

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5318

AN ORDINANCE AMENDING SECTION 08-0304, 08-0320, AND 08-0323 OF ARTICLE 08-03 OF CHAPTER 8 OF THE FARGO MUNICIPAL CODE RELATING TO REGISTRATION CARD TO BE CARRIED IN THE DRIVER'S COMPARTMENT – INSPECTION OF CARD, DRIVING WITHOUT LIABILITY INSURANCE PROHIBITED, AND LICENSE TO BE CARRIED AND EXHIBITED UPON DEMAND, 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.

8-0304. - Registration card to be carried in the driver's compartment—Inspection of card.

The registration card issued for a vehicle shall be carried in the driver's compartment of the vehicle at all times when the vehicle is being operated upon the streets of the city. Such card shall be subject to inspection by any peace officer. However, a person cited for violation of this section may not be found to have committed the violation if the person, within fourteen days after being cited produces and displays to the office of the prosecutor where the matter is pending, a

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registration card valid at the time the person was cited. A peace officer, upon citing a person for violating this section, shall inform the person that a violation will be considered as not having occurred if the person produces and displays a valid registration card in the manner provided in this section.

Section 2. Amendment.

8-0320. - Driving without liability insurance prohibited.

- A. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this city without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1, N.D.C.C.
- B. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence, including written or electronic proof of insurance, of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section. If that person produces satisfactory evidence, including written or electronic proof of insurance, of a valid policy of liability insurance in effect at the time of the alleged violation of this section to the ~~office of the clerk of court under which the matter will be heard~~ office of the prosecutor where the matter is pending, that person may not be convicted or assessed any administration fee for violation of subsection A.
- C. Notwithstanding section 26.1-30-18, N.D.C.C., a person may be convicted for failure to have a valid policy of liability insurance in effect under this section if the time of acquisition of the policy was after the time of the alleged incidence of driving without liability insurance. If the time of acquisition of the policy comes into question, the driver or owner has the burden of establishing the time of acquisition. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle.

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- D. Violation of subsection A is ~~an infraction~~ a noncriminal offense and the sentence imposed must include a fine of ~~at least~~ one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within a three-year period must be fined ~~at least~~ three hundred dollars which may not be suspended. For a second or subsequent conviction for violation of subsection A, the court shall order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the office of the police officer that made the arrest and notify the department of the order. The person shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the department. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.

Section 3. Amendment.

8-0323. - License to be carried and exhibited on demand.

An individual licensed to operate a motor vehicle shall have the operator's license in the individual's immediate possession at all times when operating a motor vehicle and shall physically surrender the operator's license upon demand of any court or police officer; however, an individual charged with violating this section may not be convicted or assessed any court costs if the individual produces within fourteen days of being cited, to the office of the prosecutor where the matter is pending, in court or in the office of the arresting officer a valid operator's license issued to that individual that is not under suspension, revocation, or cancellation at the time of the individual's arrest.

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:
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(D) (~~driving without liability insurance—\$150.00 minimum fine~~ failure to deliver plates), section 8-0803 (accidents involving damage to vehicle), section 8-0804

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(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).

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C. 9. For a violation of the following ordinance, a fee of \$150.00.

Section 11-0814 (littering on private property), Section 08-0320(A) (Driving without liability insurance – first offense).

C. 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).

C. 11. For a violation of the following ordinance, a fee of \$300.00.

Section 08-0320(A) (Driving without liability insurance – second or subsequent offense in three years).

C. ~~12~~ 14. For a violation of 08-0502, a fee established as follows:

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C. ~~1312~~. The determination of the fees payable for parking violations described in articles 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.

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Section 5. Penalty.

A person who violates section 08-0304 is guilty of a noncriminal offense, punished by a \$20.00 fee, which may not be suspended.

A person who violates section 08-0320(A)(first offense) is guilty of a noncriminal offense, punished by \$150.00 fee, which may not be suspended.

A person who violates section 08-0320(A)(second or subsequent offense in three years) is guilty of a noncriminal offense, punished by \$300.00 fee, which may not be suspended.

A person, firm, or corporation who violates section 08-0320(D) of Article 08-03 and is ordered to deliver their plates to the Court and does not provide the plates to the Court 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 08-0323 is guilty of a noncriminal offense, punished by a \$20.00 fee, which may not be suspended.

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Section 6. Effective Date.

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

/s/
Timothy J. Mahoney, Mayor

Attest:

/s/
Steven Sprague, City Auditor

First Reading:	9-7-21
Second Reading:	9-20-21
Final Passage:	9-20-21
Publication:	9-29-21