

## CHAPTER 3

### FINANCES

#### Article

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#### ARTICLE 3-01

#### PURCHASING PROCEDURE

#### Section

- 3-0101 Purchasing procedures.
- 3-0102 Regulations for purchases under \$1,000.
- 3-0103 Approval of contracts.
- 3-0104 Inspection and receipt of purchases.
- 3-0105 Sale or leasing of city-owned property.
- 3-0106 Contracts for purchase of property.
- 3-0107 Investments in interest rate swaps or exchanges

3-0101. Purchasing procedures.--The purchasing policy of the city of Fargo shall be policy as adopted by resolution of the board of city commissioners.

Source: 1952 Rev. Ord. 3-0102, 2158 (1984), 2440 (1989), 2489 (1989), 2759 (1995).

3-0102. Regulations for purchases under \$1,000.--The board of city commissioners shall prescribe such regulations as are deemed advisable for the purchase of equipment and supplies not in excess of \$1,000.

Source: 1952 Rev. Ord. 3-0103, 2158 (1984), 2440 (1989), 2489 (1989).

3-0103. Approval of contracts.--All contracts, either in the form of a written contract or a purchase order, except those covering purchases made for immediate use, shall be approved by the director of finance as to sufficiency of funds and appropriations before being executed.

Source: 1952 Rev. Ord. 3-0104, 2158 (1984), 2440 (1989), 2489 (1989).

3-0104. Inspection and receipt of purchases.--The responsibility for the inspection and acceptance of all materials, supplies, and equipment on a construction project shall rest with the using department or its designated agency. The receipt of purchases shall be indicated on the receiving report form provided therefor.

Source: 1952 Rev. Ord. 3-0105, 2158 (1984), 2440 (1989), 2489 (1989).

3-0105. Sale or leasing of city-owned property.--Whenever any real or personal property is no longer required for a public purpose, the same may be offered for sale by the board of city commissioners. Personal property having a value of \$5,000 or less may be offered for sale and sold by the director of finance.

All sales of real property shall be by public sale unless the value of said property is estimated by the board of city commissioners to be of a value of less than \$5,000, in which case, such property may be sold at private sale if authorized by resolution of the board of city commissioners.

Sale of property by public sale shall be authorized by resolution of the board of city commissioners and notice of said sale, together with any conditions imposed thereon, shall be published in the official newspaper of the city once each week for two consecutive weeks with the last publication being at least 10 days prior to the date of sale. Said notice shall specify whether the bids, or any other method of bidding as determined by the board of city commissioners and shall also state any conditions or limitations placed upon such sale.

Leasing or renting of real or personal property by the city or the Municipal Airport Authority of the City of Fargo shall be on such terms and conditions as the city or the Municipal Airport Authority may establish.

Sales of publicly-owned property which has been acquired by the city by forfeiture for nonpayment of special assessments and which is sold pursuant to § 57-28-17, N.D.C.C., and sales of property acquired specifically for resale, shall not be subject to the provisions of this ordinance.

Sales of real or personal property owned or held in the name of the municipal airport authority of the city of Fargo shall not be subject to the provisions of this ordinance. Sales of such property may be made by proper action of a majority of the qualified and existing members of said Municipal Airport Authority on such terms and conditions as may be deemed necessary.

Source: 1952 Rev. Ord. 3-0106, 2158 (1984), 2440 (1989), 2489 (1989).

3-0106. Contracts for purchase of property.--Pursuant to the provisions of the Home Rule Charter of the city of Fargo, the city is hereby authorized by resolution or resolutions of its board of city commissioners to acquire any real or personal property, easement or right-of-way for any purpose authorized by law or necessary to the exercise of any power granted to the city under a contract providing for payment of the purchase price in installments over such period of years and bearing interest at such rate as may be agreed upon with the vendor, and providing for conveyance of title to the property upon completion of payment of the purchase price or upon execution of the contract, or at such intermediate time as may be agreed. The obligation of the city to pay the purchase price and interest thereon, if so directed by resolution of the board, may be evidenced by the issuance of a note or notes to the vendor in registered or bearer form with or without attached interest coupons, and upon such further terms and conditions as may be established by such

resolutions. In computing at any time the amount of indebtedness which the city may validly incur within constitutional and statutory limitations, the then remaining balance of principal to be paid under any such contract, except any payments for which tax or other revenues of the current year have been duly appropriated, shall be included; and all interest thereon shall be excluded, except such interest, if any, which is at any time due and unpaid.

Source: Rev. Rev. Ord. 3-0107, 1803 (1977), 2158 (1984), 2440 (1989), 2489 (1989).

3-0107. Investments in interest rate swaps or exchanges.--The city is authorized to enter into contracts for interest rate swaps or exchanges as investments for its general fund, provided any such contract must first be competitively bid and approved by a majority vote of the city commission.

Source: 4037 (2000).

## ARTICLE 3-02

### BILLS, CLAIMS, AND ACCOUNTS AGAINST CITY

#### Section

- 3-0201 Bills, claims or accounts--Itemized statement--Approval required--Exceptions.
- 3-0202 Approval of bills, claims, or accounts by city department--Exceptions.
- 3-0203 Records kept regarding bills, claims, or accounts.
- 3-0204 Municipal court witnesses--Compensation.

3-0201. Bills, claims or accounts--Itemized statement--Approval required--Exceptions.--No bill, claim, or account against the city of Fargo shall be paid unless an itemized statement or bill shall have been submitted and payment approved by the director of finance; provided, that fixed salaries of officials whose positions are continuing, contractual obligations, periodic billings for necessities such as electrical power and telephone service, and any other financial commitments which are included in the budget of the city of Fargo shall not require approval of the board of city commissioners prior to payment.

Source: 1965 Rev. Ord. 3-0203, 1696 (1976), 2491 (1989), 2816 (1997).

3-0202. Approval of bills, claims, or accounts by city department--Exceptions.--No bills, claims, or accounts shall be approved by the board of city commissioners unless it has been approved by the department for which the expense was incurred; provided, that fixed salaries of officials whose positions are continuing, contractual obligations, periodic billings for necessities such as electrical power and telephone service, and any other financial commitments which are included in the budget of the city of Fargo shall not require approval of the board of city commissioners prior to payment.

Source: 1952 Rev. Ord. 3-0204, 2491 (1989).

3-0203. Records kept regarding bills, claims, or accounts.--Except in the case of disputed or questioned bills, claims, or accounts, the certificate of the city finance office showing the date of approval and the amount allowed by the board of city commissioners shall constitute sufficient record of adequacy of consideration for said payment. The minutes of the meeting of the board of city commissioners shall include any action taken by the board of city commissioners in the case of disputed or questioned bills.

Source: 1952 Rev. Ord. 3-0206, 2491 (1989).

3-0204. Municipal court witnesses--Compensation.--A witness in municipal court is entitled to receive compensation for time necessarily spent in municipal court; provided, that such compensation shall be in an amount to be established by resolution of the board of city commissioners. A witness who is subpoenaed in two or more cases by the same party shall be entitled to one compensation only from such party for the same days as attendance or travel.

Source: 2491 (1989).

## ARTICLE 3-03

### SURETY BONDS FOR CITY

#### Section

3-0301 Surety bonds--Power of board of city commissioners to obtain for city.

3-0301. Surety bonds--Power of board of city commissioners to obtain for city.--The board of city commissioners shall procure, on behalf of the city, such surety bonds as may be required by law in proceedings on appeal or writ of certiorari, or in any action, case, or proceeding in which the city is involved. The board of city commissioners and such sureties as may execute such bonds on behalf of the city and shall be kept harmless by the city therefor.

Source: 1952 Rev. Ord. 3-0301.

## ARTICLE 3-04

### FEDERAL REVENUE SHARING FUNDS

#### Section

3-0401 Trust fund established.  
3-0402 Disbursement of funds.

3-0401. Trust fund established.--There is hereby established a trust fund to be known as the Federal Revenue Sharing Fund, said trust fund to be established on the books and records of the city as a separate set of accounts and shall be accounted for in a manner customarily followed by the city in accounting for trust or other segregated funds as required by Public Law 92-512.

Source: 1965 Rev. Ord. 3-0401, 1457 (1973).

3-0402. Disbursement of funds.--All funds disbursed from the trust fund referred to in § 3-0401 shall be strictly accounted for and all such disbursements and expenditures shall be in accordance with guidelines which have been or may hereinafter be adopted by the United States Department of the Treasury, as provided in United States Public Law 92-512.

Source: 1965 Rev. Ord. 3-0402, 1457 (1973).

ARTICLE 3-05

BOND ORDINANCES

Section	
3-0501	Municipal auditorium--Air conditioning.
3-0502	Garbage and waste disposal system.

3-0501. Municipal auditorium--Air conditioning.--Pursuant to the provisions of the Limited Home Rule Charter of the city of Fargo, the city is hereby authorized, by resolution or resolutions of its board of city commissioners, to issue bonds of the city in an amount not exceeding \$160,000 for the purpose of improving the municipal auditorium of the city by the purchase and installation therein of an air conditioning system. The construction and financing of said improvement shall be carried out in the same manner as authorized for an undertaking under the provisions of North Dakota Century Code, chapter 40-35, as amended.

In the resolution authorizing the issue of such bonds, the city may covenant and agree that such bonds shall be payable from the gross revenues of the auditorium, before deduction therefrom of any of the costs of operation, maintenance, repair or depreciation thereof.

Source: 1965 Rev. Ord. 3-0501, 1469 (1973).

3-0502. Garbage and waste disposal system.--Pursuant to the provisions of the Limited Home Rule Charter of the city of Fargo, the city is hereby authorized, by resolution or resolutions of its board of city commissioners, to issue revenue bonds of the city for the purpose of acquisition, construction, reconstruction, improvement, betterment and extension of the municipal system for the collection, treatment, and disposal of garbage and other solid waste, in the same manner as authorized for undertakings financed under the provisions of North Dakota Century Code, chapter 40-35, as amended.

Source: 1965 Rev. Ord. 3-0502, 1483 (1973).

ARTICLE 3-06

DEFERRED COMPENSATION PLAN

Section	
3-0601	Deferred compensation for city employees--Investment of funds.
3-0602	Deferred compensation program committee--Agreements.
3-0603	Deferred compensation program--Administration.
3-0604	Definition--Employee.
3-0605	Committee authorized to make payments.
3-0606	Deferred compensation program--Benefits--Taxation.
3-0607	Liability under deferred compensation program.

3-0601. Deferred compensation for city employees--Investment of funds.--The city may, by contract, agree with any employee to defer in whole or in part, any portion of that employee's compensation. The city may, for the purpose of funding such deferred compensation program, contract for, purchase or otherwise procure an annuity contract or a contract (other than a life, health, or accident, property, casualty, or liability insurance contract) from any insurance company licensed to contract business in the state of North Dakota. Any employee deferrals which are not so invested in a contract with an insurance company shall be deposited into a trust fund held for the exclusive

benefit of participants and their beneficiaries with a trustee under a trust agreement entered into by the city for the purpose of holding such deferred compensation contributions.

Source: 1965 Rev. Ord. 3-0601, 1621 (1974), 2854 (1998).

3-0602. Deferred compensation program committee--Agreements.--There is hereby created a body to be known as the “deferred compensation program committee”, hereinafter referred to in this article as “the committee”. The committee shall consist of three members, who shall be appointed by the board of city commissioners of the city of Fargo, one of whom shall each be nominated by the board of trustees of the city employee’s pension plan, the police pension fund, and the fireman’s pension system, respectively. Members of the committee may be employees of the city. Committee members shall serve until removed or replaced by the board of city commissioners.

Source: 1965 Rev. Ord. 3-0602, 1621 (1974), 2854 (1998).

3-0603. Deferred compensation program--Administration.--The administration of the deferred compensation program of the city of Fargo shall be under the direction of the committee and shall comply with the provisions of the deferred compensation plan of the city of Fargo as approved by the Internal Revenue Service. The committee is hereby authorized to amend the deferred compensation plan from time to time in order to comply with changes to the Internal Revenue Code and to make other design changes to the plan. Payroll deductions shall be made in each instance by the appropriate payroll officer. The city may, upon recommendation of the committee, contract with a private corporation or institution for providing consolidated billing and other administrative services.

Source: 1965 Rev. Ord. 3-0603, 1621 (1974), 2854 (1998).

3-0604. Definition--Employee.--For the purpose of this article the term “employee” shall mean any person, whether appointed, elected or under contract, providing services to the city for which compensation is paid.

Source: 1965 Rev. Ord. 3-0604, 1621 (1974), 2854 (1998).

3-0605. Committee authorized to make payments.-- Notwithstanding any other provision of law to the contrary, the committee is hereby authorized to make payment of premiums for the purchase of fixed or variable life insurance or annuity contracts described in § 3-0601 under the deferred compensation program. Such payments shall not be construed to be a prohibited use of the general assets of the city.

Source: 1965 Rev. Ord. 3-0605, 1621 (1974), 2854 (1998).

3-0606. Deferred compensation program--Benefits--Taxation. --The deferred compensation program established by this article shall exist and serve, in addition to retirement, pension or benefit systems established by the city, and no deferral of income under the deferred compensation program shall effect a reduction of any retirement, pension or other benefit provided by law. However, any sum deferred under the deferred compensation program shall not be subject to taxation until distribution is actually made to the employee.

Source: 1965 Rev. Ord. 3-0606, 1621 (1974), 2854 (1998).

3-0607. Liability under deferred compensation program.--The financial liability of the city under the deferred compensation program shall be limited at any time to the then current value of any insurance or annuity contracts and trust funds maintained for purposes of investing the contributions under the deferred compensation program.

Source: 1965 Rev. Ord. 3-0607, 1621 (1974), 2854 (1998).

## ARTICLE 3-07

### TAXATION OF DWELLING UNITS, BUSINESS AND COMMERCIAL ESTABLISHMENTS

Note: Article 3-07 of chapter 3 of the Revised Ordinances of 1965 (sections 3-0701 to 3-0703 as enacted by Ord. No. 1584, §§ 1 to 3, 1974), was repealed by Ord. No. 1597, 1974.

## ARTICLE 3-08

### SHORT-TERM MUNICIPAL INDEBTEDNESS

Section

3-0801 Certificates of indebtedness--Negotiation.

3-0801. Certificates of indebtedness--Negotiation.--Notwithstanding the provisions of § 21-02-11 of the North Dakota Century Code, the board of city commissioners of the city of Fargo may, upon determination of necessity therefor, borrow upon certificates of indebtedness in order to provide short-term financing for the city of Fargo. Such certificates may be issued without limitation as to amount and without advertising for bids as required for the sale of bonds as referred to in said § 21-02-11 of the North Dakota Century Code.

Source: 1965 Rev. Ord. 3-0801, 1665 (1975).

## ARTICLE 3-09

### TAXATION OF LOCAL TELEPHONE SERVICE

Note: This article was enacted by Ord. No. 1444, 1972 as "Article 3-04 of chapter 3"; however, the ordinance was the subject of litigation and did not become effective until a later date. The compiler re-designated the article as "3-09".

Section

3-0901 Definitions.  
3-0902 Tax on local telephone service.  
3-0903 Collection of tax.  
3-0904 Exemptions.

3-0901. Definitions.--

1. Telephone company - shall mean all persons, firms, or corporations engaged in the business of furnishing communications by telephone.
2. Local telephone service - shall mean the furnishing of communications by telephone in the city of Fargo, North Dakota.

3. Local telephone receipts - shall mean gross receipts from the furnishing of local telephone service including local service and directory representation, but specifically excluding receipts from the following:

- a. sale of "yellow pages" advertising;
- b. long distance telephone service;
- c. sale of equipment; and
- d. equipment installation charges.

Source: 1965 Rev. Ord. 3-0401, 1444 (1972), 2056 (1982).

3-0902. Tax on local telephone service.--A tax of 2% is hereby imposed upon gross receipts from local telephone service which tax shall be computed on a monthly basis by each and every telephone company based upon the application of such tax rate to all local telephone service receipts as herein defined.

Source: 1965 Rev. Ord. 3-0402, 1444 (1972).

3-0903. Collection of tax.--The tax hereby imposed shall be computed and collected by each and every telephone company on a monthly basis and remitted to the city of Fargo on or before the last day of each month following the month in which such local telephone service was furnished. The telephone company shall be entitled to 3.0 percent of such tax as a fee for such collection.

Source: 1965 Rev. Ord. 3-0903, 1444 (1972).

3-0904. Exemptions.--Gross receipts from telephone service which are exempt from the North Dakota state sales tax shall be exempt from the provisions of this article.

Source: 1965 Rev. Ord. 3-0404, 1444 (1972).

## ARTICLE 3-10

### SPECIAL ASSESSMENTS

#### Section

3-1001 Special assessment commission.

3-1002 Number of members--Terms of members--Appointment of members--Filling vacancies.

3-1003 Powers and duties of commission.

3-1004 Deferment of special assessments permitted.

3-1005 Bond payments on deferred assessments.

3-1006 Power of city to defray expense of improvements by special assessment.

3-1001. Special assessment commission.--There is hereby created a body to be known as the special assessment commission of the city of Fargo, which shall have all the powers and duties hereinafter prescribed.

Source: 1965 Rev. Ord. 3-1001, 1805 (1977).

3-1002. Number of members--Terms of members--Appointment of members--Filling vacancies.--The special assessment commission of the city of Fargo shall consist of three members who shall be appointed by the president of the board of city commissioners, subject to confirmation by the board of city commissioners. The terms of office of such commissioners shall be as follows, to-wit: one member who shall serve until July 1, 1978; one member who shall serve until July 1,

1979; one member who shall serve until July 1, 1980. At the expiration of the terms of the members as aforesaid, members shall be appointed for three-year terms. If a vacancy occurs otherwise than by expiration of a term, it shall be filled for the unexpired portion of the term by appointment and confirmation as set forth above. Notwithstanding the expiration of a member's term, such member may serve until his or her successor has been appointed and qualified.

Source: 1965 Rev. Ord. 3-1002, 1805 (1977).

3-1003. Powers and duties of commission.--The special assessment commission of the city of Fargo shall have such powers and shall perform such duties as may now or hereinafter be provided by the laws of the state of North Dakota and all provisions of chapter 40-23 which are not in conflict with this ordinance shall remain in full force and effect.

Source: 1965 Rev. Ord. 3-1003, 1805 (1977).

3-1004. Deferment of special assessments permitted.--The city commission, by resolution, may defer special assessments on undeveloped property for a period not to exceed ten (10) years or until the property is platted or a building permit is issued for the property, whichever is earlier. The resolution must be passed by the city commission prior to the publication of the Resolution of Necessity, if necessary, or, if no Resolution of Necessity is necessary, prior to the award of the construction contract. The resolution should set out the property given the exemption, the specific terms of the deferment, and shall be in such form so that it can be recorded at the Register of Deeds' office. If assessments are deferred by resolution of the city commission pursuant to this section, once the period of deferment ends on a particular property, the assessments shall be spread over the same number of years as the non-deferred assessments in the district. If all assessments are deferred in the district, the length of the assessment shall be determined by the number of years over which assessments are spread for similar improvements in the city of Fargo. The first year's assessment shall bear interest for only one year, not interest for the entire deferment period.

Source: 3055 (1999)

3-1005. Bond payments on deferred assessments.--The city may use sales tax proceeds or other city funds to make timely principal or interest payments on any bonds issued by the city where the collection of special assessments is insufficient to make timely bond payments as a result of deferred special assessments. Any such payments made with city funds may be reimbursed from the subsequent collection of special assessments for that district in excess of the amount necessary to pay the principal and interest on any bonds issued for that district. The city is authorized to continue levying special assessments on the deferred property for the appropriate time period, even if the underlying bonds have been paid off, and all such funds shall be used to reimburse the city for city funds used to pay principal and interest on the bonds.

Source: 3055 (1999).

3-1006. Power of city to defray expense of improvements by special assessments.—In addition to those powers enumerated in state law, the city may defray the expense of the following type of improvement by special assessments:

- A. The improvement of property for the construction of railroad spur lines including any one or more of the processes of acquisition, opening, widening, grating, graveling, and repairing of any such railroad spur lines. Such power shall include the acquiring, leasing or otherwise obtaining the necessary property and easements for the same.

Source: 4021 (2000).

## ARTICLE 3-11

### SPECIAL IMPROVEMENT DISTRICTS

#### Section

3-1101 Creation of special improvement district--Acquisition of sewer and water facilities.

3-1101. Creation of special improvement district--Acquisition of sewer and water facilities.--Pursuant to the provisions of the Limited Home Rule Charter of the city of Fargo, the city is hereby authorized, by resolution or resolutions of its board of city commissioners, to create a special improvement district which shall include the following-described area:

East one-half (E½) of Section Fifteen (15), Township One Hundred Thirty-nine North (T. 139 N.), Range Forty-nine West (R. 49 W) of the 5th principal meridian

and to acquire previously constructed sewer and water facilities located within such area. The special improvement district shall be created upon the receipt of a petition which the board of city commissioners determines by resolution has been signed by the owners of all of the area of property to be included within the special improvement district. To finance the acquisition of said previously constructed sewer and water facilities, the city is authorized to issue warrants on the fund of such special improvement district, pursuant to the provisions of § 40-24-19 of the North Dakota Century Code, and to issue bonds for the purchase of such outstanding warrants pursuant to chapter 40-27 of the North Dakota Century Code, and to levy special assessments to defray the cost thereof.

Source: 1965 Rev. Ord. 3-1101, 1951 (1979).

## ARTICLE 3-12

### MUNICIPAL BUDGET

Note: This article was enacted by Ord. No. 1994, 1980 as "Article 3-10 of chapter 3"; however, since the article designation "3-10" was used for Ord. No. 1805, 1977, the compiler has assigned number "3-12" to the 1980 ordinance.

#### Section

3-1201 State law adopted.

3-1202 Fiscal year.

3-1201. State law adopted.--Except as hereinafter provided, the preparation and adoption of the annual budget for the city of Fargo shall be in accordance with chapter 40-40 of the North Dakota Century Code and other applicable statutes of the state of North Dakota.

Source: 1965 Rev. Ord. 3-1001, 1994 (1980).

3-1202. Fiscal year.--The fiscal year of the city of Fargo shall be the calendar year commencing on the 1st day of January of each year and commencing (ending) on the 31st day of December.

Source: 1965 Rev. Ord. 3-1001, 1994 (1980).

ARTICLE 3-13

LODGING TAX

Section	
3-1301	Definition.
3-1302	Tax on gross receipts.
3-1303	Collection of tax.
3-1304	Tax receipts--Utilization--Visitors Promotion Fund and Visitors Capital Construction Fund.
3-1305	Administration of fund--Convention and Visitors Bureau.
3-1306	Budget.
3-1307	Failure to comply--Penalty.

3-1301. Definition--

1. "Gross receipts" - shall mean receipts of retailers for the leasing or renting, for periods of less than 30 consecutive calendar days or one month, of hotel, motel, or tourist court accommodations 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 tourist court accommodations for periods of 30 or less consecutive calendar days or one month.

3. "Visitors Promotion Fund" - shall be comprised of the funds created by collection of the tax imposed by this ordinance, less any amount which may be retained by the city for the collection of such tax.

Source: 2014 (1981).

3-1302. 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 tourist court located within the corporate limits of the city of Fargo. Said tax shall be in addition to the state sales tax on rental accommodations provided in chapter 57-39.2. The amount of such tax shall be as follows:

A. Two percent (2%) to be placed in the visitors promotion fund of the Fargo-Moorhead Convention and Visitors Bureau in accordance with § 40-57.3-02, N.D.C.C.

B. One percent (1%) to be placed in the visitors promotion capital construction fund of the Fargo-Moorhead Convention and Visitors Bureau to be used as provided in § 40-57.3-03, N.D.C.C.

Source: 2014 (1981), 2595 (1991), 2602 (1992).

3-1303. 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.

Source: 2014 (1981), 2237 (1986).

3-1304. Tax receipts--Utilization--Visitors Promotion Fund and Visitors Capital Construction Fund.--There are hereby created two funds to be known as the visitors promotion fund and the visitors promotion capital construction fund, and all taxes collected pursuant to this ordinance, less costs of administration as hereinabove provided, shall be placed in these funds and utilized for the purpose of promoting tourism in the city of Fargo and to encourage and attract visitors to come to the city of Fargo.

Source: 2014 (1981), 2602 (1992).

3-1305. Administration of fund--Convention and Visitors Bureau.--The visitors promotion fund and the visitors promotion capital construction fund shall be administered by the Fargo-Moorhead Convention and Visitors Bureau pursuant to agreement with the city of Fargo. The members of the board of directors of the Fargo-Moorhead Convention and Visitors Bureau shall receive no compensation payable from the visitors promotion fund except reimbursement for necessary expenses.

Source: 2237 (1986), 2602 (1992).

3-1306. Budget.--The operating budget for the Fargo-Moorhead Convention and Visitors Bureau shall be established annually by the board of directors of the Fargo-Moorhead Convention and Visitors Bureau and thereafter, submitted to the board of city commissioners for its approval.

Source: 2014 (1981), 2237 (1986).

3-1307. 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.

Source: 2237 (1986).

## ARTICLE 3-14

### TAXATION OF TELEPHONE ACCESS LINES AND WIRELESS SERVICE SYSTEMS

#### Section

- 3-1401 Definitions.
- 3-1402 Excise tax on telephone access lines and wireless service systems.
- 3-1403 Payment of tax by subscriber.
- 3-1404 Collection of tax.
- 3-1405 Use of tax proceeds.

#### 3-1401. Definitions.--

1. "Emergency services communication system" - shall mean an emergency 911 telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for law enforcement, fire, medical, or other emergency services.
2. "Telephone access line" - shall mean the telephone service line that connects a subscriber's main telephone or equivalent main telephone to the telephone company's switching office.
3. "Wireless access line" means each active wireless telephone number assigned to a

commercial mobile radio service subscriber, including end users of resellers.

4. "Wireless service" means commercial mobile radio service, and includes:
  - a. Services commonly referred to as wireless; and,
  - b. Services provided by any wireless real time two-way voice communication device, including radio-telephone communications used in:
    - (1) Cellular telephone service;
    - (2) Personal communications service; or,
    - (3) The functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, personal communications service, or a network radio access line.

5. "Wireless service provider" means any entity authorized by the Federal Communications Commission to provide wireless service within the state of North Dakota.

Source: 2285 (1986), 4189 (2001).

3-1402. Excise tax on telephone access lines and wireless service.--An excise tax of \$1.00 per month, or fraction thereof, is hereby imposed upon each telephone access line and wireless service as hereinabove defined.

Source: 2285 (1986), 3071 (1999), 4086 (2000), 4189 (2001).

3-1403. Payment of tax by subscriber.--Each telephone service and wireless service subscriber in the city of Fargo shall pay the tax imposed by § 3-1402 to the telephone company or wireless service provider providing the service. The tax shall be paid on a monthly basis, provided that the first and last billing statement to a subscriber shall include the full amount of the tax, notwithstanding the fact that the period covered by such billing statement may be less than one month. In its billing statement to the subscriber, the telephone company or wireless service provider shall state the amount of the tax separately.

Source: 2285 (1986), 4189 (2001).

3-1404. Collection of tax.--The tax hereby imposed shall be computed and collected by each telephone company or wireless service provider providing service in the city of Fargo. The tax shall be collected by inclusion on each monthly statement sent to the subscriber by the telephone company or wireless service provider and shall be remitted to the city of Fargo within 30 days of the date of collection from the subscriber. The telephone company or wireless service provider collecting the tax shall be entitled to retain \$.05 of each \$1.00 paid by the subscriber, in order to defray the costs of collection.

Source: 2285 (1986), 4189 (2001).

3-1405. Use of tax proceeds.--Taxes collected pursuant to the provisions of this article shall be used for construction, operation and maintenance of the emergency services communication system as hereinabove defined; or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

Source: 2285 (1986), 2689 (1994).

ARTICLE 3-15

IMPOSITION OF A SALES AND USE TAX  
(FARGODOME)

Section	
3-1501	Definitions.
3-1502	Sales tax imposed.
3-1503	Use tax imposed.
3-1504	Exemptions.
3-1505	Maximum tax imposed.
3-1506	Collection and administration.
3-1507	Contract with state tax commissioner.
3-1508	Corporate officer liability.
3-1509	Dedication of tax proceeds.
3-1510	Term.

3-1501. Definitions.--All terms defined in chapter 57-39.2, N.D.C.C. and chapter 57-40.2, N.D.C.C., including all future amendments, are adopted by reference.

Source: 2430 (1988).

3-1502. Sales tax imposed.--Except as otherwise provided in this article, a tax of one-half of one percent (.5%) is imposed upon the gross receipts of retailers from all retail sales within the corporate limits of the city of Fargo, North Dakota, of the following:

- A. Tangible personal property, consisting of goods, wares, or merchandise.
- B. The furnishing or service of gas, communication services, or steam other than steam used for processing agricultural products.
- C. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity; but not including the playing of any machine for amusement or entertainment in response to the use of a coin.
- D. Magazines and other periodicals.
- E. The leasing or renting of a hotel or motel room or tourist court accommodations.
- F. The leasing or renting of tangible personal property, the transfer of title to which has not been subjected to a retail sales tax under this article.
- G. Sales of alcoholic beverages and tobacco products as defined in § 57-39.2-03.2, N.D.C.C.
- H. Furnishing and installment or attachment to real property in this state by a contractor or a subcontractor who is a retailer of drapes, hardware for hanging drapes, or carpet for floor covering.

Source: 2430 (1988), 2615 (1992).

3-1503. Use tax imposed.--Except as otherwise provided in this article, an excise tax of one-half of one percent (.5%) is imposed on the storage, use, or consumption in the city of Fargo on:

- A. The purchase price of tangible personal property purchased at retail for storage, use, or consumption within the city.
- B. The fair market value of tangible personal property which was not originally purchased for storage, use or consumption in the city, at the time which it is

brought into this city.

- C. Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as provided in § 57-39.2-03.2, N.D.C.C.
- D. The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in § 57-40.2-03.3, N.D.C.C. This tax applies only to bids submitted on or after January 17, 1989.

Source: 2430 (1988).

3-1504. 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 article.

Source: 2430 (1988).

3-1505. Maximum tax imposed.--No single transaction involving one or more items is subject to a tax in excess of \$12.50.

Source: 2430 (1988).

3-1506. Collection and administration.--The tax commissioner and the director of finance for the city of Fargo shall have the powers enumerated in the provisions of chapter 57-39.2, N.D.C.C., and chapter 57-40.2, N.D.C.C., relating to the collection and administration of the state sales and use tax, including all administrative rules adopted by the tax commissioner. The tax commissioner is authorized to establish rate tables integrating the tax imposed by this chapter with other state, county and city taxes.

Source: 2430 (1988).

3-1507. Contract with state tax commissioner.--The director of finance for the city of Fargo is hereby authorized to contract with the tax commissioner for the administration and collection of taxes imposed by this chapter. The director of finance has all powers granted the commissioner and in the absence of a valid contract with the commissioner or failure of the commissioner to perform the delegated duties, shall perform these duties in place of the commissioner.

Source: 2430 (1988).

3-1508. Corporate officer liability.--Officers of any corporation required to remit taxes imposed by this article are personally liable for the failure of the corporation to file required returns or remit required payments. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The tax, penalty, and interest due may be assessed and collected pursuant to the provisions adopted by this article.

Source: 2430 (1988).

3-1509. Dedication of tax proceeds.--In accordance with Article 3P(4) of the Home Rule Charter of the city of Fargo, the revenues raised and collected pursuant to this article, less administrative expenses, are hereby dedicated to the construction, maintenance, and operation of a multi-purpose dome facility to be located on or adjacent to the campus of North Dakota State University to be used as a center for conventions and/or conferences, musical activities, sports activities and such other convention, cultural and sports functions as the dome authority, hereinafter created, may deem appropriate. Proceeds from such tax may be used to make direct payment of the costs for such construction, maintenance and operation or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs; provided, that such proceeds shall be deposited in two separate funds, to be established and utilized as follows:

- A. FargoDome Debt Service and Reserve Fund - Proceeds from the sales and use tax shall be placed in this fund in an amount which is sufficient to amortize any bonds or other debt instruments which may be sold to finance the construction cost of the FargoDome, and to provide a reserve therefor. The amount to be placed in this fund and disbursed therefrom shall be as provided in any resolution authorizing the bonds or other debt instruments.
- B. FargoDome Sales Tax Surplus Fund - All proceeds from the sales and use tax which are not placed in the FargoDome Debt Service and Reserve Fund as hereinabove provided shall be placed in this fund to be utilized for construction, operation, and maintenance of the FargoDome. Use of such funds by the Fargo Dome Authority shall be subject to approval of the board of city commissioners of the city of Fargo.

Source: 2430 (1988), 2507 (1989).

3-1510. Term.--A tax imposed by this article shall be in full force and effect through December 31, 2008.

Source: 2430 (1988).

## ARTICLE 3-16

### IMPOSITION OF A SALES AND USE TAX (STREET IMPROVEMENTS AND WATER PLANT)

- 3-1601 Definitions.
- 3-1602 Sales tax imposed.
- 3-1603 Use tax imposed.
- 3-1604 Exemptions.
- 3-1605 Maximum tax imposed.
- 3-1606 Collection and administration.
- 3-1607 Contract with state tax commissioner.
- 3-1608 Corporate officer liability.
- 3-1609 Dedication of tax proceeds.
- 3-1610 Term.

3-1601. Definitions.--All terms defined in chapter 57-39.2, N.D.C.C., and chapter 57-40.2, N.D.C.C., including all future amendments, are adopted by reference.

Source: 2614 (1992).

3-1602. Sales tax imposed.--Except as otherwise provided in this article, a tax of one-half of one percent (.5%) is imposed upon the gross receipts of retailers from all retail sales within the corporate limits of the city of Fargo, North Dakota, of the following:

- A. Tangible personal property, consisting of goods, wares, or merchandise.
- B. The furnishing or service of gas, communication services, or steam other than steam used for processing agricultural products.
- C. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity; but not including the playing of any

- machine for amusement or entertainment in response to the use of a coin.
- D. Magazines and other periodicals.
- E. The leasing or renting of a hotel or motel room or tourist court accommodations.
- F. The leasing or renting of tangible personal property, the transfer of title to which has not been subjected to a retail sales tax under this article.
- G. Sales of alcoholic beverages and tobacco products as defined in § 57-39.2-03.2, N.D.C.C.
- H. Furnishing and installment or attachment to real property in this state by a contractor or a subcontractor who is a retailer of drapes, hardware for hanging drapes, or carpet for floor covering.

Source: 2614 (1992).

3-1603. Use tax imposed.--Except as otherwise provided in this article, an excise tax of one-half of one percent (.5%) is imposed on the storage, use, or consumption in the city of Fargo on:

- A. The purchase price of tangible personal property purchased at retail for storage, use, or consumption within the city.
  - B. The fair market value of tangible personal property which was not originally purchased for storage, use or consumption in the city, at the time which it is brought into this city.
  - C. Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as provided in § 57-39.2-03.2, N.D.C.C.
  - D. The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in § 57-40.2-03.3, N.D.C.C.
- This tax applies only to bids submitted on or after May 5, 1992.

Source: 2614 (1992).

3-1604. 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 article.

Source: 2614 (1992).

3-1605. Maximum tax imposed.--No single transaction involving one or more items is subject to a tax in excess of \$12.50.

Source: 2614 (1992).

3-1606. Collection and administration.--The tax commissioner and the director of finance for the city of Fargo shall have the powers enumerated in the provisions of chapter 57-39.2, N.D.C.C., and chapter 57-40.2, N.D.C.C., relating to the collection and administration of the state sales and use tax, including all administrative rules adopted by the tax commissioner. The tax commissioner is authorized to establish rate tables integrating the tax imposed by this chapter with other state, county and city taxes.

Source: 2614 (1992).

3-1607. Contract with state tax commissioner.--The director of finance for the city of Fargo is hereby authorized to contract with the tax commissioner for the administration and collection of taxes imposed by this chapter. The director of finance has all powers granted the commissioner and in the absence of a valid contract with the commissioner or failure of the commissioner to perform the delegated duties shall perform these duties in place of the commissioner.

Source: 2614 (1992).

3-1608. Corporate officer liability.--Officers of any corporation required to remit taxes imposed by this article are personally liable for the failure of the corporation to file required returns or remit required payments. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The tax, penalty, and interest due may be assessed and collected pursuant to the provisions adopted by this article.

Source: 2614 (1992).

3-1609. Dedication of tax proceeds.--In accordance with Article 3Q(4) and (5) of the Home Rule Charter of the city of Fargo, one-half of the revenues raised and collected pursuant to this article, less administrative expenses, are hereby dedicated and shall be utilized for street improvements; and one-half of such revenues, less administrative expenses, are dedicated and shall be utilized for construction of a water treatment plant, with a portion of the interest earnings on such proceeds to be used for other capital improvements. Proceeds from such tax may be used to make direct payment of the costs for such street improvements and water plant construction, or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs; provided, that such proceeds shall be deposited in three separate funds, to be established and utilized as follows:

- A. Fargo Street Improvement Fund - one-half of the proceeds of such tax shall be placed in this fund to be utilized as follows:
  - 1. To pay all special assessments imposed pursuant to S.I.D. 3962 for the North Broadway Bridge which have not been certified for collection as of July 1, 1992.
  - 2. To pay all special assessments imposed pursuant to S.I.D. 4097 for the interchange at 25th Street South and Interstate Highway 94 which have not been certified for collection as of July 1, 1992.
  - 3. To pay all special assessments imposed pursuant to S.I.D. 4152 for the improvement of 45th Street South from Interstate 94 to 11th Avenue South which have not been certified for collection as of July 1, 1992.
  - 4. To pay all or any portion of the city's share of the cost of construction of urban aid street improvement projects which are funded in part by state and/or federal funds.
  - 5. To pay all or any portion of the city's share of the cost of construction of arterial streets which are constructed with no federal and/or state funds. The city's share of such construction costs shall be the additional costs required to construct such streets because of the additional width or thickness necessitated by such street's designation as an arterial.
- B. Fargo Water Treatment Plant Fund - one-half of the proceeds of such tax shall be placed in this fund and such proceeds, plus any interest income therefrom, shall be utilized for construction costs of the Fargo Water Treatment Plant.
- C. Capital Improvement Fund - all of the interest earnings from the Fargo Street Improvement Fund shall be placed in this fund to be utilized for such capital improvements as the governing body of the city may select. Transfer of such

earnings to this fund shall be quarterly or more frequently, if directed by the governing body of the city.

- D. Notwithstanding the foregoing specific allocations of sales and/or use tax proceeds, commencing July 1, 2002, and continuing through June 30, 2012, the sales and/or use tax imposed shall be utilized for such infrastructure capital improvements as the governing body of the city may select including streets and traffic management; water supply and distribution needs; and flood mitigation projects.

Source: 2614 (1992), 3085 (1999).

3-1610. Term.--The tax imposed by this article shall be in full force and effect through June 30, 2012.

Source: 2614 (1992), 3085 (1999).

## ARTICLE 3-17

### SPECIAL ASSESSMENT OF COSTS

#### Section

3-1701 Duty of property owner--Assessment of costs.

3-1702 Notice of hearing--Publication.

3-1703 Hearing on assessments.

3-1701. Duty of property owner--Assessment of costs.-- Whenever a duty is placed upon an owner, occupant or tenant of real property located within the city of Fargo to remove snow, control weeds, or otherwise abate nuisances, and when such owner, occupant or tenant fails to fulfill such duty and thereafter, the city furnishes labor and material for such removal, control or abatement, in accordance with law, all of the costs incurred by the city, including administrative and legal costs, may be assessed against such real property as hereinafter provided.

Source: 2688 (1994).

3-1702. Notice of hearing--Publication.--In all cases where the city has incurred costs to fulfill duties imposed on property owners as hereinabove provided in § 3-1701, the city finance director shall prepare a list of such assessments and shall give notice of hearing on such assessments. The notice, together with the list of assessments, shall be published once each week for two consecutive weeks in the official newspaper of the city and the last publication shall be not less than eight days before the date set for the hearing.

Source: 2688 (1994).

3-1703. Hearing on assessments.--At the time and date set for the hearing which is referred to in § 3-1702 of this article, the board of city commissioners shall consider and hear any objections to the assessments as published by the director of finance, or to any part thereof. After revision or correction of the assessment, if such revision or correction is necessary, it shall approve and confirm the assessments. Thereafter, the director of finance shall attach to the assessment list his certificate that the list is correct as confirmed by the governing body and shall file the same in his office, and shall certify the assessment in the manner provided in § 40-24-11, N.D.C.C.

Source: 2668 (1994).

ARTICLE 3-18

PROMOTION OF BUSINESS ACTIVITY AND SPECIAL  
ASSESSMENT OF COSTS

Section	
3-1801	Downtown Business Improvement Entity of Fargo, North Dakota established and authorized.
3-1802	Powers of the Downtown Entity.
3-1803	Financing methods, special assessments, voluntary assessments, or other methods.
3-1804	Protest against resolution of necessity--Protest bar to proceeding--Invalid or insufficient protest--Payment of costs--Tax Levy.
3-1805	Fiscal and miscellaneous matters.

3-1801. Downtown Business Improvement Entity of Fargo, North Dakota established and authorized.--The Downtown Business Improvement Entity of Fargo, North Dakota, a North Dakota nonprofit corporation (hereinafter sometimes called "BID", "Entity", or "Downtown Entity"), is hereby designated and shall be responsible, under the direction of the board of city commissioners, for the implementing, managing, directing and administration of promotion of business activity in downtown Fargo in the geographical area (hereinafter sometimes called "The Area") described as follows:

The boundaries of The Area are from the Red River of the North extending due west to the point of intersection of Second Avenue South and Fourth Street South; thence north along Fourth Street to First Avenue South; thence west along First Avenue to Broadway; thence north to Main Avenue with Main Avenue forming the southerly boundary; University Drive from Main Avenue to the railroad tracks in the vicinity of Sixth Avenue North; Sixth Avenue North to Fourth Street North; thence south to Fifth Avenue North (Old G.N. now B.N. railway tracks); thence east along said Fifth Avenue (railway tracks) to the north-south alley forming the easterly boundary of Lots 29 and 30, Block 26, Keeney and Devitt's 2nd Addition; thence south along said alley to the Red River of the North with the Red River forming the easterly boundary and shall include the properties abutting the said streets and avenues on both sides of the same. These boundaries are more particularly detailed on a map of downtown Fargo, a copy of which is on file with the city auditor's office and is incorporated herein by reference and made a part hereof.

Each owner of an assessable commercial or business property within the boundaries of The Area are members of the Downtown Entity and are entitled to representation at any and all meetings, either in person or by a representative of their choice. Any and all meetings of the Entity and any and all records of the Entity are public records and open to the public as provided by state law. Entity shall prepare and file with the city a three-year business, economic and development plan which shall include the suggested means of financing. Said plan shall use as its foundation and base the following:

1. Organization: Encouraging cooperation between the city, businesses and property owners, and developers in the downtown business community;
2. Promotion: Creating a positive image by promoting the

downtown area as an exciting and meaningful place to live, work, entertain, shop, and invest;

3. Design: Improving the appearance and the viability of the downtown area;
4. Administration: The three-year plan may serve as a planning model and district financing schedule subject to appropriate adjustment and revision as contemporary needs require. Any such plan and specifications must be filed in the office of the city auditor and shall remain on file in that office subject to inspection by the public.

Source: 2826 (1997).

3-1802. Powers of the Downtown Entity.--The Downtown Entity shall have the following powers:

- A. To develop, construct, maintain, manage and administrate the Downtown Entity as created hereby and defined herein.
- B. To adopt an annual budget, as well as a project budget or budgets as applicable, all of which shall be subject to approval of the board of city commissioners of the city of Fargo.
- C. Subject to its approved budget, to execute such contracts and other instruments as may be necessary to carry out the construction, maintenance, financing and operation of the Downtown Entity, to include, but not be limited to, the following:
  1. To employ necessary personnel, either permanent or temporary, as may be required, and determine their duties, qualifications and compensation. Said personnel shall be direct employees of the Downtown Entity.
  2. To acquire, by purchase, gift, devise, public or private grant, lease or otherwise any and all property, money, securities, or any other intangibles, which may be necessary for the construction, maintenance, financing and operation of the Downtown Entity.
  3. To purchase and sell supplies, goods, services, and equipment as may be necessary for the operation of all of its facilities, programs and projects.
- E. To establish necessary bylaws, rules and regulations for the construction, maintenance, financing and operation of the Downtown Entity subject, however, to its approved budget and this ordinance.

Source: 2826 (1997).

3-1803. Financing methods, special assessments, voluntary assessments, or other methods.  
--The city may defray the expense of improvements by special assessments for the promotion of business activity and new business development in The Area through any means not inconsistent with the purposes of this ordinance including, but not limited to, advertising, public information, marketing, decoration of public places, promotion of public events, furnishing of music in any public place, providing professional management, planning and promotion, and the general promotion of trade activities. In planning an improvement project under this ordinance, the board of city commissioners may include any work on materials which are deemed necessary or reasonably incidental to the project. Financing methods may include, but not be limited to, assessing the costs

and expense of the projects upon benefited property owners within The Area consistent with the provisions of chapters 40-22, 40-22.1, or 40-23 of the North Dakota Century Code and subject to the provisions of this ordinance. Prior to proceeding with the initial assessment district to include the entire Area, there must be an affirmative vote of 60% of assessable property owners responding to a preliminary notice mailed by city to all assessable property owners in The Area. The purpose of the notice is to show a positive affirmation to city prior to establishing the district and not to replace the legal requirements for establishing a special assessment district, including publication of the resolution declaring improvements necessary. Calculation of the percentage of affirmative or negative responses to said notice shall be based on the same formula as will be utilized in assessing benefits. Any subsequent special assessment district established will be in accordance with chapters 40-22 and 40-22.1 N.D.C.C. Assessment of the costs of any district will be done under the methods currently permissible under North Dakota state law. Financing methods may also include, but not be limited to, voluntary assessments and tax increment financing. The initial special assessment district will be created to generate revenues sufficient to fund an annual budget of \$300,000 for the years 1998 through 2000. The city may also create special assessments districts for separate projects which may encompass separate areas within The Area.

Source: 2826 (1997).

3-1804. Protest against resolution of necessity--Protest bar to proceeding--Invalid or insufficient protest--Payment of costs--Tax levy.--Upon receipt of a 60% affirmative response to the preliminary notice referred to in § 3-1804 above, the city may proceed to establish the initial improvement district utilizing the powers and procedures set forth in chapters 40-22 and 40-22.1, N.D.C.C. Any subsequent project will require a request therefor and if satisfied with the percentage of owners, the city may proceed to establish such special assessment district. Any district created shall include only property devoted in whole or in part to commercial or business use and income-producing rental property, and shall not include owner-occupied dwelling units including owner-occupied residential condominium units. Assessment of benefits will be governed by all of the provisions of chapters 40-22 or 40-22.1, N.D.C.C. Protests against the resolution of necessity shall be governed by the provisions of chapter 40-22, N.D.C.C., except as otherwise provided herein. In addition to the required published notice, mailed notice will be given to all affected property owners as shown on the records of the city assessor's office. If the board of city commissioners finds the protest to contain the names of the owners of at least 40% of assessable property (as calculated hereinafter) within any separate property area included within the district, the protest bars proceeding with the applicable portion of the improvement project, but does not bar proceeding with the remainder of the improvement project or assessing the cost of the improvement project against other areas within the proposed district, unless the protest represents a majority of the entire district. Calculation of the percentage of protest shall be based on the same formula as will be utilized in assessing benefits. Termination of proceedings does not relieve the city of responsibility for payment of costs incurred. The city is not responsible for payment of costs incurred and may require a deposit for costs. Payment of the costs incurred for such a barred improvement project must be as provided in § 3-1802. For payment of costs incurred for a barred improvement project proposed by the city of Fargo, the city may, if available funds are insufficient, issue its certificates of indebtedness or warrants, or levy a tax which shall be considered a tax for a portion of the costs of a special improvement project by general taxation within the meaning of § 57-15-10 of the North Dakota Century Code. If the protests are found to be insufficient or invalid, the board of city commissioners may cause the improvement to be made, levy and collect necessary assessments, and contract for the improvement and acquisition of necessary property or services.

Source: 2826 (1997).

3-1805. Fiscal and miscellaneous matters.--The Downtown Entity shall keep appropriate books, files and records which shall be open for public inspection at all reasonable times in accordance with North Dakota law. The books and accounts of the Downtown Entity may be audited by the city of Fargo in a manner similar to departments or agencies of the city of Fargo. The current level of city services to the area contained and described as the Entity will not be curtailed or limited by reason of additional services that may be provided by reason of the special assessment district.

Source: 2826 (1997).

## ARTICLE 3-19

### IMPOSITION OF A SALES AND USE TAX (FARGO PUBLIC LIBRARY)

#### Section

3-1901	Definitions
3-1902	Sales tax imposed
3-1903	Use tax imposed
3-1904	Exemptions
3-1905	Maximum tax imposed
3-1906	Collection and administration
3-1907	Contract with State Tax Commissioner
3-1908	Governor, manager and corporate officer liability
3-1909	Dedication of tax proceeds
3-1910	Term

3-1901. Definitions.--All terms defined in Chapter 57-39.2 NDCC and Chapter 57-40.2 NDCC, including all future amendments, are adopted by reference.

Source: 4438 (2004).

3-1902. Sales tax imposed.--Except as otherwise provided in this article, a tax of one-half of one (.5) percent is imposed upon the gross receipts of retailers from all retail sales within the corporate limits of the city of Fargo, North Dakota, of the following:

- A. Tangible personal property, consisting of goods, wares, or merchandise.
- B. The furnishing or service of gas, communication services, or steam other than steam used for processing agricultural products.
- C. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity; but not including the playing of any machine for amusement or entertainment in response to the use of a coin.
- D. Magazines and other periodicals.
- E. The leasing or renting of a hotel or motel room or tourist court accommodations.
- F. The leasing or renting of tangible personal property, the transfer of title to which has not been subjected to a retail sales tax under this article.
- G. Sales of alcoholic beverages and tobacco products as defined in Section 57-39.2-03.2 NDCC.

Source: 4438 (2004).

3-1903. Use tax imposed.--Except as otherwise provided in this article, an excise tax of one-half of one (.5) percent is imposed on the storage, use, or consumption in the city of Fargo on:

- A. The purchase price of tangible personal property purchased at retail for storage, use, or consumption within the city.
- B. The fair market value of tangible personal property which was not originally purchased for storage, use or consumption in the city, at the time which it is brought into this city.
- C. Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as provided in Section 57-39.2-03.2 NDCC.
- D. The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in Section 57-40.2-03.3 NDCC. This tax applies only to bids submitted on or after January 1, 2005.

Source: 4438 (2004).

3-1904. 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 article.

Source: 4438 (2004).

3-1905. Maximum tax imposed.--No single transaction involving one or more items is subject to a tax in excess of Twelve and 50/100 (\$12.50) dollars. By way of explanation, it is noted that there are other impositions of sales and use tax with the present imposition being \$12.50 for each of two impositions, thus totaling \$25 at the current time. The tax imposed by this ordinance is in addition to those impositions.

Source: 4438 (2004).

3-1906. Collection and administration.--The Tax Commissioner and the director of finance for the city of Fargo shall have the powers enumerated in the provisions of Chapter 57-39.2 NDCC and Chapter 57-40.2 NDCC relating to the collection and administration of the state sales and use tax, including all administrative rules adopted by the Tax Commissioner. The Tax Commissioner is authorized to establish rate tables integrating the tax imposed by this chapter with other state, county and city taxes.

Source: 4438 (2004).

3-1907. Contract with State Tax Commissioner.--The director of finance for the city of Fargo is hereby authorize to contract with the Tax Commissioner for the administration and collection of taxes imposed by this chapter. The director of finance has all powers granted the commissioner and in the absence of a valid contract with the commissioner or failure of the commissioner to perform the delegated duties, shall perform these duties in place of the commissioner.

Source: 4438 (2004).

3-1908. Governor, manager and corporate officer liability.—N.D.C.C. Sections 57-39.2-15.2 and 57-39.2-18.1 shall govern for liability for payment of taxes under this ordinance as follows:

- A. If a limited liability company required to hold a permit under this chapter fails for any reason to file the required returns or to pay the taxes due under this chapter, the governors, managers, or members of a member-controlled limited liability company, jointly or severally, charged with the responsibility of supervising the preparation of the returns and payments are personally liable for the failure. The dissolution of a limited liability company does not discharge a governor's, manager's, or member's liability for a prior failure of the limited liability company to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected under the provisions of this chapter.
- B. If the governors, managers, or members elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability company must be required to make a cash deposit or post with the tax commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking provided for in this section must be in an amount equal to the estimated annual sales tax liability of the limited liability company.
- C. If a corporation required to hold a permit issued under this chapter fails for any reason to file the required returns or to pay the tax due, the president, vice president, secretary, or treasurer of the corporation, jointly or severally, having control, or supervision of, or charged with the responsibility for making the returns and payments are personally liable for the failure. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The sum due for the liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities.
- D. If the corporate officers elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation must be required to make a cash deposit or post with the tax commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking provided for in this section must be in an amount equal to the estimated annual sales tax liability of the corporation.

Source: 4438 (2004).

3-1909. Dedication of tax proceeds.--In accordance with Article 3R(4) of the Home Rule Charter of the city of Fargo, proceeds of a sales and/or use tax which is imposed pursuant to the authority granted herein shall be utilized for the construction, improvement, maintenance and operation of the Public Library and library expansion pursuant to an adopted library facility plan. This will include construction of a new 45,000 square foot library facility in the downtown Fargo area, and the acquisition (either conversion or new construction) of a facility in south Fargo for a branch library. Any funds remaining after completion of the library facility projects will be placed in a special escrow fund to support future library operations or expansion needs. The board of city commissioners of the city of Fargo, as the budget authority over the funds, will have the

authority to establish said special escrow fund and to transfer funds, if any, remaining after completion of the said library facility projects.

Source: 4438 (2004).

3-1910. Term.--The tax imposed by this article shall be in full force and effect through June 30, 2006.

Source: 4438 (2004).

## ARTICLE 3-20

### IMPOSITION OF A SALES AND USE TAX (INFRASTRUCTURE CAPITAL IMPROVEMENTS)

#### Section

3-2001	Definitions.
3-2002	Sales tax imposed.
3-2003	Use tax imposed.
3-2004	Gross Receipts of Alcoholic Beverages.
3-2005	Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment.
3-2006	Exemptions.
3-2007	Maximum Tax Imposed.
3-2008	Collection and Administration.
3-2009	Contract with state tax commissioner.
3-2010	Dedication of tax proceeds.
3-2011	Term.
3-2012	Effective Date.

3-2001. 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, North Dakota Century Code (N.D.C.C.), are adopted by reference.

3-2002. Sales tax imposed.—Subject to the provisions of N.D.C.C. §40-05.1-06 and except as otherwise provided in this article or the sales and use tax laws of the State of North Dakota, a tax of one percent (1%) is imposed upon the gross receipts of retailers from all retail sales, including the leasing or renting of tangible personal property, within the corporate limits of the city of Fargo, North Dakota.

3-2003. Use tax imposed.-- Subject to the provisions of N.D.C.C. §40-05.1-06 and except as otherwise provided in this article or the sales and use tax laws of the State of North Dakota, an excise tax of one percent (1%) is imposed on the storage, use, or consumption in the city of Fargo of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of one percent (1%) 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 percent (1%) of the fair market value of the property at the time it was brought into this city.

3-2004. 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 percent (1%) 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 percent (1%).

3-2005. 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 percent (1%) 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 percent (1%).

3-2006. 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 article. In addition to the exemptions provided by state law, this Ordinance provides an exemption from imposition and computation of the city sales or use tax for the playing of any machine for amusement or entertainment in response to the use of a coin.

3-2007. Maximum tax imposed. Any patron or user paying a tax imposed by this article in excess of \$25.00 upon any single transaction of one or more items may obtain a refund of the excess tax payment by filing a request for refund upon the forms provided by the tax commissioner.

3-2008. Collection and administration.--The tax commissioner and the director of finance for the city of Fargo shall have the powers enumerated in the provisions of chapters 57-39.2, 57-39.4, 57-39.5 and 57-39.6 N.D.C.C., and chapter 57-40.2, N.D.C.C., relating to the collection and administration of the state sales, use and gross receipts tax, including all administrative rules adopted by the tax commissioner. The tax commissioner is authorized to establish rate tables integrating the tax imposed by this chapter with other state, county and city taxes.

3-2009. Contract with state tax commissioner.--The director of finance for the city of Fargo is hereby authorized to contract with the tax commissioner for the administration and collection of taxes imposed by this chapter. The director of finance has all powers granted the commissioner and in the absence of a valid contract with the commissioner or failure of the commissioner to perform the delegated duties shall perform these duties in place of the commissioner.

3-2010. Dedication of tax proceeds.--In accordance with Article 3R(4) and (5) of the Home Rule Charter of the city of Fargo, the revenues raised and collected pursuant to this article, less administrative expenses, and interest earnings on such revenues, shall be deposited in a separate infrastructure fund to be established, and shall be utilized for such infrastructure capital improvements as the governing body of the city may select. Infrastructure capital improvements shall mean expenditures for streets and traffic management; water supply and treatment needs including construction or expansion of water treatment facilities; water distribution system needs; sewerage treatment and collection system needs, including construction or expansion of sewage treatment facilities, and flood protection projects. 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 infrastructure improvements or may be pledged to amortize bonds or other debt instruments

which may be sold to finance such costs.

3-2011. Term.--The tax imposed by this article shall be in full force and effect from January 1, 2009 through December 31, 2028.

3-2012. Effective Date. This ordinance shall be in full force and effect from and after its passage and approval, but not prior to January 1, 2009.

Source: 4673 (2008), 4682 (2008).