

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4702

AN ORDINANCE AMENDING SECTION 10-0318
OF ARTICLE 10-03 OF CHAPTER 10 OF THE FARGO MUNICIPAL CODE
RELATING TO BREACHES OF PEACE AND ORDER

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

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

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

10 WHEREAS, the Board of City Commissioners deems it necessary and
11 appropriate to implement revisions to the City of Fargo ordinances by the adoption of this
12 ordinance;

13 NOW, THEREFORE, Be It Ordained by the Board of City Commissioners of the
14 City of Fargo:

15 Section 1. Amendment.

16 Section 10-0318 of Article 10-03 of Chapter 10 of the Fargo Municipal Code is
17 amended to read as follows:

18 10-0318. State of emergency--[Declaration and duration].--

- 19 A. The president of the city commission or commissioner acting for the
20 president, is authorized, if he finds that the city or any part thereof is
21 suffering or is in imminent danger of suffering civil disturbance,
22 disorder, riot or other occurrence, including danger of flooding of the
23 city, or any part of the city, which will seriously and substantially
endanger the health, safety and property of the citizens, to declare a
STATE OF EMERGENCY and take the following specified
measures throughout the city or any part thereof; the declaration shall
be made in a proclamation which shall be delivered to the chief of
police, who shall then see that said proclamation is delivered to the
news media within the city and who shall use public address systems
throughout the city, electronic notification systems or other means

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1 deemed appropriate by the chief of police and immediately notify the
2 public of said proclamation and warn the public that any violation
3 shall be deemed a misdemeanor and violators will be arrested.

- 4 1. Require evacuation of all or any portion of the city.
5 The chief of police shall have the authority to order
6 the evacuation of residential or commercial buildings
7 or other structures whenever, in the opinion of the
8 chief of police, it is necessary in order to maintain the
9 peace or to protect the health, safety or property of
10 the city or its citizens from the danger for which the
11 state of emergency was declared.
- 12 2. Prohibit or limit the number of persons who ~~w~~may
13 gather or congregate upon the public highways or
14 public sidewalks, or in any outdoor place, except
15 persons who are awaiting transportation, engaging in
16 recreational activities at a usual and customary place,
17 or peaceably entering or leaving buildings.
- 18 3. Halt access or exit upon public highways to or from
19 the city or any part thereof.
- 20 4. Suspend operations at municipal airport.
- 21 5. Halt the movement of trains, or other vehicles into,
22 within, or from the city.
- 23 6. Establish a curfew limiting the hours when persons
may go upon or travel the public streets, sidewalks or
other public rights of way.
7. Require the closing of taprooms and bars and prohibit
the sale or service of alcoholic beverages in any hotel,
restaurant, club or other establishment.
8. Prohibit the sale of gasoline or other flammable
liquids.
9. Prohibit the sale, carrying or possession on the public
sidewalks or public streets, or in any public park, of
weapons including, but not limited to, firearms, bows
and arrows, air rifles, slingshots, knives, razors, or
missiles of any kind.
10. The city engineer shall have the authority to go upon
the property of another to establish a temporary flood
control dike of earthen or other material whenever, in
the opinion of the city engineer, it is necessary in
order to maintain or protect the health, safety or

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property of the city or citizens from flooding or the effects of flooding. In forming such opinion, the city engineer may consider the effect that floodwaters would have upon the city's system of storm or sanitary sewers, or upon other of the city's infrastructure system.

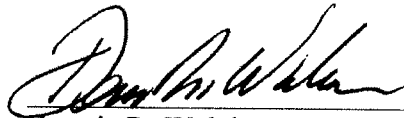
101. The chief of police shall have the authority to close any and all streets, alleys and other public ways in the city of Fargo to the public whenever, in the opinion of the chief of police, it is necessary in order to maintain the peace of the community.

142. Every person remaining present at the place of any riot or unlawful assembly after the same has been ordered to disperse by the police or any other lawful authority, except the public officers and persons assisting them in the dispersing of same, shall be guilty of a misdemeanor.

B. Duration. The STATE OF EMERGENCY declared by the president of the city commission shall exist for the period set forth in the proclamation but not in excess of two weeks. However, the STATE OF EMERGENCY may be extended for additional periods of two weeks.

Section 2. Effective Date.

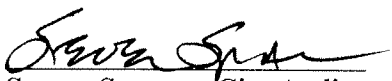
This ordinance shall be in full force and effect from and after its passage and approval.



Dennis R. Walaker, Mayor

(SEAL)

Attest:



Steven Sprague, City Auditor

First Reading: 03-23-2009
Second Reading: 04-06-2009
Final Passage: 04-06-2009