

ORDINANCE NO. 3352

AN ORDINANCE AMENDING THE STILLWATER CITY CODE BY AMENDING CHAPTER 29, MOTOR VEHICLES AND TRAFFIC, ARTICLE 1, IN GENERAL, BY REPEALING IN ITS ENTIRETY SECTION 29-18, PERSONS UNDER THE INFLUENCE OF ALCOHOL OR OTHER INTOXICATING SUBSTANCE OR COMBINATION THEREOF; SECTION 29-19, ALCOHOL CHEMICAL ANALYSIS; IMPAIRED ABILITY; PENALTY; AND SECTION 29-20, DRIVING UNDER THE INFLUENCE WHILE UNDERAGE; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF STILLWATER, OKLAHOMA:

**SECTION 1:** Chapter 29, Motor Vehicles and Traffic, Article I, In General, of the Stillwater City Code, is amended by repealing in its entirety Sections 29-18 through 29-20 as follows:

**~~Sec. 29-18. Persons under the influence of alcohol or other intoxicating substance or combination thereof.~~**

~~(a) It is unlawful and punishable as provided in subsection (c) of this section for any person to drive, operate, or be in actual physical control of a motor vehicle, whether upon public roads, highways, streets, turnpikes, other public places or upon any private road, street, alley, or lane which provides access to one or more single or multi-family dwellings, who:~~

~~1. Has a blood or breath alcohol concentration, as defined in 47 O.S. § 756, of 0.08 or more at the time of a test of such person's blood or breath administered within two hours after the arrest of such person; or~~

~~2. Is under the influence of alcohol;~~

~~3. Is under the influence of any other intoxicating substance other than alcohol which may render such person incapable of safely driving or operating a motor vehicle; or~~

~~4. Is under the combined influence of alcohol and any other intoxicating substance which may render such person incapable of safely driving or operating a motor vehicle.~~

~~(b) The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this section. As used in this section, the term "other intoxicating substance" shall mean any controlled, dangerous substance as defined in the Uniform Controlled Dangerous Substance Act, 63 O.S. § 2-101, et seq., and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected, or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing, or other sensory or motor functions.~~

~~(c) Every person who is convicted of a violation of this section shall be punished by imprisonment in the City Jail for a period of not less than ten days nor more than 60 days and a fine of not more than \$800.00, excluding costs, fees, and assessments.~~

**~~Sec. 29-19. Alcohol chemical analysis; impaired ability; penalty.~~**

~~(a) Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while under the influence of alcohol or intoxicating liquor, evidence of the amount of~~

~~alcohol in the person's blood as shown by a chemical analysis of his blood or breath is admissible. For the purpose of this section:~~

- ~~(1) Evidence that there was 5/100 of one percent or less by weight of alcohol in his blood is *prima facie* evidence that the person was not under the influence of alcohol or intoxicating liquor;~~
- ~~(2) Evidence that there was more than 5/100 of one percent by weight of alcohol in the person's blood is relevant evidence of operating a motor vehicle while his ability to operate such vehicle is impaired by the consumption of alcohol or intoxicating liquor; however, no person shall be convicted of the offense of operating a motor vehicle while his ability to operate such vehicle is impaired by consumption of alcohol or intoxicating liquor solely because there was more than 5/100 of one percent by weight of alcohol in the person's blood in the absence of additional evidence that such person's driving was affected by such consumption of alcohol to the extent that the public health and safety was threatened or that such person had violated a state statute or local ordinance in the operation of a motor vehicle;~~
- ~~(3) Evidence that there was 8/100 of one percent or more by weight of alcohol in his blood shall be admitted as *prima facie* evidence that the person was under the influence of alcohol or intoxicating liquor;~~
- ~~(4) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood; and~~
- ~~(5) To be admissible, such evidence must first be qualified by establishing that such specimen was obtained from the subject within not more than two hours of the arrest of the subject.~~

~~(b) Any person who operates a motor vehicle while his ability to operate such motor vehicle is impaired by the consumption of alcohol shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not less than \$100.00 nor more than \$500.00, excluding costs and assessments, and/or by imprisonment in the City Jail for not more than 60 days.~~

#### **~~Sec. 29-20. Driving under the influence while underage.~~**

~~(a) It shall be unlawful and punishable as provided in subsection (c) of this section, for any person under 21 years of age to drive, operate or be in actual physical control of a motor vehicle who:~~

- ~~(1) Has any measurable quantity of alcohol in the person's blood or breath at the time of a test administered within two hours after an arrest of the person;~~
- ~~(2) Exhibits evidence of being under the influence of any other intoxicating substance as shown by analysis of a specimen of the person's blood, breath, saliva or urine in accordance with the provisions of 47 O.S. §§ 752 and 759; or~~
- ~~(3) Exhibits evidence of the combined influence of alcohol and any other intoxicating substance.~~

~~(b) As used in this section, the term "other intoxicating substance" means any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, 63 O.S. § 2-101, *et seq.*, or any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor function.~~

~~(c) Every person under 21 years of age who is convicted of a violation of this section shall be punished for a first offense by a fine of not less than~~

~~\$100.00 nor more than \$500.00, excluding costs and assessments, or by completion of 20 hours of community service, or by requiring the person to attend and complete a treatment program, or by any combination of fine, community service or treatment. Every person who is convicted of a violation of this section shall, upon a second or subsequent conviction, be punished by a fine of not less than \$100.00 nor more than \$800.00, excluding costs, fees and assessments, or by completion of 40 hours of community service, or by requiring the person to attend and complete a treatment program, or by any combination of fine, community service or treatment.~~

~~(d) The court may assess additional community service hours in lieu of any fine specified in this section.~~

~~(e) Nothing in this section shall be construed to prohibit the filing of charges pursuant to Sections or of this chapter, when the facts warrant.~~

**SECTION 2.** Emergency. It being immediately necessary for the preservation of the peace, health and safety of the citizens of the City of Stillwater, Oklahoma, an emergency is hereby declared to exist, by reason whereof this ordinance shall become effective from and after the date of publication, November 27, 2016.

PASSED, APPROVED, AND ADOPTED THIS 21ST DAY OF NOVEMBER, 2016.

\_\_\_\_\_  
GINA J. NOBLE, MAYOR

(SEAL)  
ATTEST:

\_\_\_\_\_  
ELIZABETH CHRZ, CITY CLERK

The Emergency Clause is hereby passed, approved and adopted this 21st day of November, 2016.

\_\_\_\_\_  
GINA J. NOBLE, MAYOR

(SEAL)  
ATTEST:

\_\_\_\_\_  
ELIZABETH CHRZ, CITY CLERK

APPROVED AS TO FORM AND LEGALITY, THIS 21ST DAY OF NOVEMBER, 2016.

\_\_\_\_\_  
JOHN E. DORMAN, CITY ATTORNEY

1ST READING: 11-7-16  
2ND READING: 11-21-16