

ORDINANCE NO. 363

AN ORDINANCE PROHIBITING DRIVING UNDER  
THE INFLUENCE OF ALCOHOL OR CONTROLLED  
SUBSTANCES AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF  
MILLS, NATRONA COUNTY, WYOMING as follows:

Section 1. It is unlawful for any person under the influence of intoxicating liquor, to a degree which renders him or her incapable of safely driving a motor vehicle, to drive or have actual physical control of any motor vehicle within the Town of Mills, Wyoming.

Section 2. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor, the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

(i) If there was at the time five one-hundredths of one percent (0.05%), or less, by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of intoxicating liquor;

(ii) If there was at that time in excess of five one-hundredths of one percent (0.05%), but less than ten one-hundredths of one percent (0.10%), by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor to a degree which renders him incapable of safely driving a motor vehicle;

(iii) If there was at that time ten one-hundredths of one percent (0.10%), or more, by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of intoxicating liquor, to a degree which renders him incapable of safely driving a motor vehicle;

(iv) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred (100) cubic centimeters of blood;

(v) The foregoing provisions of Section 2 shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor.

Section 3. It is unlawful for any person who is under the influence of any controlled substance, or under the combined influence of alcohol and any controlled substance, to a degree which renders him incapable of safely driving a vehicle to drive or have actual physical control of a motor vehicle within the Town of Mills. The fact that any person charged with a violation of this ordinance is or has been entitled to use the controlled substance under the laws of this state shall not constitute a defense against any charge of violating this ordinance.

Section 4. A person convicted of violating this ordinance is guilty of a misdemeanor punishable by a fine of not more than Seven Hundred Fifty (\$750.00) Dollars, to which may be added court costs as allowed by law. On a subsequent conviction of this ordinance within five (5) years after a conviction for a violation of this section or other law prohibiting driving while under the influence, said person shall be punished by imprisonment for not less than seven (7) days nor more than six (6) months and shall not be eligible for probation or suspension of sentence or release on any

other basis until he has served at least seven (7) days in jail. In addition, the person shall be fined not less than Two Hundred (\$200.00) Dollars nor more than Seven Hundred Fifty (\$750.00) Dollars, to which may be added court costs as allowed by law. The judge may, as a condition for suspension of all or part of the discretionary portion of an imprisonment sentence under this ordinance, require the defendant to pursue and complete an alcohol education or treatment program as prescribed by the judge.

Section 5. The court may, upon pronouncement of any jail sentence under Section 4, provide in the sentence that the defendant may be permitted, if he is employed or enrolled in school and can continue his employment or education, to continue such employment or education for not more than the time necessary, as certified by his employer or school administrator, and the remaining day, days or parts of days shall be spent in jail until the sentence is served. He shall be allowed out of jail only long enough to complete his actual hours of employment or education and a reasonable time to travel to and from his place of employment or school.

Section 6. As used in this ordinance, law prohibiting driving while under the influence means a statute of the State of Wyoming, or another state, the United States or a territory or district of the United States, or a prior ordinance of the Town of Mills, or an ordinance of another political subdivision of this or another state which prohibits driving while under the influence of intoxicating liquor, alcohol or controlled substances or drugs.

Section 7. In the event the complaint, information, or citation alleges a conviction of this ordinance, or a conviction for a violation of a law prohibiting driving while under the influence, within five (5) years of the charge of a violation of this ordinance, the trial on the charged violation shall proceed as in other cases, but the jury shall

not be advised of the previous conviction. If the defendant is convicted of the charged violation and does not plead guilty to the charge of the previous conviction, he shall be tried immediately by the same jury or judge on the charge of the previous conviction. In a trial where a previous conviction is alleged, a duly authenticated copy of the record of previous convictions and judgment against the defendant of any court are prima facie evidence of the previous convictions and may be used in evidence against the defendant.

Section 8. A conviction under a law prohibiting driving while under the influence, which occurred within five (5) years before the effective date of this ordinance, may be alleged in a complaint, information, or citation, and considered by the court for the purpose of enhancing the penalty for a violation of this ordinance as provided in Section 4.

Section 9. Any and all other ordinances of the Mills Municipal Code in conflict herewith are hereby repealed.

Section 10. If any section, paragraph, clause, or provision of this ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the remaining provisions of this ordinance.

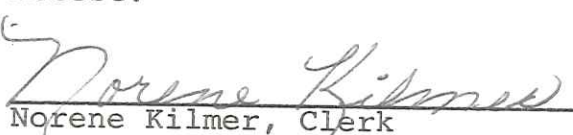
Section 11. The present Mills Municipal Ordinance is in conflict herewith, an emergency is hereby declared, and this Ordinance shall be deemed in full force and effect from and after the date of its passage.

PASSED, APPROVED and ADOPTED as an emergency Ordinance this 3 day of October, 1984.

TOWN OF MILLS, a Municipal Corporation

Attest:

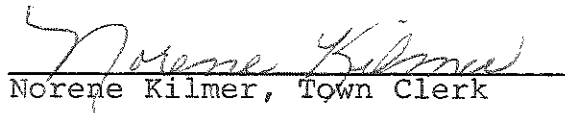
By   
Alan Sword, Mayor

  
Norene Kilmer, Clerk  
Town of Mills

Hand, Hand  
& Hand, P.C.  
Attorneys  
Casper,  
Douglas, and  
Glenrock,  
Wyoming

I, Norene Kilmer, Town Clerk of the Town of Mills, Wyoming, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 363, entitled "AN ORDINANCE PROHIBITING DRIVING UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES AND PROVIDING A PENALTY". Passed as an emergency at a regular meeting of the Town Council of the Town of Mills, Wyoming, on the 3 day of October, 1984.

(Seal)

  
Norene Kilmer, Town Clerk

I, regularly appointed, duly qualified and acting Town Clerk of the Town of Mills, Wyoming, do hereby certify that signed, attested, sealed and certified copies of this Ordinance No. 363 approved and passed as certified above, were, following its passage by the Town Council, posted in the Town Clerk's office and the Mills Post Office for a period of ten (10) days as required by law; that it took effect and became in force as a legal ordinance of the Town of Mills, Wyoming, on the 3 day of October, 1984.

(Seal)

  
Norene Kilmer, Town Clerk