

ORDINANCE NO. 3202 *repealed by 3415*

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE MODEL TRAFFIC ORDINANCE, AMENDING SECTION 12.60.020 OF CHAPTER 12.60, MODEL TRAFFIC ORDINANCE.

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. KMC 12.60.020 is hereby amended to read as follows:

The following laws of Washington are adopted by reference:

- [~~RCW 16.24.065~~]
- [~~RCW 16.24.070~~]
- RCW 35.21.165
- [~~RCW 46.08.030~~]
- [~~RCW 46.29.625~~]
- RCW 46.61.5151
- RCW 46.61.517
- RCW 46.30.020
- RCW 46.30.040

Section 2. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 6th day of February, 1990.

Signed in authentication thereof this 6th day of February, 1990.

Fandy Barton

MAYOR

ATTEST:

[Signature]

City Clerk
APPROVED AS TO FORM:

[Signature]

City Attorney

integral part of a solid waste processing facility located on the same site. Instead, the applicable provisions of RCW 35.22.620, and 35.23.352, and chapters 39.04 and 30 RCW shall be followed. [1989 c 399 § 7; 1986 c 2 § 17. Formerly RCW 35.92.024.]

Legislative findings—Construction—1986 c 282 §§ 17-20: "The legislature finds that the regulation, management, and disposal of solid waste through waste reduction, recycling, and the use of resource recovery facilities of the kind described in RCW 35.92.022 and 36.58-.040 should be conducted in a manner substantially consistent with the priorities and policies of the solid waste management act, chapter 70-95 RCW. Nothing contained in sections 17 through 20 of this act shall detract from the powers, duties, and functions given to the utilities and transportation commission in chapter 81.77 RCW." [1986 c 282 § 16.]

Liberal construction—Supplemental powers—1986 c 282 §§ 16-20: "Sections 16 through 20 of this act, being necessary for the health and welfare of the state and its inhabitants, shall be liberally construed to effect its purposes. Sections 16 through 20 of this act shall be deemed to provide an alternative method for the performance of those subjects authorized by these sections and shall be regarded as supplemental and additional to powers conferred by the Washington state Constitution, other state laws, and the charter of any city or county." [1986 c 282 § 21.]

Severability—1986 c 282: See RCW 82.18.900.

35.21.158 Collection and transportation of recyclable materials by recycling companies or nonprofit entities—Reuse or reclamation—Application of chapter. Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation. [1989 c 431 § 33.]

Severability—1989 c 431: See RCW 70.95.901.

35.21.160 Jurisdiction over adjacent waters. The powers and jurisdiction of all incorporated cities and towns of the state having their boundaries or any part thereof adjacent to or fronting on any bay or bays, lake or lakes, sound or sounds, river or rivers, or other navigable waters are hereby extended into and over such waters and over any tidelands intervening between any such boundary and any such waters to the middle of such bays, sounds, lakes, rivers, or other waters in every manner and for every purpose that such powers and jurisdiction could be exercised if the waters were within the city or town limits. In calculating the area of any town for the purpose of determining compliance with the limitation on the area of a town prescribed by RCW 35-.21.010, the area over which jurisdiction is conferred by this section shall not be included. [1969 c 124 § 1; 1965 c 7 § 35.21.160. Prior: 1961 c 277 § 4; 1909 c 111 § 1; RS § 8892.]

35.21.165 Driving while under the influence of liquor or drug—Minimum penalties. Except as limited by the maximum penalties authorized by law, no city or town

may establish a penalty for an act that constitutes the crime of driving while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.502, or the crime of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.504, that is less than the penalties prescribed for those crimes in RCW 46.61.515. [1983 c 165 § 40.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

35.21.175 Offices to be open certain days and hours. All city and town offices shall be kept open for the transaction of business during such days and hours as the municipal legislative authority shall by ordinance prescribe. [1965 c 7 § 35.21.175. Prior: 1955 ex.s. c 9 § 4; prior: 1951 c 100 § 2.]

35.21.180 Ordinances—Adoption of codes by reference. Ordinances passed by cities or towns must be posted or published in a newspaper as required by their respective charters or the general laws: *Provided*, That ordinances may by reference adopt Washington state statutes and codes, including fire codes and ordinances relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health and sanitation, the slaughtering, processing and selling of meats and meat products for human consumption, the production, pasteurizing and sale of milk and milk products, or other subjects, may adopt by reference, any printed code or compilation, or portions thereof, together with amendments thereof or additions thereto, on the subject of the ordinance; and where publications of ordinances in a newspaper is required, such Washington state statutes or codes or other codes or compilations so adopted need not be published therein: *Provided, however*, That not less than one copy of such statute, code or compilation and amendments and additions thereto adopted by reference shall be filed for use and examination by the public, in the office of the city or town clerk of said city, or town prior to adoption thereof. Any city or town ordinance heretofore adopting any state law or any such codes or compilations by reference are hereby ratified and validated. [1982 c 226 § 1; 1965 c 7 § 35-.21.180. Prior: 1963 c 184 § 1; 1943 c 213 § 1; 1935 c 32 § 1; Rem. Supp. 1943 § 9199-1.]

Effective date—1982 c 226: "This act shall take effect on July 1, 1982." [1982 c 226 § 8.]

35.21.190 Parkways, park drives and boulevards. Any city or town council upon request of the board of park commissioners, shall have authority to designate such streets as they may see fit as parkways, park drives, and boulevards, and to transfer all care, maintenance and improvement of the surface thereof to the board of park commissioners, or to such authority of such city or town as may have the care and management of the parks, parkways, boulevards and park drives of the city.

Any city or town may acquire, either by gift, purchase or the right of eminent domain, the right to limit the class, character and extent of traffic that may be carried

the person to be indigent, five hundred dollars of the fine shall not be suspended or deferred. 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, at the time of a second or subsequent conviction, the driver 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. The person shall, in addition, be required to complete a diagnostic evaluation by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. The report shall be forwarded to the department of licensing. If the person is found to have an alcohol or drug problem requiring treatment, the person shall complete treatment at an approved alcoholism treatment facility or approved drug treatment center.

In addition to any nonsuspendable and nondeferable 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) The license or permit to drive or any nonresident privilege of any person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs shall:

(a) On the first conviction under either offense, be suspended by the department until the person reaches age nineteen or for ninety days, whichever is longer. The department of licensing shall determine the person's eligibility for licensing based upon the reports provided by the designated alcoholism agency or probation department and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified.

(b) On a second conviction under either offense within a five-year period, be revoked by the department for one year. The department of licensing shall determine the person's eligibility for licensing based upon the reports provided by the designated alcoholism agency or probation department and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified;

(c) On a third or subsequent conviction of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, vehicular homicide, or vehicular assault, or any combination

thereof within a five-year period, be revoked by the department for two years.

(4) In any case provided for in this section, where a driver's license is to be revoked or suspended, the 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 the conviction is sustained on appeal the revocation or suspension takes effect as of the date that the conviction becomes effective for other purposes. [1985 c 352 § 1; 1984 c 258 § 328; 1983 c 165 § 21; 1983 c 150 § 1; 1982 1st ex.s. c 47 § 27; 1979 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.]

Effective date—1985 c 352 § 1: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately except for section 1 of this act, which shall take effect July 1, 1985." [1985 c 352 § 23.]

Severability—1985 c 352: See note following RCW 10.05.010.

Court Improvement Act of 1984—**Effective dates**—**Severability**—**Short title**—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Legislative finding, intent—**Effective dates**—**Severability**—1983 c 165: See notes following RCW 46.20.308.

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

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

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

Cities and towns, penalties for driving while intoxicated: RCW 35.21.165.

Counties, penalties for driving while intoxicated: RCW 36.32.127.

Operating railroad, steamboat, vehicle, etc., while intoxicated: RCW 9.91.020.

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

46.61.5151 Sentence under RCW 46.61.515—**Intermittent fulfillment of**—**Restrictions.** A sentencing court may allow persons convicted of violating RCW 46.61.502 or 46.61.504 to fulfill the terms of the sentence provided in RCW 46.61.515 (1) or (2) in nonconsecutive or intermittent time periods. However, the first twenty-four hours of any sentence under RCW 46.61.515(1) and the first forty-eight hours of any sentence under RCW 46.61.515(2) shall be served consecutively unless suspended or deferred as otherwise provided by law. [1983 c 165 § 33.]

Legislative finding, intent—**Effective dates**—**Severability**—1983 c 165: See notes following RCW 46.20.308.

46.61.516 Qualified probation department defined. A qualified probation department means a probation department for a district or municipal court that has a sufficient number of qualified alcohol assessment officers who meet the requirements of a qualified alcoholism counselor as provided by rule of the department of social and health services, except that the required hours of supervised work experience in an alcoholism agency may be satisfied by completing an equivalent number of hours of supervised work doing alcohol assessments within a probation department. [1983 c 150 § 2.]

46.61.517 Refusal of alcohol test—Admissibility as evidence. The refusal of a person to submit to a test of the alcoholic content of the person's blood or breath under RCW 46.20.308 is admissible into evidence at a subsequent criminal trial. [1987 c 373 § 5; 1986 c 64 § 1; 1985 c 352 § 21; 1983 c 165 § 27.]

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

Severability—1985 c 352: See note following RCW 10.05.010.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

46.61.519 Alcoholic beverages—Drinking or open container in vehicle on highway—Exceptions. (Effective until April 1, 1992.) (1) It is a traffic infraction to drink any alcoholic beverage in a motor vehicle when the vehicle is upon a highway.

(2) It is a traffic infraction for a person to have in his possession while in a motor vehicle upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage if the container has been opened or a seal broken or the contents partially removed.

(3) It is a traffic infraction for the registered owner of a motor vehicle, or the driver if the registered owner is not then present in the vehicle, to keep in a motor vehicle when the vehicle is upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage which has been opened or a seal broken or the contents partially removed, unless the container is kept in the trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle does not have a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

(4) This section does not apply to a public conveyance that has been commercially chartered for group use or to the living quarters of a motor home or camper or, except as otherwise provided by RCW 66.44.250 or local law, to any passenger for compensation in a for-hire vehicle licensed under city, county, or state law, or to a privately-owned vehicle operated by a person possessing a valid operator's license with a special endorsement issued under RCW 46.20.440 in the course of his usual employment transporting passengers at the employer's direction: *Provided*, That nothing in this subsection shall be construed to authorize possession or consumption of an alcoholic beverage by the operator of any vehicle while upon a highway. [1984 c 274 § 1; 1983 c 165 § 28.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

46.61.519 Alcoholic beverages—Drinking or open container in vehicle on highway—Exceptions. (Effective April 1, 1992.) (1) It is a traffic infraction to drink any alcoholic beverage in a motor vehicle when the vehicle is upon a highway.

(2) It is a traffic infraction for a person to have in his possession while in a motor vehicle upon a highway, a bottle, can, or other receptacle containing an alcoholic

beverage if the container has been opened or a seal broken or the contents partially removed.

(3) It is a traffic infraction for the registered owner of a motor vehicle, or the driver if the registered owner is not then present in the vehicle, to keep in a motor vehicle when the vehicle is upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage which has been opened or a seal broken or the contents partially removed, unless the container is kept in the trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle does not have a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

(4) This section does not apply to a public conveyance that has been commercially chartered for group use or to the living quarters of a motor home or camper or, except as otherwise provided by RCW 66.44.250 or local law, to any passenger for compensation in a for-hire vehicle licensed under city, county, or state law, or to a privately-owned vehicle operated by a person possessing a valid operator's license endorsed for the appropriate classification under chapter 46.25 RCW in the course of his usual employment transporting passengers at the employer's direction: *Provided*, That nothing in this subsection shall be construed to authorize possession or consumption of an alcoholic beverage by the operator of any vehicle while upon a highway. [1989 c 178 § 26; 1984 c 274 § 1; 1983 c 165 § 28.]

Severability—Effective dates—1989 c 178: See RCW 46.25.900 and 46.25.901.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

46.61.5191 Local ordinances not prohibited. Nothing in RCW 46.61.519 or RCW 46.61.5191 prohibits any city or town from enacting a local ordinance that proscribes the acts proscribed by those sections and that provides penalties equal to or greater than the penalties provided in those sections. [1984 c 274 § 2.]

46.61.5195 Disguising alcoholic beverage container. (1) It is a traffic infraction to incorrectly label the original container of an alcoholic beverage and to then violate RCW 46.61.519.

(2) It is a traffic infraction to place an alcoholic beverage in a container specifically labeled by the manufacturer of the container as containing a nonalcoholic beverage and to then violate RCW 46.61.519. [1984 c 274 § 3.]

46.61.520 Vehicular homicide—Penalty. (1) When the death of any person ensues within three years as a proximate result of injury proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, 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 is guilty of vehicular homicide.

Chapter 46.30

MANDATORY LIABILITY INSURANCE

46.30.010	Legislative intent.
46.30.020	Liability insurance or other financial responsibility required—Violations—Exceptions.
46.30.030	Insurance identification card.
46.30.040	Display of identification card or proof of financial responsibility—Penalty for falsification.
46.30.900	Severability—1989 c 353.
46.30.901	Effective date—1989 c 353.

46.30.010 Legislative intent. It is a privilege granted by the state to operate a motor vehicle upon the highways of this state. The legislature recognizes the threat that uninsured drivers are to the people of the state. In order to alleviate the threat posed by uninsured drivers it is the intent of the legislature to require that all persons driving vehicles registered in this state satisfy the financial responsibility requirements of this chapter. By enactment of this chapter it is not the intent of the legislature to modify, amend, or invalidate existing insurance contract terms, conditions, limitations, or exclusions or to preclude insurance companies from using similar terms, conditions, limitations, or exclusions in future contracts. [1989 c 353 § 1.]

Report on uninsured motorists: "The director of licensing shall compile records on uninsured motorists and file a report with the legislature after accumulating data for twelve months after January 1, 1990." [1989 c 353 § 9.]

46.30.020 Liability insurance or other financial responsibility required—Violations—Exceptions. (1) No person may operate a motor vehicle subject to registration under chapter 46.16 RCW in this state unless the person is insured under a motor vehicle liability policy with liability limits of at least the amounts provided in RCW 46.29.090, is self-insured as provided in RCW 46.29.630, is covered by a certificate of deposit in conformance with RCW 46.29.550, or is covered by a liability bond of at least the amounts provided in RCW 46.29.090.

(2) A violation of this section constitutes a traffic infraction punishable by a fine of two hundred and fifty dollars unless a court determines that in the interest of justice the fine should be reduced. In lieu of the fine, a court may permit the defendant to perform community service designated by the court.

(3) If a person cited for a violation of this section appears in person before the court and provides written evidence that at the time the person was cited, he or she was in compliance with this section, the citation shall be dismissed. In lieu of personal appearance, a person cited for a violation of this section may, before the date scheduled for the person's appearance before the court, submit by mail to the court written evidence that at the time the person was cited, he or she was in compliance with this section, in which case the citation shall be dismissed.

(4) The provisions of this chapter shall not govern:

(a) The operation of a motor vehicle registered under RCW 46.16.310 or 46.16.315, governed by RCW 46.16.020, registered with the Washington utilities and transportation commission as common or contract carriers; or

(b) The operation of a motorcycle as defined in RCW 46.04.330, a motor-driven cycle as defined in RCW 46.04.332, or a moped as defined in RCW 46.04.304.

(5) RCW 46.29.490 shall not be deemed to govern all motor vehicle liability policies required by this chapter but only those certified for the purposes stated in chapter 46.29 RCW. [1989 c 353 § 2.]

Notice of liability insurance requirement: RCW 46.16.212.

46.30.030 Insurance identification card. (1) Whenever an insurance company issues or renews a motor vehicle liability insurance policy, the company shall provide the policyholder with an identification card as specified by the department of licensing. At the policyholder's request, the insurer shall provide the policyholder a card for each vehicle covered under the policy.

(2) The department of licensing shall adopt rules specifying the type, style, and content of insurance identification cards to be used for proof of compliance with RCW 46.30.020, including the method for issuance of such identification cards by persons or organizations providing proof of compliance through self-insurance, certificate of deposit, or bond. In adopting such rules the department shall consider the guidelines for insurance identification cards developed by the insurance industry committee on motor vehicle administration. [1989 c 353 § 3.]

46.30.040 Display of identification card or proof of financial responsibility—Penalty for falsification. (1) Whenever a person operates a motor vehicle subject to registration under chapter 46.16 RCW, the person shall have in his or her possession an identification card of the type specified in RCW 46.30.030 and shall display the card upon demand to a law enforcement officer.

(2) Every person who drives a motor vehicle required to be registered in another state that requires drivers and owners of vehicles in that state to maintain insurance or financial responsibility shall, when requested by a law enforcement officer, provide evidence of financial responsibility or insurance as is required by the laws of the state in which the vehicle is registered.

(3) Any person who knowingly provides false evidence of financial responsibility to a law enforcement officer or to a court, including an expired or canceled insurance policy, bond, or certificate of deposit is guilty of a misdemeanor. [1989 c 353 § 4.]

46.30.900 Severability—1989 c 353. 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 353 § 12.]

46.30.901 Effective date—1989 c 353. This act shall take effect January 1, 1990. The director of the department of licensing may immediately take such