

# **PROPOSED HOME RULE CHARTER**

## **Article 1 - Incorporation**

The inhabitants of the City of Beulah, within the corporate limits as now established or as established later 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 Beulah”.

## **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 city governing body. The elected city governing body shall enact local ordinances, adopt budgets, determine policies, and prescribe the functions of government to be performed under this charter by the city. The elected city governing body shall have the power to enact all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express and implied powers granted in this charter. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance.

## **Article 3 - Powers of the 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 of 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 charter, shall be the following:

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; to establish charges for any city or other services, and to establish debt and mill levy limitations. 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 city at the same rate unless otherwise provided by law. The authority to levy taxes under this subsection does not include authority to impose income taxes.
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.
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 or not prohibited by statute or to grant and regulate franchises therefore to a private person, firm, corporation, or limited liability company. **Currently part of Beulah Home Rule Charter**
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. **Currently part of Beulah Home Rule Charter**
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 deannexation 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 levy and collect excises, fees, charges, franchise and license taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a city lodging tax, and a city restaurant tax. Sales and use taxes and gross receipts taxes levied under this section: **Currently part of Beulah Home Rule Charter**

- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 of the North Dakota Century Code 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 purposes, except for farm machinery gross receipts tax.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 of the North Dakota Century Code, with the exception of a city lodging or city restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2 of the North Dakota Century Code, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

It is intended that the statutes of this state, so far as applicable, shall continue to apply to this city, except as superseded by this charter or by ordinance passed pursuant to this charter. In addition to the powers enumerated herein, 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 this state applicable generally to all cities.

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

Section 1: The voters of the city shall have the power to refer and initiate ordinances, except that the power of initiative and referendum shall not extend to the annual appropriation ordinances, nor to those ordinances implementing public projects upon which an election has previously been held, or special improvement projects under which the law provides for protest procedures.

Section 2: Initiative petitions must be signed by qualified voters of the city equal to at least [ 20 ] 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 [ 20 ] 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, shall contain or have attached thereto throughout their circulation the full text of the ordinance 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 that petition affirming that the signors of the petition are believed by the circulator to be qualified voters of the city.

Section 5: Referendum petitions must be filed with the City Auditor within 90 days after the second reading of the ordinance referred.

Section 6: The City Auditor 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 Auditor has not certified to the contrary within the 20-day period. If the City Auditor finds the petition insufficient, the City Auditor 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 the seven-day period.

Section 7: Upon proper filing of a referendum petition, the ordinance referred, except emergency ordinances as defined in this section, shall be suspended. Such suspension shall terminate:

- (1) If the petitions are determined to be insufficient and not corrected or amended as provided in section 6 of this article; or
- (2) The petitions are withdrawn by the “Committee for the Petitioners”, as provided in section 10 of this article; or
- (3) The governing body of the city repeals the ordinance; or

An “emergency ordinance” is an ordinance designated as an emergency ordinance by the city governing body and passed by a  $\frac{3}{4}$  vote of the city governing body.

Section 8: Upon the final determination of the sufficiency of the petitions for initiating an ordinance the city governing body shall have 60 days in which to adopt the proposed ordinance. If the city governing body fails to adopt an ordinance, without any change in the substance from that proposed, within the 60 day time period, the city governing body shall submit the ordinance to the voters of the city at an election to be held within 120 days after the final determination of the sufficiency of the petitions. If no regular city election is to be held within that time period, the city governing body shall provide for a special election. Copies of the proposed ordinance shall be available at the office of the City Auditor at least 10 days prior to the election. The ballot shall fairly state a summary of the provisions of the proposed ordinance and copies of the ordinance shall be available at the polling places.

Section 9: Upon the final determination of the sufficiency of the petitions of referendum, the city governing body shall cause an election on the referral to be held within 90 days. The election shall be held at a regular city election, if one is scheduled within that time period, or at a special election called by the city governing body. Copies of the ordinance shall be available at the office of the City Auditor at least 10 days prior to the election. The ballot shall fairly state a summary of the ordinance referred, and copies of the ordinance shall be available at the polling places.

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

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

Section 12: The city governing body may not repeal or make any material amendments to an initiated ordinance for ten years after the ordinance is approved by the voters except by a  $\frac{3}{4}$  vote of the city governing body.

Section 13: An ordinance referred and repealed by a vote of the electors shall not be re-enacted by the city 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 may be enacted to facilitate its operation, but no ordinance shall be enacted to hamper, restrict, or impair the exercise of the rights reserved to the people.

#### **Article 5 – Referendum by Governing Body**

Before adopting ordinances, the governing body may on its own motion submit questions to the electorate for an advisory vote of the people at any city-wide election specified by the governing body. If a question is submitted in the form of a proposed ordinance and it is approved by a majority of the votes cast thereon, and the governing body thereafter adopts the ordinance within six (6) months of such vote, such ordinance shall not be subject to referral by petition for a period of two (2) years.

#### **Article 6 – 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 a section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

#### **Article 7 – Plenary and Implied Powers of the Governing Body**

The governing body shall have plenary power to enact and make all property and necessary ordinances, resolutions and order 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 8 – 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 or employees of the City 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 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 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 body for the performance of such duties in some other manner or the discontinuance of such office.

Section 3: Continuance of Present Office, 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, 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 and Commissions

All appointive boards and commissions, heretofore existing, shall continue and shall exercise such powers and duties as were granted them until such boards 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 questions, 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 Mercer County and the office of the City Auditor of Beulah. Said filings shall be completed not later than ninety (90) days after the election ratifying the charter.

**Article 9 – Changing the Form of Government**

Changes in the form of government may be proposed on motion of the governing body or may be proposed by petitions bearing the signatures of qualified city electors equal to twenty-five (25%) percent of those voting for the office of governor in the last election. Proposals for changing the form of government shall be voted upon at a special election called by the governing board not earlier than thirty (30) days nor more than ninety (90) days after the passage of said motion by the governing board or the filing of said petitions with the City Auditor, or at a regular municipal election if the same is fixed within said time frame.

**Article 10 – Construction**

The powers of the City under this Charter shall be construed 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 11 – 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.

**Article 12 – Recall of Elected Officials**

The provisions of the North Dakota State Constitution and North Dakota Century Code regarding the recall of elected officials are adopted by this Charter and fully incorporated herein.

**Article 13 – Public Records**

The provisions of the North Dakota State Constitution and the North Dakota Century Code regarding the publication, inspection and copying of public records are adopted by this Charter and fully incorporated herein.

**Article 14 – Sunset Clause**

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