



City Attorney

DATE: July 1, 2019

FROM: Janelle Combs, City Attorney

ITEM: Ordinance 6392 regarding changes to Criminal Offenses and Traffic Code

REQUEST

Consider introduction and call for a public hearing on Ordinance 6392 to amend portions of Title 6-Criminal offenses and Title 12-Traffic Code.

Please place this item on the 7/9/2019 City Commission meeting agenda.

BACKGROUND INFORMATION

The 2019 state legislative session had several changes to criminal and traffic offenses. These are the changes incorporating how the laws were changed at the state law into municipal ordinances.

RECOMMENDED CITY COMMISSION ACTION

First reading and introduction of Ordinance 6392 and call for a public hearing.

STAFF CONTACT INFORMATION

Janelle Combs | City Attorney, 355-1340 or jcombs@bismarcknd.gov

CITY OF BISMARCK
Ordinance No. 6392

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE TO AMEND, RE-ENACT, ENACT AND REPEAL SECTIONS 6 AND 12 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.) BY AMENDING THE FOLLOWING.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 6-03-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Simple Assault is hereby amended and re-enacted as follows:

6-03-01. Simple Assault. A person is guilty of an offense if that person, except when the victim is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact; a person engaged in a judicial proceeding; or a member of a municipal or volunteer fire department or emergency medical services personnel unit or emergency department worker in the performance of the member's duties:

* * * * *

Reference: NDCC Sec. 12.1-17-01 (1985)

Section 2. Amendment. Section 6-03-02 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Sexual Assault is hereby repealed as follows:

6-03-02. Sexual Assault. Repealed.

~~1. A person who knowingly has sexual contact with another, or who causes such other person to have sexual contact with him or her, is guilty of an offense if:~~

~~a. That person knows or has reasonable cause to believe that the contact is offensive to the other person;~~

~~b. That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct;~~

~~c. That person or someone with his or her knowledge has substantially impaired the other person's power to appraise or control his or her conduct, by administering or employing without the other's knowledge, intoxicants or other means for the purpose of preventing resistance;~~

~~d. The other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over that person.~~

~~2. As used in this section, "sexual contact" means sexual contact as that term is defined at Section 12.1 20-02, N.D.C.C.~~

Reference: NDCC Sec. 12.1-20-07 (1985)

Section 3. Amendment. Section 6-03-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Harassment is hereby amended and re-enacted as follows:

6-03-03. Harassment. A person is guilty of an offense if, with intent to frighten or harass another, that person:

* * * * *

~~4. Telephones or initiates communication with a 911 emergency line with the intent to annoy or harass another person or a public safety agency or who makes a false 911 report.~~

~~a. Intent to annoy or harass is established by proof of one or more calls with no legitimate 911 emergency purpose.~~

~~b. Upon conviction of a violation of this subsection, a person is also liable for all costs incurred as the result of any unnecessary emergency~~

~~response.~~

~~5. Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.~~

~~6. Electronic communication means the transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, telephone, radio, electromagnetic, digital, photo-electronic, wireless or photo-optical system.~~

*Reference: NDCC Sec. 12.1-17-07 (1985)
(Ord. 5032, 03-14-00; Ord. 6225, 08-09-16)*

Section 4. Amendment. Section 6-04-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Criminal Trespass is hereby amended and re-enacted as follows:

6-04-04. Criminal Trespass.

* * * * *

3. A person is guilty of an offense infraction if that person remains upon the property of another after being requested to leave the property by a duly authorized person.

* * * * *

*Reference: NDCC Sec. 12.1-22-03 (1985)
(Ord. 4717, 08-22-95; Ord. 6201, 05-10-16)*

Section 5. Amendment. Section 6-04-09 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Punishable Theft is hereby amended and re-enacted as follows:

6-04-09. Punishable Theft. Theft under Sections 6-04-06 to 6-04-08 may be punishable as an offense against the city ordinances if the highest value by any reasonable standard, regardless of the actor's knowledge of such value, of the property or services which were stolen by the actor, or which the actor believed that he or she was stealing, or which the actor could reasonably have anticipated to have been the property or services involved, does not exceed ~~two hundred and~~ fiftyfive hundred dollars and if:

* * * * *

6. The defendant is not an in the business of buying or selling stolen property and he or she does not receive, retain, or dispose of the property in the course of that business;

* * * * *

Reference: NDCC Sec. 12.1-23-05 (1985)

Section 6. Amendment. Section 6-05-05 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Throwing of Missiles is hereby repealed as follows:

6-05-05. Throwing of Missiles. ~~It is unlawful for any person to throw or discharge any stone, snowball or any similar object or other missile, including fireworks, upon, in or at any vehicle, building or upon or at any person.~~ Repealed.

Source: Code of Ords., 1973, Sec. 24-72.

Section 7. Amendment. Section 6-05-09 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Possession of Marijuana is hereby amended and re-enacted as follows:

6-05-09. Possession of Marijuana. Any person in possession of not more than ~~one~~ one-half ounce [14.175 grams] of marijuana, as that term is defined by NDCC Section 19-03.1-01, within the City of Bismarck, is guilty of an ~~offense~~ infraction. Any person in possession of at least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of an offense.

Whenever a person pleads or is found guilty of a first offense under this section and a judgment of conviction is entered, the court, upon motion, shall seal that conviction from the record if the person is not subsequently convicted within two years of a further violation of this ordinance or like ordinance or statute in any other jurisdiction and has not been convicted of any other criminal offense. Once sealed, the court record may not be opened even by order of the court.

References: NDCC Sec. 19-03.1-01 (1975 Supp.); NDCC Sec. 19-03.1-23 (1985 Supp.); NDCC Sec. 40-05-02 (1983)(Ord. 6161, 08-25-15)

Section 8. Amendment. Section 6-05-09.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Drug Paraphernalia (Marijuana) is hereby amended and re-enacted as follows:

6-05-09.1. Drug Paraphernalia (Marijuana). A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body

marijuana or possess with the intent to use drug paraphernalia to store or contain marijuana in violation of NDCC Chapter 19-03.1. A person violating this subsection is guilty of an offense infraction.

(Ord. 6161, 08-25-15)

Section 9. Enactment. Section 6-05-09.2 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Ingesting Marijuana is hereby enacted as follows:

6-05-09.2. Ingesting Marijuana. A person who is under twenty-one years of age who intentionally ingests, inhales, injects, or otherwise takes into the body marijuana, unless the substance was medical marijuana obtained in accordance with N.D.C.C. Ch. 19-24.1, is guilty of an offense. The marijuana must have been ingested, inhaled, injected, or otherwise taken into the body in the City of Bismarck or the marijuana must have been detected in the body of the accused in the City of Bismarck.

Reference: NDCC Sec. 19-03.1-22.3

Section 10. Amendment. Section 6-08-02 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Possession of Firearm at Public Gathering is hereby amended and re-enacted as follows:

6-08-02. Possession of Firearm at Public Gathering.

1. A person who possesses a firearm at a public gathering is guilty of an offense infraction. For the purpose of this section, "public gathering" means an athletic or sporting event, a school, a church and a publicly owned or operated building.

* * * * *

Reference: NDCC Sec. 62.1-02-05 (1985; Ord. 6041, 04-22-14; Ord. 6128, 06-09-15)

Section 11. Amendment. Section 6-08-05 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Loaded Firearm in Vehicle is hereby amended and re-enacted as follows:

6-08-05. Loaded Firearm in Vehicle.

1. An individual may not keep or carry a loaded firearm in or on any motor vehicle, including an off-highway vehicle or snowmobile in this state. An individual violating this section is guilty of an offense infraction.

Reference: NDCC Sec. 62.1-02-10 (1985; Ord. 6128, 06-09-15)

Section 12. Enactment. Section 6-08-07 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Possession of Firearm or Dangerous Weapon in Liquor Establishment is hereby enacted as follows:

6-08-07. Possession of Firearm or Dangerous Weapon in Liquor Establishment.

1. An individual who enters or remains in that part of the establishment set aside for the retail sale of alcoholic beverages and the consumption of purchased alcoholic beverages or used as a gaming site at which bingo is the primary gaming activity while that individual knowingly possesses a firearm or dangerous weapon is guilty of an infraction. In addition, an individual is guilty of an offense under this section for the knowing possession of a device that uses a projectile and voltage or a device that uses a projectile and may be used to apply multiple applications of voltage during a single incident in the part of an establishment set aside for the retail sale and consumption of alcoholic beverages.

2. This section does not apply to:

a. A law enforcement officer.

b. On-duty animal wardens employed by the City.

c. The proprietor.

d. The proprietor's employee.

e. A designee of the proprietor when the designee is displaying an unloaded firearm or dangerous weapon as a prize or sale item in a raffle or auction.

f. Private security personnel while on duty for the purpose of delivering or receiving moneys used at the liquor establishment or at the gaming site at which bingo is the primary gaming activity.

g. The restaurant part of an establishment if an individual under twenty-one years of age is not prohibited in that part of the establishment.

Reference: NDCC Sec. 62.1-02-04

Section 13. Enactment. Section 6-08-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Producing License Upon Request is hereby enacted as follows:

6-08-08. Producing License Upon Request.

1. Every individual while carrying a concealed firearm or dangerous weapon, for which a license to carry concealed is required, shall have on one's person the license issued by this or another state or a digital image of one's concealed firearm or dangerous weapon license issued by this state on an electronic device and shall give it to any active law enforcement officer for an inspection upon request by the officer. The failure of any individual to give the license or digital image of the license to the officer is prima facie evidence the individual is illegally carrying a firearm or dangerous weapon concealed.

2. Every individual carrying a concealed firearm under the authority granted in subsection 2 of N.D.C.C. § 62.1-04-02 shall inform a law enforcement officer of the individual's possession of a concealed weapon upon the initiation of a traffic stop or any other in-person contact initiated by a law enforcement officer.

3. Every individual carrying a concealed firearm under the authority granted in subsection 2 of N.D.C.C. § 62.1-04-02 must have on one's person a valid driver's license or non-driver identification card issued by the department of transportation or a digital image of one's valid driver's license or non-driver identification card on a mobile device and shall provide the license or card to any law enforcement officer for inspection upon request by the officer.

4. An individual who violates this section is guilty of an infraction punishable by a fee of twenty dollars.

Reference: NDCC Sec. 62.1-04-04

Section 14. Amendment. Section 6-09-02 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Classification of Offenses is hereby amended and re-enacted as follows:

6-09-02. Classification of Offenses. Offenses against the ordinances of this city are divided into two classes as follows:

* * * * *

2. Infraction, for which a maximum fine of one thousand dollars may be imposed, provided that any person convicted of an infraction who ~~has~~, within one year ~~prior to~~ before commission of the infraction of which convicted, has been previously convicted previously at least twice of an the same offense classified as an infraction of state statutes or the ordinances of this or any other North Dakota municipality may be sentenced as though convicted of an offense. If the prosecution contends that the infraction is punishable as an offense, the complaint ~~shall~~ must so specify unless the prosecution is unable with reasonable effort to learn of the prior conviction prior to execution of the complaint.

* * * * *

(Ord. 5142, 11-27-01; Ord. 5977, 06-25-13; Ord. 6090, 11-25-14)

Section 15. Amendment. Section 12-05-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Speed Limitations is hereby amended and re-enacted as follows:

12-05-03. Speed Limitations.

* * * * *

3. The penalty for a violation of this section is as provided by NDCC Section 39-06.1-06, plus an additional one hundred percent for a total of double the statutory fine for violations, except for violations referenced in N.D.C.C. § 39-06.1-06(1) (nonmoving violations) and Bismarck Ordinances 12-10-26 (Garbage, Glass, etc. on Highways) and 12-09-36 (No Liability Insurance).

Reference: NDCC Sec. 39-09-02 (1980)
(Ord. 4954, 11-10-98; Ord. 5659, 05-13-08)

Section 16. Amendment. Section 12-08-02 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Obedience to Signal Indicating Approach of Train is hereby amended and re-enacted as follows:

12-08-02. Obedience to Signal Indicating Approach of Train or Other On-Track Equipment.

1. ~~Whenever a person driving~~ When a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of ~~such the~~ vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. ~~The foregoing~~ These requirements shall apply when:

a. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment;

b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment;

c. A railroad train or other on-track equipment approaching within approximately one thousand three hundred and twenty feet of the highway crossing emits a signal audible from such distance and such railroad train or other on-track equipment, by reason of its speed or nearness to such crossing, is an immediate hazard; or

d. An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to such crossing.

2. A person may not drive ~~any~~ a vehicle through, around, or under any crossing gate or barrier at a railroad crossing while ~~such~~ the gate or barrier is closed or is being opened or closed. A person may not drive ~~any~~ a vehicle past ~~any~~ a human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

Reference: NDCC Sec. 39-10-41 (1980)

Section 17. Amendment. Section 12-08-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Certain Vehicle Must Stop at All Railroad Grade Crossings is hereby amended and re-enacted as follows:

12-08-04. Certain Vehicles Must Stop at All Railroad Grade Crossings.

1. The driver of a bus carrying passengers, or of ~~any~~ a school bus carrying ~~any~~ a school child, or of ~~any~~ a vehicle carrying ~~any~~ chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flashpoint below two hundred degrees Fahrenheit, cargo tank vehicles transporting a commodity having a temperature above its flashpoint at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the hazardous materials regulations board, and every motor vehicle which must have the following placards:

"explosives", "poison", "flammable oxidizers", "compressed gas", "corrosives", "flammable gas", "radio-active", or "dangerous", before crossing at grade any track ~~or tracks~~ of a railroad shall stop ~~such~~ the vehicle within fifty feet but not less than fifteen feet from the nearest rail of ~~such~~ the railroad. While ~~so~~ stopped the driver shall listen and look in both directions along ~~such~~ the track for any approaching train or other on-track equipment, and for signals indicating the approach of a train or other on-track equipment and shall not proceed until he can do so safely. After stopping as required and upon proceeding when ~~it is~~ safe to do so the driver of ~~any described~~ the vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing ~~such~~ the crossing and the driver shall not ~~manually~~ shift gears manually while crossing the track ~~or tracks~~.

2. A stop ~~need not be made~~ is not required at ~~any such~~ a crossing ~~at which if~~ traffic is controlled by a police officer. For the purposes of this section, a United States marshal is considered a police officer.

3. A stop is not required at a crossing that the director has designated as an out-of-service crossing and which is clearly marked by signs bearing the words "Tracks out of service" or "Exempt" in conspicuous places on each side of the crossing. The designation must be limited to use at a crossing where track has been abandoned or its use discontinued.

Section 18. Amendment. Section 12-09-19 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Unattended Motor Vehicle is hereby repealed as follows:

12-09-19. Unattended Motor Vehicle. ~~A person driving or in charge of a motor vehicle may not permit it to stand unattended without first effectively setting the brake, turning the wheels to the curb or side of the highway when standing upon any grade, and locking the doors if the engine is left running.~~ Repealed.

*Reference: NDCC Sec. 39-10-46 (1980)
(Ord. 4749, 02-27-96)*

Section 19. Amendment. Section 12-09-46 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Use of a Wireless Communications Device Prohibited is hereby amended and re-enacted as follows:

12-09-46. Use of a Wireless Communications Device Prohibited.

* * * * *

4. The penalty for a violation of this section is a fine of ~~one~~ two hundred (\$200.00) dollars.
(Ord. 5793, 10-26-10; Ord. 5838, 07-12-11)

Section 20. Amendment. Section 12-09-47 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Use of an Electronic Communication Device by Minor Prohibited is hereby amended and re-enacted as follows:

12-09-47. Use of an Electronic Communication Device by Minor Prohibited. An individual under eighteen years of age who has been issued a class D license or an instructional permit or a restricted license may not operate an electronic communication device to talk, listen, retrieve, compose, read, or send an electronic message while operating a motor vehicle that is in traffic, as defined by City Ordinance 12-09-46, unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger. The penalty for a violation of this section is a fine of ~~twenty~~ forty (\$240.00) dollars.
(Ord. 5855, 12-27-11; Ord. 5861, 02-28-12)

Section 21. Amendment. Section 12-10-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Persons Under the Influence of Intoxicating Liquor or Any Other Drugs or Substances Not to Operate Vehicle; Penalty is hereby amended and re-enacted as follows:

12-10-01. Persons Under the Influence of Intoxicating Liquor or Any Other Drugs or Substances Not to Operate Vehicle; Penalty.

* * * * *

e. That individual refuses to submit to any of the following:

(1) A chemical test, or tests, of the individual's blood, breath, saliva, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, saliva, or urine, at the direction of a law enforcement officer under N.D.C.C. section 39-06.2-10.2 if the individual is

driving or is in actual physical control of a commercial motor vehicle; or

(2) A chemical test, or tests, of the individual's blood, breath, saliva, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, saliva, or urine, at the direction of a law enforcement officer under N.D.C.C. section 39-20-01; or

* * * * *

f. Subdivision e does not apply to an individual unless the individual has been advised of the consequences of refusing a chemical test consistent with the Constitution of the United States and the Constitution of North Dakota.

2. The fact ~~that~~ any person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, ~~unless~~ It is an affirmative defense that a drug which predominately caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person.

* * * * *

*Reference: NDCC 39-08-01 (1985 Supp.)
(Ord. 4209, 6-21-88; Ord. 4964, 02-23-99; Ord. 5274, 08-26-03; Ord. 5977, 06-25-13)*

Section 22. Amendment. Section 12-10-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Duty Upon Striking Unattended Vehicle is hereby repealed as follows:

~~12-10-04. Duty Upon Striking Unattended Vehicle. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of the vehicle of the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances of the collision. Any person who violates this section is guilty of an offense. Repealed.~~

Reference: NDCC 39-08-07 (1980)

Section 23. Amendment. Section 12-10-13 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Unlawful Registration is hereby amended and re-enacted as follows:

12-10-13. Unlawful Registration.

1. It is unlawful for any person to operate, or for the owner thereof knowingly to permit anyone to operate, upon a highway or street any vehicle the registration of which has been canceled or revoked, or for which the registration fees required in N.D.C.C. Ch. 39-04 have not been paid, or which does not have attached thereto and displayed thereon a number plate, plates, or validation tabs assigned thereto for the current registration period, subject to exemptions allowed in N.D.C.C. Ch. 39-04.

2. It is unlawful for any person to display or cause or permit to be displayed, or to have in possession, any registration card, registration number plate, or validation tabs knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered.

3. It is unlawful for any person to lend any registration number plate, registration card, or validation tabs to any person not entitled thereto, or knowingly permit the use of any registration number plate or registration card by any person not entitled thereto.

*Reference: NDCC Sec. 39-04-37 (1993 Supp.)
(Ord. 4624, 07-19-94)*

Section 24. Enactment. Section 12-13-28 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Ingesting Marijuana is hereby enacted as follows:

12-13-28. Electric Vehicle Parking Stalls or Spaces.

1. If a public or private entity designates a parking space for charging an electric vehicle, the reserved space must be indicated by a sign approved by the director of the North Dakota Department of Transportation. The sign must be consistent with the manual of uniform traffic control devices authorized under N.D.C.C. § 39-13-06, and indicate:

a. Use of the reserved space is for charging electric vehicles only; and

b. Unauthorized use of the spaces is a nonmoving violation for which a fee of fifty dollars must be imposed.

2. An individual may not park or leave standing a vehicle in a stall or space designated for charging and parking a vehicle, unless the individual's vehicle is connected for electric charging purposes. An individual may not obstruct, block, or otherwise bar access to a space designated for charging a vehicle.

Reference: NDCC Sec 39-10-50.1

Section 25. Amendment. Section 12-17-07 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Amount of Statutory Fees is hereby amended and re-enacted as follows:

12-17-07. Amount of Statutory Fees. For all non-criminal traffic dispositions contained in Title 39 or the North Dakota Century Code, the fees shall be as set by NDCC Title 39, plus an additional one hundred percent for a total of double the statutory fine for violations referenced in N.D.C.C. 39-06.1-06, except for violations referenced in N.D.C.C. § 39-06.1-06(1) (nonmoving violations) and Bismarck Ordinances 12-10-26 (Garbage, Glass, etc. on Highways) and 12-09-36 (No Liability Insurance). For all non-criminal traffic dispositions not contained in Title 39 of the North Dakota Century Code, the fees are as set out in this chapter or if no fee is set out, fifty dollars.

Reference: Home Rule Charter for the City of Bismarck, Article 3, Sections 7, 8 and 9.

(Ord. 4954, 11-10-98; Ord. 5091, 01-09-01; Ord. 5126, 06-26-01; Ord. 5133, 08-28-01) (Ord. 5355, 09-28-04; Ord. 5448, 07-26-05; Ord. 5449, 08-09-05; Ord. 5659, 05-13-08)

Section 26. Amendment. Section 12-17-10 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to General Penalty for Violation of Chapter is hereby amended and re-enacted as follows:

12-17-10. General Penalty for Violation of Chapter. Any person found guilty of an offense or of a violation of an ordinance, not classified as a non-criminal traffic violation or an ordinance for which another penalty is not specifically prescribed, may be punished by a fine not to exceed \$1,500.00 or by imprisonment not to exceed thirty days, or both, and furthermore, any person convicted of driving under the influence in violation of section 12-10-01 or driving under suspension or revocation in violation of section 12-10-06 may have the license plates of the vehicle owned or operated by the offender at the time of the offense impounded. For every violation of this Chapter regulates the operation or equipment of a motor vehicle or which regulates traffic punishable in N.D.C.C. § 39-06.1-06, except for violations referenced in N.D.C.C. § 39-06.1-06(1) (nonmoving violations) and Bismarck Ordinances 12-10-26 (Garbage, Glass, etc.

on Highways) and 12-09-36 (No Liability Insurance), the statutory fine adds an additional one hundred percent for a total of double the statutory fine.

Reference: NDCC 39-06.1

(Ord. 4954, 11-10-98; Ord. 5977, 06-25-13)

Section 27. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 28. Effective Date. This ordinance shall take effect August 1, 2019.

* * * * *