



July 28, 2026

To: Board of City Commissioners

From: Angie Bear, City Clerk

Re: Liquor Compliance Violation – **Wurst Bier Hall**

It is alleged an employee at this licensed establishment served a person under the age of 21 an alcoholic beverage in violation of North Dakota Century Code and/or Fargo Municipal Code. An affidavit detailing the offense was timely sent to the City Attorney Ian McLean. Notice of the hearing was sent to the licensee as required under law.

Historically, alcohol compliance violations were first presented to the LCB (Liquor Control Board) for consideration before proceeding to the City Commission. However, last summer the state amended the North Dakota Century Code (NDCC § 5-02-10). As part of the amendments, there are new timelines and noticing requirements that requires the LCB be bypassed in some liquor compliance failures.

Recommended Motion

Find a liquor compliance violation occurred and impose a penalty as required under statute or ordinance with consideration of any required mitigating factors.



AUDITOR'S OFFICE

AUDITOR'S OFFICE

Fargo City Hall
225 4th Street North
PO Box 2471
Fargo, ND 58108

Phone: 701.241.8108 | Fax: 701.241.8184
FargoND.gov

July 27, 2026

Wurst Bier Hall
630 1 Ave N Ste 1
Fargo, ND 58102

Re: Compliance Check Failure

Dear Licensee:

Notice is hereby provided that the City Auditor's office has determined a liquor license compliance violation exists under section 25-1509 of the Fargo Municipal Code, service to a minor. The City Commission will meet on August 3, 2026, at 5:00 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

If the City Commission recommends revocation, suspension, sanctions or other penalties, the licensee may request a hearing before the Board of City Commissioner within ten (10) days of the Liquor Control Board recommendation.

As a liquor license holder, you are being provided this notice in conformance with Fargo Municipal Code 25-1513, as license holder you have the right to be present and heard at this meeting, server training compliance is not an automatic waiver of the penalty.

If you have any questions, feel free to call me at 701.241.1301.

Sincerely,

Angie Bear

City Clerk



FARGO CASS PUBLIC HEALTH
HEALTH PROMOTION
1240 25th Street South
Fargo, ND 58103-2367
Phone: 701.241.1360 | Fax: 701.241.8559
FargoCassPublicHealth.com

July 22, 2026

Angie Bear
City Clerk/Deputy City Auditor
City of Fargo
225 4th Street N
Fargo, ND 58102

Dear Mrs. Bear:

The Fargo Police Department, with the assistance of Fargo Cass Public Health, conducted alcohol service compliance checks on Tuesday July 21, 2026. The compliance check was conducted by following a nationally recognized and accepted process sponsored by the University of Minnesota's School of Public Health, Division of Epidemiology.

The following establishment **failed** this compliance check by having an employee serve alcohol to an underage person:

**Wurst Bier Hall
630 1st Ave N
FARGO ND 58102**

This information is provided for your review. If you have any questions, please contact me at 701-241-1367.

Cordially,

Cheryl Stetz
Community Health Educator

Cc: Fargo Police Department
Wurst Bier Hall

City of Fargo, vs. Wurst Bier Hall – 630 1 st Ave N, Fargo, ND, 58102	Affidavit/Declaration of Officer Shelby Layman
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1. My name is Shelby Layman I am a Fargo Police Officer. I am over 18 years of age.
I am competent to make this declaration/affidavit.

2. In conjunction with the Fargo Cass Public Health, alcohol compliance checks were held on 07/21/2026

3. As part of the compliance checks, a person or persons under the age of 21, while under supervision of the Fargo Police, enters a liquor establishment and request alcohol.

4. At approximately 1930, I and persons under 21, SS, 19 and BD, 20, went to Wurst Bier Hall located at 630 1st Ave N. Wurst Bier Hall has a license with the City of Fargo to sell alcohol and is subject to compliance checks. Avery Malone was the bartender and manager on duty. BD ordered an alcoholic drink – Coors Light Beer. Avery correctly identified as SS being under 21 and did not serve her an alcoholic drink. Avery served BD an alcoholic drink. Avery was issued a citation for the offense.

5. I write this affidavit/declaration pursuant to North Dakota Century Code section 5-2-10.

6. I declare, under penalty of perjury, under the law of North Dakota, that the foregoing is true and correct.

7. Date: 7/21/26

8. Name (printed): S. Layman

9. Name (signed): [Signature]

10. Location signed (city and state):: Fargo, ND

North Dakota Century Code

Chapter 5-02

5-02-10. Hearing on alleged violations.

1. If a person has information that a licensed retailer of alcoholic beverages has violated any provision of this title, the person may file with the attorney general, city attorney, or state's attorney an affidavit specifically explaining the violation within fourteen days of the date of the alleged violation.
2. If a person timely files an affidavit under subsection 1, the city attorney or state's attorney shall set the matter for hearing not later than the next regular meeting of the local governing body or forward the affidavit to the attorney general.
3. If a person timely files an affidavit under subsection 1, the attorney general shall set the matter for hearing in the local county courthouse not less than ten days after copies of the affidavit and notice of hearing have been mailed to the licensee by registered mail.
4. If the hearing is held by the local governing body, a copy of the affidavit and notice of hearing must be mailed to the licensee by registered mail not less than five days before the hearing.
5. A hearing conducted under this section must be recorded by stenographic notes or the use of an electronic recording device.

25-1509. - Restrictions on sale, service or dispensing of alcoholic beverages.

- A. No licensee, his agent or employee, shall sell, serve or dispense any alcoholic beverage to a person under 21 years of age; and no licensee, his agent or employee, shall permit any person under 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.
- B. No person under 21 years of age shall be permitted to enter any portion of licensed premises in which alcoholic beverages are sold, served or dispensed; nor shall anyone under the age of 21 years be employed in any portion of licensed premises in which alcoholic beverages are sold, served or dispensed, except as provided in subsections (C) and (D) of this section. For purposes of this section, a person is not 21 years of age until 8 a.m. on the person's twenty-first birthday.
- C. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the designated area in which alcoholic beverages are opened or mixed and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area. Any person who is employed by the restaurant as a food waiter, food waitress, busboy or busgirl, food server or other title engaged directly in the sale and delivery of food in the separate restaurant premises, may not engage in the sale, dispensing, delivery or consumption of alcoholic beverages; provided, that any person who is between 18 and 21 years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person 21 or more years of age. All employees engaged in the stream of service as defined in section 25-1501 (31) are subject to mandatory server training as provided in section 25-1501(26), and unless specifically exempted herein, must be 21 years old to be so employed. A law enforcement officer, or person cooperating with and under the control of such law enforcement officer, under the age of 21 years may enter premises where alcoholic beverages are sold, dispensed, or consumed in the performance of an official duty. Any establishment where alcoholic beverages are sold may employ persons from 18 to 21 years of age to work in the capacity of musicians, disc jockey, or entertainer, or to perform duties directly related to working as a musician, disc jockey, or entertainer under the direct supervision of a person over 21 years of age. Any person under 21 years of age may enter and remain on the license premises if the person is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering or consuming alcoholic beverages, or if the individual enters the premises for training, education, or research purposes under the supervision of an individual 21 or more years of age with prior notification of the local licensing authority. Any person

under 21 years of age may remain in the area of and event where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to § 5-02-01.1, N.D.C.C., and the city comparable ordinance § 25-1506(H)(4).

D. At the discretion of the owner of the licensed premises, an individual under 21 years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:

1. Is accompanied by a parent or guardian;
2. Is not seated at or within three feet [0.91 meters] of the bar counter; and
3. Does not enter or remain in the designated area after ten p.m.

For purposes of this subsection, a restaurant shall be any establishment which serves prepared food and holds a restaurant license or permit pursuant to the provisions of Article 13-04 of the Fargo Municipal Code.

E. No Class "B" or Class "D" licensee shall permit the opening or consumption of alcoholic beverages upon the licensed premises; provided, that a Class "B" licensee may permit the sampling of alcoholic beverages upon the licensed premises without charge to the consumer.

F. No licensee, his agent or employee shall sell, serve, consume or permit to be sold, served or consumed on the licensed premises any alcoholic beverages during the hours of closure, and in no situation, between the hours of 2:00 a.m. and 8:00 a.m.; nor shall any licensee, his agent or employees sell, serve or permit to be sold, served or consumed on the licensed premises any alcoholic beverage on Christmas Day or after 6:00 p.m. on Christmas Eve. Additionally, there shall be no off-sale sales allowed after 2:00 a.m. on Thanksgiving Day or between the hours of 2:00 a.m. and 8:00 a.m. on Sundays. For purposes of this provision, any person having a glass or other opened container containing an alcoholic beverage in close proximity or otherwise available for consumption shall be deemed to be consuming an alcoholic beverage.

G. All licensed premises shall be closed and locked not more than one-half hour after the termination of business hours as specified in subsection (F) of this section and no persons shall be permitted to remain on said premises thereafter except for the owner and his employees for normal cleaning and maintenance activities; provided, that a licensee may remain open for the purpose of providing food service and operate its entertainment business, provided, however, that the licensee must comply with all other terms of Article 25 and those of its State of North Dakota liquor license.

H. No license to sell alcoholic beverages under the provisions of this article shall entitle the holder thereof to carry on such business at more than one location under any one license and each license shall contain a legal description of the place where the holder thereof operates

such business; provided, however, the foregoing provision shall not apply in the case where a licensee, in addition to his regular license, is granted a Class "E" license to engage in the sale of alcoholic beverages at the place designated in the Class "E" license. In addition, the provisions of this subsection shall not apply to any licensee serving alcoholic beverages at the city auditorium or the Fargodome, pursuant to the provisions of article 18-05 and article 34-01 of the Fargo Municipal Code; provided, however, that all other provisions of this article and all other ordinances of the city of Fargo, not inconsistent herewith, shall apply to any licensee serving alcoholic beverages at the city auditorium or the Fargodome.

- I. Licensee, its agent or employee shall not sell or serve, or permit to be sold or served on the licensed premises any food other than prepackaged, confectionery items such as peanuts, potato chips and similar items. This prohibition shall not apply to licensed establishments which hold a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code or food items prepared by an article 13-04 licensee for immediate personal consumption and not for resale. Further, licensee may participate in nonprofit public spirited events. A nonprofit public spirited event is one held by an organization not regularly engaged in the business of preparing or selling food who does so for the sale directly to the ultimate consumer at a farmer's market, bake sale, or similar enterprise.
- J. Any licensee holding a Class "AB", Class "ABH", Class "A", Class "C", Class "FA", Class "FA-RZ", Class "G", Class "H", Class "Y", Class "W", or Class "I" license, who also holds a restaurant license, limited restaurant license, or permit issued pursuant to the provisions of Article 13-04 of the Fargo Municipal Code, and who regularly serves food and beverages, may dispense alcoholic beverages in connection with food sales, on tables located on the public sidewalk adjacent to the licensed establishment; provided, that tables on the public sidewalk shall be in accordance with Article 18-03 of the Fargo Municipal Code.
- * K. Any person under 21 years of age may enter and remain in a licensed premises for a designated alcohol-free public event in any licensed premises or in a separate room within the licensed premises where the licensee has determined not to sell or permit consumption or possession of alcoholic beverages on that licensed premises or within the designated separate room within the licensed premises during a specified time period provided the licensee complies with the requirements of this subsection. For purposes of this subsection a public event is any event to which admission is open to the general public and may be gained with or without payment of a fee or an event which is advertised to the general public.
 - 1. The licensee shall give written notice of the intent to operate the premises or separate room within the premises as an alcohol-free area at least 72 hours in advance to the chief of police on a form to be prepared by the chief of police. The notice shall specify which portion of the licensed premises will be used for the alcohol free event or if a separate room within the premises will be used for the alcohol free event. If only a separate room

within the licensed premise will be used for the event, the room must have a point of entry and exit which does not permit those under the age of 21 to enter any portion of the licensed premises where alcoholic beverages are being sold, mixed or consumed. The notice shall define what security measures within the licensed premises or the separate room thereof will be taken to prevent the consumption of alcoholic beverages by persons during the alcohol-free event. The chief of police may, in his discretion, require such additional information from the licensee as is necessary to ensure compliance with this section.

2. Security personnel shall be on the premises in such numbers as to ensure the safety of patrons and to maintain order on the premises as follows:

99 or less - 2 security personnel

100 to 200 - 3 security personnel

201 to 300 - 4 security personnel

301 to 400 - 5 security personnel

401 to 500 - 6 security personnel

501 and over - appropriate number of security personnel as may be determined by the chief of police.

3. The licensee shall post conspicuously at all entrances to the alcohol-free event a notice stating the sale, possession or consumption of alcoholic beverages will not be permitted during the duration of the alcohol-free event and that no participant under the age of 21 is permitted into any area within the licensed premises where alcoholic beverages are sold, consumed, or possessed to include common areas such as hallways or restrooms.
4. During the alcohol-free event, the licensee shall remove from public view and secure all containers of alcoholic beverages as well as de-activate any device used to dispense alcohol in the alcohol free event.
5. The licensee shall have all patrons regardless of age removed from the alcohol free event following the completion of the alcohol-free event and not reopen the licensed premise or the separate room thereof for the sale, possession or consumption of alcohol until one hour after the completion of the alcohol-free event.
6. Smoking shall not be permitted at alcohol-free public events.

* L. Any person under 21 years of age may enter and remain in a licensed premises or in a separate room within the licensed premises for a private event where the licensee has restricted access to invited guests provided that the licensee complies with the requirements

of this subsection. For purposes of this subsection a private event is an event which is not open to the general public to which access is granted to invited guests only, for which no admission fee is paid, and for which no advertising was conducted to the general public.

1. The licensee maintains the responsibility to comply with city ordinance 25-1509 (A) which prohibits selling, serving or dispensing any alcoholic beverage to a person under 21 years of age; or permitting any person under 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.
 2. The room must have a point of entry and exit which does not permit those under the age of 21 to enter any portion of the licensed premises, not designated as the private event, where alcoholic beverages are being sold, mixed or consumed.
 3. The licensee shall post conspicuously at all entrances to the private event a notice stating the sale, possession or consumption of alcoholic beverages by those under the age of 21 will not be permitted and that no participant under the age of 21 is permitted into any area outside of the designated separate room within the licensed premises where alcoholic beverages are sold, consumed, or possessed to include common areas such as hallways or restrooms.
 4. Security personnel shall be on the premises in such numbers as to ensure the safety of patrons and to maintain order.
 5. The licensee shall have all patrons regardless of age removed from the private event following the completion of the private event and not reopen the separate room to the general public for the purpose of the sale, possession or consumption alcohol until one hour after the completion of the private event.
 6. Smoking shall not be permitted at a private event designated under this section.
 7. In addition to the foregoing restrictions and conditions, the licensee shall be governed by all applicable provisions of the Fargo Municipal Code.
- M. Any licensee holding a valid license under Article 25-15 of the Fargo Municipal Code and conducting business as a bowling alley may:
1. Allow the sale, service and consumption of alcoholic beverages in the bowling alley area and concourse adjacent to the bowling alley area during events sanctioned by the American Bowling Congress, Women's International Bowling Congress sanctioned events, or other nationally or regionally recognized bowling associations;
 2. At all other times, the licensee may allow alcoholic beverages to be consumed in the bowling alley area and concourse adjacent to the bowling alley area provided that the alcoholic beverages are purchased and dispensed within the licensed premises.

N.

Removal of wine from restaurant. If a full bottle of wine has been opened and the contents partially consumed, a retail alcoholic beverage licensee whose gross sales of food are at least thirty percent of the gross sales of alcoholic beverages that are consumed on the premises may permit an individual purchasing the bottle in conjunction with the purchase of a meal to remove the bottle on leaving the licensed premises if the licensee re-corks the bottle, seals the bottle with a seal that must be made conspicuously inoperative to reopen the bottle, and places a receipt of sale with the bottle. The removal of the bottle under these conditions is not an off sale of wine and is permitted without an additional license.

** The provisions of this section apply to the licensee's City of Fargo Alcohol License only and do not apply to or grant any exemption from the necessary state liquor license requirements or the provisions of the North Dakota Century Code.*

Source: 1965 Rev. Ord. 25-1509, 1869 (1978), 2090 (1983), 2099 (1983), 2160 (1984), 2162 (1984), 2217 (1985), 2241 (1986), 2264 (1986), 2344 (1987), 2447 (1989), 2509 (1989), 2517 (1990), 2583 (1991), 2584 (1991), 2597 (1991), 2603 (1992), 2645 (1993), 2760 (1995), 2822 (1997), 3015 (1999), 3084 (1999), 4401 (2004), 4476 (2005), 4528 (2006), 4535 (2006), 4565 (2006), 4618 (2007), 4619 (2007), 4626 (2007), 4659 (2008), 4718 (2009), 4973 (2015), 5002 (2015), 5061 (2016), 5085 (2017), 5113 (2017), 5135 (2018), 5311 (2021), 5440 (2024), 5469 (2025).

25-1513. - Revocation, suspension, sanctions or other penalties—Hearing Request.

Revocation, suspension, sanctions or other penalties may not be invoked without a public hearing if requested by the licensee. The city auditor's office shall notify the licensee that it has determined a license compliance violation exists, and shall further provide written notice by email and regular mail to the licensee of the Liquor Control Board's scheduled meeting date and time at which the violation will be considered. If the Liquor Control Board recommends revocation, suspension, sanctions or other penalties, the licensee may request a hearing before the board of city commissioners within ten (10) days of such Liquor Control Board recommendation. The board of city commissioners shall conduct a public hearing, including consideration of the evidence and testimony presented to the Liquor Control Board. The city auditor shall provide written notice to the licensee, specifying the date, time and place of the public hearing before the board of city commissioners, and such notice shall be served upon the licensee or its managing agent in the same manner as provided by law for the service of a summons in a civil action. No hearing shall be held before the board of city commissioners before expiration of fifteen (15) days after the date of the service of the notice upon the licensee.

If, upon such hearing, it appears to the majority of the board of city commissioners that sufficient cause exists for the revocation, suspension, sanctions or other penalty, the board of city commissioners shall issue its findings, conclusions and order which shall then be served on the licensee by certified mail. The findings, conclusions and order of the board of city commissioners is appealable pursuant to Chapter 28-34 of the North Dakota Century Code.

Source: Ord. 5292 (2021).

Editor's note— Ord. 5292, § 2, adopted April 5, 2021, enacted a new § 25-1513 and § 7 of said ordinance renumbered the prior § 25-1513 as § 25-1518. Historical notation has been retained for reference purposes.