
SUBJECT: HOME RULE CHARTER

ADOPTED DATE: AUGUST 15, 1994

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CASS COUNTY, NORTH DAKOTA
HOME RULE CHARTER

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PREAMBLE

We, the people of Cass 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 Cass 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, Cass 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 Article 9, 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 9. 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.

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.
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.

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 powers of initiative and referendum are reserved to the electors of Cass 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

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.

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.

Section 4 - Personnel System

All appointments and promotions of county employees must be made solely on the basis of qualifications set forth in written job descriptions adopted by the Board of County Commissioners.

Consistent with all applicable federal and state laws, the Board of County Commissioners will provide by resolution for the establishment, regulation and maintenance of a personnel system necessary for effective administration of the employees of the county's departments, offices and agencies.

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, including a five year capital program.

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 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:

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 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 10th day of October 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 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. 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, will 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 will continue in force until expended, 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 9

Revenue Authority and Limitations

Section 1 - Scope of Authority

Subject to the provisions of this Article, Cass 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

1. No ordinance or resolution may be adopted by the Board of County Commissioners levying property taxes in excess of 75 mills in total until referred by the Board of County Commissioners for approval by the electorate at any regular county election. 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.
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.
5. Flood Protection sales, use, and gross receipts tax. The Board of County Commissioners is authorized to collect a one-half of one percent (1/2%) sales, use, and gross receipts tax as outlined in Resolution #2016-20 to take effect on January 1, 2017, to be used for the engineering, land purchase, construction, and maintenance of a Red River Diversion and other flood control measures or the payment of special assessments for a Red River Diversion and other flood control measures as authorized by the Cass County Commission.

This ordinance shall terminate on December 31, 2084 unless rescinded earlier by the Cass County Commission but in no event shall this ordinance be rescinded or modified until all costs of construction and debt, including special assessments for the construction, for the Fargo-Moorhead (FM) Area Diversion Project are retired.

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, 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

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.

Respectfully submitted by the Cass County Home Rule Charter Commission, this 15th day of August, 1994.

ss/Michael B. Unhjem
Michael B. Unhjem, Chairman

ss/Jean Rayl
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ss/Joseph A. Nelson
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