

AUDITOR'S OFFICE

Walsh County, North Dakota

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COURTHOUSE  
GRAFTON, NORTH DAKOTA 58237

COLEEN A. TREDA  
County Auditor

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Tom Larson  
City of Park River  
PO Box C  
Park River ND 58270

Re: Home Rule Measure on Ballot  
General Election - November 3, 1992

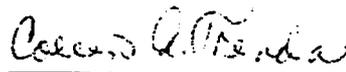
Dear Tom:

I hereby certify that the following is the results of the  
General Election held on November 3, 1992 at Precincts 15-16-17  
in the City of Park River:

Shall the Home Rule Charter be adopted by the City of Park River?

Yes )	442
No )	211

In witness whereof, I have set my hand and affixed the Official  
Seal of said County this 6th day of November, 1992

  
\_\_\_\_\_  
Coleen A. Treda  
Walsh County Auditor

CAT:sk

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# CITY OF PARK RIVER, NORTH DAKOTA

## HOME RULE CHARTER

### **ARTICLE 1 - INCORPORATION**

The inhabitants of the City of Park River, 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 Park River".

### **ARTICLE 2 - GOVERNING BODY TO EXERCISE POWERS**

Subject to the limitations imposed by the Constitution of the United States of America, the Constitution of the State of North Dakota, State Law, and this Charter, all powers of the City shall be vested in the elected Governing Body. The elected Governing Body shall enact ordinances, adopt budgets, collect revenues, determine policies and prescribe the functions of government to be performed by the City under the authority of its Charter. All powers of the City shall be exercised in the manner prescribed by this Charter, or if no prescribed, then in such manner as may be prescribed by ordinance.

### **ARTICLE 3 - POWERS OF THE CITY**

**Section 1: General Powers.** 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 or appropriate to carry into execution all powers granted. It is the intention of this Charter, pursuant to state law, to grant and confirm to the people the full right of self-government in both local and city matters within the powers enumerated in this Charter. All powers heretofore granted the City by general law are hereby preserved and the powers so conferred are hereby granted. This Charter shall be the organic law of the City and extend to all local and city matters.

**Section 2: Enumeration of Powers.** 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 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 Park River, however, the Governing Body shall be permitted to promulgate the city budget without regard to the specific dedications of mill levies to specific purposes. The general obligation debt limit shall not exceed five percent (5%) of the assessed valuation of all taxable property within the City of Park River. By a two thirds (2/3) vote of the qualified voters thereof voting upon such question at a general or special election, the City may increase such limit of indebtedness three percent (3%) on such assessed value beyond said five percent (5%) limit.

- 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 selections, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government including its Governing body, executive officer, and city officers.
- e.) 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.
- 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 propriety powers and to provide for public health, safety, morals and welfare, and penalties for 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 violations 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 franchises 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 subject 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.
- p.) To impose registration fees on motor vehicles, or sales and use taxes in addition to any other taxes imposed by law. The powers contained in this subsection shall only be exercised by initiatives provided for in Article 4 or after a referendum as provided for in Article 5.

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.

The statutes of the state of North Dakota, so far as applicable, shall continue to apply except insofar as superseded by this Charter or by ordinance passed pursuant to this Charter. This charter and the ordinances made pursuant thereto in local and city

matters shall supersede within the territorial limits and other jurisdiction of the City and law of the state in conflict therewith, and shall be liberally construed for such purposes.

#### **ARTICLE 4 – INITIATIVE AND REFERRAL OF ORDINANCES**

The citizens of Park River shall have the right to initiate and refer ordinances. This Article is self-executing and all provisions are mandatory. Ordinances may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.

**Section 1: Initiative.** A petition to initiate an ordinance shall be presented to the City Auditor for approval as to form prior to circulation. 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 and set forth the text of the ordinance. A request for approval shall be presented over the names and signatures of three (3) or more qualified electors who shall constitute the "Committee for the Petitioners" and who shall represent and act for the petitioners. Within then (10) days after receipt of the petition, the City Auditor shall either approve the petition for circulation if it is in proper form and contains the full text of the measure or if the City Auditor does not approve the petition, he or she shall give written notice to the committee for the petitioners of his or her reason for not approving their petition.

Any proposed ordinance may be submitted to the Governing Body of the municipality by a petition signed by qualified electors thereof at least equal in number to twenty percent (20%) of the number of electors voting in the City for the office of governor at the last election. 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 qualified electors of the City if it is not passed by the Governing Body of the municipality.

After receiving the petition for the initiation of a proposed ordinance, the Governing Body of the municipality shall:

- a.) Pass the ordinance without alterations within thirty (30) days after the attachment of the Auditor's Certificate to the accompanying petition that it appears in order, or
- b.) 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 voter 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 City. The governing Body may not repeal or make any material amendment to an

initiated ordinance except by a five-sixths (5/6) vote of the members thereof for a period of six (6) years after the date of election adopting such ordinance, thereafter such ordinance may be repealed or amended the same as any ordinance. An initiated ordinance may be referred as provided in Section 2.

**Section 2: Referendum.** The citizens of Park River shall have the right to refer ordinances, except those ordinances implementing public project 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 and except for the annual budget and appropriation. Qualified city electors at least equal in number to twenty percent (20%) 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 five-sixths (5/6) of all members of the Governing Body. 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 and before 4:00 P.M. on the 30<sup>th</sup> day after adoption of the ordinance.

Each petition shall have printed thereon: "Referral of City Ordinance \_\_\_\_\_; providing for \_\_\_\_\_"; and shall accurately identify and summarize the true nature of the referral and set forth the text of the ordinance. A petition to refer an ordinance shall be presented to the City Auditor for approval as to form prior to circulation. A request for approval shall be presented over the names and signatures of three (3) or more qualified electors who shall constitute the "Committee for the Petitioners". Within ten (10) days after receipt of the petition, the City Auditor shall either approve the petition for circulation if it is in proper form and contains the full text of the measure proposed to be referred; or if the City Auditor does not approve the petition, he or she shall give written notice to the committee for the petitioners of his or her reason for not approving their petition.

Each ordinance referred to the electors shall be placed upon the ballot by the City Auditor at the next municipal election occurring after thirty (30) days following the filing of sufficient petitions, or at a special election called by the Governing Body, whichever shall occur first. In the event the referendum petition refers an emergency ordinance, the election shall be held within sixty (60) days from the date of filing.

An ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof, except if said ordinance is an emergency ordinance. An ordinance referred, except an emergency ordinance, shall be suspended upon submission of the Auditor's Certificate to the Governing Body as provided in Section 3 of this Article.

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

Section 3: Petition, Certification, Publication, and Limitation. Each petition to initiate or refer, in addition to the signatures of the petitioners, shall contain the residence address of each petitioner. At the bottom of each petition, the circulator of that particular petition shall sign an affidavit affirming that the signors thereto are known to him or her to be qualified electors of the city at the time of signing and also setting forth the number of signors upon the petition at the time when the affidavit was made.

No ordinance shall be enacted limiting the number of copies of petitions. Copies of petitions shall become part of the original petition when filed.

All decisions of the City Auditor in passing upon any petition to initiate or refer is subject to review by the district Court, Northeast Judicial District, Walsh County, North Dakota. The burden is on the party challenging the petition if proceedings are brought against any petition upon any ground.

Within ten (10) days after the filing of a petition to initiate or refer an ordinance, the City Auditor shall examine the petition and ascertain whether or not the petition is signed by the requisite number of qualified electors. The City Auditor shall attach to the petition his or her certificate showing the result of the examination; and if the petition is insufficient, he or she shall state in his or her certificate the reasons therefore. If the City Auditor's Certificate shows the petition to be insufficient, it may be corrected or amended within ten (10) days from the date of the certificate. Within ten (10) days after any such amendment, the City Auditor shall make an examination of the amended petition, and if the certificate attached thereto shall show the amended petition to be insufficient, it shall be returned to the person filing the same without prejudice to the filing of a new petition to the same effect. If the petition is sufficient, the city auditor shall so certify and submit it to the Governing Body of the municipality without delay.

The city Auditor shall cause any initiated or referred ordinance to be submitted to the qualified electors under this Charter to be published once in a newspaper published in the municipality. The publication shall be made not more than twenty (20) day nor less than five (5) days before the submission of the initiated or referred ordinance to a vote.

Any number of proposed or referred ordinances may be voted on at the same election in accordance with the provision of this Charter. There shall be not more than one special election in any period of six (6) months for such purposes.

In conflicting initiated or referred measures are approved by vote of the people, the one receiving the highest number of affirmative votes shall be law.

#### **ARTICLE 5 - 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 hereon, 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 6 - 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 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, nor 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 manner or the discontinuance of such office.

### **Section 3: Continuance of Present Offices, Departments, or Agencies.**

- a.) Any office, department, or agency, heretofore existing, shall continue exercise power 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.
- b.) The powers conferred and the duties imposed upon any office, department or agency of the City by the laws of the State, if such office, department or agency be abolished by this Charter or under its authority, shall 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 and Franchises.** All contracts and franchises entered into by the City, or for its benefit, prior to the taking effect of this Charter, shall continue in force and effect.

**Section 6: Pending Actions and Proceedings.** The adoption of this Chapter shall not abate or otherwise affect any action or proceedings, 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 and Statutes to Remain in Force. 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 not inconsistent with the provisions thereof, are hereby continued in force until such ordinances, resolutions and regulations of the City are duly amended or repealed and until ordinances are enacted providing procedures replacing those previously required by state statute.

The adoption of this Charter or any amendment thereof shall never be construed to destroy any property, action, claims for relief, claims, and demands of any nature or kind whatever vested in the city under and by virtue of this Charter theretofore existing or otherwise accruing to the City, but all such claims for relief, claims or demands vest in and inure to the City and to any persons asserting any such claims against the City as fully and completely as through the said Charter or amendment had not been adopted hereunder. The adoption of this Charter or any amendment shall never be construed to affect the right of the City to collect by special assessment any special assessment theretofore levied under any law or Charter for the purpose of public improvements, not affect any right of any contract or obligation existing between the City and any person, firm, or corporation for the making of any such improvements and for the purpose of collecting any such special assessments and carrying out of any such contract.

Section 8: Inauguration of Government under this Charter. If a majority of the qualified voters of the City 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 District Court for Walsh County, and the office of the City Auditor of Park River. 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 7 – 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 twenty percent (20%) of those voting for the office of governor in the last election. Proposals for changing the form of government shall be voted upon at the special election called by the Governing Body or at the next regular municipal election, whichever shall occur first, provided that at least thirty (30) 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 provision for initiated and referred measures as set forth in Article 4 herein.

## **ARTICLE 8 – CONSTRUCTION**

The powers granted to the City under this Charter shall be given a broad interpretation, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power of this Chapter.

## **ARTICLE 9 – 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.

**ARTICLE 10 - SEPARABILITY CLAUSE**

If any section or a part of a 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 the 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 such holdings shall directly apply.

Submitted by the Park River Home Rule Committee on this 13<sup>th</sup> day of March, 1992.

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Arvid Knutson, Chairman