

ORDINANCE NO. 1131

AN ORDINANCE OF THE CITY OF ROSWELL AMENDING SECTION 12-6-12.1 OF THE 1983 UNIFORM TRAFFIC ORDINANCE RELATING TO DWI AND ADDING A NEW SECTION 12-10-6 TO THE UNIFORM TRAFFIC ORDINANCE RELATING TO MANDATORY FINANCIAL RESPONSIBILITY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROSWELL, NEW MEXICO.

Section 1. Paragraphs K, P, and S of Section 12-6-12.1 of the 1983 Uniform Traffic Ordinance, as amended, are amended to read:

"K. If the blood of the person tested contains:

(1) five one-hundredths of one percent or less by weight of alcohol, it shall be presumed that the person was not under the influence of intoxicating liquor;

(2) more than five one-hundredths of one percent but less than one-tenth of one percent by weight of alcohol, no presumption shall be made that the person either was or was not under the influence of intoxicating liquor. However, the amount of alcohol in the person's blood may be considered with other competent evidence in determining whether or not the person was under the influence of intoxicating liquor; or

(3) one-tenth of one percent or more by weight of alcohol; the arresting officer shall charge him with a violation of this section.

P. When a person is charged with a violation of this section, any plea of guilty thereafter entered in satisfaction of the charges must include at least a plea of guilty to Subsection A of this section, and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized if the results of a test performed pursuant to the Implied Consent Act discloses that the blood of the person charged contains at least ten one-hundredths of one percent by weight of alcohol. (66-8-102.1 NMSA 1978 as amended).

S. If a person under arrest for violation of an offense enumerated in the Motor Vehicle Code refuses upon request of a law enforcement officer to submit to chemical tests designated by the law enforcement agency as provided in Section 12-6-12.1B and C, none shall be administered, except when a municipal judge, magistrate or district judge issues a search warrant authorizing chemical tests as provided in Section 12-6-12.1B and C, upon his finding in a law enforcement officer's written affidavit that there is probable cause to believe that the person has driven a motor vehicle while under the influence of alcohol or a controlled substance, thereby causing the death or great bodily injury of another person, or there, is probable cause to believe that the person has committed a felony while under the influence of alcohol or a controlled substance and that chemical tests as provided in Section 12-6-12.1B and C will produce material evidence in a felony prosecution. (66-8-111 NMSA 1978 as amended)"

Section 2. A new Section 12-10-6 is added to read as follows:

12-10-6 MANDATORY FINANCIAL RESPONSIBILITY

A. Every owner or operator of a vehicle subject to the requirements of the Mandatory Financial Responsibility Act of the State of New Mexico and the requirements of this Ordinance, shall carry evidence of financial responsibility, as defined in the Act and in this Ordinance, in the vehicle at all times while the vehicle is in operation on the streets, public ways and highways of the municipality.

B. "Evidence of Financial Responsibility", as used in this Ordinance, means evidence of the ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the evidence, arising out of the ownership, maintenance or use of a vehicle of a type subject to registration under the laws of New Mexico. Evidence of financial responsibility includes a motor vehicle liability policy, a certified motor vehicle liability policy, a surety bond or evidence of a cash deposit with the state treasurer in the amounts specified below:

(1) twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one person in any one accident;

(2) subject to this limit for one person, fifty thousand dollars (\$50,000) because of bodily injury to or death of two or more persons in any one accident;

(3) ten thousand dollars (\$10,000) because of injury to or destruction of property of others in any one accident; and

(4) if evidence is in the form of a surety bond or a cash deposit with the state treasurer, the total amount shall be sixty thousand dollars (\$60,000).

C. Exemption.- Exempted from the mandatory financial responsibility provisions of this Ordinance are the following:

(1) a motor vehicle owned by the United States government, any state or any political subdivision of a state;

(2) an implement of husbandry or special mobile equipment which is only incidentally operated upon the streets or highways within the limits of the municipality;

(3) a motor vehicle operated upon a street or highway within the limits of the municipality only for the purpose of crossing such street or highway from one property to another;

(4) a commercial motor vehicle registered or proportionally registered in New Mexico and any other jurisdiction, provided such motor vehicle is covered by a motor vehicle liability policy or certified motor vehicle liability policy or other form of financial responsibility in compliance with the laws of any other jurisdiction in which it is registered;

(5) a commercial motor vehicle approved as self-insured by the State Corporation Commission.

D. The office of the Municipal Court shall notify the Division of Motor Vehicles of the Transportation Department of the State of New Mexico of the conviction of any person violating the provisions of this Ordinance.

E. Penalty. Any person found guilty of violating this ordinance shall be fined not more than one hundred dollars (\$100) or imprisoned for a definite term of less than thirty days (30) or by both such fine and imprisonment; provided however, that no person charged with violating this Ordinance shall be convicted if he produces in court evidence of financial responsibility valid at the time of issuance of the citation. (66-5-201 NMSA 1978 as amended).

Section 3. Repealer. All ordinances or parts of ordinances in conflict or inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed. Specifically repealed hereby in Ordinance No. 1118.

Section 4. Severability. If any section, paragraph, clause, or provision of this Ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any other part of this ordinance.

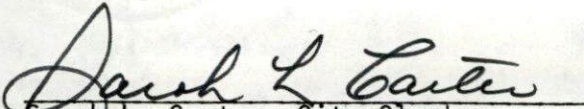
Section 5. Effective Date. This ordinance shall be and become effective on or after five days following publication of this ordinance.

PASSED, ADOPTED, SIGNED AND APPROVED on this 11<sup>th</sup> day of September, 1984.

CITY SEAL

  
PETER R. YORK, Mayor

ATTEST:

  
Sarah L. Carter, City Clerk