

HOME RULE CHARTER FOR THE CITY OF WAHPETON

ARTICLE 1 – INCORPORATION

The inhabitants of the City of Wahpeton, 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 Wahpeton”.

ARTICLE 2 – GOVERNING BODY OF 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 functions 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

Section 1 – General powers

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 or appropriate to carry into execution all powers granted. It is the intention of this charter, pursuant to state law, to grant and confirm to the people the full right of self-government in both local and city matters within the powers enumerated in this charter. All powers heretofore granted the City by general law are hereby preserved and the powers so conferred are hereby granted. This charter shall be the organic law of the City and extend to all local and city matters.

Section 2 – Enumeration of powers

Among its enumerated powers, which may be implemented by ordinance subject to the limitations specified in this 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 payments 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, provided that the mill levies ordered 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 Wahpeton, however, the governing body shall be permitted to promulgate the city budget without regard to the specific dedications of mill levies to specific purposes.

- c. To establish registration fees on motor vehicles, or sales and use taxes in addition to any other taxes imposed by law. The powers contained in this subsection shall only be exercised by initiative as provided for in Article 4 or after a referendum as provided for in Article 5.
- d. To levy and collect franchise and license taxes for revenue purposes.
- e. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
- f. To provide for city officers, agencies, and employees, their qualifications, selection, terms, powers, duties, and compensation. To provide for change, selection, or creation of its form and structure of government including its sovereign body, executive officer, and city officers.
- g. 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.
- h. To provide for all matters pertaining to city elections, except to qualifications of electors.
- i. 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.
- j. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulations thereof.
- k. To define offenses against private persons and property and the public health, safety, morals, and welfare and provide penalties for violations thereof.
- l. 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, or corporation.

- m. 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.
- n. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
- o. 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.
- p. 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.

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 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.

The statutes of the state of North Dakota, so far as applicable, shall continue to apply except insofar as superseded by this charter or by ordinance passed pursuant to this charter. This charter and the ordinances made pursuant thereto in local and city matters shall supersede within the territorial limits and other jurisdiction of the City any law of the state in conflict therewith, and shall be liberally construed for such purposes.

ARTICLE 4 – INITIATIVE AND REFERRAL OF ORDINANCES

The citizens of Wahpeton 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 1 – Initiative

A petition to initiate an ordinance shall be presented to the City Auditor for approval as to form prior to circulation. Each petition shall have printed thereon: “Initiation of city 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 City 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 City 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 governing body of the municipality 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 City for the office of governor at the last election. The petition shall be filed in the City 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 City if it is not passed by the governing body of the municipality.

After receiving the petition for the initiation of a proposed ordinance, the governing body of the municipality 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 municipality the initiated ordinance without alteration. However if a general city 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 City. The governing body may not repeal or make any material amendment to an initiated ordinance except by a three-fourths (3/4) vote of the members thereof 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 may be referred as provided in Section 2.

Section 2 – Referendum

The citizens of Wahpeton 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 city electors at least equal in number to fifteen (15) percent of the number of electors voting in the City for the office of governor in the last 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 City Auditor not later than thirty (30) and before 4:00 o'clock p.m. on the 30th day after adoption of the ordinance.

Each petition shall have printed thereon: “Referral of City 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 City 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 (10) days after receipt of the petition, the City 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 City 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 City Auditor at the next municipal election occurring after thirty (30) days following the filing of sufficient petitions, or at a special election called by the governing body, whichever shall occur first. In the event the referendum petition refers an emergency ordinance, the election shall be held within 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 governing body as provided in Section 3 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 a majority of the votes cast thereon, it shall be thereby repealed as of the tenth (10th) day after the election.

Section 3 – Petition, certification, publication, and limitation

Each petition to initiate or refer, in addition to the signature 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 City 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 petitions. Copies of petitions shall become part of the original petition when filed.

All decisions of the City Auditor in passing upon any petition to initiate or refer is subject to review by the District Court, Southeast Judicial District, 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 City Auditor shall examine the petition and ascertain whether or not the petition is signed by the requisite number of qualified electors. The City 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 City 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 City 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 City Auditor shall so certify and submit it to the governing body of the municipality without delay.

The City Auditor shall cause any initiated or referred ordinance to be submitted to the qualified electors under this charter to be published once in a newspaper published in the municipality. 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 six (6) months 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 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.

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 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 appropriate, 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 8 – SUCCESSION IN GOVERNMENT

Section 1 – Right of officers and employees preserved

Nothing in this chapter, 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 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 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 and commissions

All appointive boards and commissions hereafter 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 and franchises

All contracts and franchises 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 or any amendment shall not abate or otherwise affect any action or proceedings 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 of 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.

The adoption of this charter or any amendment thereof shall never be construed to destroy any property, action, claims for relief, claims, and demands of any nature or kind whatever vested in the City under and by virtue of this charter theretofore existing or otherwise accruing to the City, but all such claims for relief, claims or demands vest in and inure to the City and to any persons asserting any such claims against the City as fully and completely as though the said charter or amendment had not been adopted hereunder. The adoption of this charter or any amendment shall never be construed to affect the right of the City to collect by special assessment any special assessment theretofore levied under any law or charter for the purpose of public improvements, not affect any right of any contract or obligation existing between the City and any person, firm, or corporation for the making of any such improvements and for the purpose of collecting any such special assessments and carrying out of any such contract.

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 Richland County, and the office of the City Auditor, within ninety days.

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 fifteen (15) per cent 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 body or at the next regular municipal election, whichever shall occur first, provided that at least thirty days have passed after the motion of the governing board or the filing of petitions with the City Auditor. The form and procedures concerning any petition hereunder shall be in all respects in accordance with the provision for initiated and referred measures as set forth in Article 4 herein.

ARTICLE 10 – CONSTRUCTION

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

ARTICLE 11 – METHOD OF AMENDMENT AND REPEAL

This charter may be amended or repealed by proposals submitted to and ratified by the qualified electors of the City in the same general manner as provided in Article 4. Amendments may be proposed by the governing body or by petition of the number of electors as provided in Article 4 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of such amendments by a majority vote of electors voting at the election. A proposal to repeal this charter shall likewise be submitted to the electors of the City in the same manner as set forth in this Article, Article 4 and Article 5.