

FARGO CITY COMMISSION AGENDA  
Monday, August 18, 2025 – 5:00 P.M.

Executive Session at 4:30 p.m.

Roll Call.

**PLEASE NOTE:** The City Commission will convene at 4:30 p.m. on Monday, August 18, 2025, and retire into Executive Session for the purpose of attorney consultation regarding pending opioid litigation with Purdue Pharma, L.P. and the Sackler Family, and with Alvogen, Amneal, Apotex, Hikma, Indivior, Mylan, Sun and Zydus to receive its attorneys' advice and guidance on the legal risks, strengths, and weaknesses of an action of a public entity, which, to discuss these matters in open meeting will have a negative fiscal effect on the bargaining and/or litigation position of the City. Thus, an Executive Session for these matters is authorized pursuant to North Dakota Century Code 44-04-19.1 subsections 2, 5 and 9.

Regular Meeting at 5:00 P.M.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at [FargoND.gov/Streaming](https://fargo.nd.gov/Streaming). They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at [FargoND.gov/CityCommission](https://fargo.nd.gov/CityCommission).

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, August 4, 2025).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Purchase Agreement and Permanent Easement Agreement (Methane Gas Pipeline) with ARD Properties, LLC.
- 2. Agreement with the City of West Fargo for Galvanizers Addition.
- 3. Settlement Agreement and Release, and Assignment of Site Improvement and Work Product with 501 Main Ave DevCorp, LLC.
- 4. Receive and file an Ordinance Amending Sections 25-1506, 25-1507 and 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Licensing and Regulating Businesses and Trades.
- 5. 1st reading of an Ordinance Amending Sections 12-0306, 12-0308, 12-0310, 12-0311 and 12-0314 of Article 12-03 of Chapter 12 of the Fargo Municipal Code Relating to Domestic Fowl, Wild Birds and Pets.
- 6. 2nd reading, waive reading and final adoption of an Ordinance Amending Article 11-04 of Chapter 11 of the Fargo Municipal Code Relating to Automobiles and Personal Property; 1st reading, 8/4/25.

7. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 21.1-0102 of Article 21.1-01 of Chapter 21.1 of the Fargo Municipal Code Relating to the International Residential Code; 1st reading, 8/4/25.
8. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 8-0906 of Article 8-09 of Chapter 8 of the Fargo Municipal Code Relating to the Traffic Code; 1st reading, 8/4/25.
9. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 8-1003 of Article 8-10 of Chapter 8 of the Fargo Municipal Code Relating to the Traffic Code; 1st reading, 8/4/25.
10. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 10-0304 of Article 10-03 of Chapter 10 of the Fargo Municipal Code relating to Public Safety, Morals and Welfare; 1st reading, 8/4/25.
11. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 1-0305, of Article 1-03, of Chapter 1, of the Fargo Municipal Code Relating to Classification of Ordinance Violations; 1st reading, 8/4/25.
12. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Sullivan Second Addition to the City of Fargo; 1st reading, 8/4/25.
13. 2nd reading, waive reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in RLN Business Park Second Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 8/4/25.
14. Applications for Games of Chance:
  - a. Benefit for Karen Smith for a raffle on 8/24/25; Public Spirited Resolution.
  - b. El Zagal Shrine Temple for a calendar raffle 7/1/26-12/31/26.
  - c. Fargo North High School for a raffle on 11/1/25-2/28/26.
  - d. Fargo North High School for a raffle on 8/19/25-1/31/26.
  - e. Fargo North High School for a raffle on 8/19/25-5/31/26.
  - f. Fargo North High School for a raffle on 8/19/25-3/31/26.
  - g. Fargo North High School for a raffle on 3/1/26-6/30/26.
  - h. Fargo North High School for a raffle on 4/11/26.
  - i. Nativity Church of Fargo for a raffle and raffle board on 11/9/25.
  - j. Red River Children's Advocacy Center for a raffle on 10/21/25.
15. 2026 to 2027 State of North Dakota Flex Funds Project Applications.
16. Change Order No. 1 in the amount of \$96,000.00 for Project No. PR-25-A1.
17. Change Order No. 1 in the amount of \$25,800.00 for Project No. TR-25-E1.
18. Negative Final Balancing Change Order No. 1 in the amount of -\$31,194.24 for Project No. DR-21-A1.
19. Task Order No. 1 with Stantec in the amount of \$136,091.00 for Project No. MS-25-F0.
20. Bridge Cost Share Agreement with the City of Moorhead and Amendment No. 1 in the amount of \$420,000.00 (\$210,000.00 City of Fargo's share) for Project No. QN-23-B1.

21. Reimbursement to Cass County Electric Cooperative in the amount of \$25,852.14 for Improvement District No. BN-23-F1.
22. Private Utility Relocation Reimbursement to Cass County Electric Cooperative in the amount of \$16,664.67 for Improvement District No. BN-24-B1.
23. Change Order No. 1 in the amount of \$21,197.94 and 8-day time extension to the substantial completion date to 8/8/25 for Improvement District No. BR-25-F1.
24. Design decision for the future project on 4th Street from Main Avenue to 1st Street North (Improvement District No. BR-26-F1).
25. Bid award in the amount of \$182,000.00 and Agreement with KLJ Engineering, LLC for HVAC Design and Construction Planning Services at the Police Department Headquarters (RFP25199).
26. Items from the FAHR Meeting:
  - a. Receive and file Sales Tax update.
  - b. Receive and file General Fund - Budget to Actual through 6/30/25.
  - c. Receive and file General Fund - Budget to Actual through 7/31/25.
  - d. Authorize the Finance Director to work with the City Attorney to update Municipal Code language for the Capital Asset Policy.
27. Extension of FMLA leave for Firefighter Peter Amstrup.
28. Notice of Grant Award from ND Department of Health and Human Services for PHEP City Readiness Initiative (CFDA# 93.069).
29. Strategic Planning Consultant and Dashboard Interface Agreement with Achievelt Online, LLC (RFP25146).
30. Set Tuesday, September 2, 2025 as the date and time for a Public Hearing on a dangerous building located at 1202-1204 1st Avenue South and 103, 105, 105 1/2 12th Street South.
31. Memorandum of Understanding with Scheels All Sports, Inc. and the Fargo Police Department for the establishment and use of a remote work station within the Fargo Scheels facility.
32. Allow the Police Department to use seized asset forfeiture funds in the amount of \$17,716.22 for Detective Justin Valenti to attend a 10-week National Forensic Academy Training.
33. Change Order No. 1 in the amount of \$0.00 for the GTC Deck Overlay Project.
34. Contractor Work Order Request - State Contract #283 with GMV Syncromatics Corp.
35. Bills.

**REGULAR AGENDA:**

36. Presentation of the 2025 Accreditation Renewal to the Fargo Fire Department.

37. Recommendations for Amendments to the Home Rule Charter and Fargo Municipal Code to comply with changes in State Law.
  - a. Resolution (Amendment of Article 3(F) of Home Rule Charter).
  - b. Resolution (Amendment of Article 2(A)(12) and (13) of Home Rule Charter).
  - c. Resolution (Removal of Article 11 of Home Rule Charter).
  - d. Receive and file an Ordinance Amending Section 2-0202 of Article 2-02 of Chapter 2 of the Fargo Municipal Code Relating to Election Dates.
  - e. Receive and file an Ordinance Amending Section 2-0205 of Article 2-02 of Chapter 2 of the Fargo Municipal Code Relating to Election Procedures.
38. Recommendation to approve the Second Amendment to the Developer Agreement with Grove Enclave, LLC.
39. Recommendation to adopt a policy that requires business operations to begin or construction to start within three years of the City Commission granting a property tax exemption.
40. Recommendation to approve the Core Neighborhood Housing Payment in Lieu of Taxes (PILOT) Guidelines.
41. Recommendation for reappointments to the Planning Commission.
42. Liaison Commissioner Assignment Updates.
43. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at [FargoND.gov/VirtualCommission](https://FargoND.gov/VirtualCommission)).**

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310 at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo web site at [FargoND.gov/CityCommission](https://FargoND.gov/CityCommission).



**Fire Department**  
637 NP Avenue  
Fargo, ND 58102  
Phone: 701.241.1540 | Fax: 701.241.8125  
[www.FargoND.gov](http://www.FargoND.gov)

MEMORANDUM

**TO: FARGO CITY COMMISSION**

**FROM: FIRE CHIEF GARY LORENZ**

**DATE: 08/14/2025**

**SUBJECT: PRESENTATION OF FIRE DEPARTMENT ACCREDITATION**

Commission on Fire Accreditation International (CFAI) Commissioner Steven Dirksen will present the City of Fargo and the Fargo Fire Department (FFD) with a plaque commemorating the departments recently attained fourth accreditation renewal. The FFD was first accredited in 2010 and has retained this accredited status every five years since 2010.

**Recommended Action:** Receive the plaque as presented by former Steven Dirksen.

August 14, 2025

Board of City Commissioners  
City Hall  
225 Fourth Street North  
Fargo, ND 58102

**RE: Amendments to Home Rule Charter and Fargo Municipal Code to Comply with  
Changes in State Law.**

Dear Commissioners:

In the 2025 legislative session, the North Dakota Legislative Assembly passed House Bill 1307 which had the effect of removing powers from home rule cities to govern their own election procedures. Additionally, the North Dakota Assembly passed House Bill 1297 which prohibits cities from utilizing approval or rank voting to elect local officials. In effect, home rule cities, such as Fargo, must have election procedures and ordinances which mirror state law.

I am enclosing a set of resolutions and ordinances which can be summarized as follows:

- Removing approval voting from Article 11 of the City's Home Rule Charter and from Fargo Municipal Code Section 2-0205. In its place, Fargo will utilize a voting methodology in which a voter may vote for as many candidates as there are available seats. For a mayor election, that would be one vote. In a general election for the city commission, that would be two votes as there will always be two commission seats up for election.
- Removing the ability of candidates to pay a \$100 filing fee in lieu of providing a petition with 300 signatures. Rather, candidates will need to provide a petition signed by 300 qualified electors.
- Removing the requirement that a candidate live in Fargo for six months prior to filing their nominating papers and replacing it with a requirement that a candidate live in Fargo for nine months prior to the election.
- Clarifying that biennial city elections will be held on the second Tuesday in June of each even-numbered year (this is currently when city elections are held but our city ordinance ties the date to primary election in state law instead of expressly stating the second Tuesday in June).

In general, the City Commission is unable to amend its home rule charter. Rather, that would need to be accomplished through a city-wide vote. However, in the 2025 legislative session, the North Dakota Legislative Assembly passed Senate Bill 2324 which provides that when a portion

of a home rule charter is preempted, superseded, or invalidated by a legislative act or a court order, the city may amend portions of the home rule charter by a resolution adopted by the governing body of the city. As such, the City Commission has the ability to approve the enclosed resolutions because the resolutions only amend the portions of the home rule charter which have been preempted, superseded, or invalidated by a legislative act.

**Recommend Motions:**


I move to approve the enclosed resolutions:

- A Resolution amending Article 3(F) of the city of Fargo Home Rule Charter relating to the city of Fargo's home rule powers pertaining to elections.
- A Resolution amending Article 2(A)(12) of the city of Fargo Home Rule Charter relating to the length of time a candidate must be a resident of Fargo prior to an election and amending Article 2(A)(13) of the city of Fargo Home Rule Charter relating to the threshold for signatures on a petition to be a candidate in a city election.
- A Resolution deleting Article 11 of the city of Fargo Home Rule Charter relating to approval voting.

I move to receive and file the following ordinances, and to place the ordinances on for first reading at the next regularly-scheduled city commission meeting:

- An Ordinance amending Section 2-0202 of Article 2-02 of Chapter 2 of the Fargo Municipal Code relating to the date of biennial city elections.
- An Ordinance amended Section 2-0205 of Article 2-02 of Chapter 2 of the Fargo Municipal Code relating to voting methodology to be utilized in city elections.

Sincerely,



Ian R. McLean

Assistant City Attorney



COMMISSIONER \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION**  
**[Amendment of Article 3(F) of Home Rule Charter]**

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the city of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, which has adopted a Home Rule Charter, pursuant to the authority of N.D.C.C. Chapter 40-05.1; and,

WHEREAS, in the 2025 legislative session, the Legislative Assembly passed Senate Bill 2324 which, effective August 1, 2025, created a new section to Chapter 40-05.1 of the North Dakota Century Code providing that when a portion of a home rule charter is preempted, superseded, or invalidated by a legislative act or a court order, the city may amend portions of the home rule charter by a resolution adopted by the governing body of the city. The resolution must reference the authority supporting the amendment.

WHEREAS, the city of Fargo Home Rule Charter Article 3(F) currently provides the city of Fargo shall have the power to “provide for all matters pertaining to city elections, except as to the qualification of electors.” This power is taken from the version of N.D.C.C. § 40-05.1-06(9) which was in effect up until August 1, 2025.

WHEREAS, in the 2025 legislative session, the Legislative Assembly passed House Bill 1307, which effective August 1, 2025, amended N.D.C.C. § 40-05.1-06(9) to provide as follows:

~~To Notwithstanding section 40-21-07, to provide for all matters pertaining to city elections, except as to qualifications of electors signature thresholds for nominating petitions for candidates for city offices.~~

WHEREAS, House Bill 1307 and its amendment of N.D.C.C. § 40-05.1-06(9) preempts, supersedes, or invalidates Article 3(F) of the city of Fargo Home Rule Charter as it substantially limits the powers provided to home rule cities, such as Fargo, pertaining to city elections.

WHEREAS, the city of Fargo desires to have Article 3(F) of its Home Rule Charter conform with the specific powers available to it under the amended version of N.D.C.C. § 40-05.1-06(9), effective August 1, 2025; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of City Commissioners of the City of Fargo, North Dakota, as follows:

**SECTION ONE.** That Article 3(F) of the Home Rule Charter of the city of Fargo, pertaining to the city’s powers concerning city elections, be amended, to read as follows:



- F. ~~To Notwithstanding section 40-21-07, to provide for all matters pertaining to city elections, except as to qualifications of electors signature thresholds for nominating petitions for candidates for city offices.~~

\_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

Attest:

\_\_\_\_\_  
Steve Sprague, City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by  
COMMISSIONER \_\_\_\_\_, and upon roll call vote, the following voted in favor thereof:  
COMMISSIONERS \_\_\_\_\_.  
The following were absent and not voting: \_\_\_\_\_,  
and the following voted against the same: \_\_\_\_\_,  
whereupon the resolution was declared duly passed and adopted.

COMMISSIONER \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION**  
**[Amendment of Article 2(A)(12) and (13) of Home Rule Charter]**

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the city of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, which has adopted a Home Rule Charter, pursuant to the authority of N.D.C.C. Chapter 40-05.1; and,

WHEREAS, in the 2025 legislative session, the Legislative Assembly passed Senate Bill 2324 which, effective August 1, 2025, created a new section to Chapter 40-05.1 of the North Dakota Century Code providing that when a portion of a home rule charter is preempted, superseded, or invalidated by a legislative act or a court order, the city may amend portions of the home rule charter by a resolution adopted by the governing body of the city. The resolution must reference the authority supporting the amendment.

WHEREAS, the city of Fargo Home Rule Charter Article 3(F) currently provides the city of Fargo shall have the power to “provide for all matters pertaining to city elections, except as to the qualification of electors.” This power is taken from the version of N.D.C.C. § 40-05.1-06(9) which was in effect up until August 1, 2025.

WHEREAS, in the 2025 legislative session, the Legislative Assembly passed House Bill 1307, which effective August 1, 2025, amended N.D.C.C. § 40-05.1-06(9) to provide as follows:

~~To Notwithstanding section 40-21-07, to provide for all matters pertaining to city elections, except as to qualifications of electors~~ signature thresholds for nominating petitions for candidates for city offices.

WHEREAS, House Bill 1307 and its amendment of N.D.C.C. § 40-05.1-06(9) preempts, supersedes, or invalidates Article 3(F) of the city of Fargo Home Rule Charter as it substantially limits the powers provided to home rule cities, such as Fargo, pertaining to city elections.

WHEREAS, with the exception of signature thresholds for nominating petitions for candidates for city offices, House Bill 1307 and its amendment of N.D.C.C. § 40-05.1-06(9) effectively mandates home rule cities follow state law in all other aspects in regard to elections.

WHEREAS, Article 2(A)(12) of the city of Fargo’s Home Rule Charter presently provides that candidates for the governing body must have been in continuous residence of the city for at least six months prior to filing their nomination papers. However, N.D.C.C. § 40-13-01 provides that a person is only eligible to hold an elective municipal office if the person has been a resident of the municipality at least nine months prior to the election.

WHEREAS, Article 2(A)(13) of the city of Fargo's Home Rule Charter provides that an elector desiring to become a candidate for the governing body shall file with the city auditor a statement of such candidacy and in addition, must provide a filing fee of one hundred dollars (\$100), or in lieu thereof, by a petition signed by 300 qualified electors of the city. However, N.D.C.C. § 40-21-07 does not allow for the filing fee of one hundred dollars but instead requires a petition with a number of signatures equal to at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. N.D.C.C. § 40-21-07 caps the required number of signatures to no more than 300.

WHEREAS, the city of Fargo desires to have Article 2(A)(12) and (13) of its Home Rule Charter conform with the specific powers available to it under the new version of N.D.C.C. 40-05.1-06(9) and thereby to conform with state law.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of City Commissioners of the City of Fargo, North Dakota, as follows:

**SECTION ONE.** That Article 2(A)(12) of the Home Rule Charter of the city of Fargo, be amended, to read as follows:

12. Candidates for the governing body must be qualified electors of the city of Fargo, and must have been ~~in continuous residence in~~ a resident of the city for at least ~~six~~ nine months prior to ~~filing their nomination papers to the election.~~

**SECTION TWO.** That Article 2(A)(13) of the Home Rule Charter of the city of Fargo, be amended, to read as follows:

13. Any elector desiring to become a candidate for the governing body shall file with the city auditor a statement of ~~such candidacy~~ interest. The filing must meet the deadline required by law. Each filing shall be accompanied by ~~a filing fee of one hundred dollars (\$100), or in lieu thereof,~~ by a petition signed by 300 qualified electors of the city.

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Timothy J. Mahoney, M.D., Mayor

Attest:

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Steve Sprague, City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by  
COMMISSIONER \_\_\_\_\_, and upon roll call vote, the following voted in favor thereof:  
COMMISSIONERS \_\_\_\_\_.

The following were absent and not voting: \_\_\_\_\_,  
and the following voted against the same: \_\_\_\_\_,  
whereupon the resolution was declared duly passed and adopted.

COMMISSIONER \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION**  
**[Removal of Article 11 of Home Rule Charter]**

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the city of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, which has adopted a Home Rule Charter, pursuant to the authority of N.D.C.C. Chapter 40-05.1; and,

WHEREAS, in the 2025 legislative session, the Legislative Assembly passed Senate Bill 2324 which, effective August 1, 2025, created a new section to Chapter 40-05.1 of the North Dakota Century Code providing that when a portion of a home rule charter is preempted, superseded, or invalidated by a legislative act or a court order, the city may amend portions of the home rule charter by a resolution adopted by the governing body of the city. The resolution must reference the authority supporting the amendment.

WHEREAS, the city of Fargo Home Rule Charter Article 3(F) currently provides the city of Fargo shall have the power to “provide for all matters pertaining to city elections, except as to the qualification of electors.” This power is taken from the version of N.D.C.C. § 40-05.1-06(9) which was in effect up until August 1, 2025.

WHEREAS, in the 2025 legislative session, the Legislative Assembly passed House Bill 1307, which effective August 1, 2025, amended N.D.C.C. § 40-05.1-06(9) to provide as follows:

To ~~Notwithstanding section 40-21-07, to~~ provide for all matters pertaining to ~~city elections, except as to qualifications of electors~~ signature thresholds for nominating petitions for candidates for city offices.

WHEREAS, House Bill 1307 and its amendment of N.D.C.C. § 40-05.1-06(9) preempts, supersedes, or invalidates Article 3(F) of the city of Fargo Home Rule Charter as it substantially limits the powers provided to home rule cities, such as Fargo, pertaining to city elections.

WHEREAS, in the 2025 legislative session, the Legislative Assembly passed House Bill 1297, which effective August 1, 2025, created a new section of N.D.C.C. Ch. 16.1-01 which prohibits municipalities from utilizing approval or rank voting for purpose of nominating or electing a candidate for local office.

WHEREAS, Article 11 of the city of Fargo’s Home Rule Charter provides for approval voting as the methodology to elect city officials.

WHEREAS, the city of Fargo desires to have Article 11 of its Home Rule Charter to be removed in order to comply with the new version of N.D.C.C. § 40-05.1-06(9) and N.D.C.C. §

16.1-01-06.1.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of City Commissioners of the City of Fargo, North Dakota, as follows:

**SECTION ONE.** That Article 11 of the Home Rule Charter of the city of Fargo,, be removed in its entirety.

\_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

Attest:

\_\_\_\_\_  
Steve Sprague, City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by  
COMMISSIONER \_\_\_\_\_, and upon roll call vote, the following voted in favor thereof:  
COMMISSIONERS \_\_\_\_\_.

The following were absent and not voting: \_\_\_\_\_,  
and the following voted against the same: \_\_\_\_\_,  
whereupon the resolution was declared duly passed and adopted.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 2-0202 OF ARTICLE 2-02 OF CHAPTER 2, OF  
THE FARGO MUNICIPAL CODE  
RELATING TO ELECTION DATES

WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in accordance with Chapter 40-50.1 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 40-05.1-06(9) of the North Dakota Century Code as amended effective August 1, 2025, no longer provides home rule cities with the power to provide for matters pertaining to city elections.

WHEREAS, Section 40-21-02 of the North Dakota Century Code provides that biennial municipal elections must be held on the second Tuesday in June in each even-numbered year.

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. Amendment.

Section 2-0202 of Article 2-02 of Chapter 2 of the Fargo Municipal Code is hereby amended to read as follows:

**§2-0202. Elections – When held – Notice – Polls – Judges and inspectors**

Biennial city elections shall be held in the city of Fargo on the ~~same date as the primary election as specified in North Dakota state law in each~~ second Tuesday in June in each even-numbered year. The city elections shall comply with state law and the board of City Commissioners may contract with Cass County for all matters relating to conducting the city election. at such place or places as the board of city commissioners shall designate. Ten days' notice of the time and place of the biennial city election and any special city election, and of the offices to be filled at such election shall be given by the city auditor by publication in the official newspaper of the city.



~~The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general, and special elections. For all biennial city elections, the board of city commissioners shall appoint one inspector for each precinct at least 21 days before the election is held, and two judges of election for each precinct at least 10 days before the election is held. For special city elections, the board of city commissioners shall appoint one inspector, and two judges of election for each precinct in the city at least 10 days before the election is held. Each precinct election judge, in either a biennial or a special city election, shall appoint a poll clerk who shall be a qualified elector of the precinct in which he is to serve.~~

Section 2. Effective Date.

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

\_\_\_\_\_  
Dr. Timothy J. Mahoney, M.D., Mayor

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 2-0205 OF ARTICLE 2-02 OF CHAPTER 2, OF  
THE FARGO MUNICIPAL CODE  
RELATING TO ELECTION PROCEDURES

WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in accordance with Chapter 40-50.1 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 40-05.1-06(9) of the North Dakota Century Code as amended effective August 1, 2025, no longer provides home rule cities with the power to provide for matters pertaining to city elections.

WHEREAS, Section 16.1-01-06.1 of the North Dakota Century Code prohibits the use of approval voting to elect local officials.

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. Amendment.

Section 2-0205 of Article 2-02 of Chapter 2 of the Fargo Municipal Code is hereby amended to read as follows:

**§2-0205. Election Procedures**

- A. Methodology. City officials will be elected so that each voter may vote for ~~all the~~ as many candidates as there are open seats. ~~the voter approved in each race.~~ The individual receiving the highest number of votes for any office is deemed elected to that office. Candidates receiving the most votes will be elected until all necessary seats are filled in each race.
- B. Ballot instructions. For each race to elect city officials, the instructions on the ballot will instruct voters as to the maximum amount of candidates which a voter may select

on the ballot for the specific race. with the directions, "Vote for ALL the names you approve of," with "ALL" being written in the uppercase.

- C. Reporting of Results. For each candidate's result in each race, reported vote percentage must be calculated by taking the total number of votes for that candidate divided by the total ballots cast.

Section 2. Effective Date.

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

\_\_\_\_\_  
Dr. Timothy J. Mahoney, M.D., Mayor


Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:  
Publication:

## MEMORANDUM

**TO:** Fargo City Commission

**FROM:** Jim Gilmour, Director of Strategic Planning and Research 

**DATE:** August 6, 2025

**SUBJECT:** Kmart Developer Agreement – Amendment for Project Scope

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Grove Enclave LLC is redeveloping the former Kmart property on South University. This is a request to modify the improvements that were required in the development agreement. The detailed request is attached.

The minimum improvements included 20,000 square feet of retail space and two new stand-alone commercial buildings. The developer has constructed 30,000 square feet of commercial space and one stand-alone commercial building. A site for the second stand-alone building is ready for development.

The developer has kept me informed on the status of the project's progress. Securing tenants for the commercial spaces has proven more challenging than anticipated. Currently, 8,984 square feet of the commercial space has been leased and a Starbucks is set open in a stand-alone building this fall.

Overall, the total commercial space constructed significantly exceeds the amount required by the development agreement. Therefore, I recommend approving an amendment that eliminates the requirement for two stand-alone commercial buildings. Approving this amendment would allow the City to formally close out the redevelopment project and begin the 15-year Tax Increment Financing (TIF) Note period.

The developer has a built-in incentive to complete the redevelopment of the site as soon as possible. The amount of the developer's incentives increases as the site is built out and leased, with the incentives end after 15 years.

The Economic Development Incentives Committee has reviewed the request and recommends approve of the amendment to the developer agreement.

### Recommended Motion

Recommend approval of an amendment to the minimum improvements and require just one stand-alone commercial building.

Attachments

**SECOND AMENDMENT TO  
DEVELOPER AGREEMENT**

**[CITY OF FARGO and GROVE ENCLAVE, LLC]**

THIS AMENDMENT TO DEVELOPER AGREEMENT is entered into by and between the City of Fargo, a North Dakota municipal corporation ("City"), and Grove Enclave, LLC, a North Dakota Limited Liability Company ("Developer"); and provides as follows:

**RECITALS:**

**WHEREAS**, Developer and City have entered into a Developer Agreement dated as of June 27, 2022 [hereinafter the "Developer Agreement"] pertaining to a project commonly known as the Kmart Plaza Redevelopment Project or the "Project," which Developer Agreement was amended May 14, 2024 (the "First Amendment");

**WHEREAS**, the Developer Agreement contained a description of Minimum Improvements at Section 4.1 of Article IV, which references a requirement for the construction of two (2) new stand-alone commercial buildings, upon Lot 2, Block 1, University South Second Addition; and,

**WHEREAS**, the parties wish to amend the Developer Agreement with respect to said required construction and to recognize a change in the legal description as a result of replatting since the effective date of the Developer Agreement;

**NOW, THEREFORE**, in consideration of the foregoing Recitals, which are hereby incorporated into this Second Amendment to Developer Agreement, and the mutual promises, undertakings and covenants hereinafter set forth, and intending to be legally bound hereby, the City and Developer covenant and agree as follows:

I. The first sentence of Section 4.1 of the Developer Agreement is hereby amended to require not two but one (1) new stand-alone commercial building, so that said sentence is therefore amended to read as follows: "The development by the Developer shall require the construction of 20,000 square feet minimum of commercial space and one (1) stand-alone commercial building, upon Lot 3, Block 1, University South 3<sup>rd</sup> Addition."

II. In all other respects the Developer Agreement, as amended by the First Amendment, shall remain in full force and effect.

III. Effective Date. This amendment shall be effective as September 1, 2025.

**IN WITNESS WHEREOF**, the Parties have executed this Amendment to Developer Agreement to be executed by their duly authorized representatives.

[Execution pages to follow]

CITY OF FARGO,  
a North Dakota municipal corporation

(SEAL)

By \_\_\_\_\_  
Timothy Mahoney, M.D., its Mayor

ATTEST:

By \_\_\_\_\_  
Steven Sprague, City Auditor

This document drafted by:

Erik R. Johnson  
Assistant City Attorney  
(701) 371-6850  
ejohnson@lawfargo.com

GROVE ENCLAVE, LLC

By: Syndica, LLP

Its: Manager

By  \_\_\_\_\_,  
Austin Morris, General Partner



MEMORANDUM

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**TO:** Fargo City Commission

**FROM:** Jim Gilmour, Director of Strategic Planning and Research

**DATE:** August 8, 2025

**SUBJECT:** Deadline to start New Industry and PILOT Projects

*[Signature]*

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The City of Fargo does not have an official deadline for businesses or developers to commence projects approved for property tax incentives. Occasionally, a project experiences a delay of a year or two, which can lead to questions about whether the applicant needs to re-apply. If the delay has been for just a year, the City has provided the incentive upon project completion.

In all cases, a property tax exemption does not commence until either the business operation begins or a housing project is completed.

As a current practice, the Assessor's Office assumes a project is canceled if it has not started within five years of approval. To give clearer direction to businesses, developers and City staff, I'm recommending that the City adopt a policy that a New Industry or Payment in Lieu of Taxes (PILOT) project must start construction or begin operation within three years of City Commission approval.

The Economic Development Incentives Committee has discussed the policy and recommends approval


Recommended Motion

Adopt a policy that requires business operations to begin or construction to start within three years of the City Commission granting a property tax exemption.

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## MEMORANDUM

**TO:** Fargo City Commission

**FROM:** Jim Gilmour, Director of Strategic Planning and Research 

**DATE:** August 18, 2025

**SUBJECT:** Core Neighborhood Housing Incentives

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The City of Fargo has a policy to provide property tax incentives for apartment redevelopment projects in core neighborhoods. The policy includes documenting extraordinary costs, a “but for” test, providing a 100% property tax for 5 years and a 50% property tax exemption in years 6-10. City staff have identified several administrative problems with this policy.

It is cumbersome for the Assessor’s Office to track the 5 year at 100% and 5 year at 50% property tax exemption. A 100% exemption for 7 years would provide the same present value to the developer and reduce the administration work for the Assessor’s Office.

Documenting extraordinary costs is very time consuming for what are small redevelopment projects. There is already a “but for” test to confirm a financial need, so documenting costs adds extra administrative costs for both the City and the developer. I recommend that the “but for” evaluation remain, but that agreements no longer require documentation of costs.

I have attached both the current and proposed policy. The new policy would be similar to the policy for Downtown housing projects.

The Economic Development Incentives Committee has reviewed the proposed policy change and recommends approval.

### Recommended Motion

Adoption of a new PILOT policy for core neighborhoods.

### 3C. CORE NEIGHBORHOOD HOUSING PILOT GUIDELINES

The purpose of this policy is to establish the City's position relating to the use of Payment in Lieu of Taxes (PILOT) for private market rate housing development in core neighborhoods. The fundamental purpose is to encourage desirable development or redevelopment that would not otherwise occur but for the assistance.

It is the intent of the City to provide the minimum amount of tax exemptions, at the shortest term required, for the project to proceed.

As a matter of policy, the City will consider using PILOT to assist private housing development projects to achieve one or more of the following objectives:

- To create opportunities for affordable housing;
- To encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off" development;
- To assist developers enough to achieve development on sites which would not be developed without PILOT assistance;
- To remove blight and/or encourage the development of new housing that provides housing in areas of core neighborhoods consistent with the Core Neighborhood Plan.
- To offset increased costs of redevelopment (i.e. contaminated site cleanup, infrastructure needs and higher land costs) over and above the costs normally incurred in development;
- To contribute to the implementation of other public policies, as adopted by the City, such as the promotion of quality urban or architectural design, energy conservation and decreasing capital and/or operating costs of local government;
- ~~The maximum term of the exemption is for the two taxable years after the taxable year construction is completed and the residence is occupied for the first time by the owner.~~

#### MAXIMUM TERM:

- For projects without affordable housing, the maximum PILOT incentive will be a 100% exemption for the first ~~five~~ seven (57) years. ~~and a 50% exemption for an additional five (5) years;~~
- ~~For projects with affordable housing, the maximum PILOT incentive will be a 100% exemption for a maximum of 20 years.~~

#### ~~EXTRAORDINARY COSTS:~~

~~The amount or value of the PILOT tax exemption will be limited to the extraordinary costs of development and are limited to:~~

- ~~The costs of land acquisition, subject to the limits outlined in the next policy.~~
- ~~Relocation of existing tenants;~~
- ~~The costs of demolition, including the removal of building foundations, parking lots and the removal and replacement of unsuitable soil;~~
- ~~Public improvements in the public right-of-way such as sidewalks, driveway approaches, lighting and connection to the water, sanitary sewer and storm water systems;~~

- Onsite storm water retention including the cost of excavation, underground storm water lines or underground storage facilities. It does not include water collection systems such as parking lots, sidewalks or curb/gutters;
- Architectural and engineering costs are limited to those necessary services to implement other activities allowed by this policy. Developer fees and legal costs are not permitted.

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#### LAND ACQUISITION COSTS:

The eligible costs recouped to the developer shall be evaluated on a case-by-case basis; however, the maximum should be the lesser of:

- The total acquisition cost for the property, provided the acquisition cost is no more than 150% of the Assessor's market value for the property. This 150% limit applies to the total of all properties acquired, not a property-by-property limit;
- The difference between what was paid by the developer for the property less the Assessor's market value for the land (as opposed to land and buildings).

#### OTHER CONDITIONS AND LIMITS:

- The value of the PILOT assistance should be limited to a percentage up to 15% of hard capital costs of development including the costs of acquisition. Developer must provide at least 10% of total capital costs as developer's equity in the project;
- Financial plans of the project will be reviewed by the City financial consultant to determine the feasibility and level of public assistance that is appropriate;
- The project must be consistent with the City's Comprehensive Plan, the Core Neighborhood Land Use Plan and the Land Development Code. The developer's agreement should include design standards to ensure the development will be compatible with the long-term plans for the area;
- To the extent required by state, federal, local law or regulations, a relocation plan should be provided by the developer. Relocation payments to tenants of businesses or residential uses must be made. These relocation payments should follow state/federal guidelines.

### **3B. LOWER INCOME RENTAL HOUSING PILOT GUIDELINES**

The purpose of this policy is to establish the City's position relating to the use of Payment in Lieu of Taxes (PILOT) for low income housing developments throughout the city. The fundamental purpose is to encourage housing developers to build housing to meet the needs of very low-income households. Property tax exemptions are essential to obtaining federal government and state government resources, and reducing costs to offer more affordable rents to tenants. "Lower Income Housing" is defined as housing for "low income households" as defined by the Department of Housing and Urban Development, with rents not to exceed 30% of household income.

#### **LOWER INCOME APARTMENTS:**

- Years 1-20 – 100% of the improvement value for the period of time the housing will serve as lower income housing;
- Incentives may be for new buildings and substantial rehabilitation necessary to maintain existing lower income apartments units;
- Lower income apartments are those where the developer is required to rent to lower income households at below market rent as required by the Department of Housing and Urban Development, the Low Income Housing Tax Credit Program, the ND Housing Finance Agency or a recorded land use restrictive covenant agreement;
- Projects that will use Low Income Housing Tax Credits or other incentives from the ND Housing Finance Agency will have a financial review by the State of ND and will not have a "but for" review by the City.

### **3D. DOWNTOWN HOUSING PILOT GUIDELINES**

The purpose of this policy is to establish the City's position relating to the use of Payment in Lieu of Taxes (PILOT) for creating new housing in the downtown. The fundamental purpose is to encourage housing developers to build new housing downtown to create new opportunities to live downtown, bring new customers for downtown businesses, create a safer downtown with increased numbers of people downtown, and use existing infrastructure as alternative to continued apartment development on the edge of the city. Property tax exemptions are essential to obtaining federal government and state government resources, and reducing costs to offer more affordable rents to tenants.

#### **NEW MARKET RATE APARTMENTS:**

- **Years 1-5** - 100% exempt on the increased value of the improvements.
- **Years 6-15** - The percentage exempt will be based on a financial review and "but for" test. The amount exempt will be no more than 90% of the improved value.
- If market rate apartments include at least 10% of the housing to be what the City considers "affordable," the City may approve up to a 100% exemption based on a financial review and "but for" test for up to 20 years. "Affordable housing" needs to be defined after the completion of a housing study that should identify gaps in housing needs in the city.


For the purpose of this policy, the Downtown area is shown in Exhibit A at the end of this document.



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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY 

DATE: AUGUST 18, 2025

SUBJECT: APPOINTMENTS TO THE PLANNING COMMISSION

The terms of Amy Hass, Thomas Schmidt and Scott Stofferahn expired on June 30, 2025.

Ms. Hass and Mr. Schmidt are both willing to continue their service on the Board and I am, therefore, recommending their reappointments. Mr. Stofferahn is willing to continue his service for one more year.

Your favorable consideration of these recommendations is greatly appreciated.

**RECOMMENDED MOTION:** Approve the reappointment of Amy Hass and Thomas Schmidt to the Planning Commission for three-year terms ending June 30, 2028 and Scott Stofferahn for a one-year term ending June 30, 2026.

mmapt25plc