provisions of the Proposed Form

1. Self-Government Powers

Under the 1972 Montana Constitution, the potential power and authority of local government was changed. Traditionally, the power over governmental concerns of cities has been the prerogative of the state legislature. The legislature decided what city government should do, how it should do it and what it could not do.

The new constitution provides that "self-government powers" can be adopted by cities along with an alternative form of government. The adoption of self-government powers would alter the traditional relationship between the state and the city. Certain areas of control would be transferred from the state legislature to the city commission. Some decisions that are now made on a state-wide basis by the legislature could be made at the city level. State-wide uniformity, while still mandated in certain areas, could be replaced in other areas with procedures tailored to the particular needs of Bozeman. Self-government powers would mean greater flexibility in shaping our governmental structure, more responsibility to recognize and deal with our own problems and greater power to solve these problems.

2. Taxes & fees - Limit on increases.

3. Representation - City Attorney. In the proposed form of government, the six (6) commissioners, plus the Mayor, will continue to act as a legislative body with the power to formulate city policy and have the authority to enact ordinances to carry out that policy. The responsibility of administering and enforcing these ordinances lies with the city manager. Creating a commission of seven (7) part-time members will provide a legislative body large enough to insure adequate representation and yet small

enough to be efficient. The method of electing commissioners by district and the Mayor at-large will allow all to be represented providing a city-wide perspective.

4. Leadership - Elect Mayor at-large.

5. Chief Administrative Officer

The manager, a professional administrator hired by the commission "on the basis of merit and to serve(or serving) at the pleasure of the commission" is responsible for the administration of the programs and policies determined by the commission. Subject to the commission's general direction, the manager controls the hiring and firing of City personnel, directs and supervises the administration of all departments, prepares the budget, and is in charge of the business affairs of City government. The manager serves at the pleasure of the commission and may be replaced at any time. Referendum every 6 years.

COMPARISON OF SPECIFIC CHARACTERISTICS

CHARACTERISTICS	PRESENT FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	EVALUATIVE COMMENTS
Form of Government	Commission-Manager Form Elected commission determines policy. Manager hired to administer policy.	Charter Form with altered commission-manager structure. Elected Commission determines policy; Mayor provides leadership and hired manager administers policies	
Powers	General Government Power. State law defines what government may do and specifically how it shall do it.	Self-Government Powers City government shall exercise any power which the state does not deny. Legislative power vested in the Commission	
Governing Body Size	5 commissioners, nominated at-large, elected at-large	7 commissioners, 6 representing 3 districts; nominated and elected by district. Mayor, elected at-large	All areas of the city represented by 2 Commissioners, plus the Mayor. City-wide representation, reduced work load, increased quality and variety of representation.
Election	Non-partisan	Non-partisan.	No Change.
Terms	4 year overlapping terms	4 year overlapping terms in each district.	
Presiding Officer	Mayor chairs commission; is the commissioner receiving the most votes in the previous city election.	Mayor chairs commission; nominated at-large, elected at-large.	Mayor has all powers of a commissioner, plus a few more leadership duties and represents the whole city.
Duties	Official head of city	Official head of city. Appoints all board members with commission's consent. Chairs budget committee.	

CHARACTERISTICS	PRESENT FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	EVALUATIVE COMMENTS
Other Elected Officials	None.	None.	No Change.
Chief Administrative Officer	City Manger	City Manager	Non-binding voter referendum on performance every 6 years
Duties	Prepares meeting agenda.* Hires/fires all city employees Hires/fires all department heads.	Hires/fires all city employees Hires/fires all department heads. Prepares agenda with input by Mayor and commission	
Appointment Powers	Commission approves Mayor's appointed members of boards and manager	Commission appoints members of boards, city manager, city attorney & clerk of the commission	City Attorney hired by Commission w/ aid of Search Committee.
Taxes & Fees	Commission imposes with majority vote or places on the ballot	Taxes & Fees: Vote on increases more than 5%/year and all new taxes/fees imposed.	More citizen involvement in tax increases added predictability
Budget Preparation	City Manager prepares budget. Commission approves budget.	City manager prepares budget in consultation with the Commission, Department Heads, Boards and the Finance Committee	
Service Delivery Structure	Departments decreed by state law. Services performed by departments under the supervision of the city manager.	Commission determines the City organization and departments. Manager administers & supervises	Allows for structure beneficial to Bozeman
Citizen Participation	Comimission appoints board members	Mayor appoint all board members with consent of commission. Mayor appoints 2 positions on Planning board per state law. Boards handling money designated as administrative*	
Community Councils	None.	None.	No change.

* Discussion needed in these area.

APPENDIX
CERTIFICATE
ESTABLISHING THE EXISTING PLAN OF GOVERNMENT
FOR
BOZEMAN, MONTANA

7-3-114

If retained by the voters, the government of Bozeman shall be organized under the following provisions of MCA 7-3-4301 which authorizes the elected city official form of government;

7-3-4301. Authorization for commission-manager form of municipal government. (1) Any municipality may abandon its organization and reorganize under the provisions of this part and part 44 by proceeding as hereinafter provided. (2) The form of government provided for in this part and part 44 shall be known as the commission-manager plan and shall consist of a commission of citizens, who shall be elected at large in the manner hereinafter provided by the following sections:

- (a) 7-3-4302 Construction;
- (b) 7-3-4303 Laws governing municipality;
- (c) 7-3-4304 Territorial limits and property;
- (d) 7-3-4305 Petition to organize under commission-manager form-election required;
- (e) 7-3-4306 Proclamation and notice of election;
- (f) 7-3-4307 Form of ballot;
- (g) 7-3-4308 Conduct of election;
- (h) 7-3-4309 Effect of vote on question of organization;
- (I) 7-3-4310 Special election for municipal officers;
- (j) 7-3-4311 Procedure for multi municipality organization;
- (k) 7-3-4312 Effect of organization of communities into single municipal district;
- (l) 7-3-4313 Powers of municipalities under commission-manager plan;
- (m) 7-3-4314 Composition and general authority of commission;
- (n) 7-3-4315 Qualifications of commissioners;
- (o) 7-3-4316 Term of office for commissioners;
- (p) 7-3-4317 Vacancies;
- (q) 7-3-4319 Designation of may;
- (r) 7-3-4320 Role of Mayor;
- (s) 7-3-4321 Compensation of commissioners and Mayor;
- (t) 7-3-4322 Meetings of commission;
- (u) 7-3-4323 Conduct of commission business;
- (v) 7-3-4324 Procedure to enact ordinance or resolution;
- (w) 7-3-4325 Effective date of ordinance or resolution;
- (x) 7-3-4326 Emergency measures;
- (y) 7-3-4327 Petition for initiative;
- (z) 7-3-4341 General provisions relating to elections;
- (aa) 7-3-4361 Appointment of city manager;
- (bb) 7-3-4362 Role of city manager;
- (cc) 7-3-4363 Powers and duties of city manager;
- (dd) 7-3-4364 Compensation of city manager;

(ee)	7-3-4365	Investigations by commission;
(ff)	7-3-4366	Investigatory powers of city manager;
(gg)	7-3-4367	Control of conflict of interest;
(hh)	7-3-4368	Execution of conveyances of real property;
(ii)	7-3-4369	Appropriation of property for public or municipal purposes;
(jj)	7-3-4370	Use of county buildings;
(kk)	7-3-4371	Estimate of expenditures and revenues - exception;
(ll)	7-3-4372	Procedure to enact appropriate ordinance - exception;
(mm)	7-3-4373	Financial administration;
(nn)	7-3-4374	Details of public advertising or publication;
(oo)	7-3-4401	Administrative departments;
(pp)	7-3-4402	Appointment of department directors;
(qq)	7-3-4403	Role of department director;
(rr)	7-3-4404	Appointment of boards;
(ss)	7-3-4405	Establishment of civil service board;
(tt)	7-3-4406	Organization of board;
(uu)	7-3-4407	Classification of civil service;
(vv)	7-3-4408	Role of civil service board;
(ww)	7-3-4409	Role of chief examiner;
(xx)	7-3-4410	Probationary period;
(yy)	7-3-4411	Procedure for discharge, demotion, or suspension of employee;
(zz)	7-3-4412	Retention of existing positions;
(ab)	7-3-4413	Certification required to receive salary;
(ac)	7-3-4414	Investigatory powers of civil service board;
(ad)	7-3-4415	Prohibition on discrimination in employment;
(ae)	7-3-4416	Violation of civil service provisions;
(af)	7-3-4417	Fixing compensation;
(ag)	7-3-4418	Power to establish eight-hour day;
(ah)	7-3-4431	Department of finance;
(ai)	7-3-4432	Accounting procedures;
(aj)	7-3-4433	Claims and issuance of warrants;
(ak)	7-3-4434	Purchase and sale of supplies and property;
(al)	7-3-4435	Approval required for certain contracts;
(am)	7-3-4436	Sinking fund trustee;
(an)	7-3-4441	Department of public service;
(ao)	7-3-4442	Local improvements;
(ap)	7-3-4443	Utility connections;
(aq)	7-3-4444	Supervision of plats;
(ar)	7-3-4445	Subdivided lands;
(as)	7-3-4446	Acceptance of streets or alleys;
(at)	7-3-4447	Supervision of public places;
(au)	7-3-4448	Vacating or changing name of street;
(av)	7-3-4449	Grant of right to use or occupy public places;
(aw)	7-3-4450	Renewal of franchises;
(ax)	7-3-4451	Prohibition on exclusive grant or franchise;
(ay)	7-3-4452	Grant to operate public utility;
(az)	7-3-4453	Assessments for snow, ice, weed, and rubbish removal;
(ba)	7-3-4461	Department of law;
(bc)	7-3-4462	Office of city judge;

- (bd) 7-3-4463 Department of public welfare;
- (be) 7-3-4464 Department of public safety;
- (bf) 7-3-4465 Police department; and
- (bg) 7-3-4466 Fire department.

We, the Study Commissioners of the City of Bozeman do hereby certify that this is the existing plan of government approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this ____ day of _____, 1996.

ATTEST:

ROBIN SULLIVAN, CLERK

Jennifer Smith Mitchell, Chair

Joanne Eaton

Robert F. Kern

Jeffrey Krauss

Carroll Henderson

CERTIFICATE
ESTABLISHING THE PROPOSED CHARTER
FOR
BOZEMAN, MONTANA

PREAMBLE: We, the people of Bozeman, Montana, grateful for our past, confident of our future and having considered the form of government which will best maintain the health, safety and welfare of our citizenry, do adopt this charter to establish our self-determination as a city.

ARTICLE I
GENERAL PROVISIONS

Section 1.01 - Powers of the City

The city shall have all powers possible for a self-government city not specifically prohibited under the Constitution and laws of this State and this charter.

Section 1.02 - Taxes & Fees

1. City fees and charges imposed on city residents or assessed on real or personal property within city limits shall increase no more than 5% per charge in any year. However, at any city general election or by special election, the city commission may place on the ballot a measure to approve increases higher than 5%. If approved by a majority vote, the city commission shall then implement the increase the following fiscal year. Increases shall not be retroactive.
2. All new special taxes, fees, charges and assessments, however denominated, charged to city residents or upon real or personal property within the City of Bozeman, including, but not limited to, special maintenance district assessments, impact fees, surcharges for services, and permit fees, shall be submitted to city voters at the next city general election following the approval of such by the city commission. Should any such tax, levy, fee, charge or assessment not be approved by a majority of those voting, it shall be valid only for the period starting with commission approval up to the end of the fiscal year ending June 30 following said city general election, after which time it shall not be imposed, assessed, charged, or levied by city commission action without a prior vote of approval in a city general election. Existing taxes and/or fees shall not be considered "new" under this charter.
3. Paragraphs 1 & 2 above shall not apply to the all-purpose general fund mill levy.
4. All Montana statutory and constitutional limitations regarding the level of property taxes in Class I Cities with general government powers shall apply to the city of Bozeman.

Section 1.03 - Oath of Office

Before beginning the duties of office, all elected city officials shall take and subscribe to the following oath of office: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, the Constitution of the State of Montana, the Charter of the City of Bozeman and that I will discharge the duties of my office with fidelity (so help me God)."

Section 1.04 - Construction

The powers and authority of the city under this charter shall be construed liberally in favor of the city. The specific mention of particular powers in the charter shall not be construed as limiting in any way the self-government power authorized in this article. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of the power or authority.

ARTICLE II LEGISLATIVE

Section 2.01 - Legislative Branch

The legislative branch shall be the city commission and the Mayor.

Section 2.02 - Composition

The city commission shall be comprised of seven (7) voting members: six (6) city commissioners and the Mayor.

Section 2.03 - Election

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

Section 2.04 - Forfeiture of Office

1. The office of commission member or Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.
2. A commission member or Mayor shall forfeit office if the official:
 - a) lacks at any time during his/her term of office any qualification for the office prescribed by the charter or by law; or
 - b) violates any express prohibition of this charter; or
 - c) is convicted of a felony.

Section 2.10 - City commission: Election, Terms, Vacancies and Qualifications

1. Commissioners shall be elected from three (3) districts. Two commission members shall be elected from each district. One (1) commissioner from each district shall be elected every two (2) years.
2. Commissioners shall serve for terms of four (4) years.
3. Commissioners shall reside within the district from which they are elected and shall be qualified voters of the city of Bozeman.
4. City commissioners and the Mayor shall take office the first Tuesday after January 1 in the year following the election.
5. The commission shall be the judge of the election and qualifications of its members and the grounds of forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand.
6. In the event of a 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 city election at which time the remainder of the term shall be filled through the election procedure described in this charter.
7. If any elected City official wishes to run for a different public office, that official must resign the City office presently held, unless the expiration of that official's present term ends on or before the commencement date of the office being sought.

Section 2.12 - Compensation

The city commission shall establish by ordinance the annual compensation of its members including the Mayor. No city commission member or Mayor shall receive a salary increase in the same term that the increase was authorized.

Section 2.13 - City Commission: Powers & Duties

1. The city commission shall be the legislative and policy determining body of the city. All powers of the city shall be vested in the city commission, except as otherwise provided by law or this charter and the city commission shall provide for the exercise thereof and for the performance of all other duties and obligations imposed on the city by law.
2. Specific commission powers and duties include, but are not limited to:
 - a) appointing, supervising and removing the city manager;
 - b) designating a substitute for the city manager in case the city manager becomes incapacitated and is unable to perform his or her duties;
 - c) adopting an annual budget, levy taxes and special assessments and may borrow money and issue bonds subject to Montana law. Appropriations, exclusive of bond and loan indebtedness, shall not exceed anticipated revenue;
 - d) adopting as necessary an administrative and personnel code and/or policies;
 - e) adopting procedures for contracting with private and public agencies;
 - f) approving citizens appointed by the Mayor to boards, councils, special committees or any other body established pursuant to law;
 - g) serving as liaison to boards (every board shall have a commissioner liaison).
 - h) providing for a mandatory independent annual audit of all city accounts and more frequent audits as it deems necessary.

Section 2.20 - Mayor: Election, Terms and Qualifications

1. The Mayor shall be a resident and qualified voter of the city of Bozeman and shall be elected at large for a term of four (4) years.
2. The city commissioners, no later than one month after taking office, shall elect, after every regular city election, from among themselves the Mayor pro tempore. The Mayor pro tempore shall serve as the presiding officer in the absence of the elected Mayor.

Section 2.21 - Mayor: Powers and Duties

1. The Mayor shall be the presiding officer of the city commission and shall have full commission voting power. The Mayor shall be the official head of the city government for the purposes of civil processes, for the purposes of State military law, for all ceremonial purposes, and shall execute contracts, deeds and other documents, approved by the city commission.
2. Specific mayoral powers and duties include, but are not limited to:
 - a) exercising all powers and duties imposed upon him by this Charter, the ordinances of the city and the laws of the state, except that the Mayor shall have no power to veto any measure;
 - b) directing the manager to set the agenda for city commission meetings. However, the agenda shall include any item the Mayor or any two city commissioners direct the clerk of commission to add upon written notice to the manager and the clerk of the commission within five (5) days prior to the meeting. Items submitted by this process shall take precedence on the agenda;
 - c) recommending all members of boards, commissions or special committees to the commission for their approval;
 - d) appointing two citizen members who reside within the city limits to the city-county planning board; and

NOTE: e) chairing the taxation and finance committee.

Section 2.30 - Administrative Review

On a majority vote of the whole number of the commission, the commission shall review, and/or investigate any operation, management decision, administrative function or other affairs of the city. The City commission

may compel by subpoena the attendance and testimony of witnesses and the production of books and records.

Section 2.31 - Prohibitions, Appointments and Removals

1. The city manager, city attorney and clerk of the commission are the professional staff of the City commission.
2. The commission shall appoint their professional staff based on merit by a majority vote of the whole number of the commission. The staff shall serve at the pleasure of the commission for an indefinite term.
3. The commission may remove a professional staff member with or without cause by a majority vote of the whole number of the commission.
4. The commission shall set the salary of its professional staff.
5. Neither the commission, its members, nor the Mayor shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the city manager or any of his or her subordinates are empowered to appoint.

Section 2.32 - Interference with Administration

1. Except for purposes of review and investigation, the commission, its members and the Mayor shall deal with the city officers and employees who are subject to the direction and supervision of the manager solely through the manager.
2. Neither the commission, its members, nor the Mayor shall give orders to any city officer or employee either publicly or privately.
3. A department head, or the department head's designee, shall attend Commission meetings when requested by the Manager, Mayor or Commission.

ARTICLE III ADMINISTRATION

Section 3.00 - City Manager

The City Manager shall be the chief administrative officer of the city and shall be responsible to the Commission for the administration of all city affairs required by this Charter, law, ordinance or resolution. The City Manager shall not be the Mayor or a commission member at the time of employment. Once appointed, the City Manager shall reside in the city of Bozeman. In the city general election closest to the Manager's sixth-year anniversary of service or multiples thereof, there shall be a non-binding advisory vote of confidence placed on the ballot stating: "Shall (Name) the manager of the City of Bozeman, Montana, be retained."

Section 3.01 - Duties & Responsibilities

1. The Manager shall:
 - a) carry out policies established by the city commission;
 - b) perform the duties as required by law, ordinance, resolution, or this charter;
 - c) enforce laws, ordinances and resolutions;
 - d) administer the affairs of the city;
 - e) direct, organize, supervise and administer all departments, agencies and offices of the city;
 - f) appoint, suspend and remove all non-commission employees of the City government;
 - g) prepare the budget in consultation with the commission, department heads and representatives of applicable advisory and administrative boards, and the tax and finance committee of the commission. The Manager shall submit the budget for commission approval and execute the budget adopted by the commission;

- h) report publicly to the commission at least quarterly on the financial condition of the city;
 - i) recommend measures to the commission;
 - j) attend commission meetings and take part in the discussion, but have no vote;
 - k) appoint, with the approval of the commission, a qualified acting manager to exercise the powers and perform the duties of the manager during temporary absences; and
 - l) perform such other duties as the commission may prescribe.
3. The manager shall not delegate any of the duties and responsibilities in this section without consent of the city commission.
 4. The manager may, without notice, examine the affairs of any department, division, office, agency or other city administrative unit or employee.

Section 3.10 - City Attorney

1. The city attorney is the chief legal adviser to the commission, the manager and all city departments, offices and agencies. The city attorney shall maintain the client - attorney relationship with the commission and shall report to the city manager. The city attorney shall represent the city in all legal proceedings and shall perform any other duties prescribed by ordinance. The city attorney shall not be the Mayor or a commission member at the time of employment and need not be a resident of the city or state at the time of employment.
2. To be appointed, the city attorney shall be a person who is licensed to practice as an attorney in the state of Montana.

Section 3.11 - Duties & Responsibilities

The City Attorney shall:

1. attend before the city court and other courts and prosecute on behalf of the city;
2. draft, for the use of the commission, contracts and ordinances for the government of the city;
3. when required, give to the Mayor or commission written upon the request of either, opinions on questions pertaining to the duties and the rights, liabilities, and powers of the city;
4. perform such other duties pertaining to the functions of the City as the commission may prescribe by resolution;
5. attend or send a qualified representative to all commission meetings; and
6. appoint assistant city attorneys with approval of the city commission.

Section 3.12 - Employment of special or additional counsel

Nothing in this section shall prevent the commission from employing in special cases on a contract basis:

1. the city attorney to perform services not specifically provided under MCA 7-4-4604; or
2. additional or other counsel.

Section 3.20 - Clerk of the Commission

Performs a variety of secretarial, clerical and managerial duties to ensure the effective and efficient operation of the legislative branch office of the city of Bozeman. Work requires strong independent judgment within generally prescribed standards and procedures.

Section 3.21 - Duties of Clerk of the Commission related to administration: In addition to those duties prescribed by MCA 7-4-4501, the clerk of the commission shall:

1. train the administrative and advisory board secretaries as requested by those boards;
2. process board minutes and distribute copies to commission members and city manager; and

3. perform other duties as the commission may prescribe.

Section 3.22 - Duties of Clerk of the Commission related to city records and papers: In addition to those duties prescribed by MCA 7-4-4502, the clerk of the commission shall index and keep all inter-local agreements by department(s).

Section 3.30 - City Court

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

Section 3.40 - Administrative Code

The commission shall adopt an administrative code which shall provide the complete plan of organization of the city government and shall include, but not be limited to:

1. function, organization, procedures and reporting relationships for each department;
2. a comprehensive budget, schedule and procedure for the government; and
3. operating procedures for boards, commissions and any other government bodies.

Section 3.41 - Personnel Code

The City shall adopt a comprehensive personnel code.

ARTICLE IV CITIZEN INVOLVEMENT IN GOVERNMENT

Section 4.01 - Citizen Involvement

The commission shall establish boards, councils, special committees, commissions and other bodies of an advisory or administrative nature to assist the commission in the exercise of its duties. The City of Bozeman encourages citizens to participate in these bodies by serving as members and attending meetings.

Boards, Commissions or Committees

Section 4.02 - Appointment, Compensation, Terms and Qualifications

1. The Mayor shall recommend all members to boards, commissions or special committees to the city commission for its approval, unless otherwise provided by federal or state law, or interlocal agreement or city ordinance.
 - a) The commission shall designate boards, commissions or special committees responsible for individual funds or trust accounts as administrative boards, commissions or committees. All other boards, commissions or committees shall be designated as advisory boards, commissions or committees.
 - b) Notice of a vacancy shall be published thirty (30) days prior to appointment.
 - c) Members of boards, commissions or special committees shall hold no elected city office unless required by federal or state law, interlocal agreement, or city ordinance except.
 - d) Members of Boards, commissions or special committees shall not be eligible for reappointment to the same board, commission or special committee at the end of their term after serving seven (7) years without a two (2) year recess.
2. Board, commission, or committee members shall serve without compensation.

Section 4.03 - Initiative, Referendum and Recall.

The electors of the City of Bozeman may exercise the powers of the initiative, referendum and recall as provided by Montana law.

Section 4.04 - Open Government

All records of the City of Bozeman, including the city commission and all boards, special committees and commissions, shall be open to the public as provided by Montana law. All meetings and hearings of such bodies

shall be publicly announced in advance and shall be open to the public as provided by Montana law.

ARTICLE V FINANCIAL ADMINISTRATION

Section 5.01 - Budget

1. The commission shall establish a taxation and finance committee to be chaired by the Mayor. This committee shall receive comments from the advisory and administrative boards, as applicable to their departments.
2. Each department head shall submit to the manager the full report of the department's anticipated revenues and expenditures in comparison to the previous year.
3. The manager shall prepare the budget in consultation with the department heads.
4. The manager shall present to the commission a comprehensive budget which shall detail:
 - a) all sources and uses of funds;
 - b) all revenues classified by source;
 - c) all expected expenditures classified by department, fund and object code; and
 - d) a comparison of actual prior year and anticipated revenue and expenditure by designated account.

NOTE: Suggested language for trust, audit and oversight board: In order to achieve accountability for trust and dedicated funds, the commission shall establish an oversight, trust or audit committee.

NOTE: The City commission shall place dedicated funds into individual reserve accounts under an independent custodian such as a financial institution, chartered trust company or special board. The City commission shall account for dedicated funds according to state law and pay interest on borrowed funds at a rate no less than six percent (6%) per annum.

ARTICLE VI NOMINATIONS and ELECTIONS

Section 6.01 - Reapportionment of Districts

The commission after each decennial federal census shall draw district boundaries to equalize population according to Montana law requirements.

Section 6.02 - Redistricting

District boundaries may be changed by ordinance, provided any such revised district boundaries must comply with the population standard prescribed in this charter or by Montana law. In the event of a judicial challenge to the ordinance, the burden of demonstrating compliance shall rest upon the city.

ARTICLE VII AMENDMENT OF CHARTER and SEVERABILITY

Section 7.01 - Amendment of Charter

This charter may be amended only as provided by Montana law. A majority of those voting on the question shall be required for passage of a charter amendment.

Section 7.02 - 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 circumstances is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

**ARTICLE VIII
TRANSITION PROVISIONS**

Section 8.01 - General Transition

The current city commission shall, by ordinance, provide for transition to the charter form of government consistent with Montana law.

Section 8.02 - Election Transition

1. The present City Manager and City commission will continue in office and govern as they do presently until the new commission and Mayor are elected and take office.
2. Following the adoption of this Charter and in keeping with the current city election schedule, a Mayor and five (5) commission members will be elected with the exception of one (1) commissioner from district 1, who will serve his or her full term.
3. Present commission members will represent the District in which they reside and will serve to the end of their present terms except:
 - a) District 1. The two commission members in District 1 will draw lots to decide who will serve until 1998 and who will serve until 2000.
 - b) District 2. The commission member with the most votes will serve a four (4) year term and the other will serve a two (2) year term.
 - c) District 3. The commission member with the most votes will serve a four (4) year term and the other will serve a two (2) year term.
4. This charter shall become effective November 6, 1996, as required by Montana law.
5. This transitional article becomes effective November 6, 1996, and expires on January ____, 1998.
6. All City of Bozeman employees may continue in the performance of their duties according to existing personnel provisions, unless and until their positions are terminated by the administrative code. Employees whose positions are terminated by provisions of the administrative code shall be given first consideration for other city employment.
7. Salaries of all city employees shall be not less than their present level unless a change in salary of such employees is made in accordance with the provisions of the personnel code.
8. Pension and retirement rights of city employees shall be unaffected by this charter.
9. By January 1, 1998, the manager shall submit the administrative code and the personnel code to the commission for review. The commission shall adopt the administrative code and personnel code by ordinance as amended within three (3) months of their submissions by the manager.

NOTE: Add a statement in the transition article regarding the city setting a new organizational chart and reviewing it periodically.

NOTE: Add language to hold a vote of confidence on the City Manager to be held during the 1998 city general election.

NOTE: **See Bob Kerns attached memorandum.**

Section 8.03 - City Commission Districts

The city commission districts for the first election shall be

District I: Precincts 9, 11, 12, 20, 26 & 49.

District II: Precincts 1, 2, 3, 4, 5, 14 in & 22 in.

District III: Precincts 6, 7, 8, 10, 12 & 19.

Section 8.04 - Compliance of Ordinances

1. The commission shall review and where necessary revise or repeal all city ordinances to provide for their compliance and consistency with this charter no later than June 30, 19__.
2. All existing ordinances of the City of Bozeman, except those in conflict with provisions of this Charter, shall remain in effect unless and until superseded by action of the commission.

We, the Study Commissioners of the City of Bozeman do hereby certify that this is the proposed plan of government approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this ____ day of _____, 1996.

ATTEST:

ROBIN SULLIVAN, CLERK

Jennifer Smith Mitchell, Chair

Joanne Eaton

Robert F. Kern

Jeffrey Krauss

Carroll Henderson

CERTIFICATE
FOR THE APPORTIONMENT
OF COMMISSIONER DISTRICTS

Districts described by census block with population and deviation from ideal are shown.

TABLE 1. Districts with 1990 Census Population, 1990 Ideal Population (Mean), Deviation from Ideal Population, and %Difference from the Ideal Population.

DISTRICT	1990 CENSUS POPULATION	1990 IDEAL POPULATION (MEAN)	DEVIATION FROM IDEAL POPULATION	%DIFFERENCE FROM IDEAL POPULATION
1	6,953	7,536	- 583	- 7.74%
2	7,726	7,536	+190	+2.52%
3	7,930	7,536	+394	+9.50%

Total Population Estimate = 22,609

Margin of Error at 5% = 376.82

Table 1. displays preliminary information from 1990 census data used to estimate the division of districts. Table 1. includes the 1990 Census Population of each district, 1990 Ideal Population (Mean), Deviation from the Ideal Population, and %Difference from the Ideal Population. The Ideal Population (mean) is calculated by dividing the Total Population (1990 census data population) by the number of City commission districts ($22,609/3 = 7536.33$). The % Difference from the Ideal Population details how closely the districts are in population, found by dividing the 1990 Population by the Ideal Population. The general rule in calculating the margin of error is to be within 5% of the ideal population (mean). In other words, we would ideally like each district to have an equal population, however this is not probable and so falling within 5% of the ideal population is acceptable. The 5% margin of error is 376.82 therefore to remain within 5% of the mean each district population must remain within 376.82 points of the mean. District One has 583 less people than the ideal population, District Two has 190 more people than the ideal, and District Three has 394 more people than the ideal. Only one district fell within the 5% margin of error, however we chose to update the 1990 census information before redrawing districts. Established voting precinct boundaries in Bozeman were taken into consideration when preliminary lines for these three districts were drawn. Precincts falling into District One are 11, 13, 20, 22, 26, and 49; District Two are 1, 2, 3, 4, 5, and 14; and District Three are 6, 7, 8, 10, 12, and 19.

TABLE 2. Districts with 1995 Estimated Population, 1995 Estimated Ideal Population (Mean), Deviation From Ideal Population, and %Difference from the Ideal Population.

DISTRICT	1995 ESTIMATED POPULATION	1995 ESTIMATED IDEAL POPULATION (MEAN)	DEVIATION FROM IDEAL POPULATION	%DIFFERENCE FROM IDEAL POPULATION
1	8,654.02	8,493.38	+160.64	+1.89%
2	8,515.51	8,493.38	+ 22.13	+ .26%

Total Population Estimate = 25,480.14

Margin of Error at 3% = 254.80

Table 2. displays the 90 census data plus the 91-95 update and relative information used to determine if final districts are divided evenly. Table 2. includes the 1995 Estimated Population of each district, 1995 Estimated Ideal Population (Mean), Deviation from the Ideal Population, and %Difference from the Ideal Population. The Ideal Population (mean) is calculated by dividing the Total Population Estimate (1990 census data and 91-95 population estimates) by the number of City commission districts ($25,480.14/3 = 8493.38$). The % Deviation from the Ideal Population details how closely the districts are in population, found by dividing the Estimated Population by the Estimated Ideal Population. Although the general rule in calculating the margin of error is to be within 5% of the ideal population, we managed to narrow the margin of error to 3%. The 3% margin of error is 254.80 therefore to remain within 3% of the mean each district population must remain within 254.80 points of the mean. District One has 160.64 more people than the ideal population, District Two has 22.13 more people than the ideal, and District Three has 182.77 less people than the ideal.

Established voting precinct boundaries in Bozeman, again, were taken into consideration when lines for these three districts were finally drawn. Precincts falling into District One are 11, 13, 20, 26, and 49; District Two are 1, 2, 3, 4, 5, 14, and 22; and District Three are 6, 7, 8, 10, 12, and 19.

Summary of population acquisition was performed by Heather Unger-Robertson. She earned a Masters Degree in Sociology from Mississippi State University and worked for two years as a Research Assistant at Mississippi State's Social Science Research Center. Her work involved numerous professional writings and grant proposals, prepared individually and with professors at the University. These works required extensive knowledge in working with census data. Some examples of her work include a project auditing police records in the state of Mississippi and follow up report writing, developing a survey instrument and evaluating results of a survey of anglers in Mississippi, the preparation of a grant proposal with other departments asking for a grant to examine opinions about alternative farming, and writing a thesis based on data gathered from the 1992 Mississippi Poll. Each of these projects involved using census information to weigh data in cases where certain groups are under represented. Heather has researched, written, and presented numerous professional papers as a student in Sociology. Heather is currently on staff with Executive Services, a division of Walking Cross, Inc.

We, the Study Commission of the City of Bozeman do hereby certify that this is the official apportionment plan for commissioner districts approved by the Bozeman City Government Study Commission.

In testimony whereof, we set our hands.

Done at Bozeman, Montana this _____ day of _____, 1996.

SEAL

ATTEST:

ROBIN SULLIVAN, CLERK

Jennifer Smith-Mitchell, Chair

Joanne Eaton

Robert F. Kern

Jeffrey Krauss

Carroll Henderson

CITY of BOZEMAN

PROPOSED COMMISSION DISTRICTS

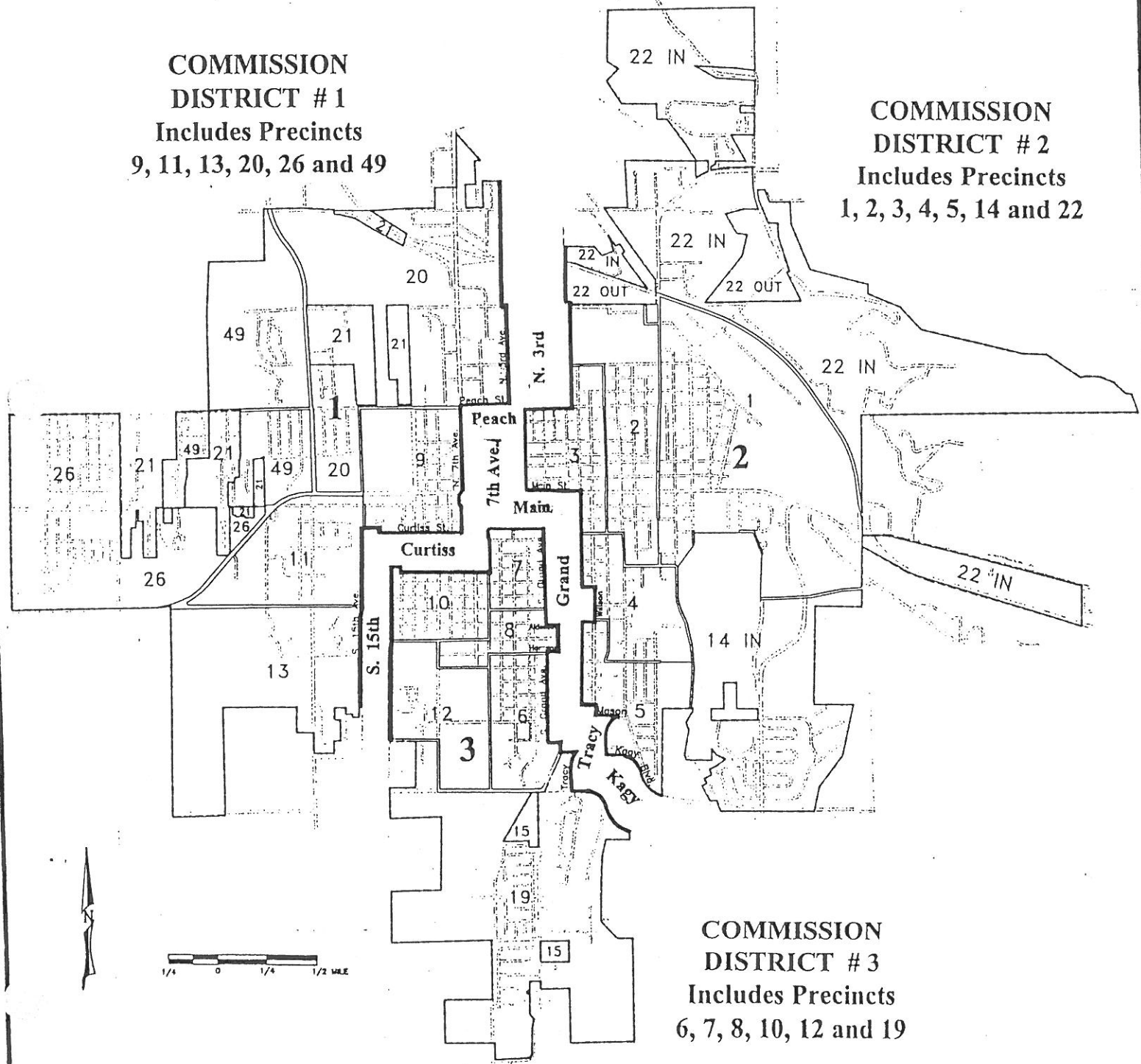
PROPOSAL: 7 Part-time Commissioners: 1 Mayor Elected at-Large and 6 Commissioners, from 3 Districts with Alternating Terms.

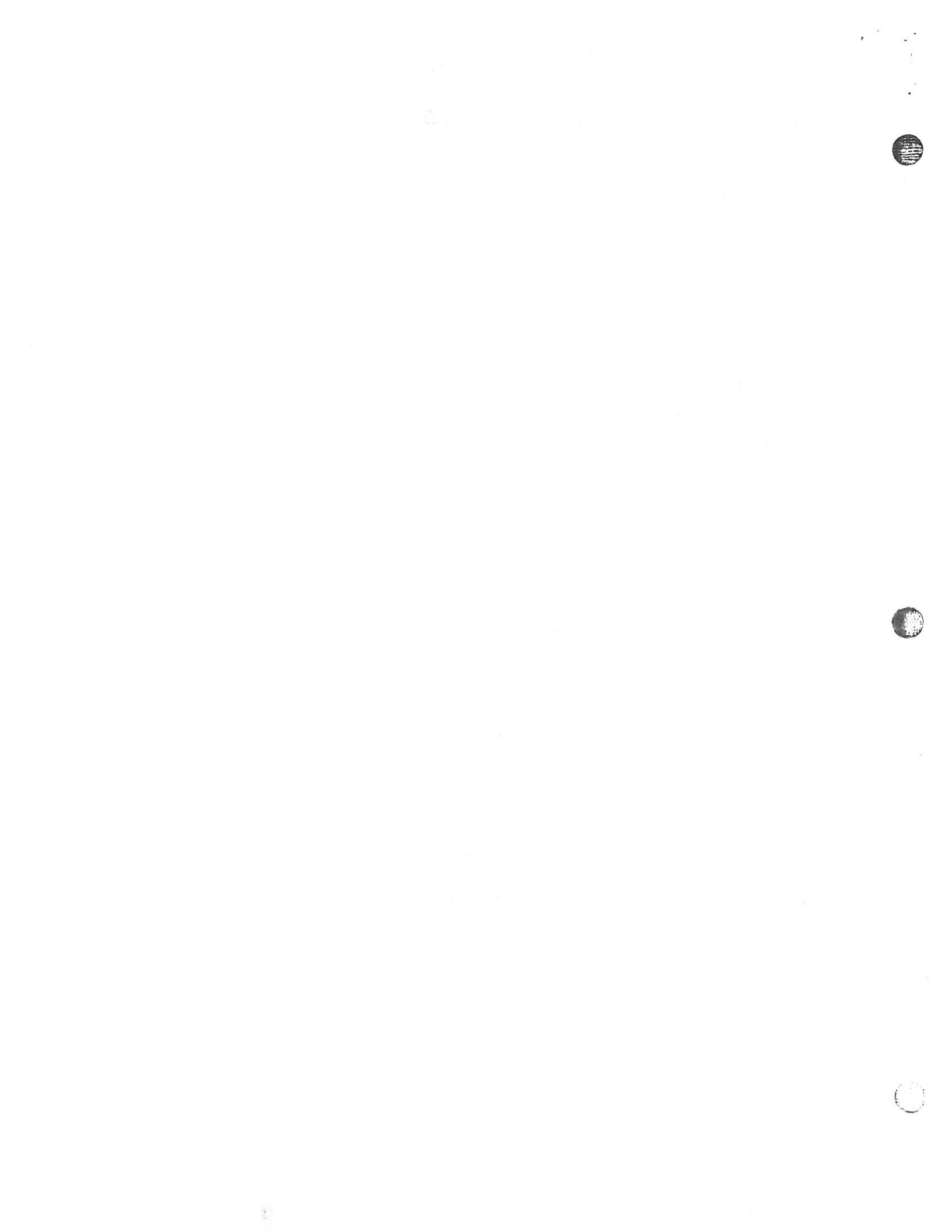
EXPLANATION: 3 Districts, of Equal Population, divided along Voting Precinct Boundaries. These divisions are based on the 1990 Census, and estimated population increase through December 31, 1995.

COMMISSION DISTRICT # 1
Includes Precincts 9, 11, 13, 20, 26 and 49

COMMISSION DISTRICT # 2
Includes Precincts 1, 2, 3, 4, 5, 14 and 22

COMMISSION DISTRICT # 3
Includes Precincts 6, 7, 8, 10, 12 and 19





CERTIFICATE
ESTABLISHING THE DATE OF THE SPECIAL ELECTION
AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT
SHALL BE PRESENTED TO THE ELECTORS OF
BOZEMAN, MONTANA

The alternative form of government proposed by the Bozeman City Government Study Commission shall be submitted to the voters of Bozeman at a special election to be held with the general election on November 5, 1996.

We, the Study Commissioners of the City of Bozeman do hereby certify that this is the date of the special election approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this ____ day of _____, 1996.

ATTEST: _____
ROBIN SULLIVAN, CLERK

Jennifer Smith Mitchell, Chair

Joanne Eaton

Robert F. Kern

Jeffrey Krauss

Carroll Henderson

CERTIFICATE
ESTABLISHING THE OFFICIAL BALLOT FOR
THE NOVEMBER 5, 1996 SPECIAL ELECTION

Instructions to voters: Place an "X" in the boxes which express your preferences.

OFFICIAL BALLOT
BALLOT ON THE ALTERNATIVE FORM OF LOCAL GOVERNMENT

Vote for One.

- FOR adoption of the charter with the commission-manager structure plan of government proposed for the City of Bozeman proposed by the Bozeman City Government Study Commission.
- FOR the existing form of government.

We, the Study Commissioners of the City of Bozeman do hereby certify that this is the official ballot approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this ____ day of _____, 1996.

ATTEST:

ROBIN SULLIVAN, CLERK

Jennifer Smith Mitchell, Chair

Joanne Eaton

Robert F. Kern

Jeffrey Krauss

Carroll Henderson

CERTIFICATE
ESTABLISHING THE DATES OF THE
FIRST PRIMARY AND GENERAL ELECTIONS
FOR OFFICERS OF THE NEW GOVERNMENT
OF BOZEMAN, MONTANA
IF THE ALTERNATIVE PROPOSAL IS APPROVED
AND ESTABLISHING THE EFFECTIVE DATE OF
THE PROPOSAL IF APPROVED

The primary election for officers of the new government of the City of Bozeman, Montana shall be held at a special election on February __, 1997.

The general election for officers of the new government of the City of Bozeman, Montana shall be held at a special election on April __, 1997.

The effective date of the alternative plan of local government of the City of Bozeman, Montana takes effect when the officers take office at 10 a.m., June __, 1997.

We, the Study Commissioners of the City of Bozeman do hereby certify that these are the dates of the special primary and general elections and the effective date of the alternative plan of local government of Bozeman approved by the Bozeman City Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Bozeman, Montana this ____ day of _____, 1996.

ATTEST: _____
ROBIN SULLIVAN, CLERK

Jennifer Smith Mitchell, Chair

Joanne Eaton

Robert F. Kern

Jeffrey Krauss

Carroll Henderson

RECOMMENDATIONS LIST

MANAGER:

- Not have a contract buy-out longer than a certain number of days.

MAYOR:

- It was suggested audit and finance chair position be part of the recommendations.
- To review all board applicants for "conflict of interest".

CITY COMMISSION:

COMMISSIONS PROFESSIONAL STAFF:

- Suggest using a search committee of peers to help fill all positions
- Further qualifications on positions?

TAXES & FEES:

ADMINISTRATION:

- Take a strong look at the whole city organization and review it periodically.
- Private cemetery and garbage service. Revise Parks and Recreation.

FINANCIAL:

- Possibility of privatization of some city services; setting up a budget/financial committee composed of one commissioner from each district with the Mayor as chair; and performance budgeting and/or auditing.
- Budget to include the current year's city population numbers and other pertinent information.

BOARDS, ADVISORY & ADMINISTRATIVE:

- Neighborhood advisory group; manager evaluation committee or performance commission as discussed in the letter from Bob Hawks; an ombudsmen to work between the neighborhood advisory groups and city commission.
- Board members appear before the city commission, board of appeals or board of adjustment when matters from that board are on appeal. (Not letting the staff represent them.)
- Board of Trustees There shall be a board of trustees consisting of five persons. The city attorney and city judge shall be ex-officio members of the board of trustees, with three persons with trust experience appointed by the city commission. The appointed members shall serve for three years, except the members of the first board of trustees, who shall be appointed for one, two, and three years respectively, to provide for staggered terms. The board of trustees shall annually select a chairman.

The board of trustees shall review the operation and use of funds of all boards, commissions,

special committees and trusts under the city's jurisdiction that have special or dedicated funds under their control.

The board of trustees shall have the responsibility and authority to ensure that the city's boards, commissions, special committees and trusts carry out the purposes for which they were created.

The board of trustees shall meet at least quarterly and shall report to the city commission at least annually.

Funds Trust funds and other designated funds shall be maintained in separate bank or investment accounts which are to be available for inspection by the public during regular business hours. Such funds or designated funds shall be managed by an administrative board appointed by the city commission.

PUBLIC SAFETY:

PUBLIC SERVICE:

PUBLIC WELFARE:

JOINT CITY/COUNTY PLANNING:

- Membership should include one city commissioner and 1 county commissioner for continuity, communication and leadership rather than allowing planning director to run the show.

ZONING:

- Reduce area to city limits and make county cover the safety inspection for the urban growth area.

CITY PARKS & RECREATION:

- Too many recognized boards report to Park supervisor, who also heads trees and cemetery.

PERFORMANCE BUDGETING & REVIEW:

- Having the performance commission evaluate the clerk of the commission.

ELECTIONS:

- "None of the Above" choice on the ballot for possible additional sections and/or language (see attached Wall Street Journal article).

TRANSITION:

- Reviewing the financial condition and revise taxes, fees, charges, assessments, etc.

JOINT CITY/COUNTY HEALTH DEPARTMENT:

OPEN GOVERNMENT:

- Public notice of all board, committee and commission meetings. (Adhere to the law.)

- Publish all board meeting dates for public.

SEE PUBLIC OPINION SURVEY

SEE INDIVIDUAL RESPONSES TO QUESTIONNAIRE

