

NOTICE OF PROPOSED HOME RULE CHARTER AMENDMENT

LODGING TAX

PLEASE TAKE NOTICE that an election will be held on Tuesday November 5, 2024, on the question of whether to amend the Home Rule Charter to establish a three percent (3%) lodging tax on hotel and motel room rentals for a period of twenty-five (25) years for the purpose of constructing, maintenance and operation of a conference center within the City of Fargo, as the governing body may select.

FURTHER PLEASE TAKE NOTICE that the Board of City Commissioners, on the 5th day of August, 2024, approved and adopted a resolution proposing that the citizens of Fargo vote on whether to amend the Home Rule Charter of the City of Fargo to establish a city lodging tax of three percent (3%) in addition to the existing three percent (3%) city lodging tax, said proceeds to be utilized to pay or finance costs associated with the construction, maintenance and operations of a conference center located within the City of Fargo, which proposal is as follows:

RESOLUTION

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, pursuant to the authority of N.D.C.C. §40-05.1-07 and Article 5 of the Fargo Home Rule Charter, the board of city commissioners of the City of Fargo wish to propose an amendment to the Home Rule Charter of the city which would authorize the implementation of a lodging tax on hotel and motel room rentals for a period of twenty-five (25) years, which tax would generate proceeds to be utilized to pay or finance costs associated with the construction of a conference center at a location within the city of Fargo to be determined by a request-for-proposal process identified by an implementing ordinance, and with ongoing capital projects, maintenance, and operation of the conference center;

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

That Article 3 of the Home Rule Charter of the City of Fargo, pertaining to the list of home rule powers of the city, be amended to add an enumerated section to read as follows:

To establish a city lodging tax of three percent (3%) in addition to the existing three percent (3%) city lodging tax, subject to the following limitations:

1. Said lodging 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 N.D.C.C.

2. The lodging 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. A lodging tax which is imposed pursuant to the authority granted herein shall extend for a period not exceeding twenty-five (25) years, said period to be established by the implementing ordinance. The collection of said lodging tax shall not be commenced until the governing body of the city has identified a specific project, based on requirements in subsection 4, below. If no project is identified, and collection of the tax not implemented by December 31, 2028, authorization of the tax shall expire.

4. The lodging taxes collected pursuant hereto, less costs of administration as provided herein, which is imposed pursuant to the authority granted herein shall be utilized for costs associated with construction of a conference center, at a location within the city of Fargo to be determined through a request for proposal process to be established by the governing body of the city, and with ongoing capital projects, maintenance, operation and functionally-related facilities (the "Projects"), said proceeds to be placed initially in an improvement capital construction fund of the city of Fargo which, together with interest and other authorized investment earnings, shall be utilized by the city of Fargo for such purposes. Proceeds from such tax may be used to make direct payment of the costs for such construction, maintenance, and operation or may be pledged, applied or directed to amortize bonds or other obligations which may be sold to finance such costs. Interest earnings, earnings from authorized investments, or both such interest and investment earnings, on such proceeds may also be utilized for such purposes. Any funds remaining after completion of the construction of the conference center and payment of related obligations will be placed in a special escrow fund which, together with interest earnings and investment earnings, shall be utilized by the designated operating authority, with the concurrence of the governing body of the city, to provide for future capital improvements, maintenance, and operation of the conference center.

All proceeds of a lodging 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.

The commencement of the lodging tax, including the commencement and duration of collection thereof, along with any other matters related to the Projects as deemed necessary or appropriate shall be established by the implementing ordinance.

5. The three percent (3%) lodging tax authorized hereby shall be imposed and collected in addition to an existing three percent (3%) city of Fargo lodging tax set forth in Article 3-13 of the Fargo Municipal Code, said existing tax having been (a) initially imposed by city ordinance as a two percent lodging tax (City of Fargo Ord. No. 2014 (June 1981)) under city home rule authority at a time when North Dakota non-home-rule cities were empowered by state statute to enact lodging taxes using state statutory authority (N.D.S.L. Ch. 429 (1981), Sec. 1 – 4) and, therefore by exclusion, the City of Fargo and other home rule charter cities could utilize home rule city powers to enact lodging taxes, and (b) subsequently expanded to the existing three percent lodging tax (City of Fargo Ord No. 2595 (1991)) also by said home rule authority.

BE IT FURTHER RESOLVED, that the above-recited proposal is hereby acknowledged and deemed to be a lodging tax and not a sales tax and, therefore, that proposal for the amendment of the Fargo Home Rule Charter shall not be deemed approved unless said proposed amendment has been approved by a simple majority of the qualified electors voting on the question and not by approval of a sixty percent (60%) super-majority of said electors as would be required by initiated amendment Number Two to the Fargo Home Rule Charter for approval of a sales tax;

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that this Resolution be published in the official newspaper for the City of Fargo (1) within thirty (30) days of the approval hereof or (2) prior to sixty (60) days prior to the next city election, whichever is earlier.

(TO BE PUBLISHED ONCE IN THE FORUM AT LEAST SIXTY (60) DAYS PRIOR TO THE CITY ELECTION ON NOVEMBER 5, 2024: PUBLISH WEDNESDAY AUGUST 28, 2024)