

## **NOTICE OF PROPOSED HOME RULE CHARTER AMENDMENT**

An election will be held on Tuesday June 30, 2009, on the question of whether to amend the Home Rule Charter to create a sales, gross receipts and use tax for Fargo permanent flood protection or flood risk mitigation.

Please take notice that the Board of City Commissioners, on the 27<sup>th</sup> day of April, 2009, 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 provide for a sales, gross receipts and use tax for permanent flood protection or flood risk mitigation which proposal is as follows:

### **RESOLUTION**

#### **PROPOSAL FOR AMENDMENT OF HOME RULE CHARTER TO CREATE SALES, GROSS RECEIPTS AND USE TAX FOR FARGO PERMANENT FLOOD PROTECTION OR FLOOD RISK MITIGATION**

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, the Board of City Commissioners wish to propose an amendment to the Home Rule Charter of the city which would implement a sales, gross receipts and use tax to generate proceeds to be used for improvements and activities related to the City's flood protection and flood risk mitigation needs; and,

WHEREAS, funds generated from said sales, gross receipts and use tax for such purposes are intended to reduce the need to finance flood risk mitigation and reduction improvements through special assessments or other sources of funds; but may not eliminate the need for such methods or sources of funding or financing;

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 be amended to add paragraph T to read as follows:

- T. To impose a retail sales, gross receipts and use tax subject to the following limitations:
1. Sales, gross receipts and uses taxed shall be limited to those which are taxed by the State of North Dakota pursuant to Chapters 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code.
  2. The amount of tax shall not exceed one-half of one percent (1/2%) of the gross receipts and purchases which are taxed by the State of North Dakota pursuant to Chapters 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code, nor shall the tax exceed twelve and 50/100 dollars (\$12.50) on any single purchase, subject to Section 57-01-02.1 of the North Dakota Century Code; and subject to collection as in Section 57-39.2-08.2 of the North Dakota Century Code. The retail sales, gross receipts and use tax imposed shall be computed and collected in the same manner provided by law for the collection of the state sales, gross receipts and use tax.
  3. A sales, gross receipts and use tax, which is imposed pursuant to the authority granted herein, shall extend for a period of twenty years from and after January 1, 2010, and end on December 31, 2029.
  4. The proceeds of a sales, gross receipts and use tax, which is imposed pursuant to the authority granted herein, shall be utilized for such flood risk mitigation and reduction, and related improvements and activities, as the governing body of the city may select. Flood risk mitigation and reduction, and related improvements and activities, shall mean expenditures to reduce or mitigate the risk to the city from flood events, to provide protection from such flood events, including without limitation the providing for retention of water. Such expenditures may be used to acquire property; enter into agreements; make, install, construct or build improvements and engage in projects and activities as are necessary and appropriate for such purposes. The stated goal shall be to reduce the risk to the city to the level of a 500-year flood event. Interest earnings on such proceeds may also be utilized for such purposes. Proceeds from such tax may be used to make direct payment for such purposes or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

5. Revenues raised and collected pursuant to authority granted herein, less administrative expenses, shall be deposited in a separate flood risk mitigation fund to be established, and shall be utilized as directed by the governing body of the city for the purposes set forth herein.

The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which under the constitution of this state, it would be competent for this charter specifically to enumerate. References to provisions of the North Dakota Century Code include any amendments thereto that may be adopted by the North Dakota Legislative Assembly.

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 JUNE 30, 2009:

~~(TO BE PUBLISHED ONCE IN THE FORUM AT LEAST SIXTY (60) DAYS PRIOR TO THE CITY ELECTION ON JUNE 30, 2009:~~ PUBLISH FRIDAY MAY 1<sup>ST</sup>, 2009)