

0020.160.070B
JEH/nkr/are
06/14/94

DUI

ORDINANCE NO. 1787

ORIGINAL

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, AMENDING CHAPTER 10.14 OF THE REDMOND MUNICIPAL CODE ENTITLED "DRIVING UNDER THE INFLUENCE OF INTOXICANTS OR DRUGS" TO REFLECT REVISIONS PURSUANT TO CHAPTER 275, LAWS OF 1994, AMENDING SECTIONS 10.14.010, 10.14.020, 10.14.030 AND 10.14.050, REPEALING SECTION 10.14.040, ADDING SECTIONS 10.14.005, 10.14.060, 10.14.070, 10.14.080, 10.14.090 AND 10.14.100, DECLARING AN EMERGENCY AND ESTABLISHING AN EFFECTIVE DATE OF JULY 1, 1994.

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 0.08 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*" 0.04 (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 0.08 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 0.08 is an appropriate alcohol impairment standard, the Council finds that this standard should be adopted in the City of Redmond; and

WHEREAS, the 1994 Washington State Legislature mandated new penalties for a conviction of Driving While Under the Influence of Intoxicating Liquor or Drugs and for Being in Actual Physical Control of a Motor Vehicle While Under the Influence of Intoxicating Liquor or Drugs; and

WHEREAS, the City of Redmond must provide for penalties for violations of the above laws which are consistent with state law; 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. Definition of 'Alcohol Concentration'. A new Section 10.14.005 is hereby added to the Redmond Municipal Code to read as follows:

10.14.005 Alcohol Concentration Defined. "Alcohol concentration" when used in this Code means (1) grams of alcohol per two hundred ten liters of a person's breath, or (2) the percent by weight of alcohol in a person's blood.

Section 2. Driving While Under the Influence of Intoxicating Liquor or Drug -

What Constitutes. Redmond Municipal Code section 10.14.010 is hereby amended to read as follows:

10.14.010 Driving While Under the Influence of Intoxicating Liquor or Drug - What Constitutes.

- (1) 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:
 - (a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RMC 10.14.030; or
 - (b) While the person is under the influence of or affected by intoxicating liquor or any drug; or
 - (c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.
- (2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.
- (3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.
- (4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had

an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

- (5) A violation of this section is a gross misdemeanor.

Section 3. Actual Physical Control of Motor Vehicle While Under the Influence of Intoxicating Liquor or Drug - What Constitutes. Redmond Municipal Code section 10.14.020

is hereby amended to read as follows:

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

- (1) 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:
- (a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RMC 10.14.030; or
 - (b) While the person is under the influence of or affected by intoxicating liquor or any drug; or
 - (c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.
- (2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does 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.

- (3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.
- (4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.
- (5) A violation of this section is a gross misdemeanor.

Section 4. Persons Under Influence of Intoxicating Liquor or Drug - Evidence - Tests -

Information Concerning Tests. Redmond Municipal Code section 10.14.030 is hereby amended to read as follows:

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

- (1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed 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 person's alcohol concentration is less than 0.08, 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.

- (2) 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.
- (3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or Redmond Municipal Code Sections 10.14.010 or 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 state law, the state toxicologist is directed 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.
- (4) 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.
- (5) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his or her own 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 tests taken at the direction of a law enforcement officer.
- (6) 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.

Section 5. Penalty; DUI; BAC Less Than .15. A new section 10.14.060 is added

to the Redmond Municipal Code to read as follows:

10.14.060 Penalty; DUI; BAC Less Than .15.

- (1) A person whose driver's license is not in a probationary, suspended, or revoked status, and who has not been convicted of a violation of Redmond Municipal Code Sections 10.14.010 or 10.14.020 or any other criminal prohibition against Driving While Under the Influence or Being in Actual Physical Control of a Motor Vehicle While Under the Influence that was committed within five years before the commission of the current violation, and who violates Redmond Municipal Code Sections 10.14.010(1)(a) or 10.14.020(1)(a) because of an alcohol concentration of at least 0.08 but less than 0.15, or a person who violates Redmond Municipal Code Sections 10.14.010(1)(b) or (1)(c), or 10.14.020(1)(b) or (1)(c) and for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 the person's alcohol concentration is not proved, is guilty of a gross misdemeanor and shall be punished as follows:
 - (a) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and
 - (b) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and
 - (c) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. All or part of the ninety-day period of suspension may be suspended upon a plea agreement executed by the defendant and the prosecutor, pursuant to Chapter

275, Laws of 1994, Section 4. Pursuant to state law, the court shall notify the department of licensing of the conviction and of any period of suspension and shall notify the department of the person's completion of any period of suspension. Upon receiving notification of the conviction, or if applicable, upon receiving notification of the completion of any period of suspension, the department shall issue the offender a probationary license in accordance with Chapter 275, Laws of 1994, Section 8.

- (2) A person whose driver's license is not in a probationary, suspended, or revoked status, and who has not been convicted of a violation of Redmond Municipal Code Sections 10.14.010 or 10.14.020 or any other criminal prohibition against Driving While Under the Influence or Being in Actual Physical Control of a Motor Vehicle While Under the Influence that was committed within five years before the commission of the current violation, and who either:
- (a) Violates Redmond Municipal Code Sections 10.14.010(1)(a) or 10.14.020(1)(a) because of an alcohol concentration of 0.15 or more; or
 - (b) Violates Redmond Municipal Code Sections 10.14.010(1)(b) or (1)(c), or 10.14.020(1)(b) or (1)(c) and, because of the person's refusal to take a test offered pursuant to RCW 46.20.308, there is no test result indicating the person's alcohol concentration, is guilty of a gross misdemeanor and shall be punished as follows:
 - (i) By imprisonment for not less than two days nor more than one year. Forty-eight consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing

the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

- (ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and
 - (iii) By suspension by the department of licensing of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one hundred twenty days. The court shall notify the department of the conviction, and upon receiving notification of the conviction the department is directed by state law to suspend the offender's license and to issue the offender a probationary license in accordance with Chapter 275, Laws of 1994, Section 8.
- (3) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.
 - (4) Upon conviction under this section, the offender's driver's license is deemed to be in a probationary status for five years from the date of the issuance of a probationary license under Chapter 275, Laws of 1994, Section 8. Being on probationary status does not authorize a person to drive during any period of license suspension imposed as a penalty for the infraction.
 - (5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of Redmond Municipal Code Section 10.14.100 of this Code.
 - (6)

- (a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include:
- (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future;
 - (ii) Not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and
 - (iii) Not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor.

The court may impose conditions of probation that include non-repetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

- (b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.
- (c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or

privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of licensing of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

Section 6. Penalties for Violation While on Probationary License Status. A new

section 10.14.070 is added to the Redmond Municipal Code to read as follows:

10.14.070 Penalties for Violation While on Probationary License Status.

- (1) A person whose driver's license is in a probationary status and who violates Redmond Municipal Code Sections 10.14.010(1)(a) or 10.14.020(1)(a) because of an alcohol concentration of at least 0.08 but less than 0.15 is guilty of a gross misdemeanor and shall be punished as follows:
 - (a) By imprisonment for not less than seven days nor more than one year. Seven consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would pose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and
 - (b) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and
 - (c) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The court shall notify the department of licensing of the conviction, and upon receiving notification the

department is directed by state law to suspend the offender's license and to issue the offender a probationary license in accordance with Chapter 275, Laws of 1994, Section 8.

- (2) A person whose driver's license is in a probationary status and who either:
 - (a) Violates Redmond Municipal Code Sections 10.14.010(1)(a), or 10.14.020(1)(a) because of an alcohol concentration of 0.15 or more; or
 - (b) Violates Redmond Municipal Code Sections 10.14.010(1)(b) or (1)(c), or 10.14.020(1)(b) or (1)(c), and, because of the person's refusal to take a test offered pursuant to RCW 46.20.308, there is no test result indicating the person's alcohol concentration, is guilty of a gross misdemeanor and shall be punished as follows:
 - (i) By imprisonment for not less than ten days nor more than one year. The consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would pose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and
 - (ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and
 - (iii) By revocation of the offender's license or permit to drive or of any nonresident privilege to drive, for a period of four

hundred fifty days. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, and upon determining that the offender is otherwise qualified in accordance with RCW 46.20.311, the department shall issue the offender a probationary license in accordance with Chapter 275, Laws of 1994, Section 8.

- (3) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.
- (4) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of Section 10.14.100 of this Code. An offender punishable under subsection (1) or (2) of this section is subject to the vehicle seizure and forfeiture provisions of RCW 46.61.511. No offender punishable under this section is eligible for an occupational license under RCW 46.20.391.
- (5)
 - (a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend, but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include:
 - (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future;
 - (ii) Not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and

- (iii) Not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor.

The court may impose conditions of probation that include non-repetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

- (b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.
- (c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of licensing of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

Section 7. Penalty: Second Offense/Suspended License. A new section 10.14.080

is added to the Redmond Municipal Code to read as follows:

10.14.080 Penalty: Second Offense/Suspended License.

- (1) A person who violates Redmond Municipal Code Sections 10.14.010 or 10.14.020 and who either has a driver's

license in a suspended or revoked status or who has been convicted under Redmond Municipal Code Section 10.14.070 or any other criminal prohibition against Driving While Under the Influence or Being in Actual Physical Control of a Motor Vehicle While Under the Influence of an offense that was committed within five years before the commission of the current violation, is guilty of a gross misdemeanor and shall be punished as follows:

- (a) By imprisonment for not less than ninety days nor more than one year. Ninety consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would pose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and
 - (b) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and
 - (c) By revocation by the department of licensing of the offender's license or permit to drive or of any nonresident privilege to drive, for a period of two years. The court shall notify the department of the conviction, and upon receiving notification of the conviction the department is directed by state law to revoke the offender's license. Following the revocation and upon determining that the offender is otherwise qualified in accordance with RCW 46.20.311, the department shall issue the offender a probationary license in accordance with Chapter 275, Laws of 1994, Section 8.
- (2) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the

offense was responsible for injury or damage to another or another's property.

(3) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of Redmond Municipal Code Section 10.14.100. An offender punishable under this section is subject to the vehicle seizure and forfeiture provisions of RCW 46.61.511. No offender punishable under this section is eligible for an occupational license under RCW 46.20.391.

(4)

(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include:

- (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future;
- (ii) Not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and
- (iii) Not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor.

The court may impose conditions of probation that include non-repetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in

whole or in part upon violation of a condition of probation during the suspension period.

- (b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.
- (c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of licensing of any suspension, revocation, or denial imposed under this subsection.

Section 8. Victim's Panel. Redmond Municipal Code Section 10.14.050 is

hereby amended to delete references to other penalties and to read as follows:

10.14.050 Victim's Panel. In addition to other penalties set forth in this chapter, every person convicted of violating Redmond Municipal Code Sections 10.14.010 or 10.14.020 shall be required to attend a driving under the influence victim's panel.

Section 9. Assessment Fee. A new section 10.14.090 is added to Redmond

Municipal Code to read as follows:

10.14.090 Assessment Fee.

(1)

- (a) In addition to penalties set forth in this act, a one hundred twenty-five dollar fee shall be assessed to a person who is either convicted, sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating Redmond

Municipal Code Sections 10.14.010 or 10.14.020. This fee is for the purpose of funding the Washington state toxicology laboratory and the Washington State Patrol breath test program.

- (b) Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay.
 - (c) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of Redmond Municipal Code Sections 10.14.010 or 10.14.020, the court shall assess the one hundred twenty-five dollar fee under (a) of this subsection. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee if it finds that the minor does not have the ability to pay the fee.
- (2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and distributed as follows:
- (a) Forty percent shall be subject to distribution under RCW 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.
 - (b) If the case involves a blood test by the state toxicology laboratory, the remainder of the fee shall be forwarded to the state treasurer for deposit in the death investigations account to be used solely for funding the state toxicology laboratory blood testing program.
 - (c) Otherwise, the remainder of the fee shall be forwarded to the state treasurer for deposit in the state patrol highway account to be used solely for funding the Washington State Patrol breath test program.

Section 10. Treatment. A new section 10.14.100 is added to the Redmond

Municipal Code to read as follows:

10.14.100 Treatment.

- (1) A person subject to alcohol assessment and treatment under this chapter shall be required by the court to complete a course in an alcohol information school approved by the Washington State Department of Social and Health Services or to complete more intensive treatment in a program approved by the Washington State Department of Social and Health Services, as determined by the court. The court shall notify the Washington State Department of Licensing whenever it orders a person to complete a course or treatment program under this chapter.
- (2) A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the Washington State Department of Social and Health Services or a qualified probation department approved by the Washington State Department of Social and Health Services. A copy of the report shall be forwarded to the Washington State Department of Licensing. Based on the diagnostic evaluation, the court shall determine whether the person shall be required to complete a course in an alcohol information school approved by the Washington State Department of Social and Health Services or more intensive treatment in a program approved by the Washington State Department of Social and Health Services.
- (3) Pursuant to state law, standards for approval for alcohol treatment programs shall be prescribed by the Washington State Department of Social and Health Services. The Washington State Department of Social and Health Services shall periodically review the costs of alcohol information schools and treatment programs.
- (4) Any agency that provides treatment ordered under this chapter or under Chapter 275, Laws of 1994, Sections 4, 5, or 6, shall immediately report to the appropriate probation department where applicable, otherwise to the court, and to the Washington State Department of Licensing any noncompliance by a person with the conditions of his or her ordered treatment. The court shall notify the Washington State Department of Licensing and the Washington State Department of Social and Health

Services of any failure by an agency to so report noncompliance. Pursuant to state law, any agency with knowledge of noncompliance that fails to so report shall be fined two hundred fifty dollars by the Washington State Department of Social and Health Services. Upon three such failures by an agency within one year, the Washington State Department of Social and Health Services shall revoke the agency's approval under this section.

- (5) The Washington State Department of Licensing and the Washington State Department of Social and Health Services may adopt such rules as are necessary to carry out this section.

Section 11. Repealer. Section 10.14.040 of the Redmond Municipal Code is hereby repealed.

Section 12. Savings Clause. These amendments do not affect any pending or existing litigation and do not operate as an abatement or bar to any action or proceeding pending under or by virtue of any other ordinance.

Section 13. Severability Clause. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances. In the event that a court should declare void any provision of the Municipal Code affected by this ordinance because the alcohol concentration is 0.08 rather than 0.10, then an alcohol concentration of 0.10 rather than 0.08 shall be in full force and effect as though "0.10" appeared everywhere "0.08" appears in the Municipal Code, and prosecutions shall be made and shall continue thereunder as if the alcohol concentration was 0.10.

In the event that a court should declare void any portion or any application of the last sentence of Redmond Municipal Code Section 10.14.060(1)(c) or the second sentence of Chapter 275, Laws of 1994, Section 4, Paragraph (1)(c), then the entire last sentence of Redmond Municipal Code Section 10.14.060(1)(c) shall be deemed severed and not effective, and the remainder of this ordinance, including the remainder of Redmond Municipal Code Section 10.14.060(1)(c), shall continue in full force and effect as if the entire last sentence had never been enacted, and the court shall in no case under Redmond Municipal Code Section 10.14.060(1)(c) suspend any part of any period of suspension of a person's license, permit or privilege to drive.

Section 14. Effective Date/Emergency Passage. The City Council finds and declares that:

- A. Chapter 10.14 of the Redmond Municipal Code establishes the offenses of Driving Under the Influence of Intoxicants and Physical Control of a Motor Vehicle Under the Influence of Intoxicants. The provisions of Chapter 10.14 are consistent with those of state statutes relating to the same subject, except that Chapter 10.14 establishes a threshold alcohol concentration level of 0.08, as opposed to the 0.10 established by RCW 46.61.502 and .504.
- B. The state legislature has extensively amended the state statutes governing Driving and Physical Control Under the Influence by the enactment of Chapter 275, Laws of 1994, effective July 1, 1994.
- C. Unless the City of Redmond acts immediately to revise its ordinances governing these offenses to make the City's ordinances consistent with the state law in all respects other than alcohol concentration level, and unless those amendments are made effective July 1, 1994, the City will not have a valid prohibition on DUI and Physical Control in effect on that date. Without such a valid prohibition, the public health, safety, property, peace, and welfare will be severely endangered.
- D. The City's customary passage and publication procedures, which provide that ordinances shall become effective five days after publication of a

summary thereof in the City's official newspaper, will not provide sufficient time for this ordinance to be passed, published and become effective by July 1, 1994. Following these customary procedures, this ordinance would become effective July 4, 1994, leaving the City without a valid ordinance for several days.

- E. The City Council therefore declares that an emergency exists which endangers the public health, safety, property, peace and welfare, and which requires that this ordinance become effective within a shorter time than would otherwise apply.
- F. In order to ensure uninterrupted enforcement of the City ordinance prohibiting DUI and Physical Control, this ordinance shall become effective at 12:00:01 a.m., July 1, 1994, or five (5) days after publication of an approved summary consisting of the title hereto, whichever comes first.

PASSED by at least a majority plus one of the whole membership of the City Council of the City of Redmond this 21st day of June, 1994.

CITY OF REDMOND



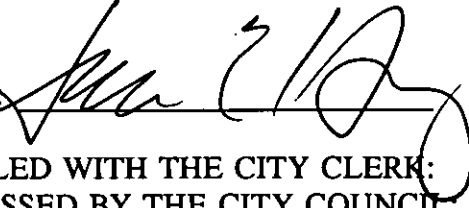
MAYOR ROSEMARIE IVES

ATTEST/AUTHENTICATED:



CITY CLERK, DORIS SCHAIBLE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: 

FILED WITH THE CITY CLERK: June 17, 1994
PASSED BY THE CITY COUNCIL: June 21, 1994
SIGNED BY THE MAYOR: June 24, 1994
PUBLISHED: June 29, 1994
EFFECTIVE DATE: July 1, 1994
ORDINANCE NO. 1787

NOTE: Exhibit A is filed in the Ordinance folder and in the
Historical Section of City Clerk Vault