

**CERTIFICATE  
ESTABLISHING THE PROPOSED PLAN OF GOVERNMENT  
FOR THE  
CITY OF LIBBY**

**CHARTER  
OF  
THE CITY OF LIBBY**

**PREAMBLE**

WE, THE PEOPLE OF LIBBY, COUNTY OF LINCOLN, STATE OF MONTANA, in accordance with Article XI, Section 5 of the Constitution of Montana, do hereby adopt this Charter.

**ARTICLE I  
POWERS OF THE CITY**

**Section 1.01 Powers of the City of Libby**

The City of Libby shall have all powers not prohibited by the Constitution of Montana, the laws of Montana, or this Charter.

**Section 1.02 Interpretation of Powers**

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

**Section 1.03 Electrical Utilities**

The City of Libby shall have the powers necessary to develop, own and operate electrical generating and delivery services and facilities.

**Section 1.04 Restrictions**

The mill levy shall be limited to that of Montana municipal governments with general government powers, except with the prior approval of a majority of the electors voting on the question in a general or special municipal election.

**Section 1.05 Charter Supremacy**

As provided by Article XI, Section 5 of the Constitution of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

**Section 1.06 Oath of Office**

Before entering upon the duties of office, all elected city officials shall take and subscribe to the oath of office as prescribed in Article III, Section 3 of the Constitution of Montana.

**ARTICLE II  
CITY COUNCIL**

**Section 2.01 Legislative Branch**

The legislative branch shall consist of the city council.

**Section 2.02 Composition**

The City of Libby shall have a city council of six (6) members, three of whom shall be elected every two years.

**Section 2.03 Powers and Duties**

The Council shall be the legislative and policy determining body of the City. All powers of the City shall be vested in the city council except as otherwise provided by law or this Charter. The council may override the mayor's veto with a two-thirds vote of the council.

**Section 2.04 Term of Office**

Members of the council shall be elected for four (4) year overlapping terms of office.

**Section 2.05 Election**

Local government elections shall be conducted on a nonpartisan basis. Council members shall be elected at large.

**Section 2.06 Chairman of the Council**

The council shall have a chairman who shall be elected by the members of the council from their own number for a term established by ordinance. The chairman of the council shall preside when the mayor is absent.

**ARTICLE III  
EXECUTIVE**

**Section 3.01 The Mayor**

The mayor shall be the chief executive officer of the city.

**Section 3.02 Term of Office**

The mayor shall be elected for a four (4) year term of office.

**Section 3.03 Election**

The mayor shall be nominated and elected at large on a nonpartisan basis.

**Section 3.04 Powers and Duties**

The mayor shall:

1. enforce laws, ordinances, and resolutions;
2. perform duties required of him by law, ordinance or resolution;
3. administer affairs of the local government;
4. carry out policies established by the council;
5. recommend measures to the council;
6. report to the council on the affairs and financial condition of the local government;
7. execute bonds, notes, contracts, and written obligations of the council, subject to the approval of the council;
8. report to the council as the council may require;
9. chair council meetings and may take part in discussion;
10. execute the budget adopted by the council;
11. appoint, with the consent of the council, all members of boards; except the mayor may appoint without the consent of the council temporary advisory committees established by the mayor.

**Section 3.05 Administrative Duties**

The mayor may:

1. prepare the budget in consultation with the council and department heads;
2. appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the mayor;
3. appoint, with the consent of a majority of the council, all department heads and remove department heads and may appoint and remove all other department employees;
4. exercise control and supervision of all departments and boards to the degree authorized by ordinance of the council.

**Section 3.06 Legislative Authority**

The mayor shall decide all tie votes of the council, but shall have no other vote. The mayor may veto ordinances and resolutions, subject to override by a two-thirds vote of the council.

**Section 3.06 Compensation**

The compensation of the mayor shall be set by the city council.

**ARTICLE IV  
JUDICIAL**

**Section 4.01 City Court**

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

**ARTICLE V  
DEPARTMENT STRUCTURE**

**Section 5.01 Organization of Departments**

The organization of city departments shall be prescribed by ordinance.

**ARTICLE VI  
GENERAL PROVISIONS**

**Section 6.01 Amendment of Charter**

This Charter may be amended only as prescribed by state law.

**Section 6.02 Effective Date**

This Charter shall become effective on January 2, 1990.

**Section 6.03 Vacancy in Office**

An elected office under this Charter becomes vacant as prescribed by law. When any vacancy occurs in any elective office, this position shall be considered open and subject to nomination and election at the next general municipal election in the same manner as the election of any other person holding the same office, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification the council shall, by majority vote of the members, appoint a person within 30 days of the vacancy to hold the office until the successor is elected and qualified.

**Section 6.04 Severability**

If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of the Charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

**ARTICLE VII  
TRANSITIONAL PROVISIONS**

**Section 7.01 General Transition**

Transition to this charter form of government shall be as prescribed by state law. The council may provide for such transition by ordinance, rule or resolution not inconsistent with state law. The provisions of this transition article shall not be published as part of the Charter after January 1, 1991.

**Section 7.02 City Employees**

No city employee or elected official currently holding a city office will lose employment or elected position solely because of adoption of this Charter. Existing elected officials shall continue in office until the end of the term for which they were elected.

**Section 7.03    Review of Existing Ordinances**

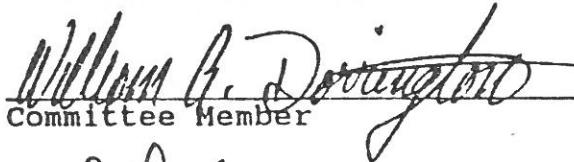
All city ordinances, resolutions and rules of the City of Libby shall remain in effect until reviewed, revised or repealed by the city council. The city council shall review and, where necessary, revise or repeal all city ordinances to provide for compliance and consistency with this Charter and state law no later than January 1, 1991.

We, the Charter Committee of the City of Libby do hereby certify that this is the proposed Plan of Government approved by the Charter Committee of Libby.

In testimony whereof, we set our hands.

Done at Libby, Montana, this  
5<sup>th</sup> day of June, 1989.

  
\_\_\_\_\_  
Committee Chair

  
\_\_\_\_\_  
Committee Member

  
\_\_\_\_\_  
Committee Member

**ATTEST:**

  
\_\_\_\_\_  
Virginia McGill    City Clerk

**CERTIFICATE  
ESTABLISHING THE EXISTING PLAN OF GOVERNMENT  
FOR THE  
CITY OF LIBBY, MONTANA**

If retained by the voters, the government of Libby shall be organized under the following provisions of Section 7-3-113, M.C.A. which authorizes the municipal council-mayor form of government.

7-3-113. Statutory basis for municipal council-mayor government.

(1) For the purpose of determining the statutory basis of existing units of local government, each unit of local government organized under the general statutes authorizing the municipal council-mayor form of government, which does not adopt a new form, shall be governed after May 2, 1977 by the following sections:

- (a) 7-3-201;
- (b) 7-3-202 (1);
- (c) 7-3-203;
- (d) 7-3-212 (2);
- (e) 7-3-213 (3);
- (f) 7-3-214 (2);
- (g) 7-3-215 (2);
- (h) 7-3-216 (2);
- (i) 7-3-217 (2); (This option adopted by council pursuant to 7-4-4102 (4) (c).
- (j) 7-3-218 (2);
- (k) 7-3-219 (2); (This option adopted by council pursuant to 13-1-104 (1) and council resolution 1367 dated July 6, 1987.
- (l) 7-3-200 (1);
- (m) 7-3-221 (3);
- (n) 7-3-222 (2);
- (o) 7-3-223 (2).

(2) This form has terms of 4 years for all elected officials. The size of the commission shall be established by ordinance, but it may not exceed 20 members.

These sections establish the following form of government which shall be called the COMMISSION-EXECUTIVE FORM.

7-3-201. Commission-executive form. The commission-executive form (which may be called the council-executive, the council-mayor, or the commission-mayor form) consists of an elected commission (which may be referred to as the council) and one elected executive (who may be referred to as the mayor) who is elected at large.

7-3-202. Nature of government. The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing general government powers.

7-3-203. Duties of executive. The executive shall:

- (1) enforce laws, ordinances, and resolutions;
- (2) perform duties required of him by law, ordinance, or resolution;
- (3) administer affairs of the local government;
- (4) carry out policies established by the commission;
- (5) recommend measures to the commission;
- (6) report to the commission on the affairs and financial condition of the local government;
- (7) execute bonds, notes, contracts and written obligations of the commission, subject to the approval of the commission;
- (8) report to the commission as the commission may require;
- (9) attend commission meetings and may take part in discussions;
- (10) execute the budget adopted by the commission;
- (11) appoint, with the consent of the commission, all members of boards; except the executive may appoint without the consent of the commission temporary advisory committees established by the executive.

7-3-212. Administrative assistants. The executive may appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the executive.

7-3-213. Supervision of personnel. The executive may appoint, with the consent of a majority of the commission, all department heads and remove department heads and may appoint and remove all other department employees.

7-3-214. Veto power. The executive may veto ordinances and resolutions, subject to override by a two-thirds vote of the commission.

7-3-215. Preparation of budget. The executive may prepare the budget in consultation with the commission and department heads.

7-3-216. Administrative supervision and control. The executive may exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

7-3-217. Financial officer. A financial officer (who may be called the treasurer) shall be appointed by the executive with the consent of the council.

7-3-218. Selection of commission members. The commission shall be elected by districts in which candidates must reside and which are apportioned by population.

7-3-219. Type of election. Local government elections shall be conducted on a nonpartisan basis.

7-3-220. Chairman of commission. 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.

7-3-221. Presiding officer of commission. 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).

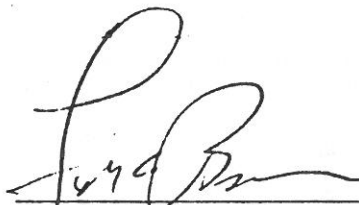
7-3-222. Terms of commission members. Commission members shall be elected for overlapping terms of office.

7-3-223. Size of commission and community councils. The size of the commission shall be six (6), and community councils to advise commissioners may be authorized by ordinance.


I, Fred Brown, Mayor of the City of Libby, Montana, do hereby certify that this is the existing Plan of Government as established by Section 7-3-113, M.C.A.

In testimony whereof, I set my hand.

Done at Libby this 5th day of June, 1989.

  
\_\_\_\_\_  
Fred Brown, Mayor

ATTEST:

  
\_\_\_\_\_  
Virginia McGill, City Clerk

## COMPARISON OF SPECIFIC CHARACTERISTICS

Characteristic	Present Form of Government	Proposed Form of Government	Comments
Form Of Government	<b>MAYOR COUNCIL</b> Elected council performs legislative functions. Elected mayor administers government with the advise and consent of council.	<b>CHARTER</b> Describes the form of government which is essentially the same as the current mayor council form.	A charter will allow the City to govern itself more independently.
Powers	<b>GENERAL GOVERNMENT POWERS</b> — The state legislature defines what government may do and specifically how it shall do it.	<b>SELF-GOVERNMENT POWERS</b> — The city council may exercise powers which the state does not deny.	Self-government powers would allow more local control of local affairs.
Governing Body Size	6 councilmembers elected by district (ward) in nonpartisan elections.	6 councilmembers elected at large in nonpartisan elections.	Councilmembers must reside in the city, and will represent the general interests of the community.
Term	Four year overlapping terms.	Same	No change
Presiding Officer	Mayor	Same	No change
Duties	City council is the legislative, policy making body.	Same	No change
Chief Administrative Officer	The mayor administers the government on a part time basis.	Same	No change
Administrative Officer Term	4 year term, elected at large in a nonpartisan election.	Same	No change
Powers and Duties	The mayor carries out the policies of the council, advises the council, executes the budget, and enforces laws, ordinances and resolutions.	Same	No change
Appointment Powers	The mayor appoints department heads and members of boards and commissions with the consent of council.	Same	No change
Budget Preparation	The mayor prepares the budget in consultation with the council and department heads	Same	No change
Mill Levy Limit	Set by state law	Charter retains the same mill levy limit as required by state law.	No change