



THE CITY OF REDMOND
FINANCE DEPARTMENT

January 7, 1994

MEMO TO FILE
ORDINANCE NO. 1723

The statutory references contain typographical errors which have been corrected to reflect the actual statutes described in the text.

(Corrections in Bold/Italics)

RCW 46.04. 431	Definition of Highway
RCW 46. 48 .170	State Patrol Authority
RCW 60.04. 011	Vehicle Mechanic's Liens
-221	

Doris A. Schaible

Doris A. Schaible
City Clerk

ORDINANCE NO. 1723

Driving While Under
the Influence
New Chapter 10.14

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, ADDING A NEW CHAPTER TO THE REDMOND MUNICIPAL CODE, CHAPTER 10.14 - PROHIBITING THE DRIVING OF A VEHICLE AND THE ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR ANY DRUG; DEFINING PERSONS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUG AND THE EVIDENCE, TESTS, AND INFORMATION APPLICABLE IN DUI AND PHYSICAL CONTROL CASES; ALLOWING THE ADMISSIBILITY OF BLOOD OR BREATH REFUSALS IN DUI AND PHYSICAL CONTROL CASES; ADDING A MANDATORY DUI VICTIM'S PANEL PENALTY; AND AMENDING SECTION 10.10.030 OF THE REDMOND MUNICIPAL CODE.

ORIGINAL

WHEREAS, the Redmond City Council finds that a person who drives or controls a motor vehicle while affected to any appreciable degree by alcohol or drugs (DUI) represents a serious danger to the citizens of Redmond; and

WHEREAS, the Surgeon General of the United States has advocated a .08 level for the presumption of being under the influence of alcohol; and

WHEREAS, the Federal Department of Transportation has established a national "illegal per se" .04 (BC) level for commercial vehicle drivers; and

WHEREAS, the Washington State Toxicologist, the National Safety Council and the International Association of Chiefs of Police affirm that a blood or breath alcohol concentration (BAC) of .08 results in a measurable impairment of driving ability and all recommend that

jurisdictions adopt laws declaring that driving under the influence of alcohol with this BAC level is *per se* illegal; and

WHEREAS, there is a strong consensus in the scientific community that .08 is an appropriate alcohol impairment standard, the Council finds that this standard should be adopted in the City of Redmond; and

WHEREAS the Redmond City Council finds that adopting a law consistent with the great weight of professional and scientific advice is in the interest of the public health, safety and welfare, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. New Chapter Added. A new chapter, Chapter 10.14, is hereby added to Title 10 of the Redmond Municipal Code. Chapter 10.14 shall read as follows:

10.14.010 - Driving While Under Influence of Intoxicating Liquor or Drug - What Constitutes. A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within the City while:

(a) The person has 0.08 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person's breath made under RMC 10.14.030; or

(b) The person has 0.08 percent or more by weight of alcohol in the person's blood as shown by analysis of the person's blood made under RMC 10.30.030; or

(c) The person is under the influence of or affected by intoxicating liquor or any drug; or

(d) The person is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

10.14.020 - Actual Physical Control of Motor Vehicle While Under Influence of Intoxicating Liquor or Drug - What Constitutes - Defenses.

A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within the City while:

(a) The person has 0.08 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person's breath made under RMC 10.14.030; or

(b) The person has 0.08 percent or more by weight of alcohol in the person's blood as shown by analysis of the person's blood made under RMC 10.14.030; or

(c) The person is under the influence of or affected by intoxicating liquor or any drug; or

(d) The person is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

10.14.030 - Persons Under Influence of Intoxicating Liquor or Drug - Evidence - Tests - Information Concerning Tests.

(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed within the City by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the amount of alcohol in the person's blood or breath at the time alleged as shown by analysis of the person's blood or breath is less than 0.08 percent by weight of alcohol in his or her blood or 0.08 grams of alcohol per two hundred ten liters of the person's breath, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(b) The breath analysis shall be based upon grams of alcohol per two hundred ten liters of breath. The foregoing provisions of this section 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 or any drug.

(c) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RMC 10.14.010 or RMC 10.14.020 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. Pursuant to RCW 46.61.506, the state toxicologist is directed by the State to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(d) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic content may be performed only by a physician, a registered nurse, or a qualified technician. This limitation shall not apply to the taking of breath specimens.

(e) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other

qualified person of his or her choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or test taken at the direction of a law enforcement officer.

(f) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney.

10.14.040 - Refusal of Alcohol Test - Admissibility of Evidence. RCW 46.61.517, including all future amendments, additions or deletions is hereby adopted by reference.

10.14.050 - Penalties - DUI Victims Panel. Every person who is convicted of violating RMC 10.14.010 or 10.14.020 shall be punished as provided in RCW 46.61.515 and RCW 46.61.5151 for violations of RCW 46.61.502 and RCW 46.61.504. In addition to the penalties provided in the state statutes listed, every person convicted of violating RMC 10.14.010 or 10.14.020 shall be required to attend a DUI victims panel.

Section 2. Repealer. Section 10.10.030 of the Redmond Municipal Code is hereby amended to repeal the

City's adoption of RCW 46.61.502, RCW 46.61.504 and RCW 46.61.506, and to read as follows:

- RCW 46.04.031 Definition of Highway
- RCW 46.68.170 State Patrol Authority
- RCW 60.04.010 Vehicle Mechanic's Liens
-.220
- RCW 46.61.502 Driving While Under Influence of Intoxicating Liquor or Drug - What Constitutes.
- RCW 46.61.504 Actual Physical Control of Motor Vehicle While Under Influence of Intoxicating Liquor or Drug - What Constitutes - Defenses.
- RCW 46.61.506 Persons Under Influence of Intoxicating Liquor or Drug - Evidence - Tests - Information Concerning Tests.

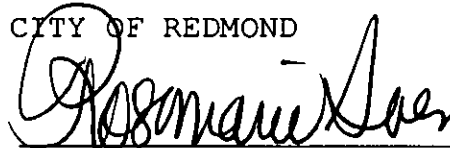
Section 3. Effect of Enactment of Adopted RCW Sections. The City's adoption of RCW 46.61.502, RCW 46.61.504 and RCW and 46.61.506 as part of the Model Traffic Ordinance shall remain in full force and effect until the effective date of this ordinance, which shall be September 1, 1993.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other sections, sentence, clause or phrase of this ordinance.

Section 5. Effective Date. This ordinance, being the exercise of a power specifically delegated to the legislative body, is not subject to referendum, and shall take effect and be in full force September 1, 1993, which is more than five days after its passage and publication of the attached summary, which is hereby approved.

DATED this 6th day of April,
1993.

CITY OF REDMOND



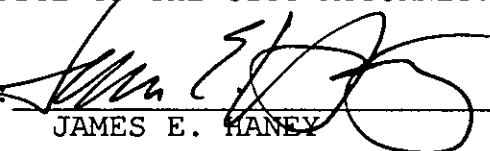
ROSEMARIE IVES, MAYOR

ATTEST/AUTHENTICATED:



DORIS SCHAIBLE, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY: 
JAMES E. HANEY

FILED WITH THE CITY CLERK:	March 31, 1993
PASSED BY THE CITY COUNCIL:	April 6, 1993
SIGNED BY THE MAYOR:	April 6, 1993
PUBLISHED:	April 11, 1993
EFFECTIVE DATE:	September 1, 1993
ORDINANCE NO. <u>1723</u>	