

# **WASHBURN HOME RULE CHARTER**

## **Article 1 - Incorporation**

The inhabitants of the City of Washburn, 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 Washburn.

## **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 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 3 - Power 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 of 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, and/or amounts authorized by the city electorate at an election held for that purpose.

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

- 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, 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, business, or enterprise permitted by the 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 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 de-annexation 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 a two percent (2%) sales and use tax subject to the following conditions:
  - 1. All revenues raised and collected shall be dedicated only to community development, economic development, and street, water, and sewer projects.
  - 2. All revenue shall be maintained in the fund to be known as the Washburn City Sales

and Use Tax Fund separate and apart from all other funds.

3. The revenue contained in such fund shall be used for:

~~a. Fifty percent (50%) of one percent (1%) for community development and infrastructure. The funds may be used for the purchase of construction, operation and maintenance of Washburn area capital improvements, public safety improvements, park system improvements or other projects which are deemed important for the betterment of the community by the Washburn Sales and Use Tax Committee.~~

~~Repealed by vote of the people, November 2020~~

a. Ninety percent (90%) of one cent (.01) for community development, infrastructure, and capital expenditures. The funds may be used for the purchase of, construction, operation, and maintenance of Washburn area capital improvements including, but not limited to, street system, water system, sewer systems, public safety improvements, park system improvements, or other projects which are deemed important for the betterment of the community.

~~b. Fifty percent (50%) of one percent (1%) for community and economic development projects enhancing the general welfare of the Washburn area including, but not limited to, business and commerce expansion and retention in all other products in and outside the city limits which will enhance the growth, maintenance and development of the community of Washburn.~~

~~Repealed by vote of the people, November 2020~~

b. Ten percent (10%) of one cent (.01) to the group, Washburn Life, for community and economic development projects enhancing the general welfare of the Washburn area including, but not limited to, business and commerce expansion and retention and other projects, in and outside the city limits, that will enhance the growth, maintenance, and development of the community of Washburn.

c. Sales and uses taxed shall be only those taxed pursuant to Chapters 57-39.2 and 57-40.2 of the North Dakota Century Code. In addition to those sales exemptions exempted by North Dakota law, no sales or use tax shall be imposed upon the sale or use of natural gas.

d. One Hundred percent (100%) of one percent (1%) to be used solely for the purchase of construction, operation and maintenance of Washburn capital improvements including street systems, sewer systems, and water systems of the community of Washburn.

4. ~~Any sales or use tax imposed shall not exceed one percent (2%) of taxable sales and purchases, (nor shall the tax exceed \$25.00 on any single purchase or sales transaction involving one or more items, and the \$25.00 for a sales and use tax permit holder who pays the tax due under Article 3 of this Chapter within the time limitations prescribed may deduct and retain three percent (3%) of the tax due. The aggregate of deductions allowed by this paragraph may not exceed Two Hundred Fifty and no/100 Dollars (\$250.00), per quarterly period for each business location which has been issued a Sales and Use tax permit by the State Tax Commissioner. The deduction allowed by this paragraph is to reimburse permit holders for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the State Tax Department and Auditor upon request.~~  
Repealed by vote of the people, June 2015.

5. ~~Funds collected from the two percent (2%) sales or use tax may only be disbursed by the Washburn City Commission upon recommendation of the Washburn Sales and Use Tax Committee, the membership of which shall be as follows:~~

a. ~~One member of the Washburn City Commission selected by the Washburn City Commission.~~

b. ~~A representative selected by the Washburn City Commission. This person may be a member of the Washburn City Commission.~~

c. ~~A Washburn Park Board representative selected by the Washburn Park Board.~~

d. ~~Two representatives selected by the Washburn Civic Club.~~

~~Appointments to the Washburn Sales and Use Tax Committee shall be made by the respective organizations annually, at annual meetings, or annual reorganization meetings. Notification of such appointments shall be made to the President of the City Commission following the appointment.~~

~~The City Commission shall accept the recommendation of the committee as to the utilization of these funds, provided the recommendations are for lawful purposes and in accordance with the terms of the ordinance.~~

Repealed by vote of the people, November 2020.

5. Funds collected from the two percent (2%) sales or use tax shall be dispersed according to these specifications:

a. Ninety percent (90%) of one cent (.01) for community development, infrastructure, and capital expenditures. The funds may be used for the

purchase of, construction, operation, and maintenance of Washburn area capital improvements including, but not limited to, street system, water system, sewer systems, public safety improvements, park system improvements, or other projects which are deemed important for the betterment of the community.

- b. Ten percent (10%) of one cent (.01) to the group, Washburn Life, for community and economic development projects enhancing the general welfare of the Washburn area including, but not limited to, business and commerce expansion and retention and other projects, in and outside the city limits, that will enhance the growth, maintenance, and development of the community of Washburn.
- c. One hundred percent (100%) of one cent (.01) solely for the purpose of construction, operation, and maintenance of Washburn capital improvements including street systems, sewer operations, and water systems of the community of Washburn.

In the event that Washburn Life ceases to exist, any unexpended sales tax and use funds shall be remitted to the City of Washburn and placed in the general fund.

Funds not dispensed each year shall accumulate in the sales and use tax fund and be allocated the following year or years in which justifiable projects warrant.

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

## **Article 4 - Referendum and Initiative**

### **Section 1**

The voters of the City of Washburn 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 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 total votes cast in the most recent gubernatorial election.

### **Section 3 - Referendum petitions**

Referendum 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 4 - Committee for the petitioners**

Each petition, whether for initiating or referring an ordinance of 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 ACommittee 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 be qualified electors of the City of Washburn.

#### **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 ACommittee 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 ACommittee 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 full 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 ACommittee 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 Power 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 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 rights 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 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 4 - 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 5 - 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 6 - 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 7 - 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.

Dated this \_\_\_\_ day of December, 2020.

