OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5489

AN ORDINANCE REPEALING AND RE-ENACTING SECTIONS 9-0701 AND 9-0704 OF ARTICLE 9-07 OF CHAPTER 9 OF THE FARGO MUNICIPAL CODE RELATING TO FIRE PROTECTION AND PREVENTION

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.

Sections 9-0701 and 9-0704 of Article 9-07 of Chapter 9 of the Fargo Municipal Code are hereby repealed in their entirety.

Section 2. Re-enactment.

Sections 9-0701 and 9-0704 of Article 9-07 of Chapter 9 of the Fargo Municipal Code are hereby re-enacted to read as follows:

9-0701. International Fire Code--Adoption.--There is hereby adopted by reference by the board of city commissioners, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the International

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Fire Code being particularly the 2024 Edition thereof and all subsequent revisions and additions thereto; save and except such portions as are hereinafter deleted, modified, or amended by ordinance or in accordance with the provisions of section 9-0704, a copy of said code is on file in the office of the chief of the Fargo Fire Department and the same is hereby adopted and incorporated as fully as if set out in length herein, and 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.

9-0704. Modification of International Fire Code.--The International Fire Code as adopted in Section 9-0701 is hereby changed and amended as follows:

Section 101.1 is hereby amended to read as follows:

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

Section 103.1 is hereby amended to read as follows:

> **103.1 Creation of Agency.** The ~~[INSERT NAME OF DEPARTMENT]~~ Fargo Fire Department is hereby created and the official in charge thereof shall be known as the fire 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 fire code official, member of the board of appeals, officer 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 be rendered personally liable, either civilly or criminally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act or omission performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the city's insurance pool and immunities and defenses provided by other applicable state and federal laws and shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

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 105.5.1 is hereby deleted in its entirety.

Table 105.5.9 is hereby amended to read as follows:

Table 105.5.9 Permit Amounts for Compressed Gases.

Type of Gas	**Amount (cubic feet at NTP)**
Carbon dioxide used in carbon dioxide enrichment systems	~~875 (100 lb)~~ 4375 (500 lbs.)
Carbon dioxide used in insulated liquid carbon dioxide beverage dispensing applications	~~875 (100 lb)~~ 4375 (500 lbs.)
* * * *	* * * *

Section 105.5.14 is hereby deleted in its entirety.

Section 105.5.15 is hereby deleted in its entirety.

Section 105.5.18 Subsection 2 is hereby amended in part to read as follows:

2. To store, handle or use Class 1A liquids in excess of ~~5~~ 30 gallons ~~(19 L)~~, Class 1B liquids in excess of 60 gallons, Class 1C liquids in excess of 90 gallons in a building or ~~in excess of 10 gallons (37.9 L)~~ outside of a building, except that a permit is not required for the following:

* * * *

Section 105.5.18 Subsection 3 is hereby amended to read as follows:

3. To store, handle or use Class II or Class IIIA liquids in excess of ~~25~~ 120 gallons ~~(95 L)~~ in a building or in excess of ~~60~~ 120 gallons ~~(227 L)~~ outside a building, except for fuel oil used in connection with oil-burning equipment.

Section 105.5.19 is hereby deleted in its entirety.

Section 105.5.25 Subsections 1, 5, and 6 of are hereby deleted in their entirety.

Section 105.5.33 is hereby deleted in its entirety.

Section 105.5.34 is hereby deleted in its entirety.

Section 105.5.35 is hereby deleted in its entirety.

Section 105.5.38 is hereby amended to read as follows:

> **105.5.38 Open flames and candles.** An operational permit is required to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments. For purposes of this provision, churches shall not be deemed to be assembly areas and shall not be required to obtain a permit to utilize candles in religious ceremonies.

Section 105.5.40 is hereby deleted in its entirety.

Section 105.5.42 is hereby deleted in its entirety

Section 105.5.46 is hereby amended to read as follows:

> **105.5.46 Refrigeration equipment.** An operational permit is required to operate a mechanical refrigeration unit or system regulated by Chapter 6 containing more than 30 pounds of Group A3, B2, or B3 refrigerant.

Section 105.5.47 is hereby amended to read as follows:

> **105.5.47 Repair garages ~~and motor fuel-dispensing facilities~~.** An operational permit is required for operation of repair garages.

Section 105.5.51 is hereby amended to read as follows:

> **Section 105.5.51 Temporary membrane structures, special event structures and tents.** An operational permit is required to operate an air-supported temporary membrane

structure, a temporary special event structure, or a tent having an area in excess of 400 square feet (37m^2) for the purposes of assembly.

* * * *

Section 105.5.55 is hereby deleted in its entirety.

Section 105.5.56 is hereby deleted in its entirety

Section 105.5.57 is hereby deleted in its entirety.

Section 105.6.3 is hereby deleted in its entirety.

Section 105.6.6 is hereby deleted in its entirety.

Section 105.6.8 is hereby deleted in its entirety.

Section 105.6.11 is hereby deleted in its entirety.

Section 105.6.12 is hereby deleted in its entirety.

Section 105.6.13 is hereby deleted in its entirety.

Section 105.6.14 is hereby deleted in its entirety.

Section 105.6.16 is hereby amended to read as follows:

105.6.16 LP-gas. A construction permit is required for installation of or modification to an LP-gas system with a single container in excess of 2000 gallons water capacity or the aggregate capacity of containers is more than 4000 gallons in water capacity. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.

Section 105.6.17 is hereby deleted in its entirety.

Section 105.6.18 is hereby deleted in its entirety.

Section 105.6.19 is hereby deleted in its entirety.

Section 105.6.20 is hereby deleted in its entirety.

Section 105.6.21 is hereby deleted in its entirety.

Section 105.6.22 is hereby deleted in its entirety.

Section 105.6.24 is hereby deleted in its entirety.

Section 105.6.25 is hereby deleted in its entirety.

Section 106.4 is hereby amended as follows:

> **106.4 Retention of construction documents.** One set of construction documents shall be retained by the fire code official for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws. ~~One set of approved construction documents shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.~~

Section 113.4 is hereby amended to read as follows:

> **113.4 Violation penalties**. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of an ~~[SPECIFY OFFENSE]~~ infraction.~~, punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [number of days], or both such fine and imprisonment.~~ Each day that a violation continues after due notice has been served shall be deemed a separate offense. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed $1,000.00; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 203.4.2 is hereby amended to read as follows:

> **203.4.2 Group E, day care facilities**. This group includes buildings and structures or portions thereof occupied by more than ~~five~~ twelve children older than 2 ½ years of age who receive educational, supervision or personal care services for fewer than 24 hours per day.

Section 203.4.2.2 is hereby amended to read as follows:

203.4.2.2 ~~Five~~ Twelve or fewer children. A facility having ~~five~~ twelve or fewer children receiving such day care shall be classified as part of the primary occupancy.

Section 203.4.2.3 is hereby amended to read as follows:

203.4.2.3 ~~Five~~ Twelve or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having ~~five~~ twelve or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

Section 203.7.4 is hereby amended to read as follows:

203.7.4 Institutional Group I-4, day care facilities. Institutional Group I-4 shall include buildings and structures occupied by more than ~~five~~ twelve persons of any age who receive custodial care for fewer than 24 hours per day by persons other than parents or guardians , relatives by blood, marriage or adoption, and in a place other than the home of the person cared for. This group shall include, but not be limited to, the following:

Adult day care
Child day care

Section 203.7.4.1 is hereby amended to read as follows:

203.7.4.1 Classification as Group E. Every child day care facility that provides care for more than ~~five~~ twelve but not more than 100 children 2 ½ years or less of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms have an exit door directly to the exterior, shall be classified as Group E.

Section 203.7.4.3 is hereby amended to read as follows:

203.7.4.3 ~~Five~~ Twelve or fewer persons receiving care. A facility having ~~five~~ twelve or fewer persons receiving custodial care shall be classified as part of the primary occupancy.

Section 203.7.4.4 is hereby amended to read as follows:

Section 203.7.4.4 ~~Five~~ Twelve or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit having ~~five~~ twelve or fewer persons

receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

Section 304.1.1 is hereby amended to read as follows:

304.1.1 Valet trash. Valet trash collection shall not be permitted ~~only where approved~~. Trash and recycling materials shall not be placed in the corridor of Group R occupancies. ~~The owner and valet trash collection service provider shall comply with the rules and limitations established by the jurisdiction.~~

Section 307.1.1 is hereby amended to read as follows:

307.1.1 Prohibited open burning. Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous. All open burning, including recreational fires, are banned when the fire index is at the high, very high or extreme level, and any time during a red flag warning.

* * * *

Section 308.3 is hereby amended by adding the following subsection 1.4 to exception 1:

Exceptions:

1. Open-flame devices are allowed to be used in the following situations, provided approved precautions are taken to prevent ignition of a combustible material or injury to occupants:

* * * *

1.4. Open-flame devices for food warming.

Section 503.4 is hereby amended to read as follows:

503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Sections 503.2.1 and 503.2.2 shall be maintained at all times.

Enforcement of such prohibited parking may be accomplished in the same manner as regulations contained in Article 8-10 and in Section 9-0705 of the Fargo Municipal Code.

Section 507.5.4 is hereby amended to read as follows:

507.5.4 Obstruction. Unobstructed access to fire hydrants shall be maintained at all times. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants. An approved hydrant marker shall be installed immediately adjacent to the rear of the hydrant.

Section 806.1.1 is hereby amended by adding the following exception:

Exceptions:

* * * *

3. For purposes of this provision, churches shall not be deemed public buildings and may utilize natural or resin bearing cut trees in the altar area of the church. No electric lighting is allowed on the tree.

Section 903.3.1 is hereby amended to read as follows:

903.3.1 Standards. Automatic sprinkler systems shall be designed with a 5 psi safety margin and installed in accordance with Sections 903.3.1.1, unless otherwise permitted by Sections 903.3.1.2 or 903.3.1.3 and other chapters of this code, as applicable.

Section 903.3.1.1.1 is hereby amended to read as follows:

903.3.1.1 Exempt locations. Automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from a room merely because it is damp, of fire-resistant-rated construction or contains electrical equipment.

* * * *

6. Elevator machine room and machinery spaces. Where sprinklers are not installed in elevator machine rooms, shunt trip required in accordance with IBC 3005.5 shall not be installed.

Section 903.3.5 Water Supplies is hereby amended to read as follows:

903.3.5 Water supplies. Water supplies for automatic sprinkler systems shall comply with this section and the standards referenced in Section 903.3.1. The potable water supply shall be protected against backflow in accordance with the requirements of this section and the International Plumbing Code. For connections to public waterworks systems, the water supply test used for design of fire protection systems shall be adjusted to account for seasonal and daily pressure fluctuations based on information from the water supply authority and as approved by the fire code official. Underground water supply piping shall be constructed of a material allowed by Chapters 16 and 22 of the Fargo Municipal Code and shall be allowed to extend into the building through the slab or wall not more than 24 inches.

Section 907.8.3 is hereby deleted in its entirety.

Section 1009.8.1 is hereby amended to read as follows:

1009.8.1 System requirements. Two-way communication systems shall provide communication between each required location and the fire command center or a central control point location approved by the fire department. Where the central control point is not constantly attended, a two-way communication system shall have a timed automatic telephone dial-out capability that provides two-way communication with an approved supervising station ~~or emergency services~~. The two-way communication system shall include both audible and visible signals. Systems shall be listed in accordance with UL 2525 and installed in accordance with NFPA 72.

Section 1011.1 Exceptions are hereby amended to read as follows:

Exceptions:

1. Within rooms or spaces used for assembly purposes, stepped aisles shall comply with Section 1030.
2. A stairway complying with section 1011 except where in a B, F, M, S or U that serves an area of 750 sf or less, and is not open to the public, that has a maximum riser height of 8 inches and a minimum tread depth of 9 inches, has a minimum width of 36 inches and has at least one handrail that terminates at the top and bottom riser and otherwise complies with section 1014.

Section 1011.5.2 exceptions are hereby amended to read as follows:

Exceptions:

* * * *

3. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies not required by Chapter 11 to be Accessible or Type A dwelling or sleeping units; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwelling units in Group R-2 occupancies; the maximum riser height shall be ~~7 ¾ inches (197 mm)~~ 8 inches; the minimum tread depth shall be ~~10 inches (254 mm)~~ 9 inches; and the minimum winder tread depth shall be 6 inches (152 mm). A nosing projection not less than ¾ inch (19.1 mm) but not more than 1 ¼ inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 11 inches (279 mm).

* * * *

6. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public are permitted to have a maximum 8-inch riser height and minimum 9 tread depth.

Section 1103.2 is hereby deleted in its entirety.

Section 1103.5.1 is hereby deleted in its entirety.

Section 1103.5.3 is hereby deleted in its entirety.

Section 1103.5.4 is hereby deleted in its entirety.

Section 2303.1 is hereby amended by adding the following Subsection 7:

Section 2303.1 Location of dispensing devices.

* * * *

7. On new installations, dispensing devices used to fill portable containers with home heating fuels shall not be located on the same island where Class I liquids are dispensed.

Section 2306.1 is hereby amended to read as follows:

> **2306.1 General.** Storage of flammable and combustible liquids shall be in accordance with Chapter 57 and Sections 2306.2 through 2306.6.3. See also Fargo Municipal Code, Section 9-0604.

Section 3107.2 is hereby amended to read as follows:

> **3107.2 General.** Outdoor assembly events with planned attendance exceeding 1,000 people shall be in accordance with this section and Section 403.11. Temporary structures erected for outdoor assembly events shall comply with this chapter.

Section 3303.1 is hereby amended to read as follows:

> **3303.1 Program development and maintenance.** The owner or owner's authorized agent shall be responsible for the development, implementation and maintenance of an approved, written site safety plan establishing a fire prevention program at the project site applicable throughout all phases of the construction, repair, alteration or demolition work. When required by the fire code official, ~~T~~the plan shall be submitted and approved before a building permit is issued. Any changes to the plan shall be submitted for approval.

Section 4104.2 is hereby amended to read as follows:

> **4104.2 Open-flame cooking devices.** Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or decks or within 10 feet (3048 mm) of combustible construction.
>
> **Exceptions:**
>
> 1. One- and two-family dwellings.
> 2. Where buildings, balconies and decks are protected by an automatic sprinkler system.
> 3. LP-gas cooking devices having LP-gas container with a water capacity not greater than ~~2 ½ pounds [nominal 1 pound (0.454 kg)~~ 47.8 pounds [nominal 20 pounds (9 kg) LP-gas capacity].

Section 5704.2.9.6.1 is hereby amended to read as follows:

5704.2.9.6.1 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as set forth in the fire code adoption ordinance or other regulation adopted by the jurisdiction. Above-ground tanks, with a capacity exceeding 660 gallons in individual capacity or 1,320 gallons in aggregate capacity, outside of buildings shall be installed only in areas zoned industrial or limited industrial and shall be located at least 300 feet from all non-industrial zoned districts.

Exception: Above-ground tanks containing a class II liquid directly connected to a fuel burning appliance shall not exceed 1,320 gallons in all non-industrial zoned districts.

Above-ground tanks used for dispensing outside of buildings in all non-industrial zoned districts shall not exceed 660 gallons in individual capacity or 1,320 gallons in aggregate capacity and shall be listed and labeled as protected above-ground tanks in accordance with UL 2085.

Section 5704.2.13.1.4 is hereby amended to read as follows:

5704.2.13.1.4. Tanks abandoned in place. Tanks abandoned in place shall be as follows:

* * * *

7. Site assessment is required to determine if there are any spills, leaks, or discharge from the tank system. Records of site assessment shall be kept on the site of tank location.

Section 5705.3.7.5.1 exception is hereby amended to read as follows:

Exceptions:

1. Where natural ventilation can be shown to be effective for the materials used, dispensed or mixed.

2. When approved by the chief, continuous ventilation may be provided for one complete air change per hour, if supplemented with mechanical ventilation designed to provide for a complete air change six times per hour. The non-continuous ventilation equipment and any lighting fixtures shall be operated by the same switch located outside of the door.

Section 5806.2 is hereby amended to read as follows:

5806.2 Limitations. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by law as set forth in the fire code adoption ordinance or other regulation adopted by the jurisdiction. Stationary containers shall be installed only in areas zoned industrial or limited industrial and shall be located at least 300 feet from all non-industrial zoning districts.

Section 6103.2.1.6 is hereby amended to read as follows:

6103.2.1.6 Use with self-contained torch assemblies. Portable LP-gas containers are allowed to be used to supply approved self-contained torch assemblies or similar appliances. Such containers shall not exceed a water capacity of ~~2 ½ pounds (1 kg)~~ 12 pounds.

Section 6104.2 is hereby amended to read as follows:

6104.2 Maximum capacity within established limits. For the protection of heavily populated or congested areas, storage of liquefied petroleum gas shall not exceed an aggregate capacity in any one installation of 2,000 gallons (7570 L) within the limits established by law as set forth in the fire code adoption ordinance or other regulation adopted by the jurisdiction. Unprotected tanks with a water capacity exceeding 2,000 gallons shall be installed only in areas zoned industrial or limited industrial and shall be located at least 300 feet from all non-industrial zoning districts.

* * * *

Appendix B "Fire-Flow Requirements for Buildings" is hereby adopted and enacted in its entirety.

Appendix C "Fire Hydrant Locations and Distribution" is hereby adopted and enacted in its entirety.

Appendix D "Fire Apparatus Access Roads" is hereby adopted and enacted in its entirety.

Section D103.1 of Appendix D is hereby deleted in its entirety.

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 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.

Section 4. Effective Date.

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

/s/
(SEAL) Timothy J. Mahoney, M.D., Mayor

Attest:

/s/
Steven Sprague, City Auditor

First Reading: 6-9-25
Second Reading: 6-23-25
Final Passage: 6-23-25
Publication: 7-2-25