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CHARTER FOR THE TOWN OF DARBY

WE THE PEOPLE OF THE TOWN OF DARBY, TRUSTING IN GOD AND IN OUR OWN ABILITIES , AND SEEKING TO EMPOWER OURSELVES AND THE FUTURE GENERATIONS WITH THE ABILITY TO PROVIDE, PROTECT AND PRESERVE A HIGH QUALITY OF LIFE, DIVERSITY AND GOOD CHARACTER IN THE COMMUNITY OF GOODWILL, LOVE , LIBERTY AND EQUAL OPPORTUNITY FOR ALL, NOW THEREFORE ORDAIN AND ESTABLISH THIS CHARTER.

ARTICLE I-

GENERAL PROVISIONS:

SECTION 1.01 POWERS OF THE CITY

(1) THE TOWN OF DARBY, MONTANA , SHALL HAVE ALL POWERS NOT PROHIBITED BY THE LAWS OF MONTANA, OR THIS CHARTER.

(2) THE TOWN OF DARBY'S GENERAL, AND SPECIAL MILL LEVIES SHALL NOT EXCEED THE MAXIMUM AMOUNT , ALLOWABLE TO A GENERAL POWER LOCAL GOVERNMENT UNIT BY THE STATE OF MONTANA.

(3) THERE SHALL BE NO NEW KIND OF TAXES LEVIED WITHOUT THE AFFIRMATIVE VOTE OF THE PEOPLE.

SECTION 1.02 INTERPRETATION OF POWER

THE POWERS AND AUTHORITY OF THIS SELF -GOVERNMENT UNIT SHALL BE LIBERALLY CONSTRUED. EVERY REASONABLE DOUBT AS TO THE EXISTENCE OF A LOCAL GOVERNMENT POWER OR AUTHORITY SHALL BE RESOLVED IN FAVOR OF THE EXISTENCE OF THAT POWER OR AUTHORITY.

SECTION 1.03 INTERGOVERNMENTAL COOPERATION

AS PROVIDED BY ARTICLE XI, SECTION 7 OF THE CONSTITUTION OF MONTANA, THE TOWN OF DARBY MAY ; ENTER INTO INTERGOVERNMENTAL RELATIONS UNLESS PROHIBITED BY STATE LAW OR THIS CHARTER.

SECTION 1.04 OATH OF OFFICE

BEFORE ENTERING UPON THE DUTIES OF OFFICE, ELECTED CITY OFFICIALS SHALL TAKE AND SUBSCRIBE TO THE OATH OF OFFICE AS FOLLOWS : I DO SOLEMNLY SWEAR (OR AFFIRM) THAT I WILL SUPPORT, PROTECT AND DEFEND THE CONSTITUTION OF THE UNITED STATES, THE CONSTITUTION OF THE STATE OF MONTANA, AND THAT I WILL DISCHARGE THE DUTIES OF MY OFFICE, SO HELP ME GOD.

ARTICLE II

CITY COMMISSION

SECTION 2.01 COMPOSITION, TERMS, ELECTION, QUALIFICATIONS, COMPENSATION, REMOVAL, FILLING OF VACANCIES, MEETINGS.

THE COMMISSION SHALL HAVE FIVE (5) MEMBERS, TWO (2) ALDERMEN FROM EACH OF TWO WARDS AND ONE (1) AT LARGE ; COMMISSIONERS SHALL RESIDE IN THE DISTRICTS FROM WHICH THEY ARE NOMINATED AND ELECTED.

OR

THE COMMISSION SHALL HAVE FOUR (4) MEMBERS , TWO (2) ALDERMEN FROM EACH OF TWO WARDS ; COMMISSIONERS SHALL RESIDE IN THE DISTRICTS FROM WHICH THEY ARE NOMINATED AND ELECTED.

- (1) ELECTIONS FOR THE COMMISSION SHALL BE NON- PARTISAN, AND FOR FOUR (4) YEAR STAGGERED TERMS.
- (2) ONLY QUALIFIED VOTERS OF THE TOWN SHALL BE ELIGIBLE TO HOLD THE OFFICE OF COMMISSIONER.
- (3) THE COMMISSION SHALL DETERMINE BY ORDINANCE THE MONTHLY SALARY OF COMMISSION MEMBERS AND OF THE MAYOR. NO ORDINANCE INCREASING SUCH SALARY SHALL BECOME EFFECTIVE UNTIL THE DATE OF COMMENCEMENT OF THE TERMS OF COMMISSION MEMBERS ELECTED AT THE NEXT REGULAR ELECTION, PROVIDED, THAT SUCH ELECTION FOLLOWS THE ADOPTION OF SUCH ORDINANCE BY AT LEAST (6) MONTHS.
 - (A) THE OFFICE OF COMMISSIONER SHALL BECOME VACANT UPON HIS / HER DEATH, RESIGNATION, REMOVAL FROM OFFICE BY ANY METHOD

AUTHORIZED BY LAW, FORFEITURE OF HIS OR HER OFFICE.

(B) A COMMISSIONER SHALL FORFEIT HIS / HER OFFICE IF HE / SHE :

- (1) LOSES HER/ HIS ELIGIBILITY FOR ELECTION TO HIS / HER SEAT ;
- (2) VIOLATES ANY EXPRESSED PROHIBITION OF THIS CHARTER;
- (3) WITHOUT COMMISSION APPROVAL, FAILS TO ATTEND TWO (2) CONSECUTIVE, REGULARLY SCHEDULED MEETINGS OR ABSENTS HIMSELF/ HERSELF FROM THE CITY CONTINUOUSLY FOR THIRTY (30) DAYS WITHOUT CONSENT OF THE COMMISSION; OR IS CONVICTED OF A FELONY OR OTHER OFFENSE INVOLVING MORAL TURPITUDE.
- (4) IN THE EVENT OF A VACANCY, THE COMMISSION SHALL, BY A MAJORITY VOTE OF THE REMAINING MEMBERS, APPOINT A PERSON, ELIGIBLE TO HOLD SUCH COMMISSION SEAT TO FILL THE VACANCY UNTIL THE NEXT REGULAR ELECTION, AT WHICH TIME THE REMAINDER OF THE TERM SHALL BE FILLED AS PROVIDED BY LAW.
- (5) THE COMMISSION SHALL MEET REGULARLY AT LEAST ONCE A MONTH AT AT SUCH TIMES AND PLACES THE COMMISSION MAY PRESCRIBE. SPECIAL MEETINGS MAY BE HELD ON THE CALL OF THE MAYOR OR THREE MEMBERS OF THE COMMISSION, OR UPON RECEIPT OF A PETITION SIGNED BY TEN PERCENT (10 %) OF THE ELIGIBLE VOTERS. SUCH MEETINGS SHALL BE PUBLIC AND, WHENEVER PRACTICABLE, UPON TWENTY- FOUR (24) HOURS NOTICE. THE PRESIDING OFFICER OF ANY MEETING MAY CLOSE THE MEETING DURING THE TIME THE DISCUSSION RELATES TO A MATTER OF INDIVIDUAL PRIVACY AND THEN IF AND ONLY IF THE PRESIDING OFFICER DETERMINES THAT THE DEMANDS OF INDIVIDUAL PRIVACY CLEARLY EXCEED THE MERITS OF PUBLIC DISCLOSURE. THE RIGHT IF INDIVIDUAL PRIVACY MAY BE WAIVED BY THE INDIVIDUAL ABOUT WHOM THE DISCUSSION PERTAINS AND, IN THAT EVENT, THE MEETING SHALL BE OPEN. (MCA 2-3-203) ANY FINAL ACTION THEREON SHALL NOT BE TAKEN BY THE COMMISSION UNTIL THE MATTER IS PLACED ON THE AGENDA.
- (6) THE COMMISSION CHAIR AND PRESIDING OFFICER SHALL BE ELECTED BY THE MEMBERS OF THE COMMISSION FROM THEIR OWN NUMBER FOR A TERM SET BY ORDINANCE.

SECTION 2.02 POWERS AND DUTIES-

ALL POWERS OF THE TOWN SHALL BE VESTED IN THE COMMISSION , EXCEPT AS

OTHERWISE PROVIDED BY LAW OR THIS CHARTER , AND THE COMMISSION SHALL PROVIDE PROCEDURES FOR THE EXERCISE THEREOF AND FOR THE PERFORMANCE OF ALL DUTIES AND OBLIGATIONS IMPOSED ON THE TOWN BY LAW.

RESPONSIBILITY-

THE PRIMARY ROLE OF THE GOVERNING BODY OF THE TOWN OF DARBY SHALL BE TO PROTECT THE RIGHTS OF EACH PERSON IN ADDITION TO REPRESENTING THE INTERESTS OF THE CITIZENS OF THE TOWN OF DARBY.

SECTION 2.03 ORDINANCES

IN ADDITION TO OTHER ACTS REQUIRED BY LAW OR THIS CHARTER TO BE DONE BY ORDINANCE THE COMMISSION SHALL PERFORM THE FOLLOWING ACTS BY ORDINANCE:

- (1) ADOPT OR AMEND AN ADMINISTRATIVE CODE OR ESTABLISH, ALTER OR ABOLISH ANY TOWN DEPARTMENT OR AGENCY :
- (2) PROVIDE FOR A FINE OR PENALTY
- (3) LEVY TAXES, EXCEPT AS OTHERWISE PROVIDED BY LAW OR THIS CHARTER;
- (4) GRANT, RENEW OR EXTEND A FRANCHISE;
- (5) REGULATE THE RATE CHARGED BY A MUNICIPAL PUBLIC UTILITY FOR ITS SERVICES.
- (6) AUTHORIZE THE BORROWING OF MONEY AS PROVIDED BY STATE LAW.
- (7) CONVEY OR LEASE OR AUTHORIZE THE CONVEYANCE OR LEASE OF ANY LANDS OF THE TOWN;
- (8) AMEND OR REPEAL ANY ORDINANCE PREVIOUSLY ADOPTED, EXCEPTED AS OTHERWISE PROVIDED IN ARTICLE VI OF THIS CHARTER WITH RESPECT TO REPEAL OF ORDINANCES ADOPTED UNDER REFERENDUM POWER.

2.04 PROHIBITIONS

- (1) NEITHER THE COMMISSION NOR ANY OF ITS MEMBERS MAY DICTATE THE APPOINTMENT OR REMOVAL OF ANY EMPLOYEE, WHOM THE MAYOR OR ANY OF HIS / HER SUBORDINATES ARE EMPOWERED TO APPOINT OR REMOVE.

(2) EXCEPT FOR THE PURPOSE OF INQUIRY OR INVESTIGATION AUTHORIZED BY THIS CHARTER OR TOWN, THE COMMISSION OR ITS MEMBERS SHALL DEAL WITH THE CITY EMPLOYEES WHO ARE SUBJECT TO THE DIRECTION AND SUPERVISION OF THE MAYOR SOLELY THROUGH THE MAYOR.

ARTICLE III TOWN MAYOR

SECTION 3.01 QUALIFICATIONS , TERMS, ELECTION, REMOVAL, FILLING VACANCIES, MEETINGS

- (1) ONLY QUALIFIED VOTERS OF THE CITY SHALL BE ELIGIBLE FOR THE POSITION OF MAYOR.
- (2) THE MAYOR SHALL BE ELECTED FOR A TERM OF FOUR YEARS
OR
THE MAYOR SHALL BE ELECTED FOR A TERM OF TWO YEARS
- (3) ELECTION OF THE MAYOR SHALL BE NON- PARTISAN
- (4) THE MAYOR SHALL BE ELECTED AT LARGE, AS PROVIDED BY STATE LAW.
- (5) THE MAYOR SHALL FORFEIT HIS / HER OFFICE IF HE/ SHE :
 - (A) LOSES HIS/HER ELIGIBILITY FOR ELECTION TO HIS / HER POSITION
 - (B) VIOLATES ANY EXPRESSED PROHIBITION OF THIS CHARTER;
 - (C) WITHOUT COMMISSION APPROVAL, FAILS TO ATTEND TWO (2) CONSECUTIVE REGULARLY SCHEDULED MEETINGS OR ABSENCES HIMSELF / HERSELF FROM THE CITY CONTINUOUSLY FOR THIRTY (30) DAYS WITHOUT THE CONSENT OF THE COMMISSION.:
 - (D) IS CONVICTED OF A FELONY OR OTHER OFFENSE INVOLVING MORAL TURPITUDE.
- (6) IN THE EVENT OF A VACANCY, THE COMMISSION SHALL BY MAJORITY VOTE, APPOINT A PERSON, ELIGIBLE TO HOLD THE MAYOR POSITION, TO FILL THE VACANCY UNTIL THE NEXT REGULAR CITY ELECTION AT WHICH TIME THE REMAINDER OF THE TERM SHALL BE FILLED AS PROVIDED BY LAW.

SECTION 3.02 POWERS AND DUTIES OF THE MAYOR

(1) THE MAYOR SHALL:

- (A) ENFORCE LAWS, ORDINANCES, AND RESOLUTIONS;
- (B) PERFORM DUTIES REQUIRED OF HIM BY STATE LAW, THIS CHARTER, ORDINANCE OR RESOLUTION;
- (C) ADMINISTER AFFAIRS OF THE LOCAL GOVERNMENT;
- (D) CARRY OUT POLICIES ESTABLISHED BY THE COMMISSION;
- (E) RECOMMEND MEASURES TO THE COMMISSION;
- (F) REPORT TO THE COMMISSION AS THE MAYOR ON AFFAIRS AND FINANCIAL CONDITION OF THE LOCAL GOVERNMENT;
- (G) ATTEND COMMISSION MEETINGS AND MAY TAKE PART IN DISCUSSIONS;
- (I) APPOINT, WITH THE CONSENT OF THE COMMISSION, ALL MEMBERS OF BOARDS, EXCEPT THE MAYOR MAY APPOINT WITHOUT THE CONSENT OF THE COMMISSION TEMPORARY ADVISORY COMMITTEES ESTABLISHED BY THE MAYOR.
- (J) PREPARE THE BUDGET IN CONSULTATION WITH THE COMMISSION;
- (K) SUPERVISE ALL OFFICES AND EMPLOYEES EXCEPT AS OTHERWISE PROVIDED BY LAW OR ORDINANCE.

SECTION 3.06 LEGISLATIVE AUTHORITY

THE MAYOR MAY VETO ORDINANCES AND RESOLUTIONS, SUBJECT TO OVERRIDE BY A MAJORITY OF THE COUNCIL.

ARTICLE IV- ELECTIONS AND NOMINATIONS

SECTION 4.01 ELECTED CITY OFFICIALS

THE PROCEDURE FOR THE NOMINATION AND ELECTION OF ALL TOWN OFFICERS SHALL BE AS PRESCRIBED BY STATE LAW FOR NON- PARTISAN ELECTIONS.

SECTION 4.02 DATE OF HOLDING ELECTIONS

THE PROCEDURE FOR HOLDING REGULAR ELECTIONS AND SPECIAL ELECTIONS SHALL BE AS PRESCRIBED BY STATE LAW.

ARTICLE V INITIATIVE, REFERENDUM AND RECALL

SECTION 5.01

THE PEOPLE OF THE TOWN OF DARBY SHALL RETAIN THE RIGHT TO EXERCISE INITIATIVE AND REFERENDUM POWERS ACCORDING TO PROVISIONS OF STATE LAW.

SECTION 5.02

THE ELECTED OFFICIALS PROVIDED FOR IN THIS CHARTER MAY BE RECALLED FROM OFFICE BY THE ELECTORS. AS PRESCRIBED BY LAW.

ARTICLE VI AMENDMENT OF CHARTER, EFFECTIVE DATE, AND SEPARABILITY.

SECTION 6.01 AMENDMENT OF CHARTER

THE PEOPLE OF THE TOWN OF DARBY RETAIN THE RIGHT TO AMEND THIS CHARTER AS PRESCRIBED BY STATE LAW.

SECTION 6.02 EFFECTIVE DATE

THIS CHARTER IF ADOPTED BY THE VOTERS WILL BECOME EFFECTIVE JANUARY 5, 1997.

SECTION 6.03 SEPARABILITY

IF A PART OF THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THIS INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

ARTICLE VII TRANSITIONAL PROVISIONS

SECTION 7.01 GENERAL TRANSITION

THE PRESENT OR NEW CITY COUNCIL SHALL PROVIDE FOR TRANSITION TO THIS CHARTER BY ORDINANCE.

SECTION 7.02 ELECTION TRANSITION

ON JANUARY 5, 1997 THERE WILL BE A SPECIAL ELECTION HELD TO ELECT THE COMMISSIONERS AND THE MAYOR. TERMS OF OFFICE FOR THE CITY COMMISSION SHALL BE DETERMINED BY DRAWING LOTS AS PRESCRIBED BY STATE LAW. THE TWO OR THREE COMMISSIONERS (DEPENDING ON THE OPTION CHOSEN) DRAWING THE LARGEST LOTS SHALL SERVE A TWO (2) YEAR TERM AND THE TWO COMMISSIONERS DRAWING THE SMALLEST LOTS SHALL SERVE A ONE YEAR TERM. THESE ONE YEAR AND TWO YEAR TERMS ARE FOR THE FIRST ELECTION ONLY. ON JANUARY 5, 1997, THERE WILL BE A MAYOR ELECTED FOR A 2- YEAR OR 4- YEAR TERM, DEPENDING ON THE OPTION CHOSEN. IN THE EVENT THAT THE FIFTH MEMBER FOR THE COUNCIL IS THE ONLY OPTION CHOSEN THEN THERE WOULD BE A SPECIAL ELECTION TO ELECT THAT PERSON

OR IF ADOPTED

ALL PRESENT COMMISSIONERS AND MAYOR WILL SERVE OUT THEIR PRESENT TERMS.

SECTION 7.03

NO TOWN EMPLOYEE CURRENTLY HOLDING A TOWN OFFICE WILL LOSE EMPLOYMENT SOLELY BECAUSE OF THE ADOPTION OF THIS CHARTER.