

PROCEDURES FOR IMPLEMENTING HOME RULE

1. Getting Started

The home rule process can be started in two ways. The most common method is for the city 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 fifteen percent of the qualified electors of the city voting in the last city election, requesting that a home rule charter be drafted. (NDCC 40-05.1-02)

2. Charter Commission

Within sixty days after proceedings have been initiated for a home rule charter, the city 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 city governing body. The terms of all members of the charter commission shall be four years. (NDCC 40-05.1-03, 08)

3. 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 city governing body allows additional time for submission of the charter. (NDCC 40-05.1-03)

4. Publishing the Charter

The proposed charter shall be published once in the city's official newspaper. However, cities with a population of one thousand or less may, in lieu of publishing the charter, distribute copies of the charter door-to-door and have them posted and available at prominent locations in the city. In any case, ten days notice of the time and place of the election must be given by the city auditor by publication in the official newspaper of the city. (NDCC 40-05.1-03, 40-21-02)

5. Submitting the Charter

At least sixty days, but no more than two years, after submission of the charter by the charter commission to the city governing body, the proposed charter must be submitted to a vote of the qualified electors of the city at a regular or special city election. If the proposed charter has been submitted to a vote of the qualified electors, the city 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 city governing body may amend the proposed charter prior to its resubmission to the electors. (NDCC 40-05.1-04)

6. Framing the Question

The following are examples of how the election question may be framed:

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

Or

Shall the Home Rule charter for the City of _____ (city) _____ as distributed and posted within the city be adopted? Yes _____ No _____

7. 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, the charter is ratified. The charter and the ordinances made pursuant to the charter supersede, within the city’s jurisdiction, any law of the state in conflict with the charter and ordinances. (NDCC 40-05.1-05)

8. Filing the Charter

One copy of the ratified charter must be filed with the secretary of state and one copy with the auditor of the city to remain as a part of the city’s permanent records. After the charter is properly filed, the courts shall take judicial notice of the new charter. (NDCC 40-05.1-05)

9. Amending the Charter

The home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in the same general manner provided for the adoption of the charter. One copy of a ratified amendment or a repeal of a home rule charter must be filed with the secretary of state and one with the city auditor. After proper filing, the courts shall take judicial notice of the amendment or repeal. (NDCC 40-05.1-07)