

CHAPTER 1

CITY GOVERNMENT - GENERAL PROVISIONS

Article

- 1-01 The Enacting Ordinance, §§ 1-0101 to 1-0107.
- 1-02 Ordinances and Resolutions--Procedure, §§ 1-0201 to 1-0209.
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ARTICLE 1-01

THE ENACTING ORDINANCE

Section

- 1-0101 Title of ordinances.
- 1-0102 Ordinances to remain in effect.
- 1-0103 Repeal--Exceptions.
- 1-0104 Construction of Fargo Municipal Code.
- 1-0105 Separability provisions.
- 1-0106 Existing licenses and permits.
- 1-0107 New licenses and permits.

1-0101. Title of ordinances.--The ordinances of the city of Fargo shall be known and cited as the Fargo Municipal Code.

Source: 12242 (1966), 2258 (1986).

1-0102. Ordinances to remain in effect.--All previously adopted ordinances and amendments thereto shall remain in full force and effect until repealed or amended by the governing body of the city of Fargo.

Source: 12242 (1966), 2258 (1986).

1-0103. Repeal--Exceptions.--All ordinances of the city of Fargo adopted prior to December 31, 1965, are hereby repealed, except only the following ordinances which are not specifically printed and included in the Fargo Municipal Code, but which shall continue in full force and effect regardless of the fact that they are omitted therefrom, to-wit:

- A. All existing ordinances or any part thereof creating contract obligations on the part of the city, which obligations shall remain binding until fully performed by the parties thereto.
- B. All existing ordinances establishing special improvement districts.
- C. All existing ordinances levying taxes for previous years which are still unpaid or for future years under the provisions of any law relating to the issuance of municipal bonds, warrants, certificates of indebtedness, or other municipal obligations, whether general or special.
- D. All salary and appropriation ordinances, and amendments thereto, enacted for or during the fiscal year beginning July 1, 1965, and ending June 30, 1966.

- E. Any and all other ordinances adopted in said Revised Ordinances of 1965 by reference, although the same are not set forth in full therein.
- F. All existing ordinances establishing, extending, or reducing the city limits of the city and all existing zoning ordinances.
- G. All existing ordinances by which the zoning of any area has been established or modified.
- H. The incorporation herein of any ordinances of the city granting franchises to individuals, associations, or corporations shall not operate to repeal the same in their original form nor to extend the term of any franchise beyond that permitted by law or fixed in the ordinance granting the same which is re-enacted herein.
- I. All existing provisions of ordinances required for the payment of pension benefits under the former pension system for city employees to persons retired prior to the election to discontinue the system.

Source: 12242 (1966), 2258 (1986).

1-0104. Construction of Fargo Municipal Code.--All of the provisions of the Fargo Municipal Code are to be construed according to the fair import of their terms with a view to effecting their objects and granting justice.

Source: 12242 (1966), 2258 (1986).

1-0105. Separability provisions.--If any section, subsection, sentence, clause or phrase of these ordinances is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause, phrase, or portion thereof. The board of city commissioners hereby declares that it would have passed these ordinances and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

Source: 12242 (1966).

1-0106. Existing licenses and permits.--All licenses and permits issued prior to the date on which this ordinance becomes effective shall continue in force for the remainder of the term for which the same were issued, without additional fees, but all licensees and permittees shall be governed by the provisions of the Fargo Municipal Code for the remainder of the terms of said licenses and permits in the same manner and to the same extent as if said licenses and permits had been issued under the provisions of the Fargo Municipal Code.

Source: 2258 (1986).

1-0107. New licenses and permits.--In the case of any license or permit not heretofore required and appearing for the first time in the Fargo Municipal Code, such license or permit shall be secured on or before the first day of the first month following the effective date of this ordinance, and the first fee therefor shall be prorated for the remainder of the term thereof on a monthly basis, provided that the minimum fee for any such new license or permit shall be \$5.00.

Source: 2258 (1986).

ARTICLE 1-02

ORDINANCES AND RESOLUTIONS - PROCEDURE

Section	
1-0201	When ye and nay vote on passage required.
1-0202	Reconsidering or rescinding of vote.
1-0203	Procedure in passing ordinances--Signing and attesting.
1-0204	Resolutions--When read in full.
1-0205	Publication of ordinances and notices--Official newspaper.
1-0206	Additions and amendments to Fargo Municipal Code.
1-0207	City auditor to provide supplements.
1-0208	Amendments--Penalty.
1-0209	Tampering with or changing of ordinances forbidden.

1-0201. When ye and nay vote on passage required.--The yeas and nays shall be taken by the board of city commissioners upon the passage of all ordinances and on all propositions to create any liability against the city or for the expenditure or appropriation of money and, in all other cases, at the request of any member, which shall be entered on the journal of its proceedings.

Source: 1866 (1978).

1-0202. Reconsidering or rescinding of vote.--No vote of the board of city commissioners shall be reconsidered or rescinded at a special meeting unless there is present at such special meeting as large a number of members as was present when such vote was taken.

Source: 1952 Rev. Ord. 1-0202.

1-0203. Procedure in passing ordinances--Signing and attesting.--All ordinances shall be read twice and the second reading shall not be had in less than one week after the first reading. Ordinances shall be received and filed for consideration by the board of city commissioners at least one week prior to the first reading, except that such requirement may be waived with the concurrence of at least two-thirds of the qualified and existing members of the board of city commissioners present at the meeting. The first reading of the ordinance may be by title only. The second reading shall be at length, except that the second reading may also be by title only if a reading at length is not requested by any citizen, and if such reading is waived by unanimous consent of the members of the board of city commissioners present at the meeting. In the event that a reading at length is not waived, or is requested by any citizen, the board may designate a time, date and place for such reading. After the first reading and before final passage, ordinances may be amended and shall then be put upon their second reading and final passage. In the event that any ordinance is amended between first and second reading, final passage shall not be had for at least one week after second reading, except that such requirement may be waived with the concurrence of at least two-thirds of the qualified and existing members of the board of city commissioners present at the meeting. Except as otherwise specifically provided, a majority of all the qualified and existing members of the board of city commissioners must concur in the passage of any ordinance and in the creation of any liability against the city and in expending or appropriating money. For the purposes of this section, any member of the board of city commissioners who, by reason of a stated conflict of interest, is excused from voting by a majority of the remaining members, shall not be considered to be a qualified or existing member of the board. If passed by the board of city commissioners, ordinances shall be signed by the president of the board of city commissioners and attested by the city auditor.

Source: 1551 (1973), 1618 (1974).

1-0204. Resolutions--When read in full.--All resolutions requiring the signature of the president of the board of city commissioners or involving the expenditure of any of the funds of the city shall be read in full to the board of city commissioners when in session.

Source: 1952 Rev. Ord. 1-0204.

1-0205. Publication of ordinances and notices--Official newspaper.--The publication of any ordinances, notices, and other matter required by law to be published shall be made in a daily newspaper of general circulation published in the city having a bona fide paying subscription list and circulation among the inhabitants of the city. The circulation of the newspaper shall be taken into consideration by the board of city commissioners in awarding the contract for such publication.

Source: 1952 Rev. Ord. 1-0205.

1-0206. Additions and amendments to Fargo Municipal Code.--Any and all additions or amendments to the Fargo Municipal Code, when passed in such form as to indicate the intention of the board of city commissioners to make the same a part thereof, shall be deemed to be incorporated in said Fargo Municipal Code, so that reference to the Fargo Municipal Code shall be understood and intended to include such additions and amendments. All ordinances which are additions or amendments to the Fargo Municipal Code and which are not specifically printed and included in said Fargo Municipal Code shall continue in full force and effect regardless of the fact that they are omitted therefrom and until they are specifically repealed.

Source: 911 (1954), 2258 (1986).

1-0207. City auditor to provide supplements.--It shall be the express duty of the city auditor, or someone authorized by him, from time to time and when so directed by the board of city commissioners, to provide and distribute printed supplements containing amendments or ordinances which indicate the intention of the commission to make the same a part of the Fargo Municipal Code.

Source: 911 (1954), 2258 (1986).

1-0208. Amendments--Penalty.--In case of the amendment of any section of the Fargo Municipal Code for which a penalty is not provided, the general penalty as provided in section 1-0301 shall apply to the section as amended or, in case such amendment contains provisions for which a penalty other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Source: 911 (1954), 2258 (1986).

1-0209. Tampering with or changing of ordinances forbidden.--It shall be unlawful for any person, firm, or corporation in the city to change or amend by additions or deletions any part or portion of the Fargo Municipal Code or of any ordinances of the city of Fargo, or to insert or delete pages or portions thereof, or to alter or tamper with said Fargo Municipal Code in any manner whatsoever which will cause the laws of the city of Fargo to be misrepresented thereby. Any person, firm, or corporation violating this section shall be punished as provided in section 1-0301.

Source: 911 (1954), 2258 (1986).

ARTICLE 1-03

ORDINANCES - VIOLATION

Section	
1-0301	Penalties for violation of ordinances--Failure to pay fine.
1-0302	City work program--Authority of court.
1-0303	City work program--Direction of city department head.
1-0304	Refusal to work--Contempt of court.
1-0305	Classification of ordinance violations.
1-0306	Disposition of ordinance violationsCProcedures.
1-0307	Penalties for violations--Authority of municipal court.

1-0301. Penalties for violation of ordinances--Failure to pay fine.--Any person, firm or corporation violating any of the terms or provisions of the Fargo Municipal Code shall be punished by fine or imprisonment or both, or shall be required to pay a fee, in accordance with the following categories of violations:

- A. Class B misdemeanor. Every person, firm or corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished by a fine not to exceed \$1,000.00, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof; provided, however, that every person, firm or corporation violating sections 10-0601 (shoplifting), 10-0602 (theft) and 10-0321 (criminal mischief) shall be punished by a fine not to exceed \$1,000.00, and/or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court, all as provided in section 40-05-06(3), N.D.C.C. In addition to such fine and/or imprisonment, the court, in its discretion, may assess a fee in an amount not to exceed \$25.00 as provided in section 27-01-10, N.D.C.C. All such fees paid to the municipal court shall be deposited monthly in the city treasury for allocation by the board of city commissioners in accordance with subsection (3) of section 27-01-10, N.D.C.C.
- B. Infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$500.00; the court to have power to suspend said sentence and to revoke the suspension thereof.
- C. Offense. Every person, firm or corporation violating an ordinance for which a fee is required shall be deemed to have committed an offense and shall pay a fee as hereinafter provided.
- D. Each day any person, firm, association, or corporation violates any of the provisions of the Fargo Municipal Code shall constitute a separate Class B misdemeanor, infraction or offense.
- E. If any person, firm or corporation does not pay a fine, or make any required partial payment, the court, upon motion of the prosecutor or on its own motion, may issue an order to show cause why the defendant should not be fined an additional amount, not to exceed \$1,000.00, or imprisoned for non-payment, or fined and imprisoned, in the discretion of the court.

Source: 2487 (1989), 2601 (1991), 2738 (1995), 2830 (1997), 2991 (1999).

1-0302. City work program--Authority of court.--If, in the opinion of the court, a person sentenced is capable of performing manual labor, the court may assign such person to the city work program under such terms and conditions as the court may prescribe.

Source: 2487 (1989).

1-0303. City work program--Direction of city department head.--Any person assigned to the city work program, as provided in section 1-0304, shall be required to work for the city at such labor as his or her strength will permit under the direction of the city department head as the court may direct, not to exceed 10 hours each working day. The city department head shall have the authority and discretion in assigning duties and scheduling the work of the person assigned to him under the work program by the court.

Source: 2487 (1989).

1-0304. Refusal to work--Contempt of court.--Any person refusing to perform manual labor or otherwise participate in the city work program in accordance with the sentence of the court shall be deemed to be in contempt of court and shall be guilty of a Class B misdemeanor. No credit shall be allowed such person on account of assessed fine and costs for the day or days that such person refuses to perform manual labor or participate in the city work program in accordance with the sentence of the court.

Source: 2487 (1989).

1-0305. Classification of ordinance violations.--

A. Violations of the following ordinances are Class B misdemeanors, subject to punishment as hereinabove provided:

1. Section 8-0305(A)(1) (cancelled or revoked registration), section 8-0305(A)(2) (fictitious registration), section 8-0305(A)(3) (lending registration plates), section 8-0308 (reproducing operator's or driver's license or permit), section 8-0309 (driving under suspension), section 8-0310 (driving under the influence), section 8-0314 (reckless driving), section 8-0320 (driving without liability insurance - \$150.00 minimum fine), section 8-0803 (accidents involving damage to vehicle), section 8-0804 (duty to give information and render aid), section 8-0805 (duty upon striking fixture or other property), section 8-0809 (false reports), section 10-0101 (minor using alcohol), 10-0104 (curfew), section 10-0201 (indecent exposure), section 10-0301 (disorderly conduct), section 10-0304 (carrying weapons), section 10-0317 (resisting police officer), section 10-0319 (incendiary devices), section 10-0321 (criminal mischief), section 10-0322 (harassment), section 10-0323 (simple assault), section 10-0324 (aiding and abetting), section 10-0601 (shoplifting), section 10-0602 (theft), section 10-0702 (order to disperse), section 10-0703 (tenant/owner cooperation required), section 13-0511 (removal of wastes), section 13-0513 (fee/permit for hauling waste), section 13-0529 (misuse of compost sites), article 13-13 (drug lab cleanup), chapter 17 (sewers and sewerage), article 18-09 (excavation code), section 25-1509(A) (selling alcoholic

beverage to minor), section 25-1513(A) (selling/consuming alcohol in vehicle/public), section 25-1513(B) (possessing/consuming alcohol in public building), section 25-1513(C) (minor misrepresenting age), and section 25-1513(D) (delivery of alcoholic beverage to minor), section 25-3302 (body art), section 25-3306 (body art unlawful practices).

- B. Violations of all ordinances not designated in A or C of this section are infractions, subject to punishment as hereinabove provided. Any person convicted of a violation which is designated as an infraction who has, within one year prior to commission of the infraction of which he was convicted, been previously convicted of a violation designated as an infraction may be sentenced as though convicted of a Class B misdemeanor. If the prosecution contends that the infraction is punishable as a Class B misdemeanor, the complaint shall specify that the offense is a Class B misdemeanor.
- C. Violations of the following ordinances are noncriminal offenses and shall require payment of a fee as follows:
1. For a violation of the following ordinances, a fee of \$25.00. Section 10-0103(B) (tobacco possession by minors prohibited).
 2. For a violation of the following ordinances, a fee of \$40.00. Section 8-1018 (taking on or discharging passengers, section 8-1403(D) (failure to register/display license on bike), section 8-1411 (bicyclist to obey traffic control devices), section 8-1412 (riders/passengers restricted), section 8-1413 (riding on roadway/bike paths--restrictions), section 8-1414 (operate bicycle too fast for conditions), section 8-1415 (right-of-way on emerging from alley or driveway), section 8-1416 (carrying packages--restrictions), section 8-1417 (parking restriction), section 8-1418 (riding bicycle on sidewalks--restrictions), section 8-1419 (equipment on bicycles), and section 8-1420 (bicycles--age restrictions), article 8-20 (motorized scooters).
 3. For a violation of the following ordinances, a fee of \$60.00. Section 8-0113 (unlawful use of skates/coasters), section 8-0304 (registration card to be carried in the driver's compartment -- inspection of card), section 8-0305(A)(4) (current registration required), section 8-0406 (pedestrian-control signals), section 8-0409 (traffic engineer to establish and designate public carrier stops and stands), section 8-0412 (display of unauthorized signs, signals or markings), section 8-0505 (special speed limitation on bridge), section 8-0707 (pedestrian crossing street where prohibited), section 8-0709(A) (pedestrian walking in roadway), section 8-0710 (pedestrian soliciting rides or business), section 8-0712 (pedestrian obstructing traffic), section 8-0901 (fail to display flag/light rear of load), section 8-0902 (improper tires), section 8-0903 (improper horn), section 8-0904 (brakes required), section 8-0905 (mirrors

required), section 8-0906 (obstructed vehicle windshield/windows), section 8-0907 (windshield wipers required), section 8-0908 (mufflers/exhaust system required), section 8-0909 (leaking or loose load), section 8-0910 (lights/lamps fail to conform to state law), section 8-0911 (fail to display lighted lamps), section 8-0913 (illegal spotlights), section 8-0914 (improper towing connection), section 8-0915 (reflectors/taillight required on trailer), section 8-0916 (flashing lights prohibited), section 8-0917 (illegal light on vehicle), section 8-0928 (modified suspension system), section 8-0931 (child restraint devices required), section 8-1003(A) thru (J) and (L) thru (S) (stopping, standing, or parking prohibited in specific places), section 8-1003 (stopping, standing, or parking prohibited in specific places), section 8-1010 (motor vehicle left unattended--brakes to be set, engine stopped, and keys removed), section 8-1011 (drive or park on private property), section 8-1013 (improper parking/obstructing traffic), section 8-1301(A) (following fire apparatus), section 8-1301 (B) (driving vehicle within block of fire apparatus), section 8-1302 (driving through parade/funeral procession), section 8-1304 (failure to obtain parade permit), section 8-1313 (unlawful riding on vehicle), section 8-1315 (unlawful towing), section 8-1319(E) (driving on business premises), section 8-1321 (use of seat belts required), section 8-1902 (cruising prohibited), section 12-0102 (maintaining unlicensed dog/cat), section 12-0105(A) (dog/cat running at large), section 12-0105(B) (failure to collect animal waste), section 12-0105(D) (failure to confine dog/cat in heat).

4. For a violation of the following ordinances, a fee of \$100.00. Section 8-0105 (driving wrong way on one-way street), section 8-0106 (obey temporary traffic sign/barrier), section 8-0116 (failure to yield to emergency vehicle), section 8-0301 (failure to have vehicle under control), section 8-0306 (violation of restricted license), section 8-0403 (disobey traffic control device (barricade)), section 8-0405 (traffic control signals), section 8-0407 (flashing signals), section 8-0411 (alter traffic or railroad sign), section 8-0501 (speed - care required), section 8-0506 (impeding traffic), article 8-06 (regulating turning movements), section 8-0702 (fail to yield right-of-way to pedestrian), section 8-0919(A) (riding on exterior of vehicle), section 8-0919(B) (more passengers than capacity), section 8-0919(C) (allow body to protrude from moving vehicle), section 8-1003 (K) (parking in areas reserved for handicapped), article 8-11 (regulating railroad cars and crossings), section 8-1201 (following too closely), sections 8-1202 thru 8-1218(D) (general rules of the road), section 8-1218(F) (unlawful passing of school bus), section 8-1218(G) (unlawful proceeding past bus in oncoming lane),

section 8-1219 (use of motor vehicle), section 8-1301(C) (driving over fire hose), section 8-1301(D) (driving through/around barricade), section 8-1305 (driving vehicle on sidewalk), section 8-1306 (improper backing), section 8-1307 (opening and closing vehicle doors), section 8-1308 (helmet required--operator/passenger), section 8-1309 (number of riders on motorcycle limited), section 8-1311 (improper start of parked vehicle), section 8-1316(A) (operating motor vehicle with view obstructed by load/passengers), section 8-1316(B) (passenger obstructing driver's view), section 8-1317 (coasting vehicle on downgrade prohibited), section 8-1319(A) (driving on private property as shortcut), section 8-1319(B) (driving on private property to cruise or race), section 8-1319(C) (driving on private property to avoid traffic control), section 8-1320(A) (operating snowmobile under 16 or allowing when prohibited), 8-1320(B) (operating snowmobile in restricted area), section 8-1804 (driving through school patrols).

5. For a violation of the following ordinances, a fee of \$120.00. Section 8-0311 (open container), section 8-0801 (immediate notice of an accident), section 8-0929 (driving of vehicle in unsafe condition unlawful), section 8-1310 (clinging to a vehicle or allowing same), section 11-0202 (unnecessary noise prohibited), section 11-0204 (projection of sound unlawful), and section 11-0205 (motorized vehicles--excessive noise).
6. For a violation of the following ordinances, a fee of \$150. Section 8-0313 (careless driving), section 8-0317(B)(2) (exhibition driving), section 8-0318 (operating motor vehicle on bicycle trail), section 8-0319 (unlawful operation of motor vehicle/park or playground), section 8-1318 (littering), section 11-0814 (littering on private property).
7. For a violation of the following ordinances, a fee of \$300. 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 8-0316 (permit unauthorized person to drive), section 8-0317(B)(1) (drag racing or racing), and section 8-1319(D) (driving on private property to endanger person/property).
8. For a violation of subsection B and of subsection H of section 8-0502, a fee of \$20.00 for each mph over limit.
9. For a violation of subsections A, C, D, E F and G of section 8-0502, a fee established as follows:

1-10 miles over limit -- \$75
11-15 miles over limit -- \$100
16-20 miles over limit -- \$125
21-25 miles over limit -- \$150

- 26-30 miles over limit -- \$175
- 31-35 miles over limit -- \$200
- 36-40 miles over limit -- \$225
- 41-45 miles over limit -- \$250
- 46 miles + over limit -- \$275

10. 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, a fee of \$10.00 if said fee is paid within 10 days of the date of issuance of any parking tag, and a fee of \$13.00 if paid thereafter. For a violation of section 9-0705, a fee of \$15.00 if said fee is paid within 10 days of the date of issuance of any parking tag, and a fee of \$18.00 if paid thereafter.

Source: 2487 (1989), 2522 (1990), 2548 (1990), 2586 (1991), 2598 (1991), 2607 (1992), 2635 (1992), 2655 (1993), 2691 (1994), 2709 (1994), 2744 (1995), 2749 (1995), 2769 (1995), 2776 (1996), 2783 (1996), 2840 (1997), 2860 (1998), 2984 (1999), 3020 (1999), 3030 (1999), 3046 (1999), 3064 (1999), 4060 (2000), 4075 (2000), 4077 (2000), 4083 (2000), 4090 (2000), 4234 (2002), 4266 (2002), 4325 (2003), 4458 (2005), 4485 (2005), 4491 (2005), 4500 (2005), 4521 (2006), 4527 (2006).

1-0306. Disposition of ordinance violations--Procedures.--Ordinance violations shall be prosecuted and administered as follows:

- A. Violations of ordinances which are designated as Class B misdemeanors shall be prosecuted as provided in the ordinances, statutes, or rules relating to criminal procedure.
- B. Violations of ordinances which are designated as infractions shall be prosecuted as provided in the ordinances, statutes, or rules relating to criminal procedure; provided, that the provisions of section 12.1-32-03.1, N.D.C.C., shall also be applicable to prosecution of infractions.
- C. Violations of ordinances which are designated as noncriminal offenses shall be prosecuted and administered as provided in section 39-06.1-02, N.D.C.C., and 39-06.1-03, N.D.C.C., and 39-06.1-04, N.D.C.C.
- D. Ordinance violations subject to administrative enforcement. A violation of the following provisions of the Fargo Municipal Code, in addition to being a possible criminal violation, shall constitute an administrative offense that may be subject to an administrative citation and corresponding civil fees and enforced through the administrative enforcement program, Article 1-04:
 - 1. Chapter 9: Fire Protection and Prevention.
 - 2. Chapter 11: Public and Sanitary Nuisances.
 - 3. Chapter 12: Control and Protection of Animals, Birds and Fowl.
 - 4. Chapter 13: Health Protection and Disease Prevention.
 - 5. Chapter 16: Waterworks System.
 - 6. Chapter 17: Sewers and Sewage.
 - 7. Chapter 18: Public Ways and Places.
 - 8. Chapter 19: Department of Forestry – Trees, Parks and Boulevards.
 - 9. Chapter 20: City Planning and Zoning – Land Development Code.

10. Chapter 21: International Building Code.
 11. Chapter 21.1 International Residential Code.
 12. Chapter 22: Plumbing Code.
 13. Chapter 23: Electrical Code.
 14. Article 25-03: Outdoor Advertising (including Sign Code)
 15. Chapter 30: International Mechanical Code.
 16. Chapter 30.1 International Fuel and Gas Code.
 17. Chapter 31: International Property Maintenance Code/Minimum Housing Standards.
- E. The following are infractions, as defined in Fargo Municipal Code section 1-0301(B), and are punishable in accordance with state law:
1. Failure, without good cause, to pay the scheduled fee amount or to request a hearing within fourteen (14) days after issuance of an administrative citation.
 2. Failure, without good cause, to appear at a hearing before the administrative enforcement board which was scheduled under section 1-0411 of this Article.
 3. Failure to pay the scheduled fee amount imposed by the administrative enforcement board within thirty (30) days after it was imposed, or such other time as may be established by the administrative enforcement board.
- F. Any person who fails to appear or post bond on a non-criminal, non-traffic offense shall be guilty of an infraction.

Source: 2487 (1989), 4082 (2000), 4465 (2005), 4536 (2006).

1-0307. Penalties for violations--Authority of municipal court.--The Fargo Municipal Court shall have all of the authority as hereinabove provided for imposition of sentence, including sentencing alternatives, as provided in chapter 40-18, N.D.C.C.

Source: 2487 (1989).

1-0308. Administrative fees for ordinance violations processed under the administrative enforcement program.--

- A. An administrative fee not exceeding \$2000.00 may be imposed for each violation of a city ordinance that is processed under the administrative enforcement program outlined in Article 1-04.
- B. An administrative fee imposed as the result of property-related violation, processed under administrative enforcement program, may be assessed against the property which was the subject matter of the violation. Such fees shall be assessed against the property concerned by the building official and the assessment filed in the office of the city auditor. In August of each year, after due notice, the board of city commissioners shall review all such assessments, and hear all complaints against the same, and approve the same as finally adjusted; and such special assessments shall then be certified to by the county auditor and placed upon the tax roll for that year and be collected as other taxes.

Source: 4465 (2005).

ARTICLE 1-04

ORDINANCES-ADMINISTRATIVE ENFORCEMENT PROGRAM

Section	
1-0401	Administrative enforcement program-purpose and effect.
1-0402	Offenses subject to administrative enforcement.
1-0403	Persons authorized to issue administrative orders to correct and administrative citations.
1-0404	Fee amount; fee schedule.
1-0405	Administrative order to correct ordinance violation.
1-0406	Administrative citation; late payment fee.
1-0407	Procedure for requesting a hearing; appeal of administrative citation.
1-0408	Administrative appeal procedure.
1-0409	Membership of the administrative enforcement board.
1-0410	Recovery of administrative fees; late payment fee.
1-0411	Assessment of fees for property related ordinance violations.
1-0412	Criminal penalties.
1-0413	Judicial Review.

1-0401. Administrative enforcement program-purpose and effect.--The administrative enforcement program provided by this Article is an alternative method that may be used by the city to gain compliance with the city's ordinances. The enforcement and hearing process provided in this Article will be in addition to any other legal or equitable remedy available to the city for the enforcement of ordinances contained in the Fargo Municipal Code. If a determination is made by the administrative enforcement board that a violation did not occur, the city may not then proceed with any criminal prosecution for the actions or conduct that were the subject of the appeal process. This does not preclude the city from pursuing a criminal conviction for a violation of the same provision based on a different set of facts. A different date of a violation will constitute a different set of facts.

Source: 4464 (2005).

1-0402. Offenses subject to administrative enforcement.--A violation of the following provisions of the Fargo Municipal Code, in addition to being a possible criminal violation, shall constitute an administrative offense that may be subject to an administrative citation and corresponding civil fees and processed through the administrative enforcement program:

- A. Chapter 9: Fire Protection and Prevention.
- B. Chapter 11: Public and Sanitary Nuisances.
- C. Chapter 12: Control and Protection of Animals, Birds and Fowl.
- D. Chapter 13: Health Protection and Disease Prevention.
- E. Chapter 16: Waterworks System.
- F. Chapter 17: Sewers and Sewage.
- G. Chapter 18: Public Ways and Places.
- H. Chapter 19: Department of Forestry – Trees, Parks and Boulevards.
- I. Chapter 20: City Planning and Zoning – Land Development Code.
- J. Chapter 21: International Building Code.
- K. Chapter 21.1 International Residential Code.
- L. Chapter 22: Plumbing Code.
- M. Chapter 23: Electrical Code.

- N. Article 25-03: Outdoor Advertising (including Sign Code)
- O. Chapter 30: International Mechanical Code.
- P. Chapter 30.1 International Fuel and Gas Code.
- Q. Chapter 31: International Property Maintenance Code/Minimum Housing Standards.

Chapters and articles within the Fargo Municipal Code may include additional provisions relative to obtaining administrative enforcement of, and compliance with, ordinances within such chapters or articles.

Source: 4464 (2005).

1-0403. Persons authorized to issue administrative orders to correct and administrative citations.--Any person authorized to enforce provisions of the Fargo Municipal Code, including the following city officials or their designees, may issue administrative orders to correct an ordinance violation and administrative citations upon the reasonable belief that a code violation has occurred:

- A. Police officers.
- B. Humane officers.
- C. City auditor.
- D. Fire chief, fire marshal and fire inspectors.
- E. City engineer.
- F. Director of operations-public works.
- G. Enterprise director.
- H. Director of public health and the health officer.
- I. Planning director, planning department inspectors, and inspections department inspectors.

Source: 4464 (2005).

1-0404. Fee amount; fee schedule.--Pursuant to the authority outlined in § 1-0306, the administrative offenses cited in § 1-0402 may be subject to a civil fee not exceeding \$2,000.00. The board of city commissioners shall adopt by resolution a schedule of fees for violations for which an administrative citation has been issued. Each day a violation exists constitutes a separate offense pursuant to § 1-0301(D).

Source: 4464 (2005).

1-0405. Administrative order to correct ordinance violation.--

- A. Upon the reasonable belief that an offense detailed in § 1-0402 has occurred, the city officials listed in § 1-0403, and their agents and employees, may issue an administrative order to correct.
- B. The administrative order to correct may be served by personal service, by certified and/or registered mail, to the person responsible for violation, or attached to the motor vehicle in the case of a vehicular offense.
- C. The administrative order to correct shall state the date, time, nature of offense, name of issuing official, the action required to correct the violation, the deadline for taking corrective action, and the amount of scheduled fee if compliance is not obtained.

Source: 4464 (2005).

1-0406. Administrative citation; late payment fee.--

- A. If compliance is not achieved after the administrative order to correct is issued, the official may issue an administrative citation.
- B. The administrative citation shall be served by personal service, or by certified and/or registered mail, upon the registered property owner as shown in property tax records maintained in the city assessor's office, and upon any occupant when appropriate.
- C. The administrative citation shall describe the nature of the offense including the name of the issuing official, the amount of scheduled fee, the manner for paying the fee, the deadline for paying the fee, and the deadline for appealing the administrative citation.
- D. The person responsible for the violation must either pay the scheduled fee amount or request a hearing within fourteen (14) days after issuance of the administrative citation by filing a written request for a hearing with the Inspections Department.
- E. Payment of the fee constitutes an admission of the violation.
- F. A late payment fee of ten percent (10%) of the schedule fee amount may be imposed.

Source: 4464 (2005).

1-0407. Procedure for requesting a hearing; appeal of administrative citation.--The person responsible for the violation alleged in the administrative citation must request a hearing within fourteen (14) days after issuance of the administrative citation by filing a written request for a hearing with the Inspections Department. A request for a hearing shall be based on the following:

- A. That the applicable Fargo Municipal Code provision has been incorrectly interpreted;
- B. That provisions of the Fargo Municipal Code do not fully apply;
- C. That the requirements of the Fargo Municipal Code have been adequately satisfied by other means, or
- D. That strict application of any requirement of this code would cause an undue hardship.

Source: 4464 (2005).

1-0408. Administrative appeal procedure.--

- A. In response to a request for a hearing, the administrative enforcement board will hold a hearing within sixty (60) days from the date of filing the request, or at otherwise periodic meetings.
- B. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least fourteen (14) calendar days in advance, unless a shorter time is accepted by all parties.
- C. At the hearing the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence will not apply. The administrative enforcement board will receive testimony and exhibits, give appropriate weight to the evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

- D. The hearing shall be conducted by the chairman of the administrative enforcement board. If the chairman is not present, the members shall select one member to preside at the hearing.
- E. A quorum shall consist of two members.
- F. Time. Rule 6 of the North Dakota Rules of Civil Procedure shall be used in computing any period of time prescribed or allowed by this chapter.
- G. Subpoenas. Upon the board's own initiative or upon written request of an interested party demonstrating the need, the board may issue a subpoena for the attendance of a witness and/or the production of books, papers, records, or other documents that are material to the matter being heard. The party requesting the subpoena shall be responsible for serving the subpoena in the manner provided for in civil actions and for paying any statutory fees and expenses of any witness. A person served with a subpoena may file an objection with the board promptly but no later than the time specified in the subpoena for compliance. The board may cancel or modify any portion of the subpoena if it is unreasonable or oppressive. Any person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to a subpoena issued under this Article is guilty of an infraction under Fargo Municipal Code § 1-0301(B). Alternatively, the party requesting the subpoena may seek an order from district court directing compliance.
- H. Discovery. The administrative enforcement board, on its own initiative or upon the written request of an interested party, including the city, demonstrating an appropriate need, may allow discovery depositions to be taken pursuant to Rules 26, 28, 30 and 32 of the North Dakota Rules of Civil Procedure. The board may cancel or modify any portion of a deposition request deemed unreasonable or oppressive and may issue any order that it deems appropriate to properly regulate and control the taking of any deposition.
- I. Authority of the administrative enforcement board. The administrative enforcement board has authority to:
 - 1. determine that a violation occurred;
 - 2. dismiss the administrative citation;
 - 3. impose the scheduled fee amount;
 - 4. reduce, stay or waive the scheduled fee amount either unconditionally or upon compliance with appropriate conditions.
- J. When imposing a fee for a violation, the administrative enforcement board may consider any or all of the following factors:
 - 1. the duration of the violation;
 - 2. the frequency or reoccurrence of the violation;
 - 3. the seriousness of the violation;
 - 4. the history of the violation;
 - 5. the violator's conduct after issuance of the notice of hearing;
 - 6. the good faith effort by the violator to comply;
 - 7. the economic impact of the civil penalty on the violator;
 - 8. the impact of the violation upon the community;
 - 9. prior record of city code violations; or
 - 10. any other factors appropriate to a just result.

- K. Fees for continuing violations. The administrative enforcement board has discretion to impose a fee for more than one (1) day of a continuing violation, but only upon a finding that:
 - 1. the violation caused a serious threat of harm to the public health, safety, or welfare; or
 - 2. the accused intentionally and unreasonably refused to comply with the code requirement. The board's decision and supporting reasons for continuing violations must be in writing.
- L. The decision of the administrative enforcement board shall be issued at the conclusion of the hearing or in writing if the matter is taken under advisement, and shall contain appropriate findings and conclusions. If the written decision is not issued on the day of hearing, the written decision shall be served on the parties by mail within twenty (20) days of the hearing.
- M. Failure to attend hearing. Failure to attend a hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. The board may waive this result upon good cause shown. Examples of "good cause" include death or incapacitating illness of the alleged violator, a court order requiring the alleged violator to appear for another hearing at the time, and lack of proper service of the citation or notice of the hearing. Neither forgetfulness nor intentional delay shall constitute "good cause."
- N. Finality of decision. The decision of the administrative enforcement board is final without any further right of administrative appeal.

Source: 4464 (2005).

1-0409. Membership of the administrative enforcement board.--The administrative enforcement board shall consist of a minimum of three members, with two alternative members, who are qualified by experience and training to pass on matters relating to the subjects outlined in section 1-0402. Members of the board shall be appointed by the board of city commissioners to serve three-year terms. Members may not be employees of the city.

Source: 4464 (2005).

1-0410. Recovery of administrative fees; late payment fee.--

- A. If the scheduled fee amount is not paid within the time specified and no request for a hearing is timely received, failure to pay the fee constitutes a personal obligation of the violator, which may be collected by the city by any appropriate legal means and a lien on the real property upon which the violation occurred.
- B. If the fee was imposed for a property-related violation, the City may assess the applicable property pursuant to § 1-0308 of the Fargo Municipal Code.
- C. Failure to pay the scheduled fee amount is grounds for suspending, revoking or withholding any license associated with the violation.
- D. A late payment charge of ten percent (10%) of the total fee due may be imposed for each 30-day period, or part thereof, that the fee remains unpaid after the due date.

Source: 4464 (2005).

1-0411. Assessment of fees for property related ordinance violations.--

- A. Fees subject to assessment. Pursuant to Fargo Municipal Code § 1-0308, unpaid fees imposed for property-related violations may be assessed against:
 - 1. Property which was the subject matter or related to the subject matter of the fee amount; or
 - 2. Property which was the location of an activity, proposed use, delivery of city service, or other circumstance which resulted in the administrative fee.
- B. Assessment procedure. Unpaid administrative fees may be assessed against the property concerned by the appropriate department and the assessment filed in the office of the city auditor. In August of each year, after due notice, the board of city commissioners shall review all such assessments, and hear all complaints against the same, with written notice of proposed assessment and opportunity to be heard given to the property owner, and approve the same as finally adjusted; and such special assessments shall then be certified by the county auditor and placed upon the tax roll for that year and be collected as other taxes.

Source: 4464 (2005).

1-0412. Criminal penalties.--The following are infractions as defined in Fargo Municipal Code section 1-0301(B), and are punishable in accordance with state law:

- A. Failure, without good cause, to pay the scheduled fee amount or to request a hearing within fourteen (14) days after issuance of an administrative citation.
- B. Failure, without good cause, to appear at a hearing before the administrative enforcement board which was scheduled under section 1-0411 of this Article.
- C. Failure to pay the scheduled fee amount imposed by the administrative enforcement board within thirty (30) days after it was imposed, or such other time as may be established by the administrative enforcement board.

Source: 4464 (2005).

1-0413. Judicial Review.--An aggrieved party may obtain judicial review of the decision of the administrative enforcement board as allowed by state law, N.D.C.C. § 28-34-01.

Source: 4464 (2005).