

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 4724

AN ORDINANCE ENACTING ARTICLE 38-01  
OF CHAPTER 38 OF THE FARGO MUNICIPAL CODE RELATING  
TO CITY STREET LIGHTING SYSTEM UTILITY

1  
2 WHEREAS, electorate of the City of Fargo has adopted a home rule charter in  
3 accordance with Chapter 40-05.1 of the North Dakota Century Code;

4 WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City  
5 shall have the right to implement home rule powers by ordinance; and

6 WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home  
7 rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict  
therewith and shall be liberally construed for such purpose; and

8 WHEREAS, the Board of City Commissioners of the City of Fargo, North Dakota, finds  
9 that it is necessary and appropriate to establish and create a utility system for the installation,  
10 operations, repair and maintenance of the city's street lighting system, as the same is authorized  
by law including N.D.C.C. Sections 40-05-01, 40-05.1-05 and 40-35-01, *et sequitur*;

11 NOW, THEREFORE,

12 Be It Ordained by the Board of City Commissioners of the City of Fargo:

13 Article 38-01 of Chapter 38 of the Fargo Municipal Code is hereby enacted to read as  
14 follows:

15 Section 1. Enactment.

16 38-0101. Creation of Street Lighting System Utility.--Pursuant to the provisions of  
17 Section 40-05-01 and Chapter 40-05, N.D.C.C, all lands, easements, rights in land, facilities,  
18 poles, wires, cables, conduits and other electrical fixtures and equipment necessary for the proper  
19 maintenance and operation thereof heretofore or hereafter acquired by purchase, lease or  
20 otherwise and set aside by the board of city commissioners of the city of Fargo for a municipal  
street lighting system are hereby declared to be and shall henceforth constitute, be held, operated,  
maintained, improved, enlarged, and administered as a single system to be known as the street  
lighting system.

21 38-0102. Control of the System.--All properties and assets set aside or held by the board  
22 of city commissioners for the purpose of lighting streets and alleys and all moneys to be derived  
23 from the operations and maintenance of said assets shall at all times be under the management  
and control of the board and shall be operated under such rules, terms and conditions as the  
board may establish.

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1 38-0103. Rates and Charges to Be Established.--In order to provide funds to defray the  
2 costs operating, maintaining and repairing the street lighting system and to provide for related  
3 revenue transfers, the board of city commissioners shall from time to time determine, establish,  
4 maintain and change, by resolution, a schedule of rates, charges and fees for all services,  
5 facilities and benefits furnished by the street lighting system.

6 38-0104. Rates and Charges to be Billed and Collected.--The rates and charges shall be  
7 billed and collected in the same manner and time as are bills for other utility services provided  
8 by the city under article 16-03 of the Fargo Municipal Code.

9 38-0105. System to Be Self Supporting.--The street lighting system shall be operated  
10 and maintained, and the rates and charges for use of the facilities, shall be such as to make the  
11 system self-supporting, self-perpetuating and adequate to pay all of the costs of operations and  
12 maintenance of the system, to fund the acquisition of capital equipment needed to maintain the  
13 system assets, to provide for revenue transfers approved during the annual budget adoption, to  
14 provide a reasonable operating reserves and to pay all obligations of the city incurred in  
15 establishing, improving and extending the system provided, however, nothing herein shall be  
16 deemed or construed to preclude the city from defraying all or any part of the expense of the  
17 operation or of any improvement or extension of the system by the levy of special assessments,  
18 or taxes, or to preclude the city from issuing general obligation bonds, whenever and to the  
19 extent that such action is authorized in a manner provided by law and is deemed fair and  
20 equitable by the board of city commissioners.

21 38-0106. Segregation of City of Fargo Street Lighting Fund.--All moneys received by  
22 the city in respect of the service and facilities furnished and made available by the system shall  
23 be paid into the treasury of the city and kept in a utility fund which shall be permanently  
maintained on the books of the city, separate and distinct from other funds, shall be considered a  
non-major utility fund for financial reporting and budgeting purposes, and shall be designated as  
the Street Lighting System Fund.

38-0107. Installation of Street Lights.--The board of city commissioners may, from time  
to time, designate where street lights shall be installed and the manner and procedures to be  
followed in making such installations. The city engineer shall be responsible for the regulation,  
control, maintenance, and expansion of the street lighting system.

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Section 2. Effective Date.

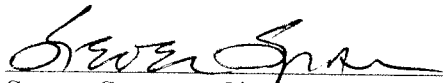
This ordinance shall be in full force and effect from and after its passage, approval and publication.



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Dennis R. Walaker, Mayor

(SEAL)

Attest:



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Steven Sprague, City Auditor

First Reading: 11-16-2009  
Second Reading: 12-14-2009  
Final Passage: 12-14-2009  
Publication: 01-04-2010

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