

## CHAPTER 25

### LICENSING AND REGULATING BUSINESSES AND TRADES

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## ARTICLE 25-01

### GENERAL PROVISIONS

Section	
25-0101	License--Application--Bond.
25-0102	License--Issuance--Term.
25-0103	Revocation of license.
25-0104	License nontransferable.
25-0105	Taxes paid before license issued.

25-0101. License--Application--Bond.--All applications for license to pursue any business or calling, where a license is required, shall be made in writing to the issuing officer or to the board of city commissioners, and shall be filed with such issuing officer, unless otherwise required. The applicant, at the time of filing his application, shall deposit with the city treasurer the amount of license fee required. He also shall file with his application the bond required. Where approval of the board of city commissioners is required, the city auditor shall lay such application before the board at its next regular meeting. If the application is granted and the bond is approved by the board, the city auditor or issuing officer shall issue the license accordingly. If such application is refused, the license money deposited with the city treasurer shall be refunded to the applicant. In this chapter and in all ordinances of the city of Fargo, where it is provided for approval and issuance of a license by a designated city official, the approval or refusal of a license application by such issuing officer shall in all cases be subject to review by the board of city commissioners.

Source: 1952 Rev. Ord. 25-0101.

25-0102. License--Issuance--Term.--No license shall be granted for a longer period than one year, and all yearly licenses shall commence on the first day of January in each year and expire on the last day of December in each year unless otherwise specified. All licenses shall be signed by the city auditor under the corporate seal. No license shall be valid until so signed and sealed, nor shall any person be deemed licensed until a license shall be duly issued him. Each license shall be dated on the day of the issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date the business commenced, and the date of the issue of the license, together with the time of commencing and expiring, shall be given in the license and the license record.

Source: 1952 Rev. Ord. 25-0102.

25-0103. Revocation of license.--All licenses granted shall be subject to the ordinance relating to licenses which may be in force at the time of issuing thereof or which may be subsequently passed by the board of city commissioners. If any person shall violate any provision of any ordinance relating to his license, he may be proceeded against for any fine or penalty imposed thereby, and his license may be revoked, or forfeited in the discretion of the board, or of the court before which any action may be brought for the recovery of any fine or penalty.

Source: 1952 Rev. Ord. 25-0103.

25-0104. License nontransferable.--No license shall be assignable or transferable, nor shall any person be authorized to do business or act under such license except only the person to whom it is granted, or at any place other than the place specified therein. The board of city commissioners may grant the removal of the business licensed to any other portion of the city, the said permission to be certified on such license by the city auditor. A license shall not authorize any person to act under it at more than one place at the same time, or at any other place than is thereon specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without license and shall be subject to the same penalty as prescribed for acting without a license.

Source: 1952 Rev. Ord. 25-0104.

25-0105. Taxes paid before license issued.--Whenever, pursuant to any ordinance of the city now existing or which may hereafter be enacted, a license is required to be obtained from the said city for the conduct of any business, trade, or occupation, or for any other purpose except dog licenses, no license shall be issued to any person, firm, or corporation owing two years or more of delinquent personal property taxes until such person, firm, or corporation shall have paid at least two of the delinquent years' personal property taxes owing by such person, firm, or corporation to the county of Cass, state of North Dakota. Every applicant shall furnish to the city auditor with his application for a license tax receipts showing compliance with the provisions of this article.

Source: 1952 Rev. Ord. 25-0105.

## ARTICLE 25-02

### AUCTION SALES AND AUCTIONEERS

#### Section

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|--------------------|---|
| 25-0201            | Auction sales--License required.            |
| 25-0202            | Auction sales license--Issuance--Fee--Term. |
| 25-0203            | Auction sales license--Revocation.          |
| 25-0204 to 25-0210 | Repealed.                                   |

25-0201. Auction sales--License required.--No person shall hereafter sell, or offer to sell, any goods, wares, merchandise, or other personal property, or any real estate, or any interest therein, at public auction for gain, or advertise such property for sale at public auction without first procuring from the city auditor of the city of Fargo a license to conduct said sale at public auction.

Source: 1965 Rev. Ord. 25-0201, 1465 (1973).

25-0202. Auction sales license--Issuance--Fee--Term.--Any person who desires to sell and dispose of personal property or real estate at public action shall make application to the city auditor of the city of Fargo for a license so to do. If said license is granted, the said person shall pay into the city treasury the required fee, which shall be established by resolution of the board of city commissioners; and the city auditor shall issue a license to conduct said sale, at public auction, for the period of time specified, but no license shall be issued for a period longer than 30 days, provided, however, that upon application, an auction sales license may be issued for a period of up to one year allowing a licensee to conduct auction sales at a fixed location. Such public auctions conducted at said location may not exceed one in number per week. The fee to be charged for such yearly license

shall be established by resolution of the board of city commissioners.

Source: 1965 Rev. Ord. 25-0202, 1465 (1973), 1500 (1973), 1985 (1980).

25-0203. Auction sales license--Revocation.--Any license issued to sell real or personal property at public auction may be revoked by the board of city commissioners at any time they may deem it advisable so to do.

Source: 1952 Rev. Ord. 25-0203.

25-0204 to 25-0210.--Repealed by Ord. No. 2299, effective December 29, 1986.

## ARTICLE 25-03

### OUTDOOR ADVERTISING

#### Section

- 25-0301 Erection or placement of signs--Permit required.
- 25-0302 Sign hanger's license--Fee--Certificate of insurance required.
- 25-0302.1 License for high impact sign or portable sign (effective 1-1-05).
- 25-0302.2 Burden of proof (effective 1-1-05).
- 25-0302.3 Hearing for suspension (effective 1-1-05).
- 25-0303 Identification of owner.
- 25-0304 Abandoned signs.
- 25-0305 Regulations for non-conforming uses.
- 25-0306 Conflicting ordinances.
- 25-0307 City of Fargo Sign Code.
- 25-0308 Temporary and portable signs--Impoundment.

25-0301. Erection or placement of signs--Permit required.-- Except as hereinafter provided, no person shall erect or place any sign, banner, placard or other advertising device, whether temporary, permanent or portable, upon any property for the purpose of advertising any merchandise, goods, services, business, show, entertainment or performance without first obtaining a permit from the building inspector and paying into the city treasury, a fee for such permit, the amount of which shall be established by resolution of the board of city commissioners. Denial of any such permit shall be appealable to the board of adjustment. This article shall not be construed to permit the erection or placement of signs on public property nor to prohibit or to require a permit for advertising which is lettered directly on the body of a motor vehicle.

Source: 2040 (1981), 2504 (1989).

25-0302. Sign hanger's license--Fee--Certificate of insurance required.--No person, except a licensed sign hanger, shall hereafter engage in the business of painting, or installing, any permanent sign structure or any sign upon the outside walls or on the roof of any building within the city of Fargo; such license shall be obtained by making application therefor to the city auditor of the city of Fargo. No such license shall be granted until the person applying therefor shall have paid into the city treasury the required fee, and shall have furnished a certificate of liability insurance with minimum limits of \$250,000. A sign hanger's license shall expire one year after date of issuance and

the fee for such license shall be established by resolution of the board of city commissioners. No licensee hereunder shall paint or install any sign, or install any sign structure without first having obtained a permit pursuant to § 25-0302 of this article. This section shall not be construed to require a sign hanger's license or permit of any person or firm for the painting of any sign or sign structure located on that person or firm's property and advertising such person or firm's business conducted upon the same premises provided, that such person or firm shall be required to comply with the requirements of the city of Fargo Sign Code and may not contract with an unlicensed contractor or sign hanger to place or erect such sign or sign structure.

Source: 2040 (1981), 2504 (1989).

**NOTE: Sections 25-0302.1 through 25-0302.3 do not become effective until January 1, 2005.**

25-0302.1 License for High Impact Sign or Portable Sign. It shall be unlawful for any person, firm or entity to display a High Impact Sign or a Portable Sign without first having obtained a license for such purpose, issued in accordance with Article 25-01 of the Fargo Municipal Code.

A. Suspension or Non-renewal of License. The license granted under this section may be suspended or revoked for violation of any of the provisions of the Fargo Sign Code, as follows:

1. Initial Violation – Warning. A warning shall be given that a civil fee may be imposed as a penalty upon a second offense and the licensee's license shall be suspended if a third or subsequent offense occurs within the probationary period.
2. Subsequent Violation – Second offense – fine. In the event of a second offense within the probationary period, the licensee shall pay a fee of \$200 to the city.
3. Third offense – Sixty-day suspension. In the event of a third offense within the probationary period the licensee's license shall be suspended for a period of sixty (60) days.
4. Fourth offense – Sixty-day suspension. In the event of a fourth offense within the probationary period the licensee's license shall be suspended for a period of one year.
5. The term "probationary period" is defined as a period of 12 months for a violation which is not within any period of probation already established by a violation of any part of this article, which 12 months shall be defined as commencing on the date of the said first offense and shall extend for 12 consecutive months thereafter. If any subsequent offenses occur within the said 12-month period the probationary period for any such subsequent offense shall extend for either the same 12 consecutive months from the date of the first offense, as described above, or for a period of six months from the date of the subsequent offense, whichever period would expire later. For purposes of this article, an offense is deemed to have occurred when the offense is committed, and not the date of judgment or conviction. A "probationary period" shall not be deemed to expire or terminate even though the licensee's license has expired.
6. Offenses during periods of suspension. In the event an offense is committed

by a licensee while that license is suspended, the licensee's license shall be suspended for a full probationary period.

7. Nothing in this section shall limit the authority of the board of city commissioners to impose a fine or penalty or to revoke or to cause a forfeiture of a license, as set forth in Article 25-01 of the Fargo Municipal Code.

Source: 4387 (2004).

25-0302.2 Burden of proof.--A violation of the provisions of this article shall be a noncriminal administrative proceeding in which the city of Fargo shall have the burden of proving a violation of this ordinance by a preponderance of the evidence.

Source: 4387 (2004).

25-0302.3. Hearing for suspension.—A license granted under this article may not be suspended without a public hearing. In the event that the board of city commissioners, or a person or committee so designated by separate resolution of the board of city commissioners, (the "hearing body") intends to consider the suspension of the licensee's license, the licensee shall be notified of the hearing body's intention to consider the same. The notice shall specify the time and place of the suspension hearing, shall describe the reason for said hearing, and shall be served upon the licensee in the same manner as provided by law for the service of a summons in a civil action. No suspension hearing shall be held before the expiration of 15 days after the date of the service of the notice. The hearing for a violation shall be heard by the hearing body. A record of the hearing shall be made by electronic recording device.

If, upon such hearing, it appears to the hearing body that sufficient cause exists for the suspension of the licensee's license, or issuance of the civil fee, as set forth pursuant to this article, the hearing body shall make its order suspending the said authority in accordance with the provisions of this article. The hearing body shall issue its findings, conclusions and order which shall be served on the licensee, whose license is thereby suspended. The order of a hearing body other than the board of city commissioners is appealable to the board of city commissioners for a hearing *de novo*. The decision of the board of city commissioners is appealable pursuant to chapter 28-34 of the North Dakota Century Code.

Source: 4387 (2004).

25-0303. Identification of owner.--Every sign erected or installed in the city of Fargo shall be clearly marked by some permanent means and in a location on said sign which is readily visible. Said marking shall state the name and address of the owner of such sign.

Source: 2040 (1981), 2504 (1989).

25-0304. Abandoned signs.--A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If owner or lessee fails to remove it, the building inspector shall direct its removal and shall give the owner 30 days' written notice of such directive. Upon failure to comply, the building inspector or his duly authorized representative may remove the sign and charge the owner the cost of such removal. In the event said owner does not pay for the removal within 30 days of receiving notice of the amount of the cost, such cost may be assessed against the property and certified to the county auditor for collection as a special assessment against said property.

Source: 2040 (1981), 2504 (1989).

25-0305. Regulations or non-conforming uses.--The lawful use of a sign existing at the date of enactment of this article, although such use does not conform to the provisions hereof, may be continued, provided no structure or alterations, additions, or enlargements are made to the sign.

A non-conforming sign which is destroyed or damaged by fire, flood, wind, earthquake, explosion, or other casualty, or by the public enemy, to the extent that the cost of restoration would amount to less than 50% of its original value, may be restored; provided, that where a structure is destroyed or damaged to such an extent that its total demolition is required by law or to protect the public health or safety, or if restoration is not started within a period of 30 days and promptly completed, any further signs shall conform to the provisions of the city of Fargo Sign Code.

The provision of this section shall not prevent or interfere with action that may be taken to abate any nuisance in any manner provided by law.

Source: 2504 (1989).

25-0306. Conflicting ordinances.--In the event of a conflict or discrepancy between the provisions of this article and any other ordinances of the city of Fargo, such ordinances shall be construed, whenever possible, to give effect to both and in cases where more stringent requirements are imposed by other ordinances, the most restrictive provision shall apply.

Source: 2504 (1989).

25-0307. City of Fargo Sign Code.--The city building inspector shall adopt regulations which shall be considered as an extension of this article and shall, after approval as hereinafter provided, have all of the force and effect as if included herein in its entirety. Such regulations shall be known as the city of Fargo Sign Code and shall not be effective until approved by the board of city commissioners of the city of Fargo. Prior to such approval, a public hearing shall be conducted by the Fargo planning commission and thereafter, by the board of city commissioners of the city of Fargo. Such public hearings shall be held after notice thereof shall have been published in the official newspaper of the city. Amendments of the city of Fargo Sign Code shall be accomplished in the same manner as adoption of the original code. A copy of the city of Fargo Sign Code and any amendments thereto shall be kept on file in the office of the Fargo building inspector and shall be made available for public inspection at any reasonable time.

Source: 2504 (1989).

25-0308. Temporary and portable signs--Impoundment.--Portable or temporary signs which are determined to be in violation of any of the provisions of the Fargo Sign Code may be impounded by the city and thereafter, be released only upon payment of a fee to be established by resolution of the board of city commissioners.

Source: 2504 (1989).

## ARTICLE 25-04

### TAXICABS, OWNERS AND DRIVERS, LIMOUSINES AND HANDICAPPED VANS

Section	
25-0401	Definitions.
25-0402	Licenses.
25-0403	Application for licenses.
25-0404	License fees.
25-0405	Insurance.
25-0406	Issuance of taxicab licenses and license plates.
25-0407	Transfer of licenses.
25-0408	Renewal.
25-0409	Existing licenses continued.
25-0410	Suspension and revocation.
25-0411	Leasing and unauthorized use prohibited.
25-0412	Condition of vehicles.
25-0413	Safety inspection.
25-0414	Record of calls by taxicabs.
25-0415	Taxicabs to be marked and rates posted.
25-0416	Taxicab meters required.
25-0417	Schedule of fares--Approval.
25-0418	Unlawful to charge fares in excess of schedule.
25-0419	Change in schedule.
25-0420	No franchise granted.
25-0421	Taxi driver's license.
25-0422	Revocation or suspension of a taxi driver's license.
25-0423	Transfer of drivers.
25-0424	Duty to carry passengers.
25-0425	Direct route.
25-0426	Individual service.
25-0427	Hours of operation.
25-0428	Taxicab stands.
25-0429	Smoking prohibited.
25-0430	Conduct of drivers.
25-0431	Riders prohibited.
25-0432	Limit on passengers.
25-0433	Drivers to report accidents.

#### 25-0401. Definitions.--

1. Handicapped Van: A motor vehicle equipped with a wheelchair lift, which is used for the sole purpose of transporting handicapped persons.
2. Limousine: A motor vehicle used for transporting passengers for remuneration based on an hourly rate which do not publicly solicit business, except through media advertising.
3. Taxicab: A motor vehicle used for transporting passengers for remuneration for which

patronage is solicited publicly, but shall not include motor buses operating on fixed or established routes.

Source: 1952 Rev. Ord. 25-0401, 2257 (1986).

25-0402. Licenses.--No person, firm, association, or corporation shall, for remuneration, transport passengers in a handicapped van, limousine, or a taxicab within the city of Fargo without first having obtained a license. Application for such license shall be made as hereinafter provided.

Source: 1952 Rev. Ord. 25-0402, 1777 (1977), 2257 (1986).

25-0403. Application for licenses.--

A. Application for licenses to operate one or more handicapped vans, limousines, or taxicabs, or an application to operate additional vehicles under an existing license, shall be made in writing to the city auditor upon forms furnished by him and shall be verified by the person making the same. Said application shall contain the following information:

1. The full name and address of the applicant; and if a partnership, the name and address of each partner; and if a corporation, the names and addresses of the officers and the board of directors thereof, and the name of the general manager of the business.
2. The address of the principal place of business of such applicant and where such applicant's office or other place of business will be located.
3. The experience, if any, the applicant has had in such business.
4. The number of vehicles the applicant desires to operate.
5. The make, model, and year of manufacture, engine number, serial number, passenger capacity and certificate of title number and license number of each vehicle to be operated.
6. A statement of the applicant's financial worth certified by a public accountant.
7. Such other information as the city auditor shall from time to time require.

B. An application for a taxicab license shall be submitted by the city auditor to the board of city commissioners which shall set a date for a public hearing before a license committee composed of the chief of police, a member of the board of city commissioners appointed by the president, and the city auditor of the city of Fargo which committee shall examine the public convenience and necessity of granting such license. The city auditor shall notify the applicant and all holders of taxicab licenses of the time and place set for the hearing and shall publish notice of said hearing in a daily newspaper in the city of Fargo once at least 10 days before said hearing.

C. Not later than 30 days after the date of the hearing on the application for a taxicab license, the license committee shall submit to the board of city commissioners its recommendation as to whether public convenience and necessity will be served by granting of the application. No license shall be granted until the board shall by resolution have determined that the public

convenience and necessity will be served by the service proposed in the application for license. The board may hold such further hearings and procure such additional information as it may deem necessary or advisable in making such determination. In determining whether to grant or refuse such license, the board shall take into consideration the following factors:

1. Whether or not the public convenience and necessity requires such proposed or additional taxicab service.
2. The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible, and satisfactory.
3. The number of vehicles and condition of equipment.
4. The schedule of proposed rates, including a rate for the carriage of more than one passenger when their destinations are different.
5. The number of taxicabs now in operation and the demand for increased service, if any, and the effect of additional cabs upon traffic conditions and existing licenses.
6. The experience of the applicant in the taxicab business.
7. Such other relative facts as may be deemed necessary and advisable.

D. No public notice or hearing shall be required for a handicapped van license or a limousine license.

Source: 1952 Rev. Ord. 25-0403, 2257 (1986), 2403 (1988).

25-0404. License fees.--License fees shall be as established by resolution of the board of city commissioners. The license year shall commence January 1st and end December 31st. If less than six months remain of the license year when the license is issued, the license fee for the vehicle shall be reduced one-half.

Source: 1952 Rev. Ord 25-0404, 2257 (1986).

25-0405. Insurance.--

- A. No license shall be issued until the applicant deposits with the city auditor a policy of liability insurance covering all vehicles to be included under the license. Such policy shall describe each vehicle by make, model, motor and serial number, number of passengers capable of being accommodated therein at one time, and the number of the state motor vehicle license. Such insurance policy shall be issued by a company licensed to do business in the state of North Dakota, and shall insure the licensee against liability to the minimum amount of \$250,000 for the injury or death of one person in any one accident; and in the minimum amount of \$500,000 for the injury or death of more than one person in any one accident; and in the amount of \$50,000 for damage to property of others for any one accident, due to the negligent operation of such vehicle.
- B. The policy of insurance shall contain a provision that the same may not be canceled before the expiration of its termination except upon 15 days' written notice to the city of Fargo and shall include a provision stating that the

coverage of said policy shall extend to and include all vehicles temporarily substituted for those listed in said policy and shall automatically include all new vehicles added by the licensee.

- C. Said policy of insurance shall be approved by the city attorney as to legal form and the city auditor as to sufficiency before it is filed.
- D. The cancellation or other termination of any insurance policy issued in compliance with this section shall automatically revoke and terminate all licenses issued for the vehicles covered by such insurance policy, unless another policy shall have been filed and approved pursuant to this section and shall be in effect at the time of such termination or cancellation.

Source: 1952 Rev. Ord. 25-0405, 2257 (1986).

25-0406. Issuance of taxicab licenses and license plates.--

- A. After passage of the resolution of convenience and necessity as provided in § 25-0403, and upon filing with the city auditor a receipt of the city treasurer showing payment of the required license fees, and the filing and approval of the policy of insurance as hereinbefore provided, the city auditor shall issue to the applicant a taxicab license. Each license granted shall be numbered and shall show the owner's name and place of business and the number of vehicles which may be operated thereunder.
- B. The city auditor shall issue to each licensee a license plate for each vehicle licensed. The license plates shall be of such size, form, and material as the city auditor may deem proper and shall have printed or stamped thereon the words "Fargo Taxicab License" to be followed by the appropriate serial number of said license and the period for which issued. No vehicle shall operate as a taxicab unless such plate is securely fastened in a conspicuous place on the front of the vehicle.
- C. If a taxicab license plate is lost, the licensee shall secure a duplicate thereof by applying to the city auditor and paying the sum of \$1.
- D. The city auditor shall issue handicapped van licenses and limousine licenses but shall not issue license plates to such vehicles.

Source: 1952 Rev. Ord. 25-0406, 2257 (1986).

25-0407. Transfer of licenses.--No license shall be transferable either from the vehicle described in the original application to another vehicle or from the original licensee to another person, firm, or corporation without the consent and approval of the board of city commissioners, except that where a vehicle is out of service for repairs, the license can be temporarily transferred to a reserve vehicle. A vehicle so used must be covered by insurance as provided in § 25-0405 of this article and all regular and reserve vehicles must be listed with the auditor. In cases of emergency and where the board is satisfied that there is a real emergency and need, an additional vehicle license or licenses may be issued upon payment of the fee and the securing of insurance as required in this article.

Source: 1952 Rev. Ord. 25-0407, 2257 (1986).

25-0408. Renewal.--Licenses may be renewed by the city auditor upon the payment of the

fees and filing of policies of insurance as required for the original license.

Source: 1952 Rev. Ord. 25-0408, 2257 (1986).

25-0409. Existing licenses continued.--All licenses heretofore issued shall be valid until the expiration of the same at which time any renewal of said licenses shall be subject to all the provisions of this article.

Source: 1952 Rev. Ord. 25-0409.

25-0410. Suspension and revocation.--Upon the giving of the notice hereinafter required, a license may be suspended or revoked at any time by the board of city commissioners for cause, which shall include among others the violation of any provision of this ordinance or the violations of any provision of chapters 39-06 to 39-10, inclusive, of the North Dakota Century Code or of any amendment thereto, or of any ordinance of the city relating to the equipment, use or operation of motor vehicles. Such revocation or suspension may be for all vehicles or any vehicle included under a license. When any license is suspended or revoked it shall be the duty of the city auditor immediately to notify the licensee to cease immediately to operate the vehicle for which complaint has been made or charges filed with the board of city commissioners. Said licensee shall be given not less than five days' notice of a hearing to be had upon said charges, or upon said complaint, and at the time of giving such notice he shall be served in person or by mail with a written statement of the complaint made or the charges filed. Said hearing shall be held at a special meeting or not later than the next regular meeting of said board. Upon hearing duly had by said board, it may either revoke such license so issued or suspend said license for a specified period of time not exceeding 60 days.

Source: 1952 Rev. Ord. 25-0410, 2257 (1986).

25-0411. Leasing and unauthorized use prohibited.--No license shall be granted to any person, firm, association or corporation to operate handicapped vans, limousines, or taxicabs unless the applicant is the owner or long-term lessee of such vehicle or vehicles to be licensed, and it shall be unlawful for such licensee to lease or rent out such vehicle for the purpose of transporting passengers for hire, or to permit the use of any vehicle not owned by such licensee for the transportation of passengers for hire under said license. It shall be unlawful for any person other than a duly licensed taxicab driver or a mechanic engaged in servicing the vehicle to drive a vehicle licensed hereunder and a licensee, as well as any unauthorized driver shall be held responsible for a violation of this provision.

Source: 1952 Rev. Ord. 25-0411, 2257 (1986).

25-0412. Condition of vehicles.--It shall be the duty of the licensee to keep each vehicle in a clean and sanitary condition, in good repair, well lighted and painted, and equipped and maintained as required by chapter 39-21 of the North Dakota Century Code.

Source: 1952 Rev. Ord. 25-0412, 2257 (1986).

25-0413. Safety inspection.--The brakes, horn, speedometer, lights, tires, steering gear, and windshield wiper of each vehicle licensed under this ordinance shall be examined and tested as to sufficiency prior to the granting of the original license, and at least once every 90 days thereafter. The inspection shall be made by any garage in the city of Fargo approved by the chief of police and shall be evidenced by a certificate of examination and sufficiency which shall be filed with the chief

of police, and a copy thereof shall be posted in the car so examined, showing the date of inspection.

Source: 1952 Rev. Ord. 25-0413, 2257 (1986).

25-0414. Record of calls.--All taxicabs shall keep a daily record of all calls made and passengers transported, showing the time and place when and where the passenger was secured, and the place where the passenger was taken, and the number and sex of passengers, which record shall be kept by the licensee at the place of business stated in such license for 60 days, and shall be open to inspection by any police officer at all times.

Source: 1952 Rev. Ord. 25-0414.

25-0415. Taxicabs to be marked and rates posted.--Every taxicab shall be conspicuously marked on the right and left side with the name of the licensee and the serial number designated in the taxicab license. Such letters and numbers shall be not less than two inches in height, and of a light color on a dark background or a dark color on a light background. A card with the name of the licensee, taxicab license number, and rates of fare printed thereon shall be prominently posted and displayed in a conspicuous place inside of such vehicle so as to be visible to the passengers therein at all times.

Source: 1952 Rev. Ord. 25-0415.

25-0416. Taxicab meters required.--From and after the 1st day of April, 1971, every taxicab operated under authority granted by the city of Fargo shall be equipped with taximeter of a make, construction and operation satisfactory to the chief of police, and shall have a lighted dial in plain view to passengers, whereon shall be registered the fare for each trip in accordance with the rates established in this chapter and all such meters, before being used for the charging of fares, shall be inspected by the chief of police as to its accuracy, and sealed by him before it shall be used.

Any taximeter which is the subject of a complaint shall be reinspected by the chief of police and shall be placed out of service if such inspection establishes that such taximeter is not accurate, and such taximeter shall not be placed out of service if such inspection establishes that such taximeter is not accurate, and such taximeter shall not be re-approved for use by the chief of police until its accuracy is redetermined. No person, except in the inspection described above or in the repair thereof, shall tamper with, break or mutilate any taximeter or the seal thereof with the purpose of causing such taximeter to register any fare incorrectly, or for any other purpose whatsoever. No taxicab shall be operated in the city of Fargo upon which the seal of said taximeter has been broken until such taximeter is reinspected by the chief of police and resealed. No person shall operate any taxicab without a sealed operating taximeter in compliance with this chapter.

A. Definitions.

1. Passenger--Any individual person engaging a taxicab under the terms and provisions of this ordinance.
2. Group--Two or more passengers boarding and departing from a taxicab at the same origin and destination.

B. Schedule of fares.

Every person, firm or corporation holding operating authority under this chapter for the operation of taxicabs, before charging or collecting any fares for or with respect to the transportation of passengers, shall first file with the city auditor a schedule of fares to

be uniformly charged in the operation of all taxicabs used in the taxicab business of such licensee. The schedule of fares shall show separately the charge for the transportation of passengers, whether a flat rate or by mileage, and shall include a rate for the carriage of more than one passenger with different destinations.

C. Uniformity of rates.

1. Taxicab fares shall be uniform throughout the city and shall not vary between license holders under this article.
2. A statement or schedule pertaining to multiple loading charges, flat rate charges for certain specified routes and any other information necessary to clarify rates to be charged shall be submitted to and approved by the board of city commissioners prior to the commencement of the operation of taxicabs with taximeters installed therein. Said statement or schedule shall be filed with the city auditor and shall have the concurrence of all licensed taxicab operators in the city of Fargo. Such concurrence shall be indicated by signature of all licensed operators on the statement or schedule referred to therein.
3. Any subsequent changes in the filed statement or schedule pertaining to rates shall have the approval of the board of city commissioners and the concurrence of all licensed taxicab operators in the same manner as required for the original schedule or statement.

Source: 1965 Rev. Ord. 25-0416, 1383 (1971), 1577 (1974), 1595 (1974), 2189 (1985).

25-0417. Schedule of fares--Approval.--The schedule of fares for handicapped vans, limousines and taxicabs shall be filed with the city auditor. The schedule of fares for handicapped vans and limousines shall become effective upon filing with the city auditor. The schedule of fares for taxicabs shall not become effective until approved by the board of city commissioners and shall remain in force until changed as hereinafter provided.

Source: 1952 Rev. Ord. 25-0417, 2257 (1986).

25-0418. Unlawful to charge fares in excess of schedule.--It shall be unlawful for any holder of a license, with respect to which a schedule of fares or rates has been filed with the city auditor in accordance with § 25-0416, to charge or to collect any fares for or with respect to the transportation of passengers within the city of Fargo other than the fares provided for and set out in such schedule.

Source: 1952 Rev. Ord. 25-0418, 2257 (1986).

25-0419. Change in schedule.--Any schedule of fares filed with the city auditor in accordance with § 25-0416 shall be binding upon the licensee and all operators and drivers of vehicles under the license from the date such schedule for handicapped vans and limousines is filed with the city auditor and such schedule for taxicabs is approved by the board of city commissioners or until such schedule is superseded by the filing of a new schedule by the licensee, and such new schedule for taxicabs has been approved by the board, provided, however, that no such schedule shall be superseded or revoked within 30 days after the filing of the same without approval of said

board.

Source: 1952 Rev. Ord 25-0419, 2257 (1986).

25-0420. No franchise granted.--This article is adopted under the general police powers as a regulatory measure and it is not intended hereby to grant or offer any franchise except as denoted by the title of this ordinance; it is intended to regulate the operation of handicapped vans, limousines and taxicabs within the city of Fargo.

Source: 1952 Rev. Ord. 25-0420, 2257 (1986).

25-0421. Taxi driver's license.--

- A. No person shall operate a handicapped van, limousine or taxicab unless he shall possess a taxi driver's license. The fee for such license and the renewal thereof shall be as established by resolution of the board of city commissioners.
- B. Each applicant shall submit in writing to the chief of police on forms furnished by the police department a statement of the applicant's full name, his present address, his residence for three years past, his age, color, height, weight, color of eyes and hair, citizenship, place of last previous employment, marital status, state driver's license number, whether he has ever been convicted of a felony or misdemeanor, whether he has ever been previously licensed as a taxi driver or chauffeur, and if so, when, and by what authority, whether his license has ever been revoked or suspended, and if so, for what cause, and the name of his prospective employer. A clear and complete set of fingerprints of each applicant for a taxi driver's license shall be made on said application or attached thereto. All applications shall be retained in police department records.
- C. Each applicant for a taxi driver's license shall be examined as to his knowledge of the provisions of this article and of the traffic regulations and his driving ability. The examination shall be conducted by a person designated by the chief of police. If the chief of police shall find that the applicant is not qualified, the license shall be refused.
- D. The applicant shall produce, on forms to be provided by the chief of police, affidavits of his good character from two reputable citizens of the city of Fargo who have known him personally and observed his conduct during at least one year next preceding the date of his application.
- E. No license shall be granted to any person:
  - 1. Who is under 21 years of age.
  - 2. Who does not possess a valid driver's license.
  - 3. Who has been convicted of a felony, or who has been convicted of driving a vehicle upon the highway while under the influence of intoxicating liquor or narcotics, unless two years have elapsed since the date of his conviction or discharge from a penal institution, whichever is later.
  - 4. Who is not of sound physique or is without good eyesight and good hearing or is subject to epilepsy, vertigo, heart trouble, or other infirmity of body or mind which might render him unfit for the safe operation of a taxicab. The applicant shall

furnish a health certificate issued by a reputable licensed physician or surgeon.

- F. A taxi driver's license shall expire one year following the date of its issuance unless sooner suspended or revoked as herein provided. It may be renewed upon application to the chief of police on a form furnished by him entitled "Application for Renewal of Taxi Driver's License", which shall allow the full name and address of the applicant and the date upon which his original license was granted and the number thereof.
- G. Upon presentation of the city treasurer's receipt for payment of the license fee, the chief of police shall deliver to each licensed taxi driver a license of such form and style as the chief of police may prescribe, with the license number thereon, which must, under penalty of revocation of the license, be constantly and conspicuously displayed on the taxicab when he is engaged in his employment. Each licensee shall affix to the face of the license in a space provided therefor, a photograph of himself, not less than one and one-half inches square which shall provide an accurate likeness of his face. No driver may loan his license or permit another person to use it, subject to revocation of his license.
- H. The chief of police shall maintain a complete record of each license issued to a driver and of all renewals, suspensions, and revocations thereof, which shall be filed with the original application.
- I. Upon the issuance of such license there shall be delivered to the licensee a metal badge with the license number thereon, which badge must be continuously and conspicuously displayed on the outside of the licensee's cap when he is engaged in his employment as a handicapped van, limousine or taxi driver.

Source: 1952 Rev. Ord. 25-0421, 1499 (1973), 2257 (1986), 2403 (1988).

25-0422. Revocation or suspension of a taxi driver's license.--

- A. The chief of police shall revoke a taxi driver's license if the licensee has, since the granting of the same:
  - 1. Been convicted of a felony.
  - 2. Had his state driver's license revoked or suspended.
  - 3. Been convicted of driving while under the influence of intoxicating liquor or narcotics.
  - 4. Been convicted of two or more violations of the traffic ordinances of the city of Fargo or of any of the offenses set forth in chapters 39-09 and 39-10 of the North Dakota Century Code during any continuous six-month period.
  - 5. Made any false statement of his application for a license.
  - 6. When for the preservation of public safety, welfare, morals, or good order, been found by the chief of police to be unfit to drive a taxicab.
- B. Written notice of such revocation or refusal to renew shall be given the licensee. Any person whose license shall have been revoked or renewal

thereof refused by the chief of police may within 10 days thereafter appeal to the board of city commissioners for a hearing thereon; and the board of city commissioners may, after the hearing, affirm or reverse the action of the chief of police. If no appeal is taken within 10 days, the action of the chief of police shall be final.

C. Instead of revoking such license, the chief of police, for a violation of any of the provisions of subsection (A) above or for such other cause as to him may make such course necessary or advisable, may suspend such license for a period of not to exceed 60 days.

D. Each license which is revoked shall be repossessed by the chief of police.

Source: 1952 Rev. Ord. 25-0422.

25-0423. Transfer of drivers.--A driver may not transfer from one licensee to another licensee until such transfer has been recorded in writing with the chief of police.

Source: 1952 Rev. Ord. 25-0423, 2257 (1986).

25-0424. Duty to carry passengers.--No taxi driver shall refuse to carry passengers, with reasonable promptness, to or from any part of the city.

Source: 1952 Rev. Ord. 25-0424.

25-0425. Direct route.--Any driver employed to transport passengers to a definite point shall take the most direct route possible over which the passenger can be carried to his destination safely and expeditiously.

Source: 1952 Rev. Ord. 25-0425.

25-0426. Individual service.--Any patron who first engages service in a taxicab shall receive individual service unless he shall give consent for additional passengers to be carried, except that there shall be no right to individual service in taxicabs transporting passengers to or from the Fargo airport.

Source: 1952 Rev. Ord. 25-0426.

25-0427. Hours of operation.--It shall be unlawful for any taxi driver to engage in taxicab operation more than 12 hours out of every 24. A driver shall be deemed to be operating a taxicab within the terms of this section whenever he is in charge of a taxicab and holding himself in readiness to convey passengers.

Source: 1952 Rev. Ord. 25-0427.

25-0428. Taxicab stands.--Duly licensed taxicabs may stand while waiting for employment at such places within the city as may from time to time be designated by the chief of police. A taxi driver shall not stand or park his taxicab upon any street within the fire limits of the city at any place other than a taxicab stand, except that this provision shall not prevent any taxi driver from temporarily stopping in accordance with other stopping and parking regulations at any place for the purpose of and while actively engaged in loading or unloading passengers.

Source: 1952 Rev. Ord. 25-0428.

25-0429. Smoking prohibited.--No driver of any vehicle licensed under this article shall smoke in his vehicle while carrying passengers.

Source: 1952 Rev. Ord 25-0429, 2257 (1986).

25-0430. Conduct of drivers.--It shall be unlawful for any driver or person in charge of a vehicle licensed under this article to conduct himself in other than a gentlemanly manner while driving a taxicab or while in charge of such vehicle.

Source: 1952 Rev. Ord 25-0430, 2257 (1986).

25-0431. Riders prohibited.--It shall be unlawful for any driver to permit any person other than a patron, licensee, or licensee's employees to ride in a vehicle of which he has charge.

Source: 1952 Rev. Ord. 25-0431, 2257 (1986).

25-0432. Limit on passengers.--No driver shall at any time carry a larger number of passengers than the number for which the vehicle was rated in the application for the license.

Source: 1952 Rev. Ord. 25-0432, 2257 (1986).

25-0433. Drivers to report accidents.--It shall be the duty of every driver of vehicles licensed under this article to report to the police department, within four hours after its occurrence, any accident resulting in any injury to persons or damage to property wherein a vehicle driven by him was involved.

Source: 1952 Rev. Ord. 25-0433, 2257 (1986).

## ARTICLE 25-05

### PEDDLERS AND SOLICITORS

Note: Article 25.05 of chapter 25 of the Revised Ordinances of 1965 (sections 25-0501 to 25-0518) was repealed by Ord. No. 1953, 1979, which enacted new article 25-05 (sections 25-0501 to 25-0512).

Section	
25-0501	Definitions.
25-0502	Permit required.
25-0503	Solicitations board.
25-0504	Application for solicitations permit.
25-0505	Investigation by solicitations board of permit applications.
25-0506	Standards for solicitations board's action in granting or denying applications.
25-0507	Types of permits--Fees and expiration dates.
25-0508	Hearing after denial of application for permit.
25-0509	Revocation of permits.
25-0510	Solicitations practices.
25-0511	Voluntary submission of application to solicitations board.
25-0512	Severance clause.

25-0501. Definitions.--

1. "Charitable organization" means any nonprofit organization operated for the relief of

poverty, distress, or other condition of public concern within this city, which has been so engaged within this city for two years.

2. "Civic and service club" means any branch, lodge or chapter of a nonprofit national or state organization which is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose within the state of North Dakota, which shall have existed in this city for two years. "Civic and service club" shall also mean a similar local nonprofit organization, not affiliated with a state or national organization, which is recognized by resolution adopted by the board of city commissioners of the city of Fargo. Such club shall have existed in this city for two years.

3. "Educational organization" means any nonprofit public or private elementary, secondary or high school in this city which has been in existence for two years.

4. "Fraternal organization" means a nonprofit organization within this city except for college and high school fraternities, which is a branch or lodge or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. Such organization shall have existed within this city for two years.

5. "Other public-spirited organization" means a nonprofit organization recognized by the board of city commissioners of the city of Fargo by resolution as such.

6. "Peddler" shall mean any person engaged in the selling of personal property by going from place to place or house to house or by selling from a vehicle or conveyance and who carries with him such property for delivery at time of sale. The word "peddler" shall include the words "hawker" and "huckster".

7. "Person" shall include the singular and plural, and shall also mean and include any person, firm or corporation, association, club, partnership, society, or any other organization.

8. "Religious organization" means any nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observance which has been so gathered or united in this city for two years.

9. "Solicit" shall mean the practice of going about from person to person, place to place, or house to house, or using other means including telephone, requesting orders, offering to sell personal property, or services, requesting money or credit from another, or soliciting contributions for any purpose. Solicit shall not include the practice of using the telephone in an attempt to arrange for a meeting or appointment between the parties, nor shall it include the practice of contacting persons for the purpose of membership enlistment in any firm, corporation, association, club or organization which has been in existence in the city of Fargo for at least one year.

10. "Solicitor" shall mean any person who engages in the practice of, or who directs, allows or permits any person to engage in solicitations.

11. "Veterans organization" means any congressionally chartered organization within the state of North Dakota, or any branch or lodge or chapter of a nonprofit national or state organization within this city, the membership of which consists of individuals who were members of the armed services or forces of the United States. Such organization shall have been in existence in this city for two years.

Source: 1965 Rev. Ord. 25-0501, 1953 (1979).

25-0502. Permit required.--Except as hereinafter provided, it shall be unlawful for any person to solicit or act as a peddler within the corporate limits of the city of Fargo without first

obtaining a solicitation permit. If the applicant is a firm, corporation, association, club, partnership, society or other organization, each individual who is employed by or acting on behalf of such organization shall be required to obtain a sub-permit as hereinafter provided.

This section shall not apply:

- A. To the solicitation of orders for the sale of milk, dairy products, vegetables, poultry, eggs, and other farm and garden products as far as the sale of such commodities is authorized by law.
- B. To the solicitation of orders for the distribution or sale of regularly published newspapers.
- C. To solicitations conducted by radio, television and newspaper advertising.
- D. To solicitations conducted by members of charitable organizations, civic and service clubs, educational organizations, fraternal organizations, religious organizations, veterans organizations, or other public-spirited organizations.
- E. To the solicitation of orders for the sale of property or services made to or by business suppliers, distributors or retailers when such solicitations occur at the business premises.
- F. To the distribution or sale of religious, political, economic or educational tracts, pamphlets, papers or periodicals where the proceeds are to be used exclusively for religious, charitable or benevolent purposes.
- G. To the distribution or sale of personal property by charitable organizations, civic and service clubs, educational organizations, fraternal organizations, religious organizations, veterans organizations, or other public-spirited organizations where the proceeds are to be used exclusively for charitable, benevolent, educational, patriotic or other public-spirited purposes.
- H. To solicitations conducted by persons who have a permanent residence or permanent place of business in Cass County, North Dakota, or Clay County, Minnesota.

Source: 1965 Rev. Ord. 25-0502, 1953 (1979), 2112 (1983).

25-0503. Solicitations board.--There is hereby established a solicitations board which shall consist of five citizens of the city of Fargo who shall be appointed by the president of the board of city commissioners subject to confirmation by the board of city commissioners. The terms of office of such members shall be as follows, to-wit: Two members who shall serve until October 1, 1980; two members who shall serve until October 1, 1981, and one member who shall serve until October 1, 1982. At the expiration of the terms of the members as aforesaid, the members shall be appointed for three-year terms. Any vacancy occurring shall be filled in the same manner as provided for in the original appointment. The solicitations board shall elect its own chairman and vice-chairman in November of each year. The members of the board shall serve without remuneration. The solicitations board shall review activities of solicitors and make recommendations to the board of city commissioners regarding the issuance or revocation of any solicitations permit.

Source: 1965 Rev. Ord. 25-0503, 1953 (1979).

25-0504. Application for solicitations permit. -- An application for a solicitations permit shall be made to the city auditor upon forms provided by the city of Fargo. The city auditor shall be authorized to issue such solicitation permits on the approval of the chief of police or his designated representative. The application herein required shall contain the following information, or in lieu

thereof, a detailed statement of the reason or reasons why such information cannot be furnished.

- A. The name, address or headquarters of the person applying for the permit.
- B. If the applicant is not an individual, the names and addresses of the applicant's principal officers, managers, and the names and addresses of those persons who will be conducting the solicitations or acting as a peddler.
- C. The purpose for which such solicitation is to be made, the total amount of funds proposed to be raised thereby and the use or disposition to be made of any receipts therefrom.
- D. The name and address of the person or persons who will be in direct charge of conducting the solicitations.
- E. An outline of the method or methods to be used in conducting the solicitations.
- F. The time when such solicitations shall be made, giving the dates for the beginning and ending of such solicitations.
- G. Such other information as may be reasonably required by the solicitations board in order to determine the kind and character of the proposed solicitation and whether or not such will not be detrimental to the best interests of the citizens of the city of Fargo.

The holder of an existing permit issued pursuant to the provisions of this article who desires to renew said permit for another permit term shall not be required to make and file a new application under the provisions of this section; provided, however, said permit holder shall be required to keep the information contained in the original application accurate and current. Any person renewing a solicitations permit shall pay the necessary fees and shall request a current permit from the city auditor.

Source: 1965 Rev. Ord. 25-0504, 1953 (1979), 2113 (1983).

25-0505. Investigation by solicitations board of permit applications.--The solicitations board shall examine all applications and requests for permit renewals filed under § 25-0504 of this ordinance and shall make, or cause to be made, such further investigation of the application and the applicant as the solicitations board deems necessary in order to perform its duties under this section.

Source: 1965 Rev. Ord. 25-0505, 1953 (1979).

25-0506. Standards for solicitations board's action in granting or denying applications.--The solicitations board shall authorize the issuance of the solicitations permit whenever it shall find all the following facts to exist:

- A. That all of the statements made in the application are true.
- B. That the applicant has a good character and reputation for honesty and integrity, or, if the applicant is not an individual person, that every member, managing officer or agent of the applicant has good character or reputation for honesty and integrity.
- C. That the control and supervision of the solicitations will be under responsible and reliable persons.
- D. That the applicant has not engaged in any fraudulent transaction or enterprise.
- E. That the solicitation will not be a fraud on the public.
- F. That the solicitation and its goals will be in the furtherance of the public's

health, education, welfare, safety or interest.

Source: 1965 Rev. Ord. 25-0506, 1953 (1979).

25-0507. Types of permits--Fees and expiration dates.--

- A. If the applicant is a firm, corporation, association, club, partnership, society or other organization, the solicitations permit shall be issued to such organization; provided, that each individual conducting solicitations or acting as a peddler on behalf of such organization shall be issued a sub-permit which shall show the individual's name and address, and clearly indicate his affiliation with said organization.
- B. The city auditor shall issue solicitations permits and sub-permits only after approval of the application by the chief of police and by the solicitations board as hereinabove provided.
- C. Fees for the solicitations permit and sub-permits shall be as established by resolution of the board of city commissioners and shall be payable at the city auditor's office.
- D. All permits and sub-permits issued under the provisions of this ordinance shall expire 90 days after the date of issuance, or at such other time as may be established by the solicitations board at the time of approval of the application.

Source: 1965 Rev. Ord. 25-0507, 1953 (1979), 2114 (1983).

25-0508. Hearing after denial of application for permit.--Within five days after receiving notification that his application to a solicitation permit has been denied, an applicant may file a written request for a public hearing on the application before the board of city commissioners. At the hearing, the applicant may present evidence in support of his application. Any interested persons shall be allowed to participate in the hearing. The board of city commissioners shall either grant or deny the request for a solicitation permit.

Source: 1965 Rev. Ord. 25-0508, 1953 (1979).

25-0509. Revocation of permits.--Whenever it shall be shown, or whenever the solicitations board has knowledge, that any person to whom a permit has been issued under this ordinance has violated any of the provisions of this ordinance, or that any promoter, agent or solicitor or a permit holder has misrepresented the purpose of this solicitation, the solicitations board may revoke the permit. Notice of revocation must be sent to the permit holder by certified mail addressed to the permit holder at the address set forth on the application. The chief of police shall be notified of the revocation of any permit. The permit holder may appeal his revocation to the board of city commissioners in the same manner as in the case of a denial of a permit.

Source: 1965 Ord. 25-0509, 1953 (1979).

25-0510. Solicitations practices.--

- A. The solicitations permit, or a duplicate thereof, shall be carried at all times by the solicitor and shall be exhibited when requested to do so by any police officer or any person contacted. It shall be the duty of any police officer to require any solicitor to produce his solicitations permit and to enforce the provisions of this ordinance against any person found to be violating the

same.

- B. The chief of police shall report to the solicitations board all convictions for violations of this ordinance.
- C. Solicitations conducted in and upon private property by solicitors after having been requested to leave such private property by the owner or occupant thereof is prohibited.
- D. No person shall directly or indirectly solicit contributions for any purpose or misrepresentation by his name, occupation, financial condition, social condition or residence, and no person shall make or perpetrate any other misstatement, deception or fraud in connection with any solicitation of any contribution for any purpose in the city of Fargo, or in any application or report filed under this ordinance.
- E. No person shall engage in solicitation upon any premises without a prior invitation from the occupant thereof, if such premises are posted against such solicitation by the means of a notice prominently displayed, upon which is printed the legend: "NO SOLICITORS" (or words of similar import). For purposes of this paragraph, a dwelling house or apartment or other place of residence shall be deemed to be posted against solicitation if there is exhibited, on or near the main entrance to the premises, or on or near the main door to any residence located thereon, a sign at least 3" by 4" in size which bears the above legend in letters at least 1/3" in height. Signs complying with the foregoing requirement shall be made available for sale by the city.
- F. There shall be no solicitation upon any premises prior to 9:00 a.m. or after 9:00 p.m., local time, of any day, other than upon prior invitation of the occupant of any such premises.
- G. Not more than two individuals shall engage in solicitation upon any premises at the same time for the same goods or services, or religious or charitable purposes. Each individual member of a group engaged in solicitation in violation of this provision shall be deemed to have violated such provision.
- H. No person shall make more than one solicitation call at the same premises for the same goods or services, or religious or charitable purposes within any consecutive six-month period, without a prior invitation therefor from the occupant of any such premises. This provision shall be construed to prohibit a person, or his employee, agent or representative, from knowingly soliciting the same premises more than once during the aforesaid period.

Source: 1965 Rev. Ord. 25-0510, 1953 (1979).

25-0511. Voluntary submission of application to solicitations board.--Any peddler or solicitor who is exempt from the requirements of this ordinance by subsections (A) through (H) of § 25-0502 may make application for a permit in accordance with § 25-0504 of the article. Upon approval of said application by the solicitations board, the city auditor shall issue a solicitation permit pursuant to § 25-0504 of this article. Fees for permits granted under this section shall be without charge to the applicant.

Source: 1965 Rev. Ord. 25-0511, 1953 (1979).

25-0512. Severance clause.--The provisions of this article are declared to be severable and if any section, sentence, or clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this article, it being the legislative intent that this article shall stand notwithstanding the invalidity of any part.

Source: 1965 Rev. Ord. 25-0512, 1953 (1979).

## ARTICLE 25-06

### SOLICITORS FOR SUBSCRIPTIONS, PHOTOGRAPHS, OR SERVICES

Note: Article 25-06 of chapter 25 of the Revised Ordinances of 1965 (sections 25-0601 to 25-0608) was repealed by Ord. No. 1282, § 2, 1968. For present provisions see article 25-05.

## ARTICLE 25-07

### TRANSIENT MERCHANTS

Note: Article 25-07 of chapter 25 of the Revised Ordinances of 1965 (sections 25-0701 to 25-0704) was repealed by Ord. No. 1282, § 2, 1968. For present provisions see article 25-05.

## ARTICLE 25-08

### EMPLOYMENT AGENCIES

Note: Article 25-08 of chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2305, 1987.

Source: Article 25-08 of Chapter 25, Revised Ordinances of 1952 (sections 25-0801 to 25-0810), 1635 (1975), 1740 (1976), repealed by Ord. 2305 (1987).

## ARTICLE 25-09

### FORTUNETELLING, SPIRITUALISM, PHRENOLOGY

Note: Article 25-09 of chapter 25 of the Revised Ordinances of 1965 (sections 25-0901 and 25-0902) was repealed by Ord. No. 1617, § 1, 1974, effective October 8, 1974.

## ARTICLE 25-10

### PAWNBROKERS

Section	
25-1000	Purpose.
25-1001	Definitions.
25-1002	Fixed premises and license required.
25-1003	License and renewal.
25-1004	Bond.
25-1005	Fee for license.
25-1006	Investigation fee.
25-1007	Effective period, renewal and suspension or revocation.
25-1008	Acts prohibited by minors.
25-1009	Required records.
25-1010	Daily reports to police.
25-1011	Receipt required.
25-1012	Redemption period.
25-1013	Holding period.
25-1014	Articles available for inspection.
25-1015	Police order to hold property.
25-1016	Label required.
25-1017	Motor vehicle title pawn transactions; special provisions.
25-1018	Prohibited acts.
25-1019	Penalty.

25-1000. Purpose.--The city commission recognizes the need to regulate pawnbrokers to provide the ability to identify stolen property presented to pawn shops and to identify those responsible for committing property crimes. The commission also determines the need to provide a basic level of consumer protection through a comprehensive pawnbroker ordinance.

To help the police department better regulate future pawn businesses, decrease and stabilize regulatory costs, and improve identification of criminal activities through the timely collection and sharing of transaction information, this chapter also implements and establishes the required use of the LEADS system.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1001. Definitions.—

1. “Licensee” shall mean all pawnbrokers required to be licensed by this chapter.
2. “Pawnbroker” shall mean any person who:
  - A. Loans money on deposit or pledge of personal property, or other valuable thing;

- B. Deals in the purchasing of personal property or other valuable thing, on condition of selling the same back again at a stipulated price; or
  - C. Loans money, secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.
  - D. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this chapter shall be applicable.
3. "Person" shall mean any individual, partnership, corporation or association or any other legal entity, or any agent or employee thereof.
4. "Regulated transaction" shall include all purchases, loans, pawns, trades or consignments made by a pawnbroker.
5. "Reportable transaction" shall include every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or for which a unique transaction number or identifier is generated by their point-of-sale software, is reportable except:
- A. The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item.
  - B. Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1002. Fixed premises and license required.--No person shall engage in business as a pawnbroker unless said person has a fixed premises where said business is conducted, either on a continuing basis or from time to time, and unless said person has first obtained a license to engage in that business at that premises. A separate license is required for each place of business. The city may issue more than one license to a person if the person complies with the requirements of the chapter. A license issued under this article shall be prominently displayed at the licensed premises during hours when such premises is open for business. If, during the effective period of a license issued under this article, a licensee changes the location of the licensed premises within the city, such licensee shall inform the city auditor and the chief of police of such change of location and shall have the new premises to be licensed noted on the license. There shall be no additional fee charged for changing the location of the licensed premises. The operation of a business as a pawnbroker without a license as required by this section shall be a class B misdemeanor.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord.

25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1003. License and renewal.--

1. Any person desiring to obtain, renew or transfer a license shall make and file an application for such license with the commission. The application shall be made on a form approved by the chief of police and made available through the office of the city auditor. In addition to the information required on the application form, the commission, in its discretion, may require such other information as it deems necessary in determining whether a license should be issued to the applicant.

2. The holder of an existing license issued pursuant to the provisions of this article who desires to renew said license for another license year, shall not be required to make and file a new application under this section but shall make and file a renewal application under the provisions of this section which shall require the payment of the renewal fee and shall include an affidavit indicating the current name and address of the licensee, and if said licensee is a corporation, the names and addresses of the resident manager, all corporate officers, and all shareholders holding more than 5% of the outstanding stock of the corporation, and such other information as the city may require. The renewal application and affidavit shall be on a form to be prescribed by the chief of police made available through the city auditor's office.

3. The application for a new license or renewal of a license shall require that the applicant agrees to provide the police department with the records required by section 25-1010 in a format, including electronically transmitted digital data, as required by the police department.

4. The chief of police shall investigate the facts stated in the application filed with the commission and shall report the results of the investigation to the commission prior to the hearing on said application. Said investigation and report shall include the character, reputation, fitness of the applicant to hold a license, any other pertinent information and the recommendation of the chief of police as to whether or not such license should be granted. In addition, the commission may request and consider such other recommendations and reports of other city officials.

5. Any pawnbroker as defined under section 25-1001.2.D. shall not be required to purchase a separate license as a second-hand or precious metals dealer.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1004. Bond.--Before a license will be issued or renewed, every applicant must submit a five thousand dollar (\$5,000.00) bond on the forms provided by the auditor's office, with sufficient sureties to be approved by the auditor's office. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business under this chapter, or in lieu thereof, will pay the reasonable value in money to the person. This language shall not be construed to apply to items the principal has legally disposed of under the requirements of this ordinance. The bond shall contain a provision that no bond may be

cancelled except upon thirty (30) days written notice to the chief of police.

Alternately, a licensee may provide proof to the auditor's office of a separate dedicated account with a balance of \$5,000.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1005. Fee for license and application fee.--The fee for issuance of a license to engage in business as a pawnbroker shall be in such amount as shall be established by resolution of the board of city commissioners.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1006. Investigation fee.--The fee for the investigation of an initial application or renewal for a license to engage in business as a pawnbroker shall be paid to the city auditor at the time an application is submitted. The amount of the investigation fee shall be established by resolution of the board of city commissioners.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1007. Effective period, denial, renewal and suspension or revocation.--A license issued under this article shall be valid and effective until December 31 of the year for which the license applies. Every license issued under the provisions of this article shall be issued upon the understanding that such license may be revoked or suspended by the board of city commissioners at any time for good cause, for failure to comply with any provision of this chapter, or by any fraud, misrepresentation bribery, or false statements in the application, investigation, securing or renewing a license, or the conviction of a license holder of a violation of this article or any criminal conviction related to theft of property or any felony conviction. Notice of such revocation or suspension must be sent to the licensee by certified mail addressed to the licensee at the address set forth in the application. The chief of police shall be notified of the revocation or suspension of any license. The licensee may appeal a revocation or suspension to the board of city commissioners and request a public hearing on such revocation or suspension.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1008. Acts prohibited by minors.--No person under the age of 18 years shall pawn, sell or otherwise initiate a reportable transaction with any person licensed to do business under this article nor may any licensee receive be involved in any reportable transaction from a person under the age of 18 years. No person under the age of 18 years shall represent to any person licensed under the provisions of this article, that he is 18 years of age or over.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1009. Required records.--At the time of any reportable transaction other than renewals, extensions or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the chief of police. Such record shall specifically include:

1. A complete and accurate description of each item including, but not limited to any trademark, identification number, serial number, model number, brand name or other identifying mark on such an item.

2. The purchase price, amount of money loaned upon, or pledged.

3. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

4. Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.

5. Full name, current residence address and phone number, date of birth and accurate description of the person from whom the item of the property was received including sex, height, weight, race, color of eyes and color of hair.

6. The identification number and state of issue of a current state photo driver's license or state photo identification card.

7. The signature of the person identified in the transaction.

8. Renewals, extensions and redemptions. For renewals, extensions and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

9. Inspection of records. Transaction records must at all reasonable times be open to inspection by the police department during the licensee's business hours. Data entries shall be retained for at least three (3) years from the date of transaction.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1010. Daily reports to police.-- Licensees must submit every reportable transaction to the police department daily in the following manner:

Licensees must provide to the police department all information required in section

(REQUIRED RECORDS) (1) through (7) and other required information, by transferring it from their computer to the LEADS system. All required records must be transmitted completely and accurately each day in accordance with the standards and procedures established by the issuing authority. If a licensee is unable to successfully transfer the required information to LEADS, the licensee must provide the police department printed copies of all reportable transactions, by 12:00 the next business day. The licensee must make all reasonable efforts to correct the problem as soon as possible.

Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day since the problem existed.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1011. Receipt required.--Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three (3) years. The receipt must include the information (A) through (G) identified in Section 25-1009 (1) through (7) RECORDS REQUIRED.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1012. Redemption period.--Any person pledging, pawning or depositing an item for security must have a minimum of sixty (60) days from the date of that transaction to redeem the item before it may be forfeited and sold. During the sixty (60) day period, items may not be removed from the licensed location.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1013. Holding period.--Any item purchased by a licensee and defined in Section 25-1001 (5) must not be sold or otherwise transferred for thirty (30) days from the date of the transaction.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1014. Articles available for inspection.—All property received by a pawnbroker in a reportable transaction shall be made available for inspection by city police officers during reasonable business hours.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1015. Police order to hold property.--

1. Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within seventy-two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, whichever comes first.

2. Order to hold. Whenever the chief of police, or the chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the chief or the chief's designee. The order to hold shall expire ninety (90) days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing.

3. Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the chief or chief's designee may:

- A. Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chief's designee, or
- B. Place the item on hold or extend the hold as provided in section b, and leave it in the shop.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

When an order to hold/confiscate is no longer necessary, the chief of police, or chief's designee shall so notify the licensee.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1016. Label required.--Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952

Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1017. Motor vehicle title pawn transactions; special provisions.--In addition to the other requirements of this chapter, a pawnbroker who holds a title to a motor vehicle (to the extent permissible under North Dakota state law) as part of a pawn transaction shall:

1. Be licensed as a used motor vehicle dealer under the North Dakota Century Code and post such license on the pawnshop premises.

2. Verify that there are no liens or encumbrances against the motor vehicle with the department of motor vehicles.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1018. Prohibited acts.--

1. No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid State of North Dakota identification card, or current valid photo driver's license or identification card issued by the state or province of residency of the person from whom the item was received.

2. No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

3. No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest; with any licensee.

4. No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

25-1019. Penalty.--Any person, firm or corporation violating the terms of this chapter, except as provided in section 25-1002, shall upon conviction thereof, be guilty of an infraction, and punished by a fine not to exceed \$500 or such other amount as permitted under state law, the court to have power to suspend said sentence and to revoke the suspension thereof.

Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952

Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4326 (2003).

## ARTICLE 25-11 SALVAGE DEALERS

### Section

25-1101	“Salvage dealer” defined.
25-1102	Salvage dealer’s license--How obtained--Fee.--Repealed.
25-1103	Bond--Conditions of.--Repealed.
25-1104	License--Revocation of.--Repealed.
25-1105	Purchase from minors prohibited.
25-1106	Nuisance prohibited.
25-1107	Fencing of salvage yard required.
25-1108	Records required.
25-1109	Purpose of article.

25-1101. “Salvage dealer” defined.--The term “salvage dealer” when used in this article shall be defined to be any person, co-partnership, corporation or association (1) maintaining a store, shop, or place of business wherein purchases are made of used metals, rags, bottles, bones, dead animals, or scrap of any kind, or material of any description, for the purpose of resale either at retail or otherwise, (2) soliciting the purchase or sale for resale or purchases or sells for resale, other than from or to a licensed salvage dealer in the city of Fargo, any used metals, rags, bottles, bones, dead animals, scrap or material of any description, or (3) operating or maintaining a store, shop, or place of business where farm or other machinery or equipment, or automobiles are purchased for the purpose of wrecking, dismantling, and sale as scrap, parts, or otherwise.

The aforesaid definition shall not be construed to mean or include any firm, co-partnership, association, or corporation which as an incident to the business of selling merchandise in a new condition takes in trade used articles of farm machinery, household goods, automobiles or similar merchandise for the purpose of resale as such.

Source: 1965 Rev. Ord. 25-1101, 1644 (1975).

25-1102. Salvage dealer’s license--How obtained--Fee.-- Repealed by Ord. No. 1901 (1979).

25-1103. Bond--Conditions of.--Repealed by Ord. No. 1901 (1979).

25-1104. License--Revocation of.--Repealed by Ord. No. 1901 (1979).

25-1105. Purchase from minors prohibited.--No person engaged in the business of salvage dealer shall transact any business whatsoever with any minor or purchase any merchandise, goods or property from a minor.

Source: 1965 Rev. Ord. 25-1105, 1644 (1975).

25-1106. Nuisance prohibited.--Salvage yards shall at all times be kept and maintained in a sanitary condition, and the keeping of any goods, wares, and merchandise of any kind, or property whatsoever, which tends to annoy, injure, or endanger the comfort, repose, health, or safety of others, or in any way renders other persons insecure in life or the use of property, is hereby declared a nuisance and is prohibited.

Source: 1965 Rev. Ord. 25-1106, 1644 (1975).

25-1107. Fencing of salvage yard required.--No material shall be piled or stored in the area comprising the premises upon which a salvage yard is situated unless a fence shall be erected so as to completely enclose the yard or place where such piling or storing is to be done, and the gates or places of access to such place where such material is to be piled or stored shall likewise be constructed of board and shall be of equal height as the fence and such gates or places of access shall, when not in use, be kept tightly closed. Such fence shall be not less than eight (8) feet in height and shall be securely built. Such fence, and any gates, shall be constructed in such a manner as to screen from view the yard or place where such piling or storing is to be done. The materials from which the fence may be constructed may be wood (tight board fence), durable composite or plastic material, or chain-link material; provided, however, that in the case of chain-link fencing, slats or strips of plastic or other screening material, approved by the zoning administrator, must be inserted into the chain links so as to provide the appropriate screen from view. Such fence shall at all times be kept and maintained in a good state of repair and no signs or advertising shall be painted or placed thereon or attached thereto; provided, however, that where any railway spur is located within the confines of such salvage yard, and where such spur is used for the transportation in and out of such yard, any part of the fence herein provided for which is within 50 feet of such spur track may be built of tightly woven wire fencing of such texture that the operation of any railway equipment within such fence may be observed from the outside.

Source: 1965 Rev. Ord. 25-1107, 1644 (1975), 4363 (2004).

25-1108. Records required.--Every licensee shall be required to keep a permanent record of all goods purchased, which record shall show an accurate account or description of the goods, articles, or other merchandise purchased in the city of Fargo, the name and address of the party from whom purchased, and the amount of money paid therefor, which record shall be open to inspection at any time upon demand by the board of city commissioners, the police commissioner, the city attorney, or any member of the police force. Provided, however, that the licensee shall not be required to furnish such description of any property purchased from manufacturers or wholesale dealers having an established place of business, or of goods purchased at open sale from any bankruptcy stock, or from any other person having an established place of business in the city.

Source: 1965 Rev. Ord. 25-1108, 1644 (1975).

25-1109. Purpose of article.--This article is hereby declared to be enacted pursuant to the police power of the city of Fargo and in the interests of public welfare and public safety.

Source: 1965 Rev. Ord. 25-1109, 1644 (1975).

## ARTICLE 25-12

### PUBLIC DANCES AND DANCE HALLS

Section	
25-1201	Definitions.
25-1202	Public dance hall license.
25-1203	Public dance hall license--Term.
25-1204	Public dance hall license--Requirements and license application.
25-1205	Public dance hall license--Revocation.
25-1206	Public dance hall--Closing time--Security and other requirements.
25-1207	Police and other regulations.

25-1201. Definitions.--When used in this article, unless the subject matter or context otherwise requires:

- A. A “public dance” as used herein shall be taken to mean any dance not given under the auspices of a municipality, school district, civic, fraternal, religious, or other regularly organized non-profit group or society, to which admission can be had by payment of a fee or to which the public generally may gain admission with or without the payment of a fee. In addition to the exceptions mentioned herein and other exceptions mentioned in this article, holders of an A and/or AB liquor license who also hold a live entertainment license issued by the city of Fargo shall be exempt from this article.
- B. A “public dance hall” as used herein shall be taken to mean any room, place or space in which a public dance shall be held.
- C. A “person” shall mean a natural person, firm, association, partnership, corporation, or any other business entity recognized under North Dakota law.
- D. A “security officer” for purposes of this ordinance shall mean designated personnel who shall be qualified by experience and/or training to operate as a security officer.

Source: 1973 (1980), 4080 (2000), 4435 (2004).

25-1202. Public dance hall license.—

- A. Fee required.--It shall be unlawful to hold any public dance within the limits of the city unless the room, place or space in which the same may be held first has been duly licensed for such purposes. The licenses shall be granted by the city commission and the fee therefor shall be set by resolution of the board of city commissioners. The fees for transfer of the license, both for owner and location, shall be similarly set by resolution of the board of city commissioners. The initial issuance fee as set by resolution of the board of city commissioners may be in a greater amount than the fee for yearly renewal. This provision shall not apply to a dance held or conducted in a hotel or motel having more than 50 guest rooms, if

held or conducted under the immediate control of the owner or operator of such hotel or motel.

B. Temporary dance hall permit.--

Fee required.--Except as allowed under a license obtained under 25-1202(A) above, it shall be unlawful to hold any public dance within the limits of the city without obtaining a temporary dance hall permit to give, hold or conduct such dance from the board of city commissioners. The fee for such permit shall be set by resolution of the board of city commissioners. There shall be a further fee established by resolution of the board of city commissioners as an investigation fee. Any person desiring to obtain a temporary dance hall permit shall make and file an application for such license with the commission. Said application shall be made on a form approved by the commission and made available through the office of the city auditor. In addition to the information supplied on the application form, the commission, in its discretion, may require such other information as it deems necessary in determining whether a temporary permit should be issued to the applicant. The chief of police or his designee shall investigate the facts stated in the application filed with the commission and shall report the results of his investigation to the commission prior to the hearing on said application. Said investigation report shall include the character, reputation, fitness of the applicant to hold a license, any other pertinent information and the recommendation of the chief of police as to whether or not such license should be granted. In addition, the commission may request and consider such other recommendations and reports of other city officials as it may deem necessary. No license for a temporary dance permit shall be issued until it shall be found that the place where such public dance will be held complies with and conforms to all ordinances, health and fire regulations of the city, that it is properly ventilated, and supplied with sufficient toilet conveniences and it is a safe and proper place for the purpose for which it is to be used. The public dance hall permit herein provided for shall cover the date or dates set forth in such permit. In addition to any restrictions contained in said permit, all of the relevant provisions of §§ 25-1201, 25-1205, 25-1206 and 25-1207 shall apply to such public dance hall permits.

Source: 1973 (1980), 4080 (2000), 4151 (2001).

25-1203. Public dance hall license--Term.--The license fee herein provided for shall be due on the first day of January in each year and shall cover the period until the following December 31.

Source: 1973 (1980), 4080 (2000).

25-1204. Public dance hall--Requirements and license application.--No license for a public dance hall shall be issued until it shall be found that such hall complies with, and conforms to all ordinances, health and fire regulations of the city, that it is properly ventilated, and supplied with sufficient toilet conveniences and is a safe and proper place for the purpose for which it is to be used. Any person desiring to obtain a license shall make and file an application

for such license with the commission. Said application shall be made on a form approved by the commission and made available through the office of the city auditor. In addition to the information supplied on the application form, the commission, in its discretion, may require such other information as it deems necessary in determining whether a license should be issued to the applicant. The chief of police shall investigate the facts stated in the application filed with the commission and shall report the results of his investigation to the commission prior to the hearing on said application. Said investigation report shall include the character, reputation, fitness of the applicant to the hold the license, any other pertinent information and the recommendation of the chief of police as to whether or not such license should be granted. In addition, the commission may request and consider such other recommendations and reports of other city officials.

Source: 1973 (1980), 4080 (2000).

25-1205. Public dance hall--Revocation.--The license of any public dance hall may be forfeited or revoked by the city commission if it is made to appear, after hearing, that:

- A. The holder of the license has violated any of the provisions of this article or any of the laws of this state resulting in a conviction of a Class A misdemeanor or greater offense provided, however, that violations of lesser offenses evidencing a pattern of conduct inimicable to operation of a public dance hall may also result in license forfeiture or revocation;
- B. The holder of the license is not conducting the public dance in a manner conforming to law;
- C. The business of the licensee, at the location licensed, is conducted in such a manner as to be in violation of the health and sanitary regulations of the city of Fargo;
- D. The licensee conducts the business in a manner which results in, encourages or is conducive to the creation of disturbances of the peace, disorderly conduct or any other violations of federal, state and/or city laws; or
- E. Intoxicating liquor is being knowingly sold, served, dispensed or consumed on the licensed premises.

The holder of a license shall be given notice of revocation of such license and shall be granted a hearing before the board of city commissioners. When a permit is once revoked, it cannot be reissued to the same licensee within six months from the date of cancellation thereof except by consent of four-fifths of the members of the board of city commissioners.

Source: 1973 (1980), 4080 (2000).

25-1206. Public dance hall--Closing time--Security and other requirements.--

- A. All licensed premises shall be closed and locked at 3:00 a.m. with all patrons to be out of the dance hall by 3:00 a.m., subject to the provisions of subsection (B) hereinafter. No persons shall be permitted to remain on said premises thereafter except for the owner and his employees for normal cleaning and maintenance activities.
- B. Any new patrons allowed admittance into the dance hall after 1:00 a.m., and before the closing time specified in subsection (A) above shall be at the discretion of the owner.

- C. Security personnel shall be on the premises in such numbers as to insure the safety of patrons and to maintain order on the premises as follows:
- 99 or less - 2 security officers
  - 100 to 200 - 3 security officers
  - 201 to 300 - 4 security officers
  - 301 to 400 - 5 security officers
  - 401 to 500 - 6 security officers
  - 501 and over - appropriate number of security officers as may be determined by the chief of police.

Source: 1973 (1980), 4080 (2000).

25-1207. Police and other regulations.--

- A. All public dance halls shall be kept at all times in a clean, healthful and sanitary condition, and all stairways and other passages and all rooms connected with a dance hall shall be kept open and well lighted.
- B. The chief of the fire department, the chief of police, or any police officer shall have the power and it shall be their duty to cause the place, hall or room where any dance is held or given to be vacated whenever any provision of any ordinance with regard to public dances is being violated. No smoking shall be allowed on the floor of such dance hall.

Source: 1973 (1980), 4080 (2000).

#### ARTICLE 25-13

#### MESSENGER SERVICE

Note: Article 25-13 of Chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2300, effective December 29, 1986.

Source: Revised Ordinances of 1952 (sections 25-25-1301 to 25-1307), 1468 (1973), repealed by Ord. 2300 (1986).

#### ARTICLE 25-14

#### USED CAR DEALERS

Note: Article 25-14 of Chapter 25 of the Fargo Municipal Code was repealed in its entirety by Ord. No. 2307 (1987).

Source: Revised Ordinances of 1952 (sections 25-1401 to 25-1404), 1472 (1973), repealed by Ord. 2307 (1987).

## ARTICLE 25-15

### ALCOHOLIC BEVERAGES

[NOTE: Article 25-15, Intoxicating Liquors, and article 25-16, Beer, Sale Of, of the Revised Ordinances of 1965 (sections 25-1501 to 25-1532 and 25-1601 to 25-1623) were repealed by Ordinance No. 1869 (1978), which enacted new article 25-15, Alcoholic Beverages (sections 25-1501 to 25-1515).]

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25-1501. Definitions.--In this article, unless the context or subject matter otherwise requires:

1. "Alcohol" shall mean neutral spirits distilled at or above 190 proof, whether or not such product is subsequently reduced, for nonindustrial use.

2. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume. All alcoholic beverages shall be deemed intoxicating.

3. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.

4. "Business complex" shall mean any shopping center, shopping mall or similar physical facility where two or more retail businesses are located and conducted, whether or not such businesses are separately owned and operated.

5. "Commission" shall mean the board of city commissioners of the city of Fargo, its governing body.

6. "Entertainment" shall mean all forms and types of entertaining patrons of licensed

premises, whether such entertainment is provided by means of live performances or audio and/or video presentations, whether remote or prerecorded; provided, however, that “entertainment” shall not be deemed to include the use of any regularly broadcast television or radio programs, or coin-operated music machine.

7. “Licensee” shall mean any person to whom a license has been issued under the provisions of this article.

8. “Licensed premises” shall mean the bar area, dining rooms, meeting rooms, outdoor dining areas as provided in Article 18-03 of the Fargo Municipal Code, and all other areas or spaces where alcoholic beverages are regularly or occasionally sold, served or dispensed. In the alternative, any person applying for a license under the provisions of this article may describe, depict or otherwise identify in his application for a license various areas or spaces which shall constitute the licensed premises. The commission, in its discretion, may require any applicant to so describe, depict or otherwise identify the licensed premises as a condition for the issuance of a license under the provisions of this article.

9. “Lodge” or “club” shall mean any corporation or association organized for civic, fraternal, social or business purposes, or for the promotion of sports. Said lodge or club shall have at least 200 members at the time a license is applied for and shall have been in existence for at least 20 years prior to the time of application for the license; provided, that a local veteran’s organization which has not existed for 20 years but is a subsidiary of and chartered by a national organization which has had a bona fide existence for more than 20 years shall be deemed to be a “lodge” or “club” for purposes of this article.

10. “Microbrew pub” means a brewer that brews 25 or fewer barrels of beer per week and sells beer produced or manufactured on the premises for consumption on or off the premises, or serves beer produced or manufactured on the premises for purposes of sampling the beer.

11. “Off-sale” shall mean sale of alcoholic beverages in original packages solely for consumption off or away from the premises where sold. An off-sale license shall authorize the licensee to conduct such off-sale at the place designated in the license.

12. “On-sale” shall mean sale of alcoholic beverages for consumption only on the licensed premises. An on-sale license shall authorize the licensee to conduct such on-sales at the place designated in such license or as may be authorized by a Class E license issued pursuant to the provisions of this article.

13. “Package” and “original package” shall mean any container or receptacle holding alcoholic beverages when such container or receptacle is corked or sealed by the manufacturer thereof and when the cork or seal has not been removed or broken prior to the sale of such package to the purchaser thereof.

14. “Person” shall include any natural person, association, partnership, corporation and any clerk, agent and abettor thereof.

15. “Public place” shall mean any building, property or other place that the general public can occupy as a matter of right or any building, property or place that is open to the general public by implied or express invitation, either for business purposes or otherwise. “Public place” shall not include, however, that area set aside and specifically designated on the Fargodome parking lot by North Dakota State University and utilized for its sponsored tailgating activities.

16. “Recreational establishment” shall mean any pool hall, bowling alley, arcade or similar establishment having facilities or devices designed to provide for the amusement or leisure activities of its patrons.

17. “Sale” shall mean all methods or modes of furnishing alcoholic beverages, with or

without consideration, whether by selling, dispensing, exchanging, bartering or other similar means of transfer. Such term shall include all transactions, whether for cash, credit or other considerations and shall include, but not be limited to, transactions where the consideration for the alcoholic beverage is included or combined with another transaction or where the consideration is called a “donation”, or used to purchase any ticket, token or other object redeemable for alcoholic beverages.

18. “Sparkling wine” shall mean wine made effervescent with carbon dioxide.

19. “Transfer” shall mean a change in location of the licensed premises; or any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this article. A transfer shall be deemed to have occurred upon the assignment, sale, exchange or other conveyance of 50% or more of the interest in a licensee partnership or stock in a licensee corporation, whether such assignment, sale, exchange or other conveyance occurred in one single transaction or multiple transactions.

20. “Wine” shall mean the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than 24% alcohol by volume.

21. “Mandatory server training” shall mean server training that has been approved by the Fargo police department and/or its designee for managers and employees involved in selling alcoholic beverages at licensed liquor establishments, including restaurants.

22. “Stadium” shall mean a fixed physical structure, which may be fully-enclosed or open, in which spectators of events watch sports, concerts or other similar entertainment activities, with permanent seating and which has controlled access to and from its grounds. A stadium shall include the seating arena, private suites, concession stands, concourse area, playing field, and other permanent or fixed structures and areas related to spectator activities.

23. “Winery” shall mean a domestic operation wherein the owner/operator of the winery shall produce wine within the state of North Dakota in accordance with the provisions of N.D.C.C. 5-01-17.

24. “Wine bar” shall mean an establishment serving primarily on-sale wine and sparkling wine, with incidental on-sale beer, non-alcoholic beverages and food sales, but does not include any sale of alcohol or off-sale wine, sparkling wine, or beer. Such establishment shall offer patrons wines by the glass, flight, bottle and taste, and will allow for presentation of beverages at the table, as well as at the bar. A “wine bar” shall also be focused on education of wines from around the world; may occasionally offer primarily acoustical live performances in the genre of jazz, blues, and classical music; and shall be a non-smoking.

Source: 1965 Rev. Ord. 25-1501, 1869 (1978), 1899 (1979), 2497 (1989), 2509 (1989), 2677 (1993), 2760 (1995), 2775 (1995), 3018 (1999), 4214 (2002), 4216 (2002), 4368 (2004), 4401 (2004), 4412 (2004), 4416 (2004), 4501 (2005).

25-1502. License required.--No person shall engage in the business of the sale at retail of alcoholic beverages without first obtaining a license pursuant to the provisions of this article and posting the same in a conspicuous place on the licensed premises.

Source: 1965 Rev. Ord. 25-1502, 1869 (1978).

25-1503. License--Qualifications.--No license shall be issued to any applicant except as follows:

- A. If the applicant is an individual or partnership, such individual or partners must be legal and bona fide residents of the city of Fargo and state of North

- Dakota and be at least 21 years of age.
- B. If the applicant is a corporation, the manager of the licensed premises or another full-time employee of the licensee who is at least 21 years of age must be designated in the license application as an agent of the corporation. The manager of the licensed premises shall reside within either Cass County, North Dakota, or Clay County, Minnesota. All officers, directors and shareholders holding more than 5% of the outstanding stock of said corporation shall be at least 21 years of age.
  - C. No license shall be issued to any person, partnership or corporation as the representative or agent of another, and the license may be issued only to the owner or owners of the business being conducted at the location sought to be licensed.
  - D. If the applicant is a lodge or club, said applicant shall be deemed qualified for a Class "A" license only and no other class license shall be issued to any lodge or club.
  - E. Mandatory server training (as defined by 25-1501(21)) shall be required of all liquor licensees. Persons successfully completing the approved class will receive a "server training certificate card" which will remain with that individual wherever employed. The "server training certificate card" is not required to be carried on the person so long as the same can be produced at a later date. The "server training certificate card" must be renewed every three (3) years on the anniversary date as shown on the said card. For all new managers and employees not having previously received server training, there shall be a grace period of 90 days in which to successfully complete the approved class. On each license renewal date, the licensee shall provide the city with a roster of employees which can then be checked against the training records. If the licensee is found to be not in compliance, license renewal for the upcoming year may be denied or delayed.

Source: 1965 Rev. Ord. 25-1506, 1869 (1978), 1880 (1978), 1900 (1979), 2827 (1997), 4416 (2004).

25-1504. License--Application.--Any person desiring to obtain the issuance or transfer of a license authorizing the sale at retail of alcoholic beverages shall make and file an application for such license with the commission. Said application shall be made on a form approved by the commission and made available through the office of the city auditor.

In addition to the information supplied on the application form, the commission, in its discretion, may require such other information as it deems necessary in determining whether a license should be issued to the applicant.

Source: 1965 Rev. Ord. 25-1504, 1869 (1978), 2169 (1984), 2211 (1985), 2344 (1987), 2346 (1987), 2730 (1995), 2822 (1997), 4402 (2004), 4504 (2006).

25-1504.1. License renewal.--The holder of an existing license issued pursuant to the provisions of this article who desires to renew said license for another license year, shall not be required to make and file a new application under the provisions of this section; provided, however, that said licensee shall be required to make annual payment as provided in § 25-1507(F) and to submit a written request for renewal and an affidavit indicating the current name and address of the

licensee, and if said licensee is a corporation, the names and addresses of the resident manager, all corporate officers, and all shareholders holding more than 5% of the outstanding stock of the corporation, and such other information as the city may require. The affidavit shall be on a form to be prescribed by the city auditor's office.

Source: 4504 (2006).

25-1504.2. Renewal of combined food/alcohol licenses.--All holders of Class "F", Class "FA", Class "FA-RZ", Class "G", Class "H", and Class "T" licenses shall also be required to file with the city, with the request for renewal of the license, an opinion by a certified public accountant indicating that he or she has audited the books and records of the licensee and that the licensee's gross revenue from the sale of food is equal to or exceeds the gross revenue from the sale of alcoholic beverages for the most recent 12-month period. At the option of the licensee, in lieu of a certified public accountant's opinion, licensee may request from the State Tax Commissioner's Office and furnish to the city auditor's office a certified copy of licensee's sales tax returns for the most recent 12-month period prior to renewal.

Notwithstanding furnishing of such sales tax returns, the city may, in its discretion, require licensee to comply with the requirement that an opinion by a certified public accountant be furnished as aforesaid. Any costs incurred in connection with the requirements of this section shall be the sole responsibility of the licensee. The city may also, or any other time during the year, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records. In the event that the results of an independent investigation by the city results in a determination that sale of food does not equal or exceed the sale of beverages, the licensee shall be required to pay all costs of such investigation.

As part of the licensee's obligation that the licensee derive more gross receipts from the sale of prepared meals than from the sale alcoholic beverages, the licensee shall retain and keep appropriate business records concerning purchase of food and alcoholic beverages and sales receipts for food and alcoholic beverages. Such business records shall be organized and maintained according to standard business practices and in such form as to be auditable for purposes of confirming that the licensee satisfies the sales ratio of food to alcoholic beverages. A licensee who fails to maintain the business records required by this section, or to otherwise make such records available to the City upon reasonable request to do so, is subject to the penalties listed in 25-1512(F).

Source: 4504 (2006).

25-1505. Application--Investigation of.--The chief of police shall investigate the facts stated in the application filed with the commission pursuant to the provisions of § 25-1504 of this article, and shall report the results of his investigation to the commission prior to the hearing on said application. Said investigation and report shall include the character, reputation, fitness of the applicant to hold a license, any other pertinent information and the recommendation of the chief of police as to whether or not such license should be granted. In addition, the commission may request and consider such other recommendations and reports of other city officials. Unless specifically requested by the city auditor's office or police department at the time of the filing of the application, an investigation and report is not required for a transfer involving only a change in location of the licensed premises or a transfer wherein the existing license is to be exchanged for a license of lower category (e.g. a more restrictive license such as an "F" license for a "G" license, etc.).

Source: 1965 Rev. Ord. 25-1505, 1869 (1978), 2086 (1983), 2344 (1987), 2822 (1997),

25-1506. Licenses--Classifications.--Licenses authorizing the sale at retail of alcoholic beverages within the city of Fargo shall be divided into the following classes:

- A. Class AB. - A "Class AB" license shall authorize the licensee to sell "on-sale" and "off-sale."
- B. Class ABH - A "Class ABH" license shall authorize the licensee to sell "on-sale" and "off-sale", subject to the following restrictions and conditions:
  1. A "Class ABH" license may be issued only to persons engaging in the sale of alcoholic beverages in a hotel or motel having 100 or more guest rooms.
  2. A "Class ABH" license shall authorize the licensee to sell "off-sale" only to guests or patrons of the hotel or motel in which the licensee conducts business.
  3. A "Class ABH-RZ" license may be issued to persons engaging in the sale of alcoholic beverages under the following restrictions and conditions:
    - a. In a hotel in the Renaissance Zone having a minimum of 15 guest rooms. For purposes of this license, a hotel is defined as a building where the owner maintains or provides all of the following: room keys, 24-hour uniformed on-staff front desk clerk/concierge services, security, room service, porter service, daily linens, towels and the like, on-staff maid service providing daily room cleaning, utilities and telephone service. A hotel shall further exhibit to the public physical factors befitting an establishment catering to transient guests. Such factors shall include, but not be limited to, appropriate architecture, décor and furnishings. It is the intention of the commission that the purpose of an "ABH-RZ" license is to allow the sale of alcoholic beverages as adjunct to the hotel operation and not that of operating a full-time liquor establishment. Additionally, a hotel shall not be primarily a residence hotel or corporate lodging facility.
    - b. The hotel, as defined above, shall be an approved Renaissance Zone building project located within said Renaissance Zone.
    - c. Authorization for off-sale of alcoholic beverages shall be restricted only to guests or patrons of the hotel in which the licensee conducts business and not to the general public or walk-in customers.
    - d. A Class "ABH-RZ" license is only available in the Renaissance Zone as established by the city of Fargo. Transfer of a license issued hereunder shall be

governed by all relevant terms of article 25-15, provided, however, that a Class “ABH-RZ” license cannot be transferred outside the said Renaissance Zone. Upon termination of the business, said license shall revert to the city.

- C. Class A. - A “Class A” license shall authorize the licensee to sell “on-sale” only.
- D. Class B. - A “Class B” license shall authorize the licensee to sell “off-sale” only.
- E. Class C. - A “Class C” license shall authorize the licensee to sell beer “on-sale” only.
- F. Class D. - A “Class D” license shall authorize the licensee to sell beer “off-sale” only.
- G. Class E. - A “Class E” license, in the nature of a special permit, shall authorize the holder of an existing “on-sale” license to engage in the sale of alcoholic beverages (on-sale only) on such licensed premises as may be designated in the “Class E” license, subject to the following restrictions and conditions:
  - 1. A Class “E” license may be issued only to persons currently holding a Class “AB”, Class “ABH”, “ABH-RZ”, Class “A”, Class “C”, Class “F”, Class “FA”, Class “G”, Class “H”, Class “I”, or Class “N” license.
  - 2. A Class “E” license may be issued for a period of time not to exceed 14 days, and may include Sundays.
  - 3. Except as hereinabove provided, a Class “E” license shall not include days or times when the sale of alcoholic beverages is prohibited by state law and/or city ordinances.
  - 4. Persons under the age of twenty-one (21) years of age may be allowed to remain in the area of the event, or a portion thereof, where beer, wine, or sparkling wine may be sold pursuant to the permit subject to the following conditions:
    - a. The area where persons under twenty-one (21) years of age must remain must be specifically set forth in the permit;
    - b. Only employees of the qualified alcoholic beverage licensee who are at least twenty-one (21) years of age may deliver and sell the beer, wine or sparkling wine;
    - c. Subject to § 25-1509, the area where persons under twenty-one (21) years of age may remain may not be the qualified alcoholic beverage licensee’s fixed or permanent licensed premises as shown on the state and local governing body’s alcoholic beverage license issued pursuant to § 5-02-01, N.D.C.C., and comparable city ordinance;
    - d. No person under twenty-one (21) years of age within the area described in the permit may consume,

possess or receive alcoholic beverages.

5. A Class “E”, in the nature of a special serving permit, shall authorize the holder of an existing “off-sale” license to hold wine and sparkling wine demonstrations and tastings on such premises as may be designated in the Class “E” license subject to the following restrictions and conditions:
  - a. A Class “E” license issued under this section may be issued only to persons currently holding a Class “B” license.
  - b. A Class “E” license issued under this section may be issued for a period of time not to exceed 14 days, and may include Sundays.
  - c. Except as otherwise provided, a Class “E” license shall not include days or times when sale of alcoholic beverages is prohibited by state law and/or city ordinances.
  - d. Only wine or sparkling wine may be served under the Class “E” special serving permit.
  - e. There shall be no charge of any kind made by the Class “B” license holder.
  - f. The Class “E” special serving permit issued hereunder shall be only for events held by governmental, fraternal, or other regularly organized non-profit groups or societies.

H. Class F. - A “Class F” license shall authorize the licensee to sell “on-sale” only, subject to the following restrictions and conditions:

1. A Class “F” licensee may sell alcoholic beverages in a restaurant which is separated from the room in which alcoholic beverages are opened or mixed and which holds a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code, and which derives 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages. It is specifically provided, however, that wine may be “presented” to the patron of a holder of a Class “F” license at the patron’s table. “Presentation” or “presented” shall mean the ordering of a bottle of wine by the patron for consumption in the restaurant, having the server open the bottle of wine, offering the cork to the patron, pouring a small portion of wine into a glass for the patron’s approval, and after approval, pouring wine into the patron’s glass. After the presentation, further service of the wine may take place at the patron’s table and the wine need not be immediately returned to the room in which alcoholic beverages are opened or mixed.
2. A Class “F” license shall authorize the licensee to sell “on-sale” only and no licensee hereunder may conduct any

- “off-sale” liquor sales.
3. Alcoholic beverages shall be consumed only at tables or booths. No alcoholic beverages shall be consumed at a counter or bar.
  4. No dancing will be permitted in an establishment holding a license hereunder without the approval of the commission. Such approval shall be indicated on the Class “F” license and may be revoked at any time at the discretion of the commission, provided, however, that no dancing will be allowed when the licensed premises are closed for alcoholic beverage sale, service or consumption pursuant to § 25-1509 of the Fargo Municipal Code.
  5. The minimum seating capacity required on the premises for a Class “F” license is 40 seats.
  6. A restaurant under the provisions of this title shall provide adequate off-street parking within the discretion of and subject to the approval of the commission. Membership in the Fargo Park’N Shop program may be considered as compliance with this provision.
  7. The physical layout of any establishment seeking a license hereunder shall be subject to the approval of the commission.
  8. A restaurant shall mean an establishment providing multi-course meals of steak, fish, seafood and other similarly menued main courses, as well as hors d’oeuvres and desserts. Main course menu items shall be fully prepared and cooked on the premises and shall not be primarily pre-packaged, pre-processed, or pre-prepared food products intended for fast or convenient service. The hours within which sales of alcoholic beverages may be made shall coincide with the hours permitted by the state of North Dakota for the sale of alcoholic beverages and shall also be additionally limited as set forth herein. When the kitchen is not in full operation and a full menu service is not being offered to patrons, the sale and consumption of alcoholic beverages shall be discontinued within one hour after the cessation of full kitchen operation and the offering of a full menu service. It is the intention of this restriction that the purpose of an “F” license is to allow the sale of alcoholic beverages as an adjunct to the restaurant operation and not that of operating a full-time liquor establishment. It is specifically provided, however, that a nonconforming Class “F” license existing at the time of adoption of City Ordinance Number 4230 on March 18, 2002) may be continued under the terms and limitations contained hereafter. The nonconformity shall extend only to the requirement that the restaurant provide multi-course meals of steak, fish, seafood and other similarly menued main

courses which must be fully prepared and cooked on the premises and shall not be primarily pre-packaged, pre-processed, or pre-prepared food products intended for faster convenience service. Any other type of food service as a restaurant that was allowable at the time of the adoption of the above-referenced ordinance amendment may be continued, except that if it is voluntarily discontinued for more than 30 days, it shall then be deemed abandoned and any further use must be in conformity with all of the requirements of this subdivision. All of the other provisions of this subdivision shall apply to any establishment which is deemed nonconforming due to the type of food service including, but not limited to, the hours of sale, full operation of kitchen facilities and the like. It is the intention of this revision that a Class "F" licensee which was in compliance with the type of food service requirements prior to adoption of Ordinance 4230 shall be deemed in compliance with the subsequent food service requirements of this subdivision provided that the licensee has held a Class "F" at all times and has been in business continually since that time. The provisions of this subdivision adding a clause for nonconformity shall not apply to a Class "F" licensee that subsequently ceases operation of the business for which the license is issued or transfers the license.

9. The Class "F" license shall be governed by all the provisions of this article applicable to Class "A" licensees and in addition, said licensee shall hold a restaurant license or permit pursuant to article 13-04 of the Fargo Municipal Code relating to restaurants.
10. As part of the licensee's obligation that the licensee derive fifty (50%) or more of its annual gross receipts from the sale of alcohol of prepared meals than from the sale alcoholic beverages, as discussed in section 25-1504.2, the licensee shall retain and keep appropriate business records concerning purchase of food and alcoholic beverages and sales receipts for food and alcoholic beverages. Such business records shall be organized and maintained according to standard business practices and in such form as to be auditable for purposes of confirming that the licensee satisfies the sales ratio of food to alcoholic beverages. A licensee who fails to maintain the business records required by this section, or to otherwise make such records available to the City upon reasonable request to do so, is subject to the penalties listed in 25-1512(F).

- I. Class FA.--A Class "FA" license shall authorize the licensee to sell "on-sale" only, subject to the following restrictions and conditions:

1. A Class “FA” licensee may sell alcoholic beverages in a restaurant which holds a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code and which derives 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
2. A Class “FA” license shall authorize the licensee to sell “on-sale” only and no licensee hereunder may conduct any “off-sale” liquor sales.
3. A restaurant under the provisions of this title shall provide adequate off-street parking within the discretion of and subject to the approval of the commission. Membership in the Fargo Park’N Shop program may be considered as compliance with this provision.
4. A restaurant shall mean an establishment providing multi-course meals of steak, fish, seafood and other similarly menued main courses, as well as hors d’oeuvres and desserts. Main course menu items shall be fully prepared and cooked on the premises and shall not be primarily pre-packaged, pre-processed, or pre-prepared food products intended for fast or convenient service. The hours within which sales of alcoholic beverages may be made shall coincide with the hours permitted by the state of North Dakota for the sale of alcoholic beverages and shall also be additionally limited as set forth herein. When the kitchen is not in full operation and a full menu service is not being offered to patrons, the sale and consumption of alcoholic beverages shall be discontinued within one hour after the cessation of full kitchen operation and the offering of a full menu service. It is the intention of this restriction that the purpose of an “FA” license is to allow the sale of alcoholic beverages as an adjunct to the restaurant operation and not that of operating a full-time liquor establishment. A recipient of an “FA” license shall provide a full and complete kitchen adequate for the preparation of food as required by this ordinance. Such kitchen shall be subject to approval by the commission.
5. In addition to the foregoing, the Class “FA” license shall be governed by all the provisions of this article applicable to Class “A” licensees and in addition, said licensee shall hold a restaurant license or permit pursuant to article 13-04 of the Fargo Municipal Code relating to restaurants.
6. As part of the licensee’s obligation that the licensee derive fifty (50%) or more of its annual gross receipts from the sale of prepared meals than from the sale of alcoholic beverages, as discussed in section 25-1504.2, the licensee shall retain and keep appropriate business records concerning purchase of

food and alcoholic beverages and sales receipts for food and alcoholic beverages. Such business records shall be organized and maintained according to standard business practices and in such form as to be auditable for purposes of confirming that the licensee satisfies the sales ratio of food to alcoholic beverages. A licensee who fails to maintain the business records required by this section, or to otherwise make such records available to the City upon reasonable request to do so, is subject to the penalties listed in 25-1512(F).

- J. Class FA-RZ -- A Class "FA-RZ" license shall authorize the licensee to sell "on-sale" only, subject to the following restrictions and conditions:
1. A Class "FA-RZ" licensee may sell alcoholic beverages in a restaurant which holds a restaurant license or permit pursuant to the provisions of Article 13-04 of the Fargo Municipal Code and which derives 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages. Further, such restaurant must be located in the Renaissance Zone as established by the city of Fargo.
  2. A Class "FA-RZ" license shall authorize the licensee to sell "on-sale" only and no licensee hereunder may conduct any "off-sale" liquor sales.
  3. A restaurant under the provisions of this title shall provide adequate off-street parking within the discretion of and subject to the approval of the commission. Membership in the Fargo Park'N Shop program may be considered as compliance with this provision.
  4. There shall be no charitable gaming or gaming of any kind.
  5. A "restaurant" shall mean an establishment providing multi-course meals of steak, fish, seafood and other similarly menued main courses, as well as hors d'oeuvres and desserts. Main course menu items shall be fully prepared and cooked on the premises and shall not be primarily pre-packaged, pre-processed, or pre-prepared food products intended for fast or convenient service. The hours within which sales of alcoholic beverages may be made shall coincide with the hours permitted by the state of North Dakota for the sale of alcoholic beverages and shall also be additionally limited as set forth herein. When the kitchen is not in full operation and a full menu service is not being offered to patrons, the sale and consumption of alcoholic beverages shall be discontinued within one hour after the cessation of full kitchen operation and the offering of a full menu service. It is the intention of this restriction that the purpose of an "FA-RZ" license is to allow the sale of alcoholic beverages as an adjunct to the restaurant operation and not that of operating a full-time

liquor establishment. A recipient of an “FA-RZ” license shall provide a full and complete kitchen adequate for the preparation of food as required by this ordinance. Such kitchen shall be subject to approval by the commission.

6. A recipient of a license hereunder shall be allowed to serve alcoholic beverages only in areas which are specifically identified as the licensee’s licensed premises. Further, no Class “E” license shall be issued to such recipient.
  7. A Class “FA-RZ” license is only available in the Renaissance Zone as established by the city of Fargo. Transfer of a license issued hereunder shall be governed by all relevant terms of article 25-15, provided, however, that a Class “FA-RZ” license cannot be transferred outside the said Renaissance Zone. Upon termination of the business, said license shall revert to the city. A Class “FA-RZ” license cannot be transferred outside the said Renaissance Zone.
  8. In addition to the foregoing, the Class “FA-RZ” license shall be governed by all the provisions of this article applicable to Class “A” licensees and in addition, said licensee shall hold a restaurant license or permit pursuant to article 13-04 of the Fargo Municipal Code relating to restaurants.
  9. As part of the licensee’s obligation that the licensee derive fifty (50%) or more of its annual gross receipts from the sale of prepared meals than from the sale of alcoholic beverages, as discussed in section 25-1504.2, the licensee shall retain and keep appropriate business records concerning purchase of food and alcoholic beverages and sales receipts for food and alcoholic beverages. Such business records shall be organized and maintained according to standard business practices and in such form as to be auditable for purposes of confirming that the licensee satisfies the sales ratio of food to alcoholic beverages. A licensee who fails to maintain the business records required by this section, or to otherwise make such records available to the City upon reasonable request to do so, is subject to the penalties listed in 25-1512(F).
- K. Class FA-GOLF. A Class “FA-GOLF” license shall authorize the licensee to sell “on-sale” only, subject to the following restrictions and conditions:
1. A Class “FA-GOLF” licensee may sell alcoholic beverages as the food and beverage concessionaire at a golf course which also holds a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code and which derives a percentage (hereinafter stated) of its gross receipts from the sale of prepared meals and not alcoholic beverages. A recipient of “FA-GOLF” license must derive at least 25% of its gross receipts from the sale of prepared meals and food products and not alcoholic beverages during

the months from April through October of each year. During the remaining months of the year, said recipient must derive 50% or more of its gross receipts from the sale of prepared meals and not alcoholic beverages. It is the intention of this restriction that the purpose of a “FA-GOLF” license is to allow the sale of alcoholic beverages as an adjunct to the operation of the golf course and restaurant and not that of operating a full-time liquor establishment. Further, such licensee must be located at and serve a golf course of at least nine (9) or more holes. Said golf course must be USGA approved.

2. The Class “FA-GOLF” license shall authorize licensee to sell “on-sale” only and no licensee hereunder may conduct any “off-sale” liquor sales.
3. A licensee hereunder, which must also operate a restaurant under the provisions of this title, shall provide adequate off-street parking within the discretion of and subject to the approval of the commission.
4. A recipient of a license hereunder shall not be authorized to receive or be issued a live entertainment license as provided in section 25-1510. Further, there shall be no charitable gambling or gaming of any kind.
5. A “restaurant” shall mean an establishment providing multi-course meals of steak, fish, seafood and other similarly menued main courses, as well as hors d’oeuvres and desserts. Main course menu items shall be fully prepared and cooked on the premises and shall not be primarily pre-packaged, pre-processed, or pre-prepared food products intended for fast or convenient service. The hours within which sales of alcoholic beverages may be made shall coincide with the hours permitted by the state of North Dakota for the sale of alcoholic beverages and shall also be additionally limited as set forth herein. When the kitchen is not in full operation and a full menu service is not being offered to patrons, the sale and consumption of alcoholic beverages shall be discontinued within one hour after the cessation of full kitchen operation and the offering of a full menu service. It is the intention of this restriction that the purpose of an “FA-GOLF” license is to allow the sale of alcoholic beverages as an adjunct to the operation of the golf course and restaurant and not that of operating a full-time liquor establishment. A recipient of an “FA-GOLF” license shall provide a full and complete kitchen adequate for the preparation of food as required by this ordinance. Such kitchen shall be subject to approval by the commission.
6. A recipient of a license hereunder shall be allowed to serve alcoholic beverages only in areas which are specifically identified as the licensee’s licensed premises. This shall not include, however, the parking lot or the golf course itself. Any service on the golf course itself shall be from one location or one mobile cart for a nine-hole

golf course for which an “E” permit shall be obtained by licensee. An eighteen-hole golf course may have two locations or two mobile carts for which an “E” permit shall be obtained by licensee. The fee for an “E” permit as herein required is included in the annual fee and no additional charge will be made for the same. The licensee shall not be entitled to receive any other Class “E” license except for service on the golf course itself as aforesaid.

7. A Class “FA-GOLF” license is only available to the food and beverage concessionaire of a golf course as defined hereinbefore. Notwithstanding the closing time as allowed by state law and city ordinance, a licensee hereunder must close at 1:00 o’clock a.m. The license shall be site specific and shall not be transferred in any manner provided, however, the license may be transferred to a successor food and beverage concessionaire of a golf course. Upon cessation or termination of the business, said license shall revert to the city.
  8. In addition to the foregoing restrictions and conditions, the Class “FA-GOLF” license shall be governed by all the provisions of this article applicable to Class “A” licenses and shall in addition, said licensee shall hold a restaurant license or permit pursuant to article 13-04 of the Fargo Municipal Code relating to restaurants.
- L. Class G.--A Class “G” license shall authorize the licensee to sell wine and sparkling wine “on-sale” only, subject to the following restrictions and conditions:
1. A Class “G” licensee may sell wine and sparkling wine in a restaurant which is separated from the room in which said wine and sparkling wine are opened or dispensed and which holds a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code and which derives 50% or more of its annual gross receipts from the sale of prepared meals and not wine and sparkling wine. It is specifically provided, however, that wine may be “presented” to the patron of a holder of a Class “G” license at the patron’s table. “Presentation” or “presented” shall mean the ordering of a bottle of wine by the patron for consumption in the restaurant, having the server open the bottle of wine, offering the cork to the patron, pouring a small portion of wine into a glass for the patron’s approval, and after approval, pouring wine into the patron’s glass. After the presentation, further service of the wine may take place at the patron’s table and the wine need not be immediately returned to the room in which alcoholic beverages are opened or mixed.
  2. A Class “G” license shall authorize the licensee to sell wine and sparkling wine “on-sale” only and no licensee hereunder may conduct any “off-sale” wine and sparkling wine sales.

3. Wine and sparkling wine shall be consumed only at tables or booths. No wine and sparkling wine shall be consumed at a counter or bar.
  4. A restaurant under the provisions of this title shall provide adequate off-street parking within the discretion of and subject to the approval of the commission. Membership in the Fargo Park'N Shop program may be considered as compliance with this provision.
  5. The physical layout of any establishment seeking a license hereunder shall be subject to the approval of the commission.
  6. The Class "G" license shall be governed by all the applicable provisions of article 13-04 of the Fargo Municipal Code relating to restaurants and the licensee shall hold a restaurant license from the city of Fargo.
  7. As part of the licensee's obligation that the licensee derive fifty (50%) or more of its annual gross receipts from the sale of prepared meals than from the sale of wine and sparkling wine, as discussed in section 25-1504.2, the licensee shall retain and keep appropriate business records concerning purchase of food and wine/sparkling wine and sales receipts for food and wine/sparkling wine beverages. Such business records shall be organized and maintained according to standard business practices and in such form as to be auditable for purposes of confirming that the licensee satisfies the sales ratio of food to alcoholic beverages. A licensee who fails to maintain the business records required by this section, or to otherwise make such records available to the City upon reasonable request to do so, is subject to the penalties listed in 25-1512(F).
- M. Class H.--A Class "H" license shall authorize the licensee to sell beer "on-sale" only, subject to the following restrictions and conditions:
1. A Class "H" licensee may sell beer in a restaurant which is separated from the room in which said beer is opened or dispensed and which holds a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code and which derives 50% or more of its annual gross receipts from the sale of prepared meals and not beer.
  2. A Class "H" license shall authorize the licensee to sell beer "on-sale" only and no licensee hereunder may conduct any "off-sale" beer sales.
  3. Beer shall be consumed only at tables or booths. No beer shall be consumed at a counter or bar.
  4. A restaurant under the provisions of this title shall provide adequate off-street parking within the discretion of and subject to the approval of the commission. Membership in the Fargo Park'N Shop program may be considered as

compliance with this provision.

5. The physical layout of any establishment seeking a license hereunder shall be subject to the approval of the commission.
6. The Class "H" license shall be governed by all the applicable provisions of article 13-04 of the Fargo Municipal Code relating to restaurants and the licensee shall hold a restaurant license or permit from the city of Fargo.
7. As part of the licensee's obligation that the licensee derive fifty (50%) or more of its annual gross receipts from the sale of prepared meals than from the sale of beer, as discussed in section 25-1504.2, the licensee shall retain and keep appropriate business records concerning purchase of food and beer and sales receipts for food and beer. Such business records shall be organized and maintained according to standard business practices and in such form as to be auditable for purposes of confirming that the licensee satisfies the sales ratio of food to alcoholic beverages. A licensee who fails to maintain the business records required by this section, or to otherwise make such records available to the City upon reasonable request to do so, is subject to the penalties listed in 25-1512(F).

N. Class I.--A Class "I" license shall authorize the licensee to sell beer, wine and sparkling wine "on-sale" only, subject to the following restrictions and conditions:

1. A Class "I" licensee may sell beer, wine and sparkling wine in a restaurant holding a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code and which derives 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
2. A Class "I" license shall authorize the licensee to sell beer, wine and sparkling wine "on-sale" only and no licensee hereunder may conduct any "off-sale" beer, wine and sparkling wine sales.
3. A restaurant under the provisions of this title shall provide adequate off-street parking within the discretion of and subject to the approval of the commission. Membership in the Fargo Park'N Shop program may be considered as compliance with this provision.
4. The physical layout of any establishment seeking a license hereunder shall be subject to the approval of the commission.
5. The Class "I" license shall be governed by all the applicable provisions of article 13-04 of the Fargo Municipal Code relating to restaurants and the licensee shall hold a restaurant license or permit from the city of Fargo.
6. As part of the licensee's obligation that the licensee derive

fifty (50%) or more of its annual gross receipts from the sale of prepared meals than from the sale of alcoholic beverages, as discussed in section 25-1504.2, the licensee shall retain and keep appropriate business records concerning purchase of food and alcoholic beverages and sales receipts for food and alcoholic beverages. Such business records shall be organized and maintained according to standard business practices and in such form as to be auditable for purposes of confirming that the licensee satisfies the sales ratio of food to alcoholic beverages. A licensee who fails to maintain the business records required by this section, or to otherwise make such records available to the City upon reasonable request to do so, is subject to the penalties listed in 25-1512(F).

- O. Class J.--A Class “J” license shall authorize the licensee to sell “on-sale” only, subject to the following restrictions and conditions:
1. A Class “J” license shall be issued only to a non-profit organization operating a club or establishment located on property which is owned by or leased to the state or federal government for military purposes.
  2. A Class “J” license shall authorize the licensee to sell “on-sale” only and no licensee hereunder may conduct any “off-sale” liquor sales.
  3. A Class “J” licensee shall be subject to all laws and ordinances otherwise applicable to licensed liquor dealers.
- P. Class L. -- A Class “L” license shall authorize the licensee to sell “on-sale” only, subject to the following restrictions and conditions:
1. A Class “L” licensee may sell alcoholic beverages on an excursion boat operating upon the Red River of the North.
  2. The boat and the licensee shall be in compliance with any and all other licenses and restrictions that may be imposed and required by any other regulatory or governing body.
  3. The licensee shall be regularly engaged, on an annual or seasonal basis, in the business of offering tours and excursions by boat on the Red River of the North.
  4. The boat shall moor, dock and board passengers at a location within the corporate limits of the city of Fargo.
  5. The boat shall have a minimum certified seating capacity of at least 100 persons.
  6. Sale of alcoholic beverages shall be limited to passengers on the boat and such passengers may not be permitted to remove alcoholic beverages from the boat.
  7. Sale or dispensing of alcoholic beverages shall be allowed only when the boat is engaged in a tour or excursion or when the vessel is moored to a dock within the jurisdiction and limits of the city of Fargo; provided, that alcoholic beverages

shall not be sold or served anytime while the boat is drydocked, removed from the waterways of the Red River of the North, or otherwise rendered incapable of engaging in the business of offering tours and excursions by boat on the Red River of the North.

8. The boat and its operations shall be in compliance with all applicable laws and regulations concerning health, fire and safety.
9. The licensee shall regularly sell meals and provide food service on the boat, in addition to the sale of alcoholic beverages.
10. Persons under the age of 21 years of age may be permitted on the boat in accordance with § 5-02-06 of the North Dakota Century Code; provided, that the area where persons under the age of 21 are permitted is separated from the area where alcoholic beverages are opened or mixed.
11. Temporary bars may be set up and sale or service of alcoholic beverages permitted to passengers anywhere on the vessel at times when persons under the age of 21 years of age are not permitted on the boat.
12. The license which is established by this subsection shall be a seasonal license, commencing on the 1st day of April and terminating on the 15th day of November of each license year.

Q. Class M. - A "Class M" license shall authorize the licensee to operate a "microbrew pub" and to sell beer "on-sale" and "off-sale", subject to the following restrictions and conditions:

1. A Class "M" license may be issued only to a brewer which brews 25 or fewer barrels of beer per week on the license premises.
2. A Class "M" license may be issued only to persons currently holding a Class "AB", "ABH", "A", "ABH-RZ", "C", "F", "FA", "G", "H", or "I" license.
3. A Class "M" license will authorize the licensee to sell only beer which is brewed on the premises, and may be sold "on-sale" or "off-sale".
4. A Class "M" license shall not be construed as a modification of any of the restrictions imposed on said licensee as the owner of an "on-sale" beverage license.

R. Class "N" - A Class "N" license shall authorize the licensee to sell "on-sale" only, subject to the following conditions:

1. A Class "N" licensee need not have a Class "E" license as defined in § 25-1506(G) so long as the provisions of this Class "N" license are followed. A Class "N" licensee must be in compliance with any and all other licenses and restrictions that may be imposed and required by any other

- governing body.
2. A Class “N” licensee may sell alcoholic beverages at a stadium which has a minimum permanent seating capacity of 1,500.
  3. A Class “N” licensee may sell alcoholic beverages within 90 minutes prior to and during the event or activity held in the stadium.
  4. Persons under the age of twenty-one (21) years shall be allowed into and throughout the stadium of a Class “N” licensee.
  5. Alcoholic beverages may be sold and consumed as follows:
    - a. Concourse Area and Seating Arena. Only beer, wine and sparkling wine may be sold, consumed and distributed in the concourse area and seating arena of the stadium. All such beverages shall be sold in plastic or paper containers, such as bottles or cups.
    - b. Privates Suites and Other Designated, Controlled Areas. Alcoholic beverages may be sold and consumed in private suites and other specifically designated areas. Access to such designated areas must be limited to certain points of entry and departure. Alcoholic beverages other than beer, wine and sparkling wine may not be removed from such designated areas.
  6. Only employees of the Class “N” licensee who are at least twenty-one (21) years of age may deliver and sell the beer, wine or sparkling wine in the seating arena.
  7. A Class “N” license shall authorize the licensee to sell on-sale only and no licensee hereunder may conduct any off-sale liquor sales.
  8. The Class “N” license shall be governed by all of the provisions of this article applicable to Class “A” licensees.
- S. Class “O” - A Class “O” license shall authorize the licensee to operate as a winemaker and/or vendor of winemaking supplies and related services. A license holder possessing such a license shall be authorized to offer complimentary samples of wines produced on the premises provided that the size of each sample is no greater than two (2) fluid ounces. No other alcoholic beverages may be sampled on the premises. In the absence of another appropriate license, sales of off-sale or on-sale wine, beer or any other alcoholic beverage shall not be permitted. The intent of this license is to allow a winemaker to permit sampling by prospective customers of the winemaker’s products and services prior to sales to, or engagement by, the customer.
- T. Class P – A Class “P” license shall authorize the licensee to operate a domestic winery and to sell wine “on-sale” and “off-sale”, subject to the

following restrictions and conditions:

1. A Class “P” license may be issued only to a domestic winery owner or operator who obtains a license from the State Tax Commissioner allowing the production of wine.
2. A Class “P” license will authorize the licensee to sell, on the winery premises, wine produced by that winery at “on-sale” or “off-sale”, in retail lots, and not for resale, in total quantities not in excess of 10,000 gallons in a calendar year.
3. A Class “P” license will authorize the licensee to sell glassware, wine literature and accessories, cheese, cheese spreads, and other snack food items.
4. A Class “P” license will authorize the licensee to utilize special event permits issued by the State Tax Commissioner.
5. The Class “P” license shall be governed by all the provisions of this article applicable to Class “A” licensees.

A Class “P” license shall not be required, however, for a domestic winery owner or operator having a license from the state tax commissioner allowing the production of wine and only being present within the city to utilize special event permits issued by the state tax commissioner. It is the intent of this exemption to not require licensure by domestic winery owners or operators, if properly licensed elsewhere, where the only presence in the city is to utilize special event permits.

U. Class “Z” – A “Class Z” license shall authorize the licensee to sell “on-sale” only, subject to the following restrictions and conditions:

1. A Class “Z” license shall authorize a licensee to sell “on-sale” only, and no licensee hereunder may conduct any “off-sale” liquor sales.
2. A Class “Z” licensee under the provisions of this title shall provide adequate off-street parking within the discretion of and subject to the approval of the commission. Membership in the current Fargo parking program (presently POP), or any subsequently adopted parking program, may be considered as compliance with this provision.
3. A new Class “Z” license shall be issued only to individuals or partnerships.
4. No person, partnership, or anyone having any ownership interest in any other type of business entity may hold more than one (1) “Z” license.
5. No person or partnership holding an “A”, “AB”, “ABH”, or “ABH-RZ” license can hold a “Z” license.
6. The initial fee for a “Z” license, as well as the annual renewal fee shall be as set forth in city ordinance.
7. A “Z” license shall be essentially non-transferable. In the event, the holder of a Class “Z” license shall voluntarily go

out of business, the license shall revert to the city. It is the intent of this provision that the city of Fargo desires to control the issuance of additional liquor licenses and restrict any artificial appreciation in value of said licenses. Additional terms, conditions and restrictions on transferability shall be as set forth in section 25-1508.

8. The initial issuance of a “Z” license shall consider all of the factors set forth in article 25-1508 hereinafter. In the event the applications for said license shall exceed the number then available, any applications meeting all of the requirements shall be determined by a drawing in the presence of the governing body of the city and in such manner as it shall direct.
9. In addition to the foregoing, the Class “Z” license shall be governed by all the terms of this article applicable to Class “A” licensees provided, however, that in the event the provisions should conflict with this section, provisions of this section shall prevail.

V. Class “W” – A “Class “W” license shall authorize the licensee to sell “on-sale” only, subject to the following restrictions and conditions:

1. A Class “W” licensee may sell wine, sparkling wine, and beer in an establishment holding a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code and which derives 20% or more of its annual gross receipts from the sale of food and not alcoholic beverages.
2. A Class “W” license shall authorize a licensee to sell “on-sale” wine, sparkling wine and beer only.
3. A Class “W” licensee under the provisions of this title shall provide adequate off-street parking within the discretion of and subject to the approval of the commission. Membership in the current Fargo parking program (presently POP), or any subsequently adopted parking program, may be considered as compliance with this provision.
4. A new Class “W” licensee shall be issued only to individuals or partnerships.
5. No person, partnership, or anyone having any ownership interest in any other type of business entity may hold more than one (1) “W” license.
6. No person or partnership holding an “A”, “AB”, “ABH”, or “ABH-RZ” license can hold a “W” license.
7. The initial fee for a “W” license, as well as the annual renewal fee, shall be as set forth in city ordinance.
8. A “W” license shall be essentially non-transferable. In the event the holder of a Class “W” license shall voluntarily go

out of business, the license shall revert to the city. It is the intent of this provision that the city of Fargo desires to control the issuance of additional liquor licenses and restrict any artificial appreciation in value of said licenses. Additional terms, conditions and restrictions on transferability shall be as set forth in section 25-1508.

9. The initial issuance of a “W” license shall consider all of the factors set forth in article 25-1508 hereinafter. In the event the applications for said license shall exceed the number then available, any applications meeting all of the requirements shall be determined by a drawing in the presence of the governing body of the city and in such manner as it shall direct.
10. In addition to the foregoing, the Class “W” license shall be governed by all the terms of this article applicable to Class “AB” licensees provided, however, that in the event the provisions should conflict with this section, provisions of this section shall prevail.
11. A Class “W” licensed establishment may be audited on an annual basis by the assigned department of the city of Fargo to ensure compliance with the alcohol/food ration as specified in the license.

Source: 1965 Rev. Ord. 25-1506, 1884 (1978), 2087 (1983), 2212 (1985), 2218 (1985), 2243 (1986), 2344 (1987), 2517 (1990), 2532 (1990), 2581 (1991), 2582 (1991), 2596 (1991), 2624 (1992), 2636 (1992), 2649 (1993), 2676 (1993), 2677 (1993), 2760 (1995), 2806 (1996), 2808 (1996), 2822 (1997), 2848 (1998), 2940 (1998), 3014 (1999), 4193 (2001), 4194 (2001), 4196 (2001), 4217 (2002), 4219 (2002), 4230 (2002), 4235 (2002), 4294 (2003), 4295 (2003), 4348 (2003), 4350 (2003), 4368 (2004), 4420 (2004), 4436 (2004), 4448 (2005), 4461 (2005), 4466 (2005), 4498 (2005), 4501 (2005), 4503 (2005), 4512 (2006), 4540 (2006).

25-1507. License--Fees.--

- A. Initial issuance fee--For a license granted which is not a renewal or a transfer of an existing license, the following fees shall be payable as hereinafter provided:

- Class AB--\$150,000
- Class ABH--\$ 30,000
- Class ABH-RZ--\$15,000
- Class A--\$115,000
- Class B--\$ 90,000
- Class C--\$3,000
- Class D--\$1,500.00
- Class E--\$25 plus \$10 for each day requested.
- Class F--\$3,000
- Class FA--\$100,000
- Class FA-RZ--\$50,000
- Class FA-GOLF--\$60,000

- Class G--\$1,000
- Class H--\$800
- Class I--\$25,000
- Class J--No fee
- Class L--No fee
- Class M--\$1,500
- Class N--\$3,000
- Class O--\$400
- Class P--\$600
- Class W--\$25,000
- Class Z--\$105,000

No fee shall be charged for the initial issuance of a license hereunder to a lodge or club, nor shall any fee be charged for the initial issuance of a license to any liquor establishment licensed by any other political subdivision over which the city of Fargo has subsequently acquired jurisdiction by annexation, provided, however, that such liquor establishment must have been in existence for at least fifteen (15) years prior to such annexation by the city of Fargo. The initial issuance fee charged shall be the difference between the city fee and the fee originally charged by the issuing subdivision..

A non-refundable payment in the sum of 10% of the initial issuance fee shall be paid at the time issuance of the license is approved by the board of city commissioners pursuant to § 25-1508 of this article. The remainder of the initial issuance fee shall be payable upon issuance of the license, but not more than 30 days after date of approval by the board of city commissioners; provided, that the time for payment of the remaining balance of the initial issuance fee may, with the approval of the board of city commissioners, be deferred and paid by periodic payments within 180 days after the date of approval. In the event that the applicant fails to pay the remainder of the initial issuance fee within 30 days, or such other time as may have been approved by the board of city commissioners, the approval shall be deemed to have expired and the 10% payment by the applicant shall be forfeited.

- B. Annual fees shall be payable at the beginning of each license year as follows:
  - Class AB--\$2,400
  - Class ABH--\$2,000
  - Class ABH-RZ--\$2,000
  - Class A--\$1,700, except that the license fee for any lodge or club having a total membership of less than 1,000 shall be \$1,200 per year.
  - Class B--\$1,400
  - Class C--\$500
  - Class D--\$200
  - Class E--No annual fee shall be charged for a Class E license.
  - Class F--\$1,500
  - Class FA--\$1,700
  - Class FA-RZ--\$1,700
  - Class FA-GOLF--\$1,700

Class G--\$400  
Class H--\$300  
Class I--\$1,000  
Class J--\$25  
Class L--\$1,000  
Class M--\$200  
Class N--\$1,500  
Class O--\$150  
Class P--\$200  
Class W--\$1,000  
Class Z--\$1,700

- C. The transfer of a license issued pursuant to the provisions of this article shall require a transfer fee equal to the total annual cost of the license being transferred; provided, however, that a transfer fee shall not be imposed for the following-described transfers:
1. When an individual holding a license issued pursuant to the provisions of this article has become deceased, the license may, upon application of the personal representative of the decedent, be transferred to another individual, partnership, firm or corporation.
  2. When any corporation holding a license issued pursuant to the provisions of this article voluntarily dissolves, a license may be issued to any individual shareholder in such corporation who held said stock at the time of the issuance or last renewal of the license and whose application is approved by the holders owning a majority of the outstanding shares of stock in said corporation prior to the time of dissolution; provided, however, that such shareholder shall be subject to all the requirements of this article relating to the application for a license and to the qualifications of a licensee.
  3. When any licensee under the provisions of this article applies for and receives the approval of the commission on the change of location of the licensed premises.
  4. When an individual licensee desires to transfer a license to a corporation in which the licensee is the owner of at least 75% of the outstanding shares of stock in said corporation; provided, however, that such licensee may not permit his stock ownership in the transferee corporation to fall below a majority of the outstanding stock in said corporation without the prior approval of the commission and payment of the required transfer fee. The transferee corporation shall be subject to all the requirements of this article relating to the application for a license and the qualifications of a licensee.
  5. When a licensee is a corporation or partnership which desires to transfer a license to another corporation or partnership having substantially the same partners or stockholders;

provided, however, that such transferee corporation or partnership shall be subject to all the requirements of this article relating to the application for a license and the qualifications of a licensee. No Class “E” licensee shall transfer his license under any circumstances.

- D. In addition to the fees set forth in paragraphs A, B and E of this section, each application for a new license (except Class “E” and Class “J”), or a transfer of a license pursuant to § 25-1504 of this article shall, at the time of submission of his application for such issuance or transfer, pay to the city auditor, the sum of \$250 as a minimum non-refundable fee for the investigation which is required by § 25-1505 of this article. Any additional costs incurred by the city in connection with such investigation shall be paid by the applicant prior to the hearing on said application and shall not be refunded in the event that the applicant is not successful.
- E. In addition to the fees and costs set forth in paragraphs A, B, C and D of this section, each licensee who applies for and receives a Class “E” license for a special event shall, upon conclusion of said special event pay to the city auditor, a sum of money sufficient to defray the extra costs incurred by the city in providing police protection for said event. The amount of such extra cost shall be determined by the police chief and an appropriate statement sent to the licensee but in no event shall said extra costs exceed the sum of \$300.
- F. The license fees set forth in subsection B of this section shall be for a period of one year from July 1 through June 30 and shall be payable in advance at the time of the issuance of the license and thereafter, on or before June 10 of each subsequent year; provided, however, upon written request of the licensee, the commission may, in its discretion, permit payment of 50% of any said license fee in advance at the time of the issuance of the license and on or before June 10 in case of renewal, with the remaining 50% payable on December 1 of the license year.
- G. If an application is made for the issuance of a license at a time other than the beginning of the license year, the license fee shall be prorated on a monthly basis of the unexpired term of the license commencing on the first day of the month in which the application is filed and any subsequent renewal of said license shall be for a full license year.
- H. Class “F”, “G”, “H”, “I”, and “N” licenses may be issued as seasonal licenses for minimum periods of six months. Application for such licenses shall be made prior to June 30 each year and the application shall indicate the months in which the license is to be effective. Fees for such licenses shall be prorated to the nearest fractional month of the effective period and payment therefor shall accompany the application.

Source: 1965 Rev. Ord. 25-1507, 1884 (1978), 1912 (1979), 1920 (1979), 2088 (1983), 2161 (1984), 2213 (1985), 2244 (1986), 2270 (1986), 2344 (1987), 2353 (1987), 2517 (1990), 2532 (1990), 2539 (1990), 2553 (1990), 2596 (1991), 2636 (1992), 2642 (1993), 2677 (1993), 2720 (1994), 2760 (1995), 2822 (1997), 4201 (2001), 4218 (2002), 4236 (2002), 4368 (2004), 4448 (2005), 4461 (2005), 4501 (2005), 4541 (2006).

25-1508. Issuance and transfer of licenses--Restrictions--Hearing required.--

- A. No license, other than a Class "E" license, shall be issued or transferred without approval of the commission. A Class "E" license may be issued by the city auditor, without notice or hearing.
- B. When an application for any license other than a Class "E" is filed with the commission pursuant to the provisions of § 25-1504 of this article, the city auditor shall cause notice to be published in a newspaper of general circulation within the city of Fargo, that the applicant has applied for a license to sell alcoholic beverages at the place named in the application or for the transfer of an existing license, and that the application will be acted upon by the commission on a certain day and time. A hearing on the application shall be held not less than 10 days nor more than 30 days after the date of publication. The expense of the publication, in addition to the license fee, shall be paid by the applicant to the city auditor prior to publication.
- C. At the time of the hearing on the application, the commission shall, in its discretion, determine if the issuance or transfer of the license is in the best interests of the public health, safety, morals and general welfare of the community. Among the factors to be considered by the commission in granting or denying a license or a transfer are the following:
  - 1. The convenience of police regulation.
  - 2. Public health and sanitation.
  - 3. The proximity of other businesses licensed to sell alcoholic beverages.
  - 4. The proximity of schools, churches, funeral homes, public buildings or buildings used by or for minors.
  - 5. Protests of neighboring property owners or occupants.
  - 6. Zoning regulations.
  - 7. Interference with neighboring properties.
  - 8. Suitability of premises for sale of alcoholic beverages.
  - 9. Public convenience and necessity.
  - 10. Number of such licenses already in existence.
  - 11. Economic impact upon other such licensed premises.
  - 12. Sufficiency of the application required by § 25-1504 of this article.
  - 13. Recommendations and reports of city officials, such as the chief of police, chief of the fire department, building inspector, health officer, and any other official submitting a recommendation or report at the request of the board of city commissioners.
- D. No transfer of any license shall be approved by the commission until the transferee has submitted a license application and has met all the requirements imposed upon an applicant for a new license.
- E. No license issuance or transfer authorizing off-sale of any kind shall be approved by the commission for the sale of alcoholic beverages on premises, any part of which are closer than 100 feet to any grocery store, drug store or gasoline service station, or any portion thereof; provided, that this restriction

shall not apply to a transfer which is an assignment, sale, exchange or other conveyance of a license.

- F. The number of licenses which may be issued by the board of city commissioners shall be limited as follows:
1. Class "AB"- 22
  2. Class "ABH" - no limit
  3. Class "A" - 8 (not including licenses issued to lodges or clubs)
  4. Class "B" - 12
  5. Class "C" - 2 (limited to those issued prior to February 1, 1986)
  6. Class "D" - 1 (limited to those issued prior to February 1, 1986)
  7. Class "E" - no limit
  8. Class "F" - no limit
  9. Class "FA" - no limit
  10. Class "FA-GOLF" – no limit
  11. Class "G" - no limit
  12. Class "H" - no limit
  13. Class "I" - 12
  14. Class "J" - no limit
  15. Class "L" - no limit
  16. Class "M" - no limit
  17. Class "N" – no limit
  18. Class "O" – no limit
  19. Class "P" – no limit
  20. Class "W"--1 with the conditions and limitations set forth in subsection (H) hereinafter. The initial issuance of a Class "W" license shall provide one (1) license (as aforesaid). At such time as the population of the city of Fargo shall exceed 100,000, one (1) additional "W" license shall become available for each 10,000 people in excess of 100,000 population. The granting of additional licenses shall be subject to all of the terms and conditions of the "W" license set forth hereinbefore.
  21. Class "Z" -- Class "Z" – 4 with the conditions and limitations set forth in subsection (H) hereinafter. The initial issuance of a Class "Z" license shall provide for four (4) licenses (as aforesaid) with two (2) licenses being designated for the downtown area and two (2) for areas outside the downtown area as defined. "Downtown area" shall mean that area included in the Downtown Area Plan as previously approved by the board of city commissioners and as it may hereafter be amended. At such time as the population of the city of Fargo shall exceed 100,000, one (1) additional "Z" shall become available for each 10,000 people in excess of 100,000 population. The granting of additional licenses shall be

subject to all of the terms and conditions of the “Z” license as set forth hereinbefore.

- G. Alcoholic beverage licenses which are located in motels/hotels having a minimum of 100 rooms and one single license located in the Hector Airport Terminal building shall be reserved for those locations and may be transferred to other owners as hereinabove provided but shall not be transferred to any other location. Ownership of licenses issued to lodges and clubs shall not be transferable.
- H. A Class “W” on-sale only license has been created and is subject to different conditions (set forth hereinbefore) which include certain terms, conditions, and restrictions on transferability which are set forth hereinafter. A Class “W” license, in addition to the foregoing conditions on transfer (to the extent possible), shall be subject to the following:
  - 1. Should any “W” licensee voluntarily go out of business, the license shall revert to the city.
  - 2. In the event the licensee shall file a petition in bankruptcy, become insolvent, or otherwise cease business, the license shall revert to the city.
  - 3. There shall be no limitation on the transferability of a “W” license as regards a change in location of licensed premises provided, however, that the licenses issued for the downtown area shall only be allowed to relocate in said area. In the event of a change of location (as herein restricted), the licensee may apply for transfer subject to all of the terms and conditions of this article.
  - 4. When an individual holding a “W” license issued pursuant to the provisions of this article has become deceased, the license may be transferred to the heir or heirs of the individual, but may not be transferred to any other person, partnership, firm or corporation.
  - 5. Upon the death or withdrawal of any partner in a partnership holding a license issued pursuant to the provisions of this article, the remaining partner or partners may continue to hold the license, but no partnership interest may be issued to any new partner. It is the intent of this provision that the city of Fargo desires to control the transfer of the “W” license and restrict any artificial appreciation in value of said license.

6. When an individual or partnership holding a “W” license issued pursuant to the provisions of this article sells the business as a going concern, the purchaser of the business has the first preference to purchase the “W” license being returned to the city for such business. The purchaser must, however, meet all other relevant conditions of article 25-1508 including the factors contained in 25-1508(C).
- I. A Class “Z” on-sale only license has been created and is subject to different conditions (set forth hereinbefore) which include certain terms, conditions and restrictions on transferability which are set forth hereinafter. A Class “Z” license, in addition to the foregoing conditions on transfer (to the extent applicable), shall be subject to the following:
    1. Should any “Z” licensee voluntarily go out of business, the license shall revert to the city.
    2. In the event the licensee shall file a petition in bankruptcy, become insolvent, or otherwise cease business, the license shall revert to the city.
    3. There shall be no limitation on the transferability of a “Z” license as regards a change in location of licensed premises provided, however, that the licenses issued for the downtown area shall only be allowed to relocate in said area. In the event of a change of location (as herein restricted), the licensee may apply for transfer subject to all of the terms and conditions of this article.
    4. When an individual holding a “Z” license issued pursuant to the provisions of this article has become deceased, the license may be transferred to the heir or heirs of the individual, but may not be transferred to any other person, partnership, firm or corporation.
    5. Upon the death or withdrawal of any partner in a partnership holding a license issued pursuant to the provisions of this article, the remaining partner or partners may continue to hold the license, but no partnership interest may be issued to any new partner. It is the intent of this provision that the city of Fargo desires to control the transfer of the “Z” license and restrict any artificial appreciation in value of said license.
    6. When an individual or partnership holding a “Z” license issued pursuant to the provisions of this article sells the business as a going concern, the purchaser of the business has the first preference to purchase the “Z” license being returned to the city for such business. The purchaser must, however, meet all other relevant conditions of article 25-1508 including the factors contained in 25-1508(C).

Source: 1965 Rev. Ord. 25-1508, 1869 (1978), 1882 (1978), 1941 (1979), 2089 (1983), 2111 (1983), 2159 (1984), 2214 (1985), 2240 (1986), 2271 (1986), 2344 (1987), 2448 (1989), 2517 (1990), 2531 (1990), 2532 (1990), 2596 (1991), 2627 (1992), 2642 (1993), 2719 (1994), 2720

(1994), 2731 (1995), 2774 (1995), 2808 (1996), 2822 (1997), 2847 (1998), 2944 (1998), 4218 (2002), 4236 (2002), 4368 (2004), 4448 (2005), 4461 (2005), 4501 (2005).

25-1509. Restrictions on sale, service or dispensing of alcoholic beverages.--

- A. No licensee, his agent or employee, shall sell, serve or dispense any alcoholic beverage to a person under 21 years of age; and no licensee, his agent or employee, shall permit any person under 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.
- B. No person under 21 years of age shall be permitted to enter any portion of licensed premises in which alcoholic beverages are sold, served or dispensed; nor shall anyone under the age of 21 years be employed in any portion of licensed premises in which alcoholic beverages are sold, served or dispensed, except as provided in subsections (C) and (D) of this section. For purposes of this section, a person is not 21 years of age until 8 a.m. on the person's twenty-first birthday.
- C. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area. Any person who is employed by the restaurant as a food waiter, food waitress, busboy or busgirl may not engage in the sale, dispensing, delivery or consumption of alcoholic beverages; provided, that any person who is between 19 and 21 years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person 21 or more years of age. A law enforcement officer, or person cooperating with and under the control of such law enforcement officer, under the age of 21 years may enter premises where alcoholic beverages are sold, dispensed, or consumed in the performance of an official duty. Any establishment where alcoholic beverages are sold may employ persons from 18 to 21 years of age to work in the capacity of musicians under the direct supervision of a person over 21 years of age. Any person under 21 years of age may enter and remain on the license premises if the person is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering or consuming alcoholic beverages. Any person under 21 years of age may remain in the area of and event where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to § 5-02-01.1, N.D.C.C., and the city comparable ordinance § 25-1506(G)(4).
- D. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold when accompanied by a parent or legal guardian, whether or not the restaurant is separated from the room in which alcoholic beverages are opened or mixed and whether or not gross sales of food are equal to gross sales of alcoholic beverages. For purposes of this subsection, a restaurant shall be any establishment which serves prepared food and holds a restaurant license or permit pursuant to the provisions of

- article 13-04 of the Fargo Municipal Code.
- E. No Class “B” or Class “D” licensee shall permit the opening or consumption of alcoholic beverages upon the licensed premises; provided, that a Class “B” licensee may permit the sampling of alcoholic beverages upon the licensed premises without charge to the consumer.
  - F. No licensee, his agent or employee shall sell, serve, consume or permit to be sold, served or consumed on the licensed premises any alcoholic beverages after 2:00 a.m. on Sundays, before 12:00 noon on Sundays, or between the hours of 2:00 a.m. and 8:00 a.m. on all other days of the week; nor shall any licensee, his agent or employees sell, serve or permit to be sold, served or consumed on the licensed premises any alcoholic beverage on Christmas Day or after 6:00 p.m. on Christmas Eve. Additionally, there shall be no off-sale sales allowed after 1:00 a.m. on Thanksgiving Day. For purposes of this provision, any person having a glass or other opened container containing an alcoholic beverage in close proximity or otherwise available for consumption shall be deemed to be consuming an alcoholic beverage.
  - G. All licensed premises shall be closed and locked not more than one-half hour after the termination of business hours as specified in subsection (F) of this section and no persons shall be permitted to remain on said premises thereafter except for the owner and his employees for normal cleaning and maintenance activities; provided, that a licensee may remain open for the purpose of providing food service pursuant to subsection (D) of § 25-1511 of this article.
  - H. No license to sell alcoholic beverages under the provisions of this article shall entitle the holder thereof to carry on such business at more than one location under any one license and each license shall contain a legal description of the place where the holder thereof operates such business; provided, however, the foregoing provision shall not apply in the case where a licensee, in addition to his regular license, is granted a Class “E” license to engage in the sale of alcoholic beverages at the place designated in the Class “E” license. In addition, the provisions of this subsection shall not apply to any licensee serving alcoholic beverages at the city auditorium or the Fargodome, pursuant to the provisions of article 18-05 and article 34-01 of the Fargo Municipal Code; provided, however, that all other provisions of this article and all other ordinances of the city of Fargo, not inconsistent herewith, shall apply to any licensee serving alcoholic beverages at the city auditorium or the Fargodome.
  - I. No licensee, his agent or employee shall sell or serve, or permit to be sold or served on the licensed premises any food other than prepackaged, confectionery items such as peanuts, potato chips and similar items, and prepackaged sandwiches, pizza and similar food products which are prepared and packaged off the licensed premises; provided, that this prohibition shall not apply to licensed establishments which hold a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code.

J. Any licensee holding a Class “AB”, Class “ABH”, Class “A”, Class “FA”, Class “FA-RZ”, Class “G”, Class “H”, or Class “T” license, who also holds a restaurant license, limited restaurant license, or permit issued pursuant to the provisions of Article 13-04 of the Fargo Municipal Code, and who regularly serves food and beverages, may dispense alcoholic beverages in connection with food sales, on tables located on the public sidewalk adjacent to the licensed establishment; provided, that tables on the public sidewalk shall be in accordance with Article 18-03 of the Fargo Municipal Code.

\* K. Any person under 21 years of age may enter and remain in a licensed premises for a designated alcohol-free public event in any licensed premises or in a separate room within the licensed premises where the licensee has determined not to sell or permit consumption or possession of alcoholic beverages on that licensed premises or within the designated separate room within the licensed premises during a specified time period provided the licensee complies with the requirements of this subsection. For purposes of this subsection a public event is any event to which admission is open to the general public and may be gained with or without payment of a fee or an event which is advertised to the general public.

1. The licensee shall give written notice of the intent to operate the premises or separate room within the premises as an alcohol-free area at least 72 hours in advance to the chief of police on a form to be prepared by the chief of police. The notice shall specify which portion of the licensed premises will be used for the alcohol free event or if a separate room within the premises will be used for the alcohol free event. If only a separate room within the licensed premise will be used for the event, the room must have a point of entry and exit which does not permit those under the age of 21 to enter any portion of the licensed premises where alcoholic beverages are being sold, mixed or consumed. The notice shall define what security measures within the licensed premises or the separate room thereof will be taken to prevent the consumption of alcoholic beverages by persons during the alcohol-free event. The chief of police may, in his discretion, require such additional information from the licensee as is necessary to ensure compliance with this section.

2. Security personnel shall be on the premises in such numbers as to ensure the safety of patrons and to maintain order on the premises as follows:

- 99 or less - 2 security personnel
- 100 to 200 - 3 security personnel
- 201 to 300 - 4 security personnel
- 301 to 400 - 5 security personnel
- 401 to 500 - 6 security personnel
- 501 and over - appropriate number of security

personnel as may be determined by the chief of police.

3. The licensee shall post conspicuously at all entrances to the alcohol-free event a notice stating the sale, possession or consumption of alcoholic beverages will not be permitted during the duration of the alcohol-free event and that no participant under the age of 21 is permitted into any area within the licensed premises where alcoholic beverages are sold, consumed, or possessed to include common areas such as hallways or restrooms.
4. During the alcohol-free event, the licensee shall remove from public view and secure all containers of alcoholic beverages as well as de-activate any device used to dispense alcohol in the alcohol free event.
5. The licensee shall have all patrons regardless of age removed from the alcohol free event following the completion of the alcohol-free event and not reopen the licensed premise or the separate room thereof for the sale, possession or consumption of alcohol until one hour after the completion of the alcohol-free event.
6. Smoking shall not be permitted at alcohol-free public events.

\* L. Any person under 21 years of age may enter and remain in a licensed premises or in a separate room within the licensed premises for a private event where the licensee has restricted access to invited guests provided that the licensee complies with the requirements of this subsection. For purposes of this subsection a private event is an event which is not open to the general public to which access is granted to invited guests only, for which no admission fee is paid, and for which no advertising was conducted to the general public.

1. The licensee maintains the responsibility to comply with city ordinance 25-1509 (A) which prohibits selling, serving or dispensing any alcoholic beverage to a person under 21 years of age; or permitting any person under 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.
2. The room must have a point of entry and exit which does not permit those under the age of 21 to enter any portion of the licensed premises, not designated as the private event, where alcoholic beverages are being sold, mixed or consumed.
3. The licensee shall post conspicuously at all entrances to the private event a notice stating the sale, possession or consumption of alcoholic beverages by those under the age of 21 will not be permitted and that no participant under the age of 21 is permitted into any area outside of the designated separate room within the licensed premises where alcoholic beverages are sold, consumed, or possessed to include

common areas such as hallways or restrooms.

4. Security personnel shall be on the premises in such numbers as to ensure the safety of patrons and to maintain order.
5. The licensee shall have all patrons regardless of age removed from the private event following the completion of the private event and not reopen the separate room to the general public for the purpose of the sale, possession or consumption alcohol until one hour after the completion of the private event.
6. Smoking shall not be permitted at a private event designated under this section.
7. In addition to the foregoing restrictions and conditions, the licensee shall be governed by all applicable provisions of the Fargo Municipal Code.

\* *The provisions of this section apply to the licensee's City of Fargo Alcohol License only and do not apply to or grant any exemption from the necessary state liquor license requirements or the provisions of the North Dakota Century Code.*

Source: 1965 Rev. Ord. 25-1509, 1869 (1978), 2090 (1983), 2099 (1983), 2160 (1984), 2162 (1984), 2217 (1985), 2241 (1986), 2264 (1986), 2344 (1987), 2447 (1989), 2509 (1989), 2517 (1990), 2583 (1991), 2584 (1991), 2597 (1991), 2603 (1992), 2645 (1993), 2760 (1995), 2822 (1997), 3015 (1999), 3084 (1999), 4401 (2004), 4476 (2005), 4528 (2006), 4535 (2006).

25-1509.1. Restrictions on sale or consumption in a public place.--

- A. No owner, manager or person having control of any public place shall serve, permit to be served, or permit any person to drink alcoholic beverages in such place, unless such place has been duly issued an on-sale or other appropriate license under this chapter.
- B. No person shall mix, prepare, serve or consume alcoholic beverages in any public place unless such place has been duly issued an on-sale or other appropriate license under this chapter.
- C. The area set aside and specifically designated on the Fargodome parking lot by North Dakota State University and specifically excepted from the definition of "public place" shall nonetheless conform to and abide by all of the other relevant provisions of this chapter. Minors shall not be allowed to possess or consume alcoholic beverages. Minors shall not be allowed in the area set aside and specifically designated unless accompanied by a parent or guardian. There shall be adequate security provided, to the satisfaction of the chief of police, or his designee, and North Dakota State University shall allow inspection by the Fargo Police Department and any other city officials.

Source: 3019 (1999), 4412 (2004).

25-1509.2. Restrictions on sale to obviously intoxicated person.—No licensee or partner, principal, agent or employee of any licensee shall sell, serve, or furnish alcoholic beverages to or allow possession and consumption of alcoholic beverages on the licensed premises by any person

who is or has become intoxicated and/or incapacitated by the consumption of alcoholic beverages. A person may be considered to be obviously intoxicated when it can be plainly determined by appearance, conduct, and/or demeanor. The term “obviously intoxicated” shall mean that the person’s obvious intoxication be reasonably discernible or evident to a person of ordinary experience.” Such indicators of intoxication may include, but are not limited to a combination of any of the following types of conditions:

- A. Problems with balance, inability to maintain balance, i.e., stumbling, staggering gait, bumping into furniture while walking, falling against bar or off stool, resting head on bar;
- B. Ineffective muscular coordination, i.e., spilling and/or knocking over drinks, unable to pick up change and the like;
- C. Disorientation and mental confusion as to locations, date, names and the like;
- D. Strong smell of alcohol;
- E. Unusual or distorted speech, i.e., slurred, thick tongue, uncontrollable voice pitch, muttering, and the like;
- F. Bloodshot and/or glassy eyes, flushed face, and the like;
- G. Condition of clothes and hair, i.e., soiled clothing, urinated upon clothing and the like;
- H. Unusual behavior, i.e., vomiting, profanity, hiccups, fighting, loud, boisterous, obnoxious behavior, sleeping or unconscious.

Violation of this ordinance may result in sanctions as prescribed in Section 25-1512(H) and (I) hereinafter. Sanctions for a licensee selling, serving or furnishing alcoholic beverages shall require a sale and a showing that the police officer observed and determined the person to be intoxicated. In addition, a corroborating witness or witnesses who can opine that the person was obviously intoxicated shall be required. Sanctions for a licensee allowing the consumption of alcoholic beverages on the licensed premises shall require a showing that the police officer observed and determined the intoxicated person to be intoxicated on the licensed premises, as well as a showing that the intoxicated person was allowed to consume alcoholic beverages on the licensee’s premises. The police officer’s observation and determination must be accompanied by information from a corroborating witness or witnesses who can opine that the person was obviously intoxicated when allowed to consume alcoholic beverages on the licensed premises.

If a licensee, partner, principal, agent or employee of any licensee shall contact law enforcement to report the presence of an obviously intoxicated patron or to obtain law enforcement assistance in removing an obviously intoxicated patron, a rebuttable presumption is created and sanctions shall not be imposed. This presumption may be overcome, however, by evidence that the licensee, partner, principal, agent or employee of any licensee did not contact law enforcement in good faith.

Source: 4332 (2003).

25-1510. Live entertainment license.--

- A. No licensee shall feature or permit entertainment, including outdoor amplified music or vocal performances, without first having obtained a live entertainment license provided that a licensee may feature certain forms of background music without obtaining such license. Background music allowed without a live entertainment license shall only include instrumental performances such as a piano, string ensemble, or other instrumental

ensemble, or vocal performances held in conjunction with dining in a restaurant. Such entertainment shall not include dancing. A live entertainment license is required for any performance where tickets are sold or where a cover charge is required. It is the intention of this proviso that background-type entertainment clearly incidental to dining and operation of a restaurant, including non-amplified outdoor music or vocal performances, is allowed without a live entertainment license.

- B. The initial license fee for a live entertainment license shall be \$700 and the renewal fee for such license shall be \$350 per year.
- C. The license fee required for a live entertainment license shall be for a period of one year from July 1 through June 30 and shall be payable in advance at the time of the issuance of the license and thereafter, on or before June 10 of each subsequent year for renewal of said license.
- D. Annual application for a live entertainment license shall be made by the licensee on forms provided by the city auditor's office of the city of Fargo. The granting of a live entertainment license shall be subject to the approval of the city commission, with any appropriate conditions, and it may be suspended or revoked in conformance with the procedures established by § 25-1512 of this article.
- E. The applicant shall provide sufficient information on the application relating to adequate parking, adequate traffic controls, acceptable indoor and outdoor noise levels, and protections against underage drinking. Such other information may be required as necessary in order to properly determine whether a license should be granted to the applicant.
- F. No licensee shall feature or permit entertainment at a time when the licensed premises are closed for alcoholic beverage sale, service or consumption pursuant to § 25-1509 of the Fargo Municipal Code.

Source: 1965 Rev. Ord. 25-1510, 1869 (1978), 2859 (1998), 2941 (1998), 4437 (2004).

25-1510.1. Entertainment on licensed premises.--Restrictions.--

Source: 2775 (1995), repealed by Ord. 2870 (1998).

25-1511. Licensed premises--Requirements for.--

- A. Every Class "AB", "ABH", "ABH-RZ", "A", "C", "F", "FA", "G", "H", "I", "L", "M", and "N" licensed premises must be equipped with adequate and sufficient lavatories and toilets separately maintained for men and women and kept in a clean and sanitary condition.
- B. Every Class "AB", "ABH", "ABHE-RZ", "A", "C", "F", "FA", "G", "H", "I", "L" and "M" licensee shall equip his establishment with tables and chairs in sufficient number to accommodate his patrons.
- C. Every licensee is hereby made responsible for the conduct of his place of business and is required to maintain order and sobriety in such place of business. No intoxicated person or persons shall be permitted to remain upon the premises licensed or to be served or furnished any alcoholic beverages by any licensee.
- D. A licensee shall not be permitted to utilize licensed premises as a food

service establishment at times or on days when the sale and dispensing of alcoholic beverages is prohibited except under the following conditions:

1. Said licensee is the holder of a restaurant license pursuant to the provisions of article 13-04 of the Fargo Municipal Code, and is regularly engaged in the business of serving food; and
  2. The bar or other part of the premises where alcoholic beverages are opened or mixed is either;
    - a. Physically shut off from the remainder of the premises by an opaque barrier; or
    - b. Devoid of all containers, promotional material, apparatus and equipment relating to alcoholic beverages.
- E. Every holder of an alcoholic license in the city of Fargo shall implement a program of mandatory server training. The server training shall be approved by the Fargo Police Department and/or its designee. All current managers and employees working directly with the dispensing of alcoholic beverages must obtain and maintain a “server training certificate card”. Said training must be completed within 90 days for current managers and employees. The “server training certificate card” is not required to be carried on the person so long as said card can be produced at a later date. The “server training certificate card” must be renewed every three (3) years by the anniversary date as shown on said card. For all new managers and employees not having previously received server training, there shall be a grace period of 90 days in which to successfully complete the approved class. Additionally, one month before each license renewal date, the licensee shall provide the city with a roster of employees which can then be checked against the training records. If the licensee is found to be not in compliance, license renewal for the upcoming year may be denied or delayed.

Source: 1965 Rev. Ord. 25-1511, 1869 (1978), 1885 (1978), 2100 (1983), 2344 (1987), 2532 (1990), 2822 (1997), 4218 (2002), 4294 (2003), 4346 (2003), 4418 (2004).

25-1512. Licenses--Termination, suspension, revocation, and sanctions.--All licenses issued under the provisions of this article, unless otherwise specifically provided, shall terminate on June 30th next following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, terminate automatically or may be terminated, suspended or revoked by the commission.

- A. Any license issued under the provisions of this article shall automatically terminate:
1. Upon the death of the licensee unless, upon application to the commission by the personal representative of the decedent, the commission shall consent to the carrying on of such business by the personal representative. Said application must be submitted to the commission within 30 days of the licensee’s death.
  2. When the licensee, for any reason, ceases business at the licensed premises, except as permitted in accordance with

§ 25-1507(H) of this article. Business shall be deemed to have ceased upon occurrence of any of the following:

- a. When no sale of alcoholic beverages occurs on the licensed premises for a period of at least 30 consecutive business days; or
- b. When alcoholic beverages are not sold on the licensed premises on at least 15 of any 60 consecutive business days; or
- c. When the licensed premises are not open for normal business for at least 180 hours in any 60 consecutive business days;

provided, however, upon written request of the licensee, the commission, in its discretion and for good cause shown, may extend the date upon which business shall be deemed to have ceased.

3. When any license or permit of the licensee from the United States government or state of North Dakota to sell alcoholic beverages at the licensed premises has terminated or been revoked.

B. The commission may, in its discretion, suspend or revoke for cause any license issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:

1. The licensee has filed a petition in bankruptcy.
2. An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation licensee, or any individual in active management of the licensed business is convicted of violating any of the provisions of this article.
3. The licensee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.
4. The business of the licensee, at the location licensed, is conducted in such a manner as to be in violation of the health and sanitary regulations of the city of Fargo.
5. The licensee has made any false statement in his application for a license.
6. The licensee conducts his business in a manner which results in, encourages or is conducive to the creation of disturbances of the peace, disorderly conduct or any other violations of federal, state and/or city laws.

C. The grounds enumerated in subsection (B above) of this section shall not be deemed to be exclusive and any license issued under the provisions of this article may be suspended or revoked by the commission for any other reason deemed by the commission to be sufficient in order to promote and protect the public health, safety, morals and general welfare of the people of the city of Fargo. When any license is suspended or revoked by the commission pursuant to the provisions of this section, or when the licensee voluntarily

ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

- D. No license issued under the provisions of this article shall be suspended or revoked for cause by the commission without a public hearing. In the event that the commission intends to consider the suspension or revocation of any license for cause, it shall direct the city auditor to notify the licensee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the licensee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the licensee.

If, upon such hearing, it appears to the commission that sufficient cause exists for the suspension or revocation of a license issued pursuant to the provisions of this article, the commission shall make its order suspending or revoking the said license.

- E. Penalties for failing compliance checks conducted by the Fargo police department are as follows:

1. First offense - \$500 penalty. This penalty may be waived if the person serving the alcoholic beverages, as well as the management, have server training certificates. There will, however, be mandatory server training within 30 days for any employee or member of management not having server training. There will be no license sanction on a first offense.
2. Second offense - \$750 penalty. No license sanction penalty.
3. Third offense - \$1,000 penalty - for Class "AB", "A" and "B" license holders, one day suspension of license (liquor sales only) with the date selected by licensee within thirty (30) days of either occurrence of the offense or final decision upon appeal. For all other classes of liquor licenses, two days suspension of liquor sales only.
4. Fourth offense - no monetary penalty - for Class "AB", "A" and "B" license holders, three days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, six consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.
5. Fifth offense - no monetary penalty - for Class "AB", "A" and "B" license holders, seven consecutive day suspension of license (liquor sales only) with the dates selected by licensee requiring the business to be closed for liquor sales. For all other classes of liquor licenses, fourteen consecutive days suspension of liquor sales only, such suspension to be within thirty (30) days of either the occurrence of the offense or final

decision upon appeal.

6. Sixth offense - no monetary penalty - for Class “AB”, “A” and “B” license holders, ten consecutive day suspension of license (liquor sales only) with the dates selected by licensee requiring the business to be closed for liquor sales. For all other classes of liquor licenses, twenty consecutive days suspension of liquor sales only, such suspension to be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.
7. Seventh offense - no monetary penalty - revocation of liquor license.

The foregoing penalties for failing compliance checks will be those offenses occurring within a one-year period. Said one-year period commences to run and is calculated (365 days) from the first offense by the licensee. The city of Fargo police department, in conjunction with its designee, will make a reasonable effort to conduct up to four compliance checks a year at each licensed liquor serving establishment in the city. In the event a licensed establishment fails to pass compliance checks during such visits, the same may result in additional compliance checks being conducted at that establishment during the year.

- F. For those businesses with liquor licenses requiring a food-to-alcohol sales ratio, there shall be an audit at least once every three (3) years (one-third of the licensees each year) provided, however, that subject businesses obtaining a new license and businesses that transfer an existing license to new owners shall be subject to an audit 12 months after obtaining or transferring of the license. The city of Fargo shall pay the cost of the audit if the business is in compliance with the required food-to-alcohol sales ratio. The liquor licensee shall, however, pay for the cost of the audit if the business is not in compliance with the required food-to-alcohol sales ratio. Penalties for failed audits shall be as follows:
  1. First offense - six month probationary period to come into compliance to be followed by a second audit establishing compliance. Sale and consumption of alcoholic beverages shall be discontinued at 1:00 a.m. for such time as the length of any probationary period. Yearly audits for the next two years to be paid for by the liquor licensee.
  2. Second offense - thirty days suspension of liquor license not requiring closure of the business which may remain open for food sales. Yearly audits for the next two years to be paid for by the liquor licensee.
  3. Third offense - revocation of license.
- G. Sanctions or penalties under subsections E and F above may not be invoked without a public hearing if so requested by the licensee. Upon written notification by the city auditor’s office that a penalty is being sought under subsections E and F above, the liquor licensee may notify the city auditor’s office within ten (10) days and request a hearing on the proposed penalty. A

hearing shall be set by the board of city commissioners specifying the time and place of the hearing, and shall further describe the reason for said hearing, and shall be served upon the liquor licensee in the same manner as provided by law for the service of a summons in a civil action. No suspension hearing shall be held before the expiration of fifteen days after the date of service of the notice. The hearing for said suspension shall be heard by the board of city commissioners. A record of the hearing shall be made by electronic recording device.

If, upon such hearing, it appears to the majority of the board of city commissioners that sufficient causes exists for the penalty sanctions, the board of city commissioners shall make its order in accordance with the provisions of this article. The board of city commissioners shall further issues its findings, conclusions and order which shall be served on the liquor licensee. The order is appealable pursuant to Chapter 28-34 of the North Dakota Century Code.

H. Administrative penalties for violation of section 25-1509.2 regarding sale to an intoxicated person or person incapacitated by consumption of alcoholic beverages are as follows:

1. First offense: Warning. There will also be mandatory server training refresher course within 30 days after the offense.
2. Second offense: \$1,000 monetary penalty, plus one-day suspension of alcoholic beverage license to be determined by the liquor control committee. For Class "AB", "A" and "B" license holders, one day suspension of license (liquor sales only) with the date selected by licensee within thirty (30) days of either occurrence of the offense or final decision upon appeal. For all other classes of liquor licenses, two days suspension of liquor sales only with the dates selected by licensee within thirty (30) days of either occurrence of the offense or final decision on appeal.
3. Third offense: \$2,000 monetary penalty, plus a three-day suspension of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, three days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, six consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.
4. Fourth offense: \$2,000 monetary penalty, plus a four-day day suspension of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, four days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other

classes of liquor licenses, eight consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

5. Fifth offense: \$2,000 monetary penalty, plus a 10-day suspension, and a possible revocation of alcoholic beverage license to be determined by liquor control committee. For Class “AB”, “A” and “B” license holders, ten days suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, twenty consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

The level of offenses shall be determined by reference to a 18-month period from the first offense by licensee. By way of illustration, a second offense occurring more than 18-months after a first offense would then be deemed a first offense.

Any suspension of alcoholic beverage license provided for herein shall relate to liquor sales only so that food sales could, if applicable, continue on the licensed premises.

- I. Administrative penalties for violation of section 25-1509.2 regarding allowing consumption of alcoholic beverages on the licensed premises by any intoxicated person are as follows:

1. First offense: Warning. There will also be mandatory server training refresher course within 30 days after the offense.
2. Second offense: \$500 monetary penalty.
3. Third offense: \$1,000 monetary penalty, plus a one-day suspension of alcoholic beverage license to be determined by liquor control committee. For Class “AB”, “A” and “B” license holders, one day suspension of license (liquor sales only) with the date selected by licensee within thirty (30) days of either occurrence of the offense or final decision upon appeal. For all other classes of liquor licenses, two days suspension of liquor sales only.
4. Fourth offense: \$1,500 monetary penalty, plus a two-day day suspension of alcoholic beverage license to be determined by liquor control committee. For Class “AB”, “A” and “B” license holders, two days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, four consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.
5. Fifth offense: \$2,000 monetary penalty, plus a four-day

suspension, and a possible revocation of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, four days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, eight consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

Any suspension of alcoholic beverage license provided for herein shall relate to liquor sales only so that food sales could, if applicable, continue on the licensed premises.

It is the intent of this ordinance that no multiple offenses shall be deemed to have occurred from a single incident. For example, on an officer contact with the licensed premises, if there should be two or more offenses involving intoxicated persons on the premises, the same will constitute one offense and not multiple offenses. Any subsequent officer contact with the establishment at a different time may constitute a separate offense.

Sanctions or penalties under this subsection may not be invoked without a public hearing if so requested by the licensee. Upon written notification by the city auditor's office that a penalty is being sought under this ordinance, the liquor licensee may notify the city auditor's office within ten (10) days and request a hearing on the proposed penalty. A hearing shall be set by the board of city commissioners specifying the time and place of the hearing, and shall further describe the reason for said hearing, and shall be served upon the liquor licensee in the same manner as provided by law for the service of a summons in a civil action. No suspension hearing shall be held before the expiration of fifteen days after the date of service of the notice. The hearing on said suspension shall be heard by the liquor control committee subject to an appeal to the board of city commissioners who will review the findings of fact made by the liquor control committee. A record of the hearing shall be made by electronic recording device. Upon appeal to the board of city commissioners, the licensee shall be allowed to make any statements or arguments and fully argue its case, but it will not be entitled to a trial de novo. The hearing shall be based on the findings of fact made by the liquor control committee, the record of the hearing, together with the statements and arguments of the licensee.

If, upon such hearing, it appears to the majority of the board of city commissioners that sufficient causes exists for the penalty sanctions, the board of city commissioners shall make its order in accordance with the provisions of this article. The board of city commissioners shall further issue its findings, conclusions and order which shall be served on the liquor licensee. The order is appealable pursuant to Chapter 28-34 of the North Dakota Century Code.

Source: 1965 Rev. Ord. 25-1512, 1869 (1978), 2198 (1985), 2539 (1990), 2822 (1997), 4182 (2001), 4215 (2002), 4333 (2003), 4416 (2004), 4502 (2006).

25-1513. Unlawful practices.--In addition to such other prohibitions as are contained in this article:

- A. It shall be unlawful for any person to sell or consume any alcoholic beverage in any automobile, or upon any street, alley or public highway, including any public sidewalk or boulevard, or on any private property without consent of the owner or occupant within the city of Fargo, except as permitted by subsection (J) of section 25-1509 of this chapter. It shall further be unlawful for any person to possess any bottle or receptacle containing any alcoholic beverage which has been opened or the contents of which have been partially consumed while such person is upon any street, alley or public highway, including any public sidewalk or boulevard, or upon property owned, operated or leased by the city of Fargo or by the state of North Dakota or any political subdivision or agency thereof, within the city of Fargo, except under a valid alcoholic beverages license issued under this article, and further except as permitted by 25-1509.1(C).
- B. The sale, possession, use or consumption of alcoholic beverages shall be unlawful and prohibited in and on the premises of any public building except as may be authorized by appropriate license or permit issued pursuant of this chapter, and further except as permitted by 25-1509.1(C).
- C. It shall be unlawful for any person under 21 years of age to misrepresent his or her age for the purpose of purchasing or drinking any alcoholic beverage or for the purpose of entering any premises licensed under the provisions of this article.
- D. It shall be unlawful for any person, either personally or through an agent or employee, to procure, furnish or deliver any alcoholic beverage for the use of any person under 21 years of age.
- E. No licensee shall deliver or permit to be delivered to any customer outside the licensed premises any alcoholic beverages sold under the terms and provisions of this article unless the package containing such alcoholic beverage shall be securely wrapped and shall contain on the outside thereof, in plain, legible writing, the name of the dealer selling the same and also the name and address of the purchaser thereof. Additional conditions and restrictions on delivery of alcoholic beverages are as follows:
  - 1. Delivery shall only be allowed by licensees having an off-sale license.
  - 2. Delivery shall be limited to customers having a pre-established credit arrangement with the off-sale licensee. Such credit arrangement may be in the form of a house account or open charge account established between the customer and off-sale licensee, but specifically shall not include credit cards, debit cards, bank credit cards or any other form or type of credit arrangement. The pre-established credit arrangement between the customer and the off-sale licensee shall have been established at least one (1) week before any delivery is allowed thereunder. It is the intent of this paragraph that the entire sales transaction is complete at the point of sale subject only to delivery.
  - 3. Delivery shall only be made to the address of the customer as

identified on the pre-established credit arrangement with the off-sale licensee.

4. Delivery shall only be made by a person who is of legal age and who has completed mandatory server training.
  5. Positive identification of the purchaser shall be made at the point of delivery. In addition, a digital photograph shall be taken to confirm the identity of purchaser.
- F. No driver of any taxicab operating or driving the same in the city of Fargo shall at any time possess, carry or have in such taxicab any alcoholic beverages except that such driver may accept for delivery to a customer from a dealer regularly licensed under the provisions of this article any package or packages thereof when such packages are wrapped and addressed and otherwise comply with subsection (E) above. Any police or other peace officer of the city shall have the right to enter and search any taxicab operating in the city under a license from said city or elsewhere at any time he may have reason to believe or suspect that the driver of such vehicle is violating the provisions hereof.
- G. No owner, operator, officer or employee or driver of any taxicab in the city of Fargo shall accept from any person, except a dealer regularly licensed under the provisions of this article, any order for the delivery of any alcoholic beverage.

Source: 1965 Rev. Ord. 25-1513, 1869 (1978), 2025 (1981), 2344 (1987), 2570 (1991), 2760 (1995), 2814 (1997), 2822 (1997), 3090 (1999), 4202 (2002), 4401 (2004), 4412 (2004), 4413 (2004).

25-1514. Inspection of licensed premises.--The members of the board of city commissioners of the city of Fargo, the chief of police, or any officer of the health or police department may, at any time, enter upon any licensed premises for the purpose of police inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the city.

Source: 1965 Rev. Ord. 25-1514, 1869 (1978).

25-1515. Penalty.--Any person, firm or corporation violating §§ 25-1509 or 25-1513 of this article shall, upon conviction thereof, be punished by a fine not to exceed \$500 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.

Every person, firm or corporation violating any other sections of this article shall, upon conviction thereof, be punished by a fine not to exceed \$500; the court to have power to suspend said sentence and to revoke the suspension thereof.

Source: 1965 Rev. Ord. 25-1515, 1869 (1978), 2517 (1990).

## ARTICLE 25-16

### NON-ALCOHOLIC BARS

Note: Article 25-16 of chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2800 (1995).

Source: Article 25-16 of Chapter 25 of the Revised Ordinances of 1952 (sections 25-1601 to 25-1622), 1409 (1971), 1455 (1972), 1484 (1973), 1632 (1975), 1638 (1975), 1647 (1975), 1822 (1977), 2469 (1989), 2555 (1990), repealed by Ord. 2800 (1995).

## ARTICLE 25-17

### FUEL DEALERS

Note: Article 25-17 of chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2308 (1987).

Source: Article 25-17 of Chapter 25 of the Revised Ordinances of 1952 (sections 25-1701 to 25-1711), 1471 (1973), 1491 (1973), repealed by Ord. 2308 (1987).

## ARTICLE 25-18

### BARBERSHOPS

Note: Article 25-18 of chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2309 (1987).

Source: Article 25-18 of Chapter 25 of the Revised Ordinances of 1952 (section 25-1801), repealed by Ord. 2309 (1987).

## ARTICLE 25-19

### CIRCUSES, CARNIVALS, EXHIBITIONS, AND PARADES

Note: Article 25-19 of chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2567 (1991).

Source: Article 25-19 of Chapter 25 of the Revised Ordinances of 1952 (sections 25-1901 to 25-1905), repealed by Ord. 2567 (1991).

## ARTICLE 25-20

### HOUSE MOVERS

Section	
25-2001	House mover's license required.
25-2002	License fee--Bond.
25-2003	Expiration of license.
25-2004	Moving permit required.
25-2005	Moving permit--Fee for.
25-2006	Removal of wires, cables, or pipes--Notice.
25-2007	Permit required to move buildings that will injure trees--Tree-trimming cost paid by mover.
25-2008	Moving buildings across railway tracks.
25-2009	Buildings in streets--Lights required.
25-2010	Hours of moving operations--Buildings not to stand on streets without written permission.
25-2011	House-moving board--Composition--Qualifications of members--Secretary--Meetings --Procedure--Findings.
25-2012	Favorable finding of house-moving board needed for issuance of house-moving permit.
25-2013	Appeal to board of adjustment from finding of house-moving board--Absence of certain proof on appeal, effect of.
25-2014	Manner of taking appeal.
25-2015	Penalty for violating article.
25-2016	Cost of rebuilding, remodeling, or moving may be assessed as taxes.

25-2001. House mover's license required.--No person except a licensed house mover shall remove, raise, or support free of its foundation any building or structure within the limits of the city of Fargo; and every house mover shall comply with the provisions of § 21-0301 of the Building Code and shall annually, before engaging in the occupation of moving, raising, or supporting of any building or structure, obtain a license therefor from the city auditor of the city of Fargo. The above shall not be construed as preventing the owner of a building or structure from personally raising, moving, or supporting such building or structure upon his own premises.

Source: 1965 Rev. Ord. 25-2001, 1470 (1973).

25-2002. License fee--Bond.--No house mover's license shall be granted until the person applying therefor shall have paid to the city of Fargo the required fee.

Source: 1965 Rev. Ord. 25-2002, 1492 (1973), 2310 (1987).

25-2003. Expiration of license.--All licenses for house movers shall expire one year from the date of issue.

Source: 1952 Rev. Ord. 25-2003.

25-2004. Moving permit required.--Every licensed house mover shall, before raising, moving, or supporting free of its foundation any building or structure, make application on forms

provided and obtain a permit therefor from the city engineer.

Source: 1952 Rev. Ord. 25-2004.

25-2005. Moving permit--Fee for.--When any building or structure is to be moved across or through any street or alley, the required fee, which shall be established by resolution of the board of city commissioners, shall be paid by the person receiving a permit therefor. Upon the issuance of such permit, all excavations, erection of foundations, and setting of the building or structure in place at its new location only shall be authorized.

Source: 1965 Rev. Ord. 25-2005, 1492 (1973).

25-2006. Removal of wires, cables, or pipes--Notice.--

- A. The person to whom a removal permit has been issued shall, before raising or moving any building or structure to which electric wires, cables, or piping for any purpose are attached, notify the persons, associations, or corporations owning or controlling such electric wiring, cables, or piping of the proposed moving of said building or structure. The persons, associations, or corporations so notified shall, within a reasonable time not exceeding 24 hours thereafter, disconnect and make safe all such electric wires, cables, or piping.
- B. In every case in which a permit shall be issued as herein provided for the removal of any house or structure, when such removal requires the displacement of any overhead electrical or other wire or cable, it shall be the duty of the person, association, or corporation owning, operating, or controlling such wire or cable to remove or displace the same, as far as may be necessary, to permit the removal of such house, building, or structure. The person to whom a removal permit shall have been issued shall notify the persons, associations, or corporations owning, operating, or controlling such wire or cable to remove or displace the same to facilitate the removal of said house, building, or structure, and shall exhibit to said persons, associations, or corporations the properly issued permit, authorizing the removal of said house, building, or structure; and it shall thereupon be the duty of said persons, associations, or corporations, within a reasonable time not exceeding 24 hours thereafter, to remove or displace such wires or cables sufficiently to allow the passage of said house, building, or structure.

Source: 1952 Rev. Ord. 25-2006.

25-2007. Permit required to move buildings that will injure trees--Tree-trimming cost paid by mover.--No person, firm, or corporation, whether licensed or otherwise, shall move any building or structure along any street, alley or other public way in such a manner as to interfere with or injure any tree, shrub, or other vegetable growth without a written permit first obtained from the superintendent of parks. The application shall specify the building or structure to be moved and the proposed route. All necessary tree-trimming or shrub-trimming costs shall be paid by applicant.

Source: 1952 Rev. Ord. 25-2007.

25-2008. Moving buildings across railway tracks.--No house, building, or structure shall be moved across any railway track except at such time as permitted by the person, associations, or corporation owning or controlling such tracks.

Source: 1952 Rev. Ord. 25-2008.

25-2009. Buildings in streets--Lights required.--When any building or structure is being moved upon or adjoining any street, alley, or sidewalk, a red light must be kept lighted at each corner of such building or structure from sunset to sunrise. All ropes, blocks, winches, windlasses, or other equipment used in the moving of said building or structure must, when obstructing the free use of a street or alley, be protected by suitable lights from sunset to sunrise.

Source: 1952 Rev. Ord. 25-2009.

25-2010. Hours of moving operations--Buildings not to stand on streets without written permission.--Moving operations upon a street or alley shall be carried on continuously for at least eight hours daily, except Sunday, and in such manner as to cause the least inconvenience to the public use of such street or alley. No building shall be left, or be permitted to stand, on any street, alley, or public place in the city without written permission from the city engineer.

Source: 1952 Rev. Ord. 25-2010.

25-2011. House-moving board--Composition--Qualifications of members--Secretary--Meetings--Procedure--Findings.--The house-moving board shall consist of three residents of the city of Fargo, two of whom shall be architects, including within that term landscape architects, selected from a panel of not less than five, which board shall be established from time to time by resolution of the board of city commissioners. The building inspector shall be secretary of the house-moving board and the secretary of said board shall from time to time select and request, until the requisite number is obtained, the residents listed upon the above-mentioned panel, to act as said board whenever the city engineer shall request a meeting of the board to consider applications for house-moving permits which he has found comply in all respects with all other ordinances of the city. The board may, if it desires, hear the applicant for the house-moving permit in question and/or the owner of the lot on which it is proposed to move the structure in question, together with any other persons, whether residents or property owners, desiring to be heard, giving such notice of the hearing as the board may deem sufficient. Such hearing may be adjourned from time to time but for not more than 48 hours, and within 48 hours after the close of the hearing the board shall, in writing, make or refuse to make the finding required by § 25-2012 and file their report in the office of the city engineer who shall send a copy of it to the building inspector.

Source: 1952 Rev. Ord. 1043 (1959).

25-2012. Favorable finding of house-moving board needed for issuance of house-moving permit.--No house-moving permit for any structure shall be issued unless it has been found as a fact by the house-moving board by at least a majority vote, after a view of the proposed site and after either a view of the house concerned or an examination of the application papers for a house-moving permit, which shall include photographs or detailed exterior elevations of the house to be moved, that the exterior architectural appeal and functional plan of the house will, when moved, not be so at variance with or so similar to either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district as established by the zoning ordinances of the city as to cause a

substantial depreciation in the property values of said neighborhood within said applicable district.

Source: 1952 Rev. Ord. 1043 (1959).

25-2013. Appeal to board of adjustment from finding of house-moving board--Absence of certain proof on appeal, effect of.--On an appeal to the board of adjustment, in the absence of proof to the contrary adduced before the board of adjustment, a refusal to grant the house-moving permit because of refusal of the house-moving board to make the finding required by § 25-2012 shall be deemed to be based upon facts supporting the conclusion that the exterior architectural appeal and functional plan of the proposed structure for which a house-moving permit was refused would, when erected, be so at variance with all of the exterior architectural appeal and functional plan of structures already constructed or in the course of construction in the immediate neighborhood or with the character of the applicable district as to cause a substantial depreciation in the property values of said neighborhood within said applicable district.

Source: 1952 Rev. Ord. 1043 (1959).

25-2014. Manner of taking appeal.--Anyone aggrieved may appeal from the grant of, or refusal of the city engineer to grant, said house-moving permit, to the board of adjustment of the city of Fargo in the same manner and with the same force and effect as appeals can be taken from the decisions of the zoning administrator, pursuant to subsection (C) of § 20-0315 of article 3 of chapter 15 of the 1965 Revised Ordinances.

Source: 1952 Rev. Ord. 1043 (1959).

25-2015. Penalty for violating article.--Every person, firm, company, or corporation who shall violate any of the terms and provisions of this article shall, upon conviction thereof, be punished by a fine not to exceed \$100, or by imprisonment not to exceed 90 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.

Source: 1952 Rev. Ord. 1043 (1959).

25-2016. Cost of rebuilding, remodeling, or moving may be assessed as taxes.--In the event that any person, firm, company, or corporation shall violate any provision of this article and after conviction thereof shall refuse to correct the violation within 15 days after written notice from the building inspector so to do, then and in that event the city may proceed, under the direction of the city engineer, to correct any such violation, including the rebuilding, remodeling, or moving of any house or structure so as to comply with this article; the cost and expenses of such work, as certified by the city engineer to the city auditor, shall be recoverable in an action against the owner or owners of the real property upon which the structure or house is located, or any person, firm, company or corporation found guilty of a violation of this article, or it shall be certified by the city auditor as a special tax assessment against the lot or parcel of land upon which said structure or house is located. In August of each year 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 assessment shall then be certified to the county auditor to be placed upon the tax roll for that year and be collected as other city taxes.

Sources: 1952 Rev. Ord. 1043 (1959).

## ARTICLE 25-21

### EXTERMINATION OF INSECTS AND VERMIN

Section	
25-2101	Operations prohibited without license.
25-2102	License required.
25-2103	Issuance of license.
25-2104	Fee for licenses.
25-2105	Notification of officers.
25-2106	Regulations.
25-2107	Penalty for violation of article.

25-2101. Operations prohibited without license.--No person, firm, or corporation shall fumigate with any poisonous or dangerous gases, fumes, vapors, or other agents that are liable to endanger the health and lives of human beings when used for the extermination or control of disease germs, household insects, vermin, rodents, or other household pests in any place of domestic habitation, office buildings, stores, markets, warehouses, places of public assembly, asylums, hospitals, or other similar places without first obtaining a license as hereinafter required. No person, firm, or corporation shall commercially engage in the business of exterminating with powders, liquids, sprays, poisonous baits, or other insecticides without first obtaining a license.

Source: 1952 Rev. Ord. 25-2101.

25-2102. License required.--Any person, firm, or corporation, desiring a license to engage in the business of extermination of disease germs, household insects, vermin, rodents, or other household pests in the city shall make a written application for such a license to the health officer on a form provided for such purpose. Such application shall state whether hydrocyanic acid gas or similar dangerous gases or fumigants, or exterminators, or insecticides are to be used for fumigating purposes. The term "fumigant" shall mean and include any substance which by itself or in combination with any other substance emits or liberates a gas, fumes, or vapors, which gas, fumes, or vapors when liberated and used for the destruction or control of insects, vermin, germs, rodents, or other pests is lethal, poisonous, noxious, or dangerous to human life. The terms "exterminator" or "insecticide" as used herein shall mean and include any substance, not a fumigant, under whatever name known, used for the destruction or control of insects, vermin, germs, rodents, or other pests. In addition, the applicant shall file with the health officer, a sworn statement, listing the training and experience tending to qualify the applicant desiring to engage in the business of exterminating with dangerous and poisonous gases, fumes, vapors, or other agents. The health officer may also examine applicants by giving such oral or written examination as he deems necessary. The health officer is authorized to appoint an advisory board of three representatives of the fumigating industry to confer with him upon matters of technical information with reference to said business and to assist him in drafting questions for such examinations as he deems necessary to determine the fitness and reliability of the applicant and to ascertain his knowledge of the requirements of said business as set forth in this ordinance. Every person and every firm or corporation, by an officer or agent, engaged in exterminating work shall be required to obtain a license for such work, and no employee of such person, firm, or corporation shall be permitted to do any work for the person, firm, or corporation while engaged in exterminating work unless such employee is under the immediate supervision of a

licensed exterminator employed by the person, firm, or corporation.

Source: 1952 Rev. Ord. 25-2102.

25-2103. Issuance of license.--The health officer shall issue a license to applicants when he believes them to be qualified to engage in the business of exterminating or fumigating with dangerous and poisonous gases, fumes, vapors, or other agents.

Source: 1952 Rev. Ord. 25-2103.

25-2104. Fee for licenses.--The annual license fee for any person, firm, or corporation engaging in the exterminating business shall be as established by resolution of the board of city commissioners. The approval of the health officer for the renewal of the licenses as provided for by this section shall be obtained before such a license is renewed.

Source: 1965 Rev. Ord. 25-2104, 1494 (1973).

25-2105. Notification of officers.--It shall be the duty of every person, firm, or corporation holding a license under this article for fumigating with dangerous gases, fumes and vapors, to notify in writing the health department, fire department, and police department at least 24 hours before starting to fumigate any premises, except that in case of emergency, notification may be made by telephone immediately preceding fumigation, to be followed by written notice. Such notice shall give the location of the building or enclosed space to be fumigated, as well as the day and hour when the work will be performed. Representatives of these departments may or may not inspect such premises before, during, or after the fumigation, but under no circumstances will the representatives of such departments or the city assume any responsibility for the work of the licensee. Greenhouses, specially constructed vaults, and other places performing their own fumigation are not required to obtain a license under the provisions of this article and are not required to notify the above-named departments whenever they fumigate, providing these places are so located or so constructed as not to endanger the health or lives of occupants or frequenters of these places and nearby buildings or persons in the vicinity.

Source: 1952 Rev. Ord. 25-2105.

25-2106. Regulations.--When dangerous gases, fumes, or vapors are used for exterminating purposes, the following procedure shall be followed:

- A. Notification of occupants and vacating of premises. Before fumigation, the operator shall personally inspect the premises, and shall serve notice, over his signature, upon all responsible occupants of each room or apartment within the danger area, stating the danger of the process and the precautions to be observed, designating the rooms or apartments which must be vacated, and indicating the time when the gas is to be generated and liberated. The form of this notice shall be approved by the health officer. Every room in the danger area shall be vacated. In the case of a building in which there is an inner court, vent shaft, or light well, or a lot-line court with a partywall, or in the case of two buildings having adjacent lot-line courts, upon which any room being gassed opens, every room, with windows or other apertures opening to such inner or lot-line courts, vent shafts or light wells, shall be vacated or the windows remain closed until the fumigation room is thoroughly ventilated. Where the walls of any adjoining buildings are located within 10 feet of the

rooms or apartments being gassed, the operator shall notify, over his signature, all responsible occupants of rooms or apartments with window openings in such walls that such windows are directly opposite or above the area of the adjoining building which is under gas and must remain closed, or the rooms vacated, during the time the building gassed is being flushed or aired. All rooms or apartments ordered vacated but not under gas shall be ventilated during the process by keeping the windows or rooms or apartment open.

The operator placing or liberating toxic gas during the process of fumigation and while he is entering and airing out the premises during said process and immediately thereafter shall be properly protected and safeguarded by being equipped with a mask approved by the health officer and suitable gloves.

Vacating of premises and notification of occupants shall not be necessary where the fumigation is done in special rooms or vaults in furniture stores, secondhand stores, or household goods warehouses, when such special rooms or vaults are approved as to their location, construction, and gas-tightness by the fire department and a provision is made for the airing of such vaults so as to allow the escape of gases, fumes, or vapors at such location where it is not dangerous, by a system of ducts and ventilation approved by the fire department.

- B. The danger area. The danger area is those portions of any structure or dwelling which lie within the boundary of the outside of the building under gas, the roof, the basement or cellar floor, and such cutoff or firewalls as may exist in the structure in question. Such cutoff or fire walls shall be of solid masonry, gas tight, at least eight inches in thickness, extending from the basement through the attic, with all openings locked and guarded against entry and effectively sealed against gas leakage.
- C. Sealing rooms. Before fumigation with dangerous gases, fumes, or vapors, it is required that the operator shall securely seal all cracks, holes, crevices, openings, and apertures in walls, ceilings, and floors in such a way as to confine the gas to the premises intended to be fumigated.
- D. Locking rooms and adjoining rooms or apartments. Before fumigation, it is required that the operator shall personally inspect all rooms and apartments ordered vacated under subdivision (A) above, and be assured that they are unoccupied by persons or domestic animals, and that all fish and growing plants have been removed; afterward all doors to all apartments, excepting one exit door to the rooms or apartments to be gassed, shall be securely locked; in addition, such windows or other wall openings as might possibly be used to gain entrance shall be locked or barred in such a way as to prevent entrance while still permitting thorough airing of the room. Immediately upon generating or liberating the gas, the door through which the operator leaves shall be securely locked and sealed, and all keys obtainable to all rooms or apartments ordered vacated shall be retained by the operator until all danger is past. As an additional precaution, all rooms and apartments vacated shall be placarded.

- E. Warning card. Prior to releasing the gas, suitable warning signs shall be posted on all entrances or doors to the premises to be fumigated:

Skull	DANGER	Skull
and	Fumigating With	and
Crossbones	Poisonous Gas	Crossbones
Symbol	KEEP OUT	Symbol

By order of the Fargo Fire Department (Name and address of licensee as well as telephone number.)

Such signs shall be printed in red ink on white cardboard. The letters in the word "DANGER" shall be at least two inches high, all others except signature, at least three-fourths of an inch high. At night, whenever possible, such signs shall be illuminated so as to make the reading matter thereon plainly legible.

- F. Guards. Whenever dangerous gases, fumes, or vapors are generated or liberated in any room or portion of a structure in the city, a sufficient number of capable, alert watchmen shall remain on duty at the entrance to the building, room, or other enclosed space to prevent people from entering or attempting to enter while gas is present and for two hours after the room or area gassed is open for aeration and ventilation. All guards or watchmen shall be reliable persons and must be acceptable as proper guards by the health officer. The licensee shall be held strictly responsible and accountable for the conduct of the guards or watchmen. In every case where the entire building is not vacated, the licensee or his approved representative shall remain on the job during the progress of fumigation and airing and shall constantly supervise the occupancy of the structure to ensure that no person will be endangered or inconvenienced by gas leakage. Guards are not compulsory when one- or two-family residences are fumigated.
- G. Opening of rooms after gassing. At the conclusion of the gassing process, it shall be the duty of the operator to throw open doors and windows of the premises until all rooms have been opened for free access of air. No person other than the operator shall be permitted to enter the premises until all traces of the gas have disappeared. No room or space, except where the whole building is vacated, shall be left under gas after the time of sunset. Warnings posted where the natural light between sunrise and sunset is dim shall be artificially illuminated.
- H. Disposal of chemical residue. The operator shall pour the residue left in the jars or containers which held the chemicals and the water used for cleaning such jars or containers down the toilet bowl, which shall then be flushed thoroughly with water to remove all traces of the chemicals.
- I. Powers of health officer. The health officer is further authorized and directed to give 30 days' notice of his intention to add or change rules and regulations with reference to the fumigating industry to representatives of said industry.
- J. Separability. It is the intent of the board of city commissioners that the provisions of this article are separable, and if any provision or part of this

article shall be held unconstitutional by any court having competent jurisdiction, such decision shall not affect the validity of any other part of this article. Such other parts shall remain in full force and effect.

Source: 1952 Rev. Ord. 25-2106.

25-2107. Penalty for violation of article.--The license of any person, firm, or corporation violating any of the provisions of this article may be revoked by the board of city commissioners, who shall give due hearing to the licensee before such revocation. The licensee shall be given 10 days' registered mail notice of any such hearing.

Source: 1952 Rev. Ord. 25-2107.

## ARTICLE 25-22

### HOTEL AND ROOMING-HOUSE REGISTERS

#### Section

25-2201 Registers to be kept.

25-2202 Definition of hotel, rooming house, or lodginghouse.

25-2201. Registers to be kept.--Every person, corporation, co-partnership, or association conducting, keeping, or managing or operating, as owner, lessee, agent, or in any other capacity, any hotel, rooming house or lodginghouse within the corporate limits of the city shall at all times keep and maintain a standard hotel register in form satisfactory to the chief of police, in which shall be inscribed the names and permanent residences of all guests or persons renting or occupying rooms in such hotel, rooming house or lodginghouse, which register shall be signed by the person renting a room or rooms, or by someone under his direction. Before any person shall be permitted to occupy such room or rooms, the manager of the hotel, rooming house, or lodginghouse, or his agent, shall write in such register the number of the room or rooms which such guest or person is to occupy, together with the time when such room is rented. Such register shall be preserved for a period of not less than three years from the date of the renting of such room and shall be at all times open to inspection by any police officer of the city.

Source: 1952 Rev. Ord. 10-0617 and 25-2201.

25-2202. Definition of hotel, rooming house, or lodginghouse.--For the purposes of this article a hotel, rooming house, or lodginghouse shall be and is deemed to be any house or building occupied as the abiding place of five or more individuals who are not related to the owner or lessee thereof and who are lodged in such house or building with or without meals and in which sleeping rooms, as a rule, are offered to the public for rental or hire singly and as separate units from the other rooms in such house or building. Nothing in this article contained shall be construed to apply to any eleemosynary, religious, benevolent, or charitable organization or association.

Source: 1952 Rev. Ord. 10-0617 and 25-2202.

## ARTICLE 25-23

## SNOW REMOVERS

Note: Article 25-23 of Chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2301, effective December 29, 1986.

## ARTICLE 25-24

### TRAILERS, TRAILER CAMPS, MOBILE HOMES AND MOBILE HOME PARKS

Note: Article 25-24 of Chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2302, effective December 29, 1986.

## ARTICLE 25-25

### GOING-OUT-OF-BUSINESS AND FIRE SALES

Section	
25-2501	Definitions.
25-2502	License required.
25-2503	Powers and duties of city auditor.
25-2504	Application for license.
25-2505	Issuance of license and license fee.
25-2506	Limitations on articles to be sold.
25-2507	Bond and clean-up deposit required of applicant for license--Repealed.
25-2508	Period of license--Renewal.
25-2509	Display of license--Inspection of merchandise and records.
25-2510	Persons exempt from article.
25-2511	Penalty for violation of article.
25-2512	Separability clause.

25-2501. Definitions.--The following words and terms, as used in this article, shall be deemed to mean and be construed as follows:

1. "Sales". The sale, or an offer to sell, to the public of goods, wares, and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, windup, discontinuance, conclusion, or abandonment of the business in connection with such sale. It shall also include any sale advertised, either specifically or in substance, to be a "fire sale", "smoke-and-water-damage sale", "adjustment sale", "creditor's sale", "trustee's sale", "bankrupt sale", "save-us-from-bankruptcy sale", "insolvent sale", "insurance salvage sale", "mortgage sale", "assignee's sale", "adjuster's sale", "loss-of-lease sale", "receiver's sale", "forced-out-of-business sale", "going-out-of-business sale", "removal sale", and any and all sales advertised in such manner as to reasonably convey to the public that upon the disposal of the stock of goods on hand, the business will cease and be discontinued.

2. "Publish". "Publishing", "advertisements", "advertising" shall include any and all means of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertisement, by magazine advertisement, by handbill, by circular, by pamphlet, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio announcement, by radio program, by recordings and any and all means including oral, written, or printed.

3. "License". A license issued pursuant to this article.

4. "Licensee". Any person to whom a license has been issued pursuant to this article.

Source: 1952 Rev. Ord. 1072 (1959).

25-2502. License required.--No person shall hereafter publish, advertise, or conduct any sale of the type defined in § 25-2501 without first receiving a license therefor.

Source: 1952 Rev. Ord. 1072 (1959).

25-2503. Powers and duties of city auditor.--The city auditor of the city of Fargo is hereby authorized and empowered to supervise or regulate sales or special sales as defined in § 25-2501 and to issue an appropriate license therefore, upon proper application.

Source: 1965 Rev. Ord. 25-2503, 1475 (1973).

25-2504. Application for license.--Application for a license shall be made to the city auditor of the city of Fargo in a form to be approved by said city auditor and shall be in writing and verified by the applicant. Such application shall contain a description of the place where such sale is to be held, the nature of the occupancy, whether by ownership, lease, or sublease, and the effective date of termination of such occupancy, the means to be employed in publishing such sale, together with the proposed language contained in any advertisements. Such application shall further contain, as part thereof, an itemized inventory list of the goods, wares, and merchandise to be offered for sale; a statement why such goods, wares, and merchandise are to be sold under such descriptive name or title, and in what manner such name is truthfully descriptive of such sale; and the place where such stock was purchased or acquired, and if not purchased, the manner of such acquisition and when acquired, and also the date of delivery thereof to the applicant. Upon receipt of such application and payment of the fee hereinafter prescribed, the city auditor shall cause the same to be examined and investigated.

Source: 1965 Rev. Ord. 25-2504, 1475 (1973).

25-2505. Issuance of license and license fee.--If, upon investigation, the facts as represented by the application required by § 25-2504 are found to conform to the representations thereof and the advertising proposed to be used truly represents such facts and is not fraudulent or misleading to the public, the city auditor of the city of Fargo shall issue a license permitting the publication and conduct of the sale. The license fee for the original license and each 30-day renewal shall be as established by resolution of the board of city commissioners.

Source: 1965 Rev. Ord. 25-2505, 1475 (1973), 1556 (1973).

25-2506. Limitations on articles to be sold.--During any sale licensed under the provisions of this article, no additions whatsoever shall be made to the stock of merchandise set forth in the inventory attached to the application for license, except that the applicant is permitted to add new stock not to exceed 10% of the dollar value of the inventory as filed, for the purpose of maintaining

reasonably balanced selections. Such additions may be made only once and must be reported to the city auditor before being offered for sale. Nothing shall be offered for sale or sold at any such sale which is in excess of the original inventory as filed, plus such permitted additions.

Source: 1952 Rev. Ord. 1072 (1959).

25-2507. Bond and clean-up deposit required of applicant for license.--Repealed by Ord. No. 2311, effective January 12, 1987.

25-2508. Period of license--Renewal.--A license shall cover a period not exceeding 30 days, except that upon satisfactory proof by the licensee that the stock itemized in the original application has not been disposed of, upon proper application, the city auditor's office shall renew such license for not more than two additional 30-day periods upon payment of the prescribed renewal fee for each renewal period. Said renewal application shall contain an itemized list of the original stock remaining on hand and shall be verified by the applicant. The city auditor shall cause the same to be examined and investigated, and if satisfied as to the truth of the statements therein contained, the city auditor shall issue a renewal license for the period of 30 days.

Source: 1952 Rev. Ord. 1072 (1959), 2311 (1987).

25-2509. Display of license--Inspection of merchandise and records.--Upon commencement of any sale, as hereinbefore defined, the license issued by the board of city commissioners shall be prominently displayed near the entrance to the premises. A duplicate original of the application and stock list pursuant to which such license was issued shall, at all times, be available to the board and the licensee shall permit the board or its agent to examine all merchandise in the premises for comparison with such stock list at any and all times during the period of such sale. All advertisements or advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which a license was issued, and the wording of such advertisement shall not vary from the wording as indicated in the application. Such advertising shall contain a statement in these words: "Sale held pursuant to Permit No. \_\_\_\_\_ of the board of city commissioners, granted the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_" and in such blank spaces shall be indicated the permit number and the requisite dates. Books and records of the sale shall be kept by the licensee and shall, at all times, be available for inspection.

Source: 1952 Rev. Ord. 1072 (1959).

25-2510. Persons exempt from article.--The provisions of this article shall not apply to or affect the following persons:

- A. Persons acting pursuant to an order or process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officers, such as sheriffs, bailiffs, or marshals.
- C. Duly licensed auctioneers, selling at auction.
- D. Executors, guardians, assignees of insolvent debtors, bankrupts, and/or other persons required by law to sell property.

Source: 1952 Rev. Ord. 1072 (1959).

25-2511. Penalty for violation of article.--Every person, firm, company, or corporation violating any of the provisions of this article, shall, upon conviction thereof, be punished by a fine

not to exceed \$100, or by imprisonment not to exceed 90 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. Each day any person, firm, company, or corporation shall violate any of the provisions of this article shall constitute a separate offense.

Source: 1952 Rev. Ord. 1072 (1959).

25-2512. Separability clause.--The provisions of this article are declared to be severable and if any section, sentence, clause, or phrase of this article shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this article, but they shall remain in effect, it being the legislative intent that this article shall stand notwithstanding the invalidity of any part.

Source: 1952 Rev. Ord. 1072 (1959).

## ARTICLE 25-26

### PRIVATE SECURITY SYSTEMS

Note: Article 25-26 of chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2474, effective August 28, 1989.

## ARTICLE 25-27

### SALE OF PISTOLS

Note: Article 25-27 of chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2303, effective December 29, 1986.

## ARTICLE 25-28

### PUBLIC TRANSIT LICENSES

Note: Article 25-28 of chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2313, effective January 12, 1987.

## ARTICLE 25-29

### SPECIAL BUS LICENSES

Note: Article 25-29 of chapter 25 of the Fargo Municipal Code was repealed by Ord. No. 2304, effective December 29, 1986.

## ARTICLE 25-30

### ALARM SYSTEM

#### Section

25-3001	Definitions.
25-3002	Rules and regulations.
25-3003	Automatic dialing device--Interconnecting to primary trunklines.
25-3004	Automatic dialing device--Intermediary services.
25-3005	Prohibitions.
25-3006	Charges for excessive alarms.
25-3007	Limitation of liability.
25-3008	Severability.

#### 25-3001. Definitions.--

1. "Alarm user" shall mean any person as defined herein, using the services of a police alarm system or a central station.

2. "Answering service" refers to a telephone answering service which receives emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to the communication center of the police department.

3. "Automatic dialing device" refers to an automated alarm system which sends a prerecorded voice message or coded signal indicating the existence of the emergency situation which the alarm system is designed to detect.

4. "Central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits, and where guards are maintained continuously to investigate signals.

5. "Central station system" means a system in which the operation of electrical protection circuits and devices are signaled automatically to, recorded in, maintained, and supervised from a central station having operators and security personnel on duty at all times.

6. "Direct line" means a telephone line leading directly from a central station to the communication center of the police department that is for use only to report emergency signals on a person-to-person basis.

7. "False alarm" means the activation of an alarm system caused by anything other than an emergency or criminal activity.

8. "Excessive alarms" shall mean false alarms in excess of three within the months of January through June of any year or July through December of any year.

9. "Person" shall mean any individual, partnership, corporation, association or other entity.

10. "Police alarm system" shall mean any device designed for the detection of an unauthorized entry on premises or for alerting others of the commission of an unlawful act, or both, and, when actuated, emits a sound or transmits a signal or message which system alerts the Fargo police department directly, or causes the department to be alerted.

11. "Primary trunkline" means a telephone line leading directly into the communication center of the police department that is for the purpose of handling emergency calls on a person-to-person basis, and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company and covering the service area within the police department's jurisdiction.

12. "Proprietary system" means an alarm system sounding and/or recording alarm and supervisory signals at a control center located within the protected premises, the control center being under the supervision of the proprietor of the protected premises. If a proprietary system includes a signal line connected directly to the police communication center, a central station, or answering service, it thereby becomes an "alarm system" as defined in this ordinance.

13. "Special trunkline" means a telephone line leading into the communication center of the police department and having the primary purpose of handling emergency signals or messages originating either directly or through a central location from automatic dialing devices.

Source: 1965 Rev. Ord. 25-3001, 1826 (1977), 2656 (1993).

25-3002. Rules and regulations.--The chief of police may prescribe rules and regulations for alarm systems, including but not limited to the following:

- A. Minimum standards for the quality, efficiency, and effectiveness of police alarm systems and alarm business permittees;
- B. Specific provisions relating to testing procedures;
- C. Minimum standards for the training of alarm business personnel.

He is authorized to inspect or cause to be inspected the premises of the alarm business and the premises whereon the police alarm system is located. He shall have the power to make and enforce such reasonable rules and regulations as may in his discretion be necessary to implement the provisions of this article.

Source: 1965 Rev. Ord. 25-3010, 1826 (1977), 2656 (1993).

25-3003. Automatic dialing device--Interconnecting to primary trunklines.--

- A. No automatic dialing device shall be interconnected to a primary trunkline after the effective date of this ordinance.
- B. Within 90 days after the effective date of this ordinance, all automatic dialing devices interconnected to a primary trunkline shall be disconnected therefrom. The owner or lessee of such device shall be responsible for having the device disconnected within the 90 day time period prescribed herein.

Source: 1965 Rev. Ord. 25-3011, 1826 (1977), 2656 (1993).

25-3004. Automatic dialing device--Intermediary services.--

- A. Persons owning or leasing an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:
  1. A central station;
  2. A modified central station; or
  3. A licensed answering service.

- B. The relaying of messages by intermediary services to the police department shall be over a special trunkline, except that central stations may relay messages over a direct line.
- C. This section shall apply only to those automatic dialing services interconnected to the communication center in the police department or to other municipal offices.

Source: 1965 Rev. Ord. 25-3012, 1826 (1977), 2656 (1993).

25-3005. Prohibitions.--It shall be unlawful for anyone to activate any police alarm system for the purpose of summoning police except in the event of what is reasonably believed to be an unlawful act and/or an unauthorized entry on premises. Whenever a police alarm system has been designed and commonly understood to alert others of the commission of a particular crime, it shall be unlawful for anyone to activate such police alarm system for the purpose of summoning police except in the event of what is reasonably believed to be such particular crime.

It shall be unlawful to install or use a police alarm system which upon activation emits a sound similar to sirens in use on emergency vehicles or for civil defense purposes.

Source: 1965 Rev. Ord. 25-3014, 1826 (1977), 2656 (1993).

25-3006. Charges for excessive alarms.--

A. Any alarm user who maintains or has a police alarm system which signals excessive alarms, as hereinabove defined, shall pay a service charge to the city of Fargo as follows:

1. For the first excessive alarm, the sum of \$50.
2. For the second and subsequent excessive alarms, the sum of \$50 plus the additional sum of \$25 for each alarm after the first excessive alarm.

Source: 1965 Rev. Ord. 25-3015, 1826 (1977), 2656 (1993).

25-3007. Limitation of liability.--The city of Fargo shall be under no duty or obligation to any alarm user or to any other person hereunder by reason of any provision of this article, including but not limited to any defects in a police alarm system or any delays in transmission or response to any alarm.

Source: 1965 Rev. Ord. 25-3016, 1826 (1977), 2656 (1993).

25-3008. Severability.--In the event that any part or provision of this article, or the application thereof to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the said controversy, and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances.

Source: 1965 Rev. Ord. 25-3017, 1826 (1977), 2656 (1993).

## ARTICLE 25-31

### SURFACE AMBULANCE SERVICES

Note: Article 25-31 of chapter 25 of the Fargo Municipal Code was repealed in its entirety by Ord. No. 2810, 1996.

## ARTICLE 25-32

### DEALERS IN PRECIOUS METALS AND PRECIOUS GEMS

Section	
25-3201	Definitions.
25-3202	Fixed premises and license required.
25-3203	Fee for license.
25-3204	Effective period, renewal and suspension or revocation.
25-3205	Application to pawnbrokers and secondhand dealers.
25-3206	Change in location of licensed premises.
25-3207	Display of license.
25-3208	Acts prohibited by minors.
25-3209	Transactions with minors.
25-3210	Required records.
25-3211	Holding period for purchased articles.
25-3212	Police order to hold property.
25-3213	Articles available for inspection.
25-3214	Holding period inapplicable.
25-3215	Certificate of inspection.
25-3216	Penalty.

#### 25-3201. Definitions.--

1. "Precious metals" shall mean gold, silver, platinum and any article made, in whole or in part of any of such metals.
2. "Precious gems" shall mean diamonds, emeralds, rubies, sapphires and pearls, and any other gem of similar value, and any article made, in whole or in part, of such gems.
3. "Person" shall mean any individual, partnership, corporation or association or any other legal entity, or any agent or employee thereof.
4. "Dealer in precious metals or precious gems" shall mean any person who engages in a business of purchasing or receiving, for resale, any precious metals or any precious gems which were previously sold at retail, or coins. This shall not include any person who makes only casual purchases of precious metals or precious gems nor any person who purchases only at wholesale nor any person who purchases only occasionally at a coin show or antique show, the primary purpose of which is showing, rather than buying or selling the regulated articles.

5. "Casual purchases of precious metals or precious gems" shall mean the purchase of precious metals or precious gems other than for resale or for the purchaser's own use and enjoyment. Any purchase from a dealer in precious metals or precious gems shall be considered a casual purchase.

6. "Regulated transaction" shall mean the purchase or receipt by a dealer, other than a casual purchase, of any precious metal or precious gem previously sold at retail, or coins, but shall exclude purchases at an occasional coin or antique show, the primary purpose of which is showing, rather than buying or selling the regulated articles.

Source: 2057 (1982).

25-3202. Fixed premises and license required.--No person shall engage in business as a dealer in precious metals or precious gems unless said person has a fixed premises where said business is conducted, either on a continuing basis or from time to time, and unless said person has first obtained a license to engage in that business at that premises. All licenses shall be approved by the police chief with the license to be issued and the fee collected in the office of the city auditor.

For purposes of this section, "fixed premises" shall include any non-mobile premises where such business is conducted and such precious metals or precious gems are held according to the provisions of § 25-3211 whether or not that premises remains in the same location during the period the license is in effect.

Source: 2057 (1982), 2314 (1987).

25-3203. Fee for license.--The fee for issuance of a license to engage in business as a dealer in precious metals and precious gems shall be in such amount as shall be established by resolution of the board of city commissioners.

Source: 2057 (1982).

25-3204. Effective period, renewal and suspension or revocation.--A license issued under this article shall be valid and effective until January 1 of the year following the year of issuance, and may be renewed annually upon payment of the required fee. Every license issued under the provisions of this article shall be issued upon the distinct understanding that such license may be revoked or suspended by the board of city commissioners at any time, or by the court upon the conviction of a license holder of a violation of this article. Notice of such revocation or suspension must be sent to the permit holder by certified mail addressed to the permit holder at the address set forth in the application. The chief of police shall be notified of the revocation or suspension of any permit. The permit holder may appeal his revocation or suspension to the board of city commissioners and request a public hearing on such revocation or suspension.

Source: 2057 (1982).

25-3205. Application to pawnbrokers and secondhand dealers.--All provisions of this article shall apply to a person licensed as a pawnbroker or secondhand dealer under article 25-10 of this chapter, who engages in business as a dealer in precious metals or precious gems, except that the fee required by § 25-3203 for a license to so engage in that business shall not be required.

Source: 2057 (1982).

25-3206. Change in location of licensed premises.--If, during the effective period of a license issued under this article, a licensed dealer changes the location of the licensed premises

within the city, such dealer shall inform the city auditor and the chief of police of such change of location and shall have the new premises to be licensed noted on the license. There shall be no additional fee charged for changing the location of the licensed premises.

Source: 2057 (1982).

25-3207. Display of license.--A license issued under this article shall be prominently displayed at the licensed premises during hours when such premises is open for business.

Source: 2057 (1982).

25-3208. Acts prohibited by minors.--No person under the age of 18 years shall sell or otherwise deal with any person licensed to do business under this article. No person under the age of 18 years shall represent to any person licensed under the provisions of this article, at the time of his selling or dealing in precious metals or precious gems, that he is 18 years of age or over.

Source: 2057 (1982).

25-3209. Transactions with minors.--No dealer licensed under this article shall purchase or receive on deposit any precious metals or precious gems from any person who has not reached the age of 18 years without the knowledge and consent of such minor's parent or guardian. Said dealer shall require written consent and shall furnish upon request valid proof of such consent.

Source: 2057 (1982).

25-3210. Required records.--Every dealer in precious metals or precious gems shall make and maintain, on forms prescribed or approved by the chief of police, a record of all regulated transactions. Such record shall specifically identify each such article purchased or received in a regulated transaction and shall include, if available, the manufacturer's name, style, model number, serial number, engraved initials or other identifying marks, except that coins may be described only by the number of each denomination and face type purchased. Such record shall also include the date of purchase, the amount paid for the article, the name and address of the person from whom the article was purchased or received and, if said person is not personally known to the dealer or the dealer's agent, that person's driver's license number and the state of issuance or, if unavailable, the identifying number from at least one form of government issued identification.

A legible and correct copy of the record required by this section shall be furnished to the police department on a daily basis provided, however, that the records for a particular day may be furnished on the next succeeding day.

The records required by this section shall be maintained for at least one year after the date of purchase or receipt and shall be made available for inspection by city police officers during reasonable business hours.

Every dealer shall, in addition to the records referred to herein, maintain a duplicate receipt system of receipts issued to the seller from the dealer. Said receipts shall be made available for inspection by city police officers during reasonable business hours.

Source: 2057 (1982).

25-3211. Holding period for purchased articles.--All precious metals and precious gems, except coins, purchased or received by a dealer through a regulated transaction shall be identifiable to the record of that transaction and shall be held on the licensed premises of the dealer, or some other secure location within the city, and shall not be disposed of nor altered from the form in which

it is received, for a period of 15 days, not counting Sundays or holidays, from the time a record of the transaction is received by the police department. If the record of such transaction is sent to the police department through the U.S. Mail, it shall be presumed that receipt of same by the police department occurred 24 hours from the time of mailing, for the purposes of computing said holding period. A member of the police department shall indicate on each such record the date and time of receipt thereof. Any such article purchased or received by a dealer may be altered or disposed of prior to the expiration of the holding period if first inspected by an authorized city police officer and the alteration or disposition approved, or as provided by § 25-3214 herein.

Source: 2057 (1982).

25-3212. Police order to hold property.--Whenever the chief of police or any member of the police department designated by the chief of police shall notify any dealer or dealers not to sell any property so received or purchased by them, such property shall not be sold or removed from the licensed premises of said dealer until such time as may be determined by the chief of police or member of the police department designated by the chief of police so requiring them to be held.

Source: 2057 (1982).

25-3213. Articles available for inspection.--All precious metals or precious gems purchased or received by a dealer in a regulated transaction shall be made available for inspection by city police officers during reasonable business hours during the holding period or until the dealer disposes of same.

Source: 2057 (1982).

25-3214. Holding period inapplicable.--Section 25-3211 herein shall not apply to an article which is described on a certificate of inspection as provided by § 25-3215, in the possession of the person identified thereon.

Source: 2057 (1982).

25-3215. Certificate of inspection.--A dealer wishing to sell any precious metals or precious gems may first have such article inspected by an authorized officer of the Fargo police department who may approve such sale and, if approved, shall prepare and issue to that dealer on a form prescribed by the chief of police, a certificate of inspection noting approval of the sale and describing the article to be sold and identifying the dealer to whom the certificate is issued. The Fargo police department may require such information of the applicant as is necessary prior to approving the sale and issuing its certificate of inspection.

Source: 2057 (1982), 2062 (1982).

25-3216. Penalty.--Any person, firm or corporation violating the terms of this article shall, upon conviction thereof, be punished by a fine not to exceed \$500 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.

Source: 2057 (1982).

ARTICLE 25-33

TATTOOS, BODY ART AND BODY PIERCING

Section	
25-3301	Definitions.
25-3302	Unlawful to operate body art establishment without permit--Exemptions.
25-3303	Permit to operate body art establishment issued annually--Fee--Application form--Display of permit required--Health Department to enforce regulations.
25-3304	Inspections of permitted premises.
25-3305	Licenses--Termination, suspension, revocation.
25-3306	Unlawful practices.
25-3307	Penalty.

25-3301. Definitions. As used in this ordinance, unless the context otherwise indicates, the following definitions shall apply:

1. "Body Art" means the practice of physical body adornment by permitted establishments and operators using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification.

2. "Body Art Establishment" means any place or premise where the practices of body art, whether or not for profit, are performed, except where such practices are performed by a physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.

3. "Body Piercing" means puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a presterilized single-use stud-and-clasp-ear-piercing system shall not be included in this definition.

4. "Department" means Fargo Cass Public Health, or its authorized representatives.

5. "Ear Piercing" means the puncturing of the non-cartilaginous perimeter or lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following manufacturer's instructions.

6. "Gross incompetence" means any serious lack of ability or knowledge to perform one's duty in a sanitary manner or failure to comply with these regulations. It shall also mean any conduct which endangers the public's health or safety.

7. "Operator" means any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment. The term includes an assistant or technician who performs body art activities and who works under the supervision, control or authority of somebody else who is an operator.

8. "Person" means an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, trusts or unincorporated organizations.

9. "Physician" means a person currently licensed by the state of North Dakota to practice medicine pursuant to the provisions of chapter 43-17 of the North Dakota Century Code.

10. “Tattooing” means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

Source: 2155 (1984), 4061 (2000), 4520 (2006).

25-3302. Unlawful to operate body art establishment without permit--Exemptions.--It shall be unlawful to operate a body art establishment unless a permit is first obtained from the city auditor. The provisions of this article do not apply to physicians, or a person working under the direct supervision of a physician in the physician’s office or clinic, nor to individuals who pierce only the non-cartilaginous perimeter and lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations; provided, however, that such individuals shall not be exempt from the applicable U.S. Food and Drug Administration requirements.

Source: 2155 (1984), 4061 (2000), 4520 (2006).

25-3303. Permit to operate body art establishment issued annually--Fee--Application form--Display of permit required--Health Department to enforce regulations.—

- A. The permit described in §25-3302 hereof shall be issued annually, January 1<sup>st</sup>, by the city auditor after an inspection and approval of the proposed body art establishment by the city health officer or his designee. The fee therefor shall be as established by resolution of the board of city commissioners and applicants shall complete and sign an application form furnished by the city auditor along with a scale drawing and floor plan of the proposed body art establishment. The permit shall be non-transferable. The permit shall be displayed prominently in the body art establishment where it may be readily observed by clients.
- B. The city health officer is authorized to promulgate regulations creating minimum standards for body art establishments pertaining to the facilities, preparation and care of the body art area, education and information for prospective clients, professional standards for the body art operators/technicians, sanitation and sterilization procedures, requirements for single use items, maintenance and retention of records of body art procedures, and requirements for posting of notices and information regarding body art, which regulations may be enforced by the city health officer after they are approved by the city commission, notice of which is to be given pursuant to the provisions of §13-0101 of the Fargo Municipal Code. A copy of such regulations shall be posted in all Body Art Establishments in a prominent location so that they may be read by clients and by operators and technicians of a body art establishment.

Source: 2155 (1984), 4061 (2000), 4520 (2006)..

25-3304. Inspections of permitted premises.--The members of the board of city commissioners of the city of Fargo, the chief of police, or any officer of the health or police department may, at any time, enter upon any permitted premises for the purpose of inspection or to determine whether the permitted premises are in compliance with any and all ordinances of

the city and regulations promulgated by the Department. A copy of the inspection report must be furnished to the permit holder or operator of the body art establishment.

Source: 2155 (1984), 4061 (2000).

25-3305. Licenses--Termination, suspension, revocation.--All permits issued under the provisions of this article, unless otherwise specifically provided, shall terminate on December 31st following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, be terminated, suspended or revoked by the commission.

- A. The commission may, in its discretion, suspend or revoke for cause any permit issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:
  - 1. The permittee has filed a petition in bankruptcy.
  - 2. The permittee does not remit the annual renewal fee.
  - 3. An individual permittee, one of the partners in a partnership permittee, or one of the officers in a corporation permittee, or any individual in active management of the permitted business is convicted of violating any of the provisions of this article.
  - 4. The permittee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.
  - 5. The permittee has made any false statement in his application for a permit.
  - 6. The permittee has demonstrated gross incompetence and/or has violated one or more of the regulations created pursuant to Fargo Municipal Code §25-3303(B).
  - 7. The permittee interferes with the health department or its agents and assistants in the performance of its duties.
- B. The health department may temporarily suspend the permit and order the establishment immediately closed if immediate danger to the public health or safety is found, unless the danger is immediately corrected.
- C. The grounds enumerated in subsection (A) and (B) of this section shall not be deemed to be exclusive and any permit issued under the provisions of this article may be suspended or revoked by the commission for any other reason deemed by the commission to be sufficient in order to promote and protect the health, safety, and welfare of the public. When any permit is suspended or revoked by the commission pursuant to the provisions of this section, or when the permittee voluntarily ceases business, no portion of the permit fee previously paid shall be returned to the permittee or to anyone claiming under or through him.
- D. No permit issued under the provisions of this article shall be suspended or revoked for cause by the commission without a public hearing. In the event that the commission intends to consider the suspension or revocation of any permit for cause, it shall direct the city auditor to notify the permittee of its intention to consider the same. The notice shall specify the time and place of

the suspension or revocation hearing and shall be served upon the permittee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the permittee.

If, upon such hearing, it appears to the commission that sufficient cause exists for the suspension or revocation of a permit issued pursuant to the provisions of this article, the commission shall make its order suspending or revoking the said permit.

Source: 2155 (1984), 4061 (2000), 4520 (2006).

25-3306. Unlawful practices.--In addition to such other prohibitions as are contained in this article:

- A. No person shall perform body art on any body part of a person under the age of 18 without the written consent of the parent or legal guardian of such minor and without said parent or legal guardian being present during such procedure.
- B. No person shall obtain or attempt to obtain any body art establishment permit by means of fraud, misrepresentation or concealment.
- C. No person shall perform body art procedures unless such procedures are performed in a body art establishment with a current permit.
- D. No person shall perform body art procedures unless they are at least 18 years of age.
- E. No person shall interfere with a health department officer in the performance of an inspection or in the performance of any other of his duties.
- F. Willful failure by the permittee to post regulations which are required to be posted pursuant to § 25-3303 of this article shall be unlawful.

Source: 2155 (1984), 4061 (2000), 4520 (2006).

25-3307. Penalty.--Every person, firm, or corporation violating §§ 25-3302 or 25-3306 of this article shall, upon conviction thereof, be punished by a fine not to exceed \$1,000 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.

Source: 2155 (1984), 4061 (2000).

## ARTICLE 25-34

### MECHANICAL AMUSEMENT DEVICES

Section

25-3401

Definitions.

25-3402

Mechanical amusement device--Display of sexual activity--License required.

- 25-3403 Mechanical amusement device license--Issuance.
- 25-3404 Issuance and term of license.
- 25-3405 License fee.

25-3401. Definitions.--

1. "Mechanical amusement device": A machine which, upon the insertion of a coin or the payment of consideration, depicts, displays or projects directly or indirectly, pictures, photographs or other visual images.

2. "Sexual activity": Shall include the depiction of specified anatomical areas and/or specified sexual activities as defined in § 20-0319.1 of the Fargo City ordinances.

Source: 2228 (1985).

25-3402. Mechanical amusement device--Display of sexual activity--License required.--No person shall offer to the public, mechanical amusement devices which are used on a regular basis to depict or display sexual activity, without first procuring from the city auditor of the city of Fargo a license for each machine owned and operated by the licensee.

Source: 2228 (1985).

25-3403. Mechanical amusement device license--Issuance.--Any person who desires to operate one or more mechanical amusement devices as hereinabove provided, shall make application to the city auditor of the city of Fargo for a license so to do. The application shall be in the form prescribed by the city auditor and shall identify the machine, the site where the machine will be located, and the time for which the license is desired. If the licensee is the owner of more than one such mechanical amusement device, the application shall include a complete list of all devices owned by him together with its location.

Source: 2228 (1985).

25-3404. Issuance and term of license.--Each license issued pursuant to the terms of this article shall expire on June 30 of the year following. Licenses shall be renewed on an annual basis as of July 1 of each year.

Source: 2228 (1985).

25-3405. License Fee.--The license fee for a mechanical amusement device which depicts or displays sexual activity shall be \$300 per machine per year. The license fee shall be payable on July 1 of each year, and prorated on a monthly basis if a license becomes effective at any time other than July 1.

Source: 2228 (1985).

## ARTICLE 25-35

### SECONDHAND GOODS DEALERS

Section

- 25-3500 Purpose.
- 25-3501 Definitions.
- 25-3502 Fixed premises and license required.

25-3503	License and renewal.
25-3504	Bond.
25-3505	Fee for license.
25-3506	Investigation fee.
25-3507	Effective period, renewal and suspension or revocation.
25-3508	Acts prohibited by minors.
25-3509	Required records.
25-3510	Daily reports to police.
25-3511	Receipt required.
25-3512	Holding period.
25-3513	Articles available for inspection.
25-3514	Police order to hold property.
25-3515	Label required.
25-3516	Prohibited acts.
25-3517	Penalty.

25-3500. Purpose.--The city commission recognizes the need to regulate secondhand dealers to provide the ability to identify stolen property that may be presented to secondhand shops and to identify those responsible for committing property crimes. The commission also determines the need to provide a basic level of consumer protection through a comprehensive ordinance.

To help the police department better regulate secondhand businesses, decrease and stabilize regulatory costs, and improve identification of criminal activities through the timely collection and sharing of transaction information, this chapter also implements and establishes the required use of the LEADS system.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3501. Definitions.--

1. Licensee” shall mean all secondhand dealers required to be licensed by this chapter.
2. “Secondhand dealer” shall mean:
  - A. Any person, firm, or corporation other than a pawnbroker or dealer in precious metals and gems who purchase, collects, trades, sells, or deals in secondhand goods including, but not limited to: business machines, tape recorders and tapes, compact discs, radio transmitters and receivers, computer hardware, computer software, electronic games and their components, musical instruments, cameras and accessories, power tools, sporting goods, stereos, stereo equipment, tools and tool boxes, television sets, weapons, bicycles, radios microwave ovens, household furniture, appliances and jewelry.

- B. Exemptions: any person --
- (1) dealing exclusively in the resale of new and/or used automobiles;
  - (2) involved in the casual and occasional sales of used household goods by the owner to the public, if the seller is not engaged for profit in the business of selling goods of that nature; this category includes those sales commonly referred to as “garage sales”;
  - (3) operating a junkyard for wrecked automobiles;
  - (4) conducting sales of secondhand goods at stores or events sponsored by nonprofit corporations or associations or fraternal or religious organizations;
  - (5) dealing exclusively in the resale of secondhand books or magazines;
  - (6) conducting the auction of goods by a licensed auctioneer;
  - (7) operating a bona fide antique, used furniture or used clothing store.

3. “Person” shall mean any individual, partnership, corporation or association or any other legal entity, or any agent or employee thereof.

4. “Regulated transaction” shall include all purchases, trades or consignments made by a secondhand dealer.

5. “Reportable transaction” – all regulated transactions except:

- A. Any transaction where used articles are taken in trade against the purchase price of a new article sold for market value.
- B. The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the secondhand dealer must maintain a record of such purchase or consignment which describes each item.
- C. Any item which has no unique identifier and/or contains no precious metals or gems and for which the licensee paid less than \$100.00.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3502. Fixed premises and license required.--No person shall engage in business as a secondhand dealer unless said person has a fixed premises where said business is conducted, either on a continuing basis or from time to time, and unless said person has first obtained a license to engage in that business at that premises. A separate license is required for each place of business. The city may issue more than one license to a person if the person complies with the requirements of the chapter. A license issued under this article shall be prominently displayed at the licensed premises during hours when such premises is open for business. If,

during the effective period of a license issued under this article, a licensee changes the location of the licensed premises within the city, such licensee shall inform the city auditor and the chief of police of such change of location and shall have the new premises to be licensed noted on the license. There shall be no additional fee charged for changing the location of the licensed premises. The operation of a business as a secondhand dealer without a license as required by this section shall be a class B misdemeanor.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3503. License and renewal.--Any person desiring to obtain, renew or transfer a license shall make and file an application for such license with the commission. The application shall be made on a form approved by the chief of police and made available through the office of the city auditor. In addition to the information required on the application form, the commission, in its discretion, may require such other information as it deems necessary in determining whether a license should be issued to the applicant.

The holder of an existing license issued pursuant to the provisions of this article who desires to renew said license for another license year, shall not be required to make and file a new application under this section but shall make and file a renewal application under the provisions of this section which shall require the payment of the renewal fee and shall include an affidavit indicating the current name and address of the licensee, and if said licensee is a corporation, the names and addresses of the resident manager, all corporate officers, and all shareholders holding more than 5% of the outstanding stock of the corporation, and such other information as the city may require. The renewal application and affidavit shall be on a form to be prescribed by the chief of police made available through the city auditor's office.

The application for a new license or renewal of a license shall require that the applicant agrees to provide the police department with the records required by §25-3509 in a format, including electronically transmitted digital data, as required by the police department.

The chief of police shall investigate the facts stated in the application filed with the commission and shall report the results of the investigation to the commission prior to the hearing on said application. Said investigation and report shall include the character, reputation, fitness of the applicant to hold a license, any other pertinent information and the recommendation of the chief of police as to whether or not such license should be granted. In addition, the commission may request and consider such other recommendations and reports of other city officials.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3504. Bond.--Before a license will be issued or renewed, every applicant must submit a five thousand dollar (\$5,000.00) bond on the forms provided by the auditor's office, with sufficient sureties to be approved by the auditor's office. All bonds must be conditioned that the

principal will observe all laws in relation to secondhand dealers and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business under this chapter, or in lieu thereof, will pay the reasonable value in money to the person. This language shall not be construed to apply to items the principal has legally disposed of under the requirements of the ordinance. The bond shall contain a provision that no bond may be cancelled except upon thirty (30) days written notice to the chief of police.

Alternately, a licensee may provide proof to the auditor's office of a separate dedicated account with a balance of \$5,000.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3505. Fee for license and application fee.--The fee for issuance of a license to engage in business as a secondhand dealer shall be in such amount as shall be established by resolution of the board of city commissioners.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3506. Investigation fee.--The fee for the investigation of an initial application or renewal for a license to engage in business as a secondhand dealer shall be paid to the city auditor at the time an application is submitted. The amount of the investigation fee shall be established by resolution of the board of city commissioners.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3507. Effective period, denial, renewal and suspension or revocation.--A license issued under this article shall be valid and effective until December 31 of the year for which the license applies. Every license issued under the provisions of this article shall be issued upon the understanding that such license may be revoked or suspended by the board of city commissioners at any time for good cause, for failure to comply with any provision of this chapter, or by any fraud, misrepresentation bribery, or false statements in the application, investigation, securing or renewing a license, or the conviction of a license holder of a violation of this article or any criminal conviction related to theft of property regulations or any felony conviction. Notice of such revocation or suspension must be sent to the licensee by certified mail addressed to the licensee at the address set forth in the application. The chief of police shall be notified of the revocation or suspension of any license. The licensee may appeal a revocation or suspension to the board of city commissioners and request a public hearing on such revocation or

suspension.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3508. Acts prohibited by minors.--No person under the age of 18 years shall sell or otherwise initiate a reportable transaction with any person licensed to do business under this article nor may any licensee participate in a reportable transaction with a person under the age of 18 years. No person under the age of 18 years shall represent to any person licensed under the provisions of this article that he is 18 years of age or over.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3509. Required records.--At the time of any reportable transaction every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the chief of police. Such record shall specifically include:

- A. A complete and accurate description of each item including, but not limited to any trademark, identification number, serial number, model number, brand name or other identifying mark on such an item.
- B. The purchase price.
- C. Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.
- D. Full name, current residence address and phone number, date of birth and accurate description of the person from whom the item of the property was received including sex, height, weight, race, color of eyes and color of hair.
- E. The identification number and state of issue of a current state photo driver's license or state identification.
- F. The signature of the person identified in the transaction.
- G. Inspection of records. Transaction records must at all reasonable times be open to inspection by the police department during the licensee's business hours. Data entries shall be retained for at least three (3) years from the date of transaction.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3510. Daily reports to police.-- Licensees must submit every reportable transaction to the police department daily in the following manner:

- A. Licensees must provide to the police department all information required in §25-3509 (A) through (E) and other required information, by transferring it from their computer to the LEADS system. All required records must be transmitted completely and accurately each day in accordance with the standards and procedures established by the issuing authority. If a licensee is unable to successfully transfer the required information to LEADS, the licensee must provide the police department printed copies of all reportable transactions by 12:00 the next business day. The licensee must make all reasonable efforts to correct the problem as soon as possible.
- B. Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day since the problem existed.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3511. Receipt required.--Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three (3) years. The receipt must include the information (A) through (F) identified in §25-3509.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3512. Holding period.--Any item purchased by a licensee and defined in §25-3501 (E) must not be sold or otherwise transferred for fourteen (14) days from the date of the transaction.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3513. Articles available for inspection.—All personal property, other valuable things, precious metals or precious gems purchased by a secondhand dealer in a reportable transaction shall be made available for inspection by city police officers during reasonable business hours.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952

Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3514. Police order to hold property.--

- A. Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within seventy-two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, whichever comes first.
- B. Order to hold. Whenever the chief of police, or the chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the chief or the chief's designee. The order to hold shall expire ninety (90) days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing.
- C. Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the chief or chief's designee may:
  - 1. Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chief's designee, or
  - 2. Place the item on hold or extend the hold as provided in subsection B above, and leave it in the shop.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

When an order to hold/confiscate is no longer necessary, the chief of police, or chief's designee shall so notify the licensee.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3515. Label required.--Licensees must attach a label to every item at the time it is purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3516. Prohibited acts.—

- A. No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid State of North Dakota identification card, or current valid photo driver's license or identification card issued by the state or providence of residency of the person from whom the item was received.
- B. No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.
- C. No person may sell or consign any article of property not their own; nor shall any person sell or consign the property of another, whether with permission or without; nor shall any person sell or consign any article of property in which another has a security interest; with any licensee.
- D. No person seeking to sell or consign any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).

25-3517. Penalty.--Any person, firm or corporation violating the terms of this chapter, except as provided in §25-3502, shall upon conviction thereof, be guilty of an infraction, and punished by a fine not to exceed \$500, the court to have power to suspend said sentence and to revoke the suspension thereof.

Source: Source: 1952 Rev. Ord. 25-1001, 1965 Rev. Ord. 25-1002, 1965 Rev. Ord. 25-1003, 1952 Rev. Ord. 25-1005, 1952 Rev. Ord. 25-1006, 1952 Rev. Ord. 25-1007, 1952 Rev. Ord. 25-1008, 1952 Rev. Ord. 25-1009, 1952 Rev. Ord. 25-1011, 1952 Rev. Ord. 25-1012, 1952 Rev. Ord. 25-1013, 1952 Rev. Ord. 25-1014, 990 (1957), 993 (1957), 1489 (1973), 1496 (1973), 2156 (1984), 2306 (1987), 4334 (2003).