


CERTIFICATE

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

I, Vance Kemmer, the duly appointed City Auditor of the City of Horace, North Dakota, do hereby certify that attached hereto is a full, true and correct copy of the Home Rule Charter adopted by a majority of the voters of the City of Horace at the November 8, 2016, election, and that such Home Rule Charter is now a part of the permanent records of the City of Horace, North Dakota, as such records are filed in the office of the City Auditor.

Dated this 21st day of November, 2016.



Vance Kemmer, City Auditor

Home Rule Charter
City of Horace, North Dakota

Article I. Incorporation

The inhabitants of the City of Horace, North Dakota, 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 Horace.”

Article II. 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 city governing body. The elected city governing body shall enact local ordinances, adopt budgets, determine policies, and prescribe the functions of government to be performed under this charter by the city. The elected city governing body shall have the power to enact all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express and implied powers granted in this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Article III. 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 power granted.

Among its enumerated powers, which may be implemented by ordinance subject to the limitations specified in this charter, shall be the following:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and exercise the right of eminent domain for such purposes.
2. To control its finances and fiscal affairs; to appropriate money for its purposes, and to make payments 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 to that of the City of Horace, however, those mills may be budgeted for any city purpose. 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 of the budget is not more than the total amount of mills authorized by a city. The authority to levy taxes under this subsection does not include authority to impose income taxes.

3. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses of its governmental police powers.
4. To provide for city officers, agencies, and employees their selection, terms, powers, duties, qualifications, and compensation, provided that compensation paid to the members of the governing body is limited to the amount allowed by state law. To provide for change, selection, or creation of its form and structure of government including its governing body, executive officer, and city officers, provided that changes in the form of government must be proposed on motion of the governing body, or may be proposed by petitions bearing the signatures of qualified city electors equal to fifteen percent (15%) of those voting in the city for the office of president in the most recent presidential election. Proposals for changing the form of government shall be voted upon at a special election set by the governing body or at the next regular municipal election, whichever shall occur first, provided that at least sixty (60) days have passed after the motion of the governing board or the filing of petitions with the City Auditor. The form and procedures concerning any petition hereunder shall be in all respects in accordance with the provisions for initiated measures as set forth in Article IV of this charter, unless specifically set forth in this paragraph.
5. 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.
6. To provide for all matters pertaining to city elections, except as to qualifications of electors.
7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and propriety powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.
8. To layout or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
9. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
10. 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, corporation, or limited liability company.
11. To provide for zoning, planning, and subdivision of public or private property within the city limits, and to provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.

12. To levy and collect franchise and license taxes for revenue purposes.
13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
14. 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.
15. 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.
16. To impose sales and use taxes as permitted by state law in addition to any other taxes imposed by law. Provided, however, that no sales or use tax may be imposed unless an ordinance authorizing such a tax is approved by a majority of voters voting at an election held pursuant to a motion of the governing body or the provisions of a referendum and initiative as set forth in Article IV. Questions related to sales and use taxes may be submitted to voters at the same election at which this charter, or any amendments thereto, is submitted to the voters. The sales and use tax shall be subject to the following conditions:
 - a. The amount of the sales and use tax shall not exceed two percent (2%) of the gross receipt.
 - b. Sales and uses taxed shall be limited to those which are taxed by the State of North Dakota, and sales and use taxes must conform in all respects with regard to the taxable or exempt status of items under chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2 of the North Dakota Century Code 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 mobiles homes.
 - c. At least seventy-five percent (75%) of the proceeds of any sales and use tax, less administrative costs, shall be dedicated and utilized for infrastructure improvements, including publicly-owned utilities and buildings; provided, the City Council may dedicate up to twenty-five percent (25%) of the proceeds of any sales and use tax, less administrative costs, for job creation, economic development, and business retention, expansion, and recruitment. The proceeds collected pursuant to such tax may be used to make direct payments of costs for the above purposes, or may be pledged to amortize bonds or other debt instruments which may be sold to finance such debts.

It is intended that the statutes of the state of North Dakota, so far as applicable, shall continue to apply to this city, except as superseded by this charter. In addition to the powers enumerated herein, implied hereby, or appropriate to the exercise of such powers, the city shall have and may exercise all powers under the constitution and laws of this state applicable generally to all cities.

Article IV. Referendum and Initiative

Section 1: The voters of the City of Horace shall have the power to refer and initiate ordinances, except that the power of initiative and referendum shall not extend to the budget or capital program, the appropriation of money, the levy of taxes, any limitation as to the annual mill levy, zoning, or to those ordinances 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 and referendum petitions must be signed by qualified voters of the city equal to at least fifteen percent (15%) of those voting in the city for the office of president in the most recent presidential election.

Section 3: Each petition, whether for initiating or referring an ordinance, shall contain or have attached thereto throughout its circulation the full text of the ordinance proposed or referred. In addition, each petition shall list the names and addresses of the three electors who shall constitute the “sponsoring committee” who shall represent and act for the petitioners. Each signer of the petition shall sign his or her name and give his or her street address. Each separate page of the petition shall have appended to it a certificate, verified by oath by the circulator of the petition, that each signature is the genuine signature of the person whose name it purports to be and that signers thereto are believed to be qualified electors of the City of Horace.

Section 4: Referendum petitions for ordinances must be filed with the City Auditor within thirty (30) days after the second reading of the ordinance referred.

Section 5: The City Auditor shall pass upon the sufficiency of each petition and shall have twenty (20) days after the petition is filed to certify as to its sufficiency. A petition shall be deemed sufficient if not certified to the contrary by the City Auditor within the twenty (20) day period. If the City Auditor finds the petition is insufficient, the City Auditor shall notify the “sponsoring committee,” specify the insufficiencies, and allow seven (7) days for correction and amendment, and, in the case of a petition for initiating an ordinance only, for additional signatures within the seven (7) day period.

Section 6: Upon proper filing of a referendum petition, the ordinance referred, except emergency ordinances as defined in this section, shall be suspended. Such suspension shall terminate:

- (1) If the petitions are determined to be insufficient and not corrected or amended as provided in Section 5 of this article; or

- (2) If the petitions are withdrawn by the “sponsoring committee,” as provided in Section 9 of this article; or
- (3) If the governing body of the city repeals the ordinance.

An “emergency ordinance” is an ordinance designated as an emergency ordinance by the city governing body and passed by a $\frac{3}{4}$ vote of the city governing body.

Section 7: Upon the final determination of the sufficiency of the petitions for initiating an ordinance, the city governing body shall have sixty (60) days in which to adopt the proposed ordinance. If the city governing body fails to adopt the ordinance without any change in the substance from that proposed ordinance within the sixty (60) day time period, the city governing body shall submit the ordinance to the voters of the city at an election to be held within one hundred twenty (120) days after the final determination of the sufficiency of the petition. If no regular city election is to be held within that time period, the city governing body shall provide for a special election. Copies of the proposed ordinance shall be available at the office of the City Auditor at least ten (10) days prior to the election. The ballot shall fairly state a summary of the provisions of the proposed ordinance and copies of the ordinance shall be available at the polling places.

Section 8: Upon the final determination of the sufficiency of the petitions of referendum, the city governing body shall cause an election on the referral to be held within sixty (60) days. The election shall be held at a regular city election, if one is scheduled within that time period, or at a special election called by the city governing body. Copies of the ordinance shall be available at the office of the City Auditor at least ten (10) days prior to the election. The ballot shall fairly state a summary of the provisions of the ordinance referred and copies of the ordinance shall be available at the polling places.

Section 9: An initiative or referendum petition may be withdrawn at any time prior to the scheduling of the election by the city governing body upon the filing of a request for withdrawal signed by all the members of the “sponsoring committee.”

Section 10: If a majority of electors voting on an initiated ordinance vote in its favor, it shall be considered adopted upon certification of election results and shall henceforth stand the same as if adopted by the city governing body. If a majority of the electors voting on a referred ordinance vote against it, the ordinance shall be considered to be repealed upon certification of the election results.

Section 11: Any ordinance adopted pursuant to initiative, as provided by this article, may not be referred except at a regular city election taking place at least two (2) years after the election at which such initiated ordinance was adopted. The governing body may not repeal or make any material amendment to an initiated ordinance within two (2) years after the date of the election in which it was adopted. Thereafter, such an ordinance may be repealed or amended the same as any other ordinance.

Section 12: An ordinance referred and repealed by a vote of the electors as herein provided shall not be re-enacted by the governing body before a period of at least two (2) years from the date of the referral election.

Section 13: This article shall be self-executing and all of its provisions treated as mandatory. Ordinances may be enacted to facilitate its operation, but no ordinance shall be enacted to hamper, restrict, or impair the exercise of the rights and powers herein reserved to the people.

Article V. Succession in Government

Section 1: 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 takes effect.

Section 2: 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 are made by the governing body for the performance of such duties in some manner or the discontinuance of such office.

Section 3: Any office, department, or agency existing at the time this charter takes effect shall continue to exercise its regular powers and duties until such office, department, or agency is changed or abolished by the city governing body under the authority of this chapter.

Section 4: All appointive boards, authorities, and commissions existing at the time this charter takes effect shall continue to exercise such powers and duties as were granted then until such boards, authorities, and commissions are changed by the city governing body.

Section 5: All contracts entered into by the city, or for its benefit, prior to the time this charter takes effect shall continue in full force and effect.

Section 6: The adoption of this charter shall not affect any pending action or proceeding, civil or criminal, when it takes full effect.

Section 7: All ordinances, resolutions, and regulations of the city, together with state statutes applicable to municipalities, which are in force at the time this charter takes effect and are not inconsistent with the provisions of this charter, shall continue in force until they are amended or repealed as provided in this charter.

Section 8: 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 city governing body with the Secretary of State, the county register of deeds or other designated county official, and the City Auditor of the City of Horace. Said filing shall be completed as soon as reasonably possible under the circumstances but not later than ninety (90) days after the election ratifying the charter.

Article VI. Construction

The powers of the City of Horace under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in this charter shall not be construed as limiting in any way the general powers of the city.

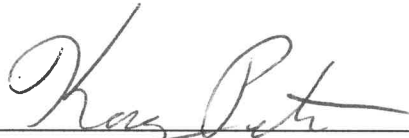
Article VII. Severability Clause

If any section or part of a section of this charter is 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 a section may be inseparably connected in meaning and effect with the section or part of a section to which the holding directly applies.

Article VIII. Method of Amendment or Repeal


This charter may be amended or repealed as provided by Section 40-05.1-07 of the North Dakota Century Code as amended.

Submitted by the Horace Home Rule Charter Commission, approved by the Horace City Council, published in *The Forum* on October 17, 2016, and adopted by the voters of the City of Horace at a general election held November 8, 2016.



Kory Peterson, Mayor

ATTEST:



Vance Kemmer, City Auditor

THE RECEIPT OF TRUE AND CORRECT COPIES OF THE FOREGOING HOME RULE CHARTER, WHICH WAS ADOPTED BY A MAJORITY OF THE VOTERS OF THE CITY OF HORACE AT A REGULAR, GENERAL ELECTION HELD ON NOVEMBER 8, 2016, IS HEREBY ACKNOWLEDGED ON THE DATES HEREINAFTER SPECIFIED.

12-23-16
Date

Alvin Jaeger
Alvin Jaeger
Secretary of State
State of North Dakota

12/16/16
Date

Pracy Hines
Clerk of District Court
Cass County, North Dakota

11/21/16
Date

Vance Kemmer
Vance Kemmer, City Auditor
City of Horace, North Dakota