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ADMINISTRATIVE CODE FOR THE CITY OF MISSOULA

by

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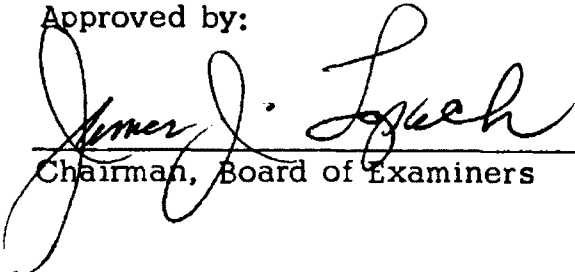
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PREFACE

The subject of this professional paper is an administrative code for the City of Missoula. The choice of writing an administrative code was made because of the writer's interest in administrative frameworks and procedures and because of the total absence of any such framework within the Missoula City government. In the past few years several problems have erupted which, at least temporarily, have focused public attention on the inadequacy of the city's administrative procedures. A notable example was the discovery a few years back that no one had been assigned the responsibility of formulating a budget for the city. Missoula City Government, for the most part, runs by habit, tradition, and individual discretion. Administrative procedures have no consistency and vary from one year to another and from one department to another. The procedures used are a reflection of the personalities of the incumbents and represent no unified political or managerial philosophy.

The purpose of an administrative code is to provide a guide to organization and operation. Through it, each governmental unit knows its job and how it is to be done. Responsibilities of government are assigned to specific units. By means of general administrative policies, the government units move in a unified way instead of at cross purposes and in conflicting manners. An administrative code provides for assigning

responsibilities and powers so that government can function efficiently.

Montana cities and counties have until recently been subdivisions of the state, with certain powers delegated by the legislature. Now cities and counties have the option of remaining subdivisions of the state or of selecting a self-government charter which allows them to have all government powers not specifically reserved to the state. The former arrangement (general government powers) severely limits a city's ability to meet the needs of the community. The powers of a city government under general government powers are simply too limited to allow a city the size of Missoula to solve community problems with which it is faced. Before the city government can effectively operate, Missoula must adopt a self-government charter. This administrative code is based on the assumption that the city will do this and will be free to make all ordinances necessary for implementation of this Code.

The second assumption is that the form of government selected under the self-government charter is the commission-executive form. In the city this would be known as the Council-Mayor form.

The third assumption is that specific options in the form are chosen. From Part 2, Chapter 3, Title 47A, R.C.M., 1947, these are:

(a) The executive may appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable to the executive.

(b) The executive may appoint, with the consent of the majority of the commission, all department heads. The executive may remove

department heads and may appoint and remove all other department employees.

(c) The executive may veto ordinances and resolutions, subject to override by a two-thirds vote of the commission.

(d) The executive may prepare the budget in consultation with the commission and department heads.

(e) The executive may exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

(f) A financial officer (who may be called the "treasurer") shall be appointed by the executive with the consent of the council.

(g) The commission shall be elected by districts in which candidates must reside and which are apportioned by population.

(h) Local government elections shall be conducted on a partisan basis as provided in this title.

(i) The commission shall have a chairman who shall be elected by the members of the commission from their own number for a term established by ordinance.

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

(k) Commission members shall be elected for overlapping terms of office.

(l) The size of the commission, which shall be a number not less than three (3), shall be established when the form is adopted by the voters.

(m) The term of office of elected officials may not exceed four (4) years and shall be established when the form is adopted.

With the exception of the option on the financial officer, these options are those recommended by the Missoula City-County Local Government Study Commission. The Study Commission chose to retain the treasurer as an elected official. This administrative code is based on the option of an appointed financial officer.

Although the administrative code presented here would be applicable in its entirety only if all the above assumptions were true, all but Section 2.06 could be adopted and put into operation with the existing Missoula City government. Section 2.06 would need to be modified to be consistent with current city government powers since it provides for the appointment of the treasurer (Administrator of the Division of Treasury) rather than for his election, which the law now requires.

There are numerous obstacles to the adoption and implementation of an administrative code for the city. The first of these is a misunderstanding of the purpose of an administrative code by city officials and employees, the City Council, and the public. An administrative code is apt to be viewed with suspicion and apprehension because of its being

perceived as a restricting document. The benefits of having in writing a list of who does what and how are likely to be overlooked, and the emphasis placed on the fact that people cannot do what they choose. In Montana, with its cultural leanings to independent decision making, the code is likely to be widely misunderstood as being designed to restrict individual freedom.

The second obstacle is the natural tendency to inertia. To realign departments, reassign employees, and shift functions and responsibilities require great mental and physical adjustments on the part of officials and employees. Each employee is forced to readjust his work procedures, loyalties, work group, or place of work. Most employees are less than enthusiastic about changes from the familiar to the unfamiliar, especially when externally imposed.

Third, there is a fear of unfamiliar procedures. Employees fear for their jobs. They fear for their positions within the work groups. They fear that they will be given tasks which are either beyond them or beneath them. Learning new procedures is work, and there is always the doubt that one will be able to succeed in the new tasks.

A fourth obstacle must be considered. That is the unwillingness of some officers and employees to give up their powers or to be made accountable. There are undoubtedly some employees and officials who are personally benefited by the loose structure of the city government. If they have been able to use this looseness to advance themselves in

their jobs, to avoid responsibilities, or to exert far more influence than their positions would normally warrant, they will be opposed to any restructuring of city government.

With the above obstacles and others, one might ask whether there is any hope for adoption of an administrative code for the City of Missoula. Since the problems of disorganization will continue to appear, eventually the number of people supporting accountability and organization will grow.

There are several places where one might begin. One might be to find supportive administrators within the city government. These are the ones who through their own insight have established organization and policies within their own units. These administrators are the leaders who understand the value of an administrative code and who are already administering their departments according to written policies even though they are not required to do so. These administrators might devise a strategy for educating and assisting their co-workers.

Another starting point would be to identify a governmental unit experiencing great organizational difficulties and to step in with a plan for re-ordering the unit. If things were bad enough, the administrator and employees would be in a frame of mind to try anything which had a chance of improving the work situation.

A third way to begin would be to adopt the Code and then to implement it by stages. A gradual implementation would have the value of

allowing emotional and physical adjustments to the restructuring. The disadvantages include all the problems that arise in any piece-meal implementation of a plan.

A fourth method would be to select the least controversial part of the Code for adoption and implementation. Again, this piece-meal approach has problems. However, it would allow a beginning. If all went well in one part's implementation, a second part could be selected. Some small successes would improve the atmosphere for acceptance of the entire Code.

In any of these approaches, care would need to be taken to acknowledge and plan for the obstacles discussed above. An administrative code will be accepted or rejected on emotional bases. To plan for adoption and implementation of an administrative code entirely on logical arguments would be inadequate.

Article I

Short Title; Effect; Definitions

Section 1.01 Title

This Code and all its amendments shall be known and may be cited as the "Missoula Administrative Code. "

Section 1.02 Purposes

The purpose of this Code is to clarify the responsibilities and authority of administrative units within the Missoula City government and to outline certain procedures and policies consistent with the provisions of the Missoula City Charter. The Mayor shall be responsible for developing and maintaining a manual of organization, policies and procedures for all city administrative units.

Section 1.03 Effect on State Laws

Except where supersession is restricted by state law, any state law which is inconsistent with provisions of this Administrative Code shall be superseded by it to the extent of its inconsistency.

Section 1.04 Existing Codes Continued

Except to the extent to which they may be inconsistent with the provisions of the Administrative Code, all existing ordinances, resolutions, rules and regulations for the City of Missoula shall continue in force and effect until amended, superseded or repealed.

Section 1.05 Liberal Construction

As provided in Article XI, section 4 of the Montana Constitution of 1972, the provisions of this Code shall be liberally construed to achieve its purpose.

Section 1.06 Transition to this Code

Upon adoption of this Code by the Council, the following conditions shall apply:

(a) This Code shall not affect the validity of any bond, debt, contract, obligation, or cause of action made by the city prior to the effective date of this Code. Notwithstanding any provision of this Code, the Council shall have the power and duty to do all things required by prior law or by covenants and agreements entered into pursuant to such laws for the security of any such bond, debt, contract, or obligation.

(b) Unless otherwise provided in this Code, each officer or employee affected by the reorganization of the city government under this Code is entitled to all rights which he possessed as a city officer or employee before the effective date of this Code, including rights to tenure in position and of rank or grade, rights to vacation and sick leave, rights to compensatory time earned, rights under any retirement or personnel plan or labor union contract, and any other rights under any law, ordinance, resolution or administrative policy. This section is not intended to create any new rights for any officer or employee but to

continue only those rights in effect before the effective date of this Code.

(c) All city officers and employees holding offices or position, whether elective or appointive, on the effective date of this Code shall continue in the performance of the duties of their respective offices and positions until provision is made in accordance with this Code for the continued performance of the duties, the discontinuance of such duties, the discontinuance or combination of such office or positions, the transfer of the officer or employee to another position, or the termination of employment of the employee.

Section 1.07 Code Controls

In the event that any provision of this Code is found to be in conflict with the provisions of any other city ordinance or resolution, this Code shall control.

Section 1.08 Severability

If any part of this Code is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of the Code is invalid in one or more applications, that part remains in effect in all valid applications that are severable from the invalid applications.

Section 1.09 Definitions

Except when a specific definition is given or a technical interpretation is required, words or phrases used in this Code shall be construed according to their ordinary usage in the English language.

Words used in the present tense include the future tense. The singular includes the plural. The masculine gender includes the feminine. In this Code, unless otherwise provided or the context requires a technical or other interpretation, the following definitions apply:

(a) "Administrative Board" means a board created to exercise administrative powers for a governmental unit.

(b) "Advisory Board" means a board created to advise, gather information, and make recommendations to a governmental unit.

(c) "Board member" means a person appointed to an administrative or advisory board as provided in Article III of this Code.

(d) "Council" means the City Council, the legislative body of the city government.

(e) "Facility" means a building, property, physical improvement or structural device that facilitates the delivery of a service.

(f) "Law" means a statute enacted by the legislature of Montana and approved and signed by the governor or a statute adopted by the people of Montana through statutory initiative procedures.

(g) "May" confers a power.

(h) "Officer" means a person holding a position with the city government which is ordinarily filled by election.

(i) "Ordinance" refers to an act adopted and approved by the Council through specific procedures and applicable only within the city.

(j) "Per diem" means actual cost of or a fixed rate for meals, lodging, and incidental expenses.

(k) "Resolution" means a statement of policy by the Council or an order by the Council that specific action be taken.

(l) "Service" means an authorized function or activity performed by local government.

(m) "Shall" imposes a duty, is always mandatory, and is not merely directory.

(n) "Subordinate service district" means an area within the city, established as provided by ordinance, with specific boundaries in which certain services are carried out and in which taxes may be levied to finance the service.

Comment - Sections 1.01 to 1.09

Use standard approach to assure guarantees of smooth transition from old to new Code.

Section 1.10 Adoption of Code

This Code shall become effective sixty (60) days after its adoption by the Council. Within the limitations of applicable law, parts of the Code may be implemented in advance of the sixty days.

Comment

This section sets a time for the changeover to the new Code. Sixty days was chosen to accelerate changeover but also to allow

time for mechanical changes and psychological adjustments of employees. Excessive time for implementation is seen as undesirable, with the assumption that no one will be taken to court for failure to comply if difficulties slow implementation.

Article II

Chief Executive

Section 2.01 Chief Executive

The executive power of the city shall be vested in a city Mayor, who shall be responsible for the proper administration of all city affairs.

Section 2.02 Power and Duties

The Mayor, as chief executive officer, shall have such duties and powers as designated in state law, the city charter, and city ordinances. The Mayor may establish divisions in his office to carry out his assigned responsibilities.

Comment - Sections 2.01 and 2.02

These sections give executive power to the Mayor. The Code emphasizes responsibility and authority concentrated in a central executive structure rather than dispersed among multiple elective departments and boards.

Section 2.02 gives the Mayor authority to delegate his responsibilities and to form a department of administration if he so chooses.

Section 2.03 Advisory Committees

The Mayor may appoint temporary advisory committees. Confirmation by the Council of temporary advisory committees is not

required. Temporary advisory committees shall be abolished within one year of their creation.

Comment

This section allows the Mayor to create temporary citizen committees for public input into special projects or interest areas. Such committees would be beneficial to keep the Mayor in contact with public sentiment on key issues.

Section 2.04 Creation of Departments

The City Council shall prescribe by ordinance the office, department, and board structure of the city government and their functions and shall by ordinance assign any function mandated by state law to an appropriate office, department, or board. At any time the Mayor may submit proposed changes in department and board structure to the City Council. Within six months of the submission of proposed changes in department and board structure, the Council shall act on the proposals.

Comment

This section gives the Council the last word on department and board structure and on what each department or board is supposed to be doing. The Mayor has major influence on department structure through his powers to recommend changes which must be acted upon by the Council.

Section 2.05 Organization Plan

Each fiscal year the Mayor shall file a plan with the Council showing the organizational chart of the executive branch. The

plan shall indicate the number of employees and the lines of responsibility.

Comment

This section is simply for the purpose of keeping the Council informed on departments created, their relationships, and relative size.

Section 2.06 Administration of Departments

All departments shall be under the direction and supervision of the Mayor as chief executive officer. Department heads shall be appointed by the Mayor with the consent of the Council and may be removed by the Mayor. The general duties or scope of responsibilities and powers and any specific qualifications of department heads shall be prescribed by ordinance. Department heads and administrators of Divisions shall possess the administrative qualifications for the duties of the office to which they are appointed.

Comment

This section gives clear indication of authority of the Mayor in supervising departments. The Council retains some control by giving consent to appointments and by specifying duties, powers, and qualifications of department heads.

Section 2.07 Reports to the Council

The Council may require reports from the Mayor and from department heads and employees.

Comment

This section gives the Council the power to gain information about the executive branch and from other units if the Council doubts the proper functioning of any part of the city government

Section 2.08 Subordinate Service Districts

Subordinate service districts to provide one or more services may be established, operated, altered, combined, enlarged, reduced, or abolished by ordinance. A subordinate service district shall be administered as a part of the department to which it is most closely related. The budget for each subordinate service district shall be submitted by the department to which it is attached as a separate, identifiable item in the department budget.

Comment

This section provides for the assignment of subordinate service districts to departments. This is for the purpose of keeping them within the regular government framework rather than having them exist independently.

The entire article emphasizes mayoral control of the departments and subunits but with the Council in control of certain aspects of organization and personnel selection. In this system the Mayor would be held responsible for malfunctioning of city departments and would have the power to replace department heads and other employees who failed to perform to his expectations.

Article III

Budget

Section 3.01 Budget Responsibility

The Mayor shall be responsible for preparing an annual budget for the city. On or before April 1 of each year he shall issue a statement of governmental goals and objectives and obtain from each department head his estimate of revenue and expenditures for the following fiscal year, a departmental statement of goals and objectives, and other information required for budget preparation.

Comment

This section assigns responsibility for the budget to the Mayor with a few guidelines on the scope of the budgeting process.

Section 3.02 Budget Content

The budget shall set forth:

- (a) all proposed appropriations for each department or program, including publicly-owned enterprises;
- (b) the appropriations and actual or estimated expenditures and revenue from the two years preceding the budget year;
- (c) All debt redemptions and interest charges during the budget year;
- (d) proposed appropriations for capital projects to be undertaken or executed during the budget year;

- (e) all anticipated revenue;
- (f) proposed contingency funds; and
- (g) proposed reserves.

Comment

This section lists specific requirements as to the content of the budget. This allows the Council to have the information it wants for making decisions on appropriations.

Section 3.03 Budget Message

The Mayor shall prepare a budget message to be submitted with the proposed budget which shall contain:

- (a) a statement of department goals and objectives and a statement of goals and objectives for each program;
- (b) an evaluation of how effective each department or program has been in the past and the apparent reason for the level of success attained;
- (c) a general summary setting forth the aggregate figures of the proposed budget and relating proposed appropriations and anticipated revenue;
- (d) a statement contrasting the proposed budget appropriation, revenue and expenditures with that of the two years preceding the budget year; and

(e) explanatory material which classifies the proposed appropriations by fund, function, activity, objectives, and department and which groups anticipated revenues by source.

Comment

This section continues listing information the Council wants in order to make decisions on the budget.

Section 3.04 Contingencies

The budget may include funds for contingencies. These funds may be appropriated only by resolution of the Council.

Comment

This section states that contingencies are permissible.

Section 3.05 Public Hearing

The Mayor shall submit the proposed budget to the Council on or before the first Monday in June. Upon receipt of the proposed budget, the Council shall publish notice which shall include:

(a) a statement that the proposed budget is available for distribution and inspection at the Mayor's office;

(b) a summary of the proposed budget, showing the total proposed expenditures and total anticipated revenue, anticipated mill levies, and comparative information for the two years preceding the budget year;

(c) the date, time, and place of the public hearing on the proposed budget; and

(d) a statement that the Council shall adopt a budget on or before June 30.

The public hearing shall be held on or before the third Monday of June and prior to the adoption of the budget.

Comment

Section 3.05 sets up the rules for giving notice of the budget hearing and for involving the public.

Section 3.06 Adoption of Budget

The Council shall review the proposed budget and, at its discretion, may revise the budget. After consideration, the Council shall by resolution adopt a budget on or before June 30. Expenditures authorized by the budget shall not exceed anticipated revenue. The resolution adopting the budget shall be considered as the appropriation for the ensuing fiscal year. The approved budget shall be reproduced and made available for general distribution.

Comment

This section gives power to the Council to revise the Mayor's budget and to adopt the budget of its choice, provided it is not a deficit budget.

Section 3.07 Fixing Levies

On or before the second Monday in August and after adoption of the budget, the Council shall fix by resolution the mill levies at rates, not exceeding limits prescribed by law or charter, that during the

ensuing fiscal year will raise the amount required in the budget.

Comment

This section gives the Council the responsibility of deciding where the money is to come from and setting the levies.

Section 3.08 Filing of Budget

Within seven days after the Council fixes the mill levies, the Mayor shall file a certified copy of the adopted budget and mill levies with the State Department of Community Affairs and a certified copy of the mill levies with the Missoula County finance administrator.

Comment

This section gives the Mayor the responsibility for reporting to state and county the required information about the city budget.

Section 3.09 Unexpended appropriations

After June 30 of each fiscal year, all unexpended appropriations, except encumbered moneys, shall revert to the account from which originally appropriated and may not be expended until reappropriated. When the Council determines by ordinance that the purpose for which a separate fund was established no longer exists, the Council may eliminate the fund and the net resources shall be deposited as miscellaneous revenue to the general fund of the city.

Comment

This section gives the Council the power to retain control over unexpended funds.

Section 3.10 Appropriation Transfers

Within the provisions of state law, the Mayor may authorize the transfer of appropriations within a program or department and the Council may approve by resolution the reallocation of appropriations between departments. The Council may rescind or defer any appropriation in whole or in part by resolution. Rescinded appropriations may be transferred to the contingency fund.

Comment

This section gives the Mayor authority to do some reallocation of funds within a department but gives the Council authority to reallocate among departments. It also gives the Council power to control departmental activity by withholding funds.

Section 3.11 Budget Amendment

The budget may be amended by the following processes:

(a) If an authorization of bonds is made after the adoption of the budget, the proceeds of the bonds shall be considered an appropriation for the purpose for which the bonds were authorized and shall be entered into the approved budget as an amendment.

(b) The Council may by resolution amend the budget during any fiscal year by authorizing additional expenditures of funds received or assured in excess of revenue anticipated in the original budget.

(c) After notice, the Council shall hold a public hearing on all proposed budget amendments.

(d) Revenues may not be expended in excess of the amount originally budgeted until a budget amendment is adopted as provided in this section.

Comment

Section 3.11 allows the Council to retain authority to amend the budget to take advantage of additional funds. Departments may not automatically expend these extra funds but must await the Council's budget amendment.

Section 3.12 Emergency Appropriations

In the case of an emergency which was not foreseen at the time of the adoption of the budget, the Council may by resolution authorize additional appropriations by a two-thirds vote of the Council. The authorizing resolution shall be published once and shall be included with facts concerning the emergency in the minutes of the meeting at which the Council adopted the resolution.

Section 3.13 Financing Emergency Appropriations

In the case of an emergency appropriation, the Council shall transfer moneys to the fund from which the emergency expenditure is to be paid from any unencumbered appropriation which, in the judgement of the Council, will not be needed for expenditures for the balance of the fiscal year. If sufficient moneys cannot be transferred to meet the authorized emergency appropriation, the Council may register warrants. The total amount of the registered warrants shall not exceed the amount that

can be raised by a two-mill levy. An appropriation to retire these registered warrants shall be included in the budget for the ensuing fiscal year.

Comments - Sections 3.12, 3.13

These sections allow the Council to remain in control of emergency expenditures and to manipulate city funds as they see fit to meet the city's emergency needs.

Section 3.14 Reports

On or before November 1, the Mayor shall submit to the State Department of Community Affairs and the Council a certified annual financial report in the form prescribed by the State Department of Community Affairs. The Council shall publish the certified annual financial report upon its receipt. The Council shall publish a quarterly financial report in a form approved by the State Department of Community Affairs.

Comment

This section puts responsibility on the Mayor for submitting to the State the financial reports required by law.

Section 3.15 Interim Budget

In case the adoption of the budget resolution is delayed after July 1, the Council shall pass a continuing resolution for the purpose of paying salaries, debt service payments, and the usual, ordinary expenses of the city for the interval between the beginning of the fiscal year and the adoption of the budget resolution. Interim appropriations so made shall be charged to the proper appropriations in the budget resolution.

Comment

Section 3.15 continues control by the Council of expenditures even though a budget has not been adopted.

The entire Article III gives the Mayor specific responsibilities to provide information and make reports as requested, but reserves to the Council the decisions over the budget and control of appropriations.

Article IV

Public Participation and Access to Information

Section 4.01 Public Meetings

All meetings of the Council or of other entities created by, or subordinate to, the Council shall be open to the public except as provided by state law. The Council shall develop procedures for permitting and encouraging the public to participate in decisions that are of significant interest to the public. Appropriate minutes shall be kept of all public meetings and shall be made available upon request to the public for inspection and copying. In any meeting required to be open to the public, the Council shall adopt rules for conducting the meeting which afford citizens a reasonable opportunity to participate prior to the final decision.

Comment

This section makes clear that all city government meetings, of whatever level, are open to the public and that procedures must be used to facilitate public participation and citizen access to information.

Section 4.02 Records

Except as provided in this section, all records and other written materials in the possession of the Council and any other entities created by it shall be available for inspection and reproduction by any person during normal office hours. The Council may impose reasonable

fees for providing copies of public records. Personal records, medical records, and other records which relate to matters in which the right to individual privacy exceeds the merits of public disclosure shall not be available to the public, unless the person they concern requests they be made public. Except as provided by law and as determined by the chief law enforcement administrator, law enforcement records which relate to matters in which the right to individual privacy or law enforcement security exceeds the merits of public disclosure shall not be available to the public.

Comment

Section 4.02 makes clear the public's right to have government information, with specific exceptions. The right to have access to city files and to copy data is acknowledged.

Section 4.03 Destruction of Public Records

The Council may by ordinance establish procedures for routine destruction of reports, papers, or records that, in its judgment, are no longer needed. Such procedures must be approved by the State Department of Community Affairs and the State Historical Society. Court records may be destroyed by order of the district court only when the records have been reproduced. The reproduction, identification, admissibility, and use of the reproductions shall be in accordance with Title 93, Chapter 801, RCM. Any claim, warrant, voucher, bond, or general receipt may be destroyed after a period of twenty-five years.

Comment

This section ensures that destruction of public records will be done in an orderly, prescribed way rather than at the discretion of the individual administrator.

Section 4.04 Reports

The Council, Mayor, officers, employees, departments, boards, and authorities shall file with state agencies in a timely fashion all reports and information required by state law. All departments, boards, and authorities shall file an annual report with the Mayor who shall compile the reports and present them to the Council. The Mayor may specify the form, scope, and deadline for filing the reports.

Comment

This section requires the units of the city government to keep current with state reports required and to make an annual report to the Council which would then be available to the public.

Section 4.05 Public Hearing

As required by law, the Council and its subordinate entities shall conduct public hearings for the purpose of providing reasonable opportunity for citizen participation prior to final decisions. At a minimum, a public hearing shall provide for submission of both oral and written testimony for and against the action or matter at issue. If the hearing is not held before the ultimate decision-makers, they shall be provided, prior to their determination, with minutes of the hearing or a

transcript of the testimony received. Public hearings may be held at regular or special meetings of the Council or its subordinate entities. Petitions and letters received by the Council, Board, Mayor, or board chairman prior to the hearing shall be entered by reference into the minutes of the hearing and considered as other testimony received at the hearing. Hearings may be adjourned from day to day or to a date certain. Except for budget hearings and as provided by state law, the Council or its subordinate entity may designate a subcommittee or hearing examiner to conduct public hearings.

Comment

This section provides some guidelines for public participation on issues, although the definition of when a public hearing is required is kept vague. Section 4.05 sets a minimum level of participation and some rules for conducting the hearing, but leaves much flexibility as to when and how hearings are to be held, a feature which is needed because of the great variety of issues which might be the subject of hearings.

Section 4.06 Publish Notice

Unless specifically provided, when the city is required to publish notice, publications shall be in a newspaper which shall be of general paid circulation, published daily, published in the City of Missoula, and published continuously in the City of Missoula for the twelve months preceding the awarding of the contract.

Comment

This section gives the standard requirements on giving public notice. The type of publication and number of times published is not specified and is left to the discretion of the administrator responsible.

The entire Article IV is written to acknowledge the public's right to have access to government information and to participate in government decisions through hearings. Although few specifics are given, the article supports the principle of full disclosure of public business to the public.

Article V

Boards

Section 5.01 Creation of Boards

The Council may by ordinance establish advisory or administrative boards. The ordinance creating a board shall specify the duties of the board, the number of board members, terms of board members, whether board members shall be entitled to mileage, per diem, expenses, and salary, and any special qualifications for membership on the board.

Comment

This section indicates how boards will be established and gives the Council authority to determine specific details about the board, including special qualifications for membership. There is no limit on the number of boards, and a board could be created at any level of city government where citizen input seemed desirable.

Section 5.02 Advisory Boards

An advisory board may be created to advise a department or subordinate service district. An advisory board may furnish advice, gather information, make recommendations, and perform other activities as may be necessary to comply with federal funding requirements. An advisory board does not have the power to administer programs or set policy.

Comment

This section defines the scope of authority and activities of an advisory board.

Section 5.03 Administrative Boards

An administrative board may be assigned responsibility for administering a department or subordinate service district. An administrative board may exercise administrative powers as granted by ordinance, except that it may not be authorized to pledge the credit of the city, impose a tax, or sue or be sued independently of the city. It may administer programs, set policy, and adopt rules of procedure and administrative rules. An administrative board may delegate its powers to an appointed administrator.

Comment

This section defines the authority and responsibilities of administrative boards and restricts the board from certain actions retained by the Council as representative of the city as a whole. It also gives authority for the board to delegate its powers to an appointed administrator. This form is used for the Board of Library Trustees, as agreed to in the contract between the city and county governments for operation of the public library.

Section 5.04 Appointment to Boards

Board members shall be appointed by the Mayor with the consent of the Council, except where state law provides otherwise.

Board members may be removed by the Mayor or by two-thirds vote of the Council. The Mayor shall advertise prospective vacancies at least one month prior to filling a vacancy on a board. A person must be a resident of the city to be eligible for appointment to a board. The Mayor shall maintain a register of appointments including:

- (a) the name of the board;
- (b) the purpose and type of board;
- (c) the name of the governmental unit which the board advises or administers;
- (d) the date of appointment and confirmation by the Council;
- (e) the length of term;
- (f) the name and term of the chairman and other officers of each board; and
- (g) the date, time, and place of regularly scheduled meetings.

Comment

This section gives the Mayor the power to appoint board members. Either he or the Council may remove board members. The Council maintains some say in who will be on boards by giving consent to board appointments of the Mayor. This section provides that the Mayor must make known board vacancies so that interested city residents may apply. The requirement that the Mayor keep a register of

appointments to boards means that this information will be readily available to anyone who is interested in the boards of the city government.

Section 5.05 Terms of Board Members

Terms of all board members shall be three years and shall begin on July 1. Board members may serve no more than two consecutive terms. A board member is eligible to serve two full consecutive terms in addition to filling an unexpired term to which he is appointed. Board membership shall be appointed to rotate one-third membership each year.

Comment

Section 5.05 sets all board terms as beginning on July 1 and running three years. This standardization is included for ease of understanding by the general public and city government employees and officers. The rotating membership, three-year term, and limitation to two consecutive terms are designed to provide a gradually changing board membership.

Section 5.06 Organization of Boards

A board shall contain five members. The Mayor shall be a nonvoting, ex officio member of all boards. The ordinance creating a board may provide for additional nonvoting, ex officio members. The City may join with one or more other governments to provide joint boards. The joint boards shall be established within the provisions of state law.

Comment

This section defines the composition of boards. The

choice of five members was made to keep the board small but with an adequate number to give some diversity of viewpoint. The standardization, as in Section 5.05 above, is for ease of understanding city government boards. The Mayor is a nonvoting member of all boards because his position is incompatible with the powers of having a vote on citizen boards. He should be available for discussion and recommendation but should have no vote in the ultimate decision. Alternative composition of boards would be possible if the board were jointly organized.

Section 5.07 Board Operation

Four board members shall constitute a quorum for the purpose of conducting business and exercising powers and responsibilities. Board action may be taken by a majority vote of those present and voting. All boards shall provide for the keeping of written minutes which shall include the final vote on all board actions and the vote of each individual member on each question. All boards shall by rule provide for date, time, and place of regularly scheduled meetings. This information shall be filed with the Mayor.

Comment

This section defines basic rules for board operation. Since the boards are small, four members are required for a quorum as a protection against minority rule of board action through absence of other board members. Written minutes are seen as a vital inclusion in board rules, since so many important decisions are made by boards. It is also

important that boards make public their meeting times and places if public access to decision-making processes is to be assured.

Section 5.08 Parks and Recreation Board

There shall be a Parks and Recreation Board for the City. The Parks and Recreation Board shall have advisory powers. It shall advise the Parks and Recreation Division of the Department of Health, Recreation, and Library.

Section 5.09 Zoning Commission

There shall be a Zoning Commission as provided in Section 11-2706, RCM. The duties and powers of the Zoning Commission shall be as defined by state law.

Section 5.10 Board of Adjustment

There shall be a Board of Adjustment as provided in Section 11-2707, RCM. The duties and powers of the Board of Adjustment shall be as defined by state law. Changes in the regulations, restrictions, and boundaries of zoning districts shall be made only by the Council in the manner designated by law. The Board of Adjustment shall have the power, after public notice and hearing, in a specific case to vary or modify any of the regulations or provisions relating to the construction, structural changes, or alterations or placement of buildings or structures consistent with the purposes of the zoning laws. In every case where a permit is either granted or revoked by the Board of Adjustment, the Board shall clearly document the reasons for its action.

Section 5.11 Police Commission

There shall be a Police Commission. The duties of this Commission are those prescribed by Sections 11-1801 to 11-1833, RCM, and its amendments and such other duties as are prescribed by city ordinance. Members of the Police Commission shall be reimbursed for expenses incurred in the necessary conduct of the Commission's business.

Section 5.12 Board of Library Trustees

There shall be a Board of Library Trustees. Of the five members of the Board of Library Trustees, two shall be appointed by the Mayor with the consent of the Council, two by the County Commissioners, and the fifth by the other four trustees. The Board of Library Trustees shall have exclusive administrative powers over the library. These shall include expenditure of the library fund, construction or lease of library buildings, and operation and care of the library. The Board of Library Trustees shall:

(a) have the power to contract, including the right to contract with regions, counties, cities, school districts, educational institutions, the state and other libraries, to give and receive library service and to pay out or receive funds to pay such costs;

(b) have the power to acquire real and personal property for the use of the library, to dispose of all property no longer required by the library, and to insure the property of the library;

(c) prepare an annual budget indicating what support and maintenance will be required from public funds;

(d) make an annual report to the City Council on the condition and operation of the library, including a financial statement. The Trustees shall provide for keeping and sending such records as are required by the state library in its requests for annual reports;

(e) have the power to accept gifts, grants, and donations from whatever source and to expend the same for their specific purposes; gifts, grants, and donations shall be kept separate from regular library funds and shall not be subject to reversion at the end of the fiscal year.

(f) appoint, consistent with the personnel provisions of this code, the chief librarian who shall serve as the administrator of library affairs; and exercise such other powers, not inconsistent with law, necessary for effective use and management of the library.

Comment - Sections 5.08 - 5.12

These sections define specific boards within the city government and describe their status, functions, and responsibilities. A change from the existing condition is that boards are placed within departments instead of functioning as separate entities.

Article VI

Department of Personnel

Section 6.01 Administration

There shall be a Department of Personnel under the direction of an administrator appointed by the Mayor with the consent of the Council. The department administrator may also fill the position of one or more of the division administrators.

Comment

This section assigns responsibility for the department and to whom the department head is responsible. The second sentence makes it possible to have small departments without excessive numbers of administrators.

Section 6.02 Organization

The Department of Personnel shall be organized into the following divisions, each of which may be headed by a division administrator: Division of Recruitment and Selection, Division of Personnel Development, and Division of Labor Relations.

Comment

Section 6.02 defines the departmental organization.

Section 6.03 Responsibilities

The Department of Personnel shall be responsible for the recruitment, selection, and training of all nonelective city employees

and the negotiation of labor contracts with labor organizations representing city employees. Specific responsibilities shall include but not be limited to those listed in this article.

Comment

This section gives a general statement as to the department's goal or function. It includes an open-end statement of duties and responsibilities to maintain flexibility.

Section 6.04 Authority

All employees shall be hired and discharged by the Mayor or by the department or division administrator as delegated by the Mayor. Employees shall be hired in the number and at the salary authorized by the Council. Appointment, removal, and promotion of city officers and employees shall be without regard to race, color, ethnic origin, sex, age, culture, social origin or condition, or political or religious ideas and otherwise comply with requirements of 64-317, RCM.

Comment

This section defines the lines of responsibility for hiring and firing employees. The number of employees and their salary is determined by the Council, but the responsibility for hiring, supervising, and firing city employees is given to the Mayor or his delegates.

Section 6.05 Position Classification Plan

There shall be maintained a position classification plan for all nonelected city positions. All positions shall be grouped in classes,

each having a specified range of difficulty and responsibility. For each class of positions there shall be:

- (a) a class title descriptive of the duties of positions within the class;
- (b) a written class specification which will contain a description of the nature of the work and of the relative responsibility of the positions in the class;
- (c) examples of work which are illustrative of duties of positions allocated to the class;
- (d) requirements as to knowledge, abilities, and skills necessary for the performance of the work; and
- (e) a statement of experience and training desirable for recruitment into the class.

Comment

This section defines a position classification plan and instructs that such a plan be maintained for all nonelected positions. Such a plan would be the basis of job descriptions and salaries for positions.

Section 6.06 Personnel Records

The Department of Personnel shall maintain adequate personnel records for all city employees, giving a complete history of all changes of status, pay and other pertinent personnel data. Each such personnel history shall show the periodic efficiency ratings for each

employee and a statement of the reasons for each change of status or pay.

Comment

Section 6.06 requires personnel records for documentation of employees' work histories.

Section 6.07 Compensation Plan

The Personnel Department shall prepare a compensation plan for all nonelected city positions. The compensation plan shall consist of salary ranges in a basic table for position classes. The plan shall be adopted by ordinance or resolution.

Comment

This section requires that a pay plan with salary ranges be formulated and keyed to the position classification plan.

Section 6.08 Personnel Policies

The Personnel Department shall propose personnel policies to the Council. The Council shall adopt personnel policies for all non-elected officers and employees. The personnel policies shall include hours of labor; conditions for demotion, suspension, or discharge; grievance procedures, payment of per diem, mileage, and actual transportation expenses; annual vacation, sick and other leaves of absence; holidays; retirement benefits; training and promotion plans; and other benefits to employees.

Comment

This section provides for written personnel policies to

clarify the expectations, duties, and benefits of employees and employer. The Council retains control through adoption of policies proposed by the Personnel Department. The Personnel Department has the responsibility for proposing policies to the Council for its consideration.

Section 6.09 Political Activity

No person shall attempt to coerce, command, or require a city employee to influence or give money, service, or other things of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office. No city employee shall solicit any money, influence, service, or other things of value or otherwise aid or promote a political committee or the nomination or election of any person to public office while on the job or at his place of employment. Nothing in this section is intended to restrict the right of a city employee to express his personal political views. Any person who violates this section shall be fined not to exceed \$500.00 or be imprisoned for a term not to exceed six months, or both, for each separate offense. Any person who violates this section shall be guilty of a misdemeanor. Any violation of this section shall also be punishable by removal from office or discharge from employment.

Comment

This section restricts activity of city employees and provides protection to them from pressure to use their positions for political aims. The section includes penalties and mandatory removal from office

for violations.

Section 6.10 Collective Bargaining

In accordance with the provisions of and subject to the restrictions of 59-16, RCM, all employees of the city shall have the right of self-organization, to form, join, or assist any labor organization, to bargain collectively, and to exercise all other rights granted in this Title.

The City as a public employer shall have all rights and obligations of a public employer as established by 59-16, RCM.

Any general law or charter provision providing for local employment terms and conditions may be modified pursuant to any labor contract entered into under provisions of 59-16, RCM.

Comment

Section 6.10 acknowledges the right of city employees to organize and bargain collectively within the laws of the state. It also recognizes the rights of the public employer as defined by state law.

Section 6.11 Rules of Conduct

An officer or employee shall not:

(a) have a financial interest in any contract made by him in his official capacity as officer or employee, or by any board of which he is a member;

(b) be a purchaser at any sale or a vendor of any purchase made by him in his official capacity as officer or employee; or

(c) purchase warrants, scrip, or other city evidences of indebtedness.

An officer or employee commits an offense if:

(a) he purposely or knowingly offers, confers, or agrees to confer upon another, or solicits, accepts or agrees to accept any pecuniary benefit or benefit as provided in 94-7-102, RCM;

(b) he knowingly solicits, accepts, or agrees to accept any pecuniary benefit as a compensation as provided in 94-7-104, RCM;

(c) he solicits, accepts, or agrees to accept any pecuniary benefit from any person subject to his jurisdiction or from any person known to be interested in or likely to become interested in any contract, purchase, payment, claim, or other pecuniary transaction over which he has any discretionary function as provided in 94-7-105, RCM;

(d) he knowingly makes a false statement, oath, or equivalent affirmation or swears or affirms the truth of a false statement previously made, when the subject is material as provided in 94-7-202, 94-7-203, and 94-7-209, RCM.

(e) he acquires an interest in any business or undertaking which he has reason to believe may be directly beneficial economically by an official action to be taken by the city government;

(f) he, within twelve months following the termination of his office or employment, assists or represents any person for a fee or other consideration in connection with certain matters with which he was

directly involved during his term of employment. These matters include legislation or rules which he actively helped to formulate, and applications, claims, or contested cases in the consideration of which he was an active participant; or

(g) he performs an official act directly affecting a business or other undertaking to its economic detriment when he has substantial financial interest in a competing firm or undertaking.

The prosecuting attorney in Missoula shall bring action in district court to remove from office any officer or employee who has violated the rules of conduct set out above. An officer or employee who had been charged as provided in this section shall be suspended by the Council from his office or position of employment without pay pending final judgment. Upon final judgment of conviction, he shall permanently forfeit his office or position of employment. Upon acquittal he shall receive all back pay. If the action is brought by a citizen, the court shall award reasonable attorney's fees.

Comment

This section lists rules of conduct required of city officers and employees and prescribes what is to be done if violation occurs. This list concerns what is usually termed conflict of interest and other situations where an employee may use his position to advance his own or other individual interest, rather than the public interest. This section requires

prosecution by the City Attorney and removal from office for violations. All these rules are general and would be difficult to apply, yet, they do give some guidelines on what conduct is permitted and what is not.

Section 6.12 Ethics

The holding of public office or employment is a public trust created by the confidence which the electorate reposes in the integrity of officers and employees. A city officer or employee shall not use his office, the influence created by his official position, or the inside information gained by virtue of that position to advance any of his own, his relatives', or his associates; personal economic interests, other than advancing incidental benefits as may accrue to any of them from the enactment or administration of laws or ordinances affecting the public generally.

Comment

This section is a statement on ethics which, like Section 6.11, is so general as to be difficult to apply. Nevertheless, it provides a guide to unacceptable behavior related to use of the employee's position to benefit himself and others.

Section 6.13 Liability

An officer or employee, as a trustee of city property, shall be liable under 86-310 RCM and other pertinent laws. The City Attorney shall bring any appropriate judicial proceedings on behalf of the city.

Any money collected in the action shall be paid to the general fund of the

city.

Comment

This section assigns liability as defined by state law to the employee or officer in his position as trustee of city property.

This article as a whole tries to make clear what the city will accept as its responsibilities and what conduct will be expected of employees and officers in their work.

Article VII

Department of Public Safety

Section 7.01 Administration

There shall be a Department of Public Safety under the direction of an administrator appointed by the Mayor with the consent of the Council. The department administrator may also fill the position of one or more of the division administrators.

Comment

This section assigns responsibility for the department and to whom the department head is responsible. The second sentence makes it possible to have small departments without excessive numbers of administrators.

Section 7.02 Organization

The Department of public Safety shall be organized into the following divisions, each of which may be headed by a division administrator: Division of Fire Control, Division of Police, and Division of Animal Control.

Comment

This section defines the departmental organization.

Section 7.03 Responsibilities

The Department of Public Safety shall be responsible for the protection of the city against fires, the preservation of the safety and

peace of the city, the enforcement of the criminal laws of the county, state and federal government, and the enforcement of city ordinances. Specific responsibilities shall include, but not be limited to, those listed in this article.

Comment

This section gives a general statement as to the department's goal or function. It includes an open-end statement of duties and responsibilities to maintain flexibility.

Section 7.04 Division of Fire Control

There shall be a Division of Fire Control whose responsibility shall be to control and extinguish fires within the city, to enforce the Life Safety Code, and to educate the public in fire safety. The Division of Fire Control shall:

- (a) enforce the Uniform Fire Code, 1973 Edition, and
- (b) inspect any building within the city, or within three miles of the city, in which fire is being used or is to be used.

Section 7.05 Division of Police

There shall be a Division of Police whose responsibility shall be to enforce the ordinances of the city, to preserve the peace, and to enforce the criminal laws of the county, state, and federal governments. The Division of Police shall be responsible for:

- (a) aiding the Division of Fire Control by providing crowd control during fires:

(b) filing complaints in municipal court against all persons known to be guilty of a violation of the criminal laws of the state or the ordinances of the city;

(c) keeping a record of the names of all persons arrested by the city police, for what offense arrested, by whom arrested, when complaint was made to the municipal court, and the result of the trial in such court, and recording all money and property found on the persons arrested and what has been done with the same;

(d) keeping a record of offenses committed, of suspected persons, of property stolen and recovered, and of the facts that may lead to arrest of criminals or the recovery of stolen property;

(e) enforcing all the orders of the health officer so far as they relate to the preservation of the health of the city; and

(f) enforcing all orders of city officials issued pursuant to city ordinances.

Section 7.06 Division of Animal Control

There shall be a Division of Animal Control for removing uncontrolled animals from the city. The Division of animal Control shall be responsible for:

(a) keeping and maintaining adequate records of all animals impounded and all actions taken in the course of impoundment;

(b) enforcing all city ordinances pertaining to animal control;

(c) maintaining all impounded animals in a suitable and humane manner; and

(d) humanely putting to death animals as required by city ordinance.

Comments - Sections 7.04 - 7.06

These sections outline the general scope of activities of the Divisions of Fire Control, Police, and Animal Control. Some specific tasks are listed for the Division of Police and the Division of Animal Control in line with current ordinances which require certain records to be kept.

These three functions were grouped because of their common concern with public safety and because of the decision of the writer to minimize the number of separate departments reporting directly to the Mayor. The division of Fire Control and the Division of Police would be large divisions and would probably require the appointment of division administrators, whereas the Division of Animal Control would probably be administered by the Department Administrator.

Article VIII

Department of Finance Administration

Section 8.01 Administration

There shall be a Department of Finance Administration under the direction of an administrator appointed by the Mayor with the consent of the Council. The department administrator may also fill the position of one or more of the division administrators.

Comment

This section assigns responsibility for the department and to whom the department head is responsible. The second sentence makes it possible to have small departments without excessive numbers of administrators.

Section 8.02 Organization

The Department of Finance Administration shall be organized into the following divisions, each of which may be headed by a division administrator: Division of Accounting, Division of the Treasury, and Division of Central Services.

Comment

This section defines the departmental organization.

Section 8.03 Responsibilities

The Department of Finance Administration shall be responsible for the collection, receipt, custody, deposit, investment and

disbursement of all fees, taxes, revenues and other funds of the city or for which the city is responsible. The Department of Finance Administration shall be responsible for an annual inventory of city property, for purchasing and disposal of city property, and for inventory and disbursement of supplies and equipment. The Department shall be responsible for providing office, reproduction and data processing services to all departments. The Department of Finance Administration shall be responsible for any other duties required of it by city ordinance or state law.

Comment

This section gives a general statement as to the department's goal or function. It includes an open-end statement of duties and responsibilities to maintain flexibility.

Section 8.04 Division of Accounting

The Division of Accounting shall be responsible for the following accounting and record keeping:

- (a) operating the budgeting, accounting and reporting systems specified by the Council;
- (b) providing information on financial transactions to the Mayor and Council at their request;
- (c) keeping a record showing revenues received by the city;
- (d) keeping a record showing moneys appropriated by the adopted budget and the warrants drawn against the appropriations;

(e) keeping a record of the transfer of appropriations and of any authorized emergency appropriations;

(f) keeping records showing at all times the unexpended balance in each of the budgeted funds;

(g) submitting a monthly report to the Council showing the revenues and expenditures to date and the unexpended balance in each of the appropriated funds;

(h) submitting the annual financial report to the Mayor on or before August 1; and

(i) providing the budget administrator with information on resources, revenues, expenditures, and debt which is needed for preparation of the proposed budget.

Comment

Section 8.04 specifies the responsibilities of the Division of Accounting. The Division is held responsible for all the record keeping, data gathering, and report making on city financial matters and for making information available to the Council and Mayor. The Division is also given the job of assisting in the preparation of the city budget.

Section 8.05 Division of the Treasury

The Division of the Treasury shall be responsible for the following treasury functions:

(a) receiving and accounting for all money received by the city;

- (b) providing a receipt for all moneys received by the city;
- (c) custody of moneys and securities of the city;
- (d) disbursement of moneys of the city upon proper authorization, including the payment of all warrants presented for payment in the order in which they are presented, when there are sufficient moneys in the fund; and
- (e) maintaining the integrity of bonds and other dedicated funds.

Comment

Section 8.05 lists the responsibilities of the Division of the Treasury, essentially of handling the flow of money in and out of the city bank accounts.

Section 8.06 Receipt of Money

City departments and officers may receive and account for moneys paid to the city provided that:

- (a) each officer or department shall provide a receipt for all moneys received, and
- (b) all moneys collected by any other officer or department shall be deposited on a timely basis with the administrator of the Division of the Treasury.

Comment

This section sets up procedures for collecting and receipting money by other than the Division of the Treasury.

Section 8.07 Deposit and Investment

The Division of the Treasury shall be responsible for the deposit and investment of public moneys within the following limitations:

(a) The Division of the Treasury shall deposit all public moneys in its possession or under its control in a bank or savings and loan association. Such bank or savings and loan association shall be subject to state or national inspection and be designated by resolution of the Council;

(b) The Division of the Treasury may provide for investment of public moneys not necessary for immediate use by the city in any of the following manners:

1. in time or savings deposits with any insured bank;
2. in any of the securities enumerated in 79-311, RCM; or
3. in the state investment fund, as provided in 79-311, RCM.

(c) The following restrictions regarding securities apply:

1. No deposits of public moneys may be made in any bank or savings and loan association until the administrator of the Department of Finance Administration has approved securities as collateral to the extent that the deposit is in excess of the amount insured by federal law.

2. The administrator of the Department of Finance Administration shall approve as security only items enumerated in 79-307, RCM.

3. Securities for city deposits shall be delivered to the administrator of the Division of the Treasury, except that when negotiable securities are furnished, the securities may be placed in trust and the trustee's receipt may be accepted when the receipt is in favor of the city and the State of Montana. The state Department of Community Affairs shall approve the form for receipts, the quality of securities, and their release.

4. All negotiable securities must be properly assigned or endorsed in blank, unless payable to bearer.

5. The administrator of the Department of Finance Administration shall keep a record of securities and reapprove the securities at least quarterly.

6. Quarterly the administrator of the Department of Finance Administration shall report to the Council the securities accepted.

(d) Interest on city moneys invested shall be credited to the general account, except that interest on the proceeds of bonds and on moneys held in the debt service fund and in other trust and agency funds shall be credited to those funds. In the event that any such funds are combined in deposit accounts or investments with other funds, a proper portion of the income from such deposits and investments shall be

allocated to each such fund in proportion to the average amount of assets thereof deposited or invested during each fiscal year.

(e) When public moneys have been invested or deposited as provided, neither the administrator of the Department of Finance Administration, the administrator of the Division of the Treasury, nor the Council or its members shall be liable for any loss occasioned through causes other than their neglect, fraud, or dishonorable conduct.

(f) Interest requirements shall comply with 79-302, RCM.

Comment

Section 8.07 sets up rules for deposit and investment of city moneys. The Council maintains control of securities through approval procedures.

Section 8.08 Expenditures

The Division of the Treasury shall be responsible for the proper expenditure of appropriations within the following limitations:

(a) No contract, requisition, purchase order, or agreement requiring the payment of money may be made unless an appropriation appears in the budget for the current fiscal year (or has been authorized through bonds or a grant) and unless a sufficient unencumbered balance remains in the appropriation.

(b) All invoices shall be paid by the issuance of a warrant. The form of the warrant shall be approved by the Council.

(c) Prior to submission of invoices to the Division of the

Treasury, the officer or employee charged with administering that portion of the appropriation to which it is to be charged shall verify that goods or services were received.

(d) Warrants issued by the city shall be valid for only one calendar year from the date of issuance of the warrant. This shall not apply to registered warrants issued by the city.

(e) All warrants shall be signed and issued by the administrator of the Department of Finance Administration and countersigned by the Mayor.

(f) Warrants shall be paid in the following manner:

1. When any warrant is presented to the Administrator of the Division of the Treasury for payment and there are insufficient moneys in the account on which the warrant was drawn, the warrant shall be registered.

2. The administrator of the Division of the Treasury shall endorse on the warrant "not paid for insufficient moneys," the date of presentation, and his signature. From the date of presentation until it is called for payment, the warrant shall bear interest at a rate fixed by the administrator of the Department of Finance Administration.

3. The administrator of the Division of the Treasury shall record the date of presentation, the identification number, the date of the warrant, to whom payable, the fund on which drawn, and the amount of the warrant.

4. Registered warrants shall be paid in order of registration, and no subsequent warrants may be paid from the same fund unless all registered warrants are paid.

5. When there are sufficient moneys in the city treasury applicable to the payment of any registered warrants, the administrator of the Division of the Treasury shall give the payee or assignee notice by certified mail that he is ready to pay the registered warrants. From the time of notice the registered warrants will cease to draw interest.

6. Warrants issued for the payment of the city payroll shall be drawn by the administrator of the Division of the Treasury on the order of the Mayor.

7. The administrator of the Department of Finance Administration may by resolution enter into an agreement with a depository institution for the purchase of registered warrants at par, at an agreed upon interest rate not exceeding the contract usury rate provided by law. The rate may be related to the rate charged by the institution from time to time to prime commercial borrowers and may vary with that rate from month to month.

8. No warrant shall be required or issued for the payment, when due, of interest or principal of bonds or the charges of paying agents for bonds. Amounts sufficient for these payments shall be withdrawn from the debt service fund and transmitted by the administrator of the Division of the Treasury to the paying agent on or before the due dates.

9. Purchase orders are to be used for all city purchases except those made from petty cash. A purchase order may be issued by the Mayor or the city purchasing director.

(g) The administrator of the Division of the Treasury shall establish a petty cash fund for the purpose of paying incidental expenses as provided by ordinance. Each department shall provide the administrator of the Division of the Treasury with an accounting of the expenditures from the account on a monthly basis. The account may be replenished at the discretion of the administrator of the Division of the Treasury.

Comment

Section 8.08 sets up rules for purchasing and payment of warrants. Expenditures are limited to the amount of appropriations budgeted.

Section 8.09 Overspending of Budget Appropriations

Liabilities incurred in excess of the budget appropriations are not a liability of the city but of the official or employee making or incurring the expenditure, in an amount known by him to be in excess of the unencumbered balance of the appropriation against which it is drawn. Such person is liable personally and upon his official bond.

Comment

This section assigns responsibility for overspending budget appropriations to the employee or officer responsible. The person is personally liable. This section may be difficult to implement, since

financial records are usually inadequate or not up-to-date and responsibility for overspending may be difficult to pinpoint.

Section 8.10 Division of Central Services

The Division of Central Services shall be responsible for the proper maintenance of all inventories of equipment, materials and supplies, and for such purposes shall supervise the record-keeping and operation of any storing and warehousing facilities of the city. The Division shall develop a system for approving the disbursement of material, supplies, and equipment from stores, for physical control of same, and for keeping records of the same. The Division shall be responsible for purchasing, sales, office services, data processing and central record-keeping.

Comment

This section outlines the purpose and scope of the Division of Central Services.

Section 8.11 Purchasing

The administrator of the Division of Central Services shall be the city purchasing director and shall:

- (a) establish and maintain a central purchasing system;
- (b) establish and enforce standard specifications with respect to supplies, materials, equipment, and services;
- (c) inspect or supervise or otherwise provide for the inspection of all deliveries of supplies, materials, and equipment to see

that they conform to contract in respect to quality, quantity, or other terms;

(d) sell or lease supplies, obsolete or unused supplies, materials and equipment under such rules and regulations as may be established by the Council;

(e) prepare contracts to be signed by the Mayor as they relate to the buying, selling, or leasing of supplies, materials, equipment, and services; and

(f) prepare procedural regulations to implement the provisions of this section and submit such regulations to the Mayor for approval.

Comment

Section 8.11 lists the responsibilities of the administrator of the Division of Central Services as the purchasing director for the city.

Section 8.12 Restrictions on Purchasing Procedures

The Division of Central Services shall make all purchases of and contracts for supplies, materials, equipment, and services for the city within the following guidelines:

(a) The city may make direct purchases not exceeding \$5,000.

(b) The city may make purchases exceeding \$5,000 and not exceeding \$10,000 only after solicitation of bids.

(c) The city may make purchases of more than \$10,000

only after public bid.

(d) The city shall not circumvent the provisions of this section by dividing into several parts a purchase which constitutes an integral whole.

(e) The Council may by motion approve the purchase of an item or items of any kind from federal and state agencies and local governments.

(f) The director of purchasing may enter into an agreement with the State Department of Administration to utilize the services of the state purchasing bureau.

(g) A contract for the rental or lease of any item or items which provides that after a certain fixed amount has been paid on the contract, the item or items become the property of the city shall be considered a contract for the purchase of the item or items.

(h) Partial payments may be provided for in the contract and paid upon approval of the officer or employee of the city in charge of the project.

(i) A contract shall not be completed until the department administrator accepts all of the work required by the contract.

(j) All contracts shall contain the freedom from discrimination clause required by 64-319, RCM.

(k) Exempt purchases shall include: 1. employment of personnel; 2. legal, engineering, and other professional and technical

services; and 3. real estate.

Comment

Section 8.12 lists specific restrictions on purchasing procedures for the city. The restrictions are designed to allow city purchases at competitive prices and to prevent the use of city purchasing contracts as rewards to business firms. Exempt purchases are listed.

Section 8.13 Inventory of City Property

The administrator of the Division of Central Services shall annually conduct a physical inventory of the fixed assets of the city.

Comment

This section requires the administrator of the Division of Central Services to be responsible for an annual inventory of city property.

Section 8.14 Disposal or Lease of City Property

The Division of Central Services shall sell, lease, exchange, or otherwise dispose of any interest in either real or personal property acquired other than by tax deed, subject to the following limitations:

(a) The Council shall approve all sales, leases, exchanges or other dispositions of city property by resolution.

(b) If the property interest to be sold, leased, exchanged, or otherwise disposed of has an estimated value of more than \$500, the Council shall have the property appraised and give notice that bids will be accepted on the property.

(c) At the regular meeting of the Council following the

closing of bids, the Council shall examine the bids offered and order the property sold or leased to the highest or most responsible bidder (except that the Council may reject any or all bids).

(d) Parts (b) and (c) above shall not apply to a sale, lease, or exchange to or between the city and any political subdivision of the state, the state or federal agency or to a sale or exchange which is made as part of a contract to purchase similar property by the city or to a lease which is approved by a two-thirds vote of the entire Council.

(e) The Council shall not circumvent the provisions of this part by dividing into several sales any transaction which constitutes an integral whole.

(f) Proceeds from the sale, lease, or other disposition of property shall be credited to the accounts from which the property was purchased unless otherwise provided by ordinance.

Comment

Section 8.14 governs disposal of city property no longer needed. Authority to approve disposal of city property remains with the Council.

Section 8.15 Office Services

The Division of Central Services shall provide a variety of services to all city departments, including but not limited to central stores, mailing, printing, reproduction, microfilming, filing, and stenographic services. The Division of Central Services shall:

- (a) maintain and operate facilities for central mailing, collection, and disbursal of mail;
- (b) maintain and operate reproduction facilities;
- (c) disburse and transfer, upon receipt of properly executed forms, supplies, materials, and equipment in its custody among the city agencies;
- (d) maintain storage facilities and appropriate records for all materials, supplies, and equipment related to office use, including a record of the location of all office equipment, its condition and probable replacement date; and
- (e) coordinate service calls and repair work on office equipment used by all city departments.

Comment

Section 8.15 defines the scope of responsibilities of the Division of Central Services as related to providing office services to all city departments.

Section 8.16 Data Processing

The Division of Central Services shall provide data processing services as authorized by the Mayor. The Division shall provide the services or, where the services needed are beyond its capabilities, shall contract for services needed. The Division of Central Services shall be responsible for the operation of all city computers.

Comment

This section defines the scope of responsibilities of the Division of Central Services to provide data processing services to all city departments and designates the Division as in charge of all city computers and city use of data processing services. This section should allow coordination of department use of data processing services and facilities.

This entire article centralizes responsibilities for certain services which are common to all city departments. The services are those which some departments might be big enough to include, but which some departments would be too small to handle efficiently. The Division of Central Services would also provide coordination of procedures. There would be no need to require uniformity of procedures or services in all departments.

Article IX

Department of Planning and Zoning

Section 9.01 Administration

There shall be a Department of Planning and Zoning under the direction of an administrator appointed by the Mayor with the consent of the Council. The department administrator may also fill the position of one or more of the division administrators.

Comment

This section assigns responsibility for the department and to whom the department head is responsible. The second sentence makes it possible to have small departments without excessive numbers of administrators.

Section 9.02 Organization

The Department of Planning and Zoning shall be organized into the following divisions, each of which may be headed by a division administrator: Division of Planning and Division of Zoning.

Comment

This section defines the departmental organization.

Section 9.03 Responsibilities

The Department of Planning and Zoning shall be responsible for coordinating city development and planning efforts and for implementing all zoning regulations.

Comment

This section gives a general statement as to the department's goal or function. It includes an open-end statement of duties and responsibilities to maintain flexibility.

Section 9.04 Division of Planning and Development

The Division of Planning and Development shall represent the city on such local, regional, or state boards or committees as are deemed appropriate by the department administrator and the Mayor. The Division shall be responsible for originating programs to improve the economy of the city through innovative ideas, seeking development funds, and working with private interests and public agencies of all types. The Division shall:

- (a) give assistance to the Mayor in planning for the capital budget and capital improvement program and the preparation of all city plans and in writing all planning reports;
- (b) make surveys, analyses and reports of city departments as requested by the Mayor;
- (c) perform research concerning city programs with a view to obtaining all financial and technical assistance available through local, state, federal, and other revenue sources;
- (d) coordinate city development and planning efforts so that they are directed in a unified manner; and

(e) perform such other and related duties as shall be required or delegated by the Mayor.

Special programs relating to industrial development, manpower development, housing development, and small business development shall be assigned to the Division of Planning and Development except that the Mayor may elect to direct some programs out of his office.

Comment

Section 9.04 assigns to the Division of Planning and Development the responsibility for long-range planning for the community and for coordination of city planning efforts with those of other governmental units. The Division is also given charge of coordinating planning of the various city agencies and incorporating such plans into the city budget in the form of a budget for capital improvements. An important function of the Division would be to search out alternative funding sources for city projects.

Section 9.05 Division of Zoning

The Division of Zoning shall be responsible for implementing all zoning regulations, for making recommendations on zoning, and for granting variances to zoning laws. The Zoning Commission and Board of Adjustment shall function as parts of the Division of Zoning, and decisions made by these two boards shall be administered by the Division of Zoning.

Comment

This section gives a general description of the function of the Division of Zoning and specifies that the Zoning Commission and the Board of Adjustment shall function as parts of the Division.

Article X

Department of Public Works

Section 10.01 Administration

There shall be a Department of Public Works under the direction of an administrator appointed by the Mayor with the consent of the Council. The department administrator may also fill the position of one or more of the division administrators.

Comment

This section assigns responsibility for the department and to whom the department head is responsible. The second sentence makes it possible to have small departments without excessive numbers of administrators.

Section 10.02 Organization

The Department of Public Works shall be organized into the following divisions, each of which may be headed by a division administrator: Division of Engineering, Division of Transportation, and Division of the Environment.

Comment

This section defines the departmental organization.

Section 10.03 Responsibilities

The Department of Public Works shall be responsible for the physical facilities owned or leased by the city, including streets,

buildings, and grounds. Specific responsibilities shall include, but not be limited to, those listed in this article.

Comment

This section gives a general statement as to the department's goal or function. It includes an open-end statement of duties and responsibilities to maintain flexibility.

Section 10.04 Duties of the Administrator of Public Works

The administrator of the Department of Public Works or his designee:

(a) may, within the limits of the appropriations and when authorized by the Council, employ such special engineering, architectural or other technical counsel and incur such expenses as may be necessary for the performance of any of the duties prescribed by this code;

(b) may contract, subject to the approval of the Mayor and the Council, with any public corporation, public authority, or any combination of the same for public works services;

(c) shall assist the Mayor or purchasing agent in the advertising and calling for bids on the construction of any capital project of the city and in the preparations of specifications and shall submit his recommendations with respect to the awarding of such bids to the Mayor;

(d) shall assist, when requested, all city agencies in the preparation and development of information for their capital project requests;

(e) shall file with the Mayor copies of statements and reports required to be filed with the Council and the State Highway Department; and

(f) may, with the approval of the Mayor, contract for the rental of highway machinery, tools, equipment and implements (with or without operator) by the city or by or from another governmental unit or public corporation. All sums obtained by the city pursuant to such rental contracts shall be deposited in the city street fund.

Comment

Section 10.04 outlines the responsibilities of the Administrator of Public Works and in general gives him authority and responsibility to oversee engineering projects of the city. It recognizes the administrator as having expert knowledge of construction and requires that he assist other city agencies as requested or designated.

Section 10.05 Division of Engineering

The Division of Engineering shall be headed by an administrator who shall be licensed by the State of Montana to practice professional engineering or shall possess the qualifications to become so licensed and shall do so within one year from the date of his appointment. The administrator of the Division of Engineering shall:

(a) have charge and supervision of all personnel of the Department of Public Works, performing engineering, surveying, and related engineering services for the city;

(b) upon request of the administrator of the Department of Public Works, assign such personnel from the Division of Engineering as may be needed by other divisions of the Department to work on projects designated by such administrator;

(c) upon the request of the administrator of the Department of Public Works, perform such professional engineering, surveying, and related engineering services as may be required by other city agencies;

(d) supervise the design and construction of all capital projects when they are designed or constructed by the Department of Public Works, by any other city department, or by private contractor under contract to the city, or by any combination of such; and

(e) perform such other related duties and make reports as are required by the Public Works Administrator.

Comment

Section 10.05 is similar to 10.04 in that it gives recognition to the special knowledge of the administrator of the Division of Engineering and requires him to use such knowledge on behalf of all city departments needing engineering expertise. It also allows the administrator of the Division of Engineering to assign the division's engineers to other departments, as requested, but to retain administrative control of those employees.

Section 10.06 Division of Transportation

The Division of Transportation shall be headed by an administrator who shall possess the administrative and street engineering experience and qualifications for the duties of his office. The administrator, to the extent that the Administrator of Public Works designates, shall have all the powers and duties vested in and imposed by state law upon a city superintendent of streets. The administrator of the Division of Transportation shall be responsible for maintaining and operating transportation-related facilities for which the city is responsible. He shall have such other duties as may be prescribed by ordinance, by resolution of the Council, or by the Public Works Administrator.

Comment

This section defines the responsibilities of the Division of Transportation and gives the administrator the task of maintaining city streets and transportation-related facilities.

Section 10.07 Division of the Environment

The Division of the Environment shall be headed by an administrator who shall be responsible for coordinating all city interests in drainage, flood control, air pollution, sanitation, sewerage, water supply, and solid waste management, including the management of such related facilities as designated by the Mayor.

Comment

This section places the Division of the Environment in

charge of looking after the city's interests in a variety of environmental matters and of operating related facilities.

Section 10.08 Delegation of Duties

The Administrator of Public Works may delegate to one or more persons within his department the specific powers and duties of a city engineer or city superintendent of streets. Such delegation, setting forth the specific powers and duties granted, shall be filed with the Mayor and Council. The acts performed by such persons pursuant to such delegation shall have the same effect in law as if performed by the Administrator of the Department of Public Works. Any professional engineering duties required of the Administrator by law shall be delegated to one or more licensed professional engineers unless the Administrator shall be a licensed professional engineer. State law defining the powers or duties of a city superintendent of streets shall apply to the Administrator of the Department of Public Works or his designated deputy.

Comment

This section lists the restrictions on delegating responsibilities within the Division by the administrator. This is to ensure that certain functions defined by state law will be carried out by qualified people.

Article XI

Department of Health, Recreation, and Library

Section 11.01 Administration

There shall be a Department of Health, Recreation, and Library under the direction of an administrator appointed by the Mayor with the consent of the Council. The department administrator may also fill the position of one or more of the division administrators.

Comment

This section assigns responsibility for the department and to whom the department head is responsible. The second sentence makes it possible to have small departments without excessive numbers of administrators.

Section 11.02 Organization

The Department of Health, Recreation, and Library shall be organized into the following divisions, each of which may be headed by a division administrator: Division of Health, Division of Parks and Recreation, and Division of Library.

Comment

This section defines the departmental organization.

Section 11.03 Responsibilities

The Department of Health, Recreation, and Library shall be responsible for the maintenance of public health and sanitation,

developing parks and recreation programs, and maintaining a city library. Specific responsibilities shall include, but not be limited to, those listed in this article.

Comment

This section gives a general statement as to the department's goal or function. It includes an open-end statement of duties and responsibilities to maintain flexibility.

Section 11.04 Division of Health

The Division of Health shall be responsible for enforcing city ordinances related to public health and sanitation, regulations of the Missoula City-County Board of Health, and orders of the Health Officer. The Division of Health shall represent the city in coordinating work with the City-County Health Department.

Comment

This section provides an administrative home for the public health responsibilities of the city. Since there is a City-County Health Department, this Division may be best represented by a single person, perhaps the administrator of the Department, who will see that the city's interests and responsibilities are being met in the area of public health.

Section 11.05 Division of Parks and Recreation

The Division of Parks and Recreation shall be responsible for developing parks and programs of recreation for the city and for

developing and maintaining facilities for such recreation programs. The Division shall be headed by an administrator who shall be advised by a Parks and Recreation Board. The Parks and Recreation Board shall have advisory powers.

Comment

This section gives the general scope of the work of the Division of Parks and Recreation and assigns the Parks and Recreation Board as an advisory board to the Division administrator. This is in line with the chosen policy of centralized administrative powers and strong department administrators.

Section 11.06 Division of Library

The Division of Library shall be responsible for providing library services within the city. The city library shall be headed by an administrator appointed by a Board of Library Trustees. The Board of Library Trustees, established in conjunction with Missoula County, shall possess administrative powers over the library as described in Article V of this code.

Comment

This section specifies that the Division of Library is responsible for city library services and that the Board of Library Trustees shall function as the administrative head of the Division. The choice of leaving the Board of Library Trustees as an administrative board was made

because of the contractual arrangements with the County government for library services for the community as a whole.

This department, as the Department of Health, Recreation and Library, brings together smaller city agencies into one unit in order to eliminate having several small departments under the direct supervision of the Mayor. These three agencies are joined into one department because they contribute social services.

Article XII

Department of Law

Section 12.01 Administration

There shall be a Department of Law under the direction of an administrator appointed by the Mayor with the consent of the Council. The department administrator may also fill the position of one or more of the division administrators.

Comment

This section assigns responsibility for the department and to whom the department head is responsible. The second sentence makes it possible to have small departments without excessive numbers of administrators.

Section 12.02 Organization

The Department of Law shall be organized into the following divisions, each of which may be headed by a division administrator: Division of Legal Services and Division of Judicial Services.

Comment

This section defines the departmental organization.

Section 12.03 Responsibilities

The Department of Law shall be responsible for providing legal services to all administrative units of the city and to the Council,

for preparing supplements to the City Code, and for providing judicial services through a Municipal Court. Specific responsibilities shall include, but not be limited to, those listed in this article.

Comment

This section gives a general statement as to the department's goal or function. It includes an open-end statement of duties and responsibilities to maintain flexibility.

Section 12.04 Division of Legal Services

The Division of Legal Services shall be headed by the City Attorney who shall:

(a) be the sole legal advisor for and represent the city and every agency in city matters of a civil nature;

(b) advise and represent all city officers and employees in relation to their official duties and, when in the interest of the city, prepare all related papers and written instruments needed;

(c) prosecute or defend all actions or proceedings of a civil or criminal nature brought by or against the city;

(d) when authorized by the Mayor or Council, prosecute or defend all proceedings of a civil nature brought by or against the Council, any city officers, or city employee for any official act;

(e) on request, prepare resolutions, ordinances, notices and other such items for the city; and

(f) perform such other related duties as may be prescribed by law, by the Mayor, or by ordinance or resolution of the Council.

Comment

Section 12.04 lists the specific responsibilities of the City Attorney as administrator of the Division of Legal Services. This listing indicates how the City Attorney will assist all officers, employees, and units of the city government. Part (a) ensures that all requests for legal aid for the city will be channeled through the City Attorney rather than be independently recruited by department administrators, boards, or the Council.

Section 12.05 Assistance

The City Attorney may, within the limits of the appropriations provided, employ special counsel, professional, technical, or other consultant services, and incur such related expenses as he may deem necessary for the performances of his duties.

Comment

This section gives the City Attorney considerable latitude, within budget limits, of hiring help as needed to perform the tasks assigned to him.

Section 12.06 Delegation of Duties

The City Attorney shall appoint such Deputy City Attorneys as are provided for in his budget, and shall delegate to them specific

duties. Every appointment of a deputy shall be in writing and shall be filed with the Mayor and Council. Any such appointment may be revoked by the City Attorney at any time by filing a written revocation with the Mayor and the Council. If more than one deputy is appointed, the City Attorney shall designate in writing and file with the Mayor and Council the order in which they may exercise the powers and duties of the City Attorney in his absence.

Comment

This section indicates that delegation of duties is expected but that such delegation be done in an orderly and known way. Such written delegation of powers should eliminate much uncertainty and friction in legal cases.

Section 12.07 Assignment of Attorneys

Where the nature of the work is so specialized or the work load so great that it is necessary to assign attorneys to work full-time with a city department, the City Attorney shall retain administrative control of such personnel.

Comment

This section makes it possible for a unit of the city to have some specialized legal counsel working within the department. The hiring, supervision and firing are retained by the City Attorney, who should be the best qualified to judge the person's quality of work.

Section 12.08 City Code

The City Attorney shall prepare annually a supplement to the City Code which shall indicate all additions, repeals, and amendments of the Code.

Comment

This section gives the City Attorney responsibility for keeping the City Code up to date.

Section 12.09 Annual Report

On or before August 1 of each year, the City Attorney shall make an annual written report for the immediately preceding fiscal year, summarizing the work of his office. Copies of the report shall be filed with the Mayor and Council.

Comment

This section provides a means for the Mayor and Council to know of the city's legal activities during the year.

Section 12.10 Division of Judicial Services

The Division of Judicial Services shall include a Municipal Court which shall hear and determine all cases instituted under the ordinances of the city. The judge of the Municipal Court shall be elected as provided in 11-17, RCM. The Municipal Court shall keep a record of all cases instituted in the Court, their disposition, and the amount of all fines and costs collected.

Comment

This section defines the function of the Municipal Court.

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