

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 5311

AN ORDINANCE AMENDING SECTION 10-0102 OF ARTICLE 10-01 OF CHAPTER 10  
RELATING TO UNLAWFUL FOR MINORS TO ENTER LIQUOR OR BEER  
ESTABLISHMENTS, 25-1509 AND 25-1520 OF ARTICLE 25-15 OF CHAPTER 25 OF THE  
FARGO MUNICIPAL CODE RELATING TO RESTRICTIONS ON SALE, SERVICE OR  
DISPENSING OF ALCOHOLIC BEVERAGES AND PENALTY, AND SECTION 1-0305 OF  
ARTICLE 1-03 OF CHAPTER 1 OF THE FARGO MUNICIPAL CODE RELATING TO  
CLASSIFICATION OF ORDINANCE VIOLATIONS

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

10-0102. - Unlawful for minors to enter liquor or beer establishments.

It shall be unlawful for any person under the age of 21 years to enter, or attempt to enter, any  
establishment in the city where intoxicating liquor or beer is sold, served, or dispensed, unless  
otherwise permitted under § 25-1509.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 5311

Section 2. Amendment.

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

\* \* \* \*

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~~ designated area 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 18 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, or if the individual enters the premises for training, education, or research purposes under the supervision of an individual ~~twenty-one~~ 21 or more years of age with prior notification of the local licensing authority. 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.~~

At the discretion of the owner of the licensed premises, an individual under 21 years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 5311

- a. Is accompanied by a parent or guardian;
- b. Is not seated at or within three feet [0.91 meters] of the bar counter;  
and
- c. Does not enter or remain in the designated area after ten p.m.

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.

\* \* \* \*

- 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 11:00 a.m. 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 2:00 a.m. on Thanksgiving Day or between the hours of 2:00 a.m. and ~~8:00 a.m. 12:00 noon~~ on Sundays. 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.

\* \* \* \*

Section 3. Amendment.

25-1520. - Penalty.

Any person, firm or corporation violating §§ ~~25-1509(A), or 25-1518(C), or 25-1518(D)~~ of this article is guilty of a Class B misdemeanor. Every person, firm or corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished by a fine not to exceed \$1,500, 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. In addition to such fine and/or imprisonment, the court, in its discretion, may assess a fee in an amount not to exceed \$25.00 as provided in section 27-01-10, N.D.C.C.

Unless otherwise indicated, every person, firm or corporation violating any other sections of this article shall, upon conviction thereof, be punished by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 5311

Section 4. Amendment.

1-0305. Classification of ordinance violations.

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

Section 1-0306(D) (failure to appear or post bond on a non-criminal, non-traffic offense), section 8-0305(A)(2) (fictitious registration), section 8-0305(A)(3) (lending registration plates), section 8-0308 (reproducing operator's or driver's license or permit), section 8-0309 (driving under suspension), section 8-0310 (driving under the influence), section 8-0314 (reckless driving), section 8-0320 (driving without liability insurance - \$150.00 minimum fine), section 8-0803 (accidents involving damage to vehicle), section 8-0804 (duty to give information and render aid), section 8-0805 (duty upon striking fixture or other property), section 8-0809 (false reports), section 10-0101 (minor using alcohol), 10-0104 (curfew), section 10-0201 (indecent exposure), section 10-0301 (disorderly conduct), section 10-0317 (resisting police officer), section 10-0319 (incendiary devices), section 10-0320 (registration in schools), section 10-0321 (criminal mischief), section 10-0322 (harassment), section 10-0323 (simple assault), section 10-0324 (aiding and abetting), section 10-0601 (shoplifting), section 10-0602 (theft), section 10-0702 (order to disperse), section 10-0703 (tenant/owner cooperation required), section 10-1202(2) (~~§ 10-1202~~ marijuana) and 10-1202(3) (under 21 in possession of marijuana), section 12-0117(C) and 12-0117(G) (potentially dangerous and dangerous dogs), section 13-0511 (removal of wastes), section 13-0513 (fee/permit for hauling waste), section 13-0529 (misuse of compost sites), article 13-13 (drug lab cleanup), chapter 17 (sewers and sewerage), article 18-09 (excavation code), section 25-1509(A) (selling alcoholic beverage to minor), section 25-15138(C) (minor misrepresenting age), and section 25-15138(D) (delivery of alcoholic beverage to minor), article 25-33 (tattoos, body art and body piercing), article 25-36 (tanning facilities).

\* \* \* \*

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

Section 8-1003(K) (parking in areas reserved handicap), section 8-0702 (fail yield right-of-way pedestrian), section 8-1108(A) (disobey signal of approaching train), section 8-1108(B) (driving thru/around railroad crossing gate), section 8-1110 (disobey railroad stop sign), section 8-1218(F) (unlawful passing of school bus), section 8-1218(G) (unlawful proceeding past bus in oncoming lane), section 10-0326 (urinating in public), section 25-15138(A) (selling/consuming alcohol in public), section 25-15138(B) (possessing/consuming alcohol in public building).

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 5311

\* \* \* \*

Section 5. Penalty.

A person, firm, or corporation who violates §§~~25-1509~~25-1509(A), 25-1518(C), or 25-1518(D) of article 25-15 is guilty of a Class B misdemeanor and shall be punished by a fine not to exceed \$1,500.00, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.

A person who violates section 10-0102, 25-1509(C), 25-1509(D), or 25-1509(F) is guilty of an infraction. Every person, firm, or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

A person who violates section 25-1518(A) or 25-1518(B) is guilty of non-criminal offense and shall be punished with a \$100 fee.

Section 6. Effective Date.

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

/s/  
Timothy J. Mahoney, M.D., Mayor

Attest:

/s/  
Steven Sprague, City Auditor

First Reading:	7-12-21
Second Reading:	7-26-21
Final Passage:	7-26-21