

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5459

AN ORDINANCE ENACTING ARTICLE 3-24
OF CHAPTER 3 OF THE FARGO MUNICIPAL CODE
RELATING TO A SALES TAX FOR FIRE AND POLICE OPERATIONS, EQUIPMENT, AND
BUILDINGS

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code; and

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purpose; and

WHEREAS, an amendment to the City's Home Rule Charter has been authorized by a vote of at least 60% of the qualified electors voting on the question, as provided by initiated amendment Number Two to the Fargo Home Rule Charter; and

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE, Be it Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Enactment. Article 3-24 of Chapter 3 of the Fargo Municipal Code, consisting of Sections 3-2401 through 3-2412, is hereby enacted as follows:

3-2401. Definitions. -- All terms defined in 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 (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. All references to "this ordinance" shall mean the ordinance enacted by the board of city commissioners of the city of Fargo and codified as Article 3-24 of the Fargo Municipal Code containing enumerated sections commencing with this section 3-2401.

3-2402. Collection and administration. -- Where not in conflict with the provisions of this ordinance, the provisions of N.D.C.C. chapters 40-05.1, 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 by this ordinance.

3-2403. Sales tax imposed. -- Subject to the provisions of N.D.C.C. § 40-05.1-06, and except

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as otherwise provided by this ordinance, or the sales and use tax laws of the State of North Dakota, a tax of one-quarter of one percent (0.25%) 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 of the city of Fargo, North Dakota.

3-2404. Use tax imposed. -- Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this ordinance, 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 city of Fargo, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of one-quarter of one percent (0.25%) of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the city of Fargo, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of one-quarter of one percent (0.25%) percent of the fair market value of the property at the time it was brought into this city. 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.

3-2405. Gross receipts of alcoholic beverages. -- Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this ordinance, a gross receipts tax of one-quarter of one percent (0.25%) is imposed upon all gross receipts from the sale of alcoholic beverages within the city. 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-quarter of one percent (0.25%).

3-2406. Gross receipts of new farm machinery and new farm irrigation equipment. -- Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this ordinance, a gross receipts tax of one-quarter of one percent (0.25%) is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the city. 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-quarter of one percent (0.25%).

3-2407. Maximum tax imposed. -- Any patron or user paying a tax imposed by this ordinance in excess of six and 25/100ths dollars (\$6.25) upon any single transaction of one or more items may obtain a credit or refund of the excess tax at the time of purchase 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.

3-2408. Exemptions. -- All sales, storage, use, or consumption of tangible personal property which are exempt from imposition and computation of the sales or use tax of the state of North Dakota are specifically exempt from the provisions of this ordinance.

3-2409. Dedication of tax proceeds. -- All fees, taxes, penalties and other charges imposed

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and collected under this ordinance, less administrative costs, are hereby dedicated and shall be utilized for fire and police operations, equipment, and buildings. All such proceeds of a sales, gross receipts and use tax which is imposed pursuant to the authority granted herein shall be utilized for the purposes authorized herein as the governing body of the city may select.

3-2410. Contract with state tax commissioner. -- The city auditor of the city of Fargo is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed by this ordinance. The City Auditor 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.

3-2411. Saving clause. -- Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

3-2412. Term. -- A tax imposed by this ordinance shall extend for a period of twenty (20) years from and after April 1, 2025, and ending on March 31, 2045.

Section 2. Effective Date.

This ordinance shall be in full force and effect from and after its passage and approval.

Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading: 11-25-24
Second Reading: 12-9-24
Final Passage: 12-9-24