

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5381

AN ORDINANCE AMENDING AND
REPEALING AND REPLACING ARTICLE 25-04
OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE
RELATING TO TAXICABS AND VEHICLES FOR HIRE

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 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 purposes; 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.

Article 25-04 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

ARTICLE 25-04

TAXICABS AND VEHICLES FOR HIRE

Section
25-0401. Definitions.--

The following words, terms and phrases shall have the meanings ascribed to them in this Article:

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1. "Applicant" means an organization or entity registered with the Secretary of State authorized to do business in the State of North Dakota applying for a license under this Article.
2. "For hire" means for remuneration or reward, paid or promised, either directly or indirectly.
3. "For hire driver" means any person in physical control of a taxicab or vehicle for hire required to be licensed under this Article.
4. "Lease driver" means a for-hire driver who is an independent contractor/sole proprietor who has leased a taxicab or for-hire vehicle from a taxicab/limousine licensee.
5. "Taxi" or "Taxicab" means a motor vehicle designed to carry passengers operating on the public streets, alley or places of the city of Fargo, and accepting passengers for transportation for hire on call or on demand, or as may be determined by the use of a taximeter, between such points as may be directed by the passenger, and that carries signs or indicia of a taxicab, including the words "taxi," "taxicab," or "cab."
6. "Taximeter" means an instrument or device that operates to calculate at predetermined rates and plainly displays the charges to the passenger of a taxicab. Any device which calculates fares charged to passengers for taxicab service, including devices which operate remotely based upon vehicle location technology, and which bases said fares upon time and distance, is considered a Taximeter, irrespective of whether such device is a portable or handheld device, monitor, smart phone or other electronic device or unit.
7. "Licensee" shall mean any taxicab or vehicle for hire service that secures authorization to commence a ride within the city of Fargo.
8. "Sober Ride Services" means a service whereby one driver drives the patron home and a second driver drives the patron's vehicle home. For such services, both drivers must meet all the requirements of this Article, including any requirements related to licensing, insurance, and background checks.
9. "Decal" means the license identification issued by the City Auditor that must be affixed to all vehicles licensed in accordance with this Article. The decal remains the property of the City and must be returned to the City Auditor for replacement, or in the event the vehicle is no longer in use. A fee for the replacement decal shall be established by Resolution of the board of city commissioners.

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10. "Personal vehicle" is a vehicle owned and licensed by an individual, and not the licensee. Personal vehicles are not eligible for licensing in accordance with this Article.
 11. "Vehicle for hire" shall include limousine service, sober ride service, medical transport, handicap ride service, leased vehicles, party busses, or any other permutation in which a vehicle is driven for compensation.
 12. "Wheelchair accessible taxicab" or "Wheelchair accessible vehicle for hire" or "Mobility Services" means a taxicab, for-hire vehicle, or any other vehicle conforming to the requirements of the Americans with Disabilities Act (ADA). The licensee is responsible for any additional training or equipment requirements to operate this type of service.
 13. "Solicitation" means the ability of a taxicab licensed under this Article to solicit a ride without a prearranged fare or location having been determined and in response to ride hailing on public ways.

9 **25-0402. Exceptions.**

10 This Article does not apply to a person operating a ground transportation service that is:

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1. Operated under state or federal authority unless subject to the city's regulatory authority;
 2. Operated for a funeral home in the performance of funeral services;
 3. Provided by an employer or employee association for use in transporting employees between the employees' homes and the employer's place of business or between work stations, with the employees reimbursing the employer or employee association in an amount calculated only to offset the reasonable expenses of operating the vehicle;
 4. Owned and operated by the federal or state government, by a political subdivision of the state, or by a person under contract with the city for operation of the vehicle;
 5. Used in a carpool to transport the person and others on a prearranged basis between their homes and places of employment or places of common destination, if only a fee calculated to reasonably cover expenses is charged;
 6. Used to transport children to or from school if only a fee calculated to reasonably cover expenses is charged;

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7. Owned by a nonprofit organization and carrying only passengers associated with that organization, if no compensation is received from any other person for carrying the passengers;
 8. A courtesy vehicle, if the name of the business or sponsor of such vehicle is affixed to the outside of the vehicle; or
 9. A transportation network company operating in compliance with North Dakota Century Code Chapter 39-34.

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25-0403. Application.

Any person or entity that desires to operate a taxicab or vehicle for hire service must make application in writing to the City Auditor for a taxicab or vehicle for hire license, which application shall include the following:

1. A true copy of the registration with the Secretary of State evidencing authorization to do business in North Dakota.
2. The name and address of the applicant. If the applicant is not an individual person, the application shall state the names and addresses of all individuals owning an interest in such business, and if a corporation shall give the names and addresses of the officers and directors thereof.
3. Background information of the applicant, including criminal background completed by the Federal Bureau of Investigation, and Department of Transportation records for all jurisdictions in which the operator has resided, or any other background investigation process and investigation deemed necessary and appropriate by the Chief of Police of the city of Fargo, or designee.
4. Number of taxicabs or vehicles for hire intended to be operated. Such vehicle listing shall accompany the application and/or renewal.
5. The make, model and ownership information of all of the vehicles the applicant intends to use in operating the taxicab or vehicle for hire service, including the name of the manufacturer, the motor and serial number, the body type, the year when made, the number of passengers each vehicle will accommodate, and certification that each vehicle has been inspected by a certified mechanic and passed inspection as provided in section 25-0409 of this Article.

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- 1 6. An accurate and detailed description of the Logo or color scheme of the taxicabs or
2 vehicles for hire, including inscriptions or monograms thereon, proposed to be operated
3 by the applicant, which shall be distinctly different from that of the taxicabs or vehicles
4 for hire of any other operators within the city of Fargo, so that ownership and identity
5 may be readily ascertained by the police department and patrons of any taxicab or vehicle
6 for hire.
- 7 7. A certificate of insurance showing the applicant has sufficient insurance to meet the
8 requirements of section 25-0414 of this Article.
- 9 8. A statement signed by the applicant under penalty of perjury indicating an understanding
10 that falsification of any statement, material or not, is sufficient reason for denial of the
11 license and criminal prosecution.
- 12 9. Payment of the application fee as established by Resolution of the Board of City
13 Commissioners.

14 **25-0404. Investigation.**

15 Upon completion of the application required, the application shall be submitted to the City
16 Auditor, or his/her designee for review and investigation. Upon satisfaction of compliance with
17 all license requirements, the taxicab or vehicle for hire license shall be issued. If the application
18 is incomplete or cannot otherwise be approved, the application shall be denied, and the City
19 Auditor shall provide a written explanation of the reason for denial.

20 **25-0405. Approval.**

21 In the event the application is approved and the license is granted, the City Auditor shall grant
22 said license stating the name and address of the applicant, and identifying the vehicles authorized
23 under said license. The City Auditor shall issue a numbered identification decal which must be
affixed and displayed in the upper passenger side front window.

25-0406. License Fees.

The fee for taxicab or vehicle for hire licenses shall be set by Resolution of the Board of City
Commissioners.

25-0407. Expiration.

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1 All taxicab or vehicle for hire licenses issued by the city of Fargo, unless sooner revoked by the
2 city of Fargo, will expire on December 31 of each year. If the licensee applies for a renewal
3 following the expiration of a license, a reinstatement fee in an amount to be established by
4 Resolution of the Board of City Commissioners shall be applied.

5 **25-0408. Non-Transferable.**

6 Licenses issued under this Article shall be nontransferable. A transfer or attempted transfer
7 thereof shall automatically result in a revocation of such license.

8 **25-0409. Vehicle Requirements and Certification of Inspection.**

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- 10 1. No taxicab or vehicle for hire license shall be issued until the applicant files with the
11 City Auditor certification that each vehicle licensed or leased has been inspected by a
12 certified mechanic and has passed said inspection.
 - 13 2. An automotive service excellence (ASE) certificate of inspection must be completed
14 on a yearly basis and certified to the City Auditor with the taxicab or vehicle for hire
15 license renewal.
 - 16 3. Every holder of a license under this Article shall keep such vehicles in good
17 serviceable condition so that each vehicle may be safely operated at all times without
18 endangering the safety or property of the passengers carried or other persons.
 - 19 4. The license for the operation of any vehicle not kept in a safe and serviceable
20 condition shall be revoked and immediately removed from service.
 - 21 5. The board of city commissioners may set by resolution an additional fee for each
22 vehicle registered under this Article.
 - 23 6. Vehicles must be maintained in a safe and sanitary condition. Licensee must remove
all rubbish/garbage from the taxicab or vehicle for hire, and the windows must be
clear for vision.

25-0410. Taxicab Markings.

Taxicabs must bear the licensees logo or identification in letters and words at least 4" in size on
both sides of the vehicle. The markings must be in contrasting colors readily viewable to the
Police Department and public, and bear the licensee's telephone number.

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25-0411. Accident and Incident Reporting and ASE Inspection.

1 All accidents involving a deced vehicle pursuant to the Article shall be reported immediately to
2 the City Auditor. The licensee shall provide an automobile service excellence (ASE) certificate
3 of inspection pertaining to that vehicle, and take appropriate actions necessary to protect the
traveling public.

25-0412. Taxicab and Vehicle for Hire Drivers.

4 No person shall drive, operate, use or cause to be used upon the streets of the city a taxicab or
5 vehicle for hire unless the person driving the vehicle is properly licensed in accordance with
6 North Dakota law and employed or endorsed by a holder of a city of Fargo taxicab or vehicle for
7 hire license.

25-0413. Driver Standards.

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9 A. Licensee must, on a yearly basis, verify that each and every taxicab or vehicle for hire
driver in their employ or endorsement meets the following minimum standards:

- 10 1. Is a citizen of the United States or an alien admitted for permanent residence, or who
11 has otherwise obtained work authorization from the U.S. citizenship and immigration
12 services;
- 13 2. Is the holder of a valid driver's license authorizing operation of the licensed vehicle;
- 14 3. Is able to read and speak the English language sufficiently to converse with the
15 general public, to understand highway traffic signs and signals in the English
16 language, to respond to official inquiries, and to make entries on reports and records;
- 17 4. Is twenty-one (21) years of age or older;
- 18 5. Certify that the taxicab or vehicle for hire driver is free from any infirmity, physical
19 or mental, which would render the driver unfit for the safe operation of the licensed
20 vehicle;
- 21 6. Has a driving record, at least for the past three (3) years, clear of:
 - 22 a. A license cancellation, a revocation, or a suspension;
 - 23 b. A conviction for operating a motor vehicle without insurance

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1 c. A conviction for driving a motor vehicle without a valid license for the class of
vehicle driven;

2 d. A conviction for driving under the influence of alcohol or a controlled
substance;

3 e. A conviction for alcohol related driving by a commercial vehicle driver;

4 f. A conviction for leaving the scene of an accident;

5 g. A conviction for reckless or careless driving;

6 h. Is not a registered predatory offender in any state;

7 i. Has a criminal record clear of any misdemeanor or felony conviction as a
8 habitual offender for driving under the influence of alcohol or a controlled
9 substance;

10 j. Has a criminal record clear of any crimes against persons, including but not
11 limited to Conspiracy, Murder Manslaughter Criminal vehicular homicide and
injury, Assault; Great bodily harm caused by distribution of drugs, Use of drugs
12 to injure or facilitate crime, Robbery, Kidnapping, False imprisonment,
Abduction; Criminal sexual conduct, Solicitation of children to engage in sexual
13 conduct, Human trafficking, Theft of a motor vehicle, Fleeing a peace officer in a
14 motor vehicle, Misusing credit card to secure services, or Burglary; and

15 k. Information indicating whether or not the applicant has ever had a for-hire
16 driver's license suspended, revoked, or denied and for what cause.

17 B. A city of Fargo taxicab or vehicle for hire driver record form, or an alternative electronic
18 record approved by the City Auditor, shall be used to document the drivers' records. All
19 approved taxicab or vehicle for hire driver record forms shall be kept by the licensee for a
20 minimum of five (5) years and shall be available for review by the city of Fargo immediately
21 upon request. The city of Fargo shall have the right at any time and without prior notice to
22 perform inspections of the licensee records to determine compliance with this Article. Failure to
23 comply with this Article shall result in license suspension or revocation.

24 C. A daily manifest shall be maintained by the owner of each taxicab noting all trips made
25 each day, showing the driver's name, cab number, place and time of origin and destination of
each trip and the amount of fare. Every owner shall retain and preserve all drivers' manifests in

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1 a safe place for at least 180 days and such manifests shall be made available upon demand for
inspection by the City Auditor.

2 D. No driver shall refuse or neglect to convey any person because of the person's race,
3 color, national origin, religion, sex, age, handicap or any other persons recognized under Federal
and State laws.

4 **25-0414. Insurance Required.**

5 A. No taxicab or vehicle for hire license shall be issued by the City Auditor until the license
6 applicant obtains and provides proof of a policy of commercial auto liability insurance issued by
a responsible insurance company authorized to do business in the State of North Dakota.

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- 8 1. The licensee shall have and maintain such insurance in the amount of one million
dollars (\$1,000,000) as well as fifty thousand dollars (\$50,000.00) property damage
9 insurance.
 - 10 2. Such insurance shall cover all passengers carried by the insured licensee and shall be
for public taxicab or vehicle for hire purposes.
 - 11 3. All such policies shall contain a clause providing for thirty (30) days' written notice to
12 the City Auditor before cancellation, and a memorandum of such insurance naming
the city of Fargo as an additional insured shall be furnished to the City Auditor before
13 a license is issued.
 - 14 4. Failure to maintain insurance as provided in this Article shall result in immediate
suspension or revocation of the taxicab or vehicle for hire license.

15 **25-0415. Taxicab Rates.**

16 A taxicab licensee shall provide passengers with the applicable rates being charged and the
17 option to receive an estimated fare before the passenger enters the vehicle. Unless a flat rate fee
18 has been agreed to in advance, the taxicab must clearly display the rate to be charged, readily
observable to a passenger, and such rate must be measured by a taximeter visible to the
19 passenger at all times; each taxicab shall have only one taximeter. Taximeters must be activated
with each taxicab trip or any time a taxicab driver accepts a fare. The rate charge must be
20 uniform as to all passengers.

21 **25-0416. Receipts.**

22 The taxicab or vehicle for hire driver shall, upon demand by a passenger, provide a receipt for
23 the amount charged, which shall include the name of the licensee, driver identification, the

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1 amount of the meter reading or charges, and the date of the transaction. Such receipt shall be in
2 paper or electronic form, at the election of the passenger.

3 **25-0417. Stands.**

4 Only licensed taxicabs may stop or stand on city of Fargo streets or alley ways while waiting for
5 a fare.

6 **25-0418. Lost Articles.**

7 Whenever any package, money, articles of baggage or goods of any description are left in or on
8 any taxicab or vehicle for hire, such driver shall, upon the discovery of such package or article,
9 attempt to return the item in a timely manner. In the event the item cannot be returned to the
10 passenger, the licensee shall retain possession of the lost item for not less than 15 days.

11 **25-0419. Smoking or Vaping Prohibited.**

12 Smoking and/or vaping of tobacco products is prohibited inside any taxicab or vehicle for hire.

13 **25-0420. Driver Impairment.**

14 A. No driver shall be permitted to operate a taxicab or vehicle for hire while under the
15 influence of alcohol or any mood-altering drug (prescription or nonprescription). No driver shall
16 possess any controlled substance or alcoholic beverage while operating a taxicab or vehicle for
17 hire.

18 B. No driver shall be permitted to drive any vehicle carrying passengers for more than
19 twelve (12) hours in any one 24-hour period.

20 C. Mobile phone use is prohibited while the vehicle is in motion, except in a hands-free
21 mode. Navigation tools, including cell phones, must be separate devices from the taximeter, and
22 only be operated in hands-free mode while the vehicle is in motion.

23 **25-0421. Occupants in Vehicle Must be Restrained.**

No person operating a taxicab or vehicle for hire shall allow a greater number of passengers to
occupy or be transported in the vehicle than the number of legal seated/belted positions within
said vehicle.

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25-0422. Denial, Suspension of Revocation of License.

1 A. Licensee and any taxicab or vehicle for hire in service by a licensee shall remain subject
2 to random inspections by the City Auditor and/or designee to ensure continuing compliance with
3 the terms of this Article. Refusal to permit or complete such inspection shall be cause for
immediate suspension or revocation of the license.

4 B. The City Auditor may deny, suspend or revoke any license to operate a taxicab or vehicle
5 for hire service as defined in this Article as stated in this Article, in addition to any of the
6 following reasons:

- 7 1. Fraud, misrepresentation or incorrect statement contained in the application or made
in carrying on the licensed or permitted activity.
- 8 2. Violation of any of the driver standards.
- 9 3. Conducting such licensed or permitted activity in such manner as to constitute a
10 breach of the peace or a menace to the health, safety or welfare of the public, or a
11 disturbance of the peace or comfort of residents of the city of Fargo, upon
recommendation of the appropriate city official.
- 12 4. Expiration or cancellation of any required insurance.
- 13 5. Actions unauthorized or beyond the scope of the license granted.
- 14 6. Violation of any regulation or provision of this Article applicable to the activity for
15 which the license has been granted, or any regulation or law of the state so applicable.
- 16 7. Failure to continuously comply with all conditions required as precedent to the
approval of the license.

17 **25-0423. Appeal.**

18 Any person aggrieved by the action of the City Auditor in denying, suspending or revoking a
19 license shall have the right to a hearing before the Board of City Commissioners on any such
20 action, provided a written request is filed with the City Auditor within ten (10) days after receipt
21 of the notice of such denial, suspension or revocation. The Board of City Commissioners may
22 grant such license, confirm any suspension or revocation, or reinstate any such license. The
23 action taken by the Board of City Commission after a hearing shall be final, subject to appeal
pursuant to North Dakota Century Code Ch. 28-34.

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Section 2. Penalty.

1 A person who willfully violates this ordinance is guilty of a Class B misdemeanor. Every person,
2 firm or corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished
3 by a fine not to exceed \$1,500.00, or by imprisonment not to exceed 30 days, or by both such fine and
4 imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke
5 the suspension thereof. In addition to such fine and/or imprisonment, the court, in its discretion, may
6 assess a fee in an amount not to exceed \$25.00 as provided in section 27-01-10, N.D.C.C.

Section 3. Effective Date.

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



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

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14 Steven Sprague, City Auditor

15 First Reading: 2/6/23
16 Second Reading: 2/21/23
17 Final Passage: 2/21/23
18 Publication: 3/1/23