

Article XVI. Time Limit Parking Zones.

105.01601 GENERALLY

When signs are erected giving notice thereof, no person shall park or leave standing, either attended or unattended, any motor vehicle for more than five consecutive minutes on street areas so posted, or for more than ten consecutive minutes on street areas so posted, or more than thirty consecutive minutes on street areas so posted, or more than sixty consecutive minutes on street areas so posted, or for more than one hundred twenty consecutive minutes on street areas so posted, when such areas have been made available for parking.

The city engineer or authorized person shall establish from time to time in such places and in such manner time parking zones as he shall determine, or as the governing body shall specifically designate to promote the greatest benefit and convenience to the public and the best use of the street areas.

Article XVII. Equipment of Vehicles.

105.01701 VEHICLES OTHER THAN MOTORCYCLES

The provisions of North Dakota Century Code, chapter 39-21, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

105.01702 MOTORCYCLE EQUIPMENT

The provisions of North Dakota Century Code, chapter 39-27, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

105.01703 WHEN LIGHTED LAMPS ARE REQUIRED; PENALTY

Every vehicle upon a highway within this state at any time from sunset to sunrise, and every farm tractor upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise, and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of one thousand feet (304.8 meters) ahead, shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles. Stop lights, turn signals and other signaling devices shall be lighted as prescribed for the use of such devices. Any person who violates the provisions of this section shall be assessed a fee of five dollars for each violation.

Article XVIII. Regulation of Kinds and Classes of
Traffic on Certain Roadways.

105.01801 LOAD RESTRICTIONS

When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the maximum indicated weight at any time upon any street or part of a street so designated.

105.01802 COMMERCIAL VEHICLES PROHIBITED FROM USING CERTAIN STREETS

When signs are erected giving notice thereof, no person shall operate any commercial vehicle exceeding the maximum indicated gross weight at any time upon any street or part of a street so designated; except, that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.

105.01803 SIZE RESTRICTIONS

When signs are erected giving notice thereof, no person shall operate any vehicle exceeding the dimensions specified by such sign or signs at any time upon any street or part of a street so designated.

105.01804 RESTRICTIONS UPON USE OF STREETS BY CERTAIN VEHICLES

- a. The city traffic engineer or authorized person may determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by motor driven cycles, bicycles, horse drawn vehicles or other nonmotorized traffic and shall erect appropriate signs giving notice thereof.
- b. When signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

Article XIX. Criminal Traffic Violations.

105.01901 PERSONS UNDER INFLUENCE OF INTOXICATING LIQUOR OR NARCOTIC DRUGS NOT TO OPERATE VEHICLE; PENALTY

The provisions of the North Dakota Century Code, section 39-08-01, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

- a. A person may not drive any vehicle upon a highway or upon public or private areas to which the public has a right-of-access for vehicular use in this city if any of the following apply:
 1. That person has a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the drinking.
 2. That person is under the influence of intoxicating liquor.
 3. That person is an habitual user of narcotic drugs or is under the influence of a narcotic drug.
 4. That person is under the influence of any controlled substance to a degree which renders that person incapable of safely driving.
 5. That person is under the influence of a combination of intoxicating liquor and a controlled substance to a degree which renders that person incapable of safely driving.

- b. A person may not be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right-of-access to vehicular use in this city if any of the following apply.
 - 1. That person has a blood alcohol concentration of at least ten one-hundreths of one percent by weight at the time of the performance of a chemical test within two hours after the driving.
 - 2. That person is under the influence of intoxicating liquor.
 - 3. That person is an habitual user of narcotic drugs or is under the influence of a narcotic drug.
 - 4. That person is under the influence of any controlled substance to a degree which renders that person incapable of safely driving.
 - 5. That person is under the influence of a combination of intoxicating liquor and a controlled substance to a degree which renders that person incapable of safely driving.
- c. A person violating this section is guilty of a class B misdemeanor for the first or second conviction in a five year period. The minimum penalty for violating this section is as provided in subsection (e) hereof. The court shall take judicial notice of the fact that a conviction would be a subsequent conviction indicated by the records of the Highway Department Commissioner or may make such finding based on other evidence.
- d. Upon conviction, the court may order the motor vehicle number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff or the chief law enforcement officer of the city as is appropriate for the duration of the period of the suspension of the offender's driver's license or driving privilege by the licensing authority. The impounded motor vehicle number plates may be released, upon the order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title issued by the Registrar of Motor Vehicles.
- e. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection.
 - 1. For first offense the sentence must include both the fine of at least two hundred and fifty dollars and referral for addiction evaluation to an appropriate licensed addiction treatment program. If the addiction evaluation indicates treatment is needed, the court shall notify the commissioner.
 - 2. For a second offense within five years, the sentence must include at least four days imprisonment of which forty-eight hours must be served consecutively, or ten days community service; a fine of at least five hundred dollars; and referral for addiction

evaluation to an appropriate licensed addiction treatment program. If the addiction evaluation indicates treatment is needed, the court shall notify the commissioner.

3. A sentence or imposition of sentence under this section may not be suspended under North Dakota Century Code, Chapter 12-53; except that a fine or sentence of imprisonment may be suspended in any of the following instances:
 - a. Upon conviction of being in actual physical control of a motor vehicle in violation of this section.
 - b. If the defendant is under age eighteen when convicted; except, that if the defendant has within the preceding five years previously been convicted of violating North Dakota Century Code, section 39-10-01, or equivalent ordinance, the sentence must include at least forty-eight consecutive hours imprisonment in a minimum security facility or at least ten days of community service, which sentence or imposition of sentence may not be suspended under North Dakota Century Code, chapter 12-53.
4. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section shall be considered a prior offense if such offense was committed within the time limitation specified in this subsection.
5. If the penalty mandated by this section includes imprisonment upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo inpatient treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the inpatient treatment must be credited as a portion of a sentence of imprisonment under this section.
6. Notwithstanding any other provisions of law, the municipal court or municipal judge has no jurisdiction to hear, try and determine an offense which could be a violation of North Dakota Century Code, section 39-08-01, or equivalent ordinance, if the person charged with the offense has twice previously been convicted of a violation of North Dakota Century Code, section 39-08-01, or equivalent ordinance, within the five years preceding the commission of the offense charged or if the person charged with the offense has three times previously been convicted of a violation of North Dakota Century Code, section 39-08-01, or equivalent ordinance, within the seven years preceding the commission of the offense charged. If such an offense is charged in the municipal court and the municipal judge has notice of violation of North Dakota Century Code, section 39-08-01, or equivalent ordinance, twice within the five years or three times within the seven years preceding the commission of the offense charged, the municipal judge shall dismiss the charge, without

prejudice and direct that the charge be filed against the person in the county court.

105.01902 RECKLESS DRIVING

The provisions of North Dakota Century Code, section 39-08-03, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

Any person shall be guilty of reckless driving if he drives a vehicle:

- a. Recklessly in disregard of the rights or safety of others; or
- b. Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or the property of another.

Except as otherwise herein provided, any person violating the provisions of this section shall be guilty of an offense.

105.01903 ACCIDENTS INVOLVING DAMAGE TO VEHICLE

The provisions of North Dakota Century Code, section 39-08-05, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of section 105.01904. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with such requirements under such circumstances shall be guilty of an offense.

105.01904 DUTY UPON STRIKING UNATTENDED VEHICLE

The provisions of North Dakota Century Code, section 39-08-07, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of the vehicle of the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances of the collision. Any person violating this section is guilty of an offense.

105.01905 DUTY UPON STRIKING FIXTURES UPON HIGHWAY

The provisions of North Dakota Century Code, section 39-08-08, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall, upon request and if available, exhibit his operator's or chauffeur's license and shall make report of such accident when and as required in section 105.03010.

105.01906 PENALTY FOR DRIVING WHILE LICENSE SUSPENDED OR REVOKED

The provisions of North Dakota Century Code, section 39-06-42, and all subsequent amendments, shall be and hereby are incorporated by reference in this section.

Except as provided in North Dakota Century Code, chapters 39-16 and 39-16.1 and section 39-06.11, any person who drives a motor vehicle on a highway or on public or private areas to which the public has a right-of-access for vehicular use in this state while that person's license or privilege so to do is suspended or revoked is guilty of a class B misdemeanor.

If the suspension or revocation was imposed for violation of North Dakota Century Code, section 39-08-01, or equivalent ordinance, or was governed by North Dakota Century Code, section 39-06-31 or chapter 39-20, the sentence must be at least fifteen days' imprisonment and such fine as the court deems proper. The sentence and the imposition of sentence may not be suspended under North Dakota Century Code, chapter 12-53. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this section.

In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff or chief law enforcement officer of the city for the duration of the period of suspension or revocation. When a period of suspension has been extended under subsection 5 of North Dakota Century Code, section 39-06-17, the court may order the number plates to be impounded in accordance with this section. The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the registrar of motor vehicles.

The city hereby authorizes its municipal judge to order impoundment of motor vehicle number plates in the manner provided herein.

105.01907 VIOLATIONS INVOLVING OPERATION OF SNOWMOBILES

- a. Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

Daylight hours. Any time except from one-half hour after sunset to one-half hour before sunrise or at any other time when there is not

sufficient light to render clearly discernible persons and vehicles at a distance of five hundred feet.

Operate. To ride in or on and control the operation of a snowmobile.

Operator. Every person who operates or is in actual physical control of a snowmobile.

Owner. A person, other than a lien holder, having the property in or title to a snowmobile entitled to the use or possession thereof.

Register. The act of assigning a registration number to a snowmobile by the Registrar of Motor Vehicles of the state.

Registrar. The Registrar of Motor Vehicles under North Dakota Century Code, chapter 39-02, acting directly or through his authorized agent.

Roadway. That portion of a highway or street improved, designed or ordinarily used for vehicular travel.

Snowmobile. A self-propelled vehicle designed for travel on snow or ice or a natural terrain steered by wheels, skis or runners.

Street or Highway. The entire width between the boundary lines of way or place when any part thereof is open to the use of the public in the city, as a matter of right, for the purposes of vehicular traffic.

- b. Prohibited operation. It shall be unlawful for any person to drive or operate any snowmobile in the following ways or under the following circumstances, which are hereby declared to be unsafe and a public nuisance:
1. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 2. In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 3. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
 4. Without a lighted head lamp and tail lamp when required for safety.
 5. In any tree nursery or planting in a manner which damages or destroys growing stock.
 6. Without a manufacturer installed or equivalent muffler in good working order and connected to the snowmobile exhaust system.
 7. Under the age of fourteen years.
 8. On direct crossing of a street or highway unless:

- a. The crossing is made at an angle of approximately ninety degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The snowmobile is brought to a complete stop before crossing the shoulder of main traveled way of the street or highway;
 - c. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing in a divided street or highway, the crossing is made only at an intersection of such street or highway with another public street or highway.
9. In violation of any rule or regulation promulgated for regulating the use of snowmobiles by the State Highway Commissioner where applicable within the geographical limits of the city.
 10. At a speed in excess of ten miles per hour at any time upon any street, alley, highway or other public ground or place in the city.
 11. While towing a sled, skid or any other vehicle, unless the sled, skid or other vehicle is connected to the snowmobile by a hinged swivel and secure hitch.
 12. Passing another snowmobile while such snowmobile is in operation and underway on any street, alley, highway or other public ground or place in the city.
 13. If the operator does not hold a valid, current North Dakota driver's license or is not accompanied by a licensed driver who is actually occupying a seat in the snowmobile.
 14. Abreast of another snowmobile upon any street, alley, highway or other public ground or place.
 15. Between the hours of 10:30 P.M. and 7:30 A.M.; except, that on Friday and Saturday the beginning hour is changed from 10:30 P.M. to 11:00 P.M. with the further exception that snowmobiles entering the city are not limited by time as long as they meet with the provisions of this section.
 16. In any municipal park or recreation area except when posted as "open" to snowmobiles, and within the hours permitted.
 17. Upon private property, other than that of the snowmobile owner or operator, without express permission of the owner.
 18. While carrying a strung bow or loaded firearm.
 19. Leaving or allowing a snowmobile to be or remain unattended on public property, streets, highway or other public grounds or places while the motor is running or with keys to start the same in the ignition switch.

20. At any time with more than two persons riding thereon in addition to the operator.
21. Without observing all traffic signs, signals, rules and regulations applying to motor vehicles when also applicable to snowmobiles.
- c. Prohibition of use on all streets. No person shall operate a snowmobile upon any road, street or highway in this city kept open for vehicular traffic except:
 1. During a period of emergency when travel by other vehicles is not possible.
 2. For a special snowmobile event of limited duration when conducted on a prearranged schedule under permit from the governing body.
 3. In crossing a street or highway as herein provided.
 4. On streets or highways or roads not maintained for winter vehicular travel.
 5. In travelling from the operator's place of residence to the edge of the city limits, using the shortest route from such operator's residence to the edge of the city's limits.
- d. Permissible use on streets or highways as regulated herein. No person shall operate a snowmobile upon the roadway, shoulder or inside bank or slope of any road, street or highway in this city except as provided in this section. No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one head lamp, one tail lamp and brakes all in working order which conform to standards prescribed by rule of the Highway Commissioner. When snowmobiles are operated within the right-of-way of any road, street or highway of this city pursuant to this section during times or conditions that warrant the use of lights, such snowmobiles shall travel in the same direction as the direction of motor vehicles on the side of the roadway immediately adjacent to the side of the right-of-way traveled by the snowmobile.
- e. Penalty. Any person who shall violate paragraph (2) or (3) of subsection (b) of this section shall be guilty of a class B misdemeanor.

105.01908 HARASSMENT OF DOMESTIC ANIMALS

The provisions of North Dakota Century Code, section 39-08-19, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

Any person operating a motorcycle, snowmobile or other motor vehicle, as defined in section 105.01101 who wilfully harasses or frightens any domestic animal shall, upon conviction, be guilty of an offense. If injury or death results to the animal due to such action, such person shall be liable for the value of the animal and exemplary damages as provided in North Dakota Century Code, sections 36-21-13.

105.01909 OPERATION OF MOTOR VEHICLE, ETC., PROHIBITED ON FLOOD PROTECTIVE WORKS

The provisions of North Dakota Century Code, section 39-10-65, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

- a. Unless authorized by the authority in charge thereof, no person shall operate a motor vehicle, tractor or other vehicle upon or across any flood protective works, including but not limited to any dike or flood protective works constructed by a state or federal agency, or by any municipality or local subdivision of the state.
- b. Any person violating the provisions of this section shall be liable to any person suffering injury as a result of the violation, and in addition, shall be guilty of an offense.

105.01910 OPERATOR'S LICENSE--DRIVING WITHOUT

No person shall drive any motor vehicle upon a highway in this city unless such person has a valid license as an operator or is expressly exempted from licensing requirements by the laws of this state.

105.01911 SAME--TO BE CARRIED AND EXHIBITED ON DEMAND

The provisions of North Dakota Century Code, section 39-06-16, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

Every licensee shall have his operator's license or permit in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand of any district court, municipal court, county court, patrolman, peace officer or field deputy or inspector of the highway department. However, no person charged with violating this section shall be convicted or assessed any court costs if he produces in court, to the Chief of Police or in the office of the arresting officer, an operator's license or permit theretofore issued to him and valid and not under suspension, revocation or cancellation at the time of his arrest.

105.01912 WEIGHING

The provisions of North Dakota Century Code, section 39-12-21, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

Any driver of a vehicle who refuses to stop and submit the vehicle and load to a weighing when directed to do so by the police officer or any agent of this state having police powers relating to motor vehicles, shall be guilty of an offense.

Article XX. Disposition of Traffic Offenses.

105.02001 AUTHORITY OF OFFICER HALTING PERSON FOR VIOLATING TRAFFIC REGULATIONS

The provisions of North Dakota Century Code, section 39-07-07, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

Whenever any person is halted for the violation of any of the provisions of North Dakota Century code, chapter 39-01 through 39-13, 39-18, 39-21 and 39-24, or of equivalent city ordinances, the officer halting such person, except as otherwise provided in section 105.02003.

- a. Take the name and address of such person;
- b. Take the license number of his motor vehicle; and
- c. Issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice.

A halting officer employed by any political subdivision of the state may not take a person into custody or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a noncriminal offense under North Dakota Century Code, section 39-06.1-02. The officer shall provide the person with an envelope for use by that person to mail the bond.

105.02002 HEARING; TIME; PROMISE OF DEFENDANT TO APPEAR; FAILURE TO APPEAR

The provisions of North Dakota Century Code, section 39-07-08, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

The time to be specified in the summons or notice provided for in section 105.02001 shall be within ten days after the issuance of such summons or notice. Such hearing shall be before the municipal court. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, such officer shall release him from custody. Any person refusing to give written promise to appear shall be taken immediately by the halting officer before the nearest or most accessible magistrate, or to such other place or before such other person as may be provided by a statute or ordinance authorizing the giving of bail. Any person willfully violating his written promise to appear shall be guilty of an offense, regardless of the disposition of the charge upon which he originally was halted.

105.02003 OFFENSES UNDER WHICH PERSON HALTED MAY NOT BE ENTITLED TO RELEASE UPON PROMISE TO APPEAR

The provisions of North Dakota Century Code, section 39-0709, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

The provisions of section 105.02001 shall not apply to a person if:

- a. 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 section 105.02007 except reckless driving; or

- b. 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 of the following offenses:
 1. Reckless driving; or
 2. Driving in excess of speed limitations established by the state or local authorities in their respective jurisdictions.

The halting officer forthwith shall take any person not released upon his promise to appear before the nearest or most accessible magistrate.

105.02004 NONCRIMINAL TRAFFIC VIOLATIONS--GENERALLY

The provisions of North Dakota Century Code, section 39-06.1-02, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

Any person cited, in accordance with the provisions of North Dakota Century Code, sections 39-07-07 and 39-07-08, for a traffic violation under state law or municipal ordinance, other than an offense listed in North Dakota Century Code, section 39-06.1-05, shall be deemed to be charged with a non-criminal offense and may appear before the designated official and pay the statutory fee for the violation charged at or prior to the time scheduled for a hearing, or, if he has posted bond in person, as provided by North Dakota Century Code, section 39-07-07, or by mail, he may forfeit bond by not appearing at the designated time. If the person appears at the time scheduled in the citation, he may make a statement in explanation of his action and the official may at that time, in his discretion, waive, reduce or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, he shall be deemed to have admitted the violation and to have waived his right to a hearing on the issue of commission of the violation. The bond required to secure appearing before the official designated in the citation shall be identical to the statutory fee established by North Dakota Century Code, section 39-06.1-06. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the licensing authority:

- a. Admission of the violation; and
- b. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine miles per hour and the miles per hour by which the speed limit was exceeded.

This section shall not be construed as allowing a halting officer to receive the statutory fee or bond, unless he is otherwise authorized by law to do so.

The provisions of North Dakota Century Code, section 39-06.1-03, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

- a. If a person cited for a traffic violation, other than an offense listed in section 105.02007, does not choose to follow one of the procedures set forth in section 105.02004, he may request a hearing on the issue of his commission of the violation charged, the hearing to be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at the first appearance.
- b. At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the violation charged.
- c. If a person cited for a traffic violation, other than an offense listed in section 105.02007, who has requested a hearing on the issue of the commission of the violation charged, appears at the time scheduled for the hearing and the state or city, as the case may be, does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.
- d. If the official finds that the person had committed the traffic violation, he shall notify the licensing authority of that fact, and whether the person was driving more than nine miles (14.48 kilometers) per hour in excess of the lawful limit, stating specifically the miles (kilometers) per hour in excess of the lawful limit, if charged with a speeding violation, within ten days of the date of the hearing. The fact that a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, shall not be referred to in any way, nor be admissible as evidence in any court, civil, equity or criminal, except in an action or proceeding involving that person's driving license or privilege.
- e.
 1. If a person is aggrieved by a finding that he committed the violation, he may, without payment of a filing fee, appeal that finding to the District Court for a new trial. If, after trial in the District Court, the person is again found to have committed the violation, there shall be no further appeal. Notice of appeal under this subsection shall be given within thirty days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that he adjudges that a violation has been committed. Otherwise, notice of appeal shall be in writing and filed with the official and a copy of the notice shall be served upon the city attorney or state's attorney, as the case may be. An appeal taken under this subsection shall not operate to stay the reporting requirements of subsection (d) hereof, nor to stay appropriate action by the licensing authority upon receipt of that report.
 2. The District Court, upon application by the appellant, may:

- a. Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty days;
- b. Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty days; or
- c. Deny the application.

Any application for a stay or temporary certificate under this paragraph shall be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of two dollars. Any order granting a stay or a temporary certificate shall be forwarded by the clerk of court to the licensing authority in accordance with the order in the manner provided by law. A court shall not make a determination on an application under this paragraph without notice to the appropriate prosecuting attorney. A person who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this paragraph shall be guilty of a traffic violation and shall be assessed a fee of twenty dollars.

3. If a person charged is found not to have committed the violation by the district court, the clerk of court shall report that fact to the licensing authority immediately. If an appeal under this subsection is from a violation of a city ordinance, the city attorney shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.
- f. The city must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection (e) hereof, the court and parties shall follow, to the extent applicable, the North Dakota Rules of Civil Procedure. If, on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.
- g. As used in sections 105.0203 through 105.0205, the word "official" means a municipal judge.

105.02006 SAME--FAILURE TO APPEAR, PAY STATUTORY FEE OR POST BOND

The provisions of North Dakota Century Code, section 39-06.1-04, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

If a person fails to choose one of the methods of proceeding set forth in section 105.0204 or section 105.0205, he shall be deemed to have admitted to commission of the violation charged, and the municipal court shall report such fact to the licensing authority within ten days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond shall be

an offense. Failure to appear without just cause at the hearing shall also be deemed an admission of commission of the violation charged.

105.02007 OFFENSES EXCEPTED FROM PROCEDURES OF SECTIONS 105.02001 and 105.02007

The provisions of North Dakota Century Code, section 39-06.1-05, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

The procedures authorized under sections 105.02001 and 105.02005 may not be utilized by a person charged with one of the following offenses:

- 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 105.01901.
- b. Reckless driving in violation of section 105.01901.
- c. Negligent homicide in violation of North Dakota Century Code, section 12.1-16-03.
- d. Manslaughter resulting from the operation of a motor vehicle.
- e. Leaving the scene of an accident in violation of sections 105.01904 through 105.01905.
- f. Driving while license or driving privilege is suspended or revoked in violation of section 105.01906.
- g. Violating paragraph (2) or (3) of subsection (b) of section 105.01907.

105.02008 AMOUNTS OF STATUTORY FEES

The provisions of North Dakota Century Code, section 39-06.1-06, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

The fees required for a noncriminal disposition pursuant to either section 105.02004 or section 105.02005 shall be as follows:

- a. For a nonmoving violation as defined in North Dakota Century Code, section 39-06.1-08, a fee of ten dollars.
- b. For a moving violation as defined in North Dakota Century Code, section 39-06.1-09, a fee of twenty dollars.
- c. For a violation of North Dakota Century Code, section 39-09-02, or an equivalent ordinance, the penalty shall be a fee and a point assessment against the driver's license as follows:

<u>Speed (mph)</u>	<u>Fee (\$)</u>	<u>Points</u>
56-60	\$5	0

61-65	\$5 plus \$1/each mph over 60	1
66-70	\$10 plus \$1/each mph over 65	2
71-75	\$15 plus \$2/each mph over 70	3
76-80	\$25 plus \$3/each mph over 75	4
81-90	\$40 plus \$3/each mph over 80	6
91-100	\$70 plus \$3/each mph over 90	8
100+	\$100 plus \$5/each mph over 100	12

- d. For a violation of North Dakota Century Code, section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.
- e. For a violation of North Dakota Century Code, section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.
- f. For a violation of North Dakota Century Code, section 39-09-02, or an equivalent ordinance, which violation is not provided for in subsection (c) of this section, the penalty shall be a fee and a point assessment against the driver's license as follows:
 - 1. From one to five miles per hour in excess of the lawful limit, a fee of five dollars, and no points;
 - 2. From six to ten miles per hour in excess of the lawful speed limit, a fee of ten dollars, and one point;
 - 3. From eleven to fifteen miles per hour in excess of the lawful speed limit, a fee of fifteen dollars, and two points;
 - 4. From sixteen to twenty-five miles per hour in excess of the lawful speed limit, a fee of twenty dollars, and four points; and
 - 5. Twenty-six or more miles per hour in excess of the lawful speed limit, a fee of twenty-five dollars, and six points.
- g. For a violation of North Dakota Century Code, section 39-08-20, a fee of not less than twenty-five dollars nor more than one hundred dollars.

105.02009 NONMOVING VIOLATION DEFINED

The provisions of North Dakota Century Code, section 39-06.1-08, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

For the purpose of section 105.02007, a "nonmoving violation" shall mean sections 105.0924, 105.0933, 105.0934, or the provisions of Article XIV.

105.02010 MOVING VIOLATION DEFINED

The provisions of North Dakota Century Code, section 39-06.1-09, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

For the purpose of section 105.02007 a "moving violation" means a violation of section 105.0911, 105.0931, 105.0505, 105.01102, 105.01103, 105.01104, 105.01105, 105.01106, 105.03010(a) or 105.01907, except paragraphs (2) and (3); or a violation of the provisions of Article IX or Article XVII except section 105.01703 and those sections which are specifically listed in section 105.02008.

105.02011 GENERAL PENALTY FOR VIOLATION OF CHAPTER

The provisions of North Dakota Century Code, section 39-07-06, and all subsequent amendments, shall be and are hereby incorporated by reference in this section.

- a. Any person violating any of the provisions of this chapter for which another criminal penalty is not specifically provided shall be guilty of an infraction. As used in this section, the phrase "another criminal penalty" includes provision for payment of a fixed fee for violating another section in this chapter, but does not include any other administrative sanction which may be imposed.
- b. Any person who is convicted of violating or of failing to comply with any of the provisions of this chapter may be punished by a fine of not more than five hundred dollars or by imprisonment not to exceed thirty days, or both, and, upon conviction of any person of a violation of section 105.01901 and 105.01906, the court may order the number plate of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff or chief law enforcement officer of the city, as is appropriate, for the duration of the period of suspension of the offender's driver's license or driving privilege by the licensing authority.

105.02012 NOTIFICATION OF PARENTS OR GUARDIANS OF JUVENILE TRAFFIC OFFENDERS

The municipal judge or his clerk shall notify the parent or guardian of any juvenile appearing before the court on a traffic offense of the charge as contained in the citation, the penalty attached to the offense and the time and place of any court hearing on the matter.