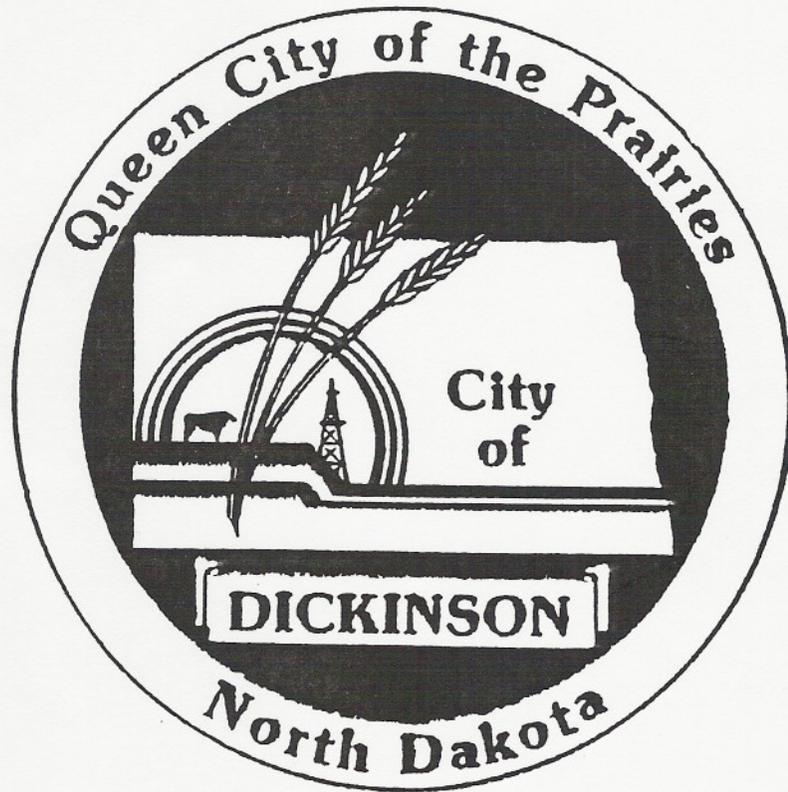


# HOME RULE CHARTER



**CITY OF DICKINSON  
NORTH DAKOTA**

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# CITY OF DICKINSON, NORTH DAKOTA

## HOME RULE CHARTER

As approved by the Electorate of the City of Dickinson at a special election held on May 22, 1990.

### Article 1 - Incorporation

The inhabitants of the City of Dickinson, 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 Dickinson".

### 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, raise 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 not prescribed, then in such manner as may be prescribed by ordinance.

### Article 3 - Powers of the City

The City shall have all powers granted to municipal corporations by the Constitution, laws of this state and by this Chapter, together with all the implied powers necessary to carry into execution all powers granted.

From and after the filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this chapter, such city, and the citizens thereof, shall, if included in the chapter and implemented through ordinances, have the following powers set out in this chapter:

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 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 all real and personal property in order to be subject to the assessment provisions of this subsection shall be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments.

3. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
4. To provide for city officers, agencies, and employees, their selection, 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.
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 proprietary powers and to provide for public health, safety, morals and welfare, and penalties for a violation thereof.
8. To lay out 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 therefor to a private person, firm, or corporation.
11. 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.
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 deannexation 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 registration fees on motor vehicles, or sales and use taxes in addition to any other taxes imposed by law. Any sales and use tax not specifically authorized by statute created by the Board of City Commissioners through the powers stated herein must be approved by a majority vote of the qualified electors of the City of Dickinson before enactment.

It is the intention of this chapter to grant and confirm to the people of all cities coming within its provisions the full right of self-government in both local and city matters within the powers enumerated herein. The statutes of the State of North Dakota, so far as applicable, shall continue to apply to home rule cities, except insofar as superseded by the charters of such cities or by ordinance passed pursuant to such charters.

#### Article 4 - Fiscal and Budgetary Affairs

The fiscal year of the City shall commence on the 1st day of January of each year and shall terminate on the 31st day of

December of that same year. Prior to the beginning of the fiscal year, the preliminary budget of the City shall be approved by the governing body and published in the official newspaper of the City at least once not less than ten days prior to the budget hearing. The governing body annually, on or before September 10th, shall make an itemized statement known as the preliminary budget statement showing the amount of money which, in the opinion of the governing body, will be required for the proper maintenance, expansion, debt service, or improvement of the City for the fiscal year. After completing the final budget, the governing body shall proceed to make the annual tax levy in an amount sufficient to meet the expenses of the ensuing fiscal year. In determining the amount required to be levied, the governing body first shall ascertain its net current resources of all funds. The total resources shall be deducted from the total amount estimated to be appropriated and the balance shall be considered the amount which is required to be raised by taxation during the ensuing year subject to the limitations set forth in Article 3 subsection 2.

The final budget shall be approved by the governing body not later than October 10th and published in the newspaper of the City not later than thirty (30) days after final adoption. The governing body shall adopt the final budget by resolution or ordinance and may amend same by resolution or ordinance at any meeting, provided that at least ten (10) days prior to the meeting, the proposed amendment is published in the official newspaper of the City.

#### Article 5 - Initiative of Ordinances

The power to propose ordinances and to enact or reject same at the polls is hereby expressly reserved unto the people as herein provided.

#### SECTION 1: FORM OF PETITION

(a) Initiative petitions must be signed by qualified voters of the City equal to at least fifteen percent (15%) of the total votes cast in the City at the most recent City election. In addition to the names of the Petitioners, each petition shall contain the name of the street upon and the number of the house in which each Petitioner resides.

(b) Each petition initiating an ordinance shall have printed thereon: "Initiation of City Ordinance Providing For \_\_\_\_\_", and shall contain or have attached thereto throughout its circulation, an accurate summarization of the true nature of the proposed ordinance.

(c) Each petition shall list the names and addresses of the three (3) electors who shall constitute a "Committee For The Petitioners" who shall represent and act for the Petitioners.

## SECTION 2: FILING, CERTIFICATION AND SUBMISSION OF INITIATED ORDINANCE

(a) The completed petition shall be filed in the City Auditor's office, and shall contain a request that the ordinance set out in the petition shall be submitted to a vote of the electors of the City if it is not passed by the Governing Body of the City.

(b) The City Auditor shall pass upon and certify each petition as being in order and proper from within fifteen (15) days after receiving it, or if he finds the petition is not in order, he shall notify the Committee For The Petitioners and allow ten (10) days for correction or amendment. A petition shall be deemed sufficient if not certified to contrary by the City Auditor within fifteen (15) days after receiving same. The City Auditor shall, upon certification, cause any ordinance proposed under this Article to be published once in the official newspaper of the City.

(c) After receiving the petition of the initiation of a proposed ordinance, the Governing Body of the City shall pass the ordinance without alterations within sixty (60) days after the attachment of the Auditor's Certificate to the accompanying petition or the petition is deemed sufficient, or call a special election within ninety (90) days after the final certification of the petition or the petition is deemed sufficient, and submit the initiated ordinance without alteration to a vote of the electors of the City. However, if a general city election is fixed not earlier than fifteen (15) days nor later than ninety (90) days after the date of certification of the petition, or the petition is deemed sufficient, the unaltered initiated ordinance shall be placed upon the ballot for voter consideration at the general election. The ballot shall fairly state a summary of the proposed ordinance provision.

(d) Copies of the proposed ordinance shall be available at the office of the City Auditor at least fifteen (15) days prior to the election.

## SECTION 3: ELECTION

If a majority of electors voting on an initiated ordinance ~~shall be~~ <sup>is</sup> adopted by the Governing Body.

#### SECTION 4: EFFECT OF INITIATION OF ORDINANCE

Any ordinance adopted pursuant to initiative, as by this Article provided, may not be referred except at a regular city election taking place at least two (2) years after the election in which the initiated ordinance was adopted. The Governing Body may not repeal or make any material amendment to an initiated ordinance for a period of five (5) years after the date of the election adopting such ordinance except by a four-fifths (4/5) vote of the members thereof; thereafter such ordinance may be repealed or amended the same as any ordinance.

#### SECTION 5: SELF-EXECUTING STATUTE

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 6 - Referendum of Ordinances

The power to refer to the electorate any ordinance enacted by the Governing Body is hereby expressly reserved unto the people except those ordinances implementing public projects upon which an election or a referendum has already been held pursuant to law or this Charter, or which provides for meeting obligations of bonded indebtedness incurred by a prior ordinance or a prior election or referendum or the annual appropriation ordinance.

#### SECTION 1: FORM OF PETITION

(a) Referendum petitions must be signed by qualified voters of the City equal to at least fifteen percent (15%) of the total votes cast in the City at the most recent City election. In addition to the names of the Petitioners, each petition shall contain the name of the street upon and the number of the house in which each Petitioner resides.

(b) Each petition referring an ordinance shall have printed thereon: "Referendum of City Ordinance Providing For \_\_\_\_\_", and shall accurately identify the ordinance to be referred and shall contain or have attached thereto throughout its circulation, an accurate summarization of the true nature of the ordinance referred.

(c) Each petition shall list the names and addresses of three (3) electors who shall constitute the "Committee For The Petitioners" who shall represent and act for the Petitioners.

**SECTION 2: FILING, CERTIFICATION AND SUBMISSION OF REFERRAL PETITION**

(a) Referendum petitions shall be filed with the City Auditor.

(b) The City Auditor shall pass upon and certify to the Governing Body each petition as being in order and proper form within fifteen (15) days after receiving same, or if he finds the petition is not in order, he shall notify the Committee For The Petitioners and allow ten (10) days for corrections or amendment. A petition shall be deemed sufficient if not certified to the contrary by the City Auditor within fifteen (15) days after receiving same. The City Auditor shall then cause any ordinance referred under this Article to be published once in the official newspaper of the City.

(c) After receiving the petition for the referral of an ordinance, the Governing Body of the City shall repeal the ordinance within sixty (60) days after the attachment of the Auditor's Certificate to the accompanying petition or the petition is deemed sufficient, or call a special election within ninety (90) days after the final certification of the petition or the petition is deemed sufficient, and submit the referred ordinance to a vote of the electors. If a general city election is fixed not earlier than fifteen (15) days and not later than ninety (90) days after the date of the certification of the petition, or the petition is deemed sufficient, the unaltered referral shall be placed upon the ballot for voter consideration at the general election. The ballot shall fairly state a summary of the provisions of the ordinance to be referred.

(d) Copies of the ordinance to be referred shall be available at the office of the City Auditor at least fifteen (15) days prior to the election.

**SECTION 3: EFFECT OF FILING REFERRAL PETITION ON ORDINANCE**

The filing of a referendum petition referring the whole or any part of any ordinance shall not prevent the ordinance from going into effect as provided by law. If the whole or any part of any ordinance is rejected by a majority of the votes cast thereon, it shall be repealed as of the tenth (10th) day after the election.

**SECTION 4: SELF-EXECUTING STATUTE**

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

## Article 7 - Referendum Of The 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 thereon 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 for a period of two (2) years.

## Article 8 - Recall of Elected Officers or Officials

The qualified electors of the City may petition for the recall of any elected officer or official by filing a petition with the City Auditor demanding the recall of such officer or official.

### SECTION 1: FORM OF PETITION

(a) Recall petitions must be signed by qualified voters of the district or ward represented by the official, who is the subject of the recall petition, equal to at least fifteen percent (15%) of the total votes cast in the most recent City election. In addition to the names of the Petitioners, each petition shall contain the name of the street upon and the number of the house or building in which each Petitioner resides.

(b) Each petition for the recall of an official shall have printed thereon: "Recall of \_\_\_\_\_ (Name of Individual) \_\_\_\_\_ (Office Held) of the City of Dickinson". In addition, each petition shall have attached thereto an affidavit setting forth the general grounds for recall and specific actions or instances of failure to act by the Official which constitutes grounds for recall.

(c) Each petition shall have the list of names and addresses of three (3) electors who shall constitute the "Committee For The Petitioners" who shall represent and act for the Petitioners.

### SECTION 2: FILING, CERTIFICATION AND SUBMISSION OF THE RECALL PETITION

(a) The City Auditor shall pass upon and certify each petition as being in order and in proper form within fifteen (15) days after receiving it, or if he finds the petition is not in order, he shall notify the Committee For The Petitioners and allow ten (10) days for correction or amendment. A petition shall be deemed sufficient if not certified to the contrary by the City Auditor within fifteen (15) days after receiving same.

(b) The City Auditor shall call a special election to be held not less than forty (40) nor more than sixty (60) days from the date the petition is certified or deemed sufficient. However, if a general city election is fixed not earlier than forty (40) days nor later than sixty (60) days after the date of certification or after such date as the petition is deemed sufficient, the recall vote shall be placed upon the ballot for vote or consideration at said general election.

#### SECTION 3: ELECTION PROCEDURE AND FILING OF ANY RESULTING VACANCIES

(a) The official against whom the recall petition is filed shall be a candidate on the ballot unless the official resigns within ten (10) days after the petition is certified or deemed sufficient.

(b) Other candidates, qualified for such office, may be nominated for or may apply to be placed on the ballot in such manner as is provided by law.

(c) Those qualified electors within the City may vote.

(d) The candidate who shall receive the highest number of votes shall be deemed elected for the remainder of the term.

(e) After one such petition and election thereon, no further recall petitions shall be filed against the same officer during the term for which he was elected.

#### SECTION 4: SELF-EXECUTING STATUTES

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 herein reserved to the people.

#### Article 9 - 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 this 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, or 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 to 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

All contracts 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 Charter shall not abate or otherwise affected 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.

## 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 Stark County, and the office of the City Auditor of Dickinson. 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 10 - Change In The Form of Government

The form of government under which the City shall operate may be changed by motion of the Governing Body, subject to the approval of the electorate, or the form of government may be changed by petition of the people as herein provided.

## SECTION 1: FORM OF PETITION

(a) Petitions to change the form of government of the City must be signed by qualified voters of the City equal to at least fifteen percent (15%) of the total votes cast in the City at the most recent City election. In addition to the names of the Petitioners, each petition shall contain the name of the street upon and the number of the house in which each Petitioner resides.

(b) Each petition initiating the ordinance shall have printed thereon: "Petition for the Change in the Form of Government for the City of Dickinson", and shall contain or have attached thereto throughout its circulation an accurate summarization of the form of government being proposed and presented to the people.

(c) Each petition shall list the name and addresses of three (3) electors who shall constitute the "Committee For The Petitioners" who shall represent and act for the Petitioners.

## SECTION 2: FILING, CERTIFICATION AND SUBMISSION OF THE PETITION FOR CHANGING FORM OF GOVERNMENT

(a) The completed petition shall be filed in the office of the City Auditor and shall contain a request that the proposed change in the form of city government, set out in the petition, be submitted to a vote of the electors of the City.

(b) The City Auditor shall pass upon and certify each petition as being in order and proper form within fifteen (15) days after receiving it, or if he finds the petition is not in order, he shall notify the Committee For The Petitioners and allow ten (10) days for correction or amendment. A petition shall be deemed sufficient if it is not certified to the contrary by the City Auditor within fifteen (15) days after receiving same. The City Auditor shall, upon certification, or petition being deemed sufficient, cause the ordinance proposed under this Article to be published in the official newspaper of the City.

(c) After the petition has been certified by the City Auditor or the petition is deemed sufficient, the Governing Body of the City shall present the proposed change in the form of government for a vote at a special election called by the Governing Body not earlier than thirty (30) days nor more than ninety (90) days after the petition has been certified by the City Auditor or the petition is deemed sufficient. However, if a general city election is fixed not earlier than thirty (30) days nor later than ninety (90) days after the date of the certification of the petition or the petition is deemed sufficient, the proposed change in the form of city government shall be placed upon the ballot for voter consideration at the general election. The ballot shall fairly state a summary of the proposed change in the form of city government.

(d) Copies of the proposed change in the form of city government shall be available at the office of the City Auditor at least thirty (30) days prior to the date of election.

**SECTION 3: ELECTION AND IMPLEMENTATION**

(a) If a majority of the votes cast at such election shall be in favor of the proposed change, the City Auditor shall certify the adoption of such form of government.

(b) If the proposed change in the form of city government is approved by the electors, the Governing Body of the City shall call a special election not earlier than thirty (30) days nor more than ninety (90) days after the approval of the form of government, for the purpose of electing officials required under the approved form of government. However, if a general election is fixed not earlier than thirty (30) days nor later than ninety (90) days after the date of approval of the form of government, the candidates for offices under the approved form of government shall be presented for voter consideration at the said general election.

(c) Upon the certification of the election of such officers, the City shall become a city under the adopted form of government. Until such certification, the City shall continue to be a city under the existing form of government.

(d) Such question for the change in the form of government shall not be submitted for a vote more than once in every four (4) years.

#### SECTION 4: SELF-EXECUTING STATUTE

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

#### Article 11 - 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 Charter.

#### Article 12 - 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 13 - Separability Clause

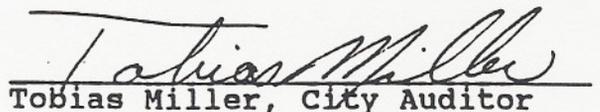
If any section or a part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter, except to the extent that the entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holdings shall directly apply.

Submitted by the Dickinson Home Rule Committee on March 05, 1990.



Ron Lisko, Chairman

Published in the Dickinson Press on March 09, 1990, and approved by the voters at a special city election on May 22, 1990. Returns canvassed by the Board of City Commissioners on May 25, 1990.



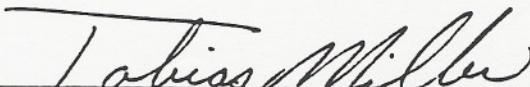
Tobias Miller, City Auditor

CERTIFICATE

I, Tobias Miller, City Auditor of the City of Dickinson, Stark County, North Dakota, do hereby certify that the attached copy of the Home Rule Charter for the City of Dickinson, Stark County, North Dakota, was enacted in accordance with Chapter 40-05.1 of the North Dakota Century Code.

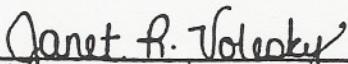
I further certify that the Home Rule Charter was published in the Dickinson Press more than 60 days prior to the election of May 22, 1990, and that said Home Rule Charter was approved by a majority of the votes cast thereon.

I also certify that the attached copy is a true and correct copy of the Home Rule Charter, as enacted by the Electorate on May 22, 1990, and that this certificate and true and correct copies of the Home Rule Charter have been filed with the Secretary of State of the State of North Dakota, the Clerk of the Stark County District Court, and the Office of the City Auditor of the City of Dickinson, Stark County, North Dakota.

  
\_\_\_\_\_  
Tobias Miller, City Auditor

STATE OF NORTH DAKOTA)   
  SS   
COUNTY OF STARK         )

On this 30th day of May, 1990, before me personally appeared Tobias Miller the City Auditor of the City of Dickinson, known to me to be the person who is described in and who executed the within and foregoing and severally acknowledged to me that he executed the same.

  
\_\_\_\_\_  
Notary Public: Janet R. Volesky  
Stark County, North Dakota  
My Commission Expires: March 16, 1996