

ORDINANCE NO. 1190

AN ORDINANCE OF THE CITY OF ROSWELL AMENDING THE NEW MEXICO UNIFORM TRAFFIC CODE, 1983, AS ADOPTED AND EARLIER AMENDED BY THE CITY; PROVIDING DEFINITIONS OF FIRST AND SUBSEQUENT OFFENDERS; PROVIDING PENALTIES FOR DRIVING WHILE OPERATORS LICENSE IS SUSPENDED OR REVOKED; PROVIDING PENALTIES FOR OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND FIXING THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, changes in New Mexico statutes require amendment of the City's traffic code in order that it may conform to the State's standards;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE GOVERNING BODY, THE CITY COUNCIL, OF ROSWELL, NEW MEXICO, that:

Section 1. In the New Mexico Uniform Traffic Code, 1983, as adopted and amended by the City of Roswell in the Roswell City Code, Section 29-1, the sections below are hereby amended to read as shown here:

Sec. 12-1-25 "First Offender" means a person who for the first time under state or federal law or municipal ordinance has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any drug which renders him incapable of safely driving a motor vehicle regardless of whether the person's sentence was suspended or deferred.

Sec. 12-1-77 "Subsequent Offender" means a person who was previously a first offender and who again, under state law, federal law or municipal ordinance, has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor, or any drug which rendered him incapable of safely driving a motor vehicle regardless of whether the person's sentence is suspended or deferred.

Sec. 12-6-12.2(E) the second sentence is hereby amended to read as follows:

Notwithstanding any provision in this subsection, in this section, or of law to the contrary for suspension or deferment of execution of a sentence, upon a second or third conviction of subsections A or B of Section 12-6-12.1 occurring within five years of a prior conviction, each offender shall be sentenced to a jail term of not less than forty-eight consecutive hours which shall not be suspended, deferred or taken under advisement.

Sec. 12-6-12.6(6) the second sentence is hereby amended to read as follows:

Notwithstanding any other provision of law for suspension or deferment of execution of a sentence, if the person's privilege to drive was revoked for driving while under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act, upon conviction under this section, that person shall be punished by imprisonment for not less than ninety-six consecutive hours and shall be fined not less than three hundred dollars (\$300) and the fine and imprisonment shall not be suspended, deferred or taken under advisement. No other disposition by plea of guilty to any other charge in satisfaction of a charge under this section shall be authorized if the person's privilege to drive was revoked for driving while under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act. Any municipal ordinance prohibiting driving with a suspended or revoked license shall provide penalties no less stringent than provided in this section.

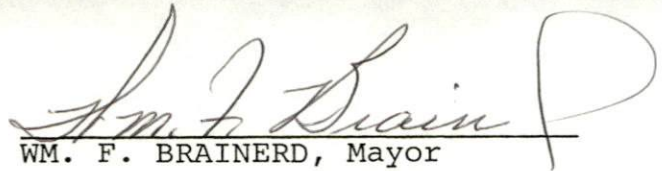
Section 2. All ordinances or parts of ordinances in conflict or inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

Section 3. 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.

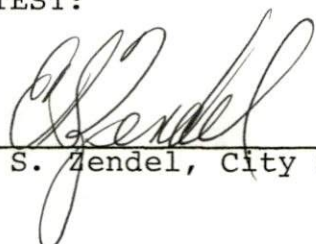
Section 4. This ordinance shall be effective on and after July 1, 1988.

PASSED, ADOPTED, SIGNED AND APPROVED the 14th day of June, 1988.

CITY SEAL


WM. F. BRAINERD, Mayor

ATTEST:


E. S. Zendel, City Clerk