

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 - Sevarability 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