

AN ORDINANCE AMENDING ORDINANCE NO. 4788, “THE MUNICIPAL CODE OF THE CITY OF RICHMOND HEIGHTS, MISSOURI”, TITLE III, CHAPTER 300: GENERAL PROVISIONS, ARTICLE I: DEFINITIONS; SECTION 300.010 IS HEREBY REPEALED IN ITS ENTIRETY AND REPLACED WITH NEW DEFINITIONS AND FURTHER REPEALS CHAPTER 340: DRIVING WHILE INTOXICATED OR UNDER THE INFLUENCE OF DRUGS IN ITS ENTIRETY; REPLACING WITH NEW CHAPTER 340: ALCOHOL-RELATED TRAFFIC OFFENSES.

WHEREAS, changes in state law (2014 SB 491, HB 1371) require parallel revisions to the City’s ordinances, effective as of January 1, 2017; and

WHEREAS, Chapter 300 and Chapter 340 of the Municipal Code of the City of Richmond Heights, Missouri addresses alcohol-related traffic offenses.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF RICHMOND HEIGHTS, MISSOURI, as follows:

SECTION 1. SECTION 300.010 DEFINITIONS of the Municipal Code of the City of Richmond Heights, Missouri, is hereby repealed in its entirety and replaced with new to read as follows:

ALL-TERRAIN VEHICLE

In lieu of the definition set forth in Chapter 300 of this Code, any motorized vehicle manufactured and used exclusively for off-highway use which is fifty (50) inches or less in width, with an unladen dry weight of one thousand (1,000) pounds or less, traveling on three (3), four (4) or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars or a steering wheel for steering control.

CONTROLLED SUBSTANCE

A drug, substance, or immediate precursor in schedules I-V listed in section 195.017 RSMo

DRIVE, DRIVING, OPERATES OR OPERATING

Physically driving or operating a motor vehicle or vessel, or otherwise physically controlling the movement thereof.

INTOXICATED OR INTOXICATED CONDITION

A person is intoxicated or in an "*intoxicated condition*" when he or she is under the influence of alcohol, a controlled substance or drug, or any combination thereof or is otherwise "driving under the influence" of alcohol or of a controlled substance" as defined in Section 302.700 RSMo.

LAW ENFORCEMENT OFFICER OR ARRESTING OFFICER

Includes the definition of Law Enforcement Officer in Subdivision (17) of Section 556.061 RSMo.

PERCENT BY WEIGHT OF ALCOHOL in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood or two hundred ten (210) liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this Section, the test shall be conducted in accordance with the provisions of Sections 577.020 to 577.041, RSMo.

VESSEL

Any boat or craft propelled by a motor or by machinery, whether or not such motor or machinery is a principal source of propulsion used or capable of being used as a means of transportation on water, or any boat or craft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, and used or capable of being used as a means of transportation on water, but not any boat or craft having, as the only means of propulsion, a paddle or oars.

See Sections 556.061, 577.001, 577.012

SECTION 2. CHAPTER 340. DRIVING WHILE INTOXICATED OR UNDER THE INFLUENCE OF DRUGS of the Municipal Code of the City of Richmond Heights, Missouri, is hereby repealed in its entirety and replaced with new to read as follows:

CHAPTER 340. ALCOHOL-RELATED TRAFFIC OFFENSES

Section 340.020. Driving While Intoxicated.

A person commits the offense of "*driving while intoxicated*" if he or she operates a vehicle or vessel, or manipulates any water skis, while in an intoxicated condition.

See Sections 577.001, 577.010, 577.013 and 577.024 RSMo.

Section 340.030. Driving With Excessive Blood Alcohol Content.

A person commits the offense of "*driving with excessive blood alcohol content*" if such person operates a vehicle or vessel in this City while having eight-hundredths of one percent (.08%) or more by weight of alcohol in his or her blood, or a commercial motor vehicle while having four one-hundredths of one percent or more by weight of alcohol in his or her blood.

See Sections 577.012 and 577.014 RSMo.

Section 340.040. Chemical Test For Alcohol Content — Consent Implied — Administered — When — How — Videotaping of Chemical or Field Sobriety Test Admissible Evidence.

A.

Any person who operates a vehicle upon the public highways of this City or a vessel shall be deemed to have given consent, subject to the provisions of Sections 577.020 to 577.041, RSMo., to a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

1.

If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was operating a vehicle or vessel while in an intoxicated condition;

2.

If the person is under the age of twenty-one (21), has been stopped by a Law Enforcement Officer, and the Law Enforcement Officer has reasonable grounds to believe that such person was operating a vehicle or vessel with a blood alcohol content of two-hundredths of one percent (.02%) or more by weight;

3.

If the person is under the age of twenty-one (21), has been stopped by a Law Enforcement Officer, and the Law Enforcement Officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the State or any political subdivision of the State, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content by weight of two-hundredths of one percent (.02%) or greater;

4.

If the person is under the age of twenty-one (21), has been stopped at a sobriety checkpoint or roadblock, and the Law Enforcement Officer has reasonable grounds to believe that such person has a blood alcohol content by weight of two-hundredths of one percent (.02%) or greater; or

5.

If the person, while operating a vehicle, has been involved in a collision or accident which resulted in a fatality or a readily apparent serious physical injury as defined in Section 556.061, RSMo., or has been arrested as evidenced by the issuance of a uniform traffic ticket for the violation of any State law or County or municipal ordinance with the exception of equipment violations contained in Chapters 306 and 307, RSMo., or similar provisions contained in County or municipal ordinances;

Pursuant to such consent, the test shall be administered at the direction of the Law Enforcement Officer whenever the person has been arrested, detained or stopped for any reason.

B.

The implied consent to submit to the chemical tests listed in Subsection (A) of this Section shall be limited to not more than two (2) such tests arising from the same stop, detention, arrest, incident or charge.

C.

To be considered valid, chemical analysis of the person's breath, blood, saliva or urine shall be performed according to methods approved by the State Department of Health and Senior Services by licensed medical personnel or by a person possessing a valid permit issued by the State Department of Health and Senior Services for this purpose.

D.

The person tested may have a physician, or a qualified technician, chemist, registered nurse or other qualified person at the choosing and expense of the person to be tested, administer a test 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 taken at the direction of a Law Enforcement Officer.

E.

Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

1. The type of test administered and the procedures followed;
2. The time of the collection of the blood, breath, saliva or urine sample analyzed;
3. The numerical results of the test indicating the alcohol content of the blood, breath, saliva and urine that was analyzed;
4. The type and status of any permit which was held by the person who performed the test;
5. If the test was administered by means of a breath-testing instrument, the date of the most recent maintenance of such instrument.

Full information does not include manuals, schematics or software of the instrument used to test the person or any other material that is not in the actual possession of the City or State.

Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

F.

Any person given a chemical test of the person's breath pursuant to Subsection (A) of this Section or a field sobriety test may be videotaped during any such test at the direction of the Law Enforcement Officer. Any such video recording made during the chemical test pursuant to this Subsection or a field sobriety test shall be admissible as evidence for a violation of any municipal ordinance.

See Section 577.020 RSMo

Section 340.050. Reserved.

Section 340.060. Consumption of or Transportation of Open Containers of Alcoholic Beverages in Motor Vehicles Prohibited.

A.

Definitions. The following terms shall have the meanings ascribed to them in this Section, except where context indicates a different meaning:

ALCOHOLIC BEVERAGE

Includes alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquor or combination of liquors, a part of which is spirituous, vinous or fermented and to also include any beer manufactured from pure hops or pure extract of hops and pure barley malt or other wholesome grains or cereals and wholesome yeast and pure water and free from all harmful substances, preservatives and adulterants and having any alcoholic content by weight or volume.

REAR COMPARTMENT

Vehicle trunk, spare tire compartment or any outside compartment which is not accessible to the driver or any other person while such vehicle is in motion. In the case of a pickup truck, station wagon, hatchback or other similar vehicle, the area behind the last upright seat shall be considered the rear compartment.

RECREATIONAL MOTOR VEHICLE

Any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purpose of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered.

B.

A person commits the offense of consumption of an alcoholic beverage while driving if he or she operates a moving vehicle upon any public thoroughfare for vehicles including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in the city while consuming any alcoholic beverage.

C.

No person shall knowingly transport any alcoholic beverage, except in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cork or cap shall not have been removed, or as otherwise allowed by law, while operating a motor vehicle upon a public street, highway or alley unless the opened container is in a rear compartment area of the vehicle.

D.

Nothing in this Section shall be construed as to prohibit the otherwise legal consumption of alcoholic beverages by passengers on a privately or publicly owned transit authority that has been chartered and is not being utilized for conveyance of the general public where the operation and control of such conveyance is by a person not in possession of, or with ready access to, such alcoholic beverage.

E.

This Section shall not apply to the living quarters of a recreational vehicle as defined in this Section.

See Section 577.017 RSMo.

Section 340.070. Ignition Interlock Devices.

A.

It is an offense for a person to knowingly rent, lease or lend a motor vehicle to a person required to use an ignition interlock device on all vehicles operated by the person unless such vehicle is equipped with a functioning, certified ignition interlock device.

B. It is an offense for a person who is required to use an ignition interlock device on all vehicles he or she operates to knowingly fail to notify any other person who rents, leases or loans a motor vehicle to that person of such requirement.

C.

It is an offense for any person who is required to use an ignition interlock device on all vehicles he or she operates to knowingly request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

D.

It is an offense for any person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who is required to use an ignition interlock device on all vehicles he or she operates.

E.

It is an offense to tamper with or circumvent the operation of an ignition interlock device.

F.

It is an offense to knowingly operate a motor vehicle that is not equipped with a functioning certified ignition interlock device in violation of a court or department of revenue order to use such a device.

See Sections 577.599, 577.600, 577.605, 577.612 RSMo.

SECTION 3. The sections of this Ordinance shall be severable. In the event that any of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections of this Ordinance are valid, unless the court finds that the valid sections of this Ordinance are so essential to and inseparably connected with and dependent upon the void section that it cannot be presumed that the City Council has enacted the valid sections without the void ones, or unless the court finds that the valid sections, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

SECTION 4. This Ordinance shall take effect and be in full force on the thirty-first day following its passage and being signed as provided by law.

PASSED AND APPROVED this 19th day of December, 2016.

JIM THOMSON
MAYOR

ATTEST:

PATRICIA S. VILLMER
DEPUTY CITY CLERK

APPROVED AS TO FORM:

KENNETH J. HEINZ
CITY ATTORNEY

First reading: December 5, 2016
Second Reading: December 19, 2016