

ORIGINAL

Traffic Safety  
Driving While Intoxicated

ORDINANCE NO. 911

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON RELATING TO TRAFFIC SAFETY, AMENDING SECTION 10.60.110 OF THE REDMOND MUNICIPAL CODE TO ADOPT REVISED CODE OF WASHINGTON SECTIONS 46.61.502, 46.61.504, 46.61.506 AND 46.61.515 RELATING TO THE OFFENSES OF DRIVING OR BEING IN PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; REPEALING SECTION 10.04.070(1) OF THE REDMOND MUNICIPAL CODE; AND DECLARING AN EMERGENCY.

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WHEREAS, the laws of the State of Washington relating to the offenses of operating or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs and the penalties for said offenses have been recently revised, and

WHEREAS, the City Council has determined that it is in the interest of the public health, safety and general welfare to amend the Redmond Municipal Code sections relating to said offenses and penalties therefore in order to conform to present State law, and

WHEREAS, an emergency exists which requires that said revisions to the Redmond Municipal Code be effective immediately, now, therefore,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. That portion of Section 10.60.110 of the Redmond Municipal Code headed "RECKLESS DRIVING, DRIVING WHILE INTOXICATED AND NEGLIGENT HOMICIDE BY VEHICLE" is hereby amended to adopt Sections 46.61.502, 46.61.504, 46.61.506 and 46.61.515 of the Revised Code of Washington, three copies of which have been and are now on file in the office of the City Clerk, which statutes are hereby adopted by reference as if set forth in full to read as follows:

"RECKLESS DRIVING, DRIVING WHILE INTOXICATED AND NEGLIGENT HOMICIDE BY VEHICLE.

RCW 46.61.502 Driving while under the 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.
- 46.61.506 Persons under influence of intoxicating liquor or drug - Evidence
- 46.61.515 Driving or being in physical control of motor vehicle while under the influence of intoxicating liquor or drug - Penalties - Penalty assessments in addition to fines, etc. - Suspension or revocation of license - Appeal.
- 46.61.518 Penalty assessments - Disposition of gross proceeds.
- 46.61.520 Negligent homicide by motor vehicle - Penalty.
- 46.61.525 Operating motor vehicle in a negligent manner.
- 46.61.530 Racing of vehicles on highways - Reckless driving.
- 46.61.535 Advertising of unlawful speed attained - Reckless driving.
- 46.61.450 "Drugs," what included."

Section 2. Section 10.04.070(1) of the Redmond Municipal Code is hereby repealed and for purposes of organization, Sections (2), (3) and (4) shall be renumbered Sections (1), (2) and (3), respectively.

Section 3. In addition to the penalties provided by RCW 46.61.515, all violations of any of the provisions of this Ordinance shall be punishable as provided in Section 1.01.110 of the Redmond Municipal Code.

Section 4. If any one or more of the provisions of this ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed severable from the remaining provisions of this ordinance and shall in no way affect the validity of the other provisions of this ordinance.

Section 5. The City Council hereby declares a public emergency exists and that this ordinance is necessary for the protection of the public health, safety, and public property and shall be effective upon adoption.

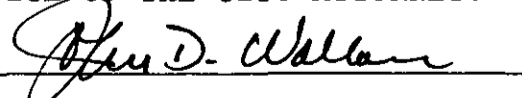
CITY OF REDMOND

  
 MAYOR, CHRISTINE T. HIMES

ATTEST/AUTHENTICATED:

  
 CITY CLERK, PAUL F. KUSAKABE

APPROVED AS TO FORM:  
 OFFICE OF THE CITY ATTORNEY:

BY 

FILED WITH THE CITY CLERK: April 11, 1980  
 PASSED BY THE CITY COUNCIL: April 15, 1980  
 SIGNED BY THE MAYOR: April 15, 1980  
 PUBLISHED: April 23, 1980  
 EFFECTIVE DATE: April 15, 1980

such vehicle travels between such limits: *Provided further*, That such limits shall not be closer than one-fourth mile. [1961 c 12 § 46.48.120. Prior: 1937 c 189 § 74; RRS § 6360-74; 1927 c 309 § 7; RRS § 6362-7. Formerly RCW 46.48.120.]

**RCW 46.61.475 Charging violations of speed regulations.** (1) In every charge of violation of any speed regulation in this chapter the complaint, also the summons or notice to appear, shall specify the approximate speed at which the defendant is alleged to have driven, also the maximum speed applicable within the district or at the location. [1965 ex.s. c 155 § 58.]

## RECKLESS DRIVING, DRIVING WHILE INTOXICATED, AND NEGLIGENT HOMICIDE BY VEHICLE

**RCW 46.61.500 Reckless driving—Penalty.** (Effective until July 1, 1980.) (1) Any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(2) The license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days. [1967 c 32 § 67; 1965 ex.s. c 155 § 59.]

**RCW 46.61.500 Reckless driving—Penalty.** (Effective July 1, 1980.) (1) Any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a misdemeanor.

(2) The license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days. [1979 1st ex.s. c 136 § 85; 1967 c 32 § 67; 1965 ex.s. c 155 § 59.]

**Effective date—Severability—1979 1st ex.s. c 136:** See notes following RCW 46.63.010.

Arrest of person involved in reckless driving: RCW 10.31.100.

Embracing another while driving as reckless driving: RCW 46.61.665.

Excess speed as prima facie evidence of reckless driving: RCW 46.61.465.

Racing of vehicles on public highways, reckless driving: RCW 46.61.530.

Revocation of license, reckless driving: RCW 46.20.285.

**RCW 46.61.502 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 he drives a vehicle within this state while:

(1) He has 0.10 percent or more by weight of alcohol in his blood as shown by chemical analysis of his breath, blood, or other bodily substance made under RCW 46.61.506 as now or hereafter amended; or

(2) He is under the influence of or affected by intoxicating liquor or any drug; or

(3) He 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. [1979 1st ex.s. c 176 § 1.]

**Severability—1979 1st ex.s. c 176:** "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." [1979 1st ex.s. c 176 § 8.]

**RCW 46.61.504 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 he has actual physical control of a vehicle within this state while:

(1) He has a 0.10 percent or more by weight of alcohol in his blood as shown by chemical analysis of his breath, blood, or other bodily substance made under RCW 46.61.506, as now or hereafter amended; or

(2) He is under the influence of or affected by intoxicating liquor or any drug; or

(3) He 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, he has moved the vehicle safely off the roadway. [1979 1st ex.s. c 176 § 2.]

**Severability—1979 1st ex.s. c 176:** See note following RCW 46.61.502.

**RCW 46.61.506 Persons under influence of intoxicating liquor or drug—Evidence—Chemical 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 amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of his blood, breath, or other bodily substance is less than 0.10 percent by weight of alcohol in the person's blood, 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) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred cubic centimeters of blood. 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) Chemical analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 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. 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 own choosing administer a chemical test or 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 chemical 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 his attorney. [1979 1st ex.s. c 176 § 5; 1975 1st ex.s. c 287 § 1; 1969 c 1 § 3 (Initiative Measure No. 242 § 3).]

**Severability**—1979 1st ex.s. c 176: See note following RCW 46.61.502.

**Severability**—1969 c 1: See RCW 46.20.911.

**Arrest of driver under influence of intoxicating liquor or drugs:** RCW 10.31.100.

**RCW 46.61.508 Liability of medical personnel withdrawing blood.** No physician, registered nurse, qualified technician, or hospital, or duly licensed clinical laboratory employing or utilizing services of such physician, registered nurse, or qualified technician, shall incur any civil or criminal liability as a result of the act of withdrawing blood from any person when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of RCW 46.20.308, as now or hereafter amended: *Provided*, That nothing in this section shall relieve any physician, registered nurse, qualified technician, or hospital or duly licensed clinical laboratory from civil liability arising from the use of improper procedures or failing to exercise the required standard of care. [1977 ex.s. c 143 § 1.]

**RCW 46.61.515 Driving or being in physical control of motor vehicle while under the influence of intoxicating liquor or drugs—Penalties—Penalty assessments in**

**addition to fines, etc.—Suspension or revocation of license—Appeal.** (1) Every person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished by imprisonment for not less than one day nor more than one year, and by a fine of not more than five hundred dollars. The person shall, in addition, be required to complete a course at an alcohol information school approved by the department of social and health services. One day of the jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based.

(2) On a second or subsequent conviction under RCW 46.61.502 or 46.61.504 within a five year period a person shall be punished by imprisonment for not less than seven days nor more than one year and by a fine not more than one thousand dollars. The jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. If such person at the time of a second or subsequent conviction is without a license or permit because of a previous suspension or revocation, the minimum mandatory sentence shall be ninety days in jail and a two hundred dollar fine. The penalty so imposed shall not be suspended or deferred.

In addition to any nonsuspendable and nondeferrable jail sentence required by this subsection, the court shall sentence a person to a term of imprisonment not exceeding one hundred eighty days and shall suspend but shall not defer the sentence for a period not exceeding two years. The suspension of the sentence may be conditioned upon nonrepetition, 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 suspension during the suspension period.

(3) There shall be levied and paid into the highway safety fund of the state treasury a penalty assessment in the minimum amount of twenty-five percent of, and which shall be in addition to, any fine, bail forfeiture, or costs on all offenses involving a violation of any state statute or city or county ordinance relating to driving a motor vehicle while under the influence of intoxicating liquor or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor: *Provided*, That all funds derived from such penalty assessment shall be in addition to and exclusive of assessments made under RCW 46.81.030 and shall be for the exclusive use of the department for driver services programs and for a state-wide alcohol safety action program, or other similar programs designed primarily for the rehabilitation or control of traffic offenders. Such penalty assessment shall be included in any bail schedule

and shall be included by the court in any pronouncement of sentence.

(4) Notwithstanding the provisions contained in chapters 3.16, 3.46, 3.50, 3.62, or 35.20 RCW, or any other section of law, the penalty assessment provided for in subsection (3) of this section shall not be suspended, waived, modified, or deferred in any respect, and all moneys derived from such penalty assessments shall be forwarded to the highway safety fund to be used exclusively for the purposes set forth in subsection (3) of this section.

(5) The license or permit to drive or any nonresident privilege of any person convicted of either of the offenses named in RCW 46.61.502 or 46.61.504 shall:

(a) On the first conviction under either such offense, be suspended by the department for not less than thirty days: *Provided*, That the court may recommend that no suspension action be taken;

(b) On a second conviction under either such offense within a five year period, be suspended by the department for not less than sixty days;

(c) On a third or subsequent conviction under either such offense within a five year period, be revoked by the department.

(6) In any case provided for in this section, where a driver's license is to be revoked or suspended, such revocation or suspension shall be stayed and shall not take effect until after the determination of any appeal from the conviction which may lawfully be taken, but in case such conviction is sustained on appeal such revocation or suspension shall take effect as of the date that the conviction becomes effective for other purposes.

(7) The provisions of this section limiting the authority of a court to defer or suspend a sentence shall not take effect until January 1, 1980. The division of criminal justice, no later than December 31, 1980, shall submit a study to the house of representatives and to the senate which details the impact of the sentencing provisions established by this section. The impact study shall include, but shall not be limited to, the following information: The impact of the provisions upon county jail conditions and bed space, the cost impact of the provisions upon local and state governments, and the existence of alternative facilities to which individuals sentenced under this section may be committed. [1979 1st ex.s. c 176 § 6; 1977 ex.s. c 3 § 3; 1975 1st ex.s. c 287 § 2; 1974 ex.s. c 130 § 1; 1971 ex.s. c 284 § 1; 1967 c 32 § 68; 1965 ex.s. c 155 § 62.]

**Severability**—1979 1st ex.s. c 176: See note following RCW 46.61.502.

**Severability**—1971 ex.s. c 284: See note following RCW 46.65.010.

Highway safety fund: RCW 46.68.060.

Revocation of license for driving under the influence of intoxicating liquor or drugs: RCW 46.20.285.

**RCW 46.61.518 Penalty assessments**—Disposition of gross proceeds. The gross proceeds of the penalty assessments provided for in RCW 46.61.515(2) shall be separately accounted for and transmitted to the city or county treasurer, as the case may be, by the court collecting the same, in the manner and at the times that

finances and bail forfeitures are transmitted to such treasurers. The city and county treasurers shall also separately account for such moneys, place them in a separate fund, and shall transmit to the state treasurer monthly and without deduction the gross amount of such penalty assessments received, which shall be credited forthwith to the highway safety fund of the state treasury. [1974 ex.s. c 130 § 3.]

**RCW 46.61.520 Negligent homicide by motor vehicle**—Penalty. (1) When the death of any person shall ensue within three years as a proximate result of injury received by the driving of any vehicle by any person while under the influence of or affected by intoxicating liquor or drugs, or by the operation of any vehicle in a reckless manner or with disregard for the safety of others, the person so operating such vehicle shall be guilty of negligent homicide by means of a motor vehicle.

(2) Any person convicted of negligent homicide by means of a motor vehicle shall be punished by imprisonment in the state penitentiary for not more than ten years, or by imprisonment in the county jail for not more than one year, or by fine of not more than one thousand dollars, or by both fine and imprisonment. [1975 1st ex.s. c 287 § 3; 1973 2nd ex.s. c 38 § 2; 1970 ex.s. c 49 § 5; 1965 ex.s. c 155 § 63; 1961 c 12 § 46.56.040. Prior: 1937 c 189 § 120; RRS § 6360-120. Formerly RCW 46.56.040.]

**Severability**—1970 ex.s. c 49: See note following RCW 9.69.100. Suspension or revocation of license upon conviction of manslaughter or negligent homicide resulting from operation of motor vehicle: RCW 46.20.285, 46.20.291.

**RCW 46.61.525 Operating motor vehicle in a negligent manner**. (Effective until July 1, 1980.) It shall be unlawful for any person to operate a motor vehicle in a negligent manner over and along the public highways of this state. For the purpose of this section to "operate in a negligent manner" shall be construed to mean the operation of a vehicle upon the public highways of this state in such a manner as to endanger or be likely to endanger any persons or property.

The offense of operating a vehicle in a negligent manner shall be considered to be a lesser offense than, but included in, the offense of operating a vehicle in a reckless manner, and any person charged with operating a vehicle in a reckless manner may be convicted of the lesser offense of operating a vehicle in a negligent manner. Any person violating the provisions of this section will be guilty of a misdemeanor: *Provided*, That the director shall not revoke any license under this section. [1967 c 32 § 69; 1961 c 12 § 46.56.030. Prior: 1939 c 154 § 1; RRS § 6360-118 1/2. Formerly RCW 46.56.030.]

**RCW 46.61.525 Operating motor vehicle in a negligent manner**—Penalty—Exception. (Effective July 1, 1980.) It shall be unlawful for any person to operate a motor vehicle in a negligent manner. For the purpose of this section to "operate in a negligent manner" shall be

construed to mean the operation of a vehicle in such a manner as to endanger or be likely to endanger any persons or property: *Provided however*, That any person operating a motor vehicle on private property with the consent of the owner in a manner consistent with the owner's consent shall not be guilty of negligent driving.

The offense of operating a vehicle in a negligent manner shall be considered to be a lesser offense than, but included in, the offense of operating a vehicle in a reckless manner, and any person charged with operating a vehicle in a reckless manner may be convicted of the lesser offense of operating a vehicle in a negligent manner. Any person violating the provisions of this section will be guilty of a misdemeanor: *Provided*, That the director may not revoke any license under this section, and such offense is not punishable by imprisonment or by a fine exceeding two hundred fifty dollars. [1979 1st ex.s. c 136 § 86; 1967 c 32 § 69; 1961 c 12 § 46.56.030. Prior: 1939 c 154 § 1; RRS § 6360-118 1/2. Formerly RCW 46.56.030.]

**Effective date—Severability—**1979 1st ex.s. c 136: See notes following RCW 46.63.010.

Arrest of person involved in negligent driving: RCW 10.31.100.

**RCW 46.61.530 Racing of vehicles on highways—Reckless driving.** (Effective until July 1, 1980.) No person or persons shall race any motor vehicle or motor vehicles upon any public highway of this state. Any person or persons guilty of comparing or contesting relative speeds by simultaneous operations shall be guilty of reckless driving whether or not such speed is in excess of the maximum speed prescribed by law. [1961 c 12 § 46.48.050. Prior: 1937 c 189 § 67; RRS § 6360-67; 1921 c 96 § 32; 1915 c 142 § 25; RRS § 6344. Formerly RCW 46.48.050.]

**RCW 46.61.530 Racing of vehicles on highways—Reckless driving—Exception.** (Effective July 1, 1980.) No person or persons may race any motor vehicle or motor vehicles upon any public highway of this state. Any person or persons who wilfully compare or contest relative speeds by operation of one or more motor vehicles shall be guilty of racing, which shall constitute reckless driving under RCW 46.61.500, whether or not such speed is in excess of the maximum speed prescribed by law: *Provided however*, That any comparison or contest of the accuracy with which motor vehicles may be operated in terms of relative speeds not in excess of the posted maximum speed does not constitute racing. [1979 1st ex.s. c 136 § 87; 1961 c 12 § 46.48.050. Prior: 1937 c 189 § 67; RRS § 6360-67; 1921 c 96 § 32; 1915 c 142 § 25; RRS § 6344. Formerly RCW 46.48.050.]

**Effective date—Severability—**1979 1st ex.s. c 136: See notes following RCW 46.63.010.

Arrest of person involved in racing of vehicles: RCW 10.31.100.

**RCW 46.61.535 Advertising of unlawful speed attained—Reckless driving.** (Effective until July 1, 1980.) It shall be unlawful for any manufacturer, dealer,

distributor or any person, firm or corporation to publish or advertise or offer for publication or advertisement, or to consent or cause to be published or advertised, the time consumed or speed attained by a vehicle between given points or over given or designated distances upon any public highways of this state when such published or advertised time consumed or speed attained shall indicate an average rate of speed between given points or over a given or designated distance in excess of the maximum rate of speed allowed between such points or at a rate of speed which would constitute reckless driving between such points. Conviction for a violation of any of the provisions of this section shall be prima facie evidence of reckless driving and shall subject such person, firm, or corporation to the penalties in such cases provided. [1961 c 12 § 46.48.060. Prior: 1937 c 189 § 68; RRS § 6360-68. Formerly RCW 46.48.060.]

**RCW 46.61.535 Advertising of unlawful speed attained—Reckless driving.** (Effective July 1, 1980.) It shall be unlawful for any manufacturer, dealer, distributor, or any person, firm, or corporation to publish or advertise or offer for publication or advertisement, or to consent or cause to be published or advertised, the time consumed or speed attained by a vehicle between given points or over given or designated distances upon any public highways of this state when such published or advertised time consumed or speed attained shall indicate an average rate of speed between given points or over a given or designated distance in excess of the maximum rate of speed allowed between such points or at a rate of speed which would constitute reckless driving between such points. Violation of any of the provisions of this section shall be prima facie evidence of reckless driving and shall subject such person, firm, or corporation to the penalties in such cases provided. [1979 1st ex.s. c 136 § 88; 1961 c 12 § 46.48.060. Prior: 1937 c 189 § 68; RRS § 6360-68. Formerly RCW 46.48.060.]

**Effective date—Severability—**1979 1st ex.s. c 136: See notes following RCW 46.63.010.

**RCW 46.61.540 "Drugs," what included.** The word "drugs", as used in RCW 46.61.500 through 46.61.535, shall include but not be limited to those drugs and substances regulated by chapters 69.41 and 69.50 RCW. [1975 1st ex.s. c 287 § 5.]

## STOPPING, STANDING, AND PARKING

**RCW 46.61.560 Stopping, standing, or parking outside of business or residence districts.** (1) Outside of incorporated cities and towns no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the roadway.

(2) Subsection (1) of this section, RCW 46.61.570, and 46.61.575 shall not apply to the driver of any vehicle