

**OFFICE OF THE  
CITY ATTORNEY**

**CITY ATTORNEY**  
Nancy J. Morris

**SERKLAND LAW FIRM**

10 Roberts Street North

P.O. Box 6017

Fargo, ND 58108

Phone: 701.232.8957 | Fax: 701.237.4049

**ASSISTANT CITY ATTORNEYS**

Ian R. McLean ▪ Alissa R. Farol ▪ William B. Wischer

5

July 3, 2025

Board of City Commissioners  
City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

**RE: Ordinance Amendments in Response to Changes in State Law (Criminal and Moving Violations)**

Dear Commissioners,

At the June 9, 2025, meeting of the Board of City Commissioners, you approved a motion to direct the City Attorney's Office to work with various city departments to revise city ordinances to comport with changes to state law passed during the 2025 legislative session. I am enclosing a series of proposed amended and/or newly enacted ordinances which focus on changes in state law regarding criminal behaviors and/or moving violations and the corresponding fines.

A summary of the enclosed ordinances is as follows (the relevant Legislative Bill is in **Bold**):

**HB 1429:** Fargo Municipal Code 10-0322 (harassment) and 10-0322.1 (harassment -hate crime) are amended to include an offense for using a robot to engage in offensive conduct.

**SB 2037:** Fargo Municipal Code 10-0103 is amended so individuals that use tobacco or sell tobacco who are 14-18 years old must be prosecuted in juvenile court.

**SB 2371:** Fargo Municipal Code 8-0610 (rotary traffic islands) is amended so that a vehicle does not have to signal when exiting the rotary traffic islands (i.e., round-a-bouts).

**SB 2132:** Fargo Municipal Code 8-0313 (careless driving) is amended to make minor changes to the definition of careless driving and to increase the fine from \$60 to \$200.

**HB 1422:** Fargo Municipal Code 8-0309 (Driving under suspension) is amended to provide a judge with discretion to dismiss or amend a driving under suspension charge if the defendant is able to reinstate their driving privileges within sixty days of the offense. Additionally, Fargo Municipal Code 8-0305(B) is amended to increase the fine for driving without a valid license in possession from \$40 to \$150.

**HB 1375:** Fargo Municipal Code 10-0502 is being enacted which will require individuals who appear to be under the age of 21, and are located within a liquor establishment, to provide an officer with an ID, upon request. Failure to do so is an infraction which is punishable with a fine. An individual may have the charge dismissed if they provide an ID that establishes they were over the age of 21 at the time of the officer's request prior to the disposition of their criminal matter.

**HB 1294:** Fargo Municipal Code 8-1218(F-G) and 8-1219 regard passing a stopped school bus. The respective fines will be raised to \$250.

**HB 1316:** Fargo Municipal Code 1-0305 is being amended to assess an additional \$100 fee to any moving violation if the defendant has a restricted license (permit).

**HB 1298:** Fargo Municipal Code 1-0305 is amended to increase speeding fines.

**Suggested Motion:** I move to waive receipt and filing of the enclosed ordinances one week prior to first reading and that this be the first reading, by title, of:

- An ordinance amending sections 10-0322 and 10-0322.1, of article 10-03, of chapter 10, of the Fargo Municipal Code relating to harassment and harassment – hate crime;
- An ordinance amending section 10-0103, of article 10-01, of chapter 10, of the Fargo Municipal Code relating to sale of tobacco to individuals under twenty-one (21) years of age and use and possession by individuals under 21 years of age prohibited;
- An ordinance amending section 8-0610, of article 8-06, of chapter 8, of the Fargo Municipal Code relating to rotary traffic islands;
- An ordinance amending section 08-0313, of article 08-03, of chapter 8, of the Fargo Municipal Code, relating to careless driving and an ordinance amending section 1-0305, of article 1-03, of chapter 1, of the Fargo Municipal Code, relating to classification of ordinance violations;
- An ordinance amending section 8-0309, of article 8-03, of chapter 8, of the Fargo Municipal Code relating to driving while license suspended or revoked—impoundment of license plates and an ordinance amending section 1-0305, of article 1-03, of chapter 1, of the Fargo Municipal Code relating to classification of ordinance violations;
- An ordinance enacting section 10-0502, in article 10-05, of chapter 10, of the Fargo Municipal Code, titled, proof of identification in licensed premises;
- An ordinance amending section 1-0305, of article 1-03, of chapter 1, of the Fargo Municipal Code relating to classification of ordinance violations (passing a bus);

- An ordinance amending section 1-0305, of article 1-03, of chapter 1, of the Fargo Municipal Code relating to classification of ordinance violations (\$100 fee); and
- An ordinance amending section 1-0305, of article 1-03, of chapter 1, of the Fargo Municipal Code relating to classification of ordinance violations (speeding).

Sincerely,

A handwritten signature in blue ink, appearing to read 'William B. Wischer', with a stylized, cursive script.

William B. Wischer

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 AN ORDINANCE AMENDING SECTIONS 10-0322 AND 10-0322.1,  
2 OF ARTICLE 10-03, OF CHAPTER 10, OF THE FARGO MUNICIPAL CODE  
3 RELATING TO HARASSMENT AND HARASSMENT – HATE CRIME

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

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

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

11 WHEREAS, the Board of City Commissioners deems it necessary and appropriate  
12 to implement such authority by the adoption of this ordinance;

13 NOW, THEREFORE,

14 Be it Ordained by the Board of City Commissioners of the City of Fargo:

15 Section 1. amendment.

16 Section 10-0322, of Article 10-03, of Chapter 10, of the Fargo Municipal Code, is amended  
17 as follows:

18 10-0322. - Harassment.

19 A. A person is guilty of an offense if, with intent to frighten or harass another, ~~he~~  
20 the person:

21 1. Makes a telephone call anonymously or in offensively coarse language;  
22  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

2. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication;  
~~or~~
3. Communicates a falsehood in writing or by electronic communication and causes mental anguish; ~~or~~
4. Uses a robot to engage in offensive conduct with no legitimate purpose.

B. Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made, or at the place where the electronic communication was received.

C. Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

D. As used in this section "robot" means an artificial object or system that senses, processes, and acts using technology, including the associated elements, communication links, and artificial intelligence. The term includes remotely piloted aircraft.

Section 2. amendment.

Section 10-0322.1, of Article 10-03, of Chapter 10, of the Fargo Municipal Code, is amended as follows:

10-0322.1. – Harassment – Hate Crime.

A. A person is guilty of an offense if, with intent to frighten or harass another, ~~he~~ the person:

1. Makes a telephone call anonymously or in offensively coarse language;
2. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication;  
~~or~~

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

- 1                   3. Communicates a falsehood in writing or by electronic communication and  
2                   causes mental anguish; or  
3                   4. Uses a robot to engage in offensive conduct with no legitimate purpose.

4                   B. Any offense defined herein and committed by use of electronic communication  
5                   may be deemed to have been committed at either the place at which the  
6                   electronic communication was made, or at the place where the electronic  
7                   communication was received.

8                   C. Any offense defined herein is deemed communicated in writing if it is  
9                   transmitted electronically, by electronic mail, facsimile, or other similar means.  
10                  Electronic communication means transfer of signs, signals, writing, images,  
11                  sounds, data, or intelligence of any nature transmitted in whole or in part by a  
12                  wire, radio, electromagnetic, photo-electronic, or photo-optical system.

13                  D. Commits an offense in violation of subdivision A (1), (2), or (3) in whole or in  
14                  part because of the actual or perceived race, color, religion, gender, disability,  
15                  sexual orientation, gender identity, national origin, or ancestry of the victim.

16                  E. As used in this section "robot" means an artificial object or system that senses,  
17                  processes, and acts using technology, including the associated elements,  
18                  communication links, and artificial intelligence. The term includes remotely  
19                  piloted aircraft.

20                  Section 3. Penalty.

21                  A person who violates section 10-0322 or 10-0322.1 of the Fargo Municipal Code shall be  
22                  deemed to have committed a Class B Misdemeanor and shall be punished as provided in  
23                  Section 1-0301 of the Fargo Municipal Code, as may be amended from time to time.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 4. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading and Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1           AN ORDINANCE AMENDING SECTION 10-0103, OF ARTICLE 10-01,  
2           OF CHAPTER 10, OF THE FARGO MUNICIPAL CODE  
3           RELATING TO SALE OF TOBACCO TO INDIVIDUALS UNDER TWENTY-ONE  
4           (21) YEARS OF AGE AND USE AND POSSESSION BY INDIVIDUALS UNDER 21  
5           YEARS OF AGE PROHIBITED

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

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

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

13           WHEREAS, the Board of City Commissioners deems it necessary and appropriate  
14           to implement such authority by the adoption of this ordinance;

15           NOW, THEREFORE,

16           Be it Ordained by the Board of City Commissioners of the City of Fargo:

17           Section 1. amendment.

18           Section 10-0103, of Article 10-0103, of Chapter 10, of the Fargo Municipal Code, is  
19           amended as follows:

20           10-0103. - Sale of tobacco to individuals under twenty-one (21) years of age and use and  
21           possession by individuals under 21 years of age prohibited.

22           A. For purposes of this section the definitions in 10-1001 shall apply.  
23



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

- 1 B. No person shall sell or furnish to an individual under 21 years of age, or procure  
2 for an individual under 21 years of age, cigarettes, including clove cigarettes,  
3 cigarette papers, cigars, e-cigarettes, snuff, or tobacco products in any other form  
4 in which it may be utilized for smoking, vaping, or chewing. As used in this section,  
"sell" includes dispensing from a vending machine under the control of the vendor.  
A person in violation of this subsection shall be guilty of an infraction.
- 5 C. No person under the age of 21 shall sell, possess, purchase, attempt to purchase,  
6 smoke, or use cigarettes, including clove cigarettes, cigars, cigarette papers, e-  
cigarettes, snuff, or tobacco products in any other form in which it may be utilized  
7 for smoking, vaping, or chewing.
- 8 D. An individual fourteen years of age or older, but under eighteen years of age, found  
9 to have violated subsection B or C of this section has committed an infraction and  
10 must be sent to juvenile court.
- 11 1. Subsections (B) and (C) shall not apply to persons under the age of 21 who  
12 purchase or attempt to purchase said tobacco products listed in this subsection  
13 while under the direct supervision of the police department, the city health  
14 department, or the city attorney's office, for training, education, research, or  
enforcement purposes.
- 15 2. Subsections (B) and (C) do not apply to an individual under 21 years of age  
16 who possesses cigarettes, cigarette papers, cigars, snuff, tobacco in any other  
17 form in which it may be used for smoking or chewing, electronic smoking  
18 devices, or alternative nicotine products when required in the performance of  
the individual's duties as an employee, however, in no event shall any sale or  
19 other exchange for value with a person under 21 years of age be lawful.
- 20 3. It shall be a defense to subsections (B) and (C) if the individual under 21 years  
21 of age possesses or uses tobacco related to a cultural or religious practice;  
22 including, without limitation, the use or possession of tobacco during any  
religious or cultural ceremony, however, in no event shall any sale or other  
23 exchange for value with a person under 21 years of age be lawful.
4. Non-criminal violation. A person found to have violated subsection (C) and is  
at least ~~14~~ 18 years of age must attend and complete within sixty (60) days of  
the date of offense a tobacco education program or cessation class approved by  
the Fargo Municipal Court.
5. Payment procedure. Any individual who has been cited for a violation of  
subsection (C) must post bond in the amount stated on the citation within  
fourteen (14) days of the date of the citation and must also, within said fourteen  
(14) day period, notify the Fargo Municipal Court whether he or she requests a  
hearing before one of the judges of the Fargo Municipal Court. At such hearing,  
the individual who has been cited for a violation of subsection (C) may make a  
statement in explanation of that individual's action and the judge may waive,

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

reduce, or suspend the fee or bond, or both. If the individual cited elects to forfeit the bond or fails to appear before the Fargo Municipal Court at a time scheduled for a hearing, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court is the same as the fee schedule set forth in subparagraph 4, above. This section does not allow a citing officer to receive the fee or bond.

- a. If an individual cited for a violation of subsection (C) requests a hearing on the issue of the commission of the violation cited, the clerk of court will schedule a hearing date no later than 90 days after the citation was issued. If said individual has not already done so, at the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
- b. The failure to post bond or to pay an assessed fee, or attend a tobacco education or tobacco cessation class when required to do so is punishable as contempt of court. Such person adjudged guilty of contempt for failure to pay a fee or fine or to attend a tobacco education class or tobacco cessation class when required to do so may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or attendance at a tobacco education class or tobacco cessation class, to an alternative sentence or a sanction including community service. An individual under 21 years of age may not be imprisoned for the contempt.
6. Burden of proof. The prosecution must prove the commission of a cited violation under subsection (C), above, by a preponderance of the evidence.
- ~~7. Notice to parent or legal guardian. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten (10) days of the citation.~~
- ~~8.~~ 7. Penalty for contempt. A person adjudged guilty of contempt for failure to pay a fee or fine or to attend a tobacco education class or tobacco cessation class when required to do so may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or attendance at a tobacco cessation class to an alternative sentence or sanction including community service and may require the person to pay an additional fee or fine of up to \$500.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 2. Penalty.

A person who violates section 10-0103(B) of the Fargo Municipal Code shall be deemed to have committed an infraction and shall be punished as provided in Section 1-0301 of the Fargo Municipal Code, as may be amended from time to time.

A person who violates section 10-0103(C) of the Fargo Municipal Code shall be deemed to have committed a noncriminal offense and shall be punished as provided in Section 1-0305 of the Fargo Municipal Code, as may be amended from time to time.

Section 3. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading and Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING SECTION 8-0610, OF ARTICLE 8-06,  
OF CHAPTER 8, OF THE FARGO MUNICIPAL CODE  
RELATING TO ROTARY TRAFFIC ISLANDS

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

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

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

WHEREAS, the Board of City Commissioners deems it necessary and appropriate  
to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be it Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. amendment.

Section 8-0610, of Article 8-06, of Chapter 8, of the Fargo Municipal Code, is amended as  
follows:

8-0610 - Rotary traffic islands.

1. A vehicle passing around a rotary traffic island must be driven only to the right  
of such island.
2. After a vehicle enters a rotary traffic island, the vehicle may ~~not~~ exit from any  
position within the rotary traffic island without ~~first~~ giving a signal of intention  
to exit the rotary traffic island.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 2. Penalty.

A person who violates section 8-0610 of the Fargo Municipal Code shall be deemed to have committed a noncriminal offense and shall be punished as provided in Section 1-0305 of the Fargo Municipal Code, as may be amended from time to time.

Section 3. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading and Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 AN ORDINANCE AMENDING SECTION 08-0313, OF ARTICLE 08-03, OF  
2 CHAPTER 8, OF THE FARGO MUNICIPAL CODE, RELATING TO  
3 CARELESS DRIVING

4 AND

5 AN ORDINANCE AMENDING SECTION 1-0305, OF ARTICLE 1-03,  
6 OF CHAPTER 1, OF THE FARGO MUNICIPAL CODE, RELATING TO  
7 CLASSIFICATION OF ORDINANCE VIOLATIONS

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

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

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

15 WHEREAS, the Board of City Commissioners deems it necessary and appropriate  
16 to implement such authority by the adoption of this ordinance;

17 NOW, THEREFORE,

18 Be it Ordained by the Board of City Commissioners of the City of Fargo:  
19  
20  
21  
22  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 1. Amendment.

Section 08-0313, of Article 08-03, of Chapter 8, of the Fargo Municipal Code, is amended as follows:

08-0313. - Careless Driving.

An individual ~~No person~~ may not drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having shall drive with regard to the existing actual and potential hazards, ~~then existing. Consistent with the foregoing, every person~~ An individual shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. An individual ~~Any person~~ who drives a vehicle upon a highway or private or public property open to the public for the operation of motor vehicles ~~without heed to~~ in violation of the requirements or restrictions of this section ~~has committed~~ is guilty of careless driving.

Section 2. Amendment.

Section 1-0305, of Article 1-03, of Chapter 1, of the Fargo Municipal Code, is amended as follows:

1-0305. - Classification of ordinance violations.

\* \* \*

C. Violations of the following ordinances are noncriminal offenses and shall require payment of a fee as follows:

\* \* \*

6. For a violation of the following ordinances, a fee of \$60.00.

Section 8-0301 (failure to have vehicle under control), ~~section 8-0313 (careless driving)~~, section 8-0501 (speed-care required), section 8-0505 (special speed

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 limitation on bridges), section 8-0409 (traffic engineer to establish and design public  
2 carrier stops and stands).

3 \* \* \*

4 10. For a violation of the following ordinances, a fee of \$200.00

5 Section 8-0321 (use of a wireless communication device prohibited), section 8-0322  
6 (distracted driving), section 8-0313 (careless driving).

7 Section 3. Effective Date.

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

10  
11 \_\_\_\_\_  
12 Dr. Timothy J. Mahoney, M.D., Mayor

13 Attest:

14  
15 \_\_\_\_\_  
16 Steven Sprague, City Auditor

17  
18 First Reading:  
19 Second Reading and Final Passage:  
20 Publication:  
21  
22  
23



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 AN ORDINANCE AMENDING SECTION 8-0309, OF ARTICLE 8-03,  
2 OF CHAPTER 8, OF THE FARGO MUNICIPAL CODE  
3 RELATING TO DRIVING WHILE LICENSE SUSPENDED OR REVOKED—  
4 IMPOUNDMENT OF LICENSE PLATES

5 AND

6 AN ORDINANCE AMENDING SECTION 1-0305, OF ARTICLE 1-03,  
7 OF CHAPTER 1, OF THE FARGO MUNICIPAL CODE  
8 RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS

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

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

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

16 WHEREAS, the Board of City Commissioners deems it necessary and appropriate  
17 to implement such authority by the adoption of this ordinance;

18 NOW, THEREFORE,

19 Be it Ordained by the Board of City Commissioners of the City of Fargo:  
20  
21  
22  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 1. amendment.

Section 8-0309, of Article 8-03, of Chapter 8, of the Fargo Municipal Code, is amended as follows:

8-0309. - Driving while license suspended or revoked—Impoundment of license plates.

~~It shall be unlawful for any person to drive a vehicle on any public or private way, street, alley, parking lot, or area to which the public has a right of access for vehicular use, within the city, at a time when his privilege to do so is suspended or revoked in any jurisdiction. If the suspension or revocation was imposed for violation of § 39-08-01 of the North Dakota Century Code or equivalent statute or ordinance or was governed by § 39-06-31 or chapter 39-20 of the North Dakota Century Code, the sentence must be at least four consecutive days' imprisonment and such fine as the court deems proper. Upon conviction for violation of this ordinance, the court may, in addition to the imposition of the penalty, order the motor vehicle number plates of the motor vehicle owned by the offender at the time of the offense to be impounded by the chief law enforcement officer of the city for the duration of the period of suspension of the offender's driver's license or driving privileges by the licensing authority. The impounded motor vehicle number plates may be released, upon the order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title issued by the registrar of motor vehicles.~~

It shall be unlawful for any person to drive a vehicle on any public or private way, street, alley, parking lot, or area to which the public has a right of access for vehicular use, within the city, at a time when the driver's privilege to do so is suspended or revoked in any jurisdiction.

If the suspension or revocation was imposed for violation of § 39-08-01 of the North Dakota Century Code or equivalent statute or ordinance or was governed by § 39-06-31 or chapter 39-20 of the North Dakota Century Code, the sentence must be at least four consecutive days' imprisonment and such fine as the court deems proper.

Upon conviction for violation of this ordinance, the court may, in addition to the imposition of the penalty, order the motor vehicle number plates of the motor vehicle owned by the offender at the time of the offense to be impounded by the chief law enforcement officer of the city or designated representative for the duration of the period of suspension of the offender's driver's license or driving privileges by the licensing authority. The impounded

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

motor vehicle number plates may be released, upon the order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title issued by the registrar of motor vehicles.

The municipal Judge may order the destruction of a motor vehicle number plate as permitted in state law.

A court may dismiss a charge under this section upon motion by the defendant if the defendant's operator's license is reinstated within sixty days of the date of the offense and the defendant provides to the court satisfactory evidence of the reinstatement. Alternatively, upon motion, a court may grant a motion to amend a charge under this section to a violation of section 8-0305(B).

Section 2. amendment.

Section 1-0305, of Article 1-03, of Chapter 1, of the Fargo Municipal Code, is amended as follows:

1-0305. - Classification of ordinance violations.

\*\*\*

C. Violations of the following ordinances are noncriminal offenses and shall require payment of a fee as follows:

\*\*\*

4. For a violation of the following ordinances a fee of \$40.00.

Section 8-0105 (driving wrong way on one-way street), section 8-0106 (obey temporary traffic sign/barrier), section 8-0303(B) (parent/guardian allow unlicensed/under 16 to drive), section 8-0303(C) (owner allowing unlicensed/under 16 to drive), ~~section 8-0305(B) (current license required)~~, section 8-0306 (violation of restricted license), section 8-0316 (permit unauthorized person to drive), section 8-0403 (disobey traffic control device (barricade)), section 8-0405 (traffic control signals), section 8-0407 (flashing signals), section 8-0506 (impeding traffic), article 8-06 (regulating turning movements), section 8-1010 (motor vehicle left unattended—brakes to be set, engine stopped, and keys removed),

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 section 8-1011 (drive or park on private property), section 8-1018  
2 (taking on or discharging passengers), section 8-1111 (vehicle  
3 required to stop at railroad crossing), section 8-1201 (following too  
4 closely), sections 8-1202 thru 8-1218(D) (general rules of the road),  
5 section 8-1220 (overtaking and passing a bicycle), section 8-  
6 1301(C) (driving over fire hose), section 8-1301(D) (driving  
7 through/around barricade), section 8-1305 (driving vehicle on  
8 sidewalk), section 8-1306 (improper backing), 8-1308 (helmet  
9 required—operator/passenger), section 8-1309 (number of riders on  
10 motorcycle limited), section 8-1310 (clinging to a vehicle or  
11 allowing same), section 8-1313 (unlawful riding on vehicle), section  
12 8-1315 (unlawful towing), section 8-1316(A) (operating motor  
13 vehicle with view obstructed by load/passengers), section 8-1316(B)  
14 (passenger obstructing driver's view), section 8-1319 (unlawful  
15 operation of motor vehicle private property), section 8-1321 (use of  
16 seat belts required), section 8-1804 (driving through school patrols),  
17 section 8-1415 (right-of-way emerging from alley or driveway),  
18 section 8-1417 (parking restriction).

11 \*\*\*

12 9. For a violation of the following ordinance, a fee of \$150.00.

13 Section 11-0814 (littering on private property), section 8-0305(B)  
14 (current license required), section 8-0320(A) (driving without  
15 liability insurance — first offense).

16 Section 3. Penalty.

17 A person who violates section 8-0309 of the Fargo Municipal Code shall be deemed to  
18 have committed a Class B misdemeanor and shall be punished as provided in Section 1-  
0301 of the Fargo Municipal Code, as may be amended from time to time.

19 A person who violates section 8-0305(B) of the Fargo Municipal Code shall be deemed to  
20 have committed a noncriminal offense and shall be punished as provided in Section 1-0305  
21 of the Fargo Municipal Code, as may be amended from time to time.  
22  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 4. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading and Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 AN ORDINANCE ENACTING SECTION 10-0502, IN ARTICLE 10-05,  
2 OF CHAPTER 10, OF THE FARGO MUNICIPAL CODE,  
3 TITLED, PROOF OF IDENTIFICATION IN LICENSED PREMISES

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

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

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

11 WHEREAS, the Board of City Commissioners deems it necessary and appropriate  
12 to implement such authority by the adoption of this ordinance;

13 NOW, THEREFORE,

14 Be it Ordained by the Board of City Commissioners of the City of Fargo:

15 Section 1. Enactment.

16 Section 10-0502, of Article 10-05, of Chapter 10, of the Fargo Municipal Code, is enacted  
17 as follows:

18 10-0502. - Proof of Identification in a licensed premise.

- 19
- 20 1. If a peace officer has reasonable and articulable suspicion that an individual  
21 is under the age of twenty - one and is in a licensed premises as prohibited  
22 in section 25-1509 of the Fargo Municipal Code, the peace officer may  
23 request the individual to furnish a nondriver photo identification card or an  
operator's license to verify the individual's age.

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

- Section 2. Penalty.

**Section 3. Effective Date.**

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

Steven Sprague, City Auditor

First Reading:  
Second Reading and Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1  
2 AN ORDINANCE AMENDING SECTION 1-0305, OF ARTICLE 1-03,  
3 OF CHAPTER 1, OF THE FARGO MUNICIPAL CODE  
4 RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS

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

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

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

12 WHEREAS, the Board of City Commissioners deems it necessary and appropriate  
13 to implement such authority by the adoption of this ordinance;

14 NOW, THEREFORE,

15 Be it Ordained by the Board of City Commissioners of the City of Fargo:

16 Section 1. amendment.

17  
18 Section 1-0305, of Article 1-03, of Chapter 1, of the Fargo Municipal Code, is amended as  
19 follows:

20 1-0305. - Classification of ordinance violations.

21 \*\*\*

22 C. Violations of the following ordinances are noncriminal offenses and shall require  
23 payment of a fee as follows:



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

\*\*\*

5. For a violation of the following ordinances, a fee of \$50.00.

Section 8-0116 (failure to yield to emergency vehicle), section 8-0311 (open container), section 8-0317(B)(2) (exhibition driving), section 8-0801 (immediate notice of accident), section 8-0931 (child restraint devices required), ~~8-1219 (use of motor vehicle)~~, section 10-0311(C) (panhandling within the city of Fargo).

6. For a violation of the following ordinances, a fee of \$60.00.

Section 8-0301 (failure to have vehicle under control), section 8-0313 (careless driving), section 8-0501 (speed-care required), section 8-0505 (special speed limitation on bridges), section 8-0409 (traffic engineer to establish and design public carrier stops and stands).

7. For a violation of the following ordinances, a fee of \$100.00.

Section 8-0317(B)(1) (drag racing), section 8-1003(K) (parking in areas reserved handicap), section 8-0702 (fail yield right-of-way pedestrian), section 8-0920 (size, weight, and load restrictions of vehicles operated within the city), section 8-0924 (restricted use of streets and highways), section 8-1108(A) (disobey signal of approaching train), section 8-1108(B) (driving thru/around railroad crossing gate), section 8-1110 (disobey railroad stop sign), ~~section 8-1218(F) (unlawful passing of school bus), section 8-1218(G) (unlawful proceeding past bus in oncoming lane).~~

8. For a violation of the following ordinances, a fee of \$120.00.

Section 11-0202 (unnecessary noise prohibited), section 11-0204 (projection of sound unlawful), section 11-0205 (motorized vehicles—excessive noise), section 11-0205 Table 2(D) (motorized vehicles—compression brakes prohibited).

9. For a violation of the following ordinance, a fee of \$150.00.

Section 11-0814 (littering on private property), section 8-0320(A) (driving without liability insurance — first offense).

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

10. For a violation of the following ordinance, a fee of \$200.00.

Section 8-0321 (use of a wireless communication device prohibited),  
section 8-0322 (distracted driving).

11. For a violation of the following ordinance, a fee of \$250.00.

Section 8-1219 (use of motor vehicle), section 8-1218(F) (unlawful passing  
of school bus), section 8-1218(G) (unlawful proceeding past bus in  
oncoming lane).

~~11.~~ 12. For a violation of the following ordinance, a fee of \$300.00.

Section 08-0320(A) (driving without liability insurance — second or  
subsequent offense in three years).

~~12.~~ 13. For a violation of section 08-0502, a fee established as follows:

\*\*\*

~~13.~~ 14. The determination of the fees payable for parking violations described in  
articles 8-10, 8-17, and section 9-0705 shall be based upon the vehicle that  
is found to be in violation of said article and the owner of the vehicle shall  
be responsible for payment of the fees.

\*\*\*

Section 2. Penalty.

A person who violates sections 8-1219, 8-1218(F), and 8-1218(G) of the Fargo Municipal  
Code shall be deemed to have committed a noncriminal offense and shall be punished as  
provided in Section 1-0305 of the Fargo Municipal Code, as may be amended from time  
to time.

Section 3. Effective Date.

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

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

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

Attest:

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

First Reading:  
Second Reading and Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 AN ORDINANCE AMENDING SECTION 1-0305, OF ARTICLE 1-03,  
2 OF CHAPTER 1, OF THE FARGO MUNICIPAL CODE  
3 RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS.

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

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

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

11 WHEREAS, the Board of City Commissioners deems it necessary and appropriate  
12 to implement such authority by the adoption of this ordinance;

13 NOW, THEREFORE,

14 Be it Ordained by the Board of City Commissioners of the City of Fargo:

15 Section 1. amendment.

16 Section 1-0305, of Article 1-03, of Chapter 1, of the Fargo Municipal Code, is amended as  
17 follows:

18 1-0305. - Classification of ordinance violations.

19 \*\*\*

20  
21 C. Violations of the following ordinances are noncriminal offenses and shall require  
22 payment of a fee as follows:  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

\*\*\*

~~13.14.~~ The determination of the fees payable for parking violations described in articles 8-10, 8-17, and section 9-0705 shall be based upon the vehicle that is found to be in violation of said article and the owner of the vehicle shall be responsible for payment of the fees.

- a. With respect to violations in the central business district, as defined in section 8-0101, for a violation of section 8-1006, and section 8-1009, the fee for such violation shall be \$20.00 for the first violation associated with the vehicle within the prior six-month period, \$20.00 for a second violation within six months of said first violation and \$25.00 for a third violation within six months of the said second violation and \$30.00 for the fourth violation within six months of the said third violation and for every subsequent violation within six months of the next-preceding violation. As to violations of sections 8-1006 and 8-1009, the person issuing the ticket for the parking violation is authorized to waive the fee and, instead, to issue a warning ticket, for the first said violation. At such time as a period of six months or more elapses without a parking ticket for any violation of article 8-10 having been issued for a particular vehicle, the next violation shall be treated as an initial violation.
- b. Violations. With respect to parking violations other than in the central business district, for a violation of sections 8-1001, 8-1002, 8-1004, 8-1005, 8-1006, 8-1006.1, 8-1007, 8-1008, 8-1009, 8-1012, 8-1014 through 8-1024, 8-1026, the fee for such violation shall be \$20.00.
- c. With respect to a parking violation as defined in section 9-0705, the fee for such violation shall be \$20.00.
- d. With respect to a snow emergency route or snow emergency declaration parking violation as defined in section 8-1710, the fee for such violation shall be \$100.00.
- e. With respect to any parking violation, the prescribed fee must be paid within 15 days of the date it is due. The fee shall be due upon the date of issuance of the ticket or, if there is a review of the ticket, upon the date of notification after such review. In the event the prescribed fee on a parking ticket is not paid within said 15 days, the fee shall increase by \$5.00.

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

Section 2. Penalty.

Section 3. Effective Date.

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

Steven Sprague, City Auditor

First Reading:  
Second Reading and Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 AN ORDINANCE AMENDING SECTION 1-0305, OF ARTICLE 1-03,  
2 OF CHAPTER 1, OF THE FARGO MUNICIPAL CODE  
3 RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS

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

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

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

11 WHEREAS, the Board of City Commissioners deems it necessary and appropriate  
12 to implement such authority by the adoption of this ordinance;

13 NOW, THEREFORE,

14 Be it Ordained by the Board of City Commissioners of the City of Fargo:

15 Section 1. amendment.

16 Section 1-0305, of Article 1-03, of Chapter 1, of the Fargo Municipal Code, is amended as  
17 follows:

18 1-0305. – Classification of ordinance violations.

19 \*\*\*

20  
21 C. Violations of the following ordinances are noncriminal offenses and shall  
22 require payment of a fee as follows:  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

\*\*\*

12.13. For a violation of section 08-0502, a fee established as follows:

<del>SPEED ZONES 55 mph or LESS:</del>	
<del>1—5 miles over limit</del>	<del>10.00</del>
<del>6—10 miles over limit</del>	<del>\$10.00 plus \$2.00/each mph over 5 mph over limit</del>
<del>11—15 miles over limit</del>	<del>\$20.00 plus \$2.00/each mph over 10 mph over limit</del>
<del>16—20 miles over limit</del>	<del>\$30.00 plus \$4.00/each mph over 15 mph over limit</del>
<del>21—25 miles over limit</del>	<del>\$50.00 plus \$6.00/each mph over 20 mph over limit</del>
<del>26—35 miles over limit</del>	<del>\$80.00 plus \$6.00/each mph over 25 mph over limit</del>
<del>36—45 miles over limit</del>	<del>\$140.00 plus \$6.00/each mph over 35 mph over limit</del>
<del>46+ miles over limit</del>	<del>\$200.00 plus \$10.00/each mph over 45 mph over limit</del>
<del>SPEED ZONES greater than 55 mph:</del>	
<del>1—10 miles over limit</del>	<del>\$4.00/each mph over limit</del>
<del>11+ miles over limit</del>	<del>\$40.00 plus \$10.00/each mph over 10 mph over limit</del>
<del>SPEED ZONES greater than 65 mph: a fee of ten dollars (\$10.00) for each mile per hour over the limit.</del>	
<del>SPEEDING IN SCHOOL ZONE with children present:</del>	
<del>1—10 miles over limit</del>	<del>\$80.00</del>
<del>11+ miles over limit</del>	<del>\$80.00 plus \$2.00/each mph over 10 mph over limit</del>
<del>SPEEDING IN CONSTRUCTION ZONE — workers present and posted "Minimum fee \$160.00"</del>	



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

<del>1-10 miles over limit</del>	<del>\$160.00</del>
<del>11+ miles over limit</del>	<del>\$160.00 plus \$4.00/each mph over 10 mph over limit</del>

- a. Speed zones 65 miles per hour or less: \$20. or \$3 for each mile per hour over the limit, whichever is greater. An additional fee of \$20 must be assessed for a violation of 16 miles per hour or more over the limit.
- b. Speed zones in excess of 65 miles per hour: \$20. or \$5 for each mile per hour over the limit, whichever is greater. An additional fee of \$20 must be assessed for a violation of 16 miles per hour or more over the limit.
- c. School zone speed limit: \$40 for 1-10 miles per hour over the posted speed; and \$40 plus \$1 for each additional mile per hour over 10 miles per hour over the limit, unless a greater fee would be applicable.
- d. Construction Zone: \$80 for 1-10 miles per hour over the posted limit; and \$80 plus \$2 for each mile per hour over 10 miles per hour over the limit, unless a greater fee would be applicable. The fee in this subsection does not apply to a construction zone unless individuals engaged in construction are present at the time and place of the violation and the posted speed limit sign states "Minimum Fee \$80".

\*\*\*

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 2. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading and Final Passage:  
Publication:

**OFFICE OF THE  
CITY ATTORNEY**

**SERKLAND LAW FIRM**  
10 Roberts Street North  
P.O. Box 6017  
Fargo, ND 58108  
Phone: 701.232.8957 | Fax: 701.237.4049

**CITY ATTORNEY**  
Nancy J. Morris

3

**ASSISTANT CITY ATTORNEYS**  
Ian R. McLean ▪ Alissa R. Farol ▪ William B. Wischer

July 3, 2025

Board of City Commissioners  
City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

**RE: Fleeing Ordinance Enactment and Penalty Provisions**

Mayor and Commissioners,

Presented for your consideration and approval is an ordinance enacting a new offense of fleeing from a peace officer, in conformance with recently passed HB 1229, which enacted a new North Dakota Century Code § 39-10-71.1 of the same title. The new ordinance will be identified as Fargo Municipal Code § 8-1322- Motor vehicle owner's responsibility regarding a driver who flees a peace officer-Exceptions. In addition, HB 1229 provides for a non-criminal penalty in the amount of \$100 for a first offense and \$500 for any subsequent offense. The ordinance presented for your consideration also includes the same penalty provision additions to Fargo Municipal Code § 1-0305 (C) (7) and (14). The presentation of these ordinance amendments is pursuant to your motion on June 9, 2025, directing the City Attorney to work with the various departments to enact or amend ordinances in accordance with the state law changes. The ordinance would be effective in conjunction with the effective date of the State Law on August 1, 2025.

**Suggested Motion:** I move to waive the receipt and filing of the enclosed ordinances one week prior to first reading and that this be the first reading, by title, of An Ordinance Enacting Section 8-1322 of Article 8-13 of Chapter 8 of the Fargo Municipal Code Relating to Traffic Code and An Ordinance Amending Section 1-0305 (C) (7) and Adding Section 1-0305 (C)(14) of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Classification of Ordinance Violations.

Please feel free to contact me if you have any questions or concerns.

Regards,

  
Nancy J. Morris

NJM/lmw  
Enclosures  
cc: Chief David Zibolski (email only)

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE ENACTING SECTION 8-1322 OF ARTICLE 8-13  
OF CHAPTER 8 OF THE FARGO MUNICIPAL CODE  
RELATING TO TRAFFICE CODE

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

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

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

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance.

NOW, THEREFORE,

Be it Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Enactment.

Section 8-1322 of Article 8-13 of Chapter 8 of the Fargo Municipal Code is hereby enacted as follows:

**8-1322. – Motor vehicle owner’s responsibility regarding a driver who flees a peace officer – Exceptions.**

1. The owner of a motor vehicle involved in a violation of North Dakota Century Code § 39-10-71 is presumed to have violated this section.
2. A peace officer may proceed in accordance with this section instead of pursuing the driver of a motor vehicle who flees or attempts to elude the peace officer after being given a visual or audible signal to bring the vehicle to a stop in violation of North Dakota Century Code § 39-10-71.
  - a. A peace officer may investigate the violation and prepare a traffic citation under this section.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

- b. A peace officer may issue a traffic citation under this section in accordance with the North Dakota Rules of Civil Procedure to the motor vehicle owner within ninety-six (96) hours after observing the violation.

3. A motor vehicle owner may not be found to have violated this section if:

- a. The driver operating the motor vehicle at the time of the violation of North Dakota Century Code § 39-10-71 has been charged with a violation of North Dakota Century Code § 39-10-71.
- b. The motor vehicle was reported stolen before the violation occurred or within a reasonable time after the violation occurred.
- c. The motor vehicle owner assists or cooperates with a peace officer to demonstrate the owner was not the one who operated the motor vehicle at the time and place of the violation of North Dakota Century Code § 39-10-71.
- d. The motor vehicle owner provides information that demonstrates the owner was not the driver of the motor vehicle at the time of the offense.

4. A motor vehicle owner may not be found to have violated this section, and the lessee is presumed to have violated this section, if the motor vehicle owner is a lessor of vehicles and at the time of the violation of North Dakota Century Code § 39-10-71 the motor vehicle was in the possession of a lessee, and the lessor provides a peace officer with the motor vehicle's registration number and the name, address, and operator's license number of the individual renting or leasing the motor vehicle.

5. An individual may not be charged both with violating this section and North Dakota Century Code § 39-10-71 for acts arising out of the same incident or occurrence.

6. This section may not apply to a motor vehicle rental company that rents motor vehicles to customers for a period of ninety (90) days or less.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 2. Penalty.

A violation of Fargo Municipal Code § 8-1322 shall result in a fine of one hundred dollars (\$100.00) for a first violation, and five hundred dollars (\$500.00) for a second or subsequent violation.

Section 3. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading  
Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING SECTION 1-0305(C)(7) AND ADDING SECTION 1-0305  
(C)(14) OF ARTICLE 1-03 OF CHAPTER 1 OF THE FARGO MUNICIPAL CODE  
RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS

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

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

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

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance to include the statutory penalties for fleeing a police officer.

NOW, THEREFORE,

Be it Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Amendment.

Section 1-0305(C)(7)) of Article 1-03 of Chapter 1 of the Fargo Municipal Code is hereby amended to read as follows:

\* \* \*

1-0305. Classification of ordinance violations.

C. Violations of the following ordinances are non-criminal offenses and shall require payment of a fee as follows

7. For a violation of the following ordinances, a fee of \$100.00.

Section 8-0317(B)(1) (drag racing), section 8-1003(K) (parking in areas reserved handicap), section 8-0702 (fail yield right-of-way pedestrian), section 8-0920 (size, weight, and load restrictions of vehicles operated within the city), section 8-

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

0924 (restricted use of streets and highways), section 8-1108(A) (disobey signal of approaching train), section 8-1108(B) (driving thru/around railroad crossing gate), section 8-1110 (disobey railroad stop sign), section 8-1218(F) (unlawful passing of school bus), section 8-1218(G) (unlawful proceeding past bus in oncoming lane) section 8-1322 (Motor vehicle owner's responsibility regarding a driver who flees a peace officer).

Section 2. Amendment.

Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code is hereby amended as follows:

14. For a violation of the following ordinance, a fee of \$500.00.

Section 8-1322 (Motor vehicle owner's responsibility regarding a driver who flees a peace officer- second or subsequent offense).

Section 3. Effective Date.

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

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

(SEAL)

Attest:

First Reading:  
Second Reading:  
Final Passage:  
Publication:

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