

**HOME RULE CHARTER  
CITY OF OAKES, NORTH DAKOTA**

**ARTICLE 1 INCORPORATION**

The inhabitants of the City of Oakes, 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 Oakes".

**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 elected governing body shall enact local legislation, adopt budgets, determine policies, and prescribe the function 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**

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.
- 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 mill levy limitations, provided that the mill levies ordered and 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 constitution for cities of similar classification to that of the City of Oakes.

- 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. To provide for change, selection, or creation of its form and structure of government including its governing body, executive officer and city officers.
- e. To provide for city courts and a municipal judge, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers.
- 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, 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.
- h. To lay out or vacate streets, alleys and public grounds, and to provide for the use, operation and regulation thereof.
- 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 or enterprise permitted by the constitution or not prohibited by statute or to grant and regulate franchise 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.
  - p. To impose registration fees on motor vehicles or sales and use taxes in addition to any other taxes imposed by law. Any sales and use tax not specifically authorized by statute created by the Board of City Commissioners through the powers stated herein must be approved by a majority vote of the qualified electors of the City of Oakes before enactment.

It is the intention of this chapter to grant and confirm to the people of all cities coming within its provisions the full right of the self-government in both local and city matters within the powers enumerated herein. The statutes of the State of North Dakota, so far as applicable, shall continue to apply to home rule cities, except insofar as superseded by the charters of such cities or by ordinance passed pursuant to such charters.

#### **ARTICLE 4 REFERENDUM AND INITIATIVE**

Section 1: The voters of the City of Oakes 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 assessment projects carried out under the provision of the North Dakota Century Code.

Section 2: Initiative petitions must be signed by qualified voters of the city equal to at least 25 percent of the total votes cast in the city at the most recent gubernatorial election.

Section 3: Referendum petitions must be signed by qualified voters of the city equal to at least 25 percent of the total votes cast in the city at the most recent gubernatorial election.

Section 4: 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 to be qualified electors of the City of Oakes. In addition to the names of the Petitioners, each petition shall contain the name of the street upon and number of the house in which each Petitioner resides.

Section 5: Referendum petitions 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: 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, the City Auditor shall notify the "Committee of the Petitioners", specifying the insufficiencies, and allow seven days for correction, amendment, or additional signatures.

Section 7: 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 petitions 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: 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 commission 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 the next regular city election. However, if a general city election is not fixed within 180 days after the final determination of the sufficiency of the petition, the governing body of the city may call for a special election to be held within the 180 days.

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 fairly state a summary of the proposed ordinance ('s) or resolutions ('s) provisions and copies of the ordinance or resolution shall be available at the polling places.

Section 9: 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. The election shall be held at the next regular city election. However, if a general city election is not fixed within 90 days after the final determination of the sufficiency of the petition, the governing body of the city may call for a special election to be held within the 90 days. The ballot shall fairly state a summary of 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: 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: 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 the election results.

Section 12: Any ordinance or resolution adopted pursuant to Initiative as by this Article provided may not be referred except at a regular city election taking place at least two years after the election at which such initiative ordinance or resolution was adopted. 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 ten years after the date of the election adopting such ordinance or resolution; thereafter such an ordinance or resolution may be repealed or amended the same as any other ordinance or resolution.

Section 13: An ordinance or resolution referred and repealed by 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 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 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 section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

#### **ARTICLE 6 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 7 SUCCESSION IN GOVERNMENT**

##### Section 1: Right 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 of 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 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 hereafter exercised and discharged by the office, department or agency designated by the governing body.

#### Section 4: 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 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 this 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 Dickey 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.

## Article 8    CHANGING THE FORM OF GOVERNMENT

The form of government under which the City shall operate may be changed by motion of the Governing Body, subject to the approval of the electorate, or the form of government may be changed by petition of the people as herein provided.

### Section 1: Form of Petition

- (1) Petitions to change the form of government of the City must be signed by qualified voters of the City equal to at least twenty-five percent (25) of the total votes cast in the City at the most recent gubernatorial election. In addition to the names of the Petitioners, each petition shall contain the name of the street upon and the number of the house in which each Petitioner resides.
- (2) Each petition initiating the ordinance shall have printed thereon: "Petition for the Change in the Form of Government for the City of Oakes", and shall contain or have attached thereto throughout its circulation an accurate summarization of the form of government being proposed and presented to the people.
- (3) Each petition shall list the name and addresses of three (3) electors who shall constitute the "Committee For the Petitioners" who shall represent and act for the Petitioners.

### Section 2: Filing, Certification and Submission of the Petition for Changing Form of Government

- (1) The completed petition shall be filed in the office of the City Auditor and shall contain a request that the proposed change in the form of city government, set out in the petition, be submitted to a vote of the electors of the City.
- (2) The City Auditor shall pass upon and certify each petition as being in order and proper form within fifteen (15) days after receiving it, or if the City Auditor finds the petition is not in order, the City Auditor shall notify the Committee For the Petitioners and allow ten (10) days for correction or amendment. A petition shall be deemed sufficient if it is not certified to the contrary by the City Auditor within fifteen (15) days after receiving same. The City Auditor shall, upon certification, or petition being deemed sufficient, cause the ordinance proposed under this Article to be published in the official newspaper of the City.
- (3) After the petition has been certified by the City Auditor or the petition is deemed sufficient, the Governing Body of the City shall present the proposed change in the form of government for a



vote at a special election called by the Governing Body not earlier than thirty (30) days nor more than ninety (90) days after the petition has been certified by the City Auditor or the petition is deemed sufficient. However, if a general city election is fixed not earlier than thirty (30) days nor later than ninety (90) days after the date of the certification of the petition or the petition is deemed sufficient, the proposed change in the form of city government shall be placed upon the ballot for voter consideration at the general election. The ballot shall fairly state a summary of the proposed change in the form of city government.

- (4) Copies of the proposed change in the form of city government shall be available at the office of the City Auditor at least thirty (30) days prior to the date of election.

### Section 3: Election and Implementation

- (1) If a majority of the votes cast at such election shall be in favor of the proposed change, the City Auditor shall certify the adoption of such form of government.
- (2) If the proposed change in the form of city government is approved by the electors, the Governing Body of the City shall call a special election not earlier than thirty (30) days nor more than ninety (90) days after the approval of the form of government, for the purpose of electing officials required under the approved form of government. However, if a general election is fixed not earlier than thirty (30) days nor later than ninety (90) days after the date of approval of the form of government, the candidates for offices under the approved form of government shall be presented for voter consideration at the said general election.
- (3) Upon the certification of the election of such officers, the City shall become a city under the adopted form of government. Until such certification, the City shall continue to be a city under the existing form of government.
- (4) Such question for the change in the form of government shall not be submitted for a vote more than once in every four (4) years.

### Section 4: Self-Executing Statute

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 and powers herein reserved to the people.

**ARTICLE 9 CONSTRUCTION**

The powers of 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 10 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.

Dated this 13 day of July 1994.

Daniel R.  
Mayor

Attest: Carol Dwyer

(Corp Seal)

Election: June 14, 1994

Passage: Yes Vote 351 (55%) - No Vote 286 (45)



# City of Oakes North Dakota

City Hall, 115 South 5th Street, Oakes 58474 701-742-2137

July 13, 1994

Clerk of Court  
Dickey County Courthouse  
309 N 2  
Ellendale North Dakota 58436

RE: Filing copies of Home Rule Charter  
NDCC 40-05.1-05

Enclosed find one copy of the City of Oakes Home Rule Charter as approved by a majority of the qualified voters voting on the charter at the City Election held jointly with the Primary on June 14, 1994.

The Charter received 351 votes in favor of approval and 286 against approval. The election events have been canvassed and declared by the Dickey County Commissioners.

A copy of the Home Rule Charter of the City of Oakes is being filed on this date with the Secretary of State, State of North Dakota, and one copy is on file and made a permanent record in the office of the City Auditor for the City of Oakes.

Ethel B Day, CMC  
City Auditor

CC: David Ross, City of Oakes Mayor  
Stephen McLean, City Attorney for the City of Oakes

ENC: City of Oakes Home Rule Charter



# City of Oakes North Dakota

City Hall, 115 South 5th Street, Oakes 58474 701-742-2137

July 13, 1994

Al Jaeger, Secretary of State  
State of North Dakota  
Capitol Building/600 E Blvd AV  
Bismarck North Dakota 58505-0599

RE: Filing copies of Home Rule Charter  
NDCC 40-05.1-05

Dear Mr. Jaeger:

Enclosed is one copy of the City of Oakes Home Rule Charter as ratified and approved by a majority of the qualified voters voting on the charter at the City Election held jointly with the Primary on Tuesday, June 14, 1994.

The Charter received 351 votes in favor of approval and 286 against approval. The election results **having been canvassed** by the Dickey County Commissioners.

A copy of the City of Oakes Home Rule Charter is being filed on this date with the Clerk of Court, Dickey County, North Dakota and one copy is on file and made a permanent record in the office of the City Auditor.

Ethel B Day, City Auditor

CC: David Ross, Mayor of the City of Oakes  
Stephen McLean, City Attorney for the City of Oakes

Enc: Copy of the City of Oakes Home Rule Charter