



## **Home Rule Charter for Burleigh County**

**January 1, 2023**

Submitted by the Home Rule Charter Commission Committee Members:

Mark Armstrong  
Michael Connelly  
Brian Fettig  
Dustin Gawrylow  
Erika White

## Table of Contents

	<u>Page</u>
Preamble.....	1
Article I – Board of County Commissioners to Exercise Powers.....	1
Article II – Home Rule Powers of County .....	1
Sales, Use, and Gross Receipts Tax .....	1
Definitions .....	1
Collection and Administration.....	1
Sales Tax Imposed .....	1
Use Tax Imposed.....	1
Gross Receipts of Alcoholic Beverages .....	2
Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment .....	2
Exemptions.....	2
Maximum Tax Imposed .....	2
Contract with Tax Commissioner.....	2
Dedication of Tax Proceeds .....	2
Compensation.....	2
Effective Date.....	3
Termination Date.....	4
Adoption of Ordinances and Resolutions .....	4
Definitions .....	4
Procedures .....	4
Limitations .....	4
Article III – Elections .....	4
Article IV – Amendments, Repeal and Termination .....	5

## **Preamble**

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

### **Article I - Board of County Commissioners to Exercise Powers**

Subject to the limitations imposed by the North Dakota Constitution, state law, and this charter, the home rule powers of Burleigh County will be vested in the Board of County Commissioners.

### **Article II - Home Rule Powers of County**

In addition to powers granted counties under the constitution and laws of the State of North Dakota, Burleigh County will have the power to:

1. Levy a one half of one percent ( $\frac{1}{2}\%$ ) sales, use, and gross receipts tax.
2. Provide for the adoption, amendment, repeal, initiation, referral, enforcement, and penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety and welfare. However, this subsection 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.

### **Section 1. Sales, Use, and Gross Receipts Tax**

**Definitions:** All terms defined in chapters 11-09.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2 of the North Dakota Century Code (N.D.C.C.), including any future amendments, are adopted by reference. All references to the N.D.C.C. include amendments adopted by the North Dakota Legislative Assembly.

**Collection and Administration:** Where not in conflict with the provisions herein, the provisions of N.D.C.C. chapters 11-09.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed.

**Sales Tax Imposed:** Subject to the provisions of N.D.C.C. § 11-09.1-05, and except as otherwise provided, or the sales and use tax laws of the State of North Dakota, a tax of one half of one percent ( $\frac{1}{2}\%$ ) is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the county of Burleigh, North Dakota.

**Use Tax Imposed:** Subject to the provisions of N.D.C.C. § 11-09.1-05, and except as otherwise provided, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the county of Burleigh, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this county, at the rate of one half of one percent ( $\frac{1}{2}\%$ ) of the purchase price

of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the county of Burleigh, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this county at the rate of one half of one percent ( $\frac{1}{2}\%$ ) of the fair market value of the property at the time it was brought into this county.

With respect to the purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in N.D.C.C. § 57-40.2-03.3, the tax imposed by this section applies only to bids submitted on or after the effective date of this Ordinance.

**Gross Receipts of Alcoholic Beverages:** Subject to the provisions of N.D.C.C. § 11-09.1-05, and except as otherwise provided, a gross receipts tax of one half of one percent ( $\frac{1}{2}\%$ ) is imposed upon all gross receipts from the sale of alcoholic beverages within the county. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of one half of one percent ( $\frac{1}{2}\%$ ).

**Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment:** Subject to the provisions of N.D.C.C. § 11-09.1-05, and except as otherwise provided, a gross receipts tax of one half of one percent ( $\frac{1}{2}\%$ ) is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the county. A person who receives new farm machinery or new farm irrigation equipment for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of one half of one percent ( $\frac{1}{2}\%$ ).

**Exemptions:** No additional exemptions from imposition and computation of the county sales and use tax other than those provided by state law are provided for.

Sales to contractors that are exempt pursuant to subsection 15 of N.D.C.C. § 57-39.2-04 shall be exempt from any county sales tax, but contractors shall be subject to the county use tax on those items used within the county that would be taxed pursuant to N.D.C.C. § 57-40.2-03.3 on which the county sales tax has not previously been paid.

**Maximum Tax Imposed:** Any patron or user paying a tax imposed in excess of \$25 upon any single transaction of one or more items may obtain a credit or refund of the excess tax at the time of purchase directly from the vendor or request a refund of the excess tax payment by filing a request for refund upon the forms provided by the Tax Commissioner.

**Contract with Tax Commissioner:** The Burleigh County Auditor/Treasurer is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed. The County Auditor/Treasurer has all powers granted to the Tax Commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in place of the Tax Commissioner.

**Dedication of Tax Proceeds:** All revenues raised and collected under this charter, less administrative expenses shall be dedicated only to the construction of a Detention Center and demolition and remodeling of the current Detention Center.

**Compensation:** County sales, use, and gross receipts tax permit holders are allowed to retain a portion of tax collected to help recover administrative expenses. This compensation shall equal 3% percent of the county tax due; however, the deduction is limited to \$83.33 per month or \$250 per quarter. A tax return must be filed and paid in full by the scheduled due date or the compensation will be disallowed and the tax obligation will be subject to penalty and interest.

**Sales Tax Termination Date:** The sales tax shall expire when all necessary funds for the construction of the Detention Center and demolition and remodeling of the current Detention Center are collected. At such point, notice will be provided to the Office of the Tax Commissioner of the cease date. Such will be provided at least ninety days prior to the start of a calendar quarter.

## **Section 2. Adoption of Ordinances and Resolutions**

**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.

**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 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 enactment.

**Initiative and Referendum:** The powers of initiative and referendum are reserved to the electors of Burleigh County. The applicable provisions of state law will govern the exercise of 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 of the office of governor in the last general election.

**Limitations:** No ordinance enacted under this charter will supersede any ordinance of any political subdivision without its consent.

No ordinance may be enacted to diminish the authority of the boards of supervisors of townships or change the structure of organized township government.

### **Article III – Elections**

1. 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.
2. The Board of County Commissioners may follow state law concerning the organization and structure of elected county offices in accordance with state law.
3. The Board of County Commissioners may follow state law converting the elected offices of the county auditor/treasurer and the county recorder into appointed offices. Any resolution to convert an elected office to an appointed office shall not shorten the term for which the official was elected nor reduce the salary of the official's office for that term.
4. The elected offices of the County Sheriff and County State's Attorney shall remain as elected positions voted upon by the qualified electors.

### **Article IV – Amendments, Repeal and Termination**

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 percent of the number of electors voting in the county for the office of governor in the last general election.

Respectfully submitted by the Burleigh County Home Rule Charter Commission, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.