

Culbertson Local Study Commission

FINAL REPORT

Legal Public Notice

The Local Study Commission elected by the voters on November 2, 2004 present this tentative report to the citizens.

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

After an intensive study, it is the decision of the Study Commission to recommend the adoption of a self-government charter. The stability of town government will not be threatened by a self-government charter. No changes will be made automatically if a self-government charter is chosen. Before any action can be taken under a self-government charter, the town council must pass an ordinance allowing that action. In the meantime, present laws continue as usual.

During the course of the study by research, discussion, public hearings, testimony of public officials, and citizen surveys indicate that in exercising its traditional functions, town government lacks the authority it needs. If town government is to play a wider role it must have adequate legal authority to act, it must also have more control over its organizational structure so that it can act effectively and oversee the performance of town functions. Citizen Input Forms indicated that the majority would like to make a few changes in the Town government.

The first responsibility of the study commission was to study and evaluate the present form of government in the Town of Culbertson; the second responsibility was to compare the existing form with alternative forms available to Montana towns; and then to decide whether or not to offer an alternative that can best meet the needs of the voters of the Town of Culbertson.

The decision of the Culbertson Study Commission to recommend the mayor-council (commission-executive) plan with a self-government charter is made in the belief that such a government can best meet the needs of Culbertson as identified during the course of this study.

The present division of the town into two wards, the continuation of non-partisan elections, and a mayor whose appointments require the approval of the council will remain the same.

The Study Commission feels that Culbertson should take advantage of the possibilities for more local control made available under the self-government charter. While it is true that the restrictions placed by state and federal governments will continue to inhibit independent action locally, adoption of self-government powers may be seen as a step in the right direction: greater local control over local affairs. Though the possibilities are not all spelled out and will emerge gradually as various towns explore and discover them, the stability of town government will not be threatened by a self-government charter. No changes will be made automatically if a self-government charter is chosen. Before any action can be taken under the self-government charter, the town council must pass an ordinance allowing that action. In the meantime, present laws continue as usual.

Charter provisions establish executive, legislative, and administrative structure and organization and are superior to statutory provisions. A charter form of government shall possess self-government powers.

Montana Code Annotated 7-3-104. Limitation on change in alternative form. The electors of any unit of local government which has adopted a new alternative form of local government may not vote on the question of changing the form of local government until 3 years after the new alternative form of local government becomes effective, but the voters may vote on amendments to the alternative form or service or functional transfers.

In view of the satisfaction expressed by citizens in the mayor-council (commission-executive) form of government, the Culbertson Study Commission recommends that they continue the Mayor-Council (commission-executive) plan but with the addition of the proposed self-government charter.

**CERTIFICATE OF THE PROPOSED CHARTER
OF
THE TOWN OF CULBERTSON, MONTANA**

PREAMBLE

WE, THE PEOPLE OF THE TOWN OF CULBERTSON, COUNTY OF ROOSEVELT, 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 Town of Culbertson

The Town of Culbertson 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 town shall be liberally construed. Every reasonable doubt as to the existence of a town power or authority shall be resolved in favor of the existence of that power or authority.

Section 1.03 Restrictions

1. 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.
2. No increase in any town license fee, user fee or utility charge shall be made without conducting a public hearing, as required by law.

Section 1.04 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.

ARTICLE II LEGISLATIVE BRANCH

Section 2.01 Legislative Branch

The legislative branch shall consist of the town council, which shall be the governing body of the town.

Section 2.02 Qualifications for Office

Every resident of the Town of Culbertson who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution is eligible to hold the office of council member.

Section 2.03 Composition

The Town of Culbertson shall have a town council of four (4) members.

Section 2.04 Term of Office

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

Section 2.05 Election

1. Local government elections shall be conducted on a nonpartisan basis.
2. Council members shall be elected by ward in which candidates must reside and which are apportioned by population. One council member from each ward shall be elected every two years.

Section 2.06 Chairman of the Council

The council shall have a chairman who shall be elected by the members of the council from among their own number for a term established by resolution. The chairman of the council shall preside at council meetings when the mayor is absent, and shall vote as other members of the council.

Section 2.07 Vacancy in Office

The office of council member becomes vacant as prescribed by law.

Section 2.08 Removal from Office

A council member may be removed from office by a finding, adopted by the affirmative vote of three (3) council members, that the office has become vacant as prescribed by law, or by recall of a council member by the electors of Culbertson, as prescribed by law.

Section 2.09 Filling Vacancy on Council

1. When a vacancy occurs in the office of council member, the position shall be considered open and subject to nomination and election at the next general municipal election, 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 appoint, by the affirmative vote of three (3) council members, a person possessing the qualifications for office required by law and this Charter, within 30 days of the vacancy to hold the office until the successor is elected and qualified.

2. If there are fewer than three (3) council members serving in office at the time an appointment to fill council vacancies is required, the mayor shall appoint with the written consent of each of the incumbent council members, a person possessing the qualifications for office required by law and this charter within 30 days of the vacancy to hold the office until the successor is elected and qualified.

Section 2.10 Powers and Duties

1. The town council shall be the legislative and policy determining body of the town . All powers of the town shall be vested in the town council except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed by law or this Charter.

2. The council may override the mayor's veto by the affirmative vote of three (3) members of the council.

Section 2.11 Legislative Action

Unless otherwise required by law or this Charter, the affirmative vote of a majority of the council members present at a lawful meeting of the council shall be required for all official actions of the council. A minimum of three (3) council members must be present to convene a lawful meeting of the council.

Section 2.12 Procedure

The council shall establish its rules of procedure and time and place of meetings by resolution.

Section 2.13 Compensation

The compensation of the council shall be set by resolution of the town council.

**ARTICLE III
EXECUTIVE BRANCH**

Section 3.01 Mayor

The mayor shall be the chief executive and chief administrative officer of the town.

Section 3.02 Qualifications for Office

Every resident of the Town of Culbertson who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution is eligible to hold the office of mayor.

Section 3.03 Term of Office

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

Section 3.04 Election

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

Section 3.05 Vacancy in Office

The office of mayor becomes vacant as prescribed by law.

Section 3.06 Removal from Office

The mayor may be removed from office by a finding, adopted by the affirmative vote of three (3) council members that the office has become vacant as prescribed by law or by recall of the mayor by the electors of the Town of Culbertson, as prescribed by law.

Section 3.07 Filling Vacancy in the Office of Mayor

When a vacancy occurs in the office of mayor the position shall be considered open and subject to nomination and election at the next general municipal election, except the term of office shall be limited to the unexpired term of the person originally creating the vacancy.

Pending such election and qualification the council shall appoint, by the affirmative vote of three (3) council members, a person possessing the qualifications for office required by law and this Charter within 30 days of the vacancy to hold the office until the successor is elected and qualified.

Section 3.08 Powers and Duties

The mayor shall:

1. enforce laws, Charter, ordinances, and resolutions;
2. perform the duties required by law, Charter, ordinance or resolution;
3. administer the affairs of the town 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 town 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. prepare the council agenda, preside at council meetings and may take part in council discussions;
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 3.09 Administrative Duties

The mayor may:

1. appoint one or more administrative assistants to assist in the supervision and operation of the town government, and such administrative assistants shall be answerable solely to the mayor;
2. appoint, with the consent of a majority of the council, all department heads including either a clerk, treasurer or clerk-treasurer; remove department heads; and may appoint and remove all other employees;
3. prepare the budget in consultation with the council and department heads;
4. exercise control and supervision of all departments and boards.

Section 3.10 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 the affirmative vote of three (3) members of the council.

Section 3.11 Compensation

The compensation of the mayor shall be set by resolution of the town council.

**ARTICLE IV
JUDICIAL BRANCH**

Section 4.01 City Court

There shall be a city court as provided by law.

**ARTICLE V
DEPARTMENT STRUCTURE**

Section 5.01 Organization of Departments

The organization of town 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 law.

Section 6.02 Effective Date

This Charter shall become effective on July 1, 2006.

Section 6.03 Oath of Office

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

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 TRANSITION PROVISIONS

Section 7.01 General Transition

Transition to this charter form of government shall be as prescribed by law. The Study Commission shall provide for such transition with an advisory plan consistent with law. The provisions of this transition article shall not be published as part of the Charter after June 30, 2008.

Section 7.02 Continuation in Office

No town employee or elected official holding a town office will lose employment or elected position solely because of the adoption of this Charter. Elected officials holding office on the date this Charter is adopted may continue in office until the end of the term for which they were elected.

Section 7.03 Review of Existing Ordinances

All town ordinances, resolutions and rules of the Town of Culbertson shall remain in effect until reviewed, revised or repealed by the town council. The town council shall review and, where necessary, revise or repeal all town ordinances to provide for compliance and consistency with this Charter and state law no later than June 30, 2008.