

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5274

AN ORDINANCE AMENDING SECTIONS 8-1701 THROUGH 8-1713 OF ARTICLE 8-17
OF CHAPTER 8, RELATING TO SNOW EMERGENCY ROUTE AND SNOW EMERGENCY
DECLARATION AND SECTION 1-0305 OF ARTICLE 1-03 OF CHAPTER 1,
OF THE FARGO MUNICIPAL CODE RELATING TO PENALTY

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

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

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

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

NOW, THEREFORE,

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

Section I. Amendment.

The Title to Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

ARTICLE 8-17 - SNOW EMERGENCY ROUTES AND SNOW EMERGENCY
DECLARATION

Section II. Amendment.

Section 8-1701 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-1701. - Definitions.

The following definitions, in addition to those contained in § 8-0101, shall apply in the interpretation and enforcement of this article:

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1. "Mayor" is the mayor of the city of Fargo, or, in the event of the absence of the mayor, the vice-mayor, or their designee. In the event of the absence of both the mayor and the vice-mayor, the board of city commissioners shall have all authority granted by this article.
2. "Snow emergency routes" are those ~~streets~~ roadways generally traversing the entire city or a major part thereof, and are considered essential to the rapid movement of emergency vehicles and normally carry heavy traffic volumes.
3. "Snow tires" are any tires mounted on drive wheels of motor vehicles which are especially designed to give effective traction on snow, mud or ice-covered ~~streets~~ roadways by means of extra heavy duty treads with special high-traction patterns, except that no tire so defined shall be construed to be a snow tire if it is damaged or worn to the extent that its performance would be substantially impaired.
4. "Tire chains" are any metal chains mounted on drive wheel tires of motor vehicles which cross the tread of each such tire laterally in at least three different places.
5. "Snow emergency" shall mean when four (4) or more inches of snow is forecast by the National Weather Service.

Section III. Amendment.

Section 8-1702 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-1702. - Parking or stopping on snow emergency route.

No person shall park or stop any vehicle on any roadway designated as a snow emergency route at any time between November 1 and April 15.

- A. —~~Whenever the mayor finds, on the basis of falling snow, sleet or freezing rain, or on the basis of a forecast by the U.S. Weather Bureau or other weather service of snow, sleet, or freezing rain that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snow plowing and other purposes, he shall put into effect a parking prohibition on snow emergency routes as necessary by declaring it in a manner prescribed by this ordinance.~~
- B. —Once in effect, a prohibition under this section shall remain in effect until terminated by announcement of the mayor in accordance with this ordinance, except that any street area which has become substantially clear of snow and ice from curb to curb for the length of the entire block shall be automatically excluded therefrom. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a snow emergency route to which it applies. However, nothing in this

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~~section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.~~

Section IV. Amendment.

Section 8-1703 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-1703. Snow emergency declaration.

A. Whenever the mayor determines a snow emergency to exist, the mayor shall put into effect a parking prohibition on all roadways by declaring a snow emergency in a manner prescribed by this ordinance. While the prohibition is in effect, no person shall park or remain stopped any vehicle on any portion of any roadway in the city of Fargo.

B. Once in effect, a prohibition under this section shall remain in effect until terminated by announcement of the mayor in accordance with this ordinance, or until such time that the individual roadway has been cleared of snow from curb to curb for the length of the entire block. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

Section V. Amendment.

Section 8-1704 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-17034. - Stalled vehicle on snow emergency route or when snow emergency declared.

Whenever a vehicle becomes stalled for any reason, on any part of a snow emergency route or on any roadway when a snow emergency declaration is in effect, on which there is a covering of snow, sleet or ice, or on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such snow emergency route into the first cross street which is not a snow emergency route. No person shall abandon or leave his a vehicle unattended in the roadway of a snow emergency route or when a snow emergency declaration is in effect, except for a period of time actually necessary to secure assistance in removing the same. (regardless of whether he indicates, by raising the hood or otherwise, that the vehicle is stalled), except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station or other place of assistance and return without delay.

Section VI. Amendment.

Section 8-1705 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby

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amended to read as follows:

8-17045. - Declarations of the mayor.

- A. The mayor shall cause each declaration made ~~by him~~ pursuant to this ordinance to be publicly announced through the Cass County Alerts system, by means of broadcasts or telecasts from stations with a normal operating range covering the city, ~~on the city of Fargo website and through city of Fargo social media accounts, news media~~ and ~~he may cause such declaration to be further announceed~~ in newspapers of general circulation, when feasible. Each announcement shall describe the action taken by the mayor including the time it became or will become effective~~;~~, ~~and shall specify the streets or areas affected.~~
- B. The mayor shall make or cause to be made a record of each time and date when any declaration is announced to the public in accordance with this section.

Section VII. Amendment.

Section 8-1706 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-17056. - Termination of ~~parking prohibition~~ snow emergency declaration by the mayor.

Whenever the mayor shall find that some or all of the conditions which give rise to a ~~parking prohibition~~ the snow emergency declaration in effect pursuant to this ordinance no longer exist, ~~he may declare the prohibition terminated, in whole or in part, the mayor may terminate the snow emergency declaration~~ in a manner prescribed by this ordinance, effective immediately upon announcement.

Section VIII. Amendment.

Section 8-1707 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-17067. - Provisions temporarily effective to take precedence.

Any provision of this ordinance which becomes effective by declaration of the mayor ~~or upon the occurrence of certain weather conditions shall, while temporarily in effect,~~ take precedence over other conflicting provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles or emergency traffic directions by a police officer.

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Section VIV. Amendment.

Section 8-1708 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-1707~~8~~. - Signs to mark snow emergency routes.

- A. On each ~~street~~ roadway designated by resolution as ~~hereafter provided~~, as a snow emergency route, such ~~streets~~ roadways shall be posted with appropriate signs at intervals not exceeding one ~~every~~ 1,320 feet. Signs posted in accordance with this section shall be distinctive and uniform in appearance and shall be plainly visible and readable to persons traveling on the ~~street or highway~~ roadway.

Section X. Amendment.

Section 8-1709 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-1708~~9~~. - Impounding vehicles.

Any vehicle stopped on any snow emergency route or on any roadway in violation of the mayor's snow emergency declaration in violation of any of the provisions of this article may be impounded in accordance with § 8-0126 of this chapter and no person shall recover any vehicle removed pursuant to this section without first paying the cost of removal and the cost of storage. Any payments required by this section shall not be construed as a penalty so as to preclude prosecution for violation of any of the provisions of this article.

Section XI. Amendment.

Section 8-1710 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-170~~9~~10. - Violations—Traffic citation—Complaint.

Whenever any motor vehicle is found stopped or parked contrary to the provisions of this article, the owner of such vehicle may, pursuant to § 8-0315 of this chapter, be charged with a violation of this article. Prosecution may be instituted by traffic citation or complaint in the same manner as for violation of any of the provisions of this chapter.

Section XII. Amendment.

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Section 8-1711 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-1710~~1~~. - Evidence with respect to vehicles parked or left in violation of ordinance.

In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this ordinance, proof that the particular vehicle described in the complaint was parked or left in violation of a provision of this ordinance, together with proof that the defendant named in the complaint was at the time the registered owner of such vehicle, shall constitute prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this ordinance.

Section XIII. Amendment.

Section 8-1712 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-1714~~2~~. - Snow emergency routes designated.

Snow emergency routes shall be as designated by resolution of the board of city commissioners.

Section XIV. Amendment.

Section 8-1713 of Article 8-17 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

8-1712~~3~~. - Separability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section XV. Amendment.

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

1-0305. - Classification of ordinance violations.

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- A. Violations of the following ordinances are Class B misdemeanors, subject to punishment as provided in this article:
1. 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) ($\geq \frac{1}{2}$ oz. 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 25-1513(C) (minor misrepresenting age), and section 25-1513(D) (delivery of alcoholic beverage to minor), article 25-33 (tattoos, body art and body piercing), article 25-36 (tanning facilities).
- B. Violations of all ordinances not designated in A or C of this section are infractions, subject to punishment as hereinabove provided. Any person convicted of an infraction who, within one year before commission of the infraction of which the person was convicted, has been convicted previously at least twice of the same offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint must specify the offense is a misdemeanor.
- C. Violations of the following ordinances are noncriminal offenses and shall require payment of a fee as follows:
1. For a violation of the following ordinances, a fee of \$5.00. Section 8-1412 (riders/passengers restricted), section 8-1413 (riding on roadway/bike paths—restrictions), section 8-1414 (operate bicycle too fast for

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conditions), section 8-1416 (carrying packages—restrictions), section 8-1419 (equipment on bicycles), section 8-1420 (bicycles—age restrictions).

2. For a violation of the following ordinances, a fee of \$20.00. Section 8-0113 (unlawful use of skates/coasters), section 8-0304 (registration card to be carried in the driver's compartment—inspection of card), section 8-0305(a)(1), section 8-0305(A)(4) (current registration required), section 8-0318 (operating motor vehicle on bicycle trail), section 8-0323 (license to be carried and exhibited on demand), section 8-0406 (pedestrian-control signal), section 8-0411 (alter traffic or railroad sign), section 8-0412 (display unauthorized signs, signals or marking), section 8-0707 (pedestrian crossing street where prohibited), section 8-0709(A) (pedestrian walking in roadway), section 8-0710 (pedestrian soliciting rides or business), section 8-0712 (pedestrian obstructing traffic), section 8-0901 (fail to display flag/light rear of load), section 8-0902 (improper tires), section 8-0903 (improper horn), section 8-0904 (brakes required), section 8-0905 (mirrors required), section 8-0906 (obstructed vehicle windshield/windows), section 8-0907 (windshield wipers required), 8-0908 (mufflers/exhaust system required), section 8-0909 (leaking or loose load), section 8-0910 (lights/lamps fail to conform to state law), section 8-0911 (fail to display lighted lamps), section 8-0913 (illegal spotlights), section 8-0914 (improper towing connection), section 8-0915 (reflectors/taillight required on trailer), section 8-0916 (flashing lights prohibited), section 8-0917 (illegal light on vehicle), section 8-0919(A) (riding on exterior of vehicle), section 8-0919(B) (more passengers than capacity), section 8-0919(C) (allow body to protrude from moving vehicle), section 8-0928 (modified suspension system), section 8-0929 (driving of vehicle in unsafe condition unlawful), section 8-1003(A) thru (J) and (L) thru (S) (stopping, standing, parking prohibited in specific places), section 8-1013 (improper parking/obstructing traffic), section 8-1301(A) (following fire apparatus), section 8-1301(B) (driving vehicle within block of fire apparatus), section 8-1302 (driving through parade/funeral procession), section 8-1304 (failure to obtain parade permit), section 8-1307 (opening and closing vehicle doors), section 8-1311 (improper start of parked vehicle), section 8-1317 (coasting vehicle on downgrade prohibited), section 8-1318 (littering), section 8-1320(A) (operating snowmobile under 16 or allowing when prohibited), section 8-1320(B) (operating snowmobile in restricted area), section 8-1410 (traffic laws apply to persons riding bicycles), section 8-1411 (bicyclist to obey traffic control devices), section 8-1418 (riding bicycle on sidewalks—restrictions), section 8-1422 (bicycle accidents), section 8-1902 (cruising prohibited), article 8-20 (motorized scooters).
3. For a violation of the following ordinance, a fee of \$25.00. Section 10-0103(B) (tobacco possession by minors prohibited).

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4. For a violation of the following ordinances a fee of \$40.00. Section 8-0105 (driving wrong way on one-way street), section 8-0106 (obey temporary traffic sign/barrier), section 8-0303(B) (parent/guardian allow unlicensed/under 16 to drive), section 8-0303(C) (owner allowing unlicensed/under 16 to drive), section 8-0305(B) (current license required), section 8-0306 (violation of restricted license), section 8-0316 (permit unauthorized person to drive), section 8-0403 (disobey traffic control device (barricade)), section 8-0405 (traffic control signals), section 8-0407 (flashing signals), section 8-0506 (impeding traffic), article 8-06 (regulating turning movements), section 8-1010 (motor vehicle left unattended—brakes to be set, engine stopped, and keys removed), section 8-1011 (drive or park on private property), section 8-1018 (taking on or discharging passengers), section 8-1111 (vehicle required to stop at railroad crossing), section 8-1201 (following too closely), sections 8-1202 thru 8-1218(D) (general rules of the road), section 8-1301(C) (driving over fire hose), section 8-1301(D) (driving through/around barricade), section 8-1305 (driving vehicle on sidewalk), section 8-1306 (improper backing), 8-1308 (helmet required—operator/passenger), section 8-1309 (number of riders on motorcycle limited), section 8-1310 (clinging to a vehicle or allowing same), section 8-1313 (unlawful riding on vehicle), section 8-1315 (unlawful towing), section 8-1316(A) (operating motor vehicle with view obstructed by load/passengers), section 8-1316(B) (passenger obstructing driver's view), section 8-1319 (unlawful operation of motor vehicle private property), section 8-1321 (use of seat belts required), section 8-1804 (driving through school patrols), section 8-1415 (right-of-way emerging from alley or driveway), section 8-1417 (parking restriction).
5. For a violation of the following ordinances, a fee of \$50.00. Section 8-0116 (failure to yield to emergency vehicle), section 8-0311 (open container), section 8-0317(B)(2) (exhibition driving), section 8-0801 (immediate notice of accident), section 8-0931 (child restraint devices required), 8-1219 (use of motor vehicle), section 10-0311(C) (panhandling within the city of Fargo).
6. For a violation of the following ordinances, a fee of \$60.00. Section 8-0301 (failure to have vehicle under control), section 8-0313 (careless driving), section 8-0501 (speed-care required), section 8-0505 (special speed limitation on bridges), section 8-0409 (traffic engineer to establish and design public carrier stops and stands).
7. For a violation of the following ordinances, a fee of \$100.00. Section 8-1003(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

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(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 25-1513(A) (selling/consuming alcohol in public), section 25-1513(B) (possessing/consuming alcohol in public building).

8. For a violation of the following ordinances, a fee of \$120.00. Section 11-0202 (unnecessary noise prohibited), section 11-0204 (projection of sound unlawful), section 11-0205 (motorized vehicles—excessive noise), section 11-0205 Table 2(D) (motorized vehicles—compression brakes prohibited).
9. For a violation of the following ordinance, a fee of \$150.00. Section 11-0814 (littering on private property).
10. For a violation of the following ordinance, a fee of \$200.00. Section 8-0321 (use of a wireless communication device prohibited), section 8-0322 (distracted driving).
11. For a violation of 08-0502, a fee established as follows:

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

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	\$80.00 plus \$2.00/each mph over 10 mph over limit
SPEEDING IN CONSTRUCTION ZONE — workers present and posted "Minimum fee \$80.00"	
1—10 miles over limit	\$160.00
11+ miles over limit	\$160.00 plus \$4.00/each mph over 10 mph over limit

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

- a. ~~With respect to Vviolations in downtown area~~ the central business district, as defined in section 8-0101, ~~With respect to parking violations in the downtown area, defined as an area bounded by 8th Avenue North, University Drive, 2nd Avenue south (all inclusive of such streets) and the Red River,~~ for a violation of section 8-1006, and 8-1009, the fee for such violation shall be \$20.00 for the first violation associated with the vehicle within the prior six-month period, \$20.00 for a second violation within six months of said first violation and \$25.00 for a third violation within six months of the said second violation and \$30.00 for the fourth violation within six months of the said third violation and for every subsequent violation within six months of the next-preceding violation. As to violations of 8-1006 and 8-1009, the person issuing the ticket for the parking violation is authorized to waive the fee and, instead, to issue a warning ticket, for the first said violation. At such time as a period of six months or more elapses without a parking ticket for any violation of article 8-10 having been issued for a particular vehicle, the next violation shall be treated as an initial violation.
- b. Violations. With respect to parking violations other than in the ~~downtown area~~ central business district as defined in section 1-0305(12)(a), for a violation of section 8-1001, 8-1002, 8-1004, 8-1005, 8-1006, 8-1006.1, 8-1007, 8-1008, 8-1009, 8-1012, 8-1014 through 8-1024, the fee for such violation shall be \$20.00.

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- c. With respect to a parking violation as defined in section 9-0705, the fee for such violation shall be \$20.00.
- d. With respect to a snow emergency route or snow emergency declaration parking violation as defined in section 8-1710, the fee for such violation shall be \$100.00.
- de. With respect to any parking violation, the prescribed fee must be paid within 15 days of the date it is due. The fee shall be due upon the date of issuance of the ticket or, if there is a review of the ticket, upon the date of notification after such review. In the event the prescribed fee on a parking ticket is not paid within said 15 days, the fee shall increase by \$5.

Section XVI. Penalty.

A person who violates this ordinance shall be deemed to have committed a non-criminal offense and shall pay a fee of \$100.00, as provided in Section 1-0305.C of the Fargo Municipal Code, as the same may be amended from time to time.

Section XVII. Effective Date.

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

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

(SEAL)

Attest:

First Reading: 9-21-2020
Second Reading: 10-5-2020
Final Passage: 10-5-2020
Publication: 10-14-2020

/s/_____
Steven Sprague, City Auditor