

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5465

AN ORDINANCE ENACTING ARTICLE 3-14 OF CHAPTER 3
OF THE FARGO MUNICIPAL CODE RELATING TO CONFERENCE CENTER
AND CITY LODGING TAX

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, 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 3-14 of Chapter 3 of the Fargo Municipal Code is hereby enacted as follows:

ARTICLE 3-14 – CONFERENCE CENTER AND CITY LODGING TAX

3-1401.Definition.--

1. “Gross receipts” - shall mean receipts of retailers for the leasing or renting of a hotel or motel room or other accommodations occupied by the same natural person or persons for residential housing, for periods of fewer than thirty consecutive calendar days within the corporate limits of the city of Fargo.

2. “Retailer” - shall mean any person, firm or corporation in the business of leasing or renting hotel, motel or other accommodations for periods of fewer than thirty consecutive calendar days or one month.

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3-1402. Tax on gross receipts.--A tax is hereby imposed upon gross receipts as defined herein, which tax shall be computed on a monthly basis by each and every hotel, motel or other accommodations located within the corporate limits of the city of Fargo. Said tax must be in addition to the state sales tax on rental accommodations provided in chapter 57-39.2 and said tax must be in addition to the existing city lodging tax imposed pursuant to Fargo municipal code, article 3-13. The amount of such tax shall be three percent (3%) of the gross receipts to be initially placed in an improvement construction fund of the city of Fargo in accordance with the home rule charter of the city of Fargo, Article 3.V.

3-1403. Collection of tax.--The tax hereby imposed shall be computed by every retailer and paid to the city of Fargo. Such computation shall be on a monthly basis and payment for each month shall be made to the city on or before the 10th day of the following month. The payment shall be accompanied by a report indicating the amount of gross receipts for the reporting period and shall be certified by a certified public accountant or by the retailer, or managing officer thereof. The city may retain up to 3% of the total amount collected for administrative costs.

3-1404. Dedication of Tax Proceeds—Conference Center Capital Construction Fund.--There is hereby created a fund to be known as the conference center capital construction fund, and all taxes collected pursuant to this ordinance, less costs of administration as hereinabove provided, shall initially be placed in this fund and said fund, along with interest and other authorized investment earnings, shall be utilized for costs associated with construction of a conference center, at a location within the city of Fargo to be determined by a request for proposal process established by the board of city commissioners of the city, and with ongoing capital projects, maintenance, operation and functionally-related facilities (the “Projects”), all as the board of city commissioners of the city may select. Such expenditures may be used to acquire property; enter into agreements; make, install, construct or build improvements and engage in projects and activities as are necessary and appropriate for such purposes. Interest earnings on such proceeds may be utilized for other such capital improvements. Proceeds from such tax may be used to make direct payment for such expenditures or improvements or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

3-1405. Administration of fund.--The conference center capital construction fund shall be administered by the city director of finance unless otherwise established by the board of city commissioners by resolution or ordinance.

3-1406. Management, Operations, Maintenance and Budget.—Upon completion of construction of the Projects, the city will be responsible for the management, operations and maintenance of the Projects unless otherwise established by the board of city commissioners by

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resolution or ordinance. The city may enter into one or more agreements by which some or all of the tasks associated with such management, operations and maintenance are delegated to a third party. An operating budget for the conference center and functionally-related facilities shall be established annually by a person, firm or entity as determined by the board of city commissioners and such operating budget shall be submitted to the board of city commissioners for its approval.

3-1407. Term.—The collection of the tax imposed by this article shall be for a term not to exceed a period of twenty-five (25) years and the collection of the tax shall only be commenced once the board of city commissioners has identified a specific project in accordance with the requirements set forth in Article 3.V of the home rule charter of the city of Fargo. The date of commencement of the collection of said tax and the period for such collection shall be established either by amendment of this section or by separate ordinance. Furthermore, as provided by Article 3.V of the home rule charter of the city of Fargo, if no project is identified, and the collection of the tax is not implemented by December 31, 2028, authorization of the tax shall expire.

3-1408. Failure to comply—Penalty.--If any retailer shall fail to make payment as required by this article or to file the necessary report within the time provided, or, if upon audit, is found to owe additional tax, such retailer shall be subject to a penalty of 5% of the amount of tax due, plus interest of 1% of such tax for each month of delay or a fraction thereof. The board of city commissioners, if satisfied that the delay was excusable, may waive all or any part of such penalty and interest. Any penalty and interest paid shall be utilized in the same manner as other receipts under this chapter.

Section 2. Effective Date.

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

/s/

Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

/s/
Steven Sprague, City Auditor

First Reading: 2-3-25
Second Reading: 2-18-25
Final Passage: 2-18-25