

HOME RULE CHARTER
CITY OF HARWOOD, NORTH DAKOTA

Article I. INCORPORATION

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

Article II. 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 or the people. 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 III. 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 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:

Section 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.

Section 2. 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 Harwood, however, those mills may be budgeted for any city purpose. The governing body shall be permitted to promulgate the city budget without regard to the specific dedications of mill levies to specific purposes as long as the total of the budget is not more than the total amount of mills authorized to be levied by a city.

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

Section 4. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications and compensation, provided that the compensation paid to the members of the governing body is limited to the amount allowed by state law. 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 changes in the form of government must be proposed on motion of the governing body, or may be proposed by petitions bearing the signatures of qualified city electors equal to thirty percent (30%) of those voting in the city for the office of president in the most recent presidential election. Proposals for changing the form of government shall be voted upon at a special election set by the governing body or at the next regular municipal election, whichever shall occur first, provided that at least sixty (60) 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 provisions for initiated measures as set forth in Article IV of this charter, unless specifically set forth in this paragraph.

Section 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.

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

Section 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.

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

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

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

Section 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.

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

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

Section 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.

Section 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.

Section 16. To impose sales and use taxes in addition to any other taxes imposed by law. Provided, however, that no sales or use may be imposed unless an ordinance authorizing such a tax is approved by a majority of voters voting at an election held pursuant to the provisions of an initiative set out in Article IV, or pursuant to a referendum as provided for in Article VI. A referendum on a sales and use tax ordinance may be held at the same election at which this charter is submitted to the electors. The sales and use tax shall be subject to the following conditions:

a. The amount of the sales and use tax shall not exceed one percent (1%) of the gross receipt, nor shall the tax exceed twenty-five dollars (\$25) on any single purchase or sales transaction involving one or more items.

b. Sales and uses taxed shall be limited to those which are taxed by the State of North Dakota pursuant to Chapters 57-39.2 and 57-40.2 of the ND Century Code.

c. The proceeds of any sales and use tax, less administrative costs, shall be dedicated and utilized for infrastructure improvements, including publicly-owned utilities and buildings, job creation, and business retention, expansion and recruitment. The proceeds collected pursuant to such tax may be used to make direct payments of cost for the above purposes, or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

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 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 as superseded by this charter or by ordinances passed pursuant to this charter.

Article IV. REFERENDUM AND INITIATIVE

Section 1: The voters of the City of Harwood shall have the power to refer and initiate ordinances, except that the power of initiative and referendum shall not extend to the budget or capital program, the appropriation of money, the levy of taxes, any limitation as to the annual mill levy, zoning or to those ordinances 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 provision of the North Dakota Century Code.

Section 2: Initiative and referendum petitions must be signed by qualified voters of the city equal to at least thirty percent (30%) of the total votes cast for the office of president in the city at the most recent presidential election.

Section 3: 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 and addresses of the three electors who shall constitute the "sponsoring committee" who shall represent and act for the petitioners. Each signer of the petition shall sign his/her name and give his/her street address. Each separate page of the petition shall have appended to it a certificate, verified by oath by the circulator of the petition, that each signature is the genuine signature of the person whose name it purports to be, and that the signers thereto are believed by him/her to be qualified electors of the City of Harwood.

Section 4: Referendum petitions for ordinances must be filed with the City Auditor within thirty (30) days after the ordinance becomes effective.

Section 5: Immediately upon the receipt of the petition for an initiated or referred ordinance, the City Auditor shall examine the petition as to its sufficiency and report to the members of the governing body within twenty (20) days. The governing body, at its next regular meeting after receipt of the Auditor's report, shall determine by resolution the sufficiency of the petition including the number of qualified signers and as to whether the subject of the ordinance is proper for initiative and referendum under this article. If the governing body determines that the petition is insufficient or irregular, the City Auditor shall deliver a copy of the petition, together with a written statement of its defects, to the sponsoring committee. The sponsoring committee shall have ten (10) days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the governing body determines that the petition is still insufficient or irregular, the City Auditor shall file the petition in the City Auditor's office and notify the sponsoring committee. The final finding that the petition is insufficient or irregular should not prejudice the filing of a new initiative petition for the same purpose, nor shall it prevent the governing body, at its option, from referring the ordinance to the voters at the next regular election.

Section 6: After the final determination of the sufficiency of the petitions on an initiated ordinance, the governing body shall have thirty (30) days in which to pass the ordinance

with no change, or pass the proposed ordinance with amendments and a majority of the sponsoring committee do not disapprove of the amended ordinance by a written statement filed with the City Auditor within fifteen (15) days of its passage by the governing body. If that does not occur, the ordinance must be submitted to the voters. The election on the petition shall be set for the next city-wide election to occur; however, if no election is to occur within ninety (90) days after the final determination of the sufficiency of the petition, the governing body shall call a special election on the ordinance to be held within such period.

Section 7: Upon the final determination of the sufficiency of the petition for referral of an ordinance, the ordinance referred, except emergency ordinances as hereafter defined, shall be suspended. Such a suspension shall terminate if:

- a. The petitions are deemed to be insufficient and not corrected or amended as above provided; or,
- b. The petitions are withdrawn by the “sponsoring committee”, as provided in subsection 10 of this article; or,
- c. The governing body of the city repeals the ordinance or resolution; or,
- d. On the date the governing body certifies the election results and a majority of the electors did not vote in favor of the petition referring an ordinance.

An emergency ordinance is an ordinance thus designated by the governing body and passed by a three-fourths (3/4) vote of the governing body. An emergency ordinance is an ordinance required for the immediate preservation of the public peace, health or safety.

Section 8: If the voters of the city approve an initiated ordinance, that ordinance shall become effective seven (7) days after the governing body certifies the election results.

Section 9: If the city is required to call an election for an initiated or referred ordinance, the ballot shall fairly state a summary of the ordinance referred. Copies of the proposed ordinance shall be available at all polling places, as well as the office of the City Auditor at least ten (10) days prior to the election. In addition, the city shall publish the full text of the initiated or referred ordinance one (1) time in the official newspaper of the city, which publication shall be no greater than twelve (12) days and no less than five (5) days prior the scheduled election.

Section 10: An initiative or referred referendum petition may be withdrawn at any time prior to the publication of the election notice by the governing body upon the filing of a request for withdrawal signed by all the members of the “sponsoring committee”.

Section 11: Any initiative or referendum petition may be wily of electors voting on an initiated ordinance 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 vote against it, such ordinance shall be considered repealed upon certification of the election results.

Section 12: Any ordinance adopted pursuant to initiative pursuant to this article provided may not be referred except at a regular city election taking place at least two (2) years after the election at which such initiative ordinance was adopted. The governing body may not repeal or make any material amendment to the initiated ordinance within two (2) years after the date of the election in which it was adopted. Thereafter, such an ordinance may be repealed or amended the same as any other ordinance.

Section 13: An ordinance referred and repealed by a 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 may be enacted to facilitate its operation but no ordinance shall be enacted to hamper or impair the exercise of the right herein reserved to the people.

Article V. RECALL

Section 1. The voters of the city shall have the power to petition for the recall of any elected official in the city. A recall petition must be signed by qualified voters of the city equal to at least thirty percent (30%) of those voting in the city for the office of the president in the most recent presidential election. Each petition for the recall of an elected official shall have printed thereon: "Recall of (Name of Individual), (Office held), of the City of Harwood." In all other respects, the petition must meet the requirements for petitions for initiative and referendum set out in Article IV, paragraph 3 of this charter. The city shall follow the review procedure for petitions set out in Article IV, section 5 of this charter.

Section 2. If the petition is deemed sufficient, the city shall call for a special election no earlier than ninety (90) days, and no later than one hundred twenty (120) days after the petition for recall has been deemed to be sufficient. Provided, however, that if a general city or state election is to occur no sooner than sixty (60) days, nor no later than one hundred eighty (180) days after the petitions have been deemed to be sufficient, the recall election shall occur at that election.

Section 3. The name of the official to be recalled shall be placed on the ballot unless that person resigns within ten (10) days after the petitions are deemed valid and sufficient by the city. Other candidates for the office may be placed on the ballot in a manner provided by law. When the election results have been officially declared, the candidate receiving the highest number of votes shall be deemed elected for the remainder of the term. No official shall be subject twice to recall during the term for which that person was elected.

Article VI. 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 five (5) years.

Article VII. SEPARABILITY CLAUSE.

If any section or part of a 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 a section to which such holding shall directly apply.

Article VIII. 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 IX. 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 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 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 board.

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 board.

Section 4: CONTINUANCE OF APPOINTIVE BOARDS & 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 or 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, and 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 Cass County and the office of the City Auditor. Said filing shall be completed as soon as reasonably possible under the circumstances but not later than ninety days after the election ratifying the charter.

Section 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 thirty percent (30%) 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, providing that at least thirty (30) days have passed after the motion of the governing board or the filing of petitions with the City Auditor.


Section 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.

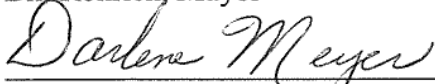
Section 11. IMPLEMENTING POWERS. If the powers enumerated in Chapter 40-05.1, N.D.C.C are not stated in this charter, or if they are stated in this charter but are not

implemented by ordinance, the City of Harwood may not avail itself of such powers, but would be governed by the state statutes applicable generally to all cities.

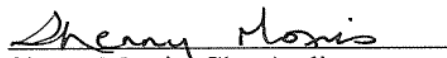
Section 12. METHOD OF AMENDMENT AND REPEAL. This charter may be amended or repealed by a majority vote of the electors voting on the issue of amending or repealing all or part of the charter. A proposal for an amendment or repeal may be made by a majority of the members of the governing body or a proposal submitted by a petition filed with the governing body of the City which is signed by not less than thirty percent (30%) of the qualified electors of the City voting in the last City election, in accordance with Section 40-05.1-07 of the N.D.C.C. If the state law requirements for amendment or repeal of a Home Rule Charter change, the city's charter shall automatically incorporate the requirements set by state law.

Submitted by the Harwood Home Rule Charter Commission, approved by the Harwood City Council, mailed to Harwood residents on October 23, 2004, published in the October Harwood Highlites city newspaper, posted in numerous locations throughout the city, and published on the City's website at cityofharwood.com. Adopted by the voters of the City at a regular election held on November 2, 2004. Returns canvassed by the Harwood City Auditor on Nov. 5th, 2004.


Bill Rohrich, Mayor


Darlene Meyer, Chairperson
Home Rule Charter Commission

ATTEST:


Sherry Morris, City Auditor

Election: November 2, 2004
Passage: November 2, 2004
First Reading: August 2, 2004
Second Reading: September 13, 2004
Passage: Nov. 2, 2004