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September 13, 2017

Linda Lybeck
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City Auditor
PO Box 1048
Devils Lake, ND 58301-1048

In re: **Disruptive Intoxication Ordinance**

Dear Linda:

I am enclosing the ordinance which I have drafted regarding Disruptive Intoxication. Please place this on the agenda for a first reading at the City Commission meeting of September 18.

If you have any questions, please contact me.

Thank you.

Respectfully,

J. Thomas Traynor, Jr.

JTT, JR/pdd

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ORDINANCE NO. 947

AN ORDINANCE, WHICH UPON ADOPTION, SHALL BE CODIFIED AS CHAPTER 9.37 OF THE DEVILS LAKE MUNICIPAL CODE.

BE IT ORDAINED, by the City Commission of the City of Devils Lake, North Dakota, pursuant to the Home Rule Charter of the City of Devils Lake, that Ordinance No. 947 codified as Chapter 9.37 of the Municipal Code, and will provide as follows:

9.37.010 Declaration of Policy.

It is the policy of the City of Devils Lake to provide for the safety, health and welfare of the public while prohibiting certain harmful conduct of intoxicated persons. As provided in N.D.C.C. §40-05-01(33), cities have the power to keep public peace in the municipality, which includes prohibiting public intoxication.

9.37.020 Definitions.

The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

Intoxicated Person: A person who is presently impaired, mentally or emotionally, as a result of the presence of alcohol, drugs, a controlled substance in the person's body or a combination thereof. Evidence of an intoxicated person may include, but is not limited to, any combination of the following indicators:

1. Odor of intoxicants on the breath
2. Bloodshot, watery eyes
3. Dilated pupils
4. Stumbling or staggering
5. Slurred speech
6. Indicators of standardized field sobriety tests
7. Opinion of a drug recognition expert/evaluator
8. Alcohol concentration of .08 or more as taken by a portable breath test (PBT)
9. Unconsciousness or unresponsiveness

Public Disruption. Conduct by an individual to include loud, boisterous yelling, urinating in public, lewd or combative conduct, harassing or offensive conduct, behavior that will tend to alarm, anger or disturb others, disobeying a police officer's lawful command or interfering with the flow of pedestrian or vehicular traffic. Such conduct includes being found in a public place unconscious or unresponsive due to intoxication or when an individual is intoxicated and refuses to leave private property when directed by the owner or person(s) in control of the private property.

Public Place. Includes a building or place controlled by the City, a school, a place of worship, any public street, including public sidewalk, alley, walk or other publicly owned lands. Public place shall include privately owned buildings or parking lots that are open to the public by invitation or custom, such as businesses and apartment complexes. Public place excludes the premises of a licensed alcohol establishment.

9.37.030 Disruptive Intoxication.
No person, while intoxicated in a public place, shall conduct him or herself so as to be a danger to themselves or others and/or engage in public disruption.

9.37.040 Sobriety Testing.
No person shall be cited under this section without first having been offered and failed the standardized field sobriety test or a portable breath test (PBT); however, a person incapable and/or having refused field sobriety testing or a PBT may be cited under the criteria set forth in subsection B of this section.

9.37.050 Assistance.
A Devils Lake police officer may take any apparently intoxicated individual to the individual’s home, to a local hospital, to a detoxification center, or, whenever that individual constitutes a danger to that individual or others, to a jail. A Tier 1-B mental health professional, as defined under North Dakota Century Code Section 25-01-01 of a local hospital may hold that individual for treatment up to 72 hours. That intoxicated individual would not be held in jail because of intoxication more than 24 hours. An intoxicated individual may not be placed in a jail unless a jailer is constantly monitoring the individual and medical services are provided if the need is indicated. Upon placing that individual in jail, or if the individual is admitted to a hospital or detoxification center, upon admission, the police officer shall make a reasonable effort to notify the intoxicated individual’s family as soon as possible. Any additional costs incurred by the City on account of an intoxicated individual are recoverable from that individual.

9.37.060 Penalty.
A violation of this section is designated as a misdemeanor, as provided in Chapter 1.16 of the City of Devils Lake Municipal Code.

Passed First Reading: _____

Passed Second Reading: _____

Final Passage and Adoption: _____

By: _____

Richard Johnson, President
Devils Lake City Commission

ATTEST:

Linda Lybeck
City Auditor