

BILL NO. 83-33

ORDINANCE No. 3059

AN ORDINANCE TO AMEND TITLE 11, CHAPTER 14, OF THE MUNICIPAL CODE OF THE CITY OF LAS VEGAS, NEVADA, 1983 EDITION, TO PROVIDE CERTAIN PENALTY PROVISIONS CORRESPONDING TO STATE LAW FOR OFFENSES RELATING TO DRIVING A VEHICLE UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES, TO REPEAL ALL ORDINANCES IN CONFLICT HERewith AND TO PROVIDE FOR OTHER MATTERS PROPERLY RELATING THERETO.

Sponsored By: Intent: Amends Title 11, Chapter 14 of the Las Vegas Municipal Code to provide that the penalty provisions for offenses relating to driving under the influence of alcohol or controlled substances correspond to state law.
Councilman Ron Lurie.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS, NEVADA DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 11, Chapter 14, Section 10 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

11.14.10: [Any person who violates any City ordinance corresponding to NRS 484.379(1) or NRS 484.379(2), and who has not been convicted of a violation of such ordinance or any law which prohibits the same conduct as that prohibited by NRS 484.379(1), NRS 484.379(2) or NRS 484.3795 in any jurisdiction within 5 years before the violation took place, is guilty of a misdemeanor. Except as provided in Section 11.14.030, the court shall order him to pay tuition for and attend courses on the use and abuse of alcohol and controlled substances approved by the Nevada Department of Motor Vehicles, shall fine him not less than \$100 or more than the maximum fine permitted for a misdemeanor, and may sentence him to imprisonment in the City jail for not more than 6 months. The court may order the Nevada Department of Motor Vehicles to suspend his driver's license for a definite period of not less than 30 days nor more than 1 year and not to allow him any limited driving privileges unless his inability to drive to and from work or in the course of his work

1 would cause extreme hardship or prevent his earning a living.]

2 Any person who violates any City ordinance corresponding to

3 NRS 484.379(1) or NRS 484.379(2):

4 (A) For the first offense within 7 years, is guilty of
5 a misdemeanor. Unless he is allowed to undergo treatment as
6 provided in LVMC 11.14.030, the court shall:

7 (1) Order him to pay tuition for an educational
8 course on the abuse of alcohol and controlled substances
9 approved by the Nevada Department of Motor Vehicles and
10 complete the course within the time specified in the
11 order, and the court shall notify the Nevada Department
12 of Motor Vehicles if he fails to complete the course
13 within the specified time;

14 (2) Unless the sentence is reduced pursuant to
15 LVMC 11.14.030, sentence him to imprisonment for not
16 less than 2 days nor more than 6 months in jail, or to
17 perform 48 hours of work for the community while dressed
18 in distinctive garb which identifies him as having
19 violated the provisions of any City ordinance corres-
20 ponding to NRS 484.379(1) or NRS 484.379(2); and

21 (3) Fine him not less than \$200.00 nor more than
22 \$1,000.00.

23 The teacher of the educational course shall evaluate the
24 offender and, if he finds the offender is an abuser of alco-
25 hol or controlled substances, he shall promptly report his
26 findings to the court for its use.

27 (B) For a second offense within 7 years, is guilty of a
28 misdemeanor. Except as provided in LVMC 11.14.030, the court
29 shall sentence him to imprisonment for not less than 10 days
30 nor more than 6 months in jail and fine him not less than
31 \$500.00 nor more than \$1,000.00.

32 SECTION 2: Title 11, Chapter 14, Section 20 of the

1 Municipal Code of the City of Las Vegas, Nevada, 1983 Edition is
2 hereby amended to read as follows:

3 11.14.020: [Any person who violates any City ordinance
4 corresponding to NRS 484.379(1) or NRS 484.379(2) within 5 years
5 after having once been convicted in any jurisdiction of a viola-
6 tion of NRS 484.379(1), NRS 484.379(2), NRS 484.3795 or any other
7 law which prohibits the same conduct is guilty of a misdemeanor.
8 Except as provided in Section 11.14.030, the court shall sentence
9 him to imprisonment for not less than 10 days nor more than 6
10 months in the City jail, fine him not less than \$500 nor more
11 than the maximum fine permitted for a misdemeanor and direct the
12 Nevada Department of Motor Vehicles to suspend his driver's
13 license for a period specified in the order which must be not
14 less than 6 months and not allow him any limited driving privile-
15 ges unless his inability to drive to and from work or in the
16 course of his work would cause extreme hardship or prevent his
17 earning a living.] Any offense which occurred within 7 years
18 immediately preceding the date of the principal offense or after
19 the principal offense constitutes a prior offense for the pur-
20 poses of this Chapter when evidenced by a conviction, without
21 regard to the sequence of the offenses and convictions. The
22 facts concerning the prior offense must be alleged in the
23 complaint and must not be proved at trial but must be proved at
24 the time of sentencing.

25 SECTION 3: Title 11, Chapter 14, Section 30 of the
26 Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is
27 hereby amended to read as follows:

28 11.14.030: A person who [has been convicted] is found guilty
29 of a first or second violation of any City ordinance
30 corresponding to NRS 484.379(1) or NRS 484.379(2) within 7 years
31 may, at that time or any time until he is sentenced, apply to the
32 court [elect] to undergo a program of treatment for alcoholism or

1 drug abuse [approved by the court] for at least 1 year if:

2 (A) He is classified as an alcoholic or abuser of drugs
3 by a:

4 (1) Counselor certified to make that classifica-
5 tion by the Nevada Bureau of Alcohol and Drug Abuse of
6 the Rehabilitation Division of the Department of Human
7 Resources; or

8 (2) Physician certified to make that classifica-
9 tion by the State Board of Medical Examiners;

10 (B) He agrees to pay the costs of the treatment;

11 (C) He has served a term of imprisonment in the county
12 jail of:

13 (1) One day, or has performed or will perform 24
14 hours of work for the community, if it is his first
15 offense within 7 years; or

16 (2) Five days if it is his second offense within 7
17 years; [conviction; or

18 (2) Thirty days if it is his third conviction, of
19 violating NRS 484.379(1), NRS 484.379(2), NRS 484.3795,
20 or a law which prohibits the same conduct, within 5
21 years, in any jurisdiction; and

22 (D) The court orders the Nevada Department of Motor
23 Vehicles to suspend his driver's license for a period spe-
24 cified in the order which must not be less than 90 days and
25 not more than the time required to complete the treatment.
26 The court may not allow him any limited driving privileges
27 unless his inability to drive to and from work or in the
28 course of his work would cause extreme hardship or prevent
29 his earning a living.

30 A person may elect treatment pursuant to this Section or
31 pursuant to NRS 484.379(6) only once in any period of 5
32 years.]

SECTION 4: Title 11, Chapter 14, Section 40 of the
Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is
hereby amended to read as follows:

11.14.40: [If a person who has elected and qualified for
treatment pursuant to Section 11.14.040:

(A) Fails to complete the treatment satisfactorily, he
must be sentenced to the fine and imprisonment to which he
would have been sentenced had he not elected treatment. The
sentence of imprisonment must be reduced by a time equal to
that which he served before beginning treatment.

(B) Completes the treatment satisfactorily, he may not
be sentenced further, but the conviction shall remain on his
record of criminal history.] 1. A prosecuting attorney has
10 days after receiving notice of an application for treat-
ment pursuant to Section 11.14.030 in which to request a
hearing on the matter. The court shall order a hearing on
the application if the prosecuting attorney requests it or
may order a hearing on its own motion.

2. At the hearing on the application for treatment the
prosecuting attorney may present the court with any relevant
evidence on the matter. If a hearing is not held, the court
shall decide the matter upon affidavits and other information
before it.

3. In granting an application for treatment the court
shall advise the offender that:

(a) Final sentencing in his case will be post-
poned.

(b) If he is accepted for treatment by a facility
approved by the state, he may be placed under the super-
vision of the facility for a period not to exceed 3
years and during treatment he may be confined in an
institution or, at the discretion of the facility,

1 released for treatment or supervised aftercare in the
2 community.

3 (c) If he is not accepted for treatment by such a
4 facility or fails to complete the treatment satisfac-
5 torily, he must be sentenced to the fine and imprison-
6 ment to which he would have been sentenced had he not
7 been allowed treatment. The sentence of imprisonment
8 must be reduced by a time equal to that which he served
9 before beginning treatment.

10 (d) If he completes the treatment satisfactorily,
11 he may not be sentenced to a term of imprisonment which
12 is longer than that provided for the offense in Section
13 11.14.030(A)(1)(c) or fined more than the minimum pro-
14 vided for the offense in Section 11.14.010, but the con-
15 viction remains on his record of criminal history.

16 4. The court shall administer the program of treatment
17 pursuant to the procedures provided in NRS 458.320 and
18 458.330, except that the court shall not defer the sentence
19 or set aside the conviction.

20 5. The court shall notify the Nevada Department of
21 Motor Vehicles, on a form approved by the department, upon
22 granting the offender's application for treatment and his
23 failure to be accepted for or complete treatment.

24 SECTION 5: Title 11, Chapter 14, Section 50 of the
25 Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is
26 hereby amended to read as follows:

27 11.14.050: No sentence imposed for violating the provisions of
28 any City ordinance corresponding to NRS 484.379(1) or
29 NRS 484.379(2) may be suspended.[, nor may any program of educa-
30 tion, counseling or treatment be ordered or permitted before con-
31 viction.] No prosecuting attorney may dismiss a charge of
32 violating the provisions of any City ordinance corresponding to

1 NRS 484.379(1) or NRS 484.379(2) in exchange for a plea of guilty
2 or nolo contendere to a lesser charge or for any other reason
3 unless he knows or it is obvious that the charge is not supported
4 by probable cause or cannot be proved at the time of trial.

5 SECTION 6: Title 11, Chapter 14, Section 60 of the
6 Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is
7 hereby amended to read as follows:

8 11.14.060: Any term of confinement imposed under the provi-
9 sions of this Chapter may be served intermittently at the discre-
10 tion of the judge[.], except that a person who is convicted of a
11 second offense within 7 years must be confined for at least one
12 segment of not less than 48 hours. This discretion must be exer-
13 cised after considering all the circumstances surrounding the
14 offense, and the family and employment of the offender, [person
15 convicted,] but any sentence of 30 days or less must be served
16 within 6 months from the date of conviction or within 6 months
17 after the date of sentencing if the person elected to undergo
18 treatment pursuant to Section 11.14.030. Any segment of time the
19 person is confined must not consist of less than 24 consecutive
20 hours. Jail sentences simultaneously imposed under this Chapter
21 and any City ordinance corresponding to NRS 483.560 or NRS
22 485.330 must run consecutively.

23 SECTION 7: Title 11, Chapter 14 of the Municipal
24 Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby
25 amended by adding a new Section 70 to read as follows:

26 11.14.070: As used in this Chapter, unless the context
27 requires otherwise, "offense" means a violation of NRS 484.379 or
28 NRS 484.3795 or homicide resulting from the driving of a vehicle
29 while under the influence of intoxicating liquor or a controlled
30 substance, or any City ordinance which prohibits the same con-
31 duct, or the violation of a law of any other jurisdiction which
32 prohibits the same conduct.

SECTION 8: All ordinances or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

SECTION 9: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

PASSED, ADOPTED and APPROVED this 3rd day of August,
1983.

APPROVED:

WILLIAM H. BRIARE, MAYOR
RON LURIE, MAYOR PRO-TEM

ATTEST:

CAROL ANN HAWLEY, CITY CLERK

VOTING "AYE" Councilmen: Christensen, Levy, Lurie, Nolen and Mayor Briare

VOTING "NAY" Councilmen: None

ABSENT: None

RON LURIE, MAYOR PRO-TEM

CAROL ANN HAWLEY, CITY CLERK

BILL NO. 83-33
Ordinance No. 3059
AN ORDINANCE TO AMEND TITLE 11,
CHAPTER 14, OF THE MUNICIPAL
CODE OF THE CITY OF LAS VEGAS,
NEVADA, 1983 EDITION, TO PROVIDE
CERTAIN PENALTY PROVISIONS COR-
RESPONDING TO STATE LAW FOR
OFFENSES RELATING TO DRIVING A
VEHICLE UNDER THE INFLUENCE OF
ALCOHOL OR CONTROLLED SUB-
STANCES, TO REPEAL ALL ORDI-
NANCES IN CONFLICT HERewith AND
TO PROVIDE FOR OTHER MATTERS
PROPERLY RELATING THERETO.

Sponsored by:

Councilman Ron Lurie

Intent: Amends Title 11, Chapter 14 of
the Las Vegas Municipal Code to pro-
vide that the penalty provisions for
offenses relating to driving under the
influence of alcohol or controlled sub-
stances correspond to state law.

The above and foregoing ordinance was
first proposed and read by title to the
City Council on the 6th day of July,

1983, and referred to the following
committee composed of Councilmen
Lurie and Christensen, for recommenda-
tion; thereafter the said committee re-
ported favorably on said ordinance on
the 3rd day of August, 1983, which was
a regular meeting of said Council; that
at said regular meeting, the proposed
ordinance was read by title to the City
Council as first introduced and adopted
by the following vote:

VOTING "AYE" Councilmen: Christen-
sen, Levy, Lurie, Nolan and Mayor Briare

VOTING "NAY" Councilmen: None

ABSENT: None

COPIES OF THE COMPLETE ORDI-
NANCE ARE AVAILABLE FOR PUBLIC
INFORMATION IN THE OFFICE OF THE
CITY CLERK, 10TH FLOOR, CITY HALL,
400 EAST STEWART AVENUE, LAS
VEGAS, NEVADA.

PUB: August 6, 1983

Las Vegas SUN

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA,
COUNTY OF CLARK

ss.

Coralee M. Wilson

, being first duly sworn,

deposes and says: That he is Legal Clerk of the
LAS VEGAS SUN, a daily newspaper of general circulation, printed and published
at Las Vegas, in the County of Clark, State of Nevada, and that the attached was
continuously published in said newspaper for a period of 1 time.

from August 6, 1983 to August 6, 1983

inclusive, being the issues of said newspaper for the following dates, to-wit:

August 6, 1983

That said newspaper was regularly issued and circulated on each of the dates
above named.

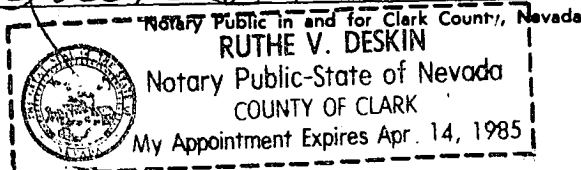
Signed

Coralee M. Wilson

Subscribed and sworn to before me this 8th
day of August, 1983.

Ruth V. Deskin

My Commission Expires



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CITY CLERK

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Bill No. 63-33
AN ORDINANCE TO AMEND TITLE 11,
CHAPTER 14, OF THE MUNICIPAL
CODE OF THE CITY OF LAS VEGAS,
NEVADA, 1983 EDITION, TO PROVIDE
CERTAIN PENALTY PROVISIONS COR-
RESPONDING TO STATE LAW FOR
OFFENSES RELATING TO DRIVING A
VEHICLE UNDER THE INFLUENCE OF
ALCOHOL OR CONTROLLED SUB-
STANCES, TO REPEAL ALL ORD-
INANCES IN CONFLICT HEREWITH
AND TO PROVIDE FOR OTHER MAT-
TERS PROPERLY RELATING
THERE TO.
Intent: Amends Title 11, Chapter 14 of
the Las Vegas Municipal Code to pro-
vide that the penalty provisions for
offenses relating to driving under the
influence of alcohol or controlled sub-
stances correspond to state law.
Sponsored By:
Councilman Ron Lurie
At a City Council Meeting on July 6,
1983, Bill No. 83-33 was read by Title
and referred to recommending
Committee:
Councilmen Lurie and Christensen.
COPIES OF THE COMPLETE ORD-
NANCE ARE AVAILABLE FOR PUBLIC
INFORMATION IN THE OFFICE OF THE
CITY CLERK, 10TH FLOOR, CITY HALL,
400 EAST STEWART AVENUE, LAS
VEGAS, NEVADA.
PUB: July 20, 1983
Las Vegas SUN

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA,
COUNTY OF CLARK

{ ss.

Coralee M. Wilson

, being first duly sworn,

deposes and says: That he is _____ Legal Clerk _____ of the
LAS VEGAS SUN, a daily newspaper of general circulation, printed and published
at Las Vegas, in the County of Clark, State of Nevada, and that the attached was
continuously published in said newspaper for a period of 1 time.

from July 20, 1983 to July 20, 1983

inclusive, being the issues of said newspaper for the following dates, to-wit:

July 20, 1983

That said newspaper was regularly issued and circulated on each of the dates
above named.

Signed

Coralee M. Wilson

Subscribed and sworn to before me this 20th
day of July 1983.

[Signature]

My Commission Expires



Notary Public in and for Clark County, Nevada

RUTHE V. DESKIN

Notary Public-State of Nevada
COUNTY OF CLARK

My Appointment Expires Apr. 14, 1985

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CITY CLERK

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