

ORDINANCE NO. 323

Be it ordained by the City Council of the City of Rolla that Ordinance No. 277, Article XIX - Criminal Traffic Violations, § 19-1, Persons under the influence of intoxicating liquor or narcotic drugs not to operate vehicle - Penalty and § 19-6 Penalty for driving while licensed suspended or revoked be amended to read as follows:

SECTION I.

§19-1 Persons under the influence of intoxicating liquor or narcotic drugs not to operate vehicle - Penalty

The provisions of NDCC § 39-08-01 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

1. No person shall drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:

- a. That person has a blood alcohol concentration of at least 10/100 of 1% by weight at the time of the performance of a chemical test within two hours after the driving.
- b. That person is under the influence of intoxicating liquor.
- c. That person is a habitual user of narcotic drugs or is under the influence of a narcotic drug.
- d. That person is under the influence of any controlled substance to a degree which renders that person incapable of safely driving.
- e. That person is under the influence of a combination of intoxicating liquor and a controlled substance to a degree which renders that person incapable of safely driving.

2. A person violating any provision of this section is guilty of an offense for first or second conviction in a five year period. Upon conviction the Court may order the motor vehicle number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the Chief of Police for the duration of the period of suspension of the offender's driver's license or driving privilege by the licensing authority. The impounded motor vehicle number plates may be released, upon the order of the Court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title issued by the Registrar of Motor Vehicles.

3. A person convicted of violating this section must be sentenced as follows:

- a. For a first offense the sentence must include both a fine of at least \$250.00 and referral for addiction evaluation to an appropriate licensed addiction treatment program. If the addiction evaluation indicates treatment is needed, the Court shall notify the Commissioner of the North Dakota State Highway Department, acting directly or through his authorized agents.
- b. For a second offense within five years, the sentence must include at least four days imprisonment of which 48 hours must be served consecutively, or ten days community service; a fine of at least \$500.00; and referral for addiction evaluation at an appropriate licensed addiction program. If the addiction evaluation indicates treatment is needed, the Court shall notify the Commissioner of the North Dakota State Highway Department acting directly or through his authorized agents.
- c. A sentence or imposition of sentence under this section may not be suspended under NDCC 12-53 except that a fine or sentence of imprisonment may be suspended in any of the following instances:
  - (1) Upon conviction of being in actual physical control of a motor vehicle in violation of this section.
  - (2) If the defendant is under the age of 18 when convicted except that if the defendant has, within the preceding five years, previously been convicted of violating this ordinance or NDCC 39-08-01, the sentence must include at least 48 consecutive hours imprisonment or a minimum security facility or at least 10 days of community service, which sentence or imposition of sentence may not be suspended under Chapter 12-53.
- d. For purposes of this ordinance conviction of an offense under a law or ordinance of another state which is equivalent to this section shall be considered a prior offense if such offense was committed within the time limitation specified in this ordinance.
- e. If the penalty mandated by this ordinance includes imprisonment upon conviction of a violation of the ordinance and if an addiction evaluation has indicated the defendant needs treatment, the Court may order the defendant to undergo inpatient treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the inpatient treatment must be credited as a portion of a sentence of imprisonment under this section.

## SECTION 2.

§19-6 Penalty for driving while licensed suspended or revoked

The provisions of NDCC § 39-06-42 and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance.

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Except as provided in NDCC Chapters 39-16 and 39-16.1, and in NDCC § 39-06.1-11, any person who drives a motor vehicle on any public highway of this state at a time when his license or privilege so to do is suspended or revoked shall be guilty of an offense.

If the suspension or revocation was imposed for violation of Section 19-1 above or NDCC 39-08-01 or was governed by NDCC 39-06-31 or NDCC Chapter 39-20, the sentence must be at least 15 days imprisonment and such fine as the Court deems proper. The sentence and the imposition of sentence may not be suspended under NDCC Chapter 12-53. Forfeiture of bail is not permitted in lieu of defendant's personal appearance in open Court for arraignment on a charge under this section.

In addition to any other punishment imposed, the Court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the Chief of Police for the duration of the period of suspension or revocation. When a period of suspension has been extended under Subsection 5 of NDCC 39-06-17, the Court may order the number plates to be impounded in accordance with this subsection. The impounded number plates may be released, upon order of the Court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the Registrar of Motor Vehicles.

SECTION 3.

Effective date. This ordinance shall be in full force and effect immediately upon its final passage and the publication of its title and penalty clause.

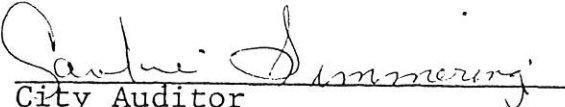
FIRST READING: *November 7, 1983*

SECOND READING AND FINAL PASSAGE: *November 16, 1983*

APPROVAL: *November 16, 1983*

  
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Mayor, City of Rolla

ATTEST:

  
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City Auditor

Publication of Title and Penalty Clause: *December 5, 1983*

