


MAR 31 2020



MEMORANDUM

**TO:** Robert Wilson  
Cass County Administrator

**FROM:** Birch P. Burdick  
Cass County State's Attorney 

**DATE:** March 31, 2020

**RE:** Term limitations for Cass commissioners

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At a recent commission meeting the topic of term limitations for Cass County commissioners was raised, and whether the Commission should consider amending the Home Rule Charter ("HRC") to add further clarity. HRC Article 6, §3 states: "no Commissioner will serve more than three successive four-year terms". In 2016 I prepared a written opinion as to the meaning of that provision as it related to former Commissioner Vern Bennett. Bennett had served three successive terms and was off the Board, then moved into a different district and wished to run again two years later. Enclosure 1 provides that opinion.

At the recent meeting, Commissioner Steen proposed clarifying the HRC language. Accordingly, for the Commission's consideration I have provided 4 options. Each is explained below.

- Option 1 (Fargo approach): Inserts a portion of Fargo's language indicating a commissioner may be eligible again at the next regular election following the expiration of their 3<sup>rd</sup> successive 4-year term. With this option, a commissioner could be elected for multiple groups of 3 successive 4-year terms, if separated by a period of where they were not a commissioner. (Enclosure 2)
- Option 2: After 3 successive 4-year terms, a commissioner will not be eligible for any future election as a commissioner. However, it would not forbid appointment as a commissioner to fill a vacancy. (Enclosure 3)
- Option 3: After 3 successive 4-year terms, a commissioner would not be able to serve as commission, whether elected or appointed. (Enclosure 4)
- Option 4: Delete the term limitations provision. (Enclosure 5)

The Commission could choose to utilize one of these options, propose different language, or choose to do nothing with the current language. HRC Article 12 indicates the Commission may propose a modification of the HRC in the manner provide by state law. N.D.C.C. §11-09.1-06 states that within 30 days of a Commission-approved proposal to amend the

**State's Attorney**

Birch P. Burdick

**Assistant State's Attorneys:**

- Tracy J. Peters
- Leah J. Viste
- Reid A. Brady
- Kara Schmitz Olson
- Kimberlee J. Hegvik
- Ryan J. Younggren
- Renata J. Selzer
- Tanya Johnson Martinez
- Katherine M. Naumann
- Joshua J. Traiser
- Tracy E. Hines
- SheraLynn Ternes
- Derek K. Steiner
- Robert C. Vallie

**Victim/Witness Coordinators:**

- Brenda Olson-Wray
- Debbie Tibiatowski
- Lori Lawson

**Check Division/ Restitution:**

- Charlotte Eversvick
- Casidy Heilman

Box 2806  
211 Ninth Street South  
Fargo, North Dakota 58108

PH: 701-241-5850  
Fax: 701-241-5838

HRC, the Commission shall publish the proposed amendment once in the official newspaper, then submit it to a public vote at the next primary or general election that is at least 60 days after the publication (Enclosure 6).

I have provided a proposed Resolution, with blanks that must be completed depending upon what action Commissioners decide to take, if any. (Enclosure 7)

**SUGGESTED MOTION: Move the Resolution #2020-\_\_ be approved, and the question of amending Article 6, §3 of the Cass County Home Rule Charter be put to the electorate, utilizing [Option 1], [Option 2], [Option 3], [Option 4], or [some other language adopted by commissioners].**

1



MEMORANDUM

**TO:** Cass County Commissioners  
**FROM:** Birch P. Burdick  
Cass County State's Attorney  
**DATE:** August 1, 2016  
**RE:** Number of Elective Terms for Commissioners

State's Attorney

Birch P. Burdick

Assistant State's Attorneys:

- Mark R. Boening
- Tracy J. Peters
- Leah J. Viste
- Reid A. Brady
- Kara Schmitz Olson
- Gary E. Euren
- Kimberlee J. Hegvik
- Cherie L. Clark
- Tristan J. Van de Streek
- Ryan J. Younggren
- Renata J. Selzer
- Tanya Johnson Martinez

Victim/Witness Coordinators:

- Brenda Olson-Wray
- Debbie Tibiatowski
- Lori Lawson

Check Division/ Restitution:

- Josi Schultz
- Charlotte Eversvik

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This is a follow-up to the comments at your July 18<sup>th</sup> meeting by a current candidate ("JK") for the position of Cass County commissioner ("Commissioner") about how many terms of office are allowed by Cass County's Home Rule Charter ("HRC"). This memorandum formalizes the opinion I shared at that time.

Opinion

**Question:** May a person run for election as a Commissioner after having completed three successive 4-year terms as a Commissioner, if a period of time separates those three successive terms from a subsequent candidacy?

**Opinion:** Yes, a person may run again for office as a Commissioner, after having completed three successive 4-year terms as a Commissioner, if a period of time elapses between the successive terms and the new candidacy. The way our commission elective structure is set up, such a candidate would normally have to allow 4 years to pass, if they remained in the same commission district, or 2 years to pass, if they moved into a different commission district. The bases for this opinion are provided below.

Bases for Opinion

According to N.D.C.C. §11-09.1-05, a home rule county has the power of self-government in all matters provided for in N.D.C.C. Chapter §11-09.1. One of those powers is to "[p]rovide for all matters pertaining to county elections, except as to qualifications of electors". N.D.C.C. §11-09.1-05(4).

Cass County's Home Rule Charter, Article 6, Section 3 states, in pertinent part: "... no Commissioner will serve more than three **successive** four-year terms". (emphasis added by me) Exhibit A. In determining what that language means, I consider interpretation

techniques found in statute, court cases and from other sources. For example:

- Words are to be understood in their ordinary sense. N.D.C.C. §1-02-02.
- The word “successive” is defined as: “following in order or uninterrupted sequence; consecutive”. Webster’s Encyclopedic Unabridged Dictionary of the English Language, 1996.
- When the wording of a statute is clear and free of all ambiguity, the letter of the law is not to be disregarded under the pretext of pursuing its spirit. N.D.C.C. §1-02-05.
- If a statute is ambiguous, a court may consider, among other things, the object sought to be obtained, the legislative history, etc. N.D.C.C. §1-02-39.
- A court must presume the Legislature meant what it said and said all it intended to say. Furthermore, the court must presume the Legislature was not mistaken in expressing its purpose and intent. Estate of Christeson v. Gilstad, 2013 ND 50, §14, 829 N.W.2d 453.
- “Every word, clause, and sentence in a statute is to be given meaning and effect.” Fastow v. Burleigh County Water Resource District, 415 N.W.2d 505, 509-510 (N.D. 1987).

For the purposes of interpreting the HRC provision, I substitute the HRC Commission for the Legislature and the HRC for the statutes. With that in mind, I note the following:

- JK’s opponent in the 2016 Commission race (“VB”) previously served three successive terms as a commissioner. VB was elected in 2002, 2006 and 2010, and left office at the end of his third term in 2014. In the prior three terms, VB represented District 2. VB is now running in District 3. I consider this change in districts as irrelevant to this analysis, other than as related to the election timing.
- I understand JK’s position to be that the HRC only allows a commissioner to serve three successive 4-year terms, and then never serve again. If that were correct, then VB would be ineligible to run in 2016, or at any other future time. However, for JK’s position to make sense you have to essentially nullify the word “successive”, meaning that a person could only serve three 4-year terms, whether successive or not. Let me use an example to make my point. It would make no sense for the HRC provision to ban any term beyond three successive 4-year terms, but otherwise allow a person to serve six 4-year terms so long as there were not three successive terms.
- I consider the HRC Commission intended the word “successive” to have meaning, rather than to be superfluous. If the HRC Commission intended to limit a person to only three terms,

successive or not, it would have said so. Instead, it incorporated the adjective "successive". According to Webster, that would mean consecutive or uninterrupted.

- My law clerk reviewed the meeting notes of the HRC Commission from 1991 through 1994 (when the HRC passed). The November 14, 1991 meeting notes indicate the HRC Commission added the word "successive" due to input from advisory panel members, but provided no further detail. Exhibit B.
- As JK noted at the meeting, Fargo city commissioners are limited in terms. Fargo Ordinance 2-0106 limits them to three successive 4-year terms, but includes an express provision that a person shall not become eligible to run again until the next regular election following the expiration of their third successive term. Exhibit C. JK's point apparently is that because Cass County's HRC does not incorporate that extra provision, it is not allowed. Although I appreciate that point, I disagree with the conclusion. That provision in Fargo's Home Rule Charter does not appear to me to be an exception to the three successive term limitation, but rather a clarification of when a person could run again. The absence of such language in Cass County's HRC simply leaves us with language which does not preclude eligibility for a subsequent candidacy, without addressing when that candidacy may occur.

During the commission meeting, a question arose as to who was the final authority in interpreting the HRC provision at issue. I previously provided my opinion to JK as a courtesy and for his information, and copied it to the County Auditor as overseer of county elections and the person who puts the names on the general election ballot. I verbally provided my conclusion to you at the July 18<sup>th</sup> meeting and now formally herein. As to state involvement in interpreting home rule charters, the ND Attorney General said the following relating to a question pertaining to the Richland County Home Rule Charter: "An attorney general's use of the authority to issue opinions on questions of law should be limited to those questions involving state law, or questions having statewide significance. Therefore, I must refer you to the Richland County State's Attorney's Office for any specific questions you have pertaining solely to the meaning of language contained in the Richland County home rule charter." ND Attorney General letter to Sen. Dotzenrod, May 26, 1993. A state's attorney is to give an opinion to "the county" on matters relating to the duties of the respective offices and act as legal adviser to the board of county commissioners. N.D.C.C. §11-16-01(9) and (12). What county officials do with that opinion is essentially up to them – they are not legally bound to follow that opinion. The county auditor is the key county election official. N.D.C.C. 11-13-02(9). If the county auditor determines my opinion is worthy of following, and that both JK's and VB's

names should go on the general election ballot, consistent with the results of the primary election and this opinion, then it appears JK's recourse would be to make his argument through the judicial system in an attempt to get some type of restraining order.

If you have further questions on this topic, please feel free to contact me.

Cc: Cass County Auditor  
JK, candidate for Cass County Commission  
VB, candidate for Cass County Commission



## From Cass County's Home Rule Charter:

### "Article 6 Elections

#### Section 1 - Offices to be Elected

1. The Board of County Commissioners shall consist of five members who shall be elected on a nonpartisan ballot. All of the candidates seeking the office of county commissioner shall be voted upon by the qualified electors of the entire county, but one of the commissioners to be elected must reside in each of the commissioners' districts.
2. The Board of County Commissioners may enact ordinances concerning the organization and structure of elected county offices in accordance with state law.
3. After January 1, 2002, the Board of County Commissioners may, by ordinance, convert the elected offices of the county treasurer, register of deeds, auditor and clerk of court into appointed offices. An ordinance to convert an elected office to an appointed office shall not shorten the term for which the official was elected nor reduce the salary of the official's office for that term.

#### Section 2 - Qualifications

In addition to any qualifications established by state law for any of the offices to be filled by election, candidates must be qualified electors of the County of Cass and must have been in continuous residence in the county for at least six months prior to filing nomination papers.

#### Section 3 - Term limitations

After the effective date of this charter, no Commissioner will serve more than three successive four-year terms. A Commissioner elected for a term of less than four years as a result of redistricting or vacancy will be eligible to serve three successive four-year terms.

#### Section 4 - Disclosure

The provisions of state law applicable to candidates for the state legislature will govern the exercise of filing of campaign contribution statements by all candidates for election.

#### Section 5 - Recall

The applicable provisions of state law will govern the recall of elected officials."

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**CASS COUNTY CHARTER COMMISSION MINUTES  
NOVEMBER 14, 1991, 1:00 PM**

**1. MEETING TO ORDER**

A meeting of the Cass County Charter Commission was called to order by Chairman John T. Korsmo at 1:00 PM on Thursday, November 14th, 1991, at Old Broadway in downtown Fargo. Four members were present as follows: John T. Korsmo, Carolyn C. Nelson, Joseph A. Nelson and Michael B. Unhjem. Jay R. Lindgren was absent. Also present was Forum reporter DeAnne Hilgers.

**2. MINUTES APPROVED**

*MOTION, passed*

Carolyn Nelson moved and Michael Unhjem seconded that the minutes of the previous meetings of November 9th and 12th, 1991, be approved as written. Motion carried.

**3. HOME RULE CHARTER REVISIONS**

After getting input from the Charter Commission's advisory panel at a meeting held Tuesday evening, November 12th, Charter Commissioners called a meeting to incorporate some of that input into draft #8 of a Cass County Home Rule Charter.

\* { Some specific changes made by Charter Commissioners as a result of advisory panel members' input were as follows: to delete the qualifications for sheriff; make no reference to the position of an auditor; limit terms of commissioner to three "successive" four-year terms; and delete a section on acting department director.

Under Article 6, Elections, Mr. Nelson asked that Section 3, which says Commissioners will be elected by districts, be deleted from the home rule charter. It was the consensus of the Charter Commission to remove Section 3 as requested, however, Mr. Korsmo said the current system is the only one that guarantees a rural commissioner.

Mr. Nelson also asked to add the words, "not currently being levied or assessed" after the word taxation in Section 2, Article 9; and this was agreeable with everyone present.

**4. PROCEDURE TO FOLLOW AFTER CHARTER IS PRESENTED TO COUNTY COMMISSION**

Mr. Unhjem thinks the Charter Commission should recommend the types of material to be prepared and outline a campaign process to follow if the County Commission adopts the draft home rule charter to be voted upon by the citizens of Cass County. Further discussion will follow.

**5. ADJOURNMENT**

*MOTION, passed*

On motion by Ms. Nelson and seconded by Mr. Unhjem, the Chairman declared the meeting adjourned about 2:30 PM.

Respectfully submitted,

Joyce Schepp  
Commission Secretary





Fargo Ordinance

2-0106. - Limitation on terms.

No member of the board of city commissioners may serve more than three (3) successive four-year terms; provided, that such term limitation shall be subject to the following:

- A. Any member elected to a term of less than four years as a result of a vacancy on the board shall be eligible to serve three additional four-year terms.
- B. Any member who has completed three successive four-year terms shall not be eligible for re-election until the next regular election following the expiration of such member's third successive term.
- C. Any member who has served in the capacity of mayor, as well as city commissioner, may not serve more than four (4) successive four-year terms.
- D. This ordinance shall not apply to any member of the board whose first election as either mayor or commissioner occurred prior to April of 1992.

Source: 2416 (1988), 2620 (1992).

Section 3 - Term limitations

After the effective date of this charter, no Commissioner will serve more than three successive four-year terms. A Commissioner elected for a term of less than four years as a result of redistricting or vacancy will be eligible to serve three successive four-year terms.

ADD INSERT A

Section 4 - Disclosure

The provisions of state law applicable to candidates for the state legislature will govern the exercise of filing of campaign contribution statements by all candidates for election.

Section 5 - Recall

The applicable provisions of state law will govern the recall of elected officials.

Article 7

Departments, Offices, Agencies, Boards and Commissions

Section 1 - General Provisions

The Board of County Commissioners may, by ordinance, establish county departments, offices, agencies, boards or commissions in addition to those offices to be filled by election and may prescribe their functions and membership.

Section 2 - Department Directors

The Board of County Commissioners may appoint Department Directors and fix their compensation. Department Directors will be appointed solely on the basis of executive and administrative qualifications to be established by the Board of County Commissioners. Department Directors need not be residents of the county or state at the time of appointment but must reside within the county within 90 days from the time of appointment.

Section 3 - Removal

A Department Director may be suspended by a resolution of the Board of County Commissioners which will set forth the reasons for suspension and proposed removal. A copy of the resolution will be served immediately upon the Department Director who will have five working days in which to reply in writing. Upon request, the Department Director will be afforded a public hearing, which will occur not earlier than ten days nor later than fifteen days after the hearing is requested. After the public hearing, if one is requested, and after full consideration, the Board of County Commissioners may adopt a final resolution of removal. The Department Director will continue to receive full salary until the effective date of a final resolution of removal.

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- A. Any member elected to a term of less than four years as a result of a vacancy on the board shall be eligible to serve three additional four-year terms.
- B. Any ~~member~~ <sup>COMMISSIONER</sup> who has completed three successive four-year terms shall not be eligible for re-election until the next regular election following the expiration of ~~such member's~~ <sup>THAT COMMISSIONER'S</sup> third successive term.
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Aside from that exception, no Commissioner who has served three successive four-year terms shall be eligible for election to additional terms as a Commissioner.

USE AS INSERT B

Section 3 - Term limitations

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ADD INSERT C

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Aside from that exception, no Commissioner who has served three successive four-year terms shall be eligible to serve as a Commissioner.

USE AS INSERT C

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and referendum under this charter. The number of signatures required to exercise these powers is at least equal in number to fifteen per cent of the number of electors voting in the county for the office of governor in the last general election.

Article 5

Referenda by Board of County Commissioners

The Board of County Commissioners may on its own motion submit any question to the electorate for a vote of the people at any primary or general election specified by the Board. If the question is submitted in the form of a proposed ordinance or resolution and it is approved by a majority of votes cast, and the Board subsequently adopts the ordinance or resolution within six (6) months of the vote, the ordinance or resolution may not be subject to referral by petition for a period of two years from the date of adoption.

Article 6

Elections

Section 1 - Offices to be Elected

1. The Board of County Commissioners shall consist of five members who shall be elected on a nonpartisan ballot. All of the candidates seeking the office of county commissioner shall be voted upon by the qualified electors of the entire county, but one of the commissioners to be elected must reside in each of the commissioners' districts.
2. The Board of County Commissioners may enact ordinances concerning the organization and structure of elected county offices in accordance with state law.
3. After January 1, 2002, the Board of County Commissioners may, by ordinance, convert the elected offices of the county treasurer, register of deeds, auditor and clerk of court into appointed offices. An ordinance to convert an elected office to an appointed office shall not shorten the term for which the official was elected nor reduce the salary of the official's office for that term.

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Section 3 - Term limitations

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DELETE

<sup>3/</sup>Section 4 - Disclosure

The provisions of state law applicable to candidates for the state legislature will govern the exercise of filing of campaign contribution statements by all candidates for election.

<sup>4/</sup>Section 5 - Recall

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6

affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section.

5. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter, a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This subsection does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.
6. Provide for all matters pertaining to county elections, except as to qualifications of electors.
7. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil and criminal penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is regulated by state law or by rules adopted by a state agency.
8. Lay out or vacate public grounds, and provide through its governing body for the construction, use, operation, designation, and regulation of a county road system.
9. Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township.
10. Exercise in the conduct of its affairs all powers usually exercised by a corporation.
11. Contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

The people of all counties coming within this chapter have the full right of self-government in all matters within the powers enumerated in this chapter. The statutes of this state, so far as applicable, continue to apply to counties, except as superseded by the charters of the counties or by ordinances passed pursuant to the charters.

**11-09.1-05.1. Sales tax revenue transfer to school districts prohibited.**

Notwithstanding the provisions of chapters 54-40 and 54-40.3 or any other provision of law, revenue from sales, use, or other excise taxes levied under this chapter may not be transferred to or for the primary benefit of a school district except for payment of bonded indebtedness incurred before April 19, 2007, or for capital construction and associated costs approved by the electors of the county before April 19, 2007.

**11-09.1-06. Amendment or repeal.**

The home rule charter adopted by any county may be amended or repealed by a proposal by the governing body of the county or by petition of the number of electors provided in section 11-09.1-01, submitted to and ratified by the qualified electors of the county. A petition to amend or repeal a home rule charter must be submitted to the governing body of the county. Within thirty days of receipt of a valid petition or approval of a proposal to amend or repeal a home rule charter, the governing body of the county shall publish any proposed amendment or repeal of a home rule charter once in the official newspaper of the county. At least sixty days after publication, the proposed amendment or repeal must be submitted to a vote of the qualified electors of the county at the next primary or general election. The electors may accept or reject

ND CENTURY CODE

any amendment or a repeal by a majority vote of qualified electors voting on the question at the election.

**11-09.1-07. Commission - Terms of office - Vacancies.**

The board of county commissioners shall determine the term of office of the members of the charter commission at the time the members are appointed. The board of county commissioners shall fill any vacancy on the charter commission.

**11-09.1-08. Restriction on proposals to amend or repeal.**

Repealed by S.L. 1993, ch. 401, § 53.

**11-09.1-09. Manner of calling and holding elections.**

The elections provided for in this chapter are subject to the laws applicable to other elections of the county. All qualified electors of the county are eligible to vote at the election. The charter commission, for proposals to adopt a home rule charter, or the governing body of the county, for proposals to amend or repeal a home rule charter, shall prescribe the form of ballot so that the voter may signify whether the voter is for or against the proposed home rule charter or the amendment or repeal.

**11-09.1-10. Effect of amendment or repeal on salary or term of office.**

On the first day of January following repeal of a home rule charter, the county reverts to the form of government of the county immediately preceding adoption of the home rule charter. If positions to which officials were elected under the home rule charter are substantially the same as positions under the form of government to which the county reverts upon repeal, the elected officials shall continue to exercise the authority of their positions for the salary prescribed by the home rule charter until expiration of their terms of office as prescribed by the home rule charter. No amendment of a home rule charter may shorten the term for which any official was elected or reduce the salary of the official's office for that term.

**11-09.1-11. General powers preserved.**

All powers granted counties by general law are powers of home rule counties.

**11-09.1-12. Vested property - Rights of action - Actions saved.**

The adoption of any charter or amendment does not destroy any property, action, right of action, claim, or demand of any nature vested in the county. All rights of action, claims, or demands are preserved to the county and to any persons asserting any claims against the county as completely as though the charter or amendment had not been adopted. The adoption of any charter or amendment affects neither the right of the county to collect special assessments previously levied under any law or charter for the purpose of public improvements, nor impairs the obligation of any existing contract to which the county is a party.

**11-09.1-13. Enforcement of criminal penalties.**

A county that has adopted a home rule charter may impose a penalty for a violation of an ordinance through a citation, a criminal complaint, or an information through the district court in the county where the offense occurred. The penalty for a violation of an ordinance may be an infraction or a class B misdemeanor.

**11-09.1-14. Payment of expenses for indigent defense services.**

The home rule county must pay for an attorney and those expenses necessary for the adequate defense of an indigent person prosecuted for violation of a home rule county ordinance.

RESOLUTION #2020-█

REGARDING THE AMENDMENT OF ARTICLE 6, §3, OF THE HOME RULE CHARTER OF CASS COUNTY, NORTH DAKOTA

WHEREAS, Article 6, §3 of Cass County's Home Rule Charter addresses term limitations for Cass County commissioners; and

WHEREAS, an amendment to Article 6, §3, may add clarity as to how those term limitations apply; and

WHEREAS, the Cass County Board of Commissioners, under the Home Rule Charter, may on it own motion submit a proposed amendment to the Home Rule Charter to the electorate for a vote of the people, and the electorate must approve that proposal by a majority vote of the electors voting;

**NOW, THEREFORE, BE IT RESOLVED**, that the Cass County Board of Commissioners hereby proposes to amend Article 6, §3 of the Home Rule Charter regarding term limitations for commissioners to (TBD)

Shall the Cass County Home Rule Charter be amended to (TBD), as provided in Resolution #2020-█ and in the Notice of Proposed Cass County Home Rule Charter Amendment as published in They Forum on the █ day of April, 2020.

**SHALL SUCH AMENDMENT BE APPROVED?**

Yes 0

No 0

Dated at Fargo, North Dakota, this 6<sup>th</sup> date of April, 2020.

OPTION 1

**RESOLUTION #2020-\_\_\_**

**REGARDING THE AMENDMENT OF ARTICLE 6, §3, OF THE HOME RULE CHARTER OF CASS COUNTY, NORTH DAKOTA**

WHEREAS, Article 6, §3 of Cass County's Home Rule Charter addresses term limitations for Cass County commissioners; and

WHEREAS, an amendment to Article 6, §3, may add clarity as to how those term limitations apply; and

WHEREAS, the Cass County Board of Commissioners, under the Home Rule Charter, may on its own motion submit a proposed amendment to the Home Rule Charter to the electorate for a vote of the people, and the electorate must approve that proposal by a majority vote of the electors voting;

**NOW, THEREFORE, BE IT RESOLVED**, that the Cass County Board of Commissioners hereby elects to proceed with a vote of the electorate, at the next regularly scheduled election, to amend Article 6, §3 of the Home Rule Charter to state that commissioners who have served three successive four-year terms shall not be eligible for re-election until the next regular election following the expiration of that commissioner's third successive term.

Shall Article 6, §3 of the Cass County Home Rule Charter be amended to add the following language: "Any Commissioner who has completed three successive four-year terms shall not be eligible for re-election until the next regular election following the expiration of that Commissioner's third successive term", as provided in Resolution #2020-\_\_\_ and in the Notice of Proposed Cass County Home Rule Charter Amendment as published in The Forum on the \_\_\_ day of April, 2020.

**SHALL SUCH AMENDMENT BE APPROVED?**

Yes 0  
No 0

Dated at Fargo, North Dakota, this 6<sup>th</sup> date of April, 2020.

OPTION 2

**RESOLUTION #2020-\_\_**

**REGARDING THE AMENDMENT OF ARTICLE 6, §3, OF THE HOME RULE CHARTER OF CASS COUNTY, NORTH DAKOTA**

WHEREAS, Article 6, §3 of Cass County's Home Rule Charter addresses term limitations for Cass County commissioners; and

WHEREAS, an amendment to Article 6, §3, may add clarity as to how those term limitations apply; and

WHEREAS, the Cass County Board of Commissioners, under the Home Rule Charter, may on its own motion submit a proposed amendment to the Home Rule Charter to the electorate for a vote of the people, and the electorate must approve that proposal by a majority vote of the electors voting;

**NOW, THEREFORE, BE IT RESOLVED**, that the Cass County Board of Commissioners hereby elects to proceed with a vote of the electorate, at the next regularly scheduled election, to amend Article 6, §3 of the Home Rule Charter to state that no commissioner who has served three successive four-year terms shall be eligible for election to additional terms as a commissioner.

Shall Article 6, §3 of the Cass County Home Rule Charter be amended to add the following language: "Aside from that exception, no Commissioner who has served three successive four-year terms shall be eligible for election to additional terms as a Commissioner.", as provided in Resolution #2020-\_\_ and in the Notice of Proposed Cass County Home Rule Charter Amendment as published in The Forum on the \_\_ day of April, 2020.

**SHALL SUCH AMENDMENT BE APPROVED?**

Yes 0

No 0

Dated at Fargo, North Dakota, this 6<sup>th</sup> date of April, 2020.

OPTION 3

**RESOLUTION #2020-\_\_\_**

**REGARDING THE AMENDMENT OF ARTICLE 6, §3, OF THE HOME RULE CHARTER OF CASS COUNTY, NORTH DAKOTA**

WHEREAS, Article 6, §3 of Cass County's Home Rule Charter addresses term limitations for Cass County commissioners; and

WHEREAS, an amendment to Article 6, §3, may add clarity as to how those term limitations apply; and

WHEREAS, the Cass County Board of Commissioners, under the Home Rule Charter, may on its own motion submit a proposed amendment to the Home Rule Charter to the electorate for a vote of the people, and the electorate must approve that proposal by a majority vote of the electors voting;

**NOW, THEREFORE, BE IT RESOLVED**, that the Cass County Board of Commissioners hereby elects to proceed with a vote of the electorate, at the next regularly scheduled election, to amend Article 6, §3 of the Home Rule Charter to state that no commissioner who has served three successive four-year terms shall be eligible to serve as a commissioner in the future.

Shall Article 6, §3 of the Cass County Home Rule Charter be amended to add the following language: "Aside from that exception, no Commissioner who has served three successive four-year terms shall be eligible to serve as a Commissioner.", as provided in Resolution #2020-\_\_\_ and in the Notice of Proposed Cass County Home Rule Charter Amendment as published in The Forum on the \_\_\_ day of April, 2020.

**SHALL SUCH AMENDMENT BE APPROVED?**

Yes 0

No 0

Dated at Fargo, North Dakota, this 6<sup>th</sup> date of April, 2020.

option 4

**RESOLUTION #2020-\_\_**

**REGARDING THE AMENDMENT OF ARTICLE 6, §3, OF THE HOME RULE CHARTER OF CASS COUNTY, NORTH DAKOTA**

WHEREAS, Article 6, §3 of Cass County’s Home Rule Charter addresses term limitations for Cass County commissioners; and

WHEREAS, an amendment to Article 6, §3, may add clarity as to how those term limitations apply; and

WHEREAS, the Cass County Board of Commissioners, under the Home Rule Charter, may on its own motion submit a proposed amendment to the Home Rule Charter to the electorate for a vote of the people, and the electorate must approve that proposal by a majority vote of the electors voting;

**NOW, THEREFORE, BE IT RESOLVED**, that the Cass County Board of Commissioners hereby elects to proceed with a vote of the electorate, at the next regularly scheduled election, to amend Article 6 of the Home Rule Charter to eliminate §3, thereby removing term limitations for commissioners.

Shall Article 6 of the Cass County Home Rule Charter be amended to remove: “Section 3 – Term limitations: After the effective date of this chapter, no Commissioner will serve more than three successive four-year terms. A Commissioner elected for term of less than four years as a result of redistricting or vacancy will be eligible to serve three successive four-year terms.”, as provided in Resolution #2020-\_\_ and in the Notice of Proposed Cass County Home Rule Charter Amendment as published in The Forum on the \_\_ day of April, 2020.

**SHALL SUCH AMENDMENT BE APPROVED?**

Yes 0

No 0

Dated at Fargo, North Dakota, this 6<sup>th</sup> date of April, 2020.



RICHLAND COUNTY, NORTH DAKOTA  
HOME RULE CHARTER  
PREAMBLE

Pursuant to the statutes of the State of North Dakota, we the people of Richland County do hereby establish and ordain this Home Rule Charter.

Article 1

County Commission to Exercise Powers

Subject to the limitations imposed by the North Dakota Constitution, state law, and this charter, the home rule powers of Richland County shall be vested in the Board of County Commissioners. The Board of County Commissioners shall enact ordinances to determine policies and prescribe the functions of government to be performed under this charter. All home rule powers of the county shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Article 2

Home Rule Powers of County

In addition to powers granted counties under the general statutes, Richland County shall have among its enumerated home rule powers, subject to implementation by ordinance of the Board of County Commissioners, the following:

1. Acquire, hold, operate, and dispose of property within or without the county limits, and exercise the right of eminent domain for those purposes.
  
2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of this section, and Article 9 herein, levy and collect property taxes, sales taxes, motor vehicle fuels and special fuels taxes, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law, and establish debt and mill levy limitations subject to Article 9; provided, that all property in order to be subject to the assessment provisions of this subsection must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments. An ordinance or act of the Board of County Commissioners may not supersede any state law which determines what property or acts are subject to, or exempt from, ad valorem or sales and use taxes. Notwithstanding the other provisions of this subsection, the Board of County Commissioners shall not commingle dedicated mill levies with one another or with the general fund levy.

3. Provide for county elected and appointed officers and employees, their selection, powers, duties, and qualifications, and compensation, and the terms of county appointed officers and employees. However, a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election. Notwithstanding the other provisions of this subsection, a charter or ordinance or act of the Board of County Commissioners may not supersede any state law concerning the office or jurisdiction of the county court or county judge.

4. Provide for all matters pertaining to county elections, except as to qualifications of electors.

5. Provide for the adoption, repeal, initiative, referral, enforcement, and penalties for violation of ordinances, resolutions and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is regulated by state law or by rules adopted by a state agency.

6. Lay out or vacate public grounds, and provide for the construction, use, operation, designation, and regulation of a county road system.

7. Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township.

8. Exercise in the conduct of its affairs all powers usually exercised by a corporation.

9. Contract with and receive grants from any other government entity or agency, with respect to any local, state or federal program, project or works.

The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the County shall have and may exercise all powers which under the Constitution and laws of this state it would be competent for this charter specifically to enumerate.

### Article 3

#### Adoption of Ordinances

For purposes of this charter an ordinance shall be defined as follows:

Any enactment by the commission or the people which prescribes a permanent rule or statute governing the actions of persons or bodies.

Any enactments by the people or the commissioners implementing charter provisions, or expanding or curtailing any of the powers or authorizations provided herein, shall be in the form of ordinances.

Each ordinance introduced through the County Commission shall have two readings, with the first reading consisting of announcement of the title of the ordinance at a duly called meeting of the Board, and a filing of the proposed enactment with the County Auditor, and publication of a summary of the enactment in the official newspaper of the county at least 10 days before the second reading. The proposed enactment may then be given second reading, which shall be by title, and submitted to a roll call vote of the Board of County Commissioners. If a majority of the elected commissioners concur, such enactment shall become effective on the date stated in the enactment.

#### Article 4

##### Offices To Be Elected

The offices of Clerk of District Court, Commissioners, Judge, Sheriff and State's Attorney shall be filled by election under this charter.

#### Article 5

##### Auditor

##### Section 1 – Appointment; Qualifications; Compensation

The Board of County Commissioners by a majority vote of its total membership shall appoint an Auditor for an indefinite term and fix the Auditor's compensation. The Auditor shall be appointed solely on the basis of executive and administrative qualifications to be established by the Board of County Commissioners. The Auditor need not be a resident of the county or state at the time of appointment but must reside within the county within 90 days from the time of appointment.

##### Section 2 – Removal

The Auditor may be suspended by a resolution approved by the majority of the total membership of the Board of County Commissioners which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the Auditor. The Auditor shall have fifteen days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than ten days nor later than fifteen days after such hearing is requested. After the public hearing, if one be requested, and after full consideration the Board of County Commissioners by a majority vote of its total membership may adopt a final resolution of removal. The Auditor shall continue to receive full salary until the effective date of a final resolution of removal.

### Section 3 – Acting Auditor

The Board of County Commissioners may appoint an acting Auditor to exercise the powers and perform the duties of the Auditor during the Auditor's temporary absence or disability.

### Section 4 – Powers and Duties of the Auditor

The Auditor shall be the chief financial officer of the county, responsible to the Board of County Commissioners for the administration of all county affairs placed in the Auditor's charge by or under this charter. The Auditor shall:

1. Direct and supervise the financial administration of all departments, offices and agencies of the county, placed under the Auditor's administration by or under this charter and which may be otherwise required by the Board of County Commissioners. The Auditor shall monitor the financial administration of all departments, offices and agencies of the county, except as otherwise provided by this charter or by law;
2. Attend all Board of County Commissioners meetings. The Auditor shall have the right to take part in discussion but shall not vote;
3. See that all laws, provisions of this charter and acts of the commissioners, subject to enforcement by the Auditor or by officers subject to the Auditor's direction and supervision, are faithfully executed;
4. Prepare and submit the annual budget and capital program to the Board of County Commissioners.
5. Submit to the Board of County Commissioners and make available to the public a complete report on the finances and administrative activities of the county as of the end of each fiscal year;
6. Make such other reports as the commissioners may require concerning the operations of county departments, offices and agencies subject to the Auditor's direction and supervision;
7. Keep the commissioners fully advised as to the financial condition and future needs of the county;
8. Make recommendations to the commissioners concerning the affairs of the county;
9. Provide staff support services for the commissioners; and
10. Perform such other duties as are specified in this charter or may be required by the commissioners.

## Article 6

### Departments, Offices and Agencies

#### Section 1 – General Provisions

The Board of County Commissioners may establish county departments, officers or agencies in addition to those offices to be filled by election or created by this charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

All departments, offices and agencies under the direction and supervision of the Auditor shall be administered by an officer appointed by the Auditor, subject to confirmation by a majority vote of the Board of County Commissioners, and subject to the direction and supervision of the Auditor. With the consent of commissioners, the Auditor may serve as the head of one or more such departments, offices, or agencies, or may appoint one person as the head of two or more of them.

#### Section 2 – Personnel System

All appointments and promotions of county officers and employees, except those offices filled by election, shall be made solely on the basis of qualifications established by job descriptions adopted by the Board of County Commissioners.

Consistent with all applicable federal and state laws the Board of County Commissioners shall provide by ordinance for the establishment, regulation and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the county's departments, offices and agencies, which may include but not be limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

## Article 7

### Financial Procedures

#### Section 1 – Fiscal Year

The fiscal year of the county shall begin on the first day of January and end the last day of December.

#### Section 2 – Submission of Budget and Budget Message

On or before the 6<sup>th</sup> day of July of each year, each department, office, or agencies (sic) whether headed by an elected official or appointed officer shall submit to the Auditor a budget for the ensuing fiscal year.

### Section 3 – Budget Message

The Auditor’s message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the county for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the county’s debt position and include such other material as the Auditor deems desirable.

### Section 4 – Budget

The budget shall provide a complete financial plan of all county funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the Auditor deems desirable or the commissioners may require. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

1. The proposed goals and objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, and program, purpose or activity, and the method of financing such expenditures;
2. Proposed capital expenditures during the ensuing fiscal year, detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure; and
3. The anticipated income and expense and profit and loss for the ensuing year for each utility or other enterprise fund operated by the county.

For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance, exclusive of reserves.

### Section 5 – The Board of County Commissioners Action on Budget

The commissioners shall publish in the official newspaper of the county the general summary of the budget and a notice stating:

1. The times and places where copies of the message and budget are available for inspection by the public, and

2. The time and place, not less than two weeks after such publication, for a public hearing on the budget.

After the public hearing, the commissioners may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

The commissioners shall adopt the budget on or before the 15<sup>th</sup> day of September of the fiscal year currently ending.

#### Section 6 – Appropriation and Revenue Ordinances

To implement the adopted budget, the commissioners shall adopt, prior to the beginning of the ensuing fiscal year;

- (a) An appropriation ordinance making appropriations by department or major organizational unit and authorizing a single appropriation for each program or activity;
- (b) A tax levy ordinance authorizing the property tax levy or levies and setting the tax rate or rates; and
- (c) Any other ordinances required to authorize new revenues or to amend the rates or other features or existing taxes or other revenue sources.

#### Section 7 – Amendments after Adoption

(a) Supplemental Appropriations. If during the fiscal year the Auditor certifies that there are available for appropriation revenues in excess of those estimated in the budget, the commissioners by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the commissioners may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the commissioners may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the Auditor that the revenues or fund balance available will be insufficient to finance the expenditures for which appropriations have been authorized, the Auditor shall report to the commissioners without delay, indicating the estimated amount of the deficit, any remedial action taken by the Auditor and recommendations as to any other steps to be taken. The commissioners (sic) shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer of Appropriations. At any time during the fiscal year the commissioners may by resolution transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units. The Auditor, subject to approval by a majority vote of the Board of County Commissioners, may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit.

(e) Limitation: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

#### Section 8 – Lapse of Appropriations

Every appropriation, except an appropriation for capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised or repealed; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

#### Section 9 – Administration of the Budget

The commissioners shall provide by ordinance the procedures for administering the budget.

#### Section 10 – Overspending of Appropriations Prohibited

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Auditor or the Auditor's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made illegal. A violation of this provision shall



be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the county for any amount so paid. Except where prohibited by law, however, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by ordinance.

#### Section 11 – Capital Program

(a) Submission to the Board of County Commissioners. The Auditor shall prepare and submit to the commissioners a five year capital program no later than the final date for submission of the budget.

(b) Contents. The capital program shall include:

1. A clear general summary of its contents;
2. A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
3. Cost estimates and recommended time schedules for each improvement or other capital expenditure;
4. Method of financing, upon which each capital expenditure is to be reliant; and
5. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

#### Section 12 – Board of County Commissioners Action on Capital Program

(a) Notice and Hearing. The commissioners shall publish in the official newspaper of the county the general summary of the capital program and a notice stating:

1. The times and places where copies of the capital program are available for inspection by the public, and
2. The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

(b) Adoption. The commissioners by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the 15<sup>th</sup> day of September of the current fiscal year.

#### Section 13 – Public Records

Copies of the budget, capital program and appropriations and revenue ordinances shall be public records and shall be made available to the public at suitable places in the county.

### Article 8

#### Powers Reserved To The People

##### Section 1 – Initiative and Referendum

The citizens of Richland County shall have the right to initiate and refer ordinances. This Article is self-executing and all provisions are mandatory. Ordinances may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.

##### Section 2 – Initiative

A petition to initiate an ordinance shall be presented to the Auditor for approval as to form prior to circulation. Each petition shall have printed thereon: “Initiation of county ordinance providing for \_\_\_\_\_” and shall accurately identify and summarize the true nature of the initiated ordinance and set forth the text of the ordinance. A request for approval shall be presented over the names and signatures of three (3) or more qualified electors who shall constitute the “Committee for the Petitioners” and who shall represent and act for the petitioners. Within ten (10) days after receipt of the petition, the Auditor shall either approve the petition for circulation if it is in proper form and contains the full text of the measure or if the Auditor does not approve the petition, he or she shall give written notice to the Committee for the Petitioners of his or her reason for not approving their petition.

Any proposed ordinance may be submitted to the Board of County Commissioners by a petition signed by qualified electors thereof at least equal in number to fifteen (15) percent of the number of electors voting in the County for the office of governor at the last gubernatorial election. The petition shall be filed in the Auditor’s office and shall contain a request that the ordinance set out in the petition be submitted to a vote of the qualified electors of the County if it is not passed by the governing body of the county.

After receiving the petition for the initiation of a proposed ordinance, the governing body of the county shall:

- (a) Pass the ordinance without alteration within twenty (20) days after the attachment of the auditor’s certificate to the accompanying petition that it appears in order, or

(b) Call a special election within ninety (90) days after the filing of the petition and submit to the vote of the electors of the county the initiated ordinance without alteration. However if a general county election is fixed not earlier than fifteen (15) days nor later than ninety (90) days after the date of filing said petition, the unaltered initiated ordinance shall be placed upon the ballot for voter consideration at said general election.

If a majority of the qualified electors voting on an initiated ordinance vote in favor thereof, it shall become a valid and binding ordinance of the County. The Board of County Commissioners may not repeal or make any material amendment to an initiated ordinance except by at least a three-fourths (3/4) vote of the members present for a period of six (6) years after the date of election adopting such ordinance, thereafter such ordinance may be repealed or amended the same as any ordinance. An initiated ordinance approved by the Board of County Commissioners without being submitted to the electors may be referred as provided in Section 3.

### Section 3 – Referendum

The citizens of Richland County shall have the right to refer ordinances, except those ordinances implementing public projects upon which an election or a referendum has already been held pursuant to law or this charter, or which provide for meeting obligations of bonded indebtedness incurred by a prior ordinance or a prior election or referendum and except for the annual budget and appropriation. Qualified county electors at least equal in number to fifteen (15) percent of the number of electors voting in the County for the office of governor in the last gubernatorial election may, by referendum petition, suspend the operation of any ordinance enacted by the governing body, except emergency ordinances approved by at least three-fourths (3/4) of all members of the governing body. An emergency ordinance shall contain a clause declaring an emergency. The filing of referendum petitions against one or more items, sections or parts of any ordinance, shall not prevent the remainder from going into effect. Referendum petitions shall be filed with the Auditor not later than sixty (60) days and before 4:00 o'clock p.m. on the 60<sup>th</sup> day after adoption of the ordinance.

Each petition shall have printed thereon: "Referral of County Ordinance \_\_\_\_\_; providing for \_\_\_\_\_"; and shall accurately identify and summarize the true nature of the referral and set forth the text of the ordinance. A petition to refer an ordinance shall be presented to the Auditor for approval as to form prior to circulation. A request for approval shall be presented over the names and signatures of three (3) or more qualified electors who shall constitute the "Committee for the Petitioners". Within ten days (10) after receipt of the petition, the Auditor shall either approve the petition for circulation if it is in proper form and contains the full text of the measure proposed to be referred or if the Auditor does not approve the petition, he or she shall give written notice to the committee for the petitioners of his or her reason for not approving their petition.

Each ordinance referred to the electors shall be placed upon the ballot by the Auditor at the next county election occurring after thirty (30) days following the filing of sufficient petitions, or at a special election called by the Board of County Commissioners. In the event the referendum petition refers an emergency ordinance, the election shall be held with sixty (60) days from the date of filing.

An ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof, except if said ordinance is an emergency ordinance. An ordinance referred, except an emergency ordinance, shall be suspended upon submission of the auditor's certificate to the Board of County Commissioners as provided in Section 4 of this Article.

If a referendum petition is filed against an emergency ordinance such ordinance shall be in effect until voted upon by the electors. If the ordinance is then rejected by majority of the votes cast thereon, it shall be thereby repealed as of the tenth (10<sup>th</sup>) day after the election.

#### Section 4 – Petition, certification, publication, and limitation

Each petition to initiate or refer, in addition to the signatures of the petitioners, shall contain the residence address of each petitioner. At the bottom of each petition, the circulator of that particular petition shall sign an affidavit affirming that the signors thereto are known to him or her to be qualified electors of the County at the time of signing and also setting forth the number of signors upon the petition at the time when the affidavit was made.

No ordinance shall be enacted limiting the number of copies of petition. Copies of petitions shall become part of the original petition when filed.

All decisions of the Auditor in passing upon any petition to initiate or refer is subject to review by the District Court, in and for Richland County, North Dakota. The burden is on the party challenging the petition if proceedings are brought against any petition upon any ground.

Within ten (10) days after the filing of a petition to initiate or refer an ordinance, the Auditor shall examine the petition and ascertain whether or not the petition is signed by the requisite number of qualified electors. The Auditor shall attach to the petition his or her certificate showing the result of the examination and if the petition is insufficient he or she shall state in his or her certificate the reasons therefore. If the Auditor's certificate shows the petition to be insufficient, it may be corrected or amended within ten (10) days from the date of the certificate. Within ten (10) days after any such amendment, the Auditor shall make an examination of the amended petition, and if the certificate attached thereto shall show the amended petition to be insufficient, it shall be returned to the person filing the same without prejudice to the filing of a new petition to the same effect. If the petition is sufficient, the Auditor shall so certify and submit it to the Board of County Commissioners without delay.

The Auditor shall cause any initiated or referred ordinance to be submitted to the qualified electors under this charter to be published once in the official newspaper of the county. The publication shall be made not more than twenty (20) days nor less than five (5) days before the submission of the initiated or referred ordinance to a vote.

Any number of proposed or referred ordinances may be voted on at the same election in accordance with the provision of this charter. There shall be not more than one special election in any period of one (1) year for such purposes.

If conflicting initiated or referred measures are approved by vote of the people, the one receiving the highest number of affirmative votes shall be law.

## Article 9

### Referenda by Board of Commissioners

Before adopting an ordinance, the Board of County Commissioners may on its own motion submit any question to the county electorate for an advisory vote of the people at any county-wide election, regular or special, specified by the Board. If the question is submitted in the form of a proposed ordinance and it is approved by a majority of votes cast thereon, and the Board subsequently adopts the ordinance within six months of such vote, such ordinance shall not be subject to referral by petition. Any ordinance adopted by the Board of County Commissioners implementing any new or additional category or form of taxation, or raising or eliminating mill levy limitations so as to exceed the statutory limit applicable to non-home rule counties, or which state law requires approval by a vote equal to or greater than a simple majority must be referred as a proposed ordinance for approval by the county electorate. Any ordinance submitted to the county electorate must be approved by the same majority required by state law.

## Article 10

### Separability Clause

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

## Article 11

### Plenary and Implied Powers of the Board of County Commissioners

The Board of County Commissioners shall have plenary power to enact and make all proper and necessary ordinances, and orders to carry out and give effect to the express and implied powers granted in this charter to the end that a complete, harmonious and

effective county government may be initiated, installed, operated and maintained in the county, and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the county and its inhabitants.

## Article 12

### Succession in Government

#### Section 1 – Rights of officers and employees preserved

Nothing in this charter, except as specifically provided, shall affect or impair the rights or privileges of officers and employees of the county or of any office, department or agency existing at the time when this charter shall take effect, or any provision of law in force at the time when this charter shall take effect and not inconsistent with the provisions of this charter, in relation to the appointment, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the county or any office, department or agency.

#### Section 2 – Elimination of elected offices

All persons holding elected offices which have been abolished by this charter shall continue in office and shall continue the performance of their duties until their regular term of office expires in the year 1995.

#### Section 3 – Continuance of present officers

All persons holding executive and administrative office at the time this charter takes effect shall continue in office and shall continue the performance of their duties unless provisions shall have been made by the Board of County Commissioners for the performance or abolition of such duties in some manner, or the discontinuance of such office.

#### Section 4 – Continuance of present officers, departments, or agencies

Any office, department, agency, or board, heretofore existing, shall continue to exercise powers and duties the same as were heretofore exercised and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties unless such office, department or agency shall be changed or abolished by the Board of County Commissioners.

The powers conferred and the duties imposed upon any office, department or agency of the county by the laws of this state shall, if such office, department or agency be abolished by this charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the Board of County Commissioners.

#### Section 5 – Continuance of contracts

All contracts entered into by the county, prior to the taking effect of this charter shall continue in full force and effect.

#### Section 6 – Pending actions and proceedings

The adoption of this charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes full effect, brought by or against the county or any office, department, agency or officer thereof.

#### Section 7 – Ordinances to remain in force

All ordinances and regulations of the county in force at the time this charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be duly amended or repealed.

### Article 13

#### Amendments and Repeal

This charter may be amended or repealed by proposals of the Board of County Commissioners or by petition of the number of electors provided in Article 8, submitted to and ratified by the qualified electors of the county. A petition to amend or repeal this charter must be submitted to the governing body of the county. Within 30 days of the receipt of a valid petition or approval of a proposal of the Board of County Commissioners to amend or repeal, the Board of County Commissioners shall publish any proposed amendment or repeal once in the official newspaper of the county. At least 60 days after publication, the proposed amendment or repeal must be submitted to a vote of the qualified electors of the county at the next primary or general election. The electors may accept or reject any amendment or repeal by a majority vote of electors voting at the election. Any proposal to amend or repeal this charter may not be submitted to the electorate more often than every two years. No amendment of a home rule charter may shorten the term for which any official was elected or reduce the salary of the official's office for that term.

Respectfully submitted by the Richland County Home Rule Charter Commission, this 9<sup>th</sup> day of July, 1990.

# WARD COUNTY, NORTH DAKOTA

## HOME RULE CHARTER

### PREAMBLE

We, the people of Ward County, do establish this Home Rule Charter.

### Article 1

#### Board of County Commissioners to Exercise Powers

Subject to the limitations imposed by the North Dakota Constitution, state law, and this charter, the home rule powers of Ward County will be vested in the Board of County Commissioners. The Board of County Commissioners shall have plenary power to enact ordinances and resolutions to carry out and give effect to the express and implied powers granted in this charter and to prescribe the functions of government to be performed under this charter.

### Article 2

#### Home Rule Powers of County

In addition to powers granted counties under the constitution and laws of the State of North Dakota, Ward County will have among its enumerated home rule powers, subject to implementation by ordinance or resolution of the Board of County Commissioners, the following powers:

- a. To acquire, hold, operate, and dispose of property within or without the county limits, and exercise the right of eminent domain for those purposes.
- b. To control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of Article 8, levy and collect taxes, excises, fees and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law, and establish debt and mill levy limitations subject to Article 8. Notwithstanding the other provisions of this subsection, the Board of County Commissioners will not commingle dedicated mill levies with one another or with the general fund levy.
- c. To provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees.
- d. To provide for all matters pertaining to county elections, except as to qualifications of electors.
- e. To provide for the adoption, amendment, repeal, initiation, referral, enforcement, and penalties for violation of ordinances, resolutions, and



regulations to carry out its governmental and proprietary powers and to provide for public health, safety and welfare. However, this subsection does not confer any authority to regulate any industry or activity that is exclusively regulated by state or federal law or by rules adopted by a state or federal agency.

- f. To lay out or vacate public grounds, and provide for the construction, use, operation, designation, and regulation of a county road system.
- g. To provide for zoning, planning, and subdivision of public or private property within the county limits outside the zoning authority of any city and not inconsistent with established zoning regulations of organized townships.
- h. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
- i. To exercise any of its powers or perform any of its functions by contract with, or grants from, any other governmental entity or agency.

The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the County shall have and may exercise all powers which under the Constitution and laws of this state it would be competent for this charter specifically to enumerate.

### Article 3

## Adoption of Ordinances and Resolutions

### Section 1 – Definitions

An ordinance is any enactment by the Board of County Commissioners or the people that prescribes a permanent rule or statute governing the actions of persons or bodies.

A resolution is any enactment by the Board of County Commissioners or the people that defines policies or procedures governing the actions of persons or bodies for a limited period of time.

### Section 2 – Procedures

Any enactments by the people or the Board of County Commissioners implementing charter provisions, or expanding or curtailing any of the powers or authorizations provided herein, will be in the form of ordinances or resolutions. Each ordinance or resolution introduced through the Board of County Commissioners will have two readings, with the first reading consisting of announcement of the title of the ordinance or resolution at a meeting of the Board of County Commissioners and publication of a summary of the enactment in the official newspaper of the County at least 20 days before the second reading.

The proposed enactment will then be given second reading, which will be by title, and submitted to a roll call vote of the Board of County Commissioners. If a majority of the Board of county commissioners concur, the enactment will become effective on the date stated in the enactment or if no date is stated, on the first day of the month following the date of enactment.

### Section 3 – Limitations

- a. No ordinance enacted under this charter will supersede any ordinance of any political subdivision without its consent.
- b. No ordinance may be enacted to diminish the authority of the boards of supervisors of townships or change the structure of organized township government.

### Article 4 Initiative and Referendum

The powers of initiative and referendum are reserved to the electors of Ward County. The applicable provisions of state law will govern the exercise of the powers of initiative and referendum under this charter. The number of signatures required to exercise these powers is at least equal in number to fifteen per cent of the number of electors voting in the county for the office of governor in the last general election at which a governor was elected.

### Article 5 Elections

### Section 1 – Offices to be Elected

- a. The Board of County Commissioners shall consist of five members who shall be elected on a nonpartisan ballot. All of the candidates seeking the office of county commissioner shall be voted upon by the qualified electors of the entire county. Upon the release of population statistics each decennial census, the County Commissioners shall proceed with redistricting in accordance with ND State Law.
- b. The Board of County Commissioners may enact ordinances concerning the organization and structure of elected county offices in accordance with state law.
- c. The offices of Sheriff and State's Attorney shall be filled by election under this charter. The elective offices of the Auditor/Treasurer and Register of Deeds shall, following the current terms, be filled by appointment by the Board of County Commissioners.
- d. The Board of County Commissioners may, by vote of the majority of the electorate, appoint a County Manager to be responsible for the administration of the affairs of the county.

### Section 2 – Qualifications

In addition to any qualifications established by state law for any of the offices to be filled by election, candidates must be qualified electors of the County of Ward

and must have been in continuous residence in the county for at least six months prior to filing nomination papers.

### Section 3 – Disclosure

Candidates for County office shall file with the office of Auditor/Treasurer campaign contribution statements for all contributions in excess of \$100.

### Section 4– Recall

The applicable provisions of the state constitution law will govern the recall of elected officials.

## Article 6

### Departments, Offices, Agencies, Boards and Commissions

#### Section 1 – General Provisions

The Board of County Commissioners may, by ordinance, establish county departments, offices, agencies, boards or commissions in addition to those offices to be filled by election and may prescribe their functions and membership. Any department, office, agency, board, or commission existing at the time of the adoption of the Home Rule Charter shall continue to exercise powers and duties the same as were heretofore exercised and shall have the power to continue and conduct business proceedings or other matters within the scope of its regular powers and duties until such powers and duties shall be changed or abolished by the Board of County Commissioners. The powers conferred and the duties imposed upon any department, office, agency, board or commission, if such department, office, agency, board or commission is abolished by the Board of County Commissioners, shall thereafter be exercised and discharged by the department, office, agency, board, or commission designated by the Board of Commissioners.

#### Section 2 – Personnel System

Consistent with all applicable federal and state laws, the Board of County Commissioners will adopt a personnel policy to implement effective administration of the employees of the county's departments, offices, and agencies. Non-elected department heads serve on appointment by and at the discretion of the Board of County Commissioners and will be appointed solely on the basis of executive and administrative qualifications determined by the Board of County Commissioners. The county personnel policy shall detail the hiring and termination procedures for county employees as well as available benefits and other regulations relevant to employment with the county. All appointments and promotions of county employees must be made solely on the basis of

qualifications set forth and written job descriptions which shall be adopted by the Board of County Commissioners.

Article 7  
Financial Procedures

Section 1 – Fiscal Year

The fiscal year of the county will begin on the first day of January and end the last day of December.

Section 2 – Submission of Budgets

On or before a date established by the Board of County Commissioners, each department, office, or agency whether headed by an elected official or appointed officer will submit to the Board of County Commissioners a budget for the ensuing fiscal year, including a five year capital program.

Section 3 – Budget

The Board of County Commissioners will prepare a budget which complies with North Dakota State Law, and in a form as prescribed by the State Auditor's office.

The budget will provide a complete financial plan of all county funds and activities for the ensuing fiscal year and including a county-wide, five year capital program and, except as required by law or this charter, will be in a form as the Board of County Commissioners may require.

Section 4 – Board of County Commissioners Action on Budget

The Board of County Commissioners will publish in the official newspaper of the county the general summary of the budget and a notice stating:

- a. The times and places where copies of the budget are available for inspection by the public, and
- b. The time and place, not less than two weeks after publication, for a public hearing on the budget.

After the public hearing, the Board of County Commissioners may adopt the budget with or without amendments. No amendment may increase or decrease expenditures required by law or for debt service or for an estimated cash deficit. No amendment to the budget may increase the authorized expenditures to an amount greater than total estimated resources.

The Board of County Commissioners will adopt the budget on or before the first day of October of the current fiscal year.

## Section 5 – Revenue Certification

To implement the adopted budget, the Board of County Commissioners will file a tax levy certification authorizing the tax levy or levies and setting the tax rate or rates not later than the 1<sup>st</sup> day of October of each year. The levy or levies may be amended through October 10<sup>th</sup>.

## Section 6 – Amendments after Adoption

- a. The Board of County Commissioners may adopt supplemental or emergency appropriations or may provide for reductions or transfers pursuant to the procedures provided in Section 4. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet emergency appropriations, the Board of County Commissioners may authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year must be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- b. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

## Section 7 – Lapse of Appropriations

Every appropriation will lapse at the close of the fiscal year unless revised or repealed.

## Section 8 – Administration of the Budget

The Board of County Commissioners will provide by resolution the procedures for administering the budget.

### Article 8

#### Revenue Authority and Limitations

##### Section 1 – Scope of Authority

Subject to the provisions of this Article, Ward County will have the authority by ordinance or resolution of the Board of County Commissioners, to levy and collect property taxes, sales taxes, income taxes, motor vehicle registration fees, excises, fees and special assessments for benefits conferred.

##### Section 2 – Limitations

- a. No ordinance or resolution may be adopted by the Board of County Commissioners levying property taxes in excess of 85 mills in total until referred by the Board of County Commissioners for approval by the

electorate at any regular or special county election. This mill levy limit does not include any levies certified to the Board of County Commissioners by any other governing body.

- b. No ordinance or resolution may be adopted by the Board of County Commissioners implementing any new or additional tax not currently being levied or assessed until referred by the Board of County Commissioners for approval by the electorate at any regular or special county election.
- c. Any ordinance or resolution submitted to the electorate must be approved by a majority vote of the electors voting.
- d. In order to be subject to the assessment provisions of this Article, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments. No ordinance or resolution of the Board of County Commissioners may supersede any state law which determines what property is subject to or exempt from ad valorem, sales or use taxes.

#### Article 9

##### Separability Clause

If a court declares that any part of this charter is invalid, the decision will not impair or affect in any manner the validity or enforceability of the remainder of this charter.

#### Article 10

##### Succession in Government

###### Section 1 – Rights of officers and employees preserved

Nothing in this charter, except as specifically provided, will affect or impair the rights, privileges, duties or authority of officers and employees of the county or of any office, department, agency, board or commission existing at the time this charter takes effect.

###### Section 2 – Continuance of contracts

All contracts entered into by the county prior to the taking effect of this charter will continue in full force and effect.

###### Section 3 – Pending actions and proceedings

The adoption of this charter will not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes full effect, brought by or against the county or any office, department, agency or officer.

###### Section 4 – Resolutions and policies to remain in force

All county resolutions and policies in force at the time this charter takes effect, and not inconsistent with this charter, will continue in force until amended or repealed.

Article 11

Amendments and Repeal

In the manner provided by state law, this charter may be amended or repealed by a proposal of the Board of County Commissioners or by petition bearing signatures of qualified voters at least equal in number to fifteen per cent of the number of electors voting in the county for the office of governor in the last general election at which a governor was elected.

# **Williams County, State of North Dakota**



**Amended Home Rule Charter  
as proposed by the  
Williams County Board of  
County Commissioners**

**on**

**March 17, 2020**

**206 East Broadway  
PO Box 2047  
Williston ND 58802-2047**



## TABLE OF CONTENTS

Preamble	
Article 1	Board of County Commissioners to Exercise Powers
Article 2	Home Rule Powers of County
Article 3	Adoption of Ordinances and Resolutions
Article 4	Initiative and Referendum
Article 5	Referenda by Board of County Commissioners
Article 6	Elections
Article 7	Departments, Offices, Agencies, Boards and Commissions
Article 8	Financial Procedures
Article 9	Revenue Authority and Limitations
Article 10	Separability Clause
Article 11	Succession in Government
Article 12	Amendments and Repeal

### PREAMBLE

We, the people of Williams County, do establish this Amended Home Rule Charter.

### ARTICLE 1

#### BOARD OF COUNTY COMMISSIONERS TO EXERCISE POWERS

Subject to the limitations imposed by the North Dakota Constitution, state law, and this Amended Home Rule Charter (“this Charter”), the home rule powers of Williams County will be vested in the Board of County Commissioners. The Board of County Commissioners will have plenary power to enact ordinances and resolutions to carry out and give effect to the express and implied powers granted in this Charter and to prescribe the functions of government to be performed under this Charter.

### ARTICLE 2

#### HOME RULE POWERS OF COUNTY

In addition to powers granted counties under the constitution and laws of the State of North Dakota, Williams County will have among its enumerated home rule powers, subject to implementation by ordinance or resolution of the Board of County Commissioners, the following:

1. Acquire, hold, operate, and dispose of property within or without the County limits, and, subject to chapter 32-15, exercise the right of eminent domain for those purposes.
2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; contract debts, borrow money, issue bonds, warrants,

and other evidences of indebtedness; establish charges for any County or other services to the extent authorized by state law, and establish debt limitations.

3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; and establish mill levy limitations. Notwithstanding any authority granted under this Charter or N.D.C.C. Chapter 11-09.1, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede N.D.C.C. Section 11-11-55.1 relating to the sixty percent petition requirement of improvements and of N.D.C.C. Section 40-22-18 relating to the barring proceeding for improvement projects.
4. To levy and collect sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a county lodging tax, and a county restaurant tax. Sales and use taxes and gross receipts taxes levied under this Charter and N.D.C.C. Chapter 11-09.1:
  - a. Must conform in all respects with regard to the taxable or exempt status of items under N.D.C.C. Chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.
  - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
  - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
  - d. Must be subject to collection by the tax commissioner under an agreement under N.D.C.C. Section 57-01-02.1, with the exception of a county lodging or county restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of N.D.C.C. Chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this Section 4, or N.D.C.C. Section 11-09.1-05(4), as applicable, is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it

does not conform to this Section 4 does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under N.D.C.C. Section 57-01-02.1. Any taxes imposed under this Charter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this Section 4.

5. Provide for County elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of County appointed officers and employees. However, except as provided under Article 6, Section 1, of this Charter with regard to the previously elected offices of County Treasurer/Recorder and County Auditor being filled by appointment by the Board of County Commissioners, following expiration of the current term, upon approval of this Charter by the majority of electors, after adoption of this Charter, a County elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the County voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish the term of office for which a current County officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This Section 5 does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.
6. Provide for all matters pertaining to County elections, except as to qualifications of electors.
7. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil and criminal penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this Section 7 does not confer any authority to regulate any industry or activity which is regulated by state law or by rules adopted by a state agency.
8. Lay out or vacate public grounds, and provide through its governing body for the construction, use, operation, designation, and regulation of a County road system.
9. Provide for zoning, planning, and subdivision of public or private property within the County limits but outside the zoning authority of any city or organized township.
10. Exercise in the conduct of its affairs all powers usually exercised by a corporation.
11. Contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

The people of the County coming within N.D.C.C. Chapter 11-09.1, or applicable amended or successor statute(s), and this Charter have the full right of self-government in all matters within the powers enumerated in this Charter. The statutes of this state, so far as applicable, continue to apply to the County, except as superseded by this Charter or by ordinances or resolutions passed pursuant to this Charter.

To the extent any of the above-enumerated powers are inconsistent with or do not fully include all home rule charter powers, N.D.C.C. Section 11-09.1-05, or any amendments thereto or successor statute(s), shall control.

### **ARTICLE 3**

#### **ADOPTION OF ORDINANCES AND RESOLUTIONS**

##### **Section 1- Definitions**

An ordinance is any enactment by the Board of County Commissioners or the people which prescribes a permanent rule or statute governing the actions of persons or bodies.

A resolution is any enactment by the Board of County Commissioners or the people which defines policies or procedures governing the actions of persons or bodies for a limited period of time.

##### **Section 2 - Procedures**

Any enactments by the people or the Board of County Commissioners implementing charter provisions, or expanding or curtailing any of the powers or authorizations provided herein, will be in the form of ordinances or resolutions. Each ordinance or resolution introduced through the Board of County Commissioners will have two readings, with the first reading consisting of announcement of the title of the ordinance or resolution at a meeting of the Board of County Commissioners and publication of the enactment in the official newspaper of the County at least 20 calendar days before the second reading.

The proposed enactment will then be given second reading, which will be by title, and submitted to a roll call vote of the Board of County Commissioners. If a majority of the elected commissioners concur, the enactment will become effective on the date stated in the enactment or, if no date is stated, on the first day of the month following the date of the enactment.

##### **Section 3 - Limitations**

1. No ordinance or resolution enacted under this Charter will supersede any ordinance of any political subdivision without its consent.
2. No ordinance or resolution may be enacted to diminish the authority of the boards of supervisors of townships or change the structure of organized township government.

## **ARTICLE 4**

### **INITIATIVE AND REFERENDUM**

The powers of initiative and referendum are reserved to the electors of Williams County. The applicable provisions of state law will govern the exercise of the powers of initiative and referendum under this Charter. The number of signatures required to exercise these powers is at least equal in number to fifteen per cent of the number of electors voting in the County for the office of governor in the last general election.

## **ARTICLE 5**

### **REFERENDA BY BOARD OF COUNTY COMMISSIONERS**

The Board of County Commissioners may on its own motion submit any question to the electorate for a vote of the people at any primary or general election specified by the Board. If the question is submitted in the form of a proposed ordinance or resolution and it is approved by a majority of votes cast, and the Board subsequently adopts the ordinance or resolution within six (6) months of the vote, the ordinance or resolution may not be subject to referral by petition for a period of two years from the date of adoption.

## **ARTICLE 6**

### **ELECTIONS**

#### **Section 1- Offices to be Elected or Appointed**

The Board of County Commissioners shall consist of five members who shall be elected on a nonpartisan ballot. All of the candidates seeking the office of County Commissioner shall be voted upon by the qualified electors who must reside in each of the commissioners' districts.

The elected offices of the County Sheriff and States Attorney shall remain intact as elected positions.

Upon approval of this Charter by the electors, the previously elected offices of County Treasurer/Recorder and County Auditor shall, following the current term, be filled by appointment by the Board of County Commissioners.

#### **Section 2 - Qualifications**

The provisions of state law regarding the qualifications of candidates will govern the qualifications of candidates for County offices to be filled by election.

### **Section 3 - Disclosure**

The provisions of state law applicable to candidates for the state legislature will govern the exercise of filing of campaign contribution statements by all candidates for election.

### **Section 4 - Recall**

The applicable provisions of state law will govern the recall of elected officials.

## **ARTICLE 7**

### **DEPARTMENTS, OFFICES, AGENCIES, BOARDS AND COMMISSIONS**

#### **Section 1- General Provisions**

The Board of County Commissioners may, by ordinance, establish County departments, offices, agencies, boards or commissions in addition to those offices to be filled by election and may prescribe their functions and membership.

As used in this Charter, the terms “appoint”, “appointed”, and “appointment” with regard to an employee or an officer means an employee or officer who is employed by the County for an assigned position that is not elective and who serves at the pleasure of the Board.

#### **Section 2 - Department Heads**

The Board of County Commissioners may appoint Department Heads and fix their compensation. Any current appointed Department Head, or one appointed in the future, is a person who is employed at-will by the County for an assigned position that is not elective and who serves at the pleasure of the Board. Upon approval of this Charter by the electors, all Department Heads, both current and future, shall be considered County employees who serve at-will and at the pleasure of the Board.

#### **Section 3 – Employees**

Consistent with all applicable federal and state laws, the Board of County Commissioners will adopt policies to implement effective administration of the employees of County departments, offices, and agencies. Non-elected department heads and staff hired and employed by the County shall serve as at-will employees at the discretion of the Board of County Commissioners. Employees will be hired, employed, and promoted solely on the basis of suitability for the position, which may include factors of training, experience, knowledge, or similar. County policies shall detail hiring, employment, and termination procedures for County employees as well as available benefits and other applicable law relevant to employment with the County.

## **ARTICLE 8**

### **FINANCIAL PROCEDURES**

#### **Section 1 - Fiscal Year**

The fiscal year of the County will begin on the first day of January and end the last day of December.

#### **Section 2 - Submission of Budget**

On or before a date established by the Board of County Commissioners, each department, office, or agency, whether headed by an elected official or an appointed officer, will submit to the Board of County Commissioners a department, office, or agency budget for the ensuing fiscal year in a form and manner that is prescribed by the state auditor and which complies with state law.

#### **Section 3 - Budget**

The Board of County Commissioners will prepare a budget in a form and manner prescribed by the state auditor's office and which complies with state law.

The budget will provide a complete financial plan of all County funds and activities for the ensuing fiscal year, except as required by law or this Charter, and will be in a form as the Board of County Commissioners may require.

#### **Section 4 - Board of County Commissioners Action on Budget**

The Board of County Commissioners will comply with state law regarding notice of the general summary of the budget and the public hearing on the budget.

After the public hearing, the Board of County Commissioners shall adopt, by resolution, the budget with or without amendments. No amendment may increase or decrease expenditures required by law or for debt service or for an estimated cash deficit. No amendment to the budget may increase the authorized expenditures to an amount greater than total estimated resources.

The Board of County Commissioners will adopt the budget for the ensuing fiscal year on or before the first County Commission meeting of October of the current fiscal year.

#### **Section 5 - Revenue Certification**

The Board of County Commissioners, on or before the October meeting required by N.D.C.C. Section 11-11-05, shall determine the amount of taxes that shall be levied for County purposes and shall levy all such taxes in specific amounts. The Board of County Commissioners will file a tax levy certification authorizing the tax levy or levies as required by state law.

**Section 6 - Amendments after Adoption**

1. The Board of County Commissioners may adopt supplemental or emergency appropriations or may provide for reductions or transfers as necessary pursuant to applicable state law. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet emergency appropriations, the Board of County Commissioners may authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year must be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
2. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance of the appropriation. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

**Section 7 - Lapse of Appropriations**

Every appropriation, including special appropriations, will lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

**Section 8 - Administration of the Budget**

The Board of County Commissioners will oversee administering the budget.

**ARTICLE 9**

**REVENUE AUTHORITY AND LIMITATIONS**

**Section 1- Scope of Authority**

Subject to the provisions of this Article, Williams County will have the authority by ordinance or resolution of the Board of County Commissioners to levy and collect property taxes, sales and use taxes, excises, fees, other taxes, and special assessments for benefits conferred as allowed by this Charter or state law, and other taxes, excises, fees, or special assessments allowed by state law.

**Section 2 - Limitations**

1. No ordinance or resolution may be adopted by the Board of County Commissioners levying property taxes in excess of that allowed in N.D.C.C. Chapter 57-15. This mill levy limit does not include any levies certified to the Board of County Commissioners by any other governing body, except that no taxes shall be extended by the County on behalf of any other governing body in excess of the limitations prescribed by N.D.C.C. Chapter 57-15 or



other applicable law.

2. No ordinance or resolution may be adopted by the Board of County Commissioners implementing any new or additional tax not currently being levied or assessed until referred by the Board of County Commissioners for approval by the electorate at any County primary or general election, if a vote is required by N.D.C.C. Chapter 57-15.
3. Any ordinance or resolution submitted to the electorate must be approved by a majority vote of the electors voting.
4. In order to be subject to the assessment provisions of this Article, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments. No ordinance or resolution of the Board of County Commissioners may supersede any state law which determines what property is subject to or exempt from ad valorem, sales or use taxes, excises, or fees.

## **ARTICLE 10**

### **SEPARABILITY CLAUSE**

If a court declares that any part of this Charter is invalid, the decision will not impair or affect in any manner the validity or enforceability of the remainder of this Charter.

## **ARTICLE 11**

### **SUCCESSION IN GOVERNMENT**

#### **Section 1- Rights of Officers and Employees Preserved**

Nothing in this Charter, except as specifically provided herein, will affect or impair the duties or authority of officers and employees of the County or of any office, department, agency, board or commission existing at the time this Charter takes effect.

#### **Section 2 - Continuance of Contracts**

All contracts entered into by the County prior to the taking effect of this Charter will continue in full force and effect.

#### **Section 3 - Pending Actions and Proceedings**

The adoption of this Charter will not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes full effect, brought by or against the County or any office, department, agency or officer.

**Section 4 - Resolutions and Policies to Remain in Force**

All County resolutions, ordinances, and policies in force at the time this Charter takes effect, and not inconsistent with this Charter, will continue in force until amended or repealed.

**ARTICLE 12**

**AMENDMENTS AND REPEAL**

This Charter may be amended or repealed in the manner provided by N.D.C.C. Chapter 11-09.1.

Upon approval of the majority vote of the electors at the June 9, 2020 primary election, this Amended Home Rule Charter is respectfully submitted and approved by the Williams County Board of County Commissioners on this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Steve Kemp, Chairman  
Williams County Board of County Commissioners

\_\_\_\_\_  
Cory Hanson, Vice Chairman  
Williams County Board of County Commissioners

\_\_\_\_\_  
David Montgomery, Commissioner  
Williams County Board of County Commissioners

\_\_\_\_\_  
Barry Ramberg, Commissioner  
Williams County Board of County Commissioners

\_\_\_\_\_  
Beau Anderson, Commissioner  
Williams County Board of County Commissioners

ATTEST:

\_\_\_\_\_  
Beth M. Innis, Williams County Auditor

Dated: \_\_\_\_\_

**Morton County**  
**State of North Dakota**  
**Home Rule Charter**

**Table of Contents**

	<u>Page</u>
Preamble .....	1
Article 1 - Board of County Commissioners to Exercise Powers.....	1
Article 2 - Home Rule Powers of County.....	1
Article 3 - Adoption of Ordinances and Resolutions.....	3
Article 4 – Initiative and Referendum .....	4
Article 5 – Referenda by Board of County Commissioners .....	5
Article 6 – Elections.....	5
Article 7 – Departments, Offices, Agencies, Boards and Commissions .....	6
Article 8 – Financial Procedures.....	6
Article 9 – Revenue Authority and Limitations.....	8
Article 10 – Severability Clause .....	8
Article 11 – Succession in Government.....	8
Article 12 – Amendments and Repeal .....	9

## **Preamble**

We, the people of Morton County, do establish this Home Rule Charter.

### **Article 1 - Board of County Commissioners to Exercise Powers**

Subject to the limitations imposed by the North Dakota Constitution, state law, and this charter, the home rule powers of Morton County will be vested in the Board of County Commissioners. The Board of County Commissioners will have plenary power to enact ordinances and resolutions to carry out and give effect to the express and implied powers granted in this charter and to prescribe the functions of government to be performed under this charter.

### **Article 2 - Home Rule Powers of County**

In addition to powers granted counties under the constitution and laws of the State of North Dakota, Morton County will have among its enumerated home rule powers, subject to implementation by ordinance or resolution of the Board of County Commissioners, the following:

1. Acquire, hold, operate, and dispose of property within or without the county limits, and exercise the right of eminent domain for those purposes.

2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of this section levy and collect property taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special fuels tax, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law, and establish debt and mill levy limitations; provided, that all property in order to be subject to the assessment provisions of this subsection must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section NDCC 11-11-55.1 relating to the sixty percent petition requirement of improvements and of section NDCC 40-22-18 relating to the barring proceeding for improvement projects. Sales and

use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:

a. Must conform in all respects with regard to the taxable or exempt status of items under chapters NDCC 57-39.2, 57-32.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of electricity, piped natural or artificial gas, or other heating fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days notice to the tax commissioner or, for purchases from printed catalogs, on the first day of calendar quarter after a minimum of one hundred twenty days notice to the seller.

c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.

d. Must be subject to collection by the tax commissioner under an agreement under section NDCC 57-01-02.1.

Commissioners will not commingle dedicated mill levies with one another or with the general fund levy.

3. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after the adoption of a home rule charter, a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter NDCC 11-10.2. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This subsection does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section NDCC 11-10-02.3.

4. Provide for all matters pertaining to county elections, except as to qualifications of electors.

5. Provide for the adoption, amendment, repeal, initiation, referral, enforcement, and penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is exclusively regulated by state or federal law or by rules adopted by a state or federal agency. This subsection does not confer the authority to regulate the private use of agricultural chemicals.

6. Lay out or vacate public grounds, and provide for the construction, use, operation, designation, and regulation of a county road system.

7. Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township.

8. Exercise in the conduct of its affairs all powers usually exercised by a corporation.

9. Exercise any of its powers or perform any of its functions by contract with, or grants from, any other governmental entity or agency.

10. Exercise the right to impose a penalty for violation of an ordinance through a citation, a criminal complaint, or information through the district court in the county where the offense occurred. The penalty for a violation of an ordinance may be an infraction or a class B misdemeanor.

### **Article 3 - Adoption of Ordinances and Resolutions**

#### **Section 1 - Definitions**

An ordinance is any enactment by the Board of County Commissioners or the people which prescribes a permanent rule or statute governing the actions of persons or bodies.

A resolution is any enactment by the Board of County Commissioners or the people which defines policies or procedures governing the actions of persons or bodies for a limited period of time.

#### **Section 2 - Procedures**

Any enactments by the people or the Board of County Commissioners implementing charter provisions, or expanding or curtailing any of the powers or authorizations provided herein, will be in the form of ordinances or resolutions.

Each ordinance or resolution introduced through the Board of County Commissioners will have two readings, with the first reading consisting of announcement of the title of the ordinance or resolution at a meeting of the Board of County Commissioners and publication of a summary of the enactment in the official newspaper of the county at least 20 days before the second reading.

The proposed enactment will then be given second reading, which will be by title, and submitted to a roll call vote of the Board of County Commissioners. If a majority of the elected commissioners concur, the enactment will become effective on the date stated in the enactment or if no date is stated, on the first day of the month following the date of enactment.

### **Section 3 - Limitations**

1. No ordinance enacted under this charter will supersede any ordinance of any political subdivision without its consent.

2. No ordinance may be enacted to diminish the authority of the boards of supervisors of townships or change the structure of organized township government.

### **Article 4 - Initiative and Referendum**

The citizens of Morton County shall have the right to enact or to refer ordinances implementing home rule powers. Qualified county electors at least equal in number to fifteen per cent of the number of electors voting in the county for the office of governor in the last general election may by petition initiate or refer ordinances.

The referendum petition shall, upon determination by the County Auditor that such petition is sufficient, suspend the operation of any ordinance enacted by the Board of Commissioners, except those enactments implementing public projects upon which an election or a referendum has already been held pursuant to law or this charter, or which provide for meeting obligations of bonded indebtedness, incurred by a prior ordinance or a prior election or referendum, or which approve the annual budget and tax assessment all of which shall not be subject to referendum. The filing of referendum petitions against one or more items, sections or parts of any ordinance, shall not prevent the remainder from going into effect. Referendum petitions shall be filed with the County Auditor not later than 30 days after adoption of the ordinance.



Each ordinance referred to the electors shall be placed upon the ballot by the County Auditor at the next election occurring after 30 days after the filing of sufficient petitions, or at a special election called by the Board of Commissioners, whichever shall occur first.

The County Auditor shall pass upon each petition and, if the Auditor finds it insufficient, the Auditor shall notify the “Committee for the Petitioners” and allow five days for correction or amendment.

Each petition shall have printed thereon: “*Referral of Morton County Ordinance \_\_\_\_\_, (or Initiated Morton County Ordinance \_\_\_\_\_) providing for \_\_\_\_\_*” and shall accurately identify and summarize the true nature of the enactment, or portion of enactment, being referred. In addition, each petition shall have listed the names of three electors who shall constitute the “Committee for the Petitioners” and who shall represent and act for the petitioners. At the bottom of each petition, the circulator of that particular petition shall sign an affidavit affirming that the signers thereto are known to be qualified electors of the county.

This article shall be self-executing and all of its provisions treated as mandatory. Ordinances may be enacted to facilitate its operation but no ordinances shall be enacted to hamper, restrict or impair the exercise of the rights therein reserved to the people.

#### **Article 5 - Referenda by Board of County Commissioners**

The Board of County Commissioners may on its own motion submit any question to the electorate for a vote of the people at any primary or general election specified by the Board. If the question is submitted in the form of a proposed ordinance or resolution and it is approved by a majority of votes cast, and the Board subsequently adopts the ordinance or resolution within six (6) months of the vote, the ordinance or resolution may not be subject to referral by petition for a period of two years from the date of adoption.

#### **Article 6 - Elections**

##### **Section 1 - Offices to be Elected**

1. The Board of County Commissioners shall consist of five members who shall be elected on a nonpartisan ballot. All of the candidates seeking the office of county commissioner shall be voted upon by the qualified electors.

2. The elected offices of the County Treasurer, Recorder, Auditor, Sheriff, and States Attorney shall remain intact as elected positions except as may be modified pursuant to Article 2.3.

**Article 7 - Departments, Offices, Agencies, Boards and Commissions**

The Board of County Commissioners may, by ordinance, establish county departments, offices, agencies, boards or commissions in addition to those offices to be filled by election and may prescribe their functions and membership.

**Article 8 - Financial Procedures**

**Section 1 - Fiscal Year**

The fiscal year of the county will begin on the first day of January and end the last day of December.

**Section 2 - Submission of Budget**

On or before a date established by the Board of County Commissioners, each department, office, or agency whether headed by an elected official or appointed officer will submit to the Board of County Commissioners a budget for the ensuing fiscal year.

**Section 3 - Budget**

The Board of County Commissioners will prepare a budget which provides in fiscal terms and in terms of work programs an outline of the proposed financial policies of the county for the ensuing fiscal year.

The budget will provide a complete financial plan of all county funds and activities for the ensuing fiscal year, except as required by law or this charter, will be in a form as the Board of County Commissioners may require.

**Section 4 - Board of County Commissioners Action on Budget**

The Board of County Commissioners will publish in the official newspaper of the county the general summary of the budget and a notice stating:

1. The times and places where copies of the budget are available for inspection by the public, and

2. The time and place, not less than two weeks after publication, for a public hearing on the budget.

After the public hearing, the Board of County Commissioners may adopt the budget with or without amendments. No amendment may increase or decrease expenditures required by law or for debt service or for an estimated cash deficit. No amendment to the budget may increase the authorized expenditures to an amount greater than total estimated resources.

The Board of County Commissioners will adopt the budget on or before the first Commission meeting of October of the current fiscal year.

### **Section 5 - Revenue Certification**

To implement the adopted budget, the Board of County Commissioners will file a tax levy certification authorizing the tax levy or levies and setting the tax rate or rates on or before the October meeting required by section NDCC 11-11-05 of each year.

### **Section 6 - Amendments after Adoption**

1. The Board of County Commissioners may adopt supplemental or emergency appropriations or may provide for reductions or transfers pursuant to the procedures provided in Section 4. To the extent that there are no available inappropriate revenues or a sufficient fund balance to meet emergency appropriations, the Board of County Commissioners may authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year must be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

2. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

### **Section 7 - Lapse of Appropriations**

Every appropriation will lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

### **Section 8 - Administration of the Budget**

The Board of County Commissioners will provide by resolution the procedures for administering the budget.

## **Article 9 - Revenue Authority and Limitations**

### **Section 1 - Scope of Authority**

Subject to the provisions of this Article, Morton County will have the authority by ordinance or resolution of the Board of County Commissioners, to levy and collect property taxes, sales taxes, income taxes, motor vehicle registration fees, excises, fees and special assessments for benefits conferred as allowed in Article 2.2.

### **Section 2 - Limitations**

1. No ordinance or resolution may be adopted by the Board of County Commissioners levying property taxes in excess of that allowed in NDCC 57-15. This mill levy limit does not include any levies certified to the Board of County Commissioners by any other governing body.

2. No ordinance or resolution may be adopted by the Board of County Commissioners implementing any new or additional tax not currently being levied or assessed until referred by the Board of County Commissioners for approval by the electorate at any regular county election, if required by NDCC 57-15

3. Any ordinance or resolution submitted to the electorate must be approved by a majority vote of the electors voting.

4. In order to be subject to the assessment provisions of this Article, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments. No ordinance or resolution of the Board of County Commissioners may supersede any state law which determines what property is subject to or exempt from ad valorem, sales or use taxes.

## **Article 10 - Severability Clause**

If a court declares that any part of this charter is invalid, the decision will not impair or affect in any manner the validity or enforceability of the remainder of this charter.

## **Article 11 - Succession in Government**

### **Section 1 - Rights of officers and employees preserved**

Nothing in this charter, except as specifically provided, will affect or impair the rights, privileges, duties or authority of officers and employees of the county or

of any office, department, agency, board or commission existing at the time this charter takes effect.

### **Section 2 - Continuance of contracts**

All contracts entered into by the county prior to the taking effect of this charter will continue in full force and effect.

### **Section 3 - Pending actions and proceedings**

The adoption of this charter will not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes full effect, brought by or against the county or any office, department, agency or officer.

### **Section 4 - Resolutions and policies to remain in force**

All county resolutions and policies in force at the time this charter takes effect, and not inconsistent with this charter, will continue in force until amended or repealed.

### **Article 12 - Amendments and Repeal**

This charter may be amended or repealed by a proposal of the Board of Commissioners or by petition bearing signatures of qualified voters at least equal two percent of the population of the county. Within 30 days of the receipt of a valid petition or approval of a proposal of the Board of Commissioners to amend or repeal, the Board of Commissioners shall publish any proposed amendment or repeal twice in the official newspaper of the county. At least 60 days after publication, the proposed amendment or repeal must be submitted to a vote of the qualified electors of the county at the next primary or general election. The electors may accept or reject any amendment or repeal a home rule charter may not be submitted to the electorate more often than every two years. No amendment of a home rule charter may shorten the term for which any official was elected or reduce the salary of the officials' office for that term.

Respectfully submitted by the Morton County Home Rule Charter Commission, this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Andrew Zachmeier, Chairman of Charter Commission

\_\_\_\_\_  
Cody Schulz, Charter Commissioner

\_\_\_\_\_  
Dawn R Rhone, Charter Commissioner

\_\_\_\_\_  
Tom Bair, Charter Commissioner

\_\_\_\_\_  
Sue B. Balcom, Charter Commissioner

APPENDIX B

HOME RULE CHARTER  
for the  
City of Bismarck

Table of Contents

<b>Article 1.</b>	<b>Incorporation.....</b>	<b>2</b>
<b>Article 2.</b>	<b>Governing Body to Exercise Powers.....</b>	<b>2</b>
<b>Article 3.</b>	<b>Powers of City.....</b>	<b>2</b>
<b>Article 4.</b>	<b>Adoption and Amendment of Ordinances.....</b>	<b>7</b>
<b>Article 5.</b>	<b>Powers Reserved to the People.....</b>	<b>7</b>
Section 1.	Referral of Ordinances.....	7
Section 2.	Initiative.....	8
Section 3.	Article is self executing.....	10
<b>Article 6.</b>	<b>Referenda by Board of Commissioners.....</b>	<b>10</b>
Section 1.	Advisory Vote.....	10
Section 2.	Tax Ordinances.....	10
<b>Article 7.</b>	<b>Boundaries.....</b>	<b>11</b>
<b>Article 8.</b>	<b>Separability Clause.....</b>	<b>11</b>
<b>Article 9.</b>	<b>Powers of the Governing Body.....</b>	<b>11</b>
<b>Article 10.</b>	<b>Succession in Government.....</b>	<b>12</b>
Section 1.	Rights of Officers and Employees Preserved.	12
Section 2.	Continuance of Present Officers.....	12
Section 3.	Continuance of Present Offices, Departments or Agencies.....	12
Section 4.	Continuance of Appointive Boards, Authorities and Commissions.....	12
Section 5.	Continuance of Contracts.....	12
Section 6.	Pending Actions and Proceedings.....	13
Section 7.	Ordinances and Statutes to Remain in Force.	13
Section 8.	Inauguration of Government Under This Charter.....	13
<b>Article 11.</b>	<b>Intergovernmental Agreements.....</b>	<b>13</b>
<b>Article 12.</b>	<b>Financial Procedures.....</b>	<b>14</b>
Section 1.	Fiscal year.....	14
Section 2.	Submission of Budget.....	14
Section 3.	Budget Preparation and Form.....	14
Section 4.	Board of City Commissioners Action on Budget.....	14
Section 5.	Revenue Certification.....	14
Section 6.	Amendments After Adoption.....	15
a.	Supplemental Appropriations.....	15
b.	Emergency Appropriations.....	15
c.	Reduction of appropriations.....	15

d.	Transfer of appropriations.....	15
e.	Effective Date.....	15
Section 7.	Lapse of Appropriations.....	16
Section 8.	Administration of the Budget.....	16
<b>Article 13.</b>	<b>Method of Amendment and Repeal.....</b>	<b>16</b>

Article 1. Incorporation

The inhabitants of the City of Bismarck, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Bismarck"

Article 2. Governing Body to Exercise Powers

Subject to the limitations imposed by the Constitution of the United States of America, the Constitution of the State of North Dakota, state law, and this charter, all powers of the city shall be vested in the people. Unless reserved herein, the powers will be exercised by the elected, governing body. The elected, governing body shall enact ordinances, adopt budgets, determine policies and prescribe the functions of government to be performed by the city under the authority of the charter and the constitution and laws of this state.

Article 3. Powers of City

The city shall have all powers granted to municipal corporations by the constitution and laws of this state and by this charter, together with all the implied powers necessary to carry into execution all powers granted.

Among its enumerated powers, which may be implemented by ordinance subject to the limitations specified in this chapter, shall be the authority:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and exercise the right of eminent domain for such purposes.

2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to levy and collect taxes, excises, fees, charges, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; to contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness in accordance with the various provisions of state law; to



establish charges for any city or other services, and to establish mill levy limitations in accordance with Article 6 of this charter, provided that all real and personal property in order to be subject to the assessment provisions of this subsection shall be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments.

3. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.

4. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government including its governing body, executive officer, and city officers, provided that the proposed ordinance is first submitted to a vote pursuant to Article 6, Section 1.

5. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.

6. To provide for all matters pertaining to city elections, except as to qualifications of electors.

7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.

8. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.

9. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.

10. To engage in any utility, business, or enterprise permitted by the constitution and not prohibited by statute or to grant and regulate franchises therefor to a private person, firm, or corporation.

11. To provide for zoning, planning, and subdivision of public or private property within the city limits; to provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.

12. To levy and collect franchise and license taxes for revenue purposes.

13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.

14. To fix the boundary limits of said city and the annexation and de-annexation of territory adjacent to said city except that such power shall be subject to, and shall conform with the state law made and provided.

15. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

16. To impose registration fees on motor vehicles, or sales and use taxes in addition to any other taxes imposed by law.

17. Sales, Use and Gross Receipts Tax.

a. To impose a retail sales, use and gross receipts tax of one percent of those gross receipts taxed pursuant to N.D.C.C. Chapters 57-39.2, 57-39.4, 57-40.2, 57-39.5, and 57-39.6, on transactions occurring within the City limits and on remote sales as defined in N.D.C.C. Chapter 57-39.2-02.2.

1. The proceeds of this city sales, use and gross receipts tax shall be dedicated only to capital improvements as approved by a 60% majority vote of the electorate, debt retirement, utility capital improvements, utility rate reduction, economic development, snow removal, road and street improvements, existing facility rehabilitation and repair and 25 mills, measured at the 2019 mill value, of annual property tax reduction.

b. To impose a retail sales, use and gross receipts tax of no more than one-half percent from

and after January 1, 2019 of those gross receipts taxed pursuant to Chapters 57-39.2, 57-39.4, 57-40.2 57-39.5 and 57-39.6 N.D.C.C.

1. The proceeds of this one-half cent city sales, use and gross receipts tax shall be dedicated only to arterial street construction and reconstruction of the following (known as "Project List"):

- i. 43rd Ave/Ash Coulee Dr from Tyler Parkway to 66th St
- ii. Centennial Road from I-94 to 43rd Ave
- iii. Main Ave from 26th St to 66th St
- iv. State Street from Calgary Ave to ND 1804/71st Ave
- v. Washington St from Burleigh Ave to South Bismarck Drainage Ditch
- vi. Century Ave from Centennial Rd to 66th St
- vii. Tyler Parkway from Valley Dr to 57th Ave
- viii. 57th Ave from Washington St to State St

2. Sunset: The tax imposed by this paragraph 17(b) shall expire 10 years after the date of first collection or upon completion of Project List.

c. The sales, use and gross receipts taxes imposed by paragraphs 17(a) and 17(b) shall be subject to the following:

1. The following shall be specifically exempted from any sales, use and gross tax imposed pursuant to this article:

a. Those sales exempted from the imposition and computation of the state sales, use and gross receipts tax pursuant to N.D.C.C. Sections 57-39.2-04, 57-39.2-04.1, 57-40.2-04 and 57-40.2-04.1. Sales to contractors that are exempt pursuant to subsection 15 of Section 57-39.2-04 shall be exempt from any city sales tax, although contractors shall be subject to the city use tax on those items used within the city that

would be taxed pursuant to N.D.C.C. Section 57-40.02-03.3, on which the city sales tax has not been previously paid.

b. Any other transactions exempted from imposition of the state sales, use or gross receipts tax pursuant to state law.

2. The tax imposed by this paragraph 17 that exceeds \$37.50 on any single sales transaction involving one or more items shall be eligible for a refund with the state tax commissioner.

3. Any retail sales, use and gross receipts tax imposed shall be computed and collected in the same manner provided by law for the collection of the state sales, use and gross receipts tax. The application of the state sales, use and gross receipts tax set forth in N.D.C.C. Section 57-39.2-08.2(1), shall be adjusted to incorporate the additional city sales, use and gross receipts tax.

4. A retailer who pays the retail sales, use and gross receipts tax due under this paragraph 17 within the time limitations prescribed may deduct and retain 3% of the tax due. The aggregate of deductions allowed by this paragraph may not exceed two hundred fifty dollars per quarterly period for each business location which has been issued a sales, use and gross receipts tax permit by the state tax commissioner. The deduction allowed retailers by this paragraph is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the state tax department, and auditor, upon request.

5. An ordinance imposing a city sales, use and gross receipts tax approved by a majority vote of the voters pursuant to paragraph 17(a) shall remain in effect unless repealed or amended thereafter pursuant to law. An ordinance imposing a city sales, use and gross receipts tax approved by a majority vote of the voters pursuant to paragraph 17(b) shall expire 10 years after the date of first collection.

It is intended that the statutes of this state, so far as applicable, shall continue to apply to this city, except Home Rule Charter

insofar as superseded by this charter or by ordinance passed pursuant to this charter, and that in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, the city shall have and may exercise all powers under the constitution and laws of the state applicable generally to all cities.

#### Article 4. Adoption and Amendment of Ordinances

Ordinances implementing the home rule powers provided herein shall be promulgated by the Board of City Commissioners. Each ordinance shall have two readings, with the first reading consisting of announcement of title of the ordinance at a meeting of the Board. The Board shall file the proposed ordinance with the City Auditor, or other official designated by ordinance, and shall publish a summary of the proposed ordinance in the official newspaper of the city at least 10 days before the second reading. The Board shall hold a public hearing at the second reading of the proposed ordinance, which shall be by title, and shall consider any amendments to the proposed ordinance. If the Board substantially amends the proposed ordinance after the second reading, the Board shall republish a summary of the proposed ordinance at least 10 days before reconsideration at a public hearing. If a majority of the commissioners adopt the proposed ordinance on a roll call vote, the ordinance shall become effective on the date stated in the ordinance. The Board of City commissioners shall follow the same procedure for amending an ordinance.

#### Article 5. Powers Reserved to the People

Section 1 - Referral of Ordinances. The citizens of Bismarck shall have the right to refer ordinances implementing home rule powers. Qualified city electors at least equal in number to ten per cent of the number of electors voting in the city for all candidates for the executive officer in the last election may, by referendum petition, suspend the operation of any ordinance enacted by the Board of City Commissioners, except emergency ordinances approved by at least four members of the Board of City Commissioners, ordinances upon which an election or a referendum has already been held pursuant to law or this charter, or ordinances which provide for meeting obligations of bonded indebtedness incurred by a prior ordinance or a prior election or referendum. An emergency ordinance shall contain a clause declaring an emergency and it shall become effective upon final passage.

Each petition shall have printed thereon:  
"Referral of City Ordinance \_\_\_\_), providing for

\_\_\_\_\_ " and shall accurately identify and summarize the nature of the ordinance, or portion of ordinance, being referred. In addition, each petition shall have listed the names of three electors who shall constitute the "Committee for the Petitioners" and who shall represent and act for the petitioners. At the bottom of each petition, the circulator of the petition shall sign an affidavit affirming that the signers are known to be qualified electors of the city.

The City Attorney, or other official designated by ordinance, shall pass upon the form of each petition and, if the City Attorney, or other official designated by ordinance, finds it insufficient, the City Attorney, or other official designated by ordinance, shall notify the "Committee for the Petitioners" and allow five work days for correction or amendment.

The filing of referendum petitions against one or more items, sections or parts of any ordinance, shall not prevent the remainder from going into effect. Referendum petitions shall be filed with the City Auditor, or other official designated by ordinance, not later than 60 days after adoption of the ordinance.

If a referendum petition is filed against an emergency ordinance, the ordinance shall be in effect until voted upon by the electors. If the emergency ordinance is rejected by a majority of the votes cast thereon, it shall be repealed as of the tenth calendar day after the election.

Each ordinance referred to the electors shall be placed upon the ballot by the City Auditor, or other official designated by ordinance, at the next election occurring 60 days after the filing of sufficient petitions, or at a special election called by the Board of City Commissioners, whichever shall occur first.

The City Auditor, or other official designated by ordinance, shall publish each referred ordinance once each week for two consecutive weeks prior to the election in the official city newspaper. The notice shall include the date of the election, the hours of the election, and a list of the polling places.

If the ordinance is successfully referred by a majority vote, the Board of City Commissioners may not re-adopt the ordinance for a period of three years after the election unless all members of the Board approve the ordinance.

Section 2 - Initiative. A petition to initiate an

ordinance shall be presented to the City Attorney, or other official designated by ordinance, for approval as to form prior to circulation. Each petition shall have printed thereon: "Initiation of city ordinance providing \_\_\_\_\_" and shall accurately summarize the nature of the initiated ordinance and set forth the text of the ordinance. A request for approval shall be presented over the names and signatures of three (3) or more qualified electors who shall constitute the "Committee for the Petitioners" and who shall represent and act for the petitioners. Within ten (10) working days after receipt of the petition, the City Attorney, or other official designated by ordinance, shall approve the petition for circulation if it is in proper form and contains the full text of the measure. If the City Attorney, or other official designated by ordinance, does not approve the petition because it is not in the proper form or because it does not contain the full text of the measure, the City Attorney, or other official designated by ordinance, shall give written notice to the Committee for the Petitioners of the reason for not approving their petition.

Any proposed ordinance may be submitted to the Board of City Commissioners by a petition signed by qualified electors at least equal in number to fifteen percent of the number of electors voting in the City for all candidates for the executive officer at the last election. The petition shall be filed in the office of the City Auditor, or other official designated by ordinance, and shall contain a request that the ordinance set out in the petition be submitted to a vote of the qualified electors of the City if it is not passed by the governing body of the city.

After receiving the petition for the initiation of a proposed ordinance, the Board of City Commissioners shall:

a. pass the ordinance without alteration within thirty (30) calendar days after the attachment of the certificate of the City Auditor, or other official designated by ordinance, to the accompanying petition that it appears in order; or

b. direct the City Auditor, or other official designated by ordinance, to place the proposed initiated ordinance upon the ballot at the next election occurring after 60 days after the filing of sufficient petitions, or at a special election called by the Board, whichever shall occur first. The City Attorney, or other official designated by ordinance, shall prepare the language to be placed on the ballot.

The City Auditor, or other official designated by ordinance, shall publish each initiated ordinance once each week for two consecutive weeks prior to the election in the official city newspaper. The notice shall include the date of the election, the hours of the election, and a list of the polling places.

If a majority of the qualified electors voting on an initiated ordinance vote in favor of the ordinance, it shall become an ordinance of the city. The initiated ordinance shall take effect 30 days after approval by the voters unless a different effective date is stated in the ordinance. The Board of City Commissioners may not repeal or make any material amendment to an initiated ordinance except by vote of all members for a period of five (5) years after the date of the election adopting the ordinance, but an initiated ordinance may be amended at any time by an initiated amendment. Thereafter, the ordinance may be repealed or amended the same as any ordinance. An initiated ordinance approved by the Board of City Commissioners without being submitted to the electors may be referred as provided in Section 1.

Section 3 - Article is self executing. This article shall be self-executing and all of its provisions treated as mandatory. Ordinances may be enacted to facilitate its operation but no ordinances shall be enacted to hamper, restrict or impair the exercise of the rights herein reserved to the people.

#### Article 6. Referenda by Board of Commissioners

Section 1 - Advisory Vote. Before adopting ordinances, the Board of City Commissioners may on its own motion submit questions to the city electorate for an advisory vote of the people at any city-wide election specified by the Board. If the question is submitted in the form of a proposed ordinance and it is approved by a majority of votes cast thereon, and the Board subsequently adopts the ordinance within six months of the vote, the ordinance shall not be subject to referral for five years after the effective date.

#### Section 2 - Tax Ordinances.

1. The Board of City Commissioners may adopt a budget without regard to the dedication of mill levies to specific purposes. However, unless a tax has been approved by a vote of the city electors, the taxes from all sources imposed by the Board of City Commissioners shall not exceed the total of levies authorized by the state constitution and state statutes for cities, less



the levy not actually needed to fund the Old Age and Survivors Insurance System pursuant to Subsection 52-09-08(c) of the North Dakota Century Code.

2. If the Board of City Commissioners determines that the revenue which may be raised by levies specified in Article 3, together with all other available funds, will be insufficient to provide for the requirements of the city, the Board may propose an ordinance in accordance with Section 1 to authorize a specified mill levy tax in excess of the limitation for a designated or indefinite period of time.

3. In the event the President of the United States or the Governor of the State of North Dakota declares the City of Bismarck a disaster area because of a natural or man made disaster, the Board of City Commissioners may, pursuant to Article 3, adopt tax ordinances without an advisory vote. Any tax ordinance adopted pursuant to this subsection shall be submitted to the electorate at the next city-wide election. The ordinance shall remain in effect if it is approved by a majority of votes cast on the issue.

#### Article 7. Boundaries

The boundaries of the city shall be the boundaries as established at the time this charter takes effect, or as such boundaries may be changed thereafter in the manner authorized by law.

#### Article 8. Separability Clause

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

#### Article 9. Powers of the Governing Body

The governing body, except when powers are reserved to the people, may enact and make all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express and implied powers granted by law or in this charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated and maintained in the city.

## Article 10. Succession in Government

Section 1 - Rights of Officers and Employees Preserved. Except as otherwise specifically provided, this charter shall not affect or impair the rights or privileges of officers or employees of the city, or any office, department or agency thereof, existing in force at the time this charter shall take effect. Any provision of law in force at the time this charter shall take effect, which provision of law is not inconsistent herewith, shall remain in full force and effect as respects qualifications of personnel, appointment, removal, pension and retirement rights, civil rights, or any other rights or privileges of officers or employees of the city or any office, department or agency thereof.

Section 2 - Continuance of Present Officers. All persons holding executive and administrative office at the time this charter takes effect shall continue in office and shall continue the performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office.

Section 3 - Continuance of Present Offices, Departments or Agencies. Any office, department or agency, heretofore existing, shall continue to exercise powers and duties the same as were heretofore exercised and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties until such office, department or agency shall be changed or abolished by the governing body.

The powers conferred and the duties imposed upon any office, department or agency of the city by the laws of this state shall, if such office, department or agency be abolished by this charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the governing body.

Section 4- Continuance of Appointive Boards, Authorities and Commissions. All appointive boards, authorities commissions, heretofore existing shall continue and shall exercise such powers and duties as were granted them until such boards, authorities and commissions and the powers thereof shall be changed or abolished by the governing body.

Section 5 - Continuance of Contracts. All contracts entered into by the city, or for its benefit, prior to the taking effect of this charter, shall continue in full force

and effect.

Section 6 - Pending Actions and Proceedings. The adoption of this charter shall not abate or otherwise affect any action or proceeding civil or criminal, pending when it takes full effect, brought by or against the city or any office, department, agency or officer thereof.

Section 7 - Ordinances and Statutes to Remain in Force. All ordinances, resolutions and regulations of the city, together with state statutes applicable to municipalities which are in force at the time this charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in force until such ordinances, resolutions and regulations of the city are duly amended or repealed and until ordinances are enacted providing procedures replacing those previously required by state statute.

Section 8 - Inauguration of Government Under This Charter. If a majority of the qualified electors of the city voting on the question vote to ratify this charter, the provisions of this charter shall go into effect ninety days after the filing of the charter by the governing body with the Secretary of State, the Clerk of District Court for Burleigh County, and the office of the City Auditor, or other official designated by ordinance.

#### Article 11. Intergovernmental Agreements

Article VII, Section 10, of the North Dakota Constitution authorizes the Board of City Commissioners to enter agreements, including those for cooperative or joint administration of any powers or functions, with other political subdivisions, the State, and the United States.

It is the intent of the citizens of Bismarck that the Board of City Commissioners take every opportunity to enter appropriate agreements in order to reduce duplication, to improve efficiency, and to improve the delivery of governmental services to the public.

It is also the intent of the citizens of Bismarck that the Board of City Commissioners enter appropriate agreements with the City of Mandan, the County of Burleigh, the County of Morton, and other political subdivisions in an effort to improve the delivery of government services to the public in the most cost-effective manner.

Accordingly, the Board of City Commissioners is authorized to enter the appropriate agreements to implement Article VII, Section 10, of the Constitution.

## Article 12. Financial Procedures

Section 1 - Fiscal year. The Fiscal year of the city shall begin on the first day of January and end the last day of December.

Section 2 - Submission of Budget. On or before a date established by the Board of City Commissioners, each elected or appointed official heading a department, office, or agency shall submit to the commissioners a budget for the next fiscal year. The budget shall include a five year capital program.

Section 3 - Budget Preparation and Form. The City Auditor, or other official designated by ordinance, shall organize, and the Board of City Commissioners shall approve, a budget which defines in fiscal terms and in terms of work programs an outline of the proposed financial policies of the city for the next fiscal year. The budget must provide a complete financial plan of all city funds and activities for the next fiscal year, including a city-wide five year capital program.

Section 4 - Board of City Commissioners Action on Budget. The commissioners shall publish once in the official newspaper of the city a notice stating:

1. A general summary of the proposed budget.
2. The times and places where copies of the budget are available for inspection by the public, and
3. The time and place, not less than two weeks after such publication, for a public hearing on the budget.

After the public hearing, the Board of City Commissioners may adopt the budget with or without amendments. No amendment may decrease expenditures required for debt service. Except as provided in Section 6(b), the budget may not authorize expenditures which are greater than total estimated revenue plus reserves.

The commissioners shall adopt the budget for the next fiscal year on or before the 1st day of October of the fiscal year currently ending.

Section 5 - Revenue Certification. To implement the adopted budget, the Board of City Commissioners shall, not

later than the 10th day of October, file a tax levy certification authorizing the tax dollar levy.

Section 6 - Amendments After Adoption.

a. Supplemental Appropriations. If during the fiscal year the City Auditor, or other official designated by ordinance, certifies that there are available for appropriation revenues in excess of those estimated in the budget, the commissioners by ordinance may make supplemental appropriations for the year up to the amount of such excess.

b. Emergency Appropriations. To meet a public need affecting life, health, property or the public peace, the commissioners may, by emergency ordinance, approve an emergency appropriation. To the extent that there are no available un-appropriated revenues or a sufficient fund balance to meet such appropriations, the commissioners may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

c. Reduction of appropriations. If at any time during the fiscal year it appears probable to the City Auditor, or other official designated by ordinance, that the revenues or fund balance available will be insufficient to finance the expenditures for which appropriations have been authorized, the City Auditor, or other official designated by ordinance, shall report to the commissioners without delay, indicating the estimated amount of the deficit, any remedial action taken by the City Auditor, or other official designated by ordinance, and recommendations as to any other steps to be taken. The commissioners shall then take such further action as they deem necessary to prevent or reduce any deficit and for that purpose may by ordinance reduce one or more appropriations.

d. Transfer of appropriations. At any time during the fiscal year the commissioners may amend the budget ordinance or transfer part or all of the unencumbered appropriation balances within a department or organizational unit.

e. Effective Date. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made

effective immediately upon adoption.

Section 7 - Lapse of Appropriations. Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force for two years after the fiscal year in which the appropriation was established unless the original budget ordinance establishes a different lapse period for the capital appropriation, the Board of City Commissioners extends the lapse period in a subsequent budget ordinance, or the Board approves a motion to return the unexpended funds to the general fund or other appropriate special fund.

Section 8 - Administration of the Budget. The commissioners shall provide by ordinance the procedures for administering the budget.

#### Article 13. Method of Amendment and Repeal

This charter may be amended or repealed as provided by Chapter 40-05.1 of the North Dakota Century Code.

*Adopted January 14, 1986. Article 3(d) was amended on November 8, 1988 and August 6, 1991. Entire Charter was amended November 3, 1992. Article 3(17)(d) was amended on June 14, 1994. Article 3(17)(d) was amended on June 11, 1996. Article 3(17)(d) was amended on March 19, 2002. Article 3(17) was amended on November 6, 2018.*

**HOME RULE CHARTER**  
**CITY OF MINOT, NORTH DAKOTA**

Adopted by election on November 7, 1972

Amended by election on April 1, 1980

Amended by election on June 14, 2011

Article 1-Incorporation

The inhabitants of the City of Minot, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the “City of Minot.”

Article 2-Governing Body to Exercise Powers

Subject to the limitations imposed by the state constitution, state law, and this charter, all powers of the city shall be vested in the elected governing body. The elected governing body shall enact local legislation, adopt budgets, determine policies, and prescribe the function of government to be performed under this charter by the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Article 3-Powers of City

The city shall have all powers granted to municipal corporations by the constitution and laws of this state and by this charter, together with all the implied powers necessary to carry into execution all powers granted.

Among its enumerated powers, which may be implemented by ordinance subject to the limitations specified in the charter, shall be the following:

- a. To acquire, hold, operate, and dispose of property within or without the corporate limits, and exercise the right of eminent domain for such purposes.

- b. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to levy and collect taxes, excises, fees, charges and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings and improvements; to contract debts, borrow money, issue bonds, warrants and other evidences of indebtedness; to establish charges for any city or other services and to establish mill levy limitations, provided that the mill levies ordered and imposed by the governing body on taxable property subject to ad valorem taxation shall not exceed in total the sum of levies authorized by state statutes and the constitution for cities of similar classification to that of the City of Minot, however, the governing body may allocate tax levies free from statutory limitations or dedications. The general obligation debt limit shall be eight (8) percent of the assessed valuation of all taxable property, subject to ad valorem taxation, within the City of Minot.
- c. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
- d. To provide for city officers, agencies, and employees, their selection, terms, powers, qualifications, and compensation.
- e. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers. Provided, however, that the municipal judge shall be elected in the manner as may from time to time be provided by state law.
- f. To provide for all matters pertaining to city elections, except as to qualifications of electors.
- g. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.
- h. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.



- i. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
- j. To engage in any utility or enterprise permitted by the constitution or not prohibited by statute or to grant and regulate franchise therefore to a private person, firm or corporation.
- k. To provide for zoning, planning, and subdivision of public or private property within the city limits; to provide for such zoning, planning and subdivision of public or private property outside the city limits as may be permitted by state law.
- l. To levy and collect franchise and license taxes for revenue purposes.
- m. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
- n. To fix the boundary limits of said city and the annexation and de-annexation of territory adjacent to said city except that such power shall be subject to, and shall conform with, the state law made and provided.
- o. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state or federal program, project or works.
- p. To impose sales and uses taxes in addition to any other taxes imposed by law.

The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercises of such powers, it is intended that the city shall have and may exercise all powers which under the constitution and laws of this state, it would be competent for this charter specifically to enumerate.

## Article 4-Referendum and Initiative

Section 1: The voters of the City of Minot shall have the power to refer and initiate ordinances and resolutions, except that the power of initiative and referendum shall not extend to the annual appropriations ordinance, nor to those ordinances or resolutions implementing public projects upon which an election has previously been held, nor shall the power of initiative and referendum extend to special improvement projects under which the law provides for protest procedures or to special assessment projects carried out under the provisions of the North Dakota Century Code.

Section 2: Initiative petitions must be signed by qualified voters of the city equal to at least 15 percent of the total votes cast in the city at the most recent presidential election.

Section 3: Referendum petitions must be signed by qualified voters of the city equal to at least 10 percent of the total votes cast in the city at the most recent presidential election.

Section 4: Each petition, whether for initiating or referring an ordinance or resolution, shall contain or have attached thereto throughout their circulation the full text of the ordinance or resolution proposed or referred. In addition, each petition shall list the names of the three electors who shall constitute the "Committee for the Petitioners" who shall represent and act for the petitioners.

Each petition shall also contain an affidavit signed by the circulator of the petition affirming that the signers thereto are believed by him or her to be qualified electors of the City of Minot.

Section 5: Referendum petitions for ordinances must be filed with the City Clerk within 30 days after the second reading of the ordinance referred. Referendum petitions for resolutions must be filed with the City Clerk within 30 days after the passage of the resolution referred.

Section 6: The City Clerk shall pass upon the sufficiency of each petition and shall have 20 days after the petition is filed to certify as to its sufficiency. A petition shall be deemed sufficient if the City Clerk has not certified to the contrary in said 20-day period. If the City Clerk finds the petition insufficient, he shall notify the “Committee for the Petitioners”, specifying the insufficiencies, and allow seven days for correction or amendment, and, in the case of a petition for initiating an ordinance only, for additional signatures within said seven day period.

Section 7: Upon the filing of a referendum petition, the ordinance or resolution referred, except emergency ordinances or resolutions, as hereafter defined, shall be suspended. Such suspension shall terminate:

- (1) If the petitions are deemed to be insufficient and not corrected or amended as above provided; or
- (2) The petitions are withdrawn by the “Committee for the Petitioners”, as provided in subsection 10 of this article; or,
- (3) The governing body of the city repeals the ordinance or resolution; or
- (4) After 30 days have elapsed after the city election on the referral.

An emergency ordinance or resolution is an ordinance or resolution thus designated by the governing body and passed by a  $\frac{3}{4}$  vote of such body.

Section 8: Upon the final determination of the sufficiency of the petitions for initiating an ordinance or resolution the governing body shall have 60 days in which to adopt the proposed ordinance or resolution. If the council fails to adopt the proposed ordinance or resolution, without any change in substance from that proposed, within the said 60-day period, the governing body shall submit the same to the voters of the city at an election within 120 days after the final determination of the sufficiency of the petition. If no regular city election is held within said time period, the governing body shall provide for a special election, otherwise the vote shall be taken at such regular election.

Copies of the proposed ordinance or resolution shall be available at the office of the City Clerk at least 10 days prior to the election. The ballot shall fairly state a summary of the proposed ordinance's or resolution's provisions and copies of the ordinance or resolution shall be available at the polling places.

Section 9: Upon the final determination of the sufficiency of the petition of referendum, the city governing body shall cause an election on the referral to be held within 60 days thereafter. The election shall be held at a regular city election if one is scheduled within said time period; if none, then at a special election called by the governing body. The ballot shall fairly state a summary of the ordinance or resolution referred. Copies of the ordinance or resolution shall be available at the polls as well as from the City Clerk for at least 10 days prior to the election.

Section 10: An initiative or referred referendum petition may be withdrawn at any time prior to the scheduling of the election by the governing body upon the filing of a request for withdrawal signed by all the members of the "Committee for the Petitioners."

Section 11: If a majority of electors voting on an initiated ordinance or resolution vote in its favor, it shall be considered adopted upon certification of election results and shall thenceforth stand the same as if adopted by the city's governing body. If a majority of electors voting on a referred ordinance or resolution vote against it, such ordinance or resolution shall be considered repealed upon certification of the election results.

Section 12: Any ordinance or resolution adopted pursuant to initiative as by this Article provided may not be referred except at a regular city election taking place at least two years after the election at which such initiative ordinance or resolution was adopted. The governing body may not repeal or make any material amendment to the initiated ordinance or resolution or to an ordinance or resolution referred and upheld by a vote of the people except by a vote of  $\frac{3}{4}$  of the members thereof for ten years after the date of the election adopting such ordinance or resolution, thereafter such ordinance or resolution may be repealed or amended the same as any other ordinance or resolution.

Section 13: An ordinance or resolution referred and repealed by vote of the electors as herein provided shall not be re-enacted by the governing body before a period of at least two years from the date of the referral election.

Section 14: This article shall be self-executing and all of its provisions treated as mandatory. Ordinances or resolutions may be enacted to facilitate its operation but no ordinance or resolution shall be enacted to hamper, restrict, or impair the exercise of the right herein reserved to the people.

#### Article 5-Separability Clause

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

#### Article 6-Plenary and Implied Powers of the Governing Body

The governing body shall have plenary power to enact and make all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express and implied powers granted in this charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated and maintained in the city, and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the city and its inhabitants.

## Article 7-Succession in Government

### Section 1: Right of the officers and employees preserved.

Nothing in this charter, except as specifically provided, shall affect or impair the right or privileges of officers or employees of the city or of any office, department or agency existing at the time when this charter shall take effect and not inconsistent with the provisions of this charter, in relation to the personnel, appointment, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city or any office, department or agency.

### Section 2: Continuance of present officers

All persons holding executive and administrative office at the time this charter takes effect shall continue in office and shall continue the performance of their duties until provisions shall have been made by the governing board for the performance of such duties in some other manner or the discontinuance of such office.

### Section 3: Continuance of present officers, departments, or agencies.

Any office, department, or agency, heretofore existing, shall continue to exercise powers and duties the same as were heretofore exercised and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties until such office, department, or agency shall be changed or abolished by the governing body.

The powers conferred and the duties imposed upon any office, department or agency of the city by the laws of this state shall, if such office, department or agency be abolished by this charter or under its authority, be hereafter exercised and discharged by the office, department or agency designated by the governing body.

Section 4: Continuance of appointive boards, authorities, and commissions.

All appointive boards, authorities and commissions, heretofore existing shall continue and shall exercise such powers and duties as were granted them until such boards, authorities, and commissions shall be changed or abolished by the governing body.

Section 5: Continuance of contracts.

All contracts entered into by the city, or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect.

Section 6: Pending actions and proceedings.

The adoption of this charter shall not abate or otherwise affect any action or proceeding civil or criminal, pending when it takes full effect, brought by or against the city or any office, department, agency or officer thereof.

Section 7: Ordinances to remain in force.

All ordinances, resolutions and regulations of the city in force at the time this charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be duly amended or repealed.

Section 8: Inauguration of government under this charter.

If a majority of the qualified electors of the city voting on the question, vote to ratify this charter, the provisions of this charter shall go into effect upon the filing of the charter by the governing body with the Secretary of State, the Clerk of the District Court for Ward County, and the office of the City Auditor.

Article 8- Changing the Form of Government

Changes in the form of government may be proposed and effected in the manner provided by the North Dakota Century Code and acts amendatory thereto.

Article 9- Construction

The powers of the city under this charter shall be constructed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this charter.

Article 10- Method of Amendment and Repeal

This charter may be amended or repealed as provided by Section 40-05.1-07 of the North Dakota Century Code and acts amendatory thereto.