

ORDINANCE NO. 1844

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, AMENDING SECTION 9.01.040 OF THE REDMOND MUNICIPAL CODE, REPEALING THE ADOPTION BY REFERENCE OF STATE STATUTES PROHIBITING CONTEMPT, AND ADOPTING BY REFERENCE STATE STATUTES DEFINING AND PROHIBITING CONTEMPT OF COURT, CONTAINING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the 1989 Washington State Legislature repealed the contempt of court statutes under the Revised Code of Washington chapter 9.23 and the criminal contempt statute under the Revised Code of Washington chapter 7.20, and

WHEREAS, the 1989 Washington State Legislature added a new contempt of court chapter 7.21 under the Revised Code of Washington establishing punitive and remedial sanctions for contempt of court, and

WHEREAS, the Redmond City Council finds that this ordinance is in the interest of the public health, safety, and welfare,

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Repeal. Redmond Municipal Code 9.01.040, Contempt, is hereby amended to delete the adoption by reference of the following statutes of the State of Washington, repealed by Laws of 1989, chapter 373, section 28:

- RCW 7.20.010 Contempt of court defined.
- RCW 7.20.020 Punishment - General
- RCW 7.20.030 Contempt in presence of court - Summary punishment
- RCW 7.20.040 Procedure in other cases
- RCW 7.20.050 Production of defendant if in custody

RCW 7.20.060	How prosecuted
RCW 7.20.070	Execution of warrant- Bond
RCW 7.20.080	Return of warrant - Examination of defendant
RCW 7.20.090	Judgment and sentence
RCW 7.20.100	Indemnity to injured party
RCW 7.20.110	Imprisonment until act performed
RCW 7.20.120	Offender may be indicted
RCW 7.20.130	Alias warrant - Prosecution of bond
RCW 7.20.140	Appeal- Punishment for contempt of justice courts
RCW 9.23.010	Criminal contempt

Section 2. Adopt. Redmond Municipal Code 9.01.040, Contempt, is hereby amended to adopt by reference the following statutes of the State of Washington:


RCW 7.21.010	Definitions
RCW 7.21.020	Sanctions - Who may impose
RCW 7.21.030	Remedial sanctions- Payment for losses
RCW 7.21.040	Punitive sanctions - Fines
RCW 7.21.050	Sanctions - summary imposition - Procedure
RCW 7.21.070	Appellate review

Section 3. 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 of constitutionality of any other sections, sentence, clause or phrase of this ordinance.

Section 4. Procedure. Incident to the adoption by reference of certain state laws contained in the Revised Code of Washington, one copy of the text of the statute adopted by reference in this ordinance shall be filed with the City Clerk as required by RCW 35A.12.140 for use and examination by the public.

Section 5. Effective Date. This ordinance, being an exercise of a power specifically delegated to the city legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of the ordinance or a summary thereof consisting of the title.

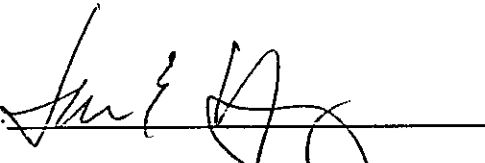
CITY OF REDMOND


MAYOR ROSEMARIE IVES

ATTEST/AUTHENTICATED:


CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: 

FILED WITH THE CITY CLERK: July 12, 1995
PASSED BY THE CITY COUNCIL: July 18, 1995
SIGNED BY THE MAYOR: July 18, 1995
PUBLISHED: July 26, 1995
EFFECTIVE DATE: July 31, 1995
ORDINANCE NO. 1844

body is service upon the board or body, whether at the time of the service the board or body was in session or not. [1895 c 65 § 27; RRS § 1025.]

7.16.280 Enforcement of writ—Penalty. When a temporary mandate has been issued and directed to any inferior tribunal, corporation, board or person upon whom the writ has been personally served and such tribunal, corporation, board, or person has without just excuse, refused or neglected to obey the same, the court may, upon motion, impose a fine not exceeding one thousand dollars. In case of persistence in a refusal or disobedience, the court may order the party to be imprisoned until the writ is obeyed, and may make any orders necessary and proper for the complete enforcement of the writ. [1957 c 51 § 7; 1895 c 65 § 28; RRS § 1026.]

PROHIBITION

7.16.290 Prohibition defined. The writ of prohibition is the counterpart of the writ of mandate. It arrests the proceedings of any tribunal, corporation, board or person, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person. [1895 c 65 § 29; RRS § 1027.]

7.16.300 Grounds for granting writ—Affidavit. It may be issued by any court, except district or municipal courts, to an inferior tribunal, or to a corporation, board or person, in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law. It is issued upon affidavit, on the application of the person beneficially interested. [1987 c 202 § 132; 1895 c 65 § 30; RRS § 1028.]

Intent—1987 c 202: See note following RCW 2.04.190.

7.16.310 Alternative or preemptory writs—Form. The writ must be either alternative or preemptory. The alternative writ must state generally the allegations against the party to whom it is directed, and command such party to desist or refrain from further proceedings in the action or matter specified therein until the further order of the court from which it is issued, and to show cause before such court, at a specified time and place, why such party should not be absolutely restrained from any further proceedings in such action or matter. The preemptory writ must be in a similar form, except that the words requiring the party to show cause why he should not be absolutely restrained, etc., must be omitted and a return day inserted. [1895 c 65 § 31; RRS § 1029.]

7.16.320 Provisions relating to mandate applicable. The provisions of this chapter relating to writ of mandate, apply to this proceeding. [1895 c 65 § 32; RRS § 1030.]

IN GENERAL

7.16.330 When writs may be made returnable. Writs of review, mandate, and prohibition issued by the supreme court, the court of appeals, or by a superior court,

may, in the discretion of the court issuing the writ, be made returnable, and a hearing thereon be had at any time. [1971 c 81 § 29; 1895 c 65 § 33; RRS § 1031.]

7.16.340 Rules of practice. Except as otherwise provided in this chapter, the provisions of the code of procedure concerning civil actions are applicable to and constitute the rules of practice in the proceedings in this chapter. [1895 c 65 § 34; RRS § 1032.]

7.16.350 Appellate review. From a final judgment in the superior court, in any such proceeding, appellate review by the supreme court or the court of appeals may be sought as in other actions. [1988 c 202 § 4; 1971 c 81 § 30; 1895 c 65 § 35; RRS § 1033.]

Severability—1988 c 202: See note following RCW 2.24.050.

7.16.360 Inapplicability to action reviewable under Administrative Procedure Act. This chapter does not apply to state agency action reviewable under chapter 34.05 RCW. [1989 c 175 § 38.]

Effective date—1989 c 175: See note following RCW 34.05.010.

7.16.370 Enforcement of term limits for elected officials. Any resident of this state may bring suit to enforce RCW 43.01.015, 44.04.015, 29.68.015, 29.68.016, 29.51.173, and 29.15.240 and section 8, chapter 1, Laws of 1993. If the person prevails, the court shall award the person reasonable attorney's fees and costs of suit. [1993 c 1 § 9 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—Severability—1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

Chapter 7.21

CONTEMPT OF COURT

Sections	
7.21.010	Definitions.
7.21.020	Sanctions—Who may impose.
7.21.030	Remedial sanctions—Payment for losses.
7.21.040	Punitive sanctions—Fines.
7.21.050	Sanctions—Summary imposition—Procedure.
7.21.060	Administrative actions or proceedings—Petition to court for imposition of sanctions.
7.21.070	Appellate review.
7.21.900	Severability—1989 c 373.

7.21.010 Definitions. The definitions in this section apply throughout this chapter:

- (1) "Contempt of court" means intentional:
 - (a) Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings;
 - (b) Disobedience of any lawful judgment, decree, order, or process of the court;
 - (c) Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or
 - (d) Refusal, without lawful authority, to produce a record, document, or other object.

(2) "Punitive sanction" means a sanction imposed to punish a past contempt of court for the purpose of upholding the authority of the court.

(3) "Remedial sanction" means a sanction imposed for the purpose of coercing performance when the contempt consists of the omission or refusal to perform an act that is yet in the person's power to perform. [1989 c 373 § 1.]

7.21.020 Sanctions—Who may impose. A judge or commissioner of the supreme court, the court of appeals, or the superior court, and a judge of a court of limited jurisdiction may impose a sanction for contempt of court under this chapter. [1989 c 373 § 2.]

7.21.030 Remedial sanctions—Payment for losses.

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees. [1989 c 373 § 3.]

7.21.040 Punitive sanctions—Fines. (1) Except as otherwise provided in RCW 7.21.050, a punitive sanction for contempt of court may be imposed only pursuant to this section.

(2) (a) An action to impose a punitive sanction for contempt of court shall be commenced by a complaint or information filed by the prosecuting attorney or city attorney charging a person with contempt of court and reciting the punitive sanction sought to be imposed.

(b) If there is probable cause to believe that a contempt has been committed, the prosecuting attorney or city attorney may file the information or complaint on his or her own initiative or at the request of a person aggrieved by the contempt.

(c) A request that the prosecuting attorney or the city attorney commence an action under this section may be

made by a judge presiding in an action or proceeding to which a contempt relates. If required for the administration of justice, the judge making the request may appoint a special counsel to prosecute an action to impose a punitive sanction for contempt of court.

A judge making a request pursuant to this subsection shall be disqualified from presiding at the trial.

(d) If the alleged contempt involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial of the contempt unless the person charged consents to the judge presiding at the trial.

(3) The court may hold a hearing on a motion for a remedial sanction jointly with a trial on an information or complaint seeking a punitive sanction.

(4) A punitive sanction may be imposed for past conduct that was a contempt of court even though similar present conduct is a continuing contempt of court.

(5) If the defendant is found guilty of contempt of court under this section, the court may impose for each separate contempt of court a fine of not more than five thousand dollars or imprisonment in the county jail for not more than one year, or both. [1989 c 373 § 4.]

7.21.050 Sanctions—Summary imposition—

Procedure. (1) The judge presiding in an action or proceeding may summarily impose either a remedial or punitive sanction authorized by this chapter upon a person who commits a contempt of court within the courtroom if the judge certifies that he or she saw or heard the contempt. The judge shall impose the sanctions immediately after the contempt of court or at the end of the proceeding and only for the purpose of preserving order in the court and protecting the authority and dignity of the court. The person committing the contempt of court shall be given an opportunity to speak in mitigation of the contempt unless compelling circumstances demand otherwise. The order of contempt shall recite the facts, state the sanctions imposed, and be signed by the judge and entered on the record.

(2) A court, after a finding of contempt of court in a proceeding under subsection (1) of this section may impose for each separate contempt of court a punitive sanction of a fine of not more than five hundred dollars or imprisonment in the county jail for not more than thirty days, or both, or a remedial sanction set forth in RCW 7.21.030(2). A forfeiture imposed as a remedial sanction under this subsection may not exceed more than five hundred dollars for each day the contempt continues. [1989 c 373 § 5.]

7.21.060 Administrative actions or proceedings—

Petition to court for imposition of sanctions. A state administrative agency conducting an action or proceeding or a party to the action or proceeding may petition the superior court in the county in which the action or proceeding is being conducted for a remedial sanction specified in RCW 7.21.030 for conduct specified in RCW 7.21.010 in the action or proceeding. [1989 c 373 § 6.]

7.21.070 Appellate review. A party in a proceeding or action under this chapter may seek appellate review under applicable court rules. Appellate review does not stay the proceedings in any other action, suit, or proceeding, or any

judgment, decree, or order in the action, suit, or proceeding to which the contempt relates. [1989 c 373 § 7.]

7.21.900 Severability—1989 c 373. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 c 373 § 30.]

Chapter 7.24

UNIFORM DECLARATORY JUDGMENTS ACT

Sections

7.24.010	Authority of courts to render.
7.24.020	Rights and status under written instruments, statutes, ordinances.
7.24.030	Construction of contracts.
7.24.050	General powers not restricted by express enumeration.
7.24.060	Refusal of declaration where judgment would not terminate controversy.
7.24.070	Review.
7.24.080	Further relief.
7.24.090	Determination of issues of fact.
7.24.100	Costs.
7.24.110	Parties—City as party—Attorney general to be served, when.
7.24.120	Construction of chapter.
7.24.130	"Person" defined.
7.24.135	Severability—1935 c 113.
7.24.140	General purpose stated.
7.24.144	Short title.
7.24.146	Application of chapter—Validation of proceedings.
7.24.190	Court may stay proceedings and restrain parties.

Rules of court: Cf. CR 57.

7.24.010 Authority of courts to render. Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. An action or proceeding shall not be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree. [1937 c 14 § 1; 1935 c 113 § 1; RRS § 784-1.]

7.24.020 Rights and status under written instruments, statutes, ordinances. A person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder. [1935 c 113 § 2; RRS § 784-2.]

7.24.030 Construction of contracts. A contract may be construed either before or after there has been a breach thereof. [1935 c 113 § 3; RRS § 784-3.]

7.24.050 General powers not restricted by express enumeration. The enumeration in RCW 7.24.020 and

7.24.030 does not limit or restrict the exercise of the general powers conferred in RCW 7.24.010, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty. [1985 c 9 § 2. Prior: 1984 c 149 § 3; 1935 c 113 § 5; RRS § 784-5.]

Purpose—Reenactment—1985 c 9: "The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution." [1985 c 9 § 1.]

Severability—1985 c 9: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 9 § 4.]

Reviser's note: 1985 c 9 reenacted RCW 7.24.050 without amendment.

Short title—Application—1984 c 30: See RCW 11.02.900 and 11.02.901.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

7.24.060 Refusal of declaration where judgment would not terminate controversy. The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding. [1935 c 113 § 6; RRS § 784-6.]

7.24.070 Review. All orders, judgments and decrees under this chapter may be reviewed as other orders, judgments and decrees. [1935 c 113 § 7; RRS § 784-7.]

7.24.080 Further relief. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. When the application is deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith. [1935 c 113 § 8; RRS § 784-8.]

7.24.090 Determination of issues of fact. When a proceeding under this chapter involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions, in the court in which the proceeding is pending. [1935 c 113 § 9; RRS § 784-9.]

7.24.100 Costs. In any proceeding under this chapter, the court may make such award of costs as may seem equitable and just. [1935 c 113 § 10; RRS § 784-10.]

7.24.110 Parties—City as party—Attorney general to be served, when. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to