

**TOWN OF DARBY  
TRANSITION ADVISORY REPORT**

**History of Local Government Review**

The Town of Darby underwent local government review along with all other jurisdictions in Montana in 1974-76. Members of the first local government study commission were Dwight Finney, chairman; Lowell Honey, and Terry Bergner. Lowell Honey was replaced by Alice Mae Moody. The study commission placed a commission-executive (mayor-council) form of government with a change from partisan to nonpartisan elections on the ballot and it was adopted at the November 1976 general election with a vote of 134 for the proposed alternative and 102 for the existing form of government.

In June 1984, the question of whether to review the town government was placed on the ballot and the decision made by the voters was not to review government.

Ten years later in June 1994, the vote was 83 in favor of review, 44 against review. In November 1994, the following people were elected to serve on the study commission: Sharon Evers, Sharon Rose and Rick L. Scheele. Sharon Evers subsequently resigned and Larry Blackburn was appointed by the town council to fill the vacancy.

The study commission held meetings during 1994-96 and agreed to place a charter with the commission-executive form of government on the November 1996, ballot. This charter proposal was adopted by a vote of 141 in favor of the charter, and 131 for the existing form of government. Three suboptions were also placed on the ballot which gave voters the following choices:

	Vote
Suboption #1 5 member town council;	167
4 member town council	80
Suboption #2 2 year term of office for the mayor;	165
4 year term of office for the mayor	86
Suboption #3 special election for mayor and council;	145
existing mayor and council serve out terms.	106

## **Key Provisions of the Adopted Charter**

The charter is the plan of government for the Town of Darby. It describes the organization and the powers of town government. It is a document which can be made conveniently available to anyone who is interested in knowing the structures and powers of the town government.

The Town of Darby has operated with a commission-executive form of government with general government powers (7-3-113(1)(b) and 7-3-202(1), MCA. The charter form of government adopted by the Darby voters confers self-government powers on the Town government (7-3-702,MCA). In general, local governments with self-government powers may act except where state law, the state constitution or the charter prohibit such action (7-1-101, MCA).

The Darby Charter places limitations of the town's authority to tax. At Section 1.01(2) the general and special mill levies are limited to those allowed to municipalities having general government powers. At Section 1.01(3) the town is required to place any new kind of tax on the ballot for an affirmative vote of the people prior to imposition of the new tax.

## **Transition to the Adopted Charter**

Section 7.01 of the charter and 7-3-157 and 7-3-193 MCA require that the study commission and not the governing body shall prepare an advisory plan for orderly transition to a new plan of local government.

No current employees of the town will lose employment solely because of the adoption of the charter (Section 7.03). However, new commissioners (council members) and a mayor will be elected due to the approval of the suboptional choice requiring such election. The charter specifies that January 5, 1997 will be the election date. However, that date does not provide enough time for candidates to file, and enough lead time for the elections to be conducted.

7-3-187(1)(c), MCA requires that the study commission prepare a certificate establishing the dates of the first primary and general elections of the officers of the new government. A copy of that certificate establishing the election dates was provided to the town council which, pursuant to 7-3-160 and 7-3-193, MCA, at their meeting of November 12, 1996, then ordered the elections to be conducted as follows:

Primary Election	Monday, March 31, 1997
General Election	Wednesday, May 31, 1997
Elected officials take office	Monday, July 30, 1997

Section 2.01 provides for the election of five alderman, one to be elected at large and two

to be elected from each of two wards, as approved by the voters as a suboptional choice. Ward boundaries shall remain as they were on the date of adoption of the charter until such time as the town commission (town council) shall cause the wards to be reapportioned to assure that each ward is as compact and nearly equal in population as practicable. Such reapportionment shall be based upon the most recent federal census data.

When candidates file for office they should specify whether they are running from a ward, or running for the at large position. All newly elected commissioners begin their term of office on July 30, 1997.

Section 2.01(1) specifies that the terms shall be staggered four year terms. Since all of the council members will be elected at the same time and at other than the regular municipal election date, those who are elected will need to draw lots to determine length of their first term.

The regular municipal election is held in odd numbered years with the primary election being the Tuesday after the second Monday in September (13-1-107 (2) MCA), and the general election the Tuesday after the first Monday in November (13-1-104 (2) MCA). The special election called by the town council will be held on May 28, 1997 and will be held in lieu of the regular general election on November 4, 1997. The next succeeding municipal general elections will be held in November 1999, and November 2001. In order to establish overlapping terms of office, candidates to be elected would have to draw lots to determine who will have the short terms and who will have the long terms of office. If the first council members elected in May 1997 draw lots, the short terms would last 2 years, 5 months and the long terms would last 4 years, 5 months. Since neither the charter nor state law provides for municipal council terms of office greater than 4 years, the mayor and all council members elected in May, 1997, shall serve until January 2000, a term of 2 years, 5 months. All elected positions will therefore be open on the ballot in November, 1999. Those candidates elected in each ward in November 1999 shall then draw lots to determine which shall serve a two year term and which shall serve a four year term. The at large position elected in November 1999 will serve a four year term commencing in January, 2000. The mayor elected in November 1999 will begin a two year term of office also commencing in January 2000.

All ordinances and resolutions in effect at the time the new form of government becomes effective continue in effect until repealed or amended in the manner provided by law.

The commission (town council) shall set the monthly salary for commission (council) members and mayor by ordinance (Sec. 2.01(3)). If the salary is increased it shall not become effective until the January following the next municipal election. The date of the salary increase must occur six or more months prior to the municipal election.

The commission (town council) shall meet regularly at least once a month. Special meetings may be called by the mayor or by three commissioners, or upon receipt of a petition signed by 10% of the eligible voters of Darby.

As indicated in section 2.01(6), it is the intent of the study commission that the commission chair (council chairman) shall be the presiding officer of the commission (town council) and shall be elected by the commission (town council) from among their own number for a term of office established by city ordinance. Such ordinance should be adopted by the new council within sixty (60) days of its first meeting. Pending final approval of the ordinance, the council shall elect a member of the council to serve as its interim chair and presiding officer.

In addition to the usual reasons for forfeiture of office, the office of mayor is forfeited when the mayor violates an expressed prohibition of the charter, and without commission (town council) 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 (town council) (Sec. 3.01(5)).

The mayor may veto ordinances and resolutions, subject to override by a majority of the council (Sec. 3.06).

As indicated in Section 3.02(1)(k), it is the intent of the study commission that, as provided by law (7-3-113(1)(e) and 7-3-213 (3), MCA), the mayor may appoint, with the consent of a majority of the commission (town council), all department heads and remove department heads and may appoint and remove all other department employees.

Prepared for the Darby Local Government Study Commission by the Local Government Center at Montana State University-Bozeman.

Adopted by the Darby Local Government Study Commission as its Transition Advisory Plan pursuant to 7-3-157 and 7-3-193 MCA on \_\_\_\_\_, 1996.

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Rick L. Scheele, Chairman