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**Dillon City Study Commission**

**FINAL REPORT**

**1994-1996**

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## **APPENDIX:**

- Exhibit A: Certificate of plan of existing form of government
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- Exhibit C: Certificate establishing Apportionment Plan
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# I. LETTER TO CITIZENS OF THE CITY OF DILLON, MONTANA

To the Citizens of Dillon:

The Dillon City Study Commission elected by the voters on November 8, 1994, or thereafter appointed, present this final report to you, the citizens of Dillon.

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

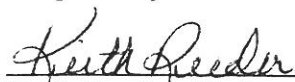
In every phase of this review this Study Commission sought advice and information from as many people in the city and its government as possible. Opinions and recommendations were solicited from local government officials, city employees, all city council members, all department heads, all city boards and panels, as well as community organizations and citizens. All meetings of the Study Commission were open to the public. Commission members have been available to appear before various community organizations to explain the work of the commission or to hear the viewpoints, ideas and concerns of those present. Public hearings were held, some of which were very well attended by a good cross section of our city citizens. Additionally, a professional City Survey was conducted by telephone in November & December of 1995 in order to gather the most current and accurate information and citizen attitudes as possible.

Our recommendations reflect the thoughts and opinions of those who participated in public hearings, those who attended our regular meetings, and those who responded to the survey, in addition to the independent efforts of this Study Commission.

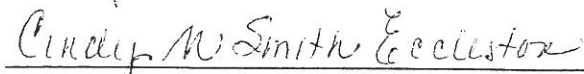
In this final report we present our recommendations for an alternative form of government which we feel will provide the government services expected by the people both today and in the future. Our concern has been to provide a form of government that will be responsive to local citizens and provide the opportunity for devising solutions to current and future local problems. We feel the citizens of Dillon can achieve these goals by adopting a Charter form of government with self-governing powers.

The question of adopting this alternative form of government will be placed on the ballot November 5, 1996. We solicit your support for its adoption.

Respectfully submitted,

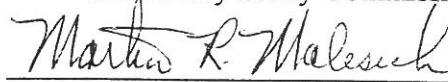


Keith Reeder, Chairman



Cindy M. Smith Eccleston

Dillon City Study Commission



Martin Malesich



John Gutcheck

## II. SUMMARY OF RECOMMENDATIONS

The Dillon City Study Commission, having thoroughly studied our present form of city government and the alternative forms of government available to municipalities under state law, and having studied the future governmental needs of this city recommends the following:

1. The City of Dillon should adopt, effective July 1, 1997, a charter form of government with self-governing powers. This proposal would make available the limited freedoms offered by self-governing powers as well as redistribute certain legislative (council) and executive (mayor) powers creating a more equalized governing body.
2. The question of whether or not elections shall be conducted on a partisan or nonpartisan basis shall be submitted to the voters of the city on the ballot as a sub-option as authorized in 7-3-413 MCA.
3. The question on the form of government and the sub-option shall be submitted to the voters of the City of Dillon on November 5, 1996.

### A. Findings of the Study Commission

After an extensive study of almost two years, it is the decision of this Study Commission to recommend changes in the structure and power of city government that will provide a governmental framework to meet the changing needs of this city. Problem areas were identified during the course of study by research, discussion, public hearings, testimony of public officials and citizen surveys which indicate that in exercising its traditional functions, city government is lacking in several areas of citizen concern.

The "traditional" form of city government has existed in Dillon since 1885, and is basically the same government as when the city was incorporated. The needs of this city are and have changed since 1885. Population is increasing, population patterns are shifting, and citizen demands for services are rising. Federal and state programs are waning, with funding and decision making being passed down to the county and city government. In order to adequately prepare our local government to handle these anticipated changes, city government must modify its structure and redefine its authority. This Study Commission also believes that some changes in the distinct separation of legislative and executive functions are needed to provide an adequate "checks and balances" system for a healthy city government.

Areas of concern emerged during the course of the study which affected the Study Commission's choice of an alternative government form. Citizen response to the survey which was conducted, and testimony at the public hearings, indicated that citizens were concerned about the

distribution of local authority between the legislative and executive branches of our government; about the quality of our roads and streets; about the cost and adequacy of our water and sewer systems and the expense of its construction and maintenance; about the lack of leadership and citizen participation in city government; and about the continual lack of positive attitude and acceptance regarding the value and necessity of citizen input. Additionally, it is the concern of this Study Commission that Dillon should be promoted and presented in a positive manner to both local citizens and visitors alike. These frustrations and expectations of citizens and local officials, in addition to the changing obligations of city government, and growing needs of the city, have led the study commission to identify these basic goals:

1. The adoption of self-governing powers.
2. Realignment of legislative and executive duties and powers.
3. Government that is both responsive to citizens and ready for future change and growth.
4. Government structure that allows maximum participation by citizens.
5. Streamlining of election requirements and costs through a nonpartisan electoral process.

In an attempt to achieve these goals, the Study Commission has recommended a charter form of government with self-governing powers, nonpartisan city elections, realignment of executive/legislative powers and duties, as well as the continuation and enhancement of the city "ward meetings" to inform and involve all citizens.

## **B. Key Provisions of the Proposed Form**

### **1. Adoption of Charter Form of Government and Self-governing Powers**

Under the 1972 State Constitution, the potential power and authority of local government has been changed. Traditionally, the power over governmental concerns of the city has been the prerogative of the state legislature. The legislature decided what city government should do and how it should do it.

The 1972 constitution provided that "self-government powers" can be adopted by cities along with an alternative form of government. The adoption of self-governing powers would alter

the traditional relationship between the state and city. Certain areas of control would be transferred from the state legislature to the city council. Some decisions that are now made on a state-wide basis by the legislature could be made at the city level. State-wide uniformity, while still mandated in certain areas, could be replaced in other areas with procedures tailored to the particular needs of our city. Self-government powers would mean greater flexibility in shaping our governmental structure, greater power to solve our own problems and more responsibility to recognize and deal with these problems.

Additionally, it is the Commission's belief a city charter will provide improved visibility of the city government as well as a clear and concise description of the operation of our city government. The city charter as a written document is readable and obtainable by the average citizen, thus creating a more inviting and understandable policy instrument .

## **2. Realignment of Legislative and Executive Duties and Powers.**

Citizen and council testimony supports the realignment of Legislative and Executive powers as a means to offer greater flexibility and clarity in our city organization. Specifically the commission recommends council approval for the hiring and dismissal of all department heads; hiring of all other city employees is retained by the mayor; the dismissal of all regular city employees will be administered by the mayor in consultation with the appropriate department head; and finally the President of the council will make all council appointments to the standing city committees.

## **3. Government Responsive to Citizens and Ready for Future Growth.**

By offering a charter form of government, we position ourselves to best meet the needs and concerns of the future. This instrument allows the most flexibility and local involvement of any form of government available through state law to the City of Dillon. Due to current changes as well as the anticipated passing of even more governmental control from the federal and state level down to the local jurisdictions, it is vital to be prepared to meet the demands and expectations of our citizens.

Two major areas of concern as reflected in the citizen survey were the condition and upkeep of our roads and streets as well as the adequacy and expense of our water and sewer system. It is the opinion of this Commission that even though these are areas of major concern to our citizens, these areas are not changeable or correctable through the Study Commission review process. We believe that our mayor and city council have made very wise and fiscally responsible decisions for the city in general. Considering the very restricted tax base limitations placed upon the city since the instigation of the I-105 referendum in 1986, this city has operated within those financial guidelines with extreme efficiency. The recent water and sewer update appears to be a well-constructed plan which looks into the future. This commission realizes that any increased costs in services and taxes are looked upon with negative eyes by the normal consumer/citizen,

however, we feel these costs are being kept to a minimum, and are in fact, still lower than many of Montana's communities. The roads and street situation needs to be looked at in depth, and major renovation and improvements need to be made city-wide. Additional assessments may need to be made in order to properly and wisely make these improvements.

#### **4. Government Structure which allows Maximum Participation by Citizens.**

Repeatedly during this course of study the need for greater citizen participation has been brought to our attention. The public in general needs to feel their input and opinions are valued and important, not a nuisance or insignificant. Citizens expressed the need for a safe forum in order to feel their government is open to them; an "open door policy" would be pleasing. They desire to feel positive about their city and its government. On the other hand, the council and city leaders have expressed their discouragement regarding what they see as apathy on the part of our citizens. The inability to attract interested and responsible citizens to run for council and board positions is defeating.

Negativism can squelch even the brightest candle, on either the citizen or leadership end of the government scale. It appears to this Commission that some of the problems voiced are truly on-going human and personality relationship conflicts that must be acknowledged and resolved through compromise and negotiation processes. You can not legislate morality or attitude.

To our city leaders, we encourage you to provide a cordial and open environment for the people of our community. Please promote our city in the most positive manner available. We are pleased to see the City Ward Meetings instigated this year and hope they will continue. We would encourage some citizens-at-large to be appointed to the standing committees of the city. The more people we have involved the stronger the system. Consider offering more educational types of services to familiarize the public with the operations and requirements of the city.

To our fellow citizens, we ask you to walk a mile in your brother's shoes. If all you hear are negativism and complaints, you become cynical and bitter. Please be positively involved with your community and its government. Realize the financial restrictions, obligations and burdens placed on our city government by both state and federal mandates. Be proud of what your city, it's employees and officials have accomplished for you.

#### **5. Streamlining through a Nonpartisan Electoral Process.**

As a sub-option to the adoption of a charter form of government, we suggest the implementation of nonpartisan elections for city government positions. You have told us through the citizen survey that political platforms were not important issues to you in the city election process. Finding and cultivating educated and interested citizens to participate in our government process is the first priority, not the declaration of a political party. Additionally, by removing party

designation requirements, we can often eliminate primary elections, saving many taxpayer dollars and considerable work.

Additional survey results indicate lack of support or knowledge about specific city ward designations. This Commission considered recommending the abolishment of our ward system in hopes of encouraging more wide-spread citizen involvement. However, due in part to the instigation of the City Ward Meetings and the citizen support shown at these meetings, we have determined our ward system should remain as it is for the time being.

This summary of recommendations is respectfully submitted by the 1994-1996 Dillon City Study Commission.

Date approved September 25, 1996

By Keith Reeder  
Keith Reeder, Chairman

Martin R. Malesich  
Martin Malesich, Secretary

Cindy M. Smith Eccleston  
Cindy M. Smith Eccleston, Member

John Gutcheck  
John Gutcheck, Member

### III. COMPARISON OF THE EXISTING FORM OF GOVERNMENT AND THE PROPOSED FORM OF GOVERNMENT

#### EXISTING FORM

##### Description of General Characteristics

**Form of government.** Our existing form of government is council-mayor or otherwise known as Commission-Executive as described in Montana Code 7-3-201-224. Currently our elected council (commission) performs many policy making functions, while the elected mayor (executive) administers government with the advise and consent of the council.

**Powers.** The City of Dillon possesses "general government powers". The term "general powers" refers to the long and well established tradition in the American federal system that, absent an express provision in the state constitution, a unit of local government may exercise ONLY those powers granted to it by the state legislature. The Montana constitution continues this tradition at Article XI section 4 by providing that a local government unit without self-government powers has only general powers which are set forth for municipalities (cities & towns) at 7-1-4124 MCA. In short, a city with general powers may exercise ONLY those powers and perform ONLY those functions extended to it by an act of the state legislature.

**Governing Body.** Currently, our governing body is an 8-member council elected from four districts in partisan elections with our mayor elected at large. Council members have four year overlapping terms. The council and mayor are responsible for all legislative executive and administrative functions deemed necessary for the daily operation of the city.

**Chief Administrative Officer.** Our elected mayor administers our city government on a full-time basis. The mayor carries out the policies of the council, advises the council, executes the budget and enforces laws, ordinances and resolutions. The mayor appoints department heads, members of all boards and commissions with the consent of the council. The mayor selects the council's standing committees and appoints their chairman. Budget preparation is handled by the mayor in cooperation with the department heads. Modification and final approval of this budget is made by the city council.



## PROPOSED FORM

### Description of General Characteristics

**Form of Government.** The proposed form of government is the "charter form" as defined under the Montana constitution (Article XI, Section 5(1)) and state law (7-3-103 MCA). The term "charter" refers to a written document defining the powers, structures, privileges, rights and duties of the local government and limitations placed upon it. The provisions of our charter establish the city government's legislative, executive and administrative structures and organization. Our elected mayor and council positions have remained the same in the proposed charter.

**Powers.** The proposed charter form of government would automatically confer self-governing powers on our local government. Self-governing powers bring to the city the power to act in its own best interest and give much greater flexibility in shaping future government structure and the ability to deal with changing needs. Article XI, section 6 of the Montana constitution provides that a local government unit adopting a self-government (home-rule) charter may exercise any powers NOT prohibited by the constitution, state law or the local charter itself. Montana statute elaborates self-governing powers somewhat by extending to a local government unit with self-governing powers the authority to "... provide any service or perform any function not expressly prohibited by the constitution or state law (7-1-102 MCA). However 7-1-111 MCA in turn, details those powers which are expressly denied to a local government even though it has self-governing powers. It would be erroneous to assume that a unit of local government endowed with self-governing powers, is, in any sense of the word, a "sovereign" unit of government.

**Governing Body.** Under the proposed charter form of government, the governing bodies of our city would stay identical to the present. A separate sub-option to the charter offers a nonpartisan electoral process for all council members and the mayor position.

**Chief Administrative Officer.** The Commission's efforts towards realignment of executive and administrative power include involving the council in both the appointment and removal of any department heads. Additionally, the President of the council, not the mayor, would select membership to all council committees and appoint their chairperson.

## Comparison of Specific Characteristics of Existing and Proposed Forms of Government

The following chart compares characteristics of the existing form of city government with the proposed form of government. Under the last column entitled "comments" the Study Commission has included short summaries of why they are proposing some changes in each area. See attached.

### Recommendations and Reasons

The first responsibility of the Dillon City Study Commission was to study and evaluate the present form of government in this city; the second responsibility was to compare the existing form with alternative forms available to Montana municipalities; and then to decide whether or not to offer to the voters an alternative that can best meet the needs of the city.

Citizen response to the survey which was conducted, and testimony at the public hearings, indicated that citizens were concerned about the distribution of local authority between the legislative and executive branches of our government; about the quality of our roads and streets; about the cost and adequacy of our water and sewer systems; about the lack of leadership and citizen participation in city government; about the continual lack of positive attitude and acceptance regarding the value and necessity of citizen input; and the promotion and presentation of our city in a favorable and positive light.

Taking into consideration the frustrations and expectation of citizens and local officials alike, along with the ever changing roles of government and needs of our citizens, the Study Commission identified five basic criteria or goals which the recommended form should meet. The proposed form of government would fulfill these goals in the following ways:

#### The Adoption of a Charter Form of Government with Self-governing Powers

The best way to understand a local government charter is to compare it to a state constitution. Both documents explain how the government is to be organized and what powers it can have. In addition, some charters describe various governmental functions and procedures. A local government charter, therefore, is the basic source for understanding the formal structure, powers, rights and duties of a city, town, or county. It is written by local residents, and it symbolizes very clearly and directly a government of the people's own making. It serves much the same purpose as the United States Constitution at the national level.

It must be pointed out that a local government charter is a less fundamental document than a state or national constitution. A charter is subject to the provisions of both the United States Constitution and the Montana Constitution. In addition, certain specifics of a charter can be overruled by the state legislature. But despite these limitations, a charter gives a municipality greater control over its internal affairs and how it handles its community problems.

The opportunity to obtain self-governing powers partially reverses the so-called Dillon rule which gave local governments only those powers expressly granted to them by state government. The 1972 Montana Constitution allows local governments in Montana all powers except those expressly prohibited by the state's Constitution or statutory law. The essential premise of self-government powers is that local citizens should assume more responsibility for running their own local governments rather than leave these tasks to state politicians who do not understand local problems. Local governments choosing to retain general government powers are limited in their powers to those expressly granted by the Montana Constitution and statutory law.

Members of the Local Government Committee of the 1971 Montana Constitutional Convention were responsible for including the charter-writing provision in the new state constitution. These delegates felt that citizens should have considerable control over their governments and that local communities should have the opportunity to reflect the diversity that prevails in Montana in its governmental structures and powers.

That 1971 Local Government Committee gave considerable thought to both the charter writing process and the nature of the charter itself. In its deliberations on both matters, the committee applied the standards of "accountability" and "flexibility." It was anticipated that the key participants in the charter-writing process would be local citizens. A commission so comprised would allow more people to become directly involved in their government. Such community-based citizen commissions also could give necessary attention to unique local conditions and would not have to rely on a distant state legislature for ready-made alternatives.

The 1971 Local Government Committee also felt that charters drafted locally, unlike previous charters authored by the legislature, should contain provisions dealing with both local governments structure and powers. First, charter writing would encourage local units to experiment with known approaches to organizing local governments or to design a completely unique form of government. Thus, charter writing was seen as a method of molding a governmental structure to fit the particular shape of a community's needs and aspirations.

Delegates to the Montana Constitutional Convention next provided that a charter would contain self-government powers, so that the authority and responsibility of charter-writing communities could be increased. From the "flexibility" standpoint, the delegates thought it was impossible for the legislature to anticipate and accommodate the needs of big and small, urban and rural communities. They decided that local governments could be trusted to exercise powers, in a responsible fashion, over their own affairs. And, from the "accountability" perspective, political responsibility would be increased because local officials, quite visible to the community, would be given greater authority to act on local problems.

This Commission shares many of the views and beliefs of the Local Government Committee of 1971. By transferring as much responsibility and authority as possible to the citizen government itself, democracy is truly at our own back door. Government of the people and for the people is best accomplished by the people at a local level. It is our belief that a charter form of government with self-governing powers will best prepare Dillon and its people for the 21st century.

Finally, a city charter can provide improved visibility of city government to the average citizen. The city charter, as a written document, is a clear, concise and understandable description of the operation of our city government. It is the Constitution of the City of Dillon.

### **Realignment of Legislative and Executive Duties and Powers**

Throughout the review process it has become apparent to this Commission that the delegation of power between the executive (mayor) and the legislative (city council) branches of our government was somewhat lopsided. In an attempt to realign the duties and responsibilities of these two branches, we recommend the following:

1. Council approval is needed for the hiring and dismissal of all department heads.
2. Hiring of all other city employees is retained as a duty of the mayor.
3. Dismissal of all other city employees is retained by the mayor but must be done in consultation with the department head.
3. The President of the Council will make all council appointments to the standing city council committees and will appoint each committee chairperson.

### **Government Responsive to Citizens and Ready for Future Growth**

By offering a charter form of government, we position ourselves to best meet the needs and concerns of the future. This instrument allows the most flexibility and

local involvement of any form of government available through state law to the City of Dillon. Due to current changes as well as the anticipated passing of even more governmental control from the federal and state level down to the local jurisdictions, it is vital to be prepared to meet the demands, expectations and needs of our citizens.

Two major areas of concern as reflected in the citizen survey were the condition and upkeep of our roads and streets as well as the adequacy and expense of our water and sewer system. Even though we acknowledge the citizen concern in these areas, they are not, in our opinion changeable through the Study Commission review process.

It is this Study Commission's opinion that our city government process allows for adequate checks and balances in the financial arena. We found all areas of fund use to be responsible, timely and wise. Considering the financial limitations place upon all counties and municipalities by the 1986 passage of I-105, our city and its government officials have been extremely fiscally responsible with our tax dollars.

#### **Government Structure which allows Maximum Participation by Citizens.**

The Study Commission survey found that under the existing form of government there is very little public involvement. Few city residents can name their Council Ward representatives, and even fewer people even know which ward they reside in.

This Commission believes the general public feels insignificant and unimportant in the day to day life of city government. The perceived lack of an "open door policy" is a detriment to building of positive attitudes about our city, its government, and its people. We believe the people of this community want to feel positive and supportive of their city and its functions. They need to be encouraged.

We would like to urge each city council member to take more time to talk and visit with their constituents, asking their opinions and seeking their thoughts on various issues. Perhaps some time allocated at every city council meeting for open public discussion, exploring ideas, and hearing concerns could be beneficial. The City Ward meetings initiated this year are a definite step in the right direction, and we understand the response was and is positive in both numbers of citizens involved and ideas generated. Please keep these going.

Public education could be valuable and helpful. Maybe an annual "open house" at city hall to demonstrate the new computer system, or to inform folks

about the requirements the state demands regarding water quality while showing them the testing facilities. It was interesting and informative for this Study Commission to learn and see the workings of our public water and sewer system, to take a tour of city hall, the "pet jail", and the fire hall. Citizens, old and young, would certainly feel the same. Informed citizens become involved and interested citizens... and everybody gains.

The other side of the coin showed us discouraged and frustrated city officials and council persons who saw and received little support and encouragement from the general public. Apathy is running wild in Dillon, MT. The inability to attract interested and responsible citizens to run for council and board positions is defeating. All we can say to the general public is "Get involved!" Give more than lip service to your ideas and thoughts. At the same time realize the financial restraints and obligations the city deals with on a day to day basis. If you want expanded services and better facilities, remember that WE have to pay for them. The days of big government involvement are past, and the needs and wants of this community are this community's responsibility.

This Commission believes fiercely in the quality and integrity of the people in this community. Our study showed countless citizens who give willingly of their time and talents to serve on public boards and who work as volunteers in all aspects of our community, its government, and its life. As a commission of citizens, you have our respect and admiration for your services so freely given.

### **Streamlining through a Nonpartisan Electoral Process**

This Commission proposes as a ballot sub-option to the adoption of a charter form of government the implementation of nonpartisan elections for city government positions. Question 17 on the City of Dillon Opinion Survey answered the question "Do you think candidates for elected city office should run for office without a political party identification" with an *overwhelming 61% voting in favor of NO party identification.*

The encouragement and cultivation of interested and educated citizens in becoming involved in the local government process is far more important than any party affiliation. 90% of Montana's incorporated cities have non-partisan elections. Currently, out of the 129 cities in Montana, *Dillon is one of only 13 who demand partisan elections.* Finally, there can be some obvious tax savings in eliminating primary election costs.

Another area of consideration by this Commission was the possible elimination of City Wards. Again turning to our government survey conducted in November of 1995, Question 23 asks "Can you recall the number of the city council ward where you reside?"

When 73% of the respondents indicated "They Don't Know", we must question the necessity of our City Wards.

Historically, wards or districts emerged in towns where the railroad was a pre-dominant aspect of life with many towns abolishing ward systems in the early 1920's. A general guideline today is if you can't divide the various areas of your town with fences, then you don't need wards. This commission does believe we would see more widespread citizen involvement in city government without a ward system.

However, smaller group representation remains a vital issue. Due in part to the initiation of City Ward Meetings and the citizen support shown at these meetings, it is this Commission's recommendation that our Ward system remain intact for the time being.

### Conclusion

As a Commission we would like to take this opportunity to thank the citizens of Dillon for allowing us the opportunity to so intensely study our city government. We have learned a tremendous amount.

This commission was comprised of average lay citizens with no personal vendettas, agendas, or specific political platforms. After two years of meetings, information gathering, interviews, and much thought provoking sessions, we present to you our findings.

We would like to urge you to support this proposed charter form of government and the sub-option of nonpartisan elections.

Respectfully submitted,

September 25, 1996

Date

By Keith Reeder  
Keith Reeder, Chairman

Martin R. Malesich  
Martin Malesich, Secretary

Cindy M. Smith Eccleston  
Cindy M. Smith Eccleston, Member

John Gutcheck  
John Gutcheck, Member

CITY OF DILLON  
 COMPARISON OF SPECIFIC CHARACTERISTICS OF THE  
 MAYOR-COUNCIL AND CHARTER WITH MAYOR-COUNCIL PLAN OF GOVERNMENT

CHARACTERISTIC	PRESENT FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	COMMENTS
FORM OF GOVERNMENT	MAYOR-COUNCIL Elected council performs policy making functions. Elected mayor administers government with the advise and consent of the council.	CHARTER Elected council performs policy making functions. Elected mayor administers government with the advice and consent of council.	No change.
POWERS	General government powers	Self-government powers	Self-government powers bring to the town the power to act in its own best interest, and flexibility in shaping government structure.
GOVERNING BODY	Council and mayor responsible for all legislative, executive and administrative functions.	Council and mayor responsible for all legislative, executive and administrative functions.	No change.
Size	8 councilmembers elected from districts in partisan elections. Mayor elected at large.	8 councilmembers elected from districts in nonpartisan elections. Mayor elected at large.	No change in number on council. Local government issues are usually nonpartisan. Council can concentrate on efficient delivery of services.
Term	Four year overlapping terms.	Four year overlapping terms.	No change.
Presiding Officer	Mayor	Mayor	No change.



<p><b>CHIEF ADMINISTRATIVE OFFICER</b></p> <p><b>Powers and Duties</b></p> <p><b>Appointment Powers</b></p> <p><b>Budget Preparation</b></p>	<p>The elected mayor administers the government on a part time basis.</p> <p>The mayor carries out the policies of the council, advises the council, executes the budget, and enforces laws, ordinances and resolutions.</p> <p>The mayor appoints department heads and members of boards and commissions with the consent of the council.</p> <p>Mayor prepares budget in cooperation with department heads. Budget is then modified and approved by the city council.</p>	<p>The elected mayor administers the government on a part time basis.</p> <p>The mayor carries out the policies of the council, advises the council, executes the budget, and enforces laws, ordinances and resolutions.</p> <p>The mayor appoints all employees and members of boards and commissions with the consent of the council.</p> <p>Mayor prepares the budget in cooperation with department heads. Budget is then modified and approved by the city council.</p>	<p>No change.</p> <p>No change.</p> <p>Mayor and council involved in appointment of all city employees.</p> <p>No change.</p>
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**CERTIFICATE**  
**ESTABLISHING THE EXISTING PLAN OF GOVERNMENT**  
**FOR THE**  
**CITY OF DILLON, MONTANA**

If retained by the voters, the government of Dillon shall remain organized under the following provisions of 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(3);
- (j) 7-3-218(2);
- (k) 7-3-219(1);
- (l) 7-3-220(1);
- (m) 7-3-221(3);
- (n) 7-3-222(2);
- (o) 7-3-223(2).

Authorized by 7-4-4102(4) M.C.A.

(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 (1). 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 the 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 (2). 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 (3). 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 (2). Veto power.** The executive may veto ordinances and resolutions, subject to override by a two-thirds vote of the commission.

**7-3-215 (2). Preparation of budget.** The executive may prepare the budget in consultation with the commission and department heads.

**7-3-216 (2). 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 (3). Financial officer.** A financial officer (who may be called the treasurer) shall be selected as provided by ordinance.

**7-3-218 (2). 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 (1). Type of election.** Local government elections shall be conducted on a partisan basis.

**7-3-220 (1). 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 (3). Presiding officer of the 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 (2). Terms of commission members.** Commission members shall be elected for overlapping terms of office.

**7-3-223 (2). Size of commission and community councils.** The size of the commission shall be eight (8) and community councils to advise commissioners may be authorized by ordinance.

**7-3-224. Terms of elected officials.** The term of office of elected officials shall be four (4) years.

We, the Study Commissioners of the City of Dillon do hereby certify that this is the existing Plan of Government as established by Section 7-3-113 M.C.A.

SEAL

In testimony whereof, we set our hands.

Done at Dillon, Montana this 25 day of Sept., 1996.

ATTEST: Faye E. Jones  
Faye Jones, Dillon City Clerk

Keith Reeder  
Keith Reeder, Chair

Martin R. Malesich  
Martin Malesich

Cindy W. Smith Eccleston  
Cindy Eccleston

John Gutcheck

**CERTIFICATE OF THE PROPOSED CHARTER**

**OF**

**THE CITY OF DILLON**

**PREAMBLE**

**WE, THE PEOPLE OF THE CITY OF DILLON, MONTANA**, in accordance with Article XI, Section 5 of the Montana Constitution, in order to modernize our form of local government, increase its efficiency and to provide for local self determination, do hereby adopt this Charter.

**ARTICLE I  
POWERS OF THE CITY**

**Section 1.01 Powers of the City of Dillon**

The City of Dillon 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-governing city 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 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 change in any city license fee, user fee, permit fee or utility charge shall be made without a prior public hearing or hearings as prescribed 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 city council which shall be the governing body of the city.

**Section 2.02 Composition**

The City of Dillon shall have a city council of eight (8) members, two (2) of whom shall be elected from each of four (4) districts.

**Section 2.03 Qualifications for Office**

Every resident of the City of Dillon who is 18 years of age or older and a citizen of Montana is eligible to hold the office of council member for the district in which he or she resides.

**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 partisan or nonpartisan basis (to be determined by the voters at the November 5, special election). Council members shall be elected by districts in which candidates must reside and which are apportioned by population. One council member from each district shall be elected every two years.

**Section 2.06 Apportionment of Districts**

Following each federal decennial census, the city council shall cause the city to be divided into four (4) districts, as compact and equal in population as possible.

**Section 2.07 President of the Council**

The council shall have a president who shall be elected by the members of the council from their own number for a term established by ordinance. The president of the council shall preside when the mayor is absent, and may only vote as other members of the council.

**Section 2.08 Vacancy in Office**

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

## **Section 2.09 Removal from Office**

A council member may be removed from office by a finding, adopted by the affirmative vote of five (5) council members that the office has become vacant as prescribed by law, or by the recall of the council member by the electors of Dillon as prescribed by law.

## **Section 2.10 Filling Vacancy on Council**

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 five (5) 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 2.11 Powers and Duties**

1. The council shall be the legislative and policy determining body of the City of Dillon. All powers of the City shall be vested in the city 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 on the city by law.

2. Neither the council, nor council members shall in any manner dictate the appointment or removal of any city officers or employees whom the mayor or any subordinates are empowered to appoint.

3. Except for the purpose of inquiry or investigation under this title, the council or its members shall deal with the local government employees who are subject to the direction and supervision of the mayor solely through the mayor, and neither the council nor its members may give orders to any such employee, either publicly or privately.

## **Section 2.12 Council Appointments**

The president of council shall nominate council members to committees of council with the advice and consent of the council.

## **Section 2.13 Restrictions on Council**

Except where authorized by law, no council member shall hold any other city office or city employment for compensation.

## **Section 2.14 Legislative Action**

1. The affirmative vote of four (4) council members shall be required for all official actions

of the council. A minimum of five (5) council members must be present when official actions are taken by the council.

2. The council may override the mayor's veto with the affirmative vote of six (6) council members.

### **Section 2.15 Procedure**

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

### **Section 2.16 Compensation**

The compensation of council members shall be set annually by the city council.

## **ARTICLE III EXECUTIVE BRANCH**

### **Section 3.01 The Mayor**

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

### **Section 3.02 Qualifications for Office**

Every resident of the City of Dillon who is 21 years of age or older and a citizen of Montana for at least three years and a resident of Dillon for at least two years preceding the election to office 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 partisan or nonpartisan basis (to be determined by the voters at the November 5, 1996 special election).

### **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 five (5) council members that the office has become vacant as prescribed by law, or by the recall



of the mayor by the electors of Dillon as prescribed by law.

### **Section 3.07 Filling Vacancy 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 five (5) 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 duties required of him by law, Charter, ordinance or resolution;
3. administer affairs of city 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 city 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 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 3.09 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 in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the mayor;
3. appoint and remove with the consent of the council, all department heads and appoint and remove all other employees in consultation with the appropriate department head.
4. exercise control and supervision of all departments and boards to the degree authorized by ordinance.

### **Section 3.10 Legislative Authority**

1. The mayor shall decide all tie votes of the council, but shall have no other vote.

2. The mayor may veto ordinances and resolutions, subject to override by the affirmative vote of six (6) council members.

**Section 3.11 Compensation**

The compensation of the mayor shall be set annually by the city 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 city departments shall be prescribed by ordinance.

**Section 5.02 Administrative Plan**

The complete plan of organization and structure of the city government which shall include department organization, the nature and scope of responsibilities of each department, and all required rules and procedures for department operation and the procedures regarding boards, commissions or any other government activities shall be prescribed by ordinance.

**Section 5.03 Personnel Management System**

A city personnel management system shall be established which shall include a salary schedule, provisions for vacations, sick leaves, insurance and other employee benefits, procedures for employees to be heard upon their request pending discharge, suspension, or any disciplinary action, and which establishes such other procedures as are appropriate for the conduct of an efficient personnel management system.

**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 July 1, 1997.

### **Section 6.03 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.

### **Section 6.04 Recall**

The elected officers of city government may be recalled by the qualified electors of Dillon as provided by law. No person may be recalled for performing a mandatory duty of the office he or she holds or for not performing any act that, if performed, would subject him or her to prosecution for official misconduct.

### **Section 6.05 Public Participation in Government**

1. All meetings of the city council must be open unless otherwise provided by law.
2. Citizens are entitled to inspect and copy public writings of the City of Dillon as provided by law.

### **Section 6.06 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 Dillon 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 July 1, 1998. The language regarding the sub-optional choice in Sections 2.05 and 3.04 may be removed following the July 1, 1997 effective date.

### **Section 7.02 Continuation in Office**

No city employee or elected official currently holding a city office shall lose employment

or elected position solely because of the adoption of this Charter . Existing elected officials may continue in office until the end of the term for which they were elected.

**Section 7.03 Development of Management Plans**

The mayor shall submit to the council for review and adoption an administrative plan and a personnel management system for the city as required by Article V by July 1, 1998.

**Section 7.03 Financial Obligations**

Financial obligations of the City of Dillon shall not be altered as the result of the adoption of this Charter.

**Section 7.04 Review of Existing Ordinances**

All city ordinances, resolutions and rules of the City of Dillon 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 July 1, 1998.

We, the Study Commission of the City of Dillon do hereby certify that this is the proposed plan of government approved by the Study Commission of the City of Dillon.

SEAL

In testimony whereof, we set our hands.

Done at Dillon, Montana this 25 day of ~~August~~, 1996.

Sept 7  
Keith Reeder  
Keith Reeder, Chair.

Martin R. Malesich  
Martin Malesich

Cindy W. Smith Eccleston  
Cindy Eccleston

John Gatebeck

ATTEST: Faye E. Jones  
Faye Jones, Dillon City Clerk

CERTIFICATE

FOR THE APPORTIONMENT  
OF COMMISSIONER DISTRICTS

Districts described by census block with population and deviation from ideal are shown.

DISTRICT	1990 POPULATION	% DEVIATION FROM IDEAL POPULATION
1	1,060	+6.6
2	1,020	+2.6
3	930	-6.4
4	962	-3.2

Notes:

1. Ideal population is calculated by dividing the total 1980 population of the City of Dillon by the number of districts ( $3,976/4 = 994$ )
2. The 1980 population is derived from the U.S. Bureau of the Census data.

We, the Dillon Local Government Study Commission of Dillon, Montana do hereby certify that this is the official apportionment plan for commissioner districts approved by the Study Commission of Dillon.

SEAL

In testimony whereof, we set our hands.

Done at Dillon, Montana this 19 day of August, 1996.

ATTEST: Faye E. Jones  
Faye Jones, Dillon City Clerk

Keith Reeder  
Keith Reeder, Chair

Martin R. Malesich  
Martin Malesich

Cindy M. Eccleston  
Cindy Eccleston

John Gutschick

**CERTIFICATE**  
**ESTABLISHING THE DATE OF THE SPECIAL ELECTION**  
**AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT**  
**SHALL BE PRESENTED TO THE ELECTORS OF**  
**DILLON, MONTANA**

The alternative form of government proposed by the Local Government Study Commission shall be submitted to the voters of Dillon at a special election to be held with the general election on November 5, 1996.

We, the Study Commissioners of the City of Dillon do hereby certify that this is the date of the special election approved by the Dillon Local Government Study Commission.

SEAL

In testimony whereof, we set our hands.

Done at Dillon, Montana this 25 day of Sept., 1996.

ATTEST: Faye E. Jones  
Faye Jones, Dillon City Clerk

Keith Reeder  
Keith Reeder, Chair

Martin R. Malesich  
Martin Malesich

Cindy W. Smith Eccleston  
Cindy Eccleston

John Gutchebeck

**CERTIFICATE  
ESTABLISHING THE OFFICIAL BALLOT FOR  
THE NOVEMBER 5, 1996, SPECIAL ELECTION**

Instructions to voters: Place an "X" in the box which expresses your preference.

**OFFICIAL BALLOT**

**BALLOT ON THE ALTERNATIVE FORM OF GOVERNMENT**

If the proposed form of government fails to receive a majority of the votes cast on the question, the sub-option also fails. If the proposed form is adopted, the sub-option requires only a plurality of votes cast on the sub-option for adoption.

1.

Vote for One.

FOR adoption of the charter with the commission-executive plan of government proposed for Dillon proposed by the Dillon Local Government Study Commission.

FOR the existing form of government.

2.

Vote for One.

Sub-option to be included in the new form of government, if it is adopted.  
Local government elections:

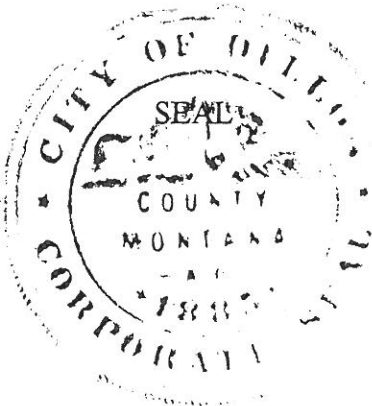
Shall be conducted on a partisan basis.

Shall be conducted on a nonpartisan basis.

We, the Study Commissioners of the City of Dillon do hereby certify that this is the official ballot approved by the Dillon Local Government Study Commission.

In testimony whereof, we set our hands.

Done at Dillon, Montana this 19 day of August, 1996.



ATTEST: Faye E. Jones  
Faye Jones, Dillon City Clerk

Keith Reeder  
Keith Reeder, Chair

Martin A. Malesich  
Martin Malesich

Cindy W. Eccleston  
Cindy Eccleston