

CITY OF

FILE

Devils Lake North Dakota

Home Rule Charter

As approved by the Electorate of the
City of Devils Lake at a Special
Election held on June 1, 1977

ARTICLE 1 - INCORPORATION

The inhabitants of the City of Devils 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 "City of Devils 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, 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 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 this 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 debt and mill levy limitations; provided that all real and personal property in order to be subject to the assessment provisions of this subsection shall be assessed in a uniform manner and; provided further 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 Devils Lake, however, same may be budgeted for any city purposes. 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 budget is not more than the total amount of mills authorized to be levied by a city.

- 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, duties, qualifications, and compensation.
- e. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and 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 violation 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 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 de-annexation of territory adjacent to said city except that such power shall be subjected 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.

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 - FISCAL & BUDGETARY AFFAIRS

The fiscal year of the city shall be established by the governing board. Prior to the beginning of the fiscal year, the preliminary budget of the city shall be approved by the governing board and published in the official newspaper of the city. The preliminary budget shall contain, by fund, the estimated

beginning cash balances, estimated receipts, estimated disbursements, and estimated ending cash balances; and the preliminary budget shall also contain a comparative statement showing, by fund, the actual beginning cash balances, actual receipts and disbursements and the budgeted figures, as amended, for the fiscal year which is about to expire, with the last month's figures estimated. The publication of the preliminary budget and the comparative statement shall also set the time and place for a hearing thereon, which shall be held at least ten (10) days after the publication and before the approval of the final budget.

The final budget shall be approved by the governing board not later than forty-five (45) days after the beginning of the fiscal year and published in the official newspaper of the City not later than sixty (60) days after the beginning of the fiscal year listing, by fund, the actual beginning cash balances, estimated receipts and disbursements, and estimated ending cash balances. The governing board shall adopt the final budget by resolution and may amend the same by resolution at any meeting provided that at least ten (10) days prior to the meeting, the proposed amendment is published in the official newspaper of the municipality.

ARTICLE 5 - INITIATIVE OF ORDINANCES

The citizens of Devils Lake shall have the right to initiate ordinances. Qualified electors at least equal in number to fifteen (15) per cent of the number of electors voting in the city for the office of governor in the last election may, by initiated petition, submit a proposed ordinance to the governing body of the municipality. The petition shall be filed in the city auditor's office, and shall contain a request that the ordinance set out in the petition be submitted to a vote of the electors of the city if it is not passed by the governing body of the municipality.

The City Auditor shall pass upon each petition, within ten (10) days of receiving the same and if he finds that the same is not in order, he shall notify the "Committee for the Petitioners" and allow five (5) days for correction or amendment.

Each petition shall have printed thereon "Initiation of City Ordinance providing for _____" and shall accurately identify and summarize the true nature of the initiated ordinance. In addition, each petition shall have listed the names of three electors who shall constitute the "Committee for the Petitioners" and who shall represent and act for the petitioners. At the bottom of each petition, the circulator of that particular petition shall sign an affidavit affirming that the signers thereto are known to him to be qualified electors of the city.

After receiving the petition for the initiation of a proposed ordinance, the

governing body of the municipality shall:

1. Pass the ordinance without alteration within twenty (20) days after the attachment of the auditor's certificate to the accompanying petition that it appears in order; or
2. Call a special election within ninety (90) days after the filing of the petition and submit to the vote of the electors of the municipality the initiated ordinance without alteration. However, if a general city election is fixed not earlier than fifteen (15) days nor later than ninety (90) days after the date of filing said petition, the unaltered initiated ordinance shall be placed upon the ballot for vote consideration at said general election.

If a majority of the qualified electors voting on an initiated ordinance vote in favor thereof, it shall become a valid and binding ordinance of the municipality. Any ordinance proposed by a petition and adopted by a vote of the people cannot be repealed or amended except by a vote of the people in a referendum.

The city auditor shall cause any ordinance proposed under this article to be published once in a newspaper published in the municipality.

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 herein reserved to the people.

ARTICLE 6 - REFERENDUM OF ORDINANCES

The citizens of Devils Lake shall have the right to refer ordinances. Qualified city electors at least equal in number to fifteen per cent (15%) of the number of electors voting in the city for the office of governor in the last election may, by referendum petition, suspend the operation of any ordinance enacted by the governing body, except emergency ordinances approved by at least three-fourths (3/4ths) of all members of the governing body and except those ordinances implementing public projects upon which an election or a referendum has already been held pursuant to law or this charter, or which provide for meeting obligations of bonded indebtedness incurred by a prior ordinance or a prior election or referendum. An emergency ordinance shall contain a clause declaring an emergency. The filing of referendum petitions against one or more items, sections or parts of any ordinance, shall not prevent the remainder from going into effect. Referendum petitions shall be filed with the City Auditor not later than thirty (30) days after adoption of the ordinance.

When a referendum petition is filed the governing body of the municipality shall consider the ordinance or the part thereof which has been referred; and if

the governing body shall repeal the ordinance or the part which has been referred, the referral procedure shall terminate.

Each ordinance referred to the electors shall be placed upon the ballot by the City Auditor at a special election within ninety (90) days after the filing of said referral petition or on the ballot at a general City election if same is fixed not earlier than fifteen (15) days nor later than ninety (90) days after the date of filing.

If a referendum petition is filed against an emergency ordinance, such ordinance shall be in effect until voted upon by the electors. And, if it is then rejected by a majority of the votes cast thereon, it shall be thereby repealed as of the tenth (10th) day after the election.

The City Auditor shall pass upon each petition, and if he finds it is not in order, (insufficient) he shall notify the "Committee for the Petitioners" and allow five (5) days for correction or amendment.

Each petition shall have printed thereon: "Referral of City Ordinance _____, providing for _____" and shall accurately identify and summarize the true nature of the ordinance, or portion of ordinance, being referred. In addition, each petition shall have listed the names of three electors who shall constitute the "Committee for the Petitioners" and who shall represent and act for the petitioners. At the bottom of each petition, the circulator of that particular petition shall sign an affidavit affirming that the signers thereto are known to him to be qualified electors of the city.

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 herein reserved to the people.

ARTICLE 7 - 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.

ARTICLE 8 - 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 9 - 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 10 - 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, or any provision of law in force 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 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 body.

The powers conferred and the duties imposed upon any office, department

or agency of the city by the laws of this state, if such office, department or agency be abolished by this charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the governing body.

Section 4 - Continuance of Appointive Boards and 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, 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 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 Ramsey County, and the office of the City Auditor of Devils Lake. Said filings shall be completed not later than ninety (90) days after the election ratifying the charter.

ARTICLE 11 - 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) per cent 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 board not earlier than sixty (60) days nor more than ninety (90) days after the passage of said motion by the governing board or the filing of said petitions with the city auditor, or at a regular municipal election if the same is fixed within said time frame.

ARTICLE 12 - 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 in this charter.

ARTICLE 13 - 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.

Submitted by the Devils Lake Home Rule Charter Commission and published in the Devils Lake Daily Journal on April 1, 1977. Adopted by the voters at a special Devils Lake City election held on June 1, 1977.

Members of the Home Rule Charter Commission of the City of Devils Lake, North Dakota:

Mrs. Ruth Taylor

Dr. Richard Kunkel

Dean Hildebrand

LaVerne Gloger

Jack Traynor, Chairman

RECEIPT OF TRUE AND CORRECT COPIES OF THE FORE-
GOING HOME RULE CHARTER AND ATTACHED COMMISSION
RESOLUTION RELATING THERETO ARE HEREBY ACKNOWL-
EDGED ON THE DATES HEREINAFTER SPECIFIED.

June 27, 1977
Date

Ben Meier
Ben Meier
Secretary of State
State of North Dakota

June 23, 1977
Date

Ronald M. Dosch
Clerk of the District Court
Ramsey County, North Dakota

June 23, 1977
Date

Gene A. Burtch
City Auditor
City of Devils Lake, North Dakota

RESOLUTION
(HOME RULE CHARTER)

WHEREAS, a Devils Lake City Special Election was conducted on June 1, 1977, for the purpose of submitting the Home Rule Charter as published in the Devils Lake Journal on April 1, 1977; and

WHEREAS, a majority of 283 votes were cast in favor of the proposed charter with 93 votes against the same; and

WHEREAS, this governing body did this date canvass the returns of said special election and declare that a majority of the qualified electors of the City of Devils Lake, North Dakota, voting on the charter were in favor of the same; and

WHEREAS, by virtue of 40-05.1-05, NDCC, as amended, said hereinbefore described Home Rule Charter is now deemed to be ratified and the organic law of the City of Devils Lake, North Dakota, extending to all its local and city matters, now, therefore, IT IS HEREBY RESOLVED, that the City Auditor of the City of Devils Lake file copies of said charter with each of the following, namely:

Hon. Ben Meier
Secretary of State
Capitol Building
Bismarck, North Dakota

Hon. Ronald M. Dosch
Clerk of the District Court
Ramsey County Court House
Devils Lake, North Dakota

Mr. Derrel D. Britsch
City Auditor
City Hall
Devils Lake, North Dakota

WHEREUPON the courts are to take judicial notice of said new charter.

Adopted this 2nd day of June, A. D. 1977, by the City Commission of the City of Devils Lake, North Dakota.

Attest:

Derrel D. Britsch
Derrel D. Britsch, City Auditor.

Dennis Rigg
Dennis Rigg, Mayor of the City of
Devils Lake, North Dakota.