

ORDINANCE NO. 1436

An Ordinance to Amend and Re-enact
Sections 24-11-3 and 24-12-7 of the Mandan Code of Ordinances,
and to Enact New Sections 24-4-5, 24-4-6, and 24-4-7 of the Mandan Code of Ordinances,
Relating to Bicycles and Multipassenger Bicycles

Be it Ordained by the Board of City Commissioners as follows:

Sec. 24-4-5. – Bicycling or riding an animal while under the influence of alcohol or drugs - Penalty.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10.1-10.

An individual operating a bicycle or riding an animal on a roadway, or an area the public has access to, may not be under the influence of alcohol or any drug to a degree which renders the individual a hazard to themselves or the general public. An individual who violates this section must be assessed a fee of two hundred dollars.

Sec. 24-4-6. – Multipassenger bicycles.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-10.1-11.

A multipassenger bicycle, as defined in N.D.C.C. § 39-01-01(51), may not be operated on any bicycle path or multi-use path.

Sec. 24-4-7. – Definition of bicycle.

“Bicycle” means every device propelled solely by human power upon which any person may ride, having two tandem wheels or two parallel wheels and one forward or rearward wheel. The term includes an electric bicycle and a multipassenger bicycle.

Sec. 24-11-3. – Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-01.

39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle—Penalty.

1. A person may not 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 an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
 - b. That person is under the influence of intoxicating liquor.
 - c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
 - d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.
 - e. That individual refuses to submit to any of the following:
 - (1) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under 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, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-20-01; or
 - (3) An onsite screening test, or tests, of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer under section 39-20-14.

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 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.

The driver of a multipassenger bicycle, as defined in N.D.C.C. § 39-01-01(51), is subject to a violation of this section but a multipassenger bicycle passenger may not be charged with a violation of this section.

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Sec. 24-12-7. – Open container law.

Citations issued into municipal court under this section are for a violation of N.D.C.C. § 39-08-18.

39-08-18. Open container law—Penalty.

1. A person may not drink or consume alcoholic beverages, as defined in section 5-01-01, in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. This subsection does not prohibit the consumption or possession of alcoholic beverages in a house car if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain, or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating this subsection must be assessed a fee of fifty dollars; however, the licensing authority may not record the violation against the person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.
2. Subsection 1 does not apply to a public conveyance that has been commercially chartered for group use, any passenger for compensation in a for-hire motor vehicle, or a privately owned motor vehicle operated by a person in the course of that person's usual employment transporting passengers at the employer's direction. This subsection does not authorize possession or consumption of an alcoholic beverage by the operator of any motor vehicle described in this subsection while upon a public highway or in an area used principally for public parking.
3. The driver of a multipassenger bicycle, as defined in N.D.C.C. § 39-01-01(51), may not:

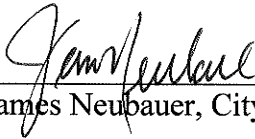
- a. Drink or consume alcoholic beverages, as defined in section 5-01-01, while operating the multipassenger bicycle on any public street, road, path, or highway or while in an area used principally for parking; or
- b. Have in the driver's possession on the driver's person while operating the multipassenger bicycle on a public street, road, path, or highway or while in an area used principally for parking, any bottle or receptacle containing any alcoholic beverage which has been opened, or the seal broken, or the contents of which have been partially removed.

By:



Tim Helbling, President, Board of
City Commissioners

Attest:



James Neubauer, City Administrator

First Consideration: November 21, 2023

Second Consideration and Final Passage: December 5, 2023

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