

# **SUMMARY OF PROCEDURES – IMPLEMENTING COUNTY HOME RULE**

## **Important Note**

The following narrative is intended for general discussion of the steps necessary to develop and adopt a county home rule charter. A county interested in home rule is strongly urged to engage their State's Attorney for a thorough review of NDCC 11-09.1 and related court decisions and legal opinions.

## **Getting Started**

The home rule process can be started in two ways. The most common method is for the county governing body, on its own motion, to appoint a charter commission to draft a home rule charter. The other method is through a petition, signed by not less than two percent of the population of the county, requesting that a home rule charter be drafted. (NDCC 11-09.1-01)

## **Charter Commission**

Within sixty days after proceedings have been initiated for a home rule charter, the county governing body shall appoint a charter commission, composed of at least five members, to frame the charter. If a petition was used to request that a charter be drafted, that petition may prescribe the composition of the commission or the manner by which the composition of the commission is to be determined. The chairman of the charter commission shall be designated by the county governing body. (NDCC 11-09.1-02)

## **Public Hearings**

The charter commission shall hold at least one public hearing on the proposed charter, and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. The charter commission shall prepare and submit the charter within one year after appointment, unless the county governing body allows additional time for submission of the charter. (NDCC 11-09.1-02)

## **Publishing the Charter**

The board of county commissioners shall publish the proposed charter once in the county's official newspaper. (NDCC 11-09.1-02)

## **Submitting the Charter**

At least sixty days, but no more than two years, after submission of the charter by the charter commission to the county governing body, the proposed charter must be submitted to a vote of the qualified electors of the county at a primary or general county election. (NDCC 11-09.1-03)

## **Resubmitting the Charter**

If the proposed charter has been submitted to a vote of the qualified electors, the county governing body may call a special election to resubmit the proposed charter to a vote, and the special election must take place at least sixty days after the call for the special election. The county governing body may amend the proposed charter prior to its resubmission to the electors. (NDCC 11-09.1-03)

### **Framing the Question**

The following is an example of how the election question may be framed:

Shall the Home Rule charter for the County of       (county)        
as published in the official newspaper on       (date)       be  
adopted?       Yes       No

### **Majority Vote Required**

If a majority of the qualified electors voting on the charter at the election vote in favor of the home rule charter, it is ratified and becomes the organic law of the county on the first day of January or July next following the election, and extends to all county matters. (NDCC 11-09.1-04)

### **Home Rule Charter Effect**

The charter and the ordinances made pursuant to the charter will be liberally construed to supersede, within the county, any conflicting state law, except for any state law as it applies to any power of a city to govern its own affairs (unless consented to by the governing body of the city). The charter may not diminish the authority of a board of supervisors of a township or to change the structure of township government in any organized civil township, without the consent of the board of supervisors of the township. Courts are to take judicial notice of the charter. (NDCC 11-09.1-04)

### **Filing the Charter**

One copy of the charter as ratified and approved must be filed with the secretary of state; one with the recorder for the county, unless the board of county commissioners designates a different official; and one with the auditor of the county to remain as a part of its permanent records (NDCC 11-09.1-04)

### **Amending/Repealing the Charter**

The home rule charter adopted by any county may be amended or repealed by a proposal by the governing body of the county or by petition of electors. Within thirty days of receipt of a valid petition or approval of a proposal to amend or repeal a home rule charter, the governing body of the county shall publish any proposed amendment or repeal of a home rule charter once in the official newspaper of the county. At least sixty days after publication, the proposed amendment or repeal must be submitted to a vote of the qualified electors of the county at the next primary or general election. The electors may accept or reject any amendment or a repeal by a majority vote of qualified electors voting on the question at the election. (NDCC 11-09.1-06)