

ORDINANCE NO. 1849

ORIGINAL

AN ORDINANCE OF THE CITY OF REDMOND,
WASHINGTON, ADDING SECTION 9.24.045 OF THE
REDMOND MUNICIPAL CODE, PROVIDING FOR
THE DISPOSITION OF CONFISCATED AND
FORFEITED FIREARMS, CONTAINING A
SEVERABILITY CLAUSE AND ESTABLISHING AN
EFFECTIVE DATE.

WHEREAS, the City of Redmond's law enforcement agency annually confiscates firearms used by persons committing crimes within the City and holds weapons for safekeeping to avoid the illegal use of such weapons, and

WHEREAS, RCW 9.41.098, allows for the disposition of confiscated and judicially forfeited firearms in any manner determined by the local legislative authority; and

WHEREAS, the City Council's Public Safety Committee of 1989, after reviewing issues relating to the current firearm auction procedure and the proposed ordinance allowing for the destruction of the firearms, has found that this proposed ordinance serves the best interests of the City of Redmond and has recommended its adoption;

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

Section 1. New Section Added. A new section, RMC 9.24.045, is hereby added to Chapter 9.24 of the Redmond Municipal Code, Firearms and Dangerous Weapons. Section 9.24.045 shall read as follows:

9.24.045 Disposition of confiscated and forfeited firearms.

A. All firearms taken into the custody of the Redmond Police Department prior to July 1, 1993, shall be disposed of by the Redmond Police Department as authorized by RCW 9.41.098(2)(b).

B. All firearms taken into the custody of the Redmond Police Department after June 30, 1993 and no longer needed for evidence shall be disposed of as follows:

- a. Firearms illegal for any person to possess shall be destroyed.
- b. Antique firearms and firearms recognized as curios, relics, and firearms of particular historical significance by the United States treasury department bureau of alcohol, tobacco, and firearms are exempt from destruction and shall be disposed of by auction or trade to licensed dealers.
- c. The Redmond Police Department may retain a maximum of ten percent of legal forfeited firearms for agency use.
- d. All other firearms that are judicially forfeited or forfeited due to a failure to make a claim under RCW 63.32.010 shall be destroyed.

Section 2. 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 3. 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

Jim P. Robinson 10-29-95
FOR MAYOR ROSEMARIE IVES
By: Jim Robinson, Mayor Tempore

ATTEST/AUTHENTICATED:

Bonnie Mattson
CITY CLERK, BONNIE MATTSON

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CITY OF REDMOND

Jim Robinson 8-3-95
for MAYOR ROSEMARIE IVES
by Jim Robinson, Mayor Protempore

ATTEST/AUTHENTICATED:

Bonnie Mattson
CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: Theresa C. Pappano Presta

FILED WITH THE CITY CLERK: July 12, 1995
PASSED BY THE CITY COUNCIL: August 1, 1995
SIGNED BY THE MAYOR: August 2, 1995
PUBLISHED: August 9, 1995
EFFECTIVE DATE: August 14, 1995
ORDINANCE NO. 1849

Effective date—1994 1st sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Severability—1985 c 428: See note following RCW 9.41.290.

Severability—1983 c 232: See note following RCW 9.41.010.

9.41.094 Waiver of confidentiality. A signed application to purchase a pistol shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release, to an inquiring court or law enforcement agency, information relevant to the applicant's eligibility to purchase a pistol to an inquiring court or law enforcement agency. [1994 1st sp.s. c 7 § 411.]

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

9.41.097 Supplying information on persons purchasing pistols or applying for concealed pistol licenses.

(1) The department of social and health services, mental health institutions, and other health care facilities shall, upon request of a court or law enforcement agency, supply such relevant information as is necessary to determine the eligibility of a person to possess a pistol or to be issued a concealed pistol license under RCW 9.41.070 or to purchase a pistol under RCW 9.41.090.

(2) Mental health information received by: (a) The department of licensing pursuant to RCW 9.41.047 or 9.41.170; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police or sheriff pursuant to RCW 9.41.090 or 9.41.170; (d) a court or law enforcement agency pursuant to subsection (1) of this section, shall not be disclosed except as provided in RCW 42.17.318. [1994 1st sp.s. c 7 § 412; 1983 c 232 § 5.]

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

Severability—1983 c 232: See note following RCW 9.41.010.

9.41.0975 Officials and agencies—Immunity, writ of mandamus. (1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license; or

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license wrongfully refused;

(b) Directing a law enforcement agency to approve an application to purchase wrongfully denied; or

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or in the wrongful denial of a purchase application be corrected.

The application for the writ may be made in the county in which the application for a concealed pistol license or to purchase a pistol was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs. [1994 1st sp.s. c 7 § 413.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

Effective date—1994 1st sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

9.41.098 Forfeiture of firearms—Disposition—Confiscation. (1) The superior courts and the courts of limited jurisdiction of the state may order forfeiture of a firearm which is proven to be:

(a) Found concealed on a person not authorized by RCW 9.41.060 or 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute defense to forfeiture if the person possessed a valid Washington concealed pistol license within the preceding two years and has not become ineligible for a concealed pistol license in the interim. Before the firearm may be returned, the person must pay the past due renewal fee and the current renewal fee;

(b) Commercially sold to any person without an application as required by RCW 9.41.090;

(c) Found in the possession of a person prohibited from possessing the firearm under RCW 9.41.040;

(d) Found in the possession or under the control of a person at the time the person committed or was arrested for committing a serious offense or a crime in which a firearm was used or displayed or a felony violation of the Uniform Controlled Substances Act, chapter 69.50 RCW;

(e) Found concealed on a person who is in any place in which a concealed pistol license is required, and who is under the influence of any drug or under the influence of intoxicating liquor, as defined in chapter 46.61 RCW;

(f) Found in the possession of a person free on bail or personal recognizance pending trial, appeal, or sentencing for a serious offense or a crime in which a firearm was used or displayed, except that violations of Title 77 RCW shall not result in forfeiture under this section;

(g) Found in the possession of a person found to have been mentally incompetent while in possession of a firearm when apprehended or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

(h) Known to have been used or displayed by a person in the violation of a proper written order of a court of general jurisdiction; or

(i) Known to have been used in the commission of a serious offense or a crime in which a firearm was used or displayed or a felony violation of the Uniform Controlled Substances Act, chapter 69.50 RCW.

(2) Upon order of forfeiture, the court in its discretion may order destruction of any forfeited firearm. A court may temporarily retain forfeited firearms needed for evidence.

(a) Except as provided in (b), (c), and (d) of this subsection, firearms that are: (i) Judicially forfeited and no longer needed for evidence; or (ii) forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010; may be disposed of in any manner determined by the local legislative authority. Any proceeds of an auction or trade may be retained by the legislative authority. This subsection (2)(a) applies only to firearms that come into the possession of the law enforcement agency after June 30, 1993, and applies only if the law enforcement agency has complied with (b) of this subsection.

By midnight, June 30, 1993, every law enforcement agency shall prepare an inventory, under oath, of every firearm that has been judicially forfeited, has been seized and may be subject to judicial forfeiture, or that has been, or may be, forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010.

(b) Except as provided in (c) of this subsection, of the inventoried firearms a law enforcement agency shall destroy illegal firearms, may retain a maximum of ten percent of legal forfeited firearms for agency use, and shall either:

(i) Comply with the provisions for the auction of firearms in RCW 9.41.098 that were in effect immediately preceding May 7, 1993; or

(ii) Trade, auction, or arrange for the auction of, rifles and shotguns. In addition, the law enforcement agency shall either trade, auction, or arrange for the auction of, short firearms, or shall pay a fee of twenty-five dollars to the state treasurer for every short firearm neither auctioned nor traded, to a maximum of fifty thousand dollars. The fees shall be accompanied by an inventory, under oath, of every short firearm listed in the inventory required by (a) of this subsection, that has been neither traded nor auctioned. The state treasurer shall credit the fees to the firearms range account established in RCW 77.12.720. All trades or auctions of firearms under this subsection shall be to licensed dealers. Proceeds of any auction less costs, including actual costs of storage and sale, shall be forwarded to the firearms range account established in RCW 77.12.720.

(c) Antique firearms and firearms recognized as curios, relics, and firearms of particular historical significance by the United States treasury department bureau of alcohol, tobacco, and firearms are exempt from destruction and shall be disposed of by auction or trade to licensed dealers.

(d) Firearms in the possession of the Washington state patrol on or after May 7, 1993, that are judicially forfeited and no longer needed for evidence, or forfeited due to a failure to make a claim under RCW 63.35.020, must be disposed of as follows: (i) Firearms illegal for any person to possess must be destroyed; (ii) the Washington state patrol may retain a maximum of ten percent of legal firearms for agency use; and (iii) all other legal firearms must be auctioned or traded to licensed dealers. The Washington state patrol may retain any proceeds of an auction or trade.

(3) The court shall order the firearm returned to the owner upon a showing that there is no probable cause to believe a violation of subsection (1) of this section existed or the firearm was stolen from the owner or the owner neither had knowledge of nor consented to the act or

omission involving the firearm which resulted in its forfeiture.

(4) A law enforcement officer of the state or of any county or municipality may confiscate a firearm found to be in the possession of a person under circumstances specified in subsection (1) of this section. After confiscation, the firearm shall not be surrendered except: (a) To the prosecuting attorney for use in subsequent legal proceedings; (b) for disposition according to an order of a court having jurisdiction as provided in subsection (1) of this section; or (c) to the owner if the proceedings are dismissed or as directed in subsection (3) of this section. [1994 1st sp.s. c 7 § 414; 1993 c 243 § 1; 1989 c 222 § 8; 1988 c 223 § 2. Prior: 1987 c 506 § 91; 1987 c 373 § 7; 1986 c 153 § 1; 1983 c 232 § 6.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

Effective date—1994 1st sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Effective date—1993 c 243: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 7, 1993]." [1993 c 243 § 2.]

Severability—1989 c 222: See RCW 63.35.900.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.

Severability—1983 c 232: See note following RCW 9.41.010.

9.41.100 Dealer licensing and registration required.

Every dealer shall be licensed as provided in RCW 9.41.110 and shall register with the department of revenue as provided in chapters 82.04 and 82.32 RCW. [1994 1st sp.s. c 7 § 415; 1935 c 172 § 10; RRS § 2516-10.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

Effective date—1994 1st sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

9.41.110 Dealer's licenses, by whom granted, conditions, fees—Employees, fingerprinting and background checks—Wholesale sales excepted—Permits prohibited.

(1) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any pistol without being licensed as provided in this section.

(2) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any firearm other than a pistol without being licensed as provided in this section.

(3) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any ammunition without being licensed as provided in this section.

(4) The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licensing effective for not more than one year from the date of issue permitting the licensee to sell firearms within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the licensee subject to punishment as