

BILL NO. 1282

ORDINANCE NO. 1237

**AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 342 OF THE CODE OF ORDINANCES OF THE CITY OF COOL VALLEY REGARDING ALCOHOL-RELATED TRAFFIC OFFENSES.**

**WHEREAS**, Chapter 342 of the City Code of Ordinances addresses alcohol related traffic offenses; and

**WHEREAS**, changes in state law (2014 SB 491, HB 1371) require parallel revisions to the City's ordinances, for consistency;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF COOL VALLEY AS FOLLOWS:**

**Section 1.** The following sections of Chapter 342 of Title III of the Municipal Code are hereby added to amended to read as follows:

TITLE III	TRAFFIC CODE
CHAPTER 342	ALCOHOL-RELATED TRAFFIC OFFENSES

**Section 342.010. Definitions.**

As used in this Chapter, the following terms shall have these prescribed meanings:

**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.

**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 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., and military Policemen conducting traffic enforcement operations on a Federal military installation under military jurisdiction in the State of Missouri.

PERCENT BY WEIGHT OF ALCOHOL

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.

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.

## VEHICLE

In lieu of the definition in Chapter 300 of this Code, a self-propelled mechanical device designed to carry a person or persons, excluding vessels or aircraft.

## 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.

### **Section 342.020. Driving While Intoxicated.**

A person commits the offense of "*driving while intoxicated*" if he/she operates a vehicle or vessel, or manipulates any water skis while in an intoxicated or drugged condition. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two (2) years.

### **Section 342.030. Driving With Excessive Blood Alcohol Content.**

A. A person commits the offense of "*driving with excessive blood alcohol content*" if such person operates a motor vehicle in this City with eight-hundredths of one percent (.08%) or more by weight of alcohol in such person's blood, or a commercial motor vehicle while having four one-hundredths (.04%) of one percent or more by weight of alcohol in his or her blood.

### **Section 342.040. 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 or a vessel upon the public highways of this City 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;
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 sample or urine 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.

**Section 342.050. Transportation or Consumption of Alcoholic Beverages in Motor Vehicle – Definitions – Exceptions.**

A. 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.

B. 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.

C. Nothing in this Section shall be construed 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.

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

E. *Definitions.* For the purposes of this Section, the following terms shall have the meaning indicated below:

**ALCOHOLIC BEVERAGE**

Includes alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors 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.

## **Section 342.060. 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.

**Section 2.** This Ordinance shall be in full force and effect January 1, 2017.

**PASSED BY THE BOARD OF ALDERMEN FOR THE CITY OF COOL VALLEY THIS 28th DAY OF December, 2016.**

AYES: A. Robinson, M. Johnson, F. Blackwell, D. Johnson

NAYS:

ABSENT: 2

Viola J. Murphy  
Presiding Officer

Attest:

Deborah Jones-Daniels  
Deborah Jones-Daniels, City Clerk

**APPROVED THIS 28th DAY OF December, 2016.**

Viola J. Murphy, Mayor  
Viola J. Murphy, Mayor

Attest:

Deborah Jones-Daniels  
Deborah Jones-Daniels, City Clerk

