

Revised Codes of Montana, 1947

Part 7, Chapter 1

Powers of Self-Government Local Governments

47A-7-101. 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 constitution, law, or charter. These powers include, but are not limited to, the powers granted to general power governments by Title 47A, Part 5.

47A-7-102. Authorization for self-government services and functions. A local government with self-government powers may provide any services or perform any functions not expressly prohibited by the Montana constitution, state law or its charter. These services and functions include, but are not limited to, those services and functions which general power government units are authorized to provide or perform by Title 47A, Part 6.

47A-7-103. General power government limitations not applicable. A local government unit with self-government powers which elects to provide a service or perform a function that may also be provided or performed by a general power government unit is not subject to any limitation in the provision of that service or performance of that function, except such limitations as are contained in its charter or in state law specifically applicable to self-government units.

47A-7-104. Legislative power vested in legislative bodies. The powers of a self-government unit unless otherwise specifically provided are vested in the local government legislative body and may be exercised only by ordinance or resolution.

57A-7-105. State law applicable. All state statutes shall be applicable to self-government local units until superseded by ordinance or resolution in the manner and subject to the limitations provided in this Title.

47A-7-106. Construction of self-government powers. The powers and authority of a local government unit with self-government powers shall be liberally construed. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.

Part 7, Chapter 2

Limitations on Self-Government Local Governments

47A-7-201. Powers denied. A local government unit with self-government powers is prohibited the exercise of the following:

(1) Any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) Any power that applies to or affects the provisions of Title 41 (labor), chapter 16 of Title 59 (collective bargaining for public employees), Title 87 (unemployment compensation), or Title 92 (workmen's compensation) except that subject to the provisions of those titles it may exercise any power of a public employer with regard to its employees;

(3) Any power that applies to or affects the public school system except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power which it is required by law to exercise regarding the public school system;

(4) Any power that prohibits the grant or denial of a certificate of public convenience and necessity;

(5) Any power that establishes a rate or price otherwise determined by a state agency;

(6) Any power that applies to or affects any determination of the state department of lands with regard to any mining plan, permit, or contract;

(7) Any power that applies to or affects any determination by the department of natural resources and conservation with regard to a certificate of environmental compatibility and public need;

(8) Any power that defines as an offense conduct made criminal by state statute, or which defines an offense as a felony, or which fixes the penalty or sentence for a misdemeanor in excess of a fine of five hundred dollars (\$500) or six (6) months imprisonment or both such fine and imprisonment, except as specifically authorized by statute;

(9) Any power that applies to or affects the right to keep or bear arms, except that it has the power to regulate the carrying of concealed weapons;

(10) Any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) Any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 66, (professions and occupations) as prerequisites to the carrying on of a profession or occupation.

(12) Any power that applies to or affects Title 26 (Fish and Game).

47A-7-202. Powers requiring delegation. A local government unit with self-government powers is prohibited the exercise of the following powers unless the power is specifically delegated by law:

(1) The power to authorize a tax on income or the sale of goods or services. This section shall not be construed to limit the authority of a local government to levy any other tax or establish the rate of any other tax;

(2) The power to regulate private activity beyond its geographic limits;

(3) The power to impose a duty on another unit of local government, except that nothing in this limitation shall affect the right of a self-government unit to enter into and enforce an agreement on inter-local cooperation;

(4) The power to exercise any judicial function, except as an incident to the exercise of an independent self-government administrative power;

(5) The power to regulate any form of gambling, lotteries, or gift enterprises.

47A-7-203. Consistency with state regulation required.

(1) A local government with self-government powers is prohibited the exercise of any power in a manner inconsistent with state law or administrative regulation in any area affirmatively subjected by law to state regulation or control.

(2) The exercise of a power is inconsistent with state law or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation.

(3) An area is affirmatively subjected to state control if a state agency or officer is directed to establish administrative rules and regulations governing the matter or if enforcement of standards or requirements established by statute is vested in a state officer or agency.

47A-7-204. Mandatory provisions. A local government unit with self-government powers is subject to the following provisions. These provisions are a prohibition on the self-government unit acting other than as provided:

(1) All state laws providing for the incorporation or disincorporation of cities and towns, for the annexation, disannexation or exclusion of territory from a city or town, for the creation, abandonment or boundary alteration of counties and for city-county consolidation;

(2) Title 16, chapter 51;

(3) All laws establishing legislative procedures or requirements for units of local government;

(4) All laws regulating the election of local officials;

February 10, 1975

To: Bozeman Study Commission
From: City Manager, Harold Fryslie
Subject: Overview of Bozeman City Government*

The purpose of this paper is to provide a general overview of local government as it currently exists in the city of Bozeman. The format is designed to be descriptive and informative but is in no way intended to be either exceedingly detailed or exhaustive. The conceptual approach offered can best be termed structural/functional in that it purports to depict the governmental/administrative machinery of the city as a function of: 1) The organizational structure as it is hierarchically ordered, and 2) the generic duties and responsibilities germane to each division and subdivision thereof.

This compilation of data is intended to further the elucidation of the somewhat abstruse mechanics of local government. Because of its simplified form and content, the recapitulation constitutes a beginning point rather than an end. As a means of explicating the particular nuances of Bozeman's version of the commission/manager form of government, this overview should be helpful. Additional information will be furnished expeditiously upon request.

MAYOR AND CITY COMMISSIONERS

The city of Bozeman is served by five city commissioners elected at-large for terms of 4 years. Elections are staggered so that continuity of leadership is preserved. The mayor, who presides at commission meetings, is the commissioner who receives the largest number of votes.

All commission meetings are open to the public and are held at regularly scheduled times. Public record is made of the minutes of each meeting and reported by news media. Likewise, public records are kept of all resolutions, warrants, and ordinances. Votes by the commissioners on all motions are recorded.

The commission shall constitute the governing body with power to create, establish, abolish, and organize offices and fix the salary and compensation of all officers and employees,

*This paper was presented to the Bozeman City Study Commission at its regular meeting February 10, 1975. It was prepared at the request of the Study Commission to provide a general overview of the Bozeman City government as it exists at this time.

except as hereinafter provided; make and enforce local sanitary and police and other regulations; pass such ordinances as may be expedient for maintaining and promoting peace, good government, and welfare of the municipality and for the performance of all the functions thereof, and to carry out and put into effect all the powers by ordinances, resolutions or orders that now are or hereafter may be granted to municipalities by the constitution or laws of the State of Montana, including the power to pass ordinances, adopt regulations, and appoint a chief administrative officer to be known as the "city manager" and exercise all the power conferred on it by Chapter 32 and 33 of Title 11 RCM, as amended; and shall have all the powers conferred by law upon city councils insofar as the same is not inconsistent with said Chapter 32 and 33 Title 11 RCM. (Ord. 524 8; February 3, 1922).

CLERK OF THE CITY COMMISSION

Duties include:

- 1) Attend all commission meetings and record minutes and transactions thereof.
- 2) Do preparatory work for all resolutions and ordinances.
- 3) Serve as secretary to the Board of Adjustment.
- 4) Write warrants and process claims.
- 5) Sign and disburse payroll checks.
- 6) Post public notices in the newspaper.
- 7) Perform general secretarial work and like functions as required.
- 8) Supervise preparation for all city elections.

POLICE JUDGE

Duties include:

- 1) Process and try cases concerning traffic and parking violations, as well as, animal control violation and public nuisance cases.
- 2) Collect fines for above violations.

CITY MANAGER

The city manager is the chief administrative officer of the city and the primary advisor to the city commission. His is the function of supervising and coordinating all administrative activities.

Duties include:

- 1) Supervise enforcement of laws and ordinances.
- 2) Appointment and removal of department heads and employees.
- 3) Exercise control over departments.

- 4) Attend commission meetings and take part in discussions.
- 5) Make recommendations to the City Commission.
- 6) Advise and apprise the Commission concerning financial matters.
- 7) Act as ex-officio member of various boards and commissions.
- 8) Perform other duties described by law or required by the Commission.

ASSISTANT CITY MANAGER

Duties include:

- 1) Responsible for various reports.
- 2) Review and assign claims.
- 3) Assist city manager in all functions as required and serve in his absence as chief administrative officer.

CITY ENGINEER

Duties include:

- 1) Give technical advice to city manager and all department heads.
- 2) Represent city on zoning and planning boards.
- 3) Maintain records on location of all utilities and all intracity land transfers.
- 4) Write and review technical portions of SIDs.
- 5) Originate and complete small design projects.
- 6) Responsible for public works survey.
- 7) Supervise and review technical facets of utilities and public works.

DEPARTMENTS

DEPARTMENT OF FINANCE

The director of the Department of Finance is the chief financial officer of the city. This individual is responsible for managing all fiscal activities and advising the city manager concerning financial matters. Duties are subsumed under two main categories:

A. General Accounting

- 1) Assess and collect all special assessments.
- 2) Collect licensing fees.
- 3) Receive all apportionment taxes and revenues.
- 4) Collect charges for public services and property other than utilities.
- 5) Manage city investments.
- 6) Complete preparatory work and administer payment for nonutility bonds.

- B. Utility Accounting
 - 1) Bill and collect monies for utility services.
 - 2) Administer all budgeting and accounting for utilities.
 - 3) Prepare and pay for utility bonds.

DEPARTMENT OF SERVICE

Duties include:

- A. Street Department (Storm Sewers and Lighting)
 - 1) Clean and maintain streets and alleys.
 - 2) Remove snow and apply sand and/or salt.
 - 3) Install and maintain street signs and traffic lights.
 - 4) Clean and maintain storm drains.
- B. Water Department (Sanitary Sewers)
 - 1) Install and maintain city portions of service lines and water meters.
 - 2) Read water meters.
 - 3) Compute and send monthly water and sewer bills.
 - 4) Monitor water resources.
 - 5) Responsible for treatment of water.
 - 6) Install and maintain city portions of sewage collection system.
- C. Garbage Department
 - 1) Collect and dispose of residential and commercial solid waste. (Suhr Hauling)
 - 2) Maintain sanitary landfill and collect use fees.
- D. Sewage Disposal Department
 - 1) Treat raw sewage and dispose of effluent.
 - 2) Maintain treatment facilities.
 - 3) Monitor and maintain sanitary standards of treated sewage.

DEPARTMENT OF LAW

Duties include:

- A. Advise city commission, city manager, and department heads on all legal matters.
- B. Defend city in all civil suits.
- C. Provide expertise in drafting and wording of legal documents.
- D. Provide city prosecutor in Police Court.

DEPARTMENT OF PUBLIC SAFETY

Duties include:

- A. Police Department
 - 1) Protect life and property, maintain order.
 - 2) Enforce laws, codes, and ordinances.
 - 3) Maintain jail facilities.
 - 4) Conduct public instruction - bicycle safety, drug identification, burglary prevention, etc.
 - 5) Enforce animal control.
 - 6) Maintain consolidation with county via city/county investigation team.
- B. Fire Department
 - 1) Protect life and property.
 - 2) Maintain fire prevention program to include inspection of commercial and residential buildings.
 - 3) Provide continuing training program and public instruction courses.
 - 4) Respond to emergency and rescue calls.
 - 5) Provide deodorizing service (after a minor fire).
 - 6) Enforce Fire Codes.
- C. Inspection Department
 - 1) Administer and enforce: zoning code, building code, mechanical code, electrical code, plumbing code, sign code, house moving code, and demolition code.
 - 2) Advise and make recommendations to city functionaries regarding codes.

DEPARTMENT OF PUBLIC WELFARE

Duties include:

- A. Park Department - General
 - 1) Care for and maintain city parks and edifices located therein.
- B. Park Department - Recreation
 - 1) Maintain and operate city swimming pool.
 - 2) Maintain and administer part sponsored recreation programs.
 - 3) Coordinate usage of city and school district facilities for city team sports programs.
- C. Library
 - 1) Provide and maintain facilities for storing books and magazines for public use.
 - 2) Purchase books and magazines.
 - 3) Conduct childrens programs.
 - 4) Maintain liaison with State Library.
- D. Municipal Band
 - 1) Perform public concerts.
 - 2) Perform ceremonial functions.

- E. Cemetery
 - 1) Maintain and care for city cemetery.
 - 2) Prepare lot sites for burial services.
 - 3) Maintain facilities for pauper burial.
 - 4) Keep records of interment and lot sales.
- F. City/County Planning Department
 - 1) Review all subdivision activity.
 - 2) Review and process all rezoning and conditional use requests.
 - 3) Prepare staff reports and give advice on all matters pertaining to zoning, planning, and land use.
 - 4) Furnish information to the public regarding direction of community growth.
 - 5) Serve as collection agent and repository for planning data.
- G. City/County Health Unit
 - 1) Operates from the courthouse.
 - 2) Performs functions as directed by the county.

BOARDS AND COMMISSIONS

- A. Library Board
- B. Cemetery Board
- C. Board of Community Recreation
- D. Board of Adjustment (zoning)
- E. Board of Police Commissioners
- F. Parking Commission
- G. Band Board
- H. City/County Planning Board
- I. City/County Health Board
- J. Zoning Commission

LIBRARY BOARD

Composed of five members, four appointed by the mayor for five year staggered terms, and the city manager.

Has advisory responsibility to the city commission in all matters of finance and physical plant. Has authority to set rules and regulations for operation of the Library.

The Bozeman Library Board meets on call of the chairman.

CEMETERY BOARD

Compsed of five members appointed by the mayor for three year staggered terms. The Board is advisory to the city commission in all matters of Cemetery operation, maintenance and capital improvement.

The Cemetery Board meets on call of the chairman.

COMMUNITY RECREATION BOARD

Composed of nine members, three appointed by the city, school district and county for three year staggered terms. Ex-officio members are the county commission chairman, superintendent of schools, and the city manager.

The Board is advisory to the respective governing bodies in all matters pertaining to parks and recreation facilities and programs.

The Community Recreation Board meets quarterly or upon call of the chairman.

BOARD OF ADJUSTMENT

Consists of five members appointed by the mayor for staggered three year terms.

A quasi-judicial board having authority to hear and grant or deny appeals taken from administrative actions under the zoning code. Variances may be granted from technical requirements of the zoning code to include:

- A. Lot area requirements.
- B. Setback (front, side, and rear) requirements.
- C. Off-street parking requirements.
- D. Minimum floor space requirements within buildings.
- E. Building height restrictions.
- F. Numerous other zoning provisions.

The Bozeman Board of Adjustment meets monthly or on call of the chairman.

BAND BOARD

Composed of five members with three year terms. Two are appointed by the mayor, two are elected by Municipal Band members, and the fifth is selected by the four members.

This Board advises the city commission on all matters pertaining to the Municipal Band. It meets on call of the chairman.

CITY/COUNTY PLANNING BOARD

Composed of nine members appointed by the mayor and city commission or county commission for two-year terms.

Has the following general powers and duties -- all in an advisory capacity to the county and city commissions:

- A. Develop and recommend comprehensive plans for its area of jurisdiction. Such plans include recom-

mendations for:

- 1) Land Use.
- 2) Circulation, vehicular, and pedestrian.
- 3) Parks and open spaces.
- 4) Utilities: sewer, water, storm drainage, natural gas and electricity.

- B. Develop, recommend, and implement subdivision regulations for its area of jurisdiction.
- C. Assist all local agencies and the public in planning efforts as appropriate.

The Bozeman City/County Planning Board meets monthly or on call of the president.

ZONING COMMISSION

Consists of nine members appointed by the mayor for staggered two year terms.

Originally comprising seven persons from the Planning Board and two from the Board of Adjustment. Consideration is now being given to reducing the membership to five or seven. Duties include advising and making recommendations to the city commission on the following:

- A. Zoning Codes.
- B. Revisions and amendments to Zoning Codes.
- C. Applications for conditional use permits under Zoning Code.

The Bozeman Zoning Commission meets monthly or on call of the Chairman.

APPENDIX E

TESTIMONY PRESENTED AT A
PUBLIC HEARING
conducted by the
Bozeman Local Government Study Commission
15 March 1976

Chairman Torlief Aasheim opened a hearing on the alternative proposal of government for the city of Bozeman at 7:40 p.m. in the Commission Room of the Bozeman Municipal Building. The following people were in attendance:

Torlief S. Aasheim	Milt Vandeventer
Joyce Greenough	Marlyn J. Jones
Judy Mathre	Grace Bates
Ken Jones	Helen Lockwood
Keith Swanson	Bud Norris
Henry Hardie	Richard Ward
Ruby Hardie	John Bower
Kenneth M. Jones	Tom Haggerty
Erna Harding	Margaret Emmett
Mary Ellen McMillan	Stella Anacker
Jan Roll	Janica Peace
Richard Roeder	Lyle Davis
Anna Dahl	Rex Dahl
Howard Nelson	John Parker
Doris Ward	Erma Ross
George Van Noy	Mrs. George Brandt
Mrs. Garrett Van Dyken	

Mr. Aasheim introduced the members of the Study Commission and explained briefly what the Commission had done to prepare the tentative proposal.

Commissioner Judy Mathre explained what constituted self government powers.

Commissioner Joyce Greenough explained the suboption concerning method of electing the mayor.

Commissioner Ken Jones explained the choices within the suboption on method of electing city commissioners.

Commissioner Keith Swanson explained the last suboption on community councils.

Discussion

Richard Roeder asked what changes would come from the legislature regarding self government powers. Mrs. Mathre replied that we don't know yet what will be drafted.

Grace Bates suggested that there were already many restrictions in the present law.

John Parker asked for further clarification on the meaning of the authority of one government to impose a duty on another government and what debt limitations would be authorized. Mrs. Mathre suggested that one government could not tax another government or require it to arbitrarily perform a service and that debt limitations were set by state statute.

Rex Dahl asked that the process for nomination of commissioners and members of the community council be explained.

Chairman Aasheim answered that the procedure was not defined as yet, but could be included in an interim report of recommendations to the city commission following the election. It is a transitional matter that can be handled later.

Mrs. Van Dyken asked whether there would be any limits on the mill levy.

Mr. Aasheim answered no.

Mr. Morris Jones asked whether community councils, if established, would hire a secretary and what they would cost?

Mr. Aasheim replied that they would have no funds with which to operate and also no authority. They would be advisory in nature.

Bud Norris asked whether the city could go over the 65 mill levy limit, and also what were the bonding limits.

George Van Noy asked about the bonded indebtedness.

A rather confused discussion concerning the mill levy limit and indebtedness followed. City commissioner Milt Vandevanter clarified by saying the 65 mill levy limit was something separate from bonded indebtedness.

Judy Mathre read from the finance section of the tentative proposal to help clarify the discussion.

Mary Ellen McMillan of the Bozeman League of Women Voters gave the consensus arrived at by the Bozeman League regarding the alternative proposal. It reads as follows:

- 1) Does the League of Bozeman prefer a commission-manager form of government? League consensus favors a commission-manager form of government, with a minority favoring disincorporation of the city of Bozeman.
 - a) Why? The League favors a commission-manager form of government for the following reasons:
 1. more efficient

2. seems to work all right
 3. accountability (questionable)
 4. visibility (questionable)
- b) If not, what other form would you prefer? A minority opinion favored disincorporation. Disincorporation would provide the following:
1. give greater leeway for the future
 2. bring the whole county together
 3. unify growth
 4. equalize taxation

It was felt that the city is a responsibility of the community, and Gallatin County as a community should be more responsible for the city of Bozeman.

2) Does the League prefer a commission-manager form with self governing powers? The League favored a commission-manager form with self governing powers with no specific limitations; however, a minority expressed a desire to know what the code would be before it was voted on.

3) Does the League prefer an elected Chairman (Mayor)? League consensus favored an elected Mayor. A minority suggested that the commission should choose the mayor, as they felt that by electing the mayor one good leader was lost in every election.

4) Should the commissioners be nominated at-large, by districts, or combination? League consensus voted in favor of nominating and electing at-large, with two dissenting minority opinions:

- a) Nominating and electing according to districts
- b) Nominating by district and electing at-large.

5) Does the League prefer community councils? The League preferred elected community councils. Most members felt that three members would be representative for an advisory group; however, a minority opinion was voiced that the council should have at least five members to be of any use.

6) Does the League prefer that the community councils shall be elected or may be authorized by ordinance to be elected? League consensus supported the idea that the councils "shall be elected", and members felt that councils should be at the option of the district but that it was even more important that the members were elected.

Doris Ward presented the following testimony:

"Although the idea of self government powers appeals to me, I question the advisability of their adoption as matters now stand.

We don't know what limits the codes will set for self government powers. I understand that the State Commission on Local Government is still working on its tentative recommendations to the next legislature. Public hearings on that commission's preliminary draft have not been held. We won't know by June 1st (when Bozeman is to vote on LGR) what revisions are in store by the commission as a result of those hearings. We don't know who will be elected to the next legislature. We don't know what decisions the legislature will reach regarding self government powers. Therefore, I think that blanket endorsement of self government powers now is premature.

Areas of authority not yet defined under "self government powers" that concern me are:

- 1) the permissible level of taxation
- 2) possible forms of taxation
- 3) procedures for budgeting
- 4) procedures for letting of bids

Discussions at earlier meetings of the Bozeman LGR study commission have led me to believe that there is broad consensus that authority in these areas should be restrained. It does not seem enough that voters could "throw the rascals out" should city officials act outside the public interest. Few voters are aware of what decisions are made or how individual city commissioners vote. Furthermore, election choices are made on the basis of many issues, and any incumbent is likely to be re-elected should he choose to run again. It is not a matter of trusting local officials less than those in Helena. Rather, we as citizens should be clear about what we want and be sure that we get it. We can't rely on faith that all will come out as we hoped. I urge that the Bozeman LGR Study Commission incorporate those essential restraints in a charter.

I suggest that the level of taxation be limited to the ceiling established under general powers, unless a higher level is approved by the electorate. The same recourse in the electorate should be followed for consideration of new kinds of taxation. Procedures for budgeting and for letting of bids could be the same as under general powers.

Ideas represented herein are mine alone."

Richard Roeder stated that he liked some of the options. He also said they would not be significant because the people would not pass the alternative proposal. He said he was concerned with taxation and concerned by City Manager Fryslie's report that the city was on a collision course with disaster. Mr. Roeder stated

that he did not wish to see city services reduced. He has watched inflation and would like to see that taken into account by the budgeting process. He suggested that growth in numbers of MSU students has created problems. Revenue sharing from the state government could help. Planning problems should be examined. Some of these problems are due to urban sprawl. Mr. Roeder asked what could be done, can the tax structure be changed so that property taxes are not the only source of taxes? Can people on the urban fringe, who are beyond the city limits, accept some financial responsibility for the city?

Grace Bates suggested another suboption, one in which the voters be given a choice between taxing authority of self government power governments and general power governments.

John Parker asked if the city wanted to levy 80 mills, could they do so under general powers.

Mr. Aasheim answered no.

Mr. Parker then asked if the county residents could increase their limit.

Grace Bates said they could if a majority voted to do so. She added that the proposed local government code proposes a limit of 75 mills.

Mr. Aasheim explained that the Study Commission can recommend to the city commission that they not increase the mill levy more than 65 mills.

Morris Jones stated that people are getting lazy. They used to do more for themselves and did not expect the government to do so many things for them. He cited shoveling snow from sidewalks as an example. We now expect government to do too much for us.

Grace Bates explained that with self government powers if the city budget was too high for citizens to accept, 50% of the voters could petition for change.

Keith Swanson asked how ordinances are passed.

City commissioner Milt Vandevanter answered that there are several steps. First someone makes sure that whatever is to be proposed is not already on the books. Then the facts concerning a proposed ordinance are brought together. The ordinance must then be worded correctly. The city is then petitioned for the ordinance. There is then a 30 day waiting period and the final hearing on it. Legal requirements for passing ordinances must be followed, but they are not very difficult to pass.

City Clerk Erna Harding affirmed Mr. Vandeventer's explanation. She added that citizens or the commission can petition for an ordinance. Protests are considered. If there are few protests the ordinance is passed.

Mr. Aasheim asked whether there was public input.

Mrs. Harding answered yes.

John Parker asked whether the Study Commission had given up on service transfers or consolidations.

Mr. Aasheim replied that the City Study Commission was prepared to work with the County Study Commission, but that any such arrangements would have to appear on the county ballot. To date no such arrangements have been forthcoming.

Mr. Parker then asked if the trip to Boise to study consolidations was worth while.

Ken Jones explained that they had looked at the partial consolidation of law enforcement between Boise and Ada County.

Mrs. Brandt asked if that resulted in reduction in costs and fewer people in the work force.

Mr. Aasheim replied that equipment had been consolidated.

Keith Swanson and Ken Jones described the consolidated street and road departments and explained that the consolidation made it possible to obtain federal funds.

Ken M. Jones, not to be confused with Study Commissioner Ken R. Jones, asked about the various jurisdictions over roads in the city of Bozeman. The State takes care of Main Street and North 7th Avenue.

Business

Study commissioners discussed having a separate paper ballot or using voting machines and decided the paper ballot would be advisable.

Mr. Aasheim asked Judy Mathre to send a letter of transmittal to Carl Stucky, Gallatin County Clerk and Recorder, and Erna Harding, Clerk of the Commission, with the certificate of election for June 1, 1976. He specified that a special election be asked for and that a separate ballot be used.

The certificate of election must be sent to the County Clerk by April 2, 1976. The certificate establishing the ballot must be sent to the County Clerk by April 22, 1976.

The Study Commissioners signed the following certificates:

1. Certificate establishing the date of election.
2. Certificate establishing the ballot.
3. Certificate establishing the districts.
4. Certificate establishing the proposed form of government.
5. Certificate establishing the present form of government.

Judy Mathre submitted John Anacker's cover drawings to study commissioners for approval. Several suggestions were made for altering, but the drawings received general approval.

Study Commissioners discussed covers for the final report. A cover was selected. Mr. Aasheim asked Judy Mathre to take it to Artcraft Printers and ask that 1000 copies be made and that they be cut for a perfect binding.

A rather long discussion followed concerning the need for placing some limit on the taxation authority of local government if self government powers were to be offered.

Mr. Aasheim stated that he was opposed to limiting the taxing power and that there was not enough opposition to warrant it.

Study Commissioners Swanson, Jones, Greenough, and Mathre agreed that it would be worth while to draft a charter with some restriction on taxing authority, particularly on the mill levy limit.

All agreed that the June 1, 1976 election date would remain the same.

Mrs. Mathre said she would try to write a charter, but asked that other study commissioners write their suggestions for taxing limitations.

Mrs. Mathre also suggested that if it were possible to draft a charter in time, a lawyer be hired to read it for legal acceptability.

Commissioners agreed to meet Monday, March 22 for lunch to discuss the charter.

The target date for finalizing the charter would be April 1, 1976.

Adjournment

There being no further business, the meeting was adjourned at 10:20 p.m.

APPENDIX F

CERTIFICATE

ESTABLISHING THE EXISTING PLAN OF GOVERNMENT
FOR THE CITY OF BOZEMAN, MONTANA

If retained by the voters, the government of Bozeman shall be organized under the following provisions of Section 47A-3-204, Revised Codes of Montana, 1947.

- (1)
- (2)
- (3)
- (4)
- (5)
- (6) (a) (iii)
- (6) (b) (i)
- (6) (c) (ii)
- (6) (d) (iii)
- (6) (e) (ii)
- (6) (f) (ii)
- (6) (g)
- (7) (a)

These sections establish the following form of government which shall be called the commission-manager form.

(1) The commission-manager form consists of an elected commission and a manager appointed by the commission who shall be the chief administrative officer of the local government. The manager shall be responsible to the commission for the administration of all local government affairs placed in his charge by law, ordinance, or resolution.

(2) The manager shall be appointed by the commission for an indefinite term on the basis of merit only, and removed only by a majority vote of the whole number of the commission.

(3) The manager shall:

- (a) enforce laws, ordinances, and resolutions;
- (b) perform the duties required of him by 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 law or ordinances;
- (e) carry out policies established by the commission;
- (f) prepare the commission agenda;
- (g) recommend measures to the commission;
- (h) report to the commission on the affairs and financial condition of the local government;
- (i) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

- (j) report to the commission as the commission may require;
- (k) attend commission meetings and may take part in the discussion, but he may not vote;
- (l) prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;
- (m) appoint, suspend, and remove all employees of the local government 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.

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

(5) Except for the purpose of inquiry or investigation under this title, the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager, solely through the manager, and neither the commission nor its members may give orders to any such employee, either publicly or privately.

(6) The plan of government submitted to the qualified electors shall further define the structural characteristics of the form by including the following items:

- (a) all members of boards, other than temporary advisory committees established by the manager, shall be appointed by the commission;
- (b) the commission shall be elected at-large;
- (c) local government elections shall be conducted on a non partisan basis as provided in this title;
- (d) the chairman of the commission shall be selected as provided by ordinance.
- (e) commission members shall be elected for overlapping terms of office;
- (f) the size of the commission, which shall be five (5) and community councils to advise commissioners, may be authorized by ordinance;
- (g) the term of office of elected officials shall be four (4) years.

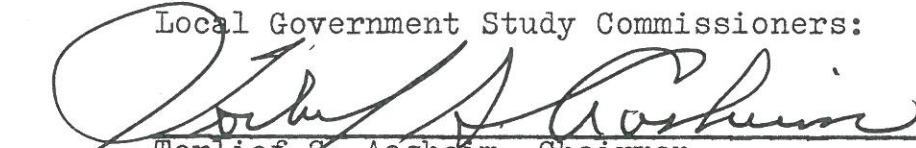
(7) The plan of government shall have general powers.

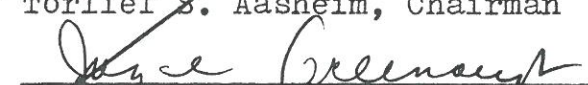
We, the Study Commissioners of the city of Bozeman, Montana, do hereby certify that this is the existing Plan of Government as established by Section 47A-3-204, Revised Codes of Montana, 1947.

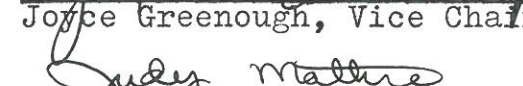
In testimony whereof, we set our hands.

Executed at Bozeman, Montana this 15th day of March, 1976

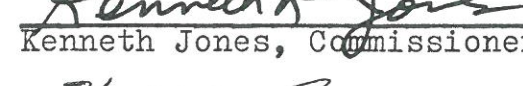
Local Government Study Commissioners:


 Torlief S. Aasheim, Chairman


 Joyce Greenough, Vice Chairman


 Judy Mathre, Secretary & Treasurer


 Kenneth Jones, Commissioner


 Keith Swanson, Commissioner

APPENDIX G

CERTIFICATE
Establishing the Proposed Plan of Government
for the City of Bozeman

* * * * *

CHARTER
of the
City of Bozeman

* * * * *

Article I
General Provisions

Section 1.01 Powers of the City of Bozeman

The city of Bozeman, Montana, shall have all powers not prohibited by the Constitution of Montana, the laws of Montana, or this charter.

Section 1.02 Interpretation of Powers

The powers and authority of this self government unit shall be liberally construed. Every reasonable doubt as to the existence of a city power or authority shall be resolved in favor of the existence of that power or authority.

Section 1.03 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.

Section 1.04 Form of Government

The city of Bozeman shall be governed by the commissioner form of government.

Article II
City Commission

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

(1) The city of Bozeman shall have a commission of five (5) voting members including the mayor and deputy mayor. At least two (2) of the commissioners shall be elected every two (2) years.

(2) Members of the city commission, including the mayor and deputy mayor, shall be elected for terms of four (4) years.

(3) Elections for the city commission shall be non partisan.

(4) Members of the city commission shall be residents of the city of Bozeman and qualified electors.

(5) As provided in Article V of this charter, three (3) city commissioners shall be nominated from districts in which they reside and two (2), the mayor and deputy mayor, shall be nominated at-large. All shall be elected at-large.

(6) The city commission shall determine the annual salary of city commission members by ordinance. Such ordinance must be adopted at least six (6) months before the next regular city general election and shall be effective on the date of the commencement of the terms of city commission members elected at that time.

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

- (b) A commissioner shall forfeit office if that person:
 - (i) loses eligibility for election to the commission seat;
 - (ii) violates any express prohibition of this charter;
 - (iii) is convicted of a felony.

(8) In the event of vacancy, the city 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 as provided by law and this charter.

Section 2.02 Powers and Duties

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.

Section 2.03 Prohibitions on the City Commission

(1) The city commission shall not impose an all purpose mill levy on real and personal property in excess of the limits provided by law in the case of local governments with general government powers except with prior approval of a majority of those voting on the question in a general or special municipal election.

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

(3) Except for the purpose of inquiry or investigation under this charter or city ordinances, the city commission or its members shall deal with city employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the city commission nor its members may give orders to any such employee, either publicly or privately.

Section 2.04 Election, Powers, Duties of the Mayor and Deputy Mayor

(1) The position of mayor shall be an at-large city commission position specifically designated as mayor. The position of deputy mayor shall be the other at-large city commission position.

(2) The mayor shall be recognized as the official head of the municipality for the purpose of presiding at city commission meetings, for the purpose of service of civil process, and performing ceremonial functions.

(3) The mayor shall exercise such powers conferred, and perform all duties imposed by this charter, ordinance, or law.

(4) The mayor shall appoint, with the consent of the city commission all members of boards, other than temporary advisory committees established by the city manager. Notice of vacancies on such boards shall be published in the local newspaper at least thirty (30) days prior to appointing such members.

(5) The mayor shall, each January, communicate to the city commission and general public a statement of the affairs and management of the city, and may make recommendations regarding these matters.

(6) The deputy mayor shall serve in the absence of the mayor.

(7) In the event of vacancy in the mayor's office, the deputy mayor shall fill the vacancy. The city commission, by majority vote, shall fill the vacancy of the deputy mayor until the next regular city election.

Article III
City Manager

Section 3.01 Appointment, Removal, and Compensation

(1) The city commission shall appoint and may remove the city manager by a majority vote of the whole number of the commission.

(2) The appointment shall be based on merit and shall be for an indefinite term.

(3) The city commission shall annually set the salary of the city manager.

Section 3.02 Duties and Responsibilities of the City Manager

(1) The city manager shall be the chief administrative officer of the city. The city manager shall be responsible to the city commission for the administration of all city affairs required by this charter, law, ordinance, or resolution.

(2) The city manager shall:

- (a) enforce laws, ordinances, and resolutions;
- (b) perform the duties required by law, ordinance, or resolution;

- (c) direct, supervise, and administer all departments, agencies, and offices of the city except as otherwise provided by law or ordinance;
- (d) carry out policies established by the city commission;
- (e) prepare the city commission agenda;
- (f) recommend measures to the city commission;
- (g) report to the city commission on the affairs and financial condition of the city;
- (h) execute bonds, notes, contracts, and written obligations of the city of Bozeman;
- (i) report to the city commission as the commission may require;
- (j) attend city commission meetings and may take part in the discussion, but may not vote;
- (k) prepare and present the budget to the city commission for its approval and execute the budget adopted by the commission;
- (l) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance. Employees appointed by the city manager and the city manager's subordinates shall be administratively responsible to the city manager;
- (m) appoint members of temporary advisory committees established by the city manager;
- (n) be responsible for the administration of an employee appeals procedure as adopted by the city commission.

Article IV Community Councils

(To be included in the charter if adopted by the voters as a charter suboption.)

Section 4.01 Purpose

There shall be three (3) community councils operating independently from the city commission or city officials and without financial assistance therefrom. The community councils shall advise the city commission of the various problems of their neighborhoods and may make recommendations for improvements.

All of the elected community council members shall together comprise a Bozeman Citizens' Council. The Bozeman Citizens' Council shall review the annual budget and make recommendations relating to the budget and the future development of the city.

Section 4.02 Composition, Boundaries, Election, Terms, and Qualifications

(1) The city commission shall, by ordinance, divide the city of Bozeman into three (3) community council districts apportioned by population.

(2) The city commission may by ordinance set the size of community councils. Each community council district shall have a council composed of at least three (3) members elected for two (2) year terms at an election held with the regular city election.

(3) Nominees for election to a community council must be residents of and shall be elected from within their community council district. They shall file a nominating petition bearing the signatures of at least twenty-five (25) qualified electors of that community council district with the city clerk at least thirty (30) days before the regular city election.

(4) Each community council shall organize with a chairperson, secretary, and an official delegate to attend city commission meetings. In the event of vacancy on the community council, the remaining members shall appoint a person eligible to hold the position to fill the vacancy until the next regular city election.

(5) Within thirty (30) days after election, each community council shall meet to organize, and within sixty (60) days after election, the mayor shall convene the community councils for a meeting of the Bozeman Citizens' Council. At that meeting, the Bozeman Citizens' Council shall elect a chairperson, vice chairperson, and secretary who shall take office immediately and proceed with business.

Article V Nominations and Elections

Section 5.01 Elected City Officials

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

Section 5.02 Districts

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

Section 5.03 Reapportionment of City Commission Districts

(1) Within six (6) months after an official United States census establishes that the population of any district differs in number from the average population of all districts by more than ten percent (10%), the city commission shall modify the boundaries of districts so that the difference is eliminated.

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

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

Section 5.04 Redistricting

City commission district boundaries may be changed by ordinance, provided that any such revised district boundaries must comply with the population standards prescribed in Section 5.03 of this charter. In the event of a judicial challenge to the ordinance, the burden of proving compliance shall rest upon the city.

Article VI Popular Controls

Section 6.01 Initiative, Referendum, and Recall

The people of Bozeman may exercise initiative, referendum, and recall as provided by law.

Section 6.02 Open Government

All meetings and records of the city of Bozeman shall be open to the public as provided by law.

Article VII Amendment of Charter, Effective Date, Separability

Section 7.01 Amendment of Charter

This charter may be amended as prescribed by law.

Section 7.02 Effective Date

This charter shall become effective on May 2, 1977.

Section 7.03 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 VIII Transitional Provisions

Section 8.01 General Transition

Transition to this charter form of government shall be as prescribed by state law. The city commission 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, 1978.

Section 8.02 Commission Districts

Until modified in accordance with the provisions of this charter, commission districts shall be as follows:

District I shall include:

Enumeration District 10
Enumeration District 10B
Enumeration District 16

With the exception of part of Enumeration District 10 and 10B adjacent to Enumeration District 23 in the Hyalite Subdivision.

District III shall include:

Enumeration District 11
Enumeration District 12
Enumeration District 13
Enumeration District 20
Enumeration District 21
Enumeration District 22
Enumeration District 23

Enumeration District 10 and 10B adjacent to Enumeration District 23 in the Hyalite Subdivision.

Section 8.03 Terms of City Commissioners

The persons elected as mayor and deputy mayor shall serve initial terms of four (4) years. The remaining three city commissioners, elected from districts, shall serve initial terms of two (2) years.

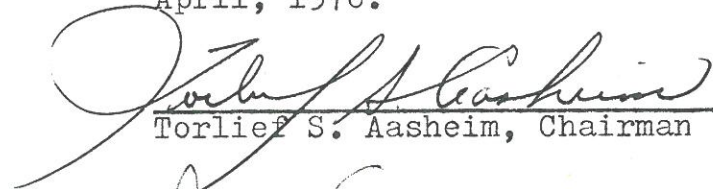
Section 8.04 Community Councils

If the suboption on community councils is adopted, the effective date shall be April 5, 1977, except for the provisions of Section 4.02 (3) which shall become effective February 14, 1977.


We, the Study Commissioners of Bozeman, do hereby certify that this is the Proposed Plan of Government approved by the Study Commissioners of Bozeman.

In testimony whereof, we set our hands.

Executed at Bozeman Montana this 12th day of April, 1976.




Torliel S. Aasheim, Chairman



Joyce Greenough, Vice Chairman



Judy Mathre, Secretary, Treasurer



Kenneth R. Jones



Keith D. Swanson

APPENDIX H

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

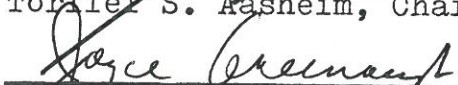
The alternative form of government proposed by the Local Government Study Commission shall be submitted to the voters of the city of Bozeman at the Primary election on June 1, 1976.

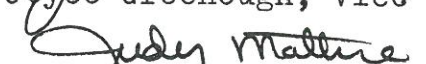
We, the Study Commissioners of the city of Bozeman, Montana, do hereby certify that this is the election date approved by the Study Commissioners of the city of Bozeman.


In testimony whereof, we set our hands. Executed at Bozeman, Montana this 15th day of March, 1976.

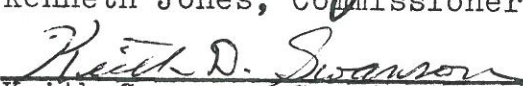
Local Government Study Commissioners:


Torlief S. Aasheim, Chairman


Joyce Greenough, Vice Chairman


Judy Mathre, Secretary & Treasurer


Kenneth Jones, Commissioner


Keith Swanson, Commissioner

APPENDIX I

CERTIFICATE
 ESTABLISHING DISTRICTS
 APPORTIONED BY POPULATION

The city of Bozeman shall be apportioned by population into three (3) districts as follows for the purpose of nominating commissioners by district and electing community councils, if the alternative form of government is passed with the suboptions.

District I shall include:	Population	Deviation	
Enumeration District 10	2959		
Enumeration District 10B	1883		
Enumeration District 16	<u>1098</u>		
	5940		
With the exception of part of ED10 and 10B adjacent to ED23 in the Hyalite Subdivi- sion	<u>-86</u>		
Total	5854	(-369)	-6%
District II shall include:			
Enumeration District 14	576		
Enumeration District 15	1862		
Enumeration District 17	907		
Enumeration District 18	2161		
Enumeration District 19	<u>1120</u>		
Total	6626	(+403)	+6%
District III shall include:			
Enumeration District 11	306		
Enumeration District 12	750		
Enumeration District 13	1072		
Enumeration District 20	1199		
Enumeration District 21	654		
Enumeration District 22	700		
Enumeration District 23	1423		
ED10 and 10B adjacent to ED23 in the Hyalite Sub- division.	<u>+ 86</u>		
Total	6190	(- 33)	-.5%

A partial census was carried out by telephone to determine the population in ED10 and 10B adjacent to ED23 in the Hyalite Subdivision. The population figures are based on the official 1970 census. According to the census total city population was 18,670. The ideal district population based on three (3) districts is 6,223.

We, the Study Commissioners of the city of Bozeman, Montana, do hereby certify that these are districts apportioned by population, for the city of Bozeman, approved by the Study Commissioners of the city of Bozeman.

In testimony whereof, we set our hands.

Executed at Bozeman, Montana this 12th day of April, 1976.

Local Government Study Commissioner:

Torlief S. Aasheim
 Torlief S. Aasheim, Chairman

Joyce Greenough
 Joyce Greenough, Vice Chairman

Judy Mathre
 Judy Mathre, Secretary & Treasurer

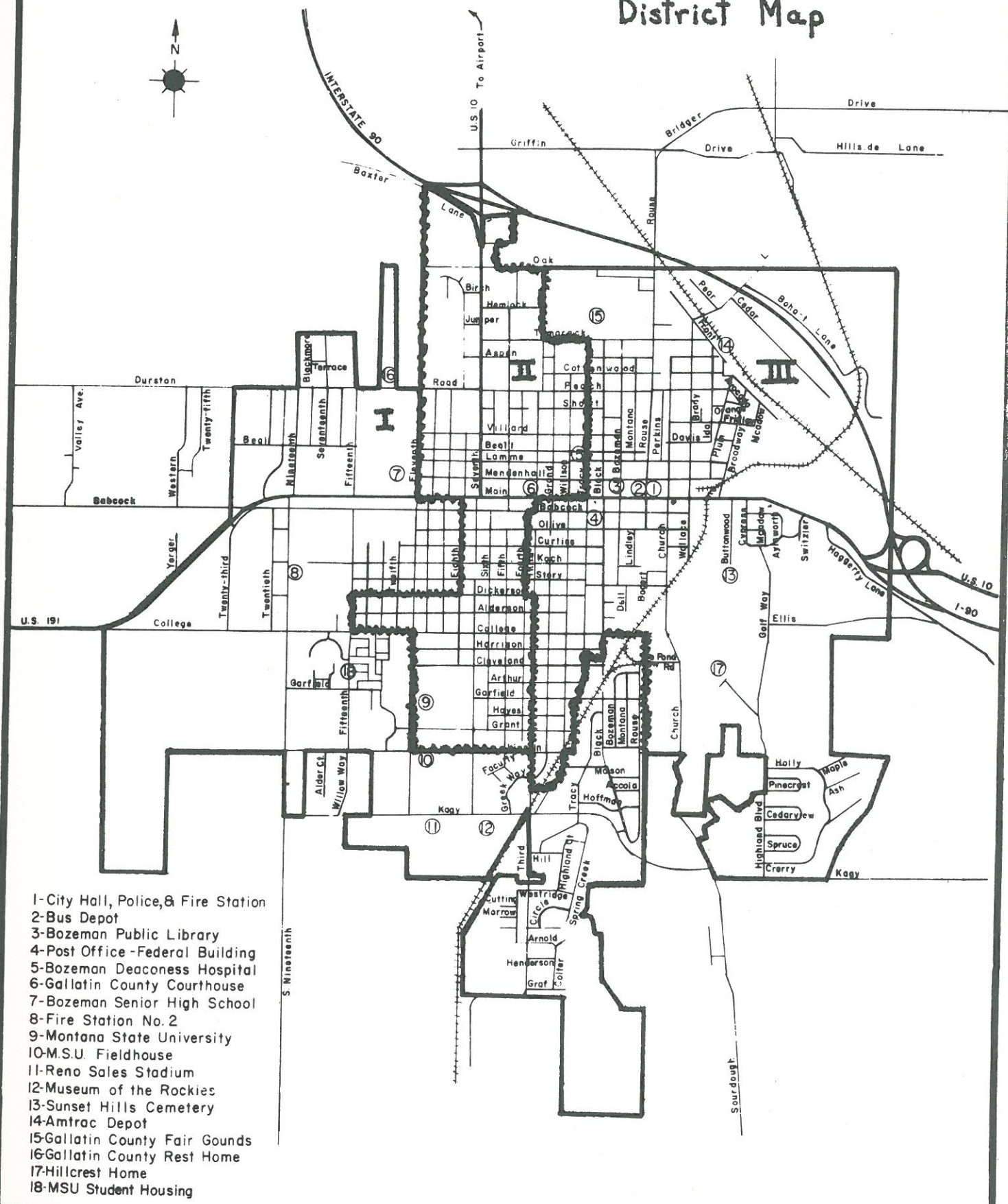
Kenneth Jones
 Kenneth Jones, Commissioner

Keith D. Swanson
 Keith Swanson, Commissioner

CITY OF
 BOZEMAN
 MONTANA

Revised: Feb., 1975

District Map



- 1-City Hall, Police, & Fire Station
- 2-Bus Depot
- 3-Bozeman Public Library
- 4-Post Office -Federal Building
- 5-Bozeman Deaconess Hospital
- 6-Gallatin County Courthouse
- 7-Bozeman Senior High School
- 8-Fire Station No. 2
- 9-Montana State University
- 10-M.S.U. Fieldhouse
- 11-Reno Sales Stadium
- 12-Museum of the Rockies
- 13-Sunset Hills Cemetery
- 14-Amtrac Depot
- 15-Gallatin County Fair Grounds
- 16-Gallatin County Rest Home
- 17-Hillcrest Home
- 18-MSU Student Housing

APPENDIX J

CERTIFICATE ESTABLISHING THE OFFICIAL BALLOT

- - - - -

Instruction to voters: Place an "X" in the boxes which express your preference. The full text of the proposed form of government and of the existing form of government are available at your polling place.

OFFICIAL BALLOT

BALLOT ON ALTERNATIVE FORM OF LOCAL GOVERNMENT
FOR THE CITY OF BOZEMAN, MONTANA

If the proposed form of government fails to receive a majority of the votes cast on the question, the suboption also fails. If the proposed form is adopted, the suboption requires only a plurality of votes cast on the suboption for adoption.

PLEASE VOTE ON BOTH ISSUES

1.

Vote for one.

- For adoption of the charter of the commission-manager form of government with self government powers as proposed in the report of the Bozeman Local Government Study Commission.
- For the commission-manager form with general powers. (The existing form of government.)
-
-

2.

Vote for one.

Suboption to be included in the new form of government, if the new form is adopted.

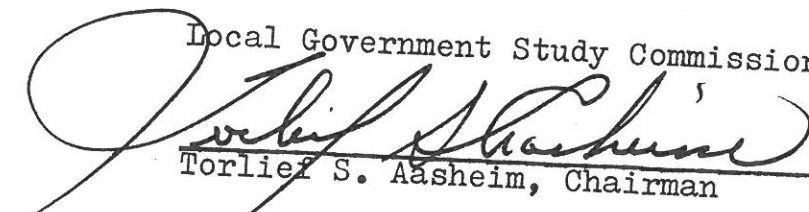
- Community councils of at least three (3) members shall be elected within each district to advise the commissioners.
- Community councils to advise commissioners may be authorized by ordinance of the city commission. (This opportunity exists at present.)
-
-

We, the Study Commissioners of the city of Bozeman Montana, do hereby certify that this is the official ballot approved by the Study Commissioners of the city of Bozeman.

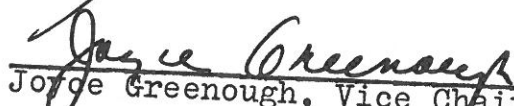
In testimony whereof, we set our hands.

Executed at Bozeman, Montana this 12th day of April, 1976.

Local Government Study Commissioners:




Torliel S. Aasheim, Chairman




Joyce Greenough, Vice Chairman



Judy Mathre, Secretary & Treasurer



Kenneth Jones, Commissioner



Keith Swanson, Commissioner