

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 5350

AN ORDINANCE AMENDING SECTION 30-0106 OF ARTICLE 30-01  
OF CHAPTER 30 OF THE FARGO MUNICIPAL CODE  
RELATING TO THE INTERNATIONAL MECHANICAL CODE

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 1. Repeal.

Section 30-0106 of Article 30-01 of Chapter 30 of the Fargo Municipal Code is hereby repealed in its entirety.

Section 2. Re-enactment.

Section 30-0106 of Article 30-01 of Chapter 30 of the Fargo Municipal Code is hereby re-enacted to read as follows:

30-0106. Standards adopted.--The following standards are hereby adopted for all heating, air conditioning and other gas, oil, or coal consuming appliances:

- A. All heating, air conditioning, or other gas, oil, or coal consuming appliances for either domestic or commercial use installed in the city of Fargo shall bear a seal of approval from the American Gas Association, American Standards Association, Underwriters Laboratories, or other nationally recognized testing laboratory.

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- B. The International Mechanical Code, sponsored by the International Code Council, 2021 Edition, is hereby adopted as the mechanical code for the city of Fargo from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city, and within the extra-territorial zoning jurisdiction of the city, with the following amendments:

**Section 101.1** is hereby amended to read as follows:

**101.1 Title.** These regulations shall be known as the Mechanical Code of ~~[NAME OF JURISDICTION]~~, the city of Fargo, hereinafter referred to as “this code.”

**Sections 103.1** is hereby amended to read as follows:

**103.1 Creation of Agency.** The ~~[NAME OF DEPARTMENT]~~ city of Fargo Inspections Department is hereby created and the official in charge thereof shall be known as the code official. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

**Section 104.8** is hereby amended to read as follows:

**104.8 Liability.** The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

**Section 109.2** is hereby amended to read as follows:

**109.2 Schedule of permit fees.** Where work requires a permit, a fee for each permit and mechanical work shall be paid as required, in accordance with the schedule as established by the ~~applicable governing authority.~~ city of Fargo Board of City Commissioners.

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Section 109.6 is hereby amended as follows:

**109.6 Refunds.** The code official is authorized to establish a refund policy, which is as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than eighty (80) percent of the permit fee paid where work has not been done under a permit issued in accordance with this code.
3. Not more than eighty (80) percent of the plan review fee paid where an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Section 201.3 is hereby amended to read as follows:

**201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in the International Building Code, International Fire Code, International Fuel Gas Code, or the ~~International~~ North Dakota State Plumbing Code, such terms shall have meanings ascribed to them as in those codes.

Section 305.4 is hereby amended to read as follows:

**305.4 Interval of support.** Piping shall be supported at distances not exceeding the spacing specified in Table 305.4, or in accordance with ANSI/MSS SP-58. In addition to the requirements of Table 305.4, piping and tubing shall be supported within 2 feet (610 mm) of every bend or angle.

Section 307.2.2 is hereby amended to read as follows:

**307.2.2 Drain pipe materials and sizes.** Components of the condensate disposal system shall be ABS, cast iron, copper and copper alloy, CPVC, cross-linked polyethylene, galvanized steel, PE-RT, polyethylene, polypropylene, PVC or

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PVDF pipe or tubing. Components shall be selected for the pressure and temperature rating of the installation. Joints and connections shall be made in accordance with the applicable provisions of ~~Chapter 7 of the International~~ the North Dakota State Plumbing Code relative to the material type. Condensate waste and drain line size shall be not less than 3/4-inch (19 mm) pipe size and shall not decrease in size from the drain pan connection to the place of condensate disposal. Where the drain pipes from more than one unit are manifold together for condensate drainage, the pipe or tubing shall be sized in accordance with Table 307.2.2.

**Section 403.1** is hereby amended to read as follows:

**403.1 Ventilation system.** Mechanical ventilation shall be provided by a method of supply air and return or exhaust air, ~~except that mechanical ventilation air requirements for Group R-2, R-3 and R-4 occupancies three stories and less in height above grade plane shall be provided by an exhaust system, supply system or combination thereof.~~ The amount of supply air shall be approximately equal to the amount of return and exhaust air. The system shall not be prohibited from producing negative or positive pressure. The system to convey ventilation air shall be designed and installed in accordance with Chapter 6.

**Section 504.9.2** is hereby amended to read as follows:

**504.9.2 Duct installation.** Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws, ~~or similar fasteners that protrude more than 1/8 inch (3.2mm) into the inside of the duct.~~ Where dryer exhaust ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation of the duct without deformation.

**Section 505.4** is hereby amended to read as follows:

**505.4 Makeup air required.** Exhaust hood systems capable off exhausting in excess of 400 cfm (0.19m<sup>3</sup>/s) shall be provided with makeup air at a rate in excess of 400 cfm, ~~approximately equal to the exhaust air rate.~~ Such makeup air systems shall be equipped with a means of closure and shall be automatically controlled to start and operate simultaneously with the exhaust system.

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**Section 508.2** is hereby amended to read as follows:

**508.2 Compensating hoods.** Manufacturers of compensating hoods shall provide a label indicating the minimum exhaust flow, the maximum makeup airflow or both that provides capture and containment of the exhaust effluent. Short circuit compensating hoods are prohibited.

**Section 508.2.1** is hereby added to read as follows:

**508.2.1 Compensating Hood Make-up Air.** Compensating hoods shall extract at least forty (40) percent of the required exhaust air flow from the kitchen area.

**Section 701.3** is hereby added to read as follows:

**701.3 Attic space.** Attic space shall not be used for combustion air.

**Section 908.5** is hereby amended to read as follows:

**908.5 Water supply.** Cooling towers, evaporative coolers and fluid coolers shall be provided with an approved water supply, sized for peak demand. The quality of water shall be provided in accordance with the equipment manufacturer's recommendations. The piping system and protection of the potable water supply system shall be installed as required by the ~~International~~ North Dakota State Plumbing Code.

**Section 1006.6** is hereby amended to read as follows:

**1006.6 Safety and relief valve discharge.**

\* \* \* \*

13. Be constructed of those materials listed in ~~Section 605.4 of the International~~ North Dakota State Plumbing Code or materials tested, rated and approved for such use in accordance with ASME A112.4.1.

**Section 1008.2** is hereby amended to read as follows:

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**1008.2 Discharge.** Blow off valves shall discharge to a safe place of disposal. Where discharging to the drainage system, the installation shall conform to the ~~International North Dakota State~~ Plumbing Code.

**Section 1104.2** is hereby amended to add the following exception:

**1104.2 Machinery room.**

\* \* \* \*

**Exceptions:**

\* \* \* \*

3. If an existing refrigerating system is replaced or if an existing refrigeration plant is increased by not more than fifty (50) percent of its original capacity, but not more than 100 tons per system using a non-flammable class A1 or B1 refrigerant and the refrigeration machinery room was not provided in the original installation prior to 1994, a refrigeration machinery room shall not be required. If the existing refrigeration is not located in general machinery room separated from occupied spaces, a refrigeration machinery room shall be provided. The space containing the refrigeration machinery shall meet the requirement of Section 1104.3.4, protection room refrigerant decomposition., and Section 1105.3. requiring refrigerant detection. If the requirements of 1104.3.4 and 1105.3 cannot be met, a refrigeration machinery room shall be provided.

**Section 1208.1** is hereby amended to read as follows:

**Section 1208.1 General.** ~~New H~~hydronic piping shall be isolated and tested hydrostatically at ~~one and one half times the maximum system design pressure, but not no~~ not less than 100 psi (689 kPa). The duration of the test shall be not less than 15 minutes.

Section 3. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall

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be punished by a fine not to exceed \$1,000.00; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 4. Effective Date.

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

/s/  
\_\_\_\_\_  
Timothy J. Mahoney, Mayor

(SEAL)

Attest:

/s/  
\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:	5-16-22
Second Reading:	5-31-22
Final Passage:	5-31-22
Publication:	6-8-22