

TURTLE LAKE HOME RULE CHARTER

In order to clarify understanding of the proposed Home Rule Charter comment sections are provided herein to briefly explain the meaning and purpose of key Articles and Sub-sections.

Article 1 - Incorporation

The inhabitants of the City of Turtle Lake, 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 Turtle Lake"

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 governing body. The governing body shall enact local legislation, adopt budgets, determine policies, and prescribe the functions of government to be preformed 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

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 the 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.

Comment: This provides the city with the ability to hold real estate for municipal purposes such as a water plant, streets, shop facilities, lagoon, etc. This represents no change from the present form of government.

b. 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, provided that the mill levies ordered imposed by the governing body on taxable property subject to ad valorem taxation shall not exceed in



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total the sum of levies authorized by state statutes, the constitution for cities of similar classification, and/or amounts authorized by the city electorate held for that purpose.

Comment: This section allows the city to carry on normal business operations as it currently does. It limits property taxes to levels allowed by state law. Any mill levy increase in excess of state law requires a vote of the people.

The governing body shall be permitted to promulgate the city budget without regard to the specific dedications of mill levies to specific purposes.

Comment: The above statement provides the City Commission greater flexibility in budgetary matters. For example, each year the city prepares a forecast of anticipated revenues and expenses for the coming year. Generally the forecasts are made with great measure of accuracy. Sometimes, due to unforeseen circumstances, line item expenses in one area run higher than expected while others run lower. An illustration of this may be snow removal. Some years actual expenses will run higher than budgeted expenses due to unusually heavy snows. Under the current system, an amended budget must be submitted and approved before the expenses can be paid, a bureaucratic and time-consuming expense. Under Home Rule, the City Auditor can borrow funds from another budget line item to satisfy the expenses immediately. Records of budgeted and actual expenses are still kept, however the paperwork is reduced.

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

d. To provide for city officers, agencies, and employees, their selection, terms, powers, qualifications and compensation.

e. 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.

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

g. To provide for the adoption, amendment, and repeal of ordinances, resolution, 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.

h. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation and regulation there.

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

j. To engage in any utility, business, or enterprise permitted by the



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Constitution or not prohibited by statute or to grant and regulate franchises therefore to a private person, firm or corporation.

k. 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.

l. To levy and collect franchise and license taxes for revenue purposes.

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

n. 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.

o. 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.

Comment: Items c-o represent no change from current city powers, providing for the administration of the city court, elections, compensation of employees, operating municipal facilities, engaging in planning and zoning activities, etc.

p. To impose sales & use taxes provided that such sales and use taxes shall be subject to approval of the majority of the people voting in the city wide election.

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 construction and laws of this state, it would be competent for this charter specifically to enumerate.

Comment: The powers defined within this charter are not meant to be the only ones the City is given. The City is given the power to enact ordinances and resolutions that it decides are in the best interests of the citizens so long as they are not prohibited by the North Dakota Century Code or the articles of this charter.

Article 4 - Referendum and Initiative

Comment: This entire article defines the manner in which ordinances or resolutions can be referred or initiated by the Citizens of Turtle Lake. Currently Citizens of Turtle Lake have the power to refer ordinances and resolutions but do not have the power to initiate them.

Section 1

The voters of the City of Turtle Lake shall have the power to refer



and initiate ordinances and resolutions, except that the power of initiative and referendum shall not extend to the annual appropriations ordinance, nor to those ordinances or resolutions 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 improvement projects under which the law provides for protest procedures or to special assessment projects carried out under the provisions of the North Dakota Century Code.

Section 2 - Initiative petitions

Initiative petitions must be signed by qualified voters of the city equal to at least 15 percent of the votes cast in the city at the most recent gubernatorial election.

Section 3 - Referendum petitions

Referendum petition must be signed by qualified voters of the city equal to at least 15 percent of the votes cast in the city at the most recent gubernatorial election.

Section 4 - Committee for the petitioners

Each petition, whether for initiating or referring an ordinance or resolution, shall contain or have attached thereto throughout their circulation the full text of the ordinance or resolution 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 the petition affirming that the signers thereto are believed by him/her to qualified electors of the City of Turtle Lake.

Section 5 - Referendum deadlines

Referendum petition for ordinances must be filed with the City Auditor within 30 days after the second reading of the ordinance referred. Referendum petitions for resolutions must be filed with the City Auditor within 30 days after the passage of the resolution referred.

Section 6 - Certification of Petition

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 in said 20 day period. If the City Auditor finds the petition insufficient, he/she shall notify the "Committee of 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 said seven day period.

Section 7 - Suspension of referral petition

Upon the filing of a referendum petition, the ordinance or resolution referred, except emergency ordinances or resolutions, as hereafter defined, shall be suspended. Such suspension shall terminate:

1. If the petitions are deemed to be insufficient and not corrected or amended as above provided; or

2. The petitioners are withdrawn by the "Committee for the Petitioners", as provided in subsection 10 of this article; or

3. The governing body of the city repeals the ordinance or resolution; or

4. After 30 days have elapsed after the city election on the referral.

An emergency ordinance or resolution is an ordinance or resolution thus designated by the governing body and passed by a 4/5 vote of such body.

Section 8 - Provisions for ordinance adoption or election

Upon the final determination of the sufficiency of the petitions for initiating an ordinance or resolution the governing body shall have 60 days in which to adopt the proposed ordinance or resolution. If the governing body fails to adopt the proposed ordinance or resolution, without any change in substance from that proposed, within the said 60 day period, the governing body shall submit the same to the voters of the city at an election within 180 days after the final determination of the sufficiency of the petition. If no regular city election is held within said time period, the governing body shall provide for a special election, otherwise the vote shall be taken at such regular election.

Copies of the proposed ordinance or resolution shall be available at the office of the City Auditor at least 10 days prior to the election. The ballot shall accurately summarize the provisions of the proposed ordinance or resolution and copies of the ordinance or resolution shall be available at the polling places.

Section 9 - Election on referred ordinance or resolution

Upon the final determination of the sufficiency of the petition of referendum, the city governing body shall cause an election on the referral to be held within 90 days thereafter. The election shall be held at a regular city election if one is scheduled within said time period; if none, then at a special election called by the governing body. The ballot shall accurately summarize the ordinance or resolution referred. Copies of the ordinance or resolution shall be available at the polls as well as from the City Auditor for at least 10 days prior to the election.

Section 10 - Withdrawal of petition

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

Section 11 - Election results

If a majority of electors voting on an initiated ordinance or resolution 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 or resolution vote against it, such ordinance or resolution shall be considered repealed upon certification of election results.

Section 12 - Repeal of initiated ordinance or resolution

The governing body may not repeal or make any material amendment to the initiated ordinance or resolution or to an ordinance or resolution referred and upheld by a vote of the people except by a vote of 4/5 of the members thereof for five years after the date of the election adopting such ordinance or resolution, or by a majority vote of the people; thereafter such an ordinance or resolution may be repealed or amended the same as any other ordinance or resolution.

Section 13 - Implementation of article 4

This article shall be self-executing and all of its provisions treated as mandatory. Ordinances or resolutions may be enacted to facilitate its operation but no ordinance or resolution shall be enacted to hamper, or impair the exercise of the right herein 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 months of such vote, such ordinance shall not be subject to referral by petition for a period of 5 years from the date of the election.

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

Comment: Articles 7-9 represents no change from the current form of government and the powers of the city.

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 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 right 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 shall have been made by the governing board for the performance of such duties in some other manner or the discontinuance of such office.

Section 3 - Continuance of appointive boards, authorities, and commissions

All appointive boards, authorities and commissions, heretofore existing shall continue and shall exercise such powers and duties as were granted them until such boards, authorities, 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 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.

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 and the office of the city auditor, within ninety (90) 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%) 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, which ever shall

occur first, provided that at least thirty (30) days have passed after the motion of the governing board or the filing of petitions with the city auditor.

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.

Comment: Article 11 states that no part of the Home Rule Charter can be changed without an election.


Turtle Lake Home Rule Charter approved at the Turtle Lake City Election held Tuesday, June 13, 2000.

Signed: 
Donald A. Coy, President
Turtle Lake City Commission

Attest: 
Darwin Saari, City Auditor

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CHECKED PP
COPIED PP
VERIFIED PP
MICROFILM PP



REGISTER OF DEEDS OFFICE, MCLEAN COUNTY, ND 07/17/2000 11:18AM
I certify that this instrument was filed for record this date.
Dwayne J. Oster, Register of Deeds
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