LC 0330/01

INTRODUCED BY Jahnen BILL NO. 247 1 2 3 A BILL FOR AN ACT ENTITLED: MAN ACT TO GENERALLY REVISE AND 4 5 CLARIFY THE LAWS RELATING TO MUNICIPAL COURTS; TO CHANGE THE POPULATION REQUIREMENT FOR CITIES ADDPTING MUNICIPAL COURTS -5 7 FRUM 20+000 TO 10+000: TO PROVIDE THAT MUNICIPAL COURT R JUDGES BE ELECTED EVERY FOUR YEARS; TO PROVIDE 9 QUALIFICATIONS FOR AND RESTRICTIONS ON MUNICIPAL COURT 10 JUDGES; TO PROVIDE THAT THE CITY PROVIDE THE FACILITIES FOR 11 THE COURT; TO PRESCRIBE THE SESSIONS OF THE COURT; AND TO PRESCRIBE THE AMOUNT AND DISPOSITION OF FINES IN THE COURT; 12 AMENDING SECTIONS 11-1701, 11-1703, 11-1704, 11-1705, 13 11-1708. 11-1710. 11-1711. AND 11-1718. R.C.M. 1947; 14 REPEALING SECTION 11-1709, R.C.M. 1947." 15 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 17 18 Section 1. Section 11-1701+ R.C.M. 1947, is amended to read as follows: 19

*11-1701. Hunicipal--courts-cities---where-creation
authorized--adoption-of-provisions-concerning Establishment
of_municipal_court. (1) There-is-hereby-created-in-all All
cities in the state of Montana with a population of twenty
thousand--(20,000) 10,000 or more persons, according to the
last federal census, shall have a court to--be known end

INTRODUCED BILL

1 designated as the municipal court of the city of 2 (designating the name of the city) of the state of Montana. 3 Such The court shall be a court of record:. 121 providedy-howevery-that-the Ine provisions of this 4 5 set--shall chapter apply only after the governing body or 5 council of such the city or-cities-shall-have has elected by a two-thirds majority vote to adopt the--provisions--hereof 7 8 them by ordinance and, in said the ordinance, shall-have has 9 provided the manner ofy in which and time at-whichy when 10 said the municipal court shall is to be established. Said 11 The ordinance shall must be consistent with the provisions 12 of this act chapter." 13 Section 2. Section 11-1703, R.C.M. 1947, is amended to 14 read as follows: 15 "11-1703. Election of judges -- term of office. (1) 16 There One judge of each municipal court shall be elected at 17 the general city election in-the-year--1936--in--all--cities 18 with--a-population-of-twenty-thousand-(20,000)-and-overy-one 19 judge-of-municipal-courty-The-term-of-such-judge-so--elected shall--commence--on--the--first--Monday--in--Hayy--1936y-and 20 21 terminate-on-the-first--Monday--in--Mayy--1938*--Thereaftery 22 judges--of--municipal-courts-shall-be-elected-at-the-general city-elections-in-all-even-numbered-years. The judge's term 23 24 shall_commence_on_the_first_Monday_in_May_following_the 25 election. Such-judges The judge shall hold office for the

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term of two 4 years from-the-first-Monday-of-May-in-the-year
 in--which--they-are-elected and until their his successor is
 elected and gualified.

4 <u>(2)</u> All elections of municipal judges shall--be--under 5 and are governed by the laws applicable to the election of 6 city officials, except that the names name of candidates a 7 <u>candidate</u> for municipal judge shall be placed on the ballot 8 to-be-used at-such-election without any party designation or 9 any statement, measure, or principle which the candidate 10 advocates or any slogan after his name."

Section 3. Section 11-1704, R.C.N. 1947, is amended to read as follows:

13 "11-1704. Qualifications and salary. Municipal-judges 14 shall A municipal court judge must have the same 15 qualifications as judges a judge of the a district court, as 16 set_forth_in_Article_VII. section 9. of the 1972 Montana 17 constitution, except that a municipal court judge need only 18 be admitted to the practice of law in Montana for at least 2 19 years prior to the date of appointment or election. and A 20 municipal court judge must be a resident and voter in the 21 city for in which he is elected at the time of his election. 22 (2) The salary of such-judges the municipal court 23 judge shall be set by city ordinance and shall be payable 24 monthly by the city treasurer of-the-city-in-which-such 25 court-is."

Section 4. There is a new R.C.M. section that reads as
 follows:
 Restrictions on municipal court judges. No municipal

4 court judge may practice law or hold office in a political 5 party during his term of office.

Section 5. Section 11-1705, R.C.M. 1947, is amended to
read as follows:

8 "11-1705. Courtroom and supplies. A room for such the 9 <u>municipal</u> court, with necessary furniture, fixtures, and 10 supplies, shall be provided by the county <u>city</u> wherein said 11 city the court is located."

Section 6. Section 11-1708, R.C.M. 1947, is amended to
 read as follows:

"11-1708. Sessions of the court. Such The municipal 14 15 court shall be in continuous session from $\frac{10+00}{-0}$ 16 a.m. to 4+00--ofeleck 12 noon and from 1 p.m. to 4 p.m. on every judicial day or-such-other-hours-as-the-judge--thereof 17 may--designatey--except--thaty--during--the--time--when--the 18 district-court-of-the-county-in-which-said--municipal--court 19 is--located--is--in--sessiony-the-municipal-judge-may-in-his 20 discretion-suspend-court except noniudicial days. The judge 21 22 may designate additional hours as her in his discretions 23 sees fit." 24 • Section 7. Section 11-1710, R.C.M. 1947, is amended to

25 read as follows:

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 "11-1710. Summons -- time for answer. Summons in municipal court shall be signed by the clerk and shall conform as-mear-as-may--be to the provisions of section 93-3003 <u>MaReCivePer. Rules 4 and 12(a)</u>, except that the time for answering shall-be is ten 10 daysy-instead-of-twenty."
 Section 3. Section 11-1711, ReC.M. 1947, is amended to read as follows:

8 "11-1711. Practice--reply Applicability of rules for justices' courts -- reply to counterclaim or new matter. (1) 9 10 The provisions of sections 93-6901 to through 93-7405 inclusivey and sections 93-7701 to through 93-7714y 11 inclusivey are hereby--adopted--and--made applicable to 12 prectice-and-procedure-in municipal court courts, except 13 where when the same they are repugnant to inconsistent with 14 15 the provisions of this act chapters, The the words "Municipal--Court" "municipal court" being substituted for 15 17 justice courty and "judge" for justice of the peace where the-some-appears-in-said-chapters. 19

19 <u>(2)</u> Where <u>Hhenever</u> the answer contains a counterclaim 20 or any new matter, the plaintiffy--if-he-does--not-demury 21 shall within five <u>5</u> days after the service and filing of tha 22 answery reply to such the counterclaim or new matter in the 23 manner and form provided for in section-93-360t <u>M_RecivePat</u> 24 <u>Rules 7(a), 6(e)(2), and 10(b).</u>

25 Section 9. Section 11-1718, R.C.M. 1947, is amended to

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1 read as follows:

11-1718. Fees and fines. The fees and fines in municipal court shall be the same as the fees and fines provided by law for justice.justice.s court, and all fees and fines collected by such the court shall be paid into the city treasury.*

7 Section 10. Repealer. Section 11-1709, R.C.M. 1947, is
8 repealed.

~End-

Approved by Comm. on Local Government

1	HOUSE BILL ND. 247
2	INTRODUCED BY PALMER
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS RELATING TO MUNICIPAL COURTS; TO CHANGE THE
6	POPULATION REQUIREMENT FOR CITIES ADOPTING MUNICIPAL COURTS
7	FROM 20,000 TO 10,000; TO PROVIDE THAT MUNICIPAL COURT
6	JUDGES BE ELECTED EVERY FOUR YEARS; TO PROVIDE
9	QUALIFICATIONS FOR AND RESTRICTIONS ON MUNICIPAL COURT
10	JUDGES; TO PROVIDE THAT THE CITY PROVIDE THE FACILITIES FOR
11	THE COURT; TO PRESCRIBE THE SESSIONS OF THE COURT; AND TO
12	PRESCRIBE THE AMOUNT AND DISPOSITION OF FINES IN THE COURT;
13	AMENDING SECTIONS 11-1701, 11-1703, 11-1704, 11-1705,
14	11-1708, 11-1710, 11-1711, AND <u>11-1717,</u> 11-1718, AND <u>93-102,</u>
15	R.C.M. 1947; REPEALING SECTION 11-1709, R.C.M. 1947.™
16	

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 18 Section 1. Section 11-1701, R.C.M. 1947, is amended to 19 read as follows:

*11-1701. Municipal--courts--cities--where--creation
authorized--adoption--of-provisions-concerning Establishment
of municipal court. (1) There-is-hereby-created-in--all All
cities in the state of Montana with a population of twenty
thousend-(20,000) 10:000 or more persons, according to the
last federal census, shall MAY have a court to-be known and

SECOND READING

designated as the municipal court of the city of
 (designating the name of the city) of the state of Montana.
 Such The court shall be a court of record.

4 (2) providedy-howevery-that-the Ine provisions of this act-shall chapter apply only after the governing body or 5 6 council of such the city or-cities-shall-have has elected by 7 a two-thirds majority vote to adopt the provisions hereof 8 thes by ordinance and, in soid the ordinance, shall-have has q provided the manner of in which and time at--which when 10 said the municipal court shall is to be established. Said 11 Ine ordinance shall must be consistent with the provisions 12 of this act chapter."

Section 2. Section 11-1703, R.C.M. 1947, is amended to
read as follows:

15 *11-1703. Election of judges -- term of office. (1) 16 There Une_judge of each municipal court shall be elected at 17 the general city election in-the-year-1936-in-all-cities 18 with-a-population-of-twenty-thousand-(20,000)-and-overy--one 19 judge--of-municipal-courty-The-term-of-such-iudge-so-elected 20 shall-commence--on--the--first--Monday--in--Hayy--1936y--and 21 terminate--on--the--first--Monday--in-Hayy-1938--Thereaftery 22 judges-of-municipal-courts-shall-be-elected-at--the--general city--elections-in-all-even-numbered-years. Inc. judge's term 23 24 shall commence on the first Monday in May following the 25 election. Such-judges The judge shall hold office for the

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term of two 4 years from the first-Monday-of-May-in-the-year
 in-which-they-are-elected and until their his successor is
 elected and qualified.
 4 [2] All elections of municipal judges shall-be-under

5 and <u>are</u> governed by the laws applicable to the election of 6 city officials, except that the nomes <u>name</u> of condidates <u>a</u> 7 <u>candidate</u> for municipal judge shall be placed on the ballot 8 to-be-used-ot-such-election without any party designation or 9 any statement, measure<u>s</u> or principle which the candidate 10 advocates or any slogan after his name."

Section 3. Section 11-1704, R.C.M. 1947, is amended to read as follows:

13 "11-1704. Qualifications and salary. Hunicipal--judges shall A municipal court judge must have the same 14 15 qualifications as judges a judge of the a district court as set forth in Article VII, section 9, of the 1972 Montana 16 17 constitution. except that a municipal court judge need only 18 be admitted to the practice of law in Montana for at least 2 19 years prior to the date of appointment or election. and A municipal, court judge must be a resident and voter in the 20 21 city for in which he is elected at the time of his election. 22 12) The salary of such--judges the municipal court 23 judge shall be set by city ordinance and shall be payable 24 monthly by the city treasurer of--the--city--in--which--such 25 court-is."

Section 4. There is a new R.C.M. section that reads as 1 ż follows: Restrictions on municipal court judges. No municipal 3 court judge may practice law or hold office in a political 4 party during his term of office. 5 Section 5. Section 11-1705, R.C.M. 1947, is amended to 6 read as follows: 7 #11-1705. Courtroom and supplies. A room for such the 8 nunicipal court, with necessary furniture, fixtures, and 9 supplies, shall be provided by the county city wherein said 10 city the court is located." 11 12 Section 6. Section 11-1708, R.C.M. 1947, is amended to 13 read as follows: 14 #11-1708. Sessions of the court. Such The municipal court shall be in continuous session from 10+00-o*clock 2 15 16 a.m. to 4+98-e*eteck 12 noon and from 1 p.m. to 4 p.m. on 17 every indicial day or-such-other-hours-as-the-judge-thereof may--designatey--except--thaty--during--the--time--when--the 18 district--court--of-the-county-in-which-said-sunicipal-court 19 20 is-located-is-in-session-the-municipal--iudge-may--in-his discretion--suspend-court except noniudicial days. The judge 21 22 may designate additional hours as her in his discretion: 23 sees_fit." 24 Section 7. Section 11-1710. R.C.M. 1947, is amended to

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25

read as follows:

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 *11-1710. Summons -- time for answer. Summons in municipal court shall be signed by the clerk and shall conform <u>es-near-as-may-be</u> to the provisions of section 93-3003 <u>MaRaCivePae Rules 4</u> and 12(a), except that the time for answering shall-be is ten 10 days, instead of twenty.
 Section 8. Section 11-1711, RaC.M. 1947, is amended to read as follows:

#11-1711. Practice--reply Applicability of rules for ø 9 justices courts -- reply to counterclaim or new matter. (1) The provisions of sections 93-6901 to through 93-7405 10 11 inclusivey and sections 93-7701 to through 93-7714y inclusivey are hereby--adopted-and-made applicable to 12 13 practice--and--procedure--in municipal court courts, except where when the same they are repugnant to inconsistent with 14 15 the provisions of this eet chapters. The the words 15 "Municipal-Court" "municipal court" being substituted for 17 justice courty and "judge" for justice of the peace where 18 the-same-appears-in-said-chapters.

19 (2) Where Whenever the answer contains a counterclaim 20 or any new matter, the plaintiffy-if-he-does-not-demury 21 shall within five 5 days after the service and filing of the 22 answery reply to such the counterclaim or new matter in the 23 manner and form provided for in section 93-3601 MaRaCivaPar 24 Rules 7(a), 8(e)(2), and 10(b).**

25 SECTION 9. SECTION 11-1717, R.C.M. 1947, IS AMENDED TO

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1 READ AS EDLLOWS:

2	"11-1717. Appeals. An-appeal-shall-lis-to-the-district
3	courtofthecountyinwhichthemunicipalcourtis
4	establishedasfroma-judgment-of-justice-court-or-police
5	court,-ond-the-provisions-of-law-applicable-to-suchappeals
6	shallapplyandareherebyad opt edsWhen-the-amount-in
7	controversy-is-less-than-one-hundred-{\$100+00}-dollars-there
8	shall-be-no-appealy-unless-the-municipal-judge-shall-certify
9	that-s-doubtful-question-of -law-isinvolveduponwhichs
10	finoldecisionisdesirable. [1] <u>A party may appeal to</u>
11	district court from a judgment of municipal court.
12	(2) Appeal from a municipal court may be limited by
13	requiring by ordinance that a minimum amount in controversy.
14	not to exceed \$200, be met before the district court has
15	jurisdiction to hear the appeal, except:
16	(a) if the judgment of the municipal court includes
17	incarceration no minimum amount in controversy shall be
18	required for appeals and
19	(b) upon petition by an aggrieved party the district
20	<u>court may: in the interests of justice, accept appeal</u>
Z 1	jurisdiction_notwithstanding_the_amount_in_controversy.
22	(3) The municipal court shall establish rules for
23	appeal to district court. The rules are subject to supreme
24	court's rule-making and supervisory authority."
25	Section 10. Section 11-1718, R.C.M. 1947, is amended

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1	to read as follows:
2	"11-1718. Fees <u>and fines</u> . The fees <u>and fines</u> in
3	municipal court shall be the same as the fees <u>and fines</u>
4	provided by law for justice justice!s court, and all fees
5	and fines collected by such the court shall be paid into the
б	city treasury."
7	SECTION 11. SECTION 93-102. R.C.M. 1947, IS AMENDED TO
8	READ_AS_FOLLOWS:
4	<pre>"93-102. Courts of record. Thecourtsenumeratedin</pre>
10	thefirst-three-subdivisions-of-the-last-preceding-sectiony
11	and-only-those-courtsy-are-courts-of-recordy <u>The court of</u>
12	impeachment, the supreme court, the district courts, and
13	<pre>municipal courts_of_record_are courts_of_record_*</pre>
14	Section 12. Repealer. Section 11-1709, R.C.M. 1947, is
15	repealed.

-End-

H9 247

1 HOUSE BILL NO. 247 1 designated as the municipal court of the city of INTRODUCED BY PALMER 2 Ż (designating the name of the city) of the state of Montana. 3 3 Such The court shall be a court of record+. A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 4 4 (2) providedy-howevery-that-the The provisions of this CLARIFY THE LAWS RELATING TO MUNICIPAL COURTS: TO CHANGE THE 5 ō act-shall chapter apply only after the governing body or POPULATION REQUIREMENT FOR CITIES ADOPTING MUNICIPAL COURTS 6 6 council of such the city or-cities-shall-have has elected by FROM 20+000 TO 10+000; TO PROVIDE THAT MUNICIPAL COURT 7 7 a two-thirds majority vote to adopt the provisions-hereof JUDGES BE ELECTED EVERY FOUR YEARS: TO PROVIDE з 8 then by ordinance and, in said the ordinance, shall-have has 9 QUALIFICATIONS FOR AND RESTRICTIONS ON MUNICIPAL COURT 9 provided the manner of <u>in which</u> and time at--which when JUDGES; TO PROVIDE THAT THE CITY PROVIDE THE FACILITIES FOR 10 10 said the municipal court shall is to be established. Said 11 THE COURT: TO PRESCRIBE THE SESSIONS OF THE COURT: AND TO 11 The ordinance shall must be consistent with the provisions PRESCRIBE THE AMOUNT AND DISPOSITION OF FINES IN THE COURT; 12 12 of this act chapter." AMENDING SECTIONS 11-1701, 11-1703, 11-1704, 11-1705, 13 13 Section 2. Section 11-1703, R.C.N. 1947, is amended to 11-1708, 11-1710, 11-1711, AND 11-1717, 11-1718, AND 93-102. 14 14 read as follows: R.C.M. 1947; REPEALING SECTION 11-1709, R.C.M. 1947. 15 15 *11-1703. Election of judges -- term of office. (1) 16 16 There Une judge of each municipal court shall be elected at BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 17 the general city election in-the-year-1936-in-all-cities 17 18 Section 1. Section 11-1701, R.C.M. 1947, is amended to 18 with-a-population-of-twenty-thousand-(28,000)-and-overy--one read as follows: 19 19 indge--of-municipal-courty-The-term-of-such-indge-so-elected shall-commence--on--the--first--Monday--in--Mayv--1936y--and 29 20 *11-1701. Municipal--courts--cities---where--creation 21 authorized--adoption--of-provisions-concerning Establishment 21 terminate--on--the--first--Monday--in-Mayy-1938*-Thereaftery 22 of municipal court. (1) There-is-hereby-created-in--all All 22 judges-of-municipal-courts-shall-be-elected-at--the--general 23 cities in the state of Montana with a population of twenty 23 city--elections-in-all-even-numbered-years. Ihe judge's term 24 thesand-f20y000; 10,000 or more persons, according to the 24 shall commence on the first Nonday in May following the 25 last federal census, shall MAY have a court to-be known and 25 election. Such-judges The judge shall hold office for the

THIRD READING

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term of two 4 years from the first-Monday-of-May-in-the-year
 in-which-they-are-elected and until their his successor is
 elected and qualified.

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4 <u>121</u> All elections of municipal judges shall-be-under 5 and <u>are</u> governed by the laws applicable to the election of 6 city officials: except that the names name of condidates <u>a</u> 7 <u>candidate</u> for municipal judge shall be placed on the ballot 8 to-be-used-at-such-election without any party designation or 9 any statement, measure, or principle which the candidate 10 advocates or any slogan after his name."

Section 3. Section 11-1704, R.C.M. 1947, is amended to read as follows:

*11-1704. Qualifications and salary. Municipal--judges 13 14 shall A municipal court judge must have the same qualifications as judges a judge of the a district court, as 15 16 set forth in Article VII. section 9. of the 1972 Montana 17 constitution, except that a municipal court judge need only 18 be admitted to the practice of law in Montana for at least 2 19 years prior to the date of appointment or election. and A 20 municipal court indee must be a resident and voter in the 21 city for in which he is elected at the time of his election. 22 (2) The salary of such--judges the municipal court 23 iudge shall be set by city ordinance and shall be payable monthly by the city treasurer of--the--city--in--which--such 24 25 court-is."

Section 4. There is a new R.C.N. section that reads as
 follows:

Restrictions on municipal court judges. No municipal
court judge may practice law or hold office in a political
party during his term of office.

Section 5. Section 11-1705, R.C.M. 1947, is amended to
 read as follows:

*11-1705. Courtroom and supplies. A room for such the
 <u>municipal</u> court, with necessary furniture, fixtures, and
 supplies, shall be provided by the county <u>city</u> wherein said
 eity the court is located."

12 Section 6. Section 11-1708, R.C.M. 1947, is amended to 13 read as follows:

14 "11-1708. Sessions of the court. Such The municipal 15 court shall be in continuous session from 10+00-o*clock 2 16 a.m. to 4+00-otelock 12 noon and from 1 p.m. to 4 pems on every judicial day or-such-other-hours-as-the-judge-thereof 17 may--designatey--except--thaty--during--the--time--when--the 18 district--court-of-the-county-in-which-said-municipal-court 19 is-located-is-in-sessiony-the-municipal--judge--may--in--his 20 discretion--suspend-court except noniudicial days. The judge 21 22 may designate additional hours as her in his discretion: 23 sees_fit." Section 7. Section 11-1710, R.C.M. 1947, is amended to 24 read as follows: 25

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1 "11-1710. Summons -- time for answer. Summons in 2 municipal court shall be signed by the clerk and shall 3 conform as-near-as-may-be to the provisions of section 4 93-3003 MaRaCivePar Rules 4 and 12(a), except that the time 5 for answering shall-be is ten 10 daysy-instead-of-twenty." 6 Section 8. Section 11-1711, R=C.M. 1947, is amended to 7 read as follows:

#11-1711. Practice-reply Applicability of rules for ð justices' courts -- reply to counterclaim or new matter. (1) 9 10 The provisions of sections 93-6901 to through 93-7405 inclusivey and sections 93-7701 to through 93-7714* 11 inclusivey are hereby--adopted--and--made applicable to 12 practice--and--procedure--in municipal court courts, except 13 where when the same they are repugnant to inconsistent with 14 the provisions of this oct chapters. The the words 15 "Hunicipal-Court" "municipal court" being substituted for 15 justice courty and "judge" for justice of the peace where 17 the-same-appears-in-said-chapters. 18

19 (2) Where Whenever the answer contains a counterclaim
20 or any new matter, the plaintiffy-if-he-does-not-demury
21 shall within five 5 days after the service and filing of the
22 answery reply to such the counterclaim or new matter in the
23 manner and form provided for in section-93-3601 MaRaCivaPas
24 Rules 7(a), 8(e)(2), and 10(b).**

2> <u>SECTION 9. SECTION 11-1717, R.C.M. 1947, IS AMENDED TO</u>

READ AS FOLLOWS:

1

2	"11-1717. Appeals. An-appeal-shall-lie-to-the-district
£	courtofthecountyinwhichthemunicipalcourtis
4	establishedasfroma-judgment-of-justice-court-or-police
5	courty-and-the-provisions-of-law-applicable-ta-suchappeals
6	shallspplyandareherebyadoptedwWhen-the-smount-in
1	controversy-is-less-than-one-hundred-(\$100+00}-dollars-there
8	shall-be-no-appealy-unless-the-municipal-judge-shall-certify
9	that-a-doubtful-question-of-lax-isinvolveduponwhiche
10	finaldecisionisdesirablev (1) <u>A party may appeal to</u>
11	district court from a judgment of municipal court.
12	(2) Appeal from a municipal court may be limited by
13	requiring by ordinance that a minimum amount in controversy.
14	not to exceed \$200, be met before the district court has
14 15	not to exceed \$200, be met before the district court has jurisdiction to bear the appeal, except:
15	jurisdiction to hear the appeal, except:
15 16	jurisdiction to hear the appeal, except: (a)_ if the judgment of the municipal_court_includes
15 16 17	jurisdiction to hear the appeal, except: (a)if_thejudgment_of_themunicipalcourtincludes incarcerationnominimumamountincontroversy_shall_be
15 16 17 18	jurisdiction to hear the appeal, except: (a)_ if the judgment of the municipal_court_includes incarceration_no_minimum_amount_in_controversy_shall_be required for appeal, and
15 16 17 18 19	jurisdiction to hear the appeal, except: (a)if_the_judgment_of_themunicipalcourtincludes incarcerationnominimumamountincontroversy_shall_be required_for_appeal, and (b)upon_petition_by_an_aggrieved_partythedistrict
15 16 17 18 19 20	<pre>jurisdiction to hear the appeal. except: (a)if_the judgment of themunicipalcourtincludes incarcerationnominimumamountincontroversy_shall_be required for appeal. and (b)upon_petition_by_an_aggrieved_partythedistrict courtmayintheinterestsofjusticeaccept_appeal</pre>
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1	to read as follows:
2	"11-1718. Fees <u>and fines</u> . The fees <u>and fines</u> in
3	municipal court shall be the same as the fees and fines
4	provided by law for justice justice's court, and all fees
5	and fines collected by such the court shall be paid into the
6	city treasury."
7	SECTION 11. SECTION 93-102. R.C.M. 1947. IS AMENDED TO
8	READ_AS_FOLLOWS:
9	"93-102。 Courts of record. The courts-enumerated-in
10	thefirst-three-subdivisions-of-the-last-preceding-sectiony
11	and-only-those-courtsy-are-courts-of-records Ine_court_of
12	impeachment. the supreme court, the district courts. and
13	municipal courts of record are courts of record."
14	Section 12. Repeater. Section 11-1709, R.C.M. 1947, is
15	repealed.

-End-

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March 25, 1977

STANDING COMMITTEE REPORT Senate Committee on Judiciary

 Amend title, line 15. Following: "1947" Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"
 Amend page 2, section 1, line 10. Following: "established" Insert: "and shall assume continuing jurisdiction over all pending city court cases"
 Amend page 6, section 9, line 17. Following: "controversy" Strike: "shall" Insert: "may"
 Amend page 6, section 9, line 18. pollowing: "appeal" Strike: "."

That House Bill No. 247 be amended as follows:

5. Amend page 6, section 9, line 23. Following: "subject to" Insert: "the"

"'

Insert:

6. Amend page 7, section 10, line 4.
Following: "law"
Strike: "for justice's court"
Insert: "or ordinance"

7. Amend page 7, section 11, line 13. Following: line 12 Insert: "the" Following: "<u>municipal courts</u>" Strike: "<u>of record</u>"

8. Amend page 7, section 12, line 15. Following: line 15 Insert: "Section 13. Effective date. This act is effective on its passage and approval." HS 0247/03

1	HOUSE BILL NO. 247	1	last federal census, shall MAY have a court to be known and
2	INTRODUCED BY PALMER	2	designeted as the municipal court of the city of
3		3	(designating the name of the city) of the state of Montana.
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND	4	Such Ibg court shall be a court of recordt.
5	CLARIFY THE LAWS RELATING TO MUNICIPAL COURTS; TO CHANGE THE	5	(2) providedy-howevery-that-the <u>The</u> provisions of this
6	POPULATION REQUIREMENT FOR CITIES ADOPTING MUNICIPAL COURTS	6	actshall chapter apply only after the governing body or
7	FROM 20,000 TO 10,000; TO PROVIDE THAT MUNICIPAL COURT	7	council of such the city or-cities-shall-have has elected by
8	JUDGES BE ELECTED EVERY FOUR YEARS; TO PROVIDE	8	a two-thirds majority vote to adopt theprovisionshereof
9	QUALIFICATIONS FOR AND RESTRICTIONS ON MUNICIPAL COURT	9	them by ordinance and, in said the ordinance, shall-have has
10	JUDGES; TO PROVIDE THAT THE CITY PROVIDE THE FACILITIES FOR	10	provided the manner of <u>in which</u> and time at-which when
11	THE COURT; TO PRESCRIBE THE SESSIONS OF THE COURT; AND TO	11	said <u>the</u> municipal court shall <u>is to</u> be established <u>AND</u>
12	PRESCRIBE THE AMOUNT AND DISPOSITION OF FINES IN THE COURT;	12	SHALL ASSUME CONTINUING JURISDICTION OVER ALL PENDING CITY
13	AMENDING SECTIONS 11-1701, 11-1703, 11-1704, 11-1705,	13	<u>COURI CASES. Said The</u> ordinance shall must be consistent
14	11-1708, 11-1710, 11-1711, AND <u>11-1717,</u> 11-1718, AND <u>93-102</u> ,	14	with the provisions of this act <u>chapter</u>."
15	R.C.M. 1947; REPEALING SECTION 11-1709, R.C.M. 1947 <u>: AND</u>	15	Section 2. Section 11-1703, R.C.M. 1947, is amended to
16	PROVIDING AN IMMEDIATE EFFECTIVE DATE."	16	read as follows:
17		17	"11-1703. Election of judges term of office. [1]
18	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	18	There One judge of each municipal court shall be elected at
19	Section 1. Section 11-1701, R.C.M. 1947, is amended to	19	the general city election in-the-year-1936-in-all-cities
20	read as follows:	20	with-a-population-of-twenty-thousand-f28+000j-and-overyone
21	#11-1701. Municipalcourtscitieswherecreation	21	judgeof-municipal-courty-The-term-of-such-judge-so-elected
22	authorizedadoption-of-provisions-concerning Establishment	22	shall-commenceonthefirstMondayinMayy1936yand
23	ofmunicipalcourt+ [1] There-is-hereby-created-in-stt All	23	terminateonthefirstMondayin-Mayy-1930y-Thereaftery
24	cities in the state of Montana with a population of twenty	24	judges-of-municipal-courts-shall-be-elected-atthegeneral
25	thousand{20v000} 10:000 or more persons, according to the	25	cityelections-in-all-even-numbered-years. Ibe_judge's_term

REFERENCE BILL

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1 shall commence on the first Monday in May following the 2 election. Such--judges The judge shall hold office for the 3 term of two 4 years from the first-Nonday-of-May-in-the-year 4 in-which-they-are-elected and until their bis successor is 5 elected and qualified.

6 [2] All elections of municipal judges shall-be-under 7 end are governed by the laws applicable to the election of 8 city officials, except that the names <u>name</u> of condidetes <u>a</u> 9 <u>candidate</u> for municipal judge shall be placed on the ballot 10 to-be-used-at-such-election without any party designation or 11 any statement, measure<u>r</u> or principle which the candidate 12 advocates or any slogan after his name.*

Section 3. Section 11-1704, R.C.N. 1947, is ame. ded to
read as follows:

15 "11-1704. Qualifications and salary. Municipal--judges 16 shall A___municipal___court__iudge_must have the same 17 qualifications as judges a judge of the a district court, as 18 set forth in Article VII, section 9, of the 1972 Montana 19 constitution: except that a municipal court judge need only 20 be admitted to the practice of law in Montana for at least 2 21 years prior to the date of appointment or election. and A 22 <u>municipal_court_indge</u> must be a resident and voter in the 23 city for in which he is elected at the time of his election. 24 (2) The salary of such--judges the municipal court iudge shall be set by city ordinance and shall be payable 25

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1	monthly by	the	city	treasurer	ofthecityinwhichsuch
---	------------	-----	------	-----------	----------------------

2 court-is.*

3 Section 4. There is a new R.C.M. section that reads as
4 follows:
5 Sectrictions on municipal court judges. No municipal

6 court judge may practice law or hold office in a political

7 party during his term of office.

8 Section 5. Section 11-1705, R.C.M. 1947, is amended to 9 read as follows:

*11-1705. Courtroom and supplies. A room for such the
 <u>municipal</u> court, with necessary furniture, fixtures, and
 supplies, shall be provided by the county city wherein said

13 eity the court is located."

14 Section 6. Section 11-1708, R.C.M. 1947, is amended to 15 read as follows:

16 "11-1708. Sessions of the court. Such Ine municipal 17 court shall be in continuous session from 10+00-of-clock 9 18 3.m. to 4+88-of-clock 12 noon and from 1 p.m. to 4 p.m. on 19 every judicial day or-such-other-hours-as-the-judge-thereof 20 mev--designetev--except--thety--during--the--time--yhen--the 21 district--court--of-the-county-in-which-soid-municipal-court 22 is-located-is-in-sessiony-the-municipal--judge--may--in--his 23 discretion--suspend-court except noniudicial days. The judge 24 may designate additional hours as her in his discretion.

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25 <u>sees_fit</u>e"

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Section 7. Section 11-1710, R.C.M. 1947, is amended to
 read as follows:
 #11-1710. Summons -- time for answer. Summons in
 municipal court shall be signed by the clerk and shall

conform as--near--as--may--be to the provisions of section
93-3003 NoReCivePee Rules 4 and 12(a), except that the time
for answering shall-be is ten 10 daysy-instead-of-twenty.*
Section 8. Section 11-1711, ReC.M. 1947, is amended to

9 read as follows:

10 *11-1711. Proctice--reply Applicability of rules for justices' courts -- reply to counterclaim or new matter. [1] 11 The provisions of sections 93-6901 to through 93-7405. 12 13 inclusivey and sections 93-7701 to through 93-7714v inclusivey are hereby--adopted--and--made applicable to 14 practice--and--procedure--in municipal court courts, except 15 where when the same they are repugnant to inconsistent with 16 17 the provisions of this act chapters, The the words "Hunicipal-Court" "municipal court" being substituted for 18 justice courty and "judge" for justice of the peace where 19 20 the-same-appears-in-said-chapters.

21 <u>(2)</u> Where <u>Whenever</u> the answer contains a counterclaim 22 or any new matter, the plaintiffy-if-he-does-not-demury 23 shall within five <u>5</u> days after the service and filing of the 24 answerv reply to such the counterclaim or new matter in the 25 manner and form provided for in section-93-3601 <u>Matter</u> <u>SactivePase</u>

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ı Rules 7(a), 8(e)(2), and 10(b)." 2 SECTION 9. SECTION 11-1717+ R.C.M. 1947+ IS AMENDED TO 3 **READ_AS_EOLLOWS:** 4 "11-1717. Appeals. An-appeal-shall-lie-to-the-district court--of--the--county--in--which--the--municipal--court--is 2 established--as--from--a-judgment-of-justice-court-or-police ħ 7 courty-and-the-provisions-of-law-applicable-to-such-appeals A shall--apply--and--afe--hereby--adoptedy--When-the-amount-in controversy-is-less-than-one-hundred-(\$100+001-dollars-there 9 10 shall-be-no-appealy-unless-the-municipal-judge-shall-certify 11 that-a-doubtful-question-of-law-is--involved--upon--which--a final--decision--is--desirables (1) A party may appeal to 12 13 district court from a judgment of municipal court. 14 (2) Appeal from a municipal court may be limited by 15 requiring by ordinance that a minimum amount in controversy: 16 not to exceed \$200, be met before the district court has 17 jurisdiction to hear the appeal. except: 1 d (a) if the judgment of the municipal court includes 19 incarceration no minimum amount in controversy shall MAY be Zυ required for appeals: and

- 21 (b) upon petition by an aggrieved party the district
- 22 court may, in the interests of justice, accept appeal
- 23 jurisdiction notwithstanding the amount in controversy.

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- 24 (3) The municipal court shall establish rules for
- 2> appeal to district court. The rules are subject to THE

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1	suprese court's rule-making and supervisory authority."
2	Section 10. Section 11-1718, R.C.M. 1947, is amended
3	to read as follows:
4	#11-1718. Fees <u>and fines</u> . The fees <u>and fines</u> in
5	municipal court shall be the same as the fees <u>and tines</u>
6	provided by law for justice <u>justice</u>rs court <u>OR ORDINANCE</u>,
7	and all fees <u>and fines</u> collected by such the court shall be
8	paid into the city treasury."
ÿ	<u>SECTION 11. SECTION 93-102. R.C.M. 1947. 15 AMENDED TO</u>
10	KEAD AS FOLLOWS:
11	"93-102. Courts of record. The-courts-enumerated-in
12	the-first-three-subdivisions-of-the-last-precedingsectionv
13	andonlythosecourtsy-are-courts-of-records <u>The court of</u>
14	impeachment, the supreme court, the district courts, and IHE
15	<pre>sunicipal courts of record are courts of record.*</pre>
16	Section 12. Repealer. Section 11-1709, R.C.M. 1947, is
17	repealed.
18	SECTION 13. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
19	ITS PASSAGE AND APPROVAL.