

## ORDINANCE NO. 1418

An ordinance amending Chapter 21 of the Code of the City of Jamestown, North Dakota, by amending Section 21-02-10 which sets forth fines for committing certain traffic offenses in the City of Jamestown.

WHEREAS, the North Dakota Legislative Assembly has enacted higher fines for the offense of overtaking a school bus.

WHEREAS, to allow enforcement of the new provisions the City Code of the City of Jamestown requires updating.

NOW, THEREFORE, be it ordered by the City Council of the City of Jamestown, North Dakota, that Chapter 21, Section 21-02-10 be amended and re-enacted as follows:

### **SEC. 21-02-10. Classification and disposition of traffic offenses; fees; duties of halting officer.**

(a) Classification of traffic offenses. Violations of city ordinances regulating traffic and providing penalties for violation thereof are classified as follows:

(1) Criminal offenses requiring bond or personal appearance before a magistrate prior to release from custody:

a. Driving or being in actual physical control of a vehicle while under the influence of a controlled substance or intoxicating liquor in violation of section 21-04-06

b. Driving while license or driving privilege is suspended or revoked in violation of section 21-04-05

c. Driving or operating any snowmobile or all-terrain vehicle while under the influence of intoxicating liquor or controlled substance in violation of section 21-19-02(f);

d. Drove in violation of restrictions in violation of section 21-04-03

(2) All other criminal traffic violations over which the criminal court has jurisdiction shall, as provided in this chapter, allow release from custody upon violator signing a written promise to appear.

*(b) Disposition of criminal offenses.* Disposition of traffic offenses designated as criminal offenses will be in accordance with the provisions of Title 29 of the North Dakota Century Code, with appeals from judgments to the district courts or in accordance with statutes providing therefor.

*(c) Optional disposition of noncriminal offenses.* Except as otherwise provided in this chapter, any person cited for traffic violations under this Code or any other municipal ordinance which is classified as a noncriminal offense may appear before the municipal judge and pay the fee provided by this chapter for the violation charged at or prior to the time scheduled for hearing. If the person has posted bond in person or by mail, he may forfeit bond by not appearing at the designated time. If the person cited for the traffic violation posts bond by mail, the bond must be submitted within fourteen (14) days from the date of the citation and the person cited shall indicate on the envelope or citation whether a hearing is requested. If the person does not request a hearing within fourteen (14) days of the date of the citation, the bond is forfeited and the violation admitted. If the person requests a hearing, the municipal court shall issue a summons to the person notifying that person of the date of the hearing before the municipal court.

Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the person's request, the person may make a statement in explanation of the person's action. The court may at the time waive, review, or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures,

the person is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.

The bond required to secure appearance must be identical to the fee established by ordinance.

Within ten (10) days after forfeiture of bond or payment of the statutory fee, the municipal court having jurisdiction over the violation shall certify to the director:

- (1) Admission of the violation; and
- (2) In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine (9) miles (14.48 kilometers) per hour and the miles (kilometers) per hour by which the speed limit was exceeded.

The procedures authorized under this section may not be utilized by a person charged with one of the following offenses:

- (1) Driving or being in actual physical control of a vehicle in violation of section 21-04-06.
- (2) Reckless driving in violation of section 21-04-10.
- (3) Leaving the scene of an accident in violation of section 21-08-04.
- (4) Driving while license or driving privilege is suspended or revoked in violation of section 21-04-05.
- (5) Violating subdivision (e) or (f) of section 21-19-02.
- (6) Operating a modified motor vehicle in violation of section 21-13-12.
- (7) Operating an unsafe vehicle in violation of subsection 2 of section 21-13-28.
- (8) Causing an accident with an authorized emergency vehicle in violation of section 21-03-17(2).

*(d) Failure to elect optional or alternate disposition of noncriminal offenses.* Failure to appear at the time designated, after signing a promise to appear, if signing is required by law, or failure to appear without paying the statutory fee or posting and forfeiting bond shall be a class B misdemeanor. Failure to appear without just cause at the hearing shall be deemed an admission of commission of the offense charged and is punishable as provided in section 1-9 of this Code.

*(e) Fees required for noncriminal disposition.* Fees required for a noncriminal disposition pursuant to subsection (c) of this section shall be as follows:

- (1) For a nonmoving violation, a fee in the amount of twenty dollars (\$20.00) except for a violation of any traffic parking regulation on any state charitable or penal institution property, a fee in the amount of five dollars, excluding a violation of subsection (8) of section 21 - 16 - 16 which fee shall be \$100.00. Nonmoving violations are defined as violations of this Code or of any other municipal ordinance equivalent to sections 21-04-12, 21-04-11(a), 21-04-11(b), 21-04-15(1), 21-16-02, 21-03-24, 21-09-19(a), 21-16-03, 21-16-01, 21-10-01, 21-10-10, 21-13-20, or 39-21-08, 39-21-10, or 39-21-11 of the North Dakota Century Code; or for a violation, discovered at a time when the vehicle is not actually being operated, of this Code or of any other municipal ordinance equivalent to sections 21-13-15, 21-13-02, 21-13-21, 21-13-05, 21-13-10, 21-13-08, 21-13-17 or 39-21-05 of the North Dakota Century Code.

(2) For a moving violation, a fee in the amount of twenty dollars (\$20.00) with the exception of a violation of Sections 21-03-17, 21-03-17.1, 21-11-08, 21-04-07(1) if operator of vehicle, 21-05-06(a)(1), 21-05-06(a)(2), 21-05-06(c)(3), 21-06-03(a)(2), 21-06-03(a)(5), 21-06-03(d), 21-06-02, 21-06-02.1, 21-06-09(b)(1), 21-06-09(b)(2), 21-06-09(b)(3), 21-09-22(a), 21-09-23, 21-10-19, 21-12-05(2), 21-11-06, 21-13-27(c), 21-14-04, 21-04-15(1) by an individual by becoming a resident of this state, 21-15-02(1), 39-10-21.1(2) of the North Dakota Century Code and those violations classified in subsection (a) of this section as criminal offenses. Moving violations are defined as violations of this Code or of any other municipal ordinance equivalent to sections 21-04-15(1), 21-04-13, 21-04-01(a), 21-04-02, 21-04-17, 21-06-06, 21-06-07, 21-14-02, 21-19-02 except subsection (f), 21-05-03, and North Dakota Century Code sections 39-04-22, 39-06-14.1, 39-06-14, 39-08-23, 39-08-24, 39-09-04.1, 39-09-09 Fines for the exceptions are as follows:

Code	Fine
21-03-17	\$50.00
21-03-17.1	\$50.00
21-04-07(1) (if operator of vehicle)	\$50.00
21-05-06(a)(1)	\$50.00
21-05-06(a)(2)	\$50.00
21-05-06(c)(3)	\$50.00
21-06-03(a)(2)	See schedule
21-06-03(a)(5)	See schedule
21-06-03(d)	See schedule
21-06-02	\$30.00
21-06-02.1	\$30.00
21-06-09(b)(1)	\$100.00
21-06-09(b)(2)	\$50.00
21-06-09(b)(3)	\$100.00
21-09-22(a)	\$100.00
21-09-23	\$100.00
21-11-06	\$50.00
21-11-08	\$50.00
21-12-05(2)	\$250.00
21-13-27(c)	\$25.00
21-14-04	\$100.00
21-15-02(1)	\$50.00
21-04-15(1) by an individual by becoming a resident of this state	\$100.00
21-10-19	\$100.00
39-10-21.1(2) of the North Dakota Century Code	\$250.00

(3) For a violation of this Code or any other municipal ordinance equivalent to Section 39-09-02 of the North Dakota Century Code and except as otherwise provided in Section 21-02-10 of this code, the fees are as follows:

Miles per hour over lawful speed limit	Fee
1—5	\$5
6—10	\$5 plus \$1/each mph over 5 mph over limit.
11—15	\$10 plus \$1/each mph over 10 mph over limit.
16—20	\$15 plus \$2/each mph over 15 mph over limit.
21—25	\$25 plus \$3/each mph over 20 mph over limit.
26—35	\$40 plus \$3/each mph over 25 mph over limit.
36—45	\$70 plus \$3/each mph over 35 mph over limit.
46+	\$100 plus \$5/each mph over 45 mph over limit.

(4) For a violation of section 21-06-03(a)(2) of this Code, the fees are as follows:

20 MPH SCHOOL ZONES	
Speed	Fine
21-30 MPH	\$40
31 MPH	\$41
32 MPH	\$42
33 MPH	\$43
34 MPH	\$44
35 MPH	\$45
36 MPH	\$46
37 MPH	\$47
38 MPH	\$48
39 MPH	\$49
40 MPH	\$50
41 MPH	\$51
42 MPH	\$52
43 MPH	\$53
44 MPH	\$54
45 MPH	\$55
46 MPH	\$56
47 MPH	\$57

48 MPH	\$58
49 MPH	\$59
50 MPH	\$60

(5) For a violation of Section 21-06-03(d) of this Code, the fees are as follows:

CONSTRUCTION/MAINTENANCE ZONES: Must be signed and workers present.	
Miles Over	Fine
1—10	\$80
11	\$82
12	\$84
13	\$86
14	\$88
15	\$90
16	\$92
17	\$94
18	\$96
19	\$98
20	\$100
21	\$102
22	\$104
23	\$106
24	\$108
25	\$110
26	\$112
27	\$114
28	\$116
29	\$118
30	\$120

*(f) Duties of halting officers.*

(1) "Halting officer" means a law enforcement officer charged with and acting under his authority to halt and, if appropriate, arrest persons suspected or known to be violating this Code or any other city ordinance regulating the operation of equipment of vehicles, or the regulation of traffic.

(2) A halting officer is not authorized to receive the statutory fee or bond.

(3) If a person issued a uniform traffic complaint and summons by a halting officer refuses to give the written promise to appear provided thereon, whether for a criminal or noncriminal

offense, the halting officer shall take such person into custody for appearance before the municipal judge.

(4) A person halted may be entitled to release upon his written promise to appear, except under the following circumstances:

a. When the halting officer shall have good reason to believe such person guilty of any felony, or when such person is halted and charged with any of the offenses listed in subsection (a) of this section.

b. When the halting officer, acting within his discretion, deems it inadvisable to release such person upon his promise to appear when halted and charged with either the offense of reckless driving or driving in excess of speed limitations.

(5) The halting officer, forthwith, shall take before the municipal judge any person refusing to give his written promise to appear or any person not released upon his promise to appear.

ATTEST:

Jeff Fuchs, City Administrator

APPROVED:

Katie Andersen, Mayor

Introduced by Council Member Gumke  
Seconded by Council Member Brubakken  
First Reading: September 3, 2013  
Second Reading: October 7, 2013  
Final Passage: October 7, 2013

Roll Call No. 4 showed: 5 ayes, 0 nays, 0 absent.