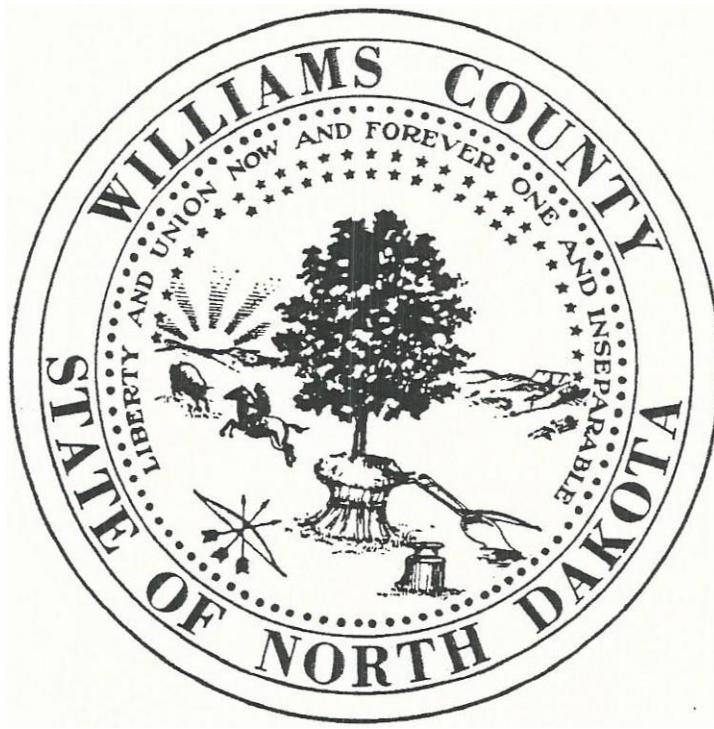


Williams County, State of North Dakota



Proposed Amended Home Rule Charter March 2020

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TABLE OF CONTENTS

Preamble	
Article 1	Board of County Commissioners to Exercise Powers
Article 2	Home Rule Powers of County
Article 3	Adoption of Ordinances and Resolutions
Article 4	Initiative and Referendum
Article 5	Referenda by Board of County Commissioners
Article 6	Elections
Article 7	Departments, Offices, Agencies, Boards and Commissions
Article 8	Financial Procedures
Article 9	Revenue Authority and Limitations
Article 10	Separability Clause
Article 11	Succession in Government
Article 12	Amendments and Repeal

PREAMBLE

We, the people of Williams County, do establish this Amended Home Rule Charter.

ARTICLE 1

BOARD OF COUNTY COMMISSIONERS TO EXERCISE POWERS

Subject to the limitations imposed by the North Dakota Constitution, state law, and this ~~charter~~ Amended Home Rule Charter (“this Charter”), the home rule powers of Williams County will be vested in the Board of County Commissioners. The Board of County Commissioners will have plenary power to enact ordinances and resolutions to carry out and give effect to the express and implied powers granted in this Charter and to prescribe the functions of government to be performed under this Charter.

ARTICLE 2

HOME RULE POWERS OF COUNTY

In addition to powers granted counties under the constitution and laws of the State of North Dakota, Williams County will have among its enumerated home rule powers, subject to implementation by ordinance or resolution of the Board of County Commissioners, the following:

1. Acquire, hold, operate, and dispose of property within or without the County limits, and, subject to chapter 32-15, exercise the right of eminent domain for those purposes.
2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; ~~subject to the limitations of this section levy and collect property taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special fuels tax, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements;~~ contract debts, borrow money, issue bonds,

warrants, and other evidences of indebtedness; establish charges for any County or other services to the extent authorized by state law, and establish debt ~~and mill levy~~ limitations.

3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; and establish mill levy limitations. provided, that Notwithstanding any authority granted under this Charter or N.D.C.C. Chapter 11-09.1, all property in order to be subject to the assessment provisions of this subsection must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede N.D.C.C. Section 11-11-55.1 relating to the sixty percent petition requirement of improvements and of N.D.C.C. Section 40-22-18 relating to the barring proceeding for improvement projects.
4. To levy and collect sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes, a county lodging tax, and a county restaurant tax. Sales and use taxes and gross receipts taxes levied under this section Charter and N.D.C.C. Chapter 11-09.1:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under N.D.C.C. Chapters 57-39.2, ~~57-32.5~~, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of ~~electricity, piped natural or artificial gas, or other heating fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.~~
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after of minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
 - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
 - d. Must be subject to collection by the tax commissioner under an agreement under N.D.C.C. Section 57-01-02.1, with the exception of a county lodging or county restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of N.D.C.C. Chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

~~Commissioners will not commingle dedicated mill levies with one another or with the general fund levy.~~

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this Section 4, or N.D.C.C. Section 11-09.1-05(4), as applicable, is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this Section 4 does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under N.D.C.C. Section 57-01-02.1. Any taxes imposed under this Charter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this Section 4.

5. Provide for County elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of County appointed officers and employees. However, except as provided under Article 6, Section 1, of this Charter with regard to the previously elected offices of County Treasurer/Recorder and County Auditor being filled by appointment by the Board of County Commissioners, following expiration of the current term, upon approval of this Charter by the majority of electors, after adoption of this Charter, a County elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the County voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish the term of office for which a current County officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This Section 5 does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.
6. Provide for all matters pertaining to County elections, except as to qualifications of electors.
7. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil and criminal penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this Section 7 does not confer any authority to regulate any industry or activity which is ~~exclusively~~ regulated by state ~~or federal~~ law or by rules adopted by a state ~~or federal~~ agency. ~~This subsection does not confer the authority to regulate the private use of agricultural chemicals.~~
8. Lay out or vacate public grounds, and provide through its governing body for the construction, use, operation, designation, and regulation of a County road system.
9. Provide for zoning, planning, and subdivision of public or private property within the County limits but outside the zoning authority of any city or organized township.
10. Exercise in the conduct of its affairs all powers usually exercised by a corporation.

11. ~~Exercise any of its powers or perform any of its functions by contract with, or grants from, any other governmental entity or agency. Contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.~~
12. ~~Exercise the right to impose a penalty for violation of an ordinance through a citation, a criminal complaint, or information through the district court in the county where the offense occurred. The penalty for a violation of an ordinance may be an infraction or a class B misdemeanor.~~

The people of the County coming within N.D.C.C. Chapter 11-09.1, or applicable amended or successor statute(s), and this Charter have the full right of self-government in all matters within the powers enumerated in this Charter. The statutes of this state, so far as applicable, continue to apply to the County, except as superseded by this Charter or by ordinances or resolutions passed pursuant to this Charter.

To the extent any of the above-mentioned powers are inconsistent with or do not fully include all home rule charter powers, N.D.C.C. Section 11-09.1-05, or any amendments thereto or successor statute(s), state statute shall control.

ARTICLE 3

ADOPTION OF ORDINANCES

Section 1- Definitions

An ordinance is any enactment by the Board of County Commissioners or the people which prescribes a permanent rule or statute governing the actions of persons or bodies.

A resolution is any enactment by the Board of County Commissioners or the people which defines policies or procedures governing the actions of persons or bodies for a limited period of time.

Section 2 - Procedures

Any enactments by the people or the Board of County Commissioners implementing charter provisions, or expanding or curtailing any of the powers or authorizations provided herein, will be in the form of ordinances or resolutions. Each ordinance or resolution introduced through the Board of County Commissioners will have two readings, with the first reading consisting of announcement of the title of the ordinance or resolution at a meeting of the Board of County Commissioners and publication of ~~a summary of~~ the enactment in the official newspaper of the County at least 20 calendar days before the second reading.

The proposed enactment will then be given second reading, which will be by title, and submitted to a roll call vote of the Board of County Commissioners. If a majority of the elected commissioners concur, the enactment will become effective on the date stated in the enactment or, if no date is stated, on the first day of the month following the date of the enactment.

Section 3 - Limitations

1. No ordinance or resolution enacted under this Charter will supersede any ordinance of any political subdivision without its consent.
2. No ordinance or resolution may be enacted to diminish the authority of the boards of supervisors of townships or change the structure of organized township government.

ARTICLE 4

INITIATIVE AND REFERENDUM

The powers of initiative and referendum are reserved to the electors of Williams County. The applicable provisions of state law will govern the exercise of the powers of initiative and referendum under this Charter. The number of signatures required to exercise these powers is at least equal in number to fifteen per cent of the number of electors voting in the County for the office of governor in the last general election.

ARTICLE 5

REFERENDA BY BOARD OF COUNTY COMMISSIONERS

The Board of County Commissioners may on its own motion submit any question to the electorate for a vote of the people at any primary or general election specified by the Board. If the question is submitted in the form of a proposed ordinance or resolution and it is approved by a majority of votes cast, and the Board subsequently adopts the ordinance or resolution within six (6) months of the vote, the ordinance or resolution may not be subject to referral by petition for a period of two years from the date of adoption.

ARTICLE 6

ELECTIONS

Section 1- Offices to be Elected or Appointed

The Board of County Commissioners shall consist of five members who shall be elected on a nonpartisan ballot. All of the candidates seeking the office of County Commissioner shall be voted upon by the qualified electors who must reside in each of the commissioners' districts.

The elected offices of the County ~~Treasurer/Recorder, Auditor, Sheriff,~~ and States Attorney shall remain intact as elected positions.

Upon approval of this Charter by the electors, the previously elected offices of County Treasurer/Recorder and County Auditor shall, following the current term, be filled by appointment by the Board of County Commissioners.

Section 2 - Qualifications

~~In addition to any qualifications established by state law for any of the offices to be filled by election, candidates must be qualified electors of the County of Williams and must have been in continuous residence in the county for at least six months prior to filing nomination papers.~~

The provisions of state law regarding the qualifications of candidates will govern the qualifications of candidates for County offices to be filled by election.

Section 3 - Disclosure

The provisions of state law applicable to candidates for the state legislature will govern the exercise of filing of campaign contribution statements by all candidates for election.

Section 4 - Recall

The applicable provisions of state law will govern the recall of elected officials.

ARTICLE 7

DEPARTMENTS, OFFICES, AGENCIES, BOARDS AND COMMISSIONS

Section 1- General Provisions

The Board of County Commissioners may, by ordinance, establish County departments, offices, agencies, boards or commissions in addition to those offices to be filled by election and may prescribe their functions and membership.

As used in this Charter, the terms “appoint”, “appointed”, and “appointment” with regard to an employee or an officer means an employee or officer who is employed by the County for an assigned position that is not elective and who serves at the pleasure of the Board.

Section 2 - Department Heads

~~The Board of County Commissioners may appoint Department Heads and fix their compensation. Department Heads will be appointed solely on the basis of executive and administrative qualifications to be established by the Board of County Commissioners.~~ An appointed Department Head is a person who is employed at-will by the County for an assigned position that is not elective and who serves at the pleasure of the Board. Any rights or procedures regarding removal of a Department Head under the previous Home Rule Charter are repealed by approval of this Charter by the electors. Upon approval of this Charter by the electors, all Department Heads shall be considered County employees who serve at-will and at the pleasure of the Board.

~~Section 3 - Removal~~

~~A Department Head may be suspended by a resolution of the Board of County Commissioners which will set forth the reasons for suspension and proposed removal. A copy of the resolution will be served immediately upon the Department Head who will have five working days in which to reply in~~

~~writing. Upon request, the Department Head will be afforded a public hearing, which will occur not earlier than ten days nor later than fifteen days after the hearing is requested. After the public hearing, if one is requested and after full consideration the Board of County Commissioners may adopt a final resolution of removal. The Department Head will continue to receive full salary until the effective date of a final resolution of removal.~~

Section 3 – Employees

Consistent with all applicable federal and state laws, the Board of County Commissioners will adopt policies to implement effective administration of the employees of County departments, offices, and agencies. Non-elected department heads and staff hired and employed by the County shall serve as at-will employees at the discretion of the Board of County Commissioners. Employees will be hired, employed, and promoted solely on the basis of suitability for the position, which may include factors of training, experience, knowledge, or similar. County policies shall detail hiring, employment, and termination procedures for County employees as well as available benefits and other applicable law relevant to employment with the County.

ARTICLE 8

FINANCIAL PROCEDURES

Section 1 - Fiscal Year

The fiscal year of the County will begin on the first day of January and end the last day of December.

Section 2 - Submission of Budget

On or before a date established by the Board of County Commissioners, each department, office, or agency, whether headed by an elected official or an appointed an officer, will submit to the Board of County Commissioners a department, office, or agency budget for the ensuing fiscal year in a form and manner that is prescribed by the state auditor and which complies with state law.

Section 3 - Budget

The Board of County Commissioners will prepare a budget ~~which provides in fiscal terms and in terms of work programs an outline of the proposed financial policies of the County for the ensuing fiscal year.~~ in a form and manner prescribed by the state auditor's office and which complies with state law.

The budget will provide a complete financial plan of all County funds and activities for the ensuing fiscal year, except as required by law or this Charter, and will be in a form as the Board of County Commissioners may require.

Section 4 - Board of County Commissioners Action on Budget

The Board of County Commissioners will comply with state law regarding notice of the general summary of the budget and the public hearing on the budget. ~~publish in the official newspaper of the County the general summary of the budget and a notice stating:~~

- ~~1. The times and places where copies of the budget are available for inspection by the public; and~~
- ~~2. The time and place, not less than two weeks after publication, for a public hearing on the budget.~~

After the public hearing, the Board of County Commissioners ~~may~~ shall adopt, by resolution, the budget with or without amendments. No amendment may increase or decrease expenditures required by law or for debt service or for an estimated cash deficit. No amendment to the budget may increase the authorized expenditures to an amount greater than total estimated resources.

The Board of County Commissioners will adopt the budget for the ensuing fiscal year on or before the first County Commission meeting of October of the current fiscal year.

Section 5 - Revenue Certification

The Board of County Commissioners, on or before the October meeting required by N.D.C.C. Section 11-11-05, shall determine the amount of taxes that shall be levied for County purposes and shall levy all such taxes in specific amounts. ~~To implement the adopted budget, The Board of County Commissioners will file a tax levy certification authorizing the tax levy or levies and setting the tax rate or rates on or before the October meeting required by N.D.C.C. Section 11-11-05 of each year as~~ required by state law.

Section 6 - Amendments after Adoption

1. The Board of County Commissioners may adopt supplemental or emergency appropriations or may provide for reductions or transfers ~~pursuant to the procedures provided in Section 4 as necessary pursuant to applicable state law.~~ To the extent that there are no available ~~inappropriate~~ unappropriated revenues or a sufficient fund balance to meet emergency appropriations, the Board of County Commissioners may authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year must be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
2. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance of the appropriation. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 7 - Lapse of Appropriations

Every appropriation, ~~except an appropriation for a capital expenditure,~~ including special appropriations will lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. ~~An appropriation for a capital expenditure will continue in force until expended, revised or repealed.~~

Section 8 - Administration of the Budget

The Board of County Commissioners will ~~provide by resolution the procedures for~~ oversee administering the budget.

ARTICLE 9

REVENUE AUTHORITY AND LIMITATIONS

Section 1- Scope of Authority

Subject to the provisions of this Article, Williams County will have the authority by ordinance or resolution of the Board of County Commissioners to levy and collect property taxes, sales and use taxes, income taxes, motor vehicle registration fees, excises, fees, other taxes, and special assessments for benefits conferred as allowed by this Charter or state law, and other taxes, excises, fees, or special assessments allowed by state law.

Section 2 - Limitations

1. No ordinance or resolution may be adopted by the Board of County Commissioners levying property taxes in excess of that allowed in N.D.C.C. Chapter 57-15. This mill levy limit does not include any levies certified to the Board of County Commissioners by any other governing body, except that no taxes shall be extended by the County on behalf of any other governing body in excess of the limitations prescribed by N.D.C.C. Chapter 57-15 or other applicable law.
2. No ordinance or resolution may be adopted by the Board of County Commissioners implementing any new or additional tax not currently being levied or assessed until referred by the Board of County Commissioners for approval by the electorate at any ~~regular~~ County primary or general election, if a vote is required by N.D.C.C. Chapter 57-15.
3. Any ordinance or resolution submitted to the electorate must be approved by a majority vote of the electors voting.
4. In order to be subject to the assessment provisions of this Article, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments. No ordinance or resolution of the Board of County Commissioners may supersede any state law which determines what property is subject to or exempt from ad valorem, sales or use taxes, excises, or fees.

ARTICLE 10

SEPARABILITY CLAUSE

If a court declares that any part of this Charter is invalid, the decision will not impair or affect in any manner the validity or enforceability of the remainder of this Charter.

ARTICLE 11

SUCCESSION IN GOVERNMENT

Section 1 - Rights of officers and employees preserved

Nothing in this Charter, except as specifically provided herein, will affect or impair the ~~rights,~~ privileges, duties or authority of officers and employees of the County or of any office, department, agency, board or commission existing at the time this Charter takes effect.

Section 2 - Continuance of contracts

All contracts entered into by the County prior to the taking effect of this Charter will continue in full force and effect.

Section 3 - Pending actions and proceedings

The adoption of this Charter will not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes full effect, brought by or against the County or any office, department, agency or officer.

Section 4 - Resolutions and policies to remain in force

All County resolutions, ordinances, and policies in force at the time this Charter takes effect, and not inconsistent with this Charter, will continue in force until amended or repealed.

ARTICLE 12

AMENDMENTS AND REPEAL

~~In the manner provided by state law, this Charter may be amended or repealed by a proposal of the Board of County Commissioners or by petition bearing signatures of qualified voters at least equal in number to fifteen per cent of the number of electors voting in the county for the office of governor in the last general election.~~ This Charter may be amended or repealed in the manner provided by N.D.C.C. Chapter 11-09.1.

Upon approval of the majority vote of the electors at the November 3, 2020 general election, this Amended Home Rule Charter is respectfully submitted and approved by the Williams County Board of County Commissioners on this _____ day of _____, 2020.

Steve Kemp, Chairman
Williams County Board of County Commissioners

Cory Hanson, Vice Chairman

Williams County Board of County Commissioners

David Montgomery, Commissioner
Williams County Board of County Commissioners

Barry Ramberg, Commissioner
Williams County Board of County Commissioners

Beau Anderson, Commissioner
Williams County Board of County Commissioners

ATTEST:

Beth M. Innis, Williams County Auditor

Dated: _____