

ORDINANCE NO. 494

AN ORDINANCE AMENDING CHAPTER 9.52
OF THE TOWN OF MILLS MUNICIPAL CODE PERTAINING TO
DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES
IN THE TOWN OF MILLS, WYOMING
AND DECLARING AN EMERGENCY

WHEREAS Wyoming Statute § 31-5-233 has been amended by the Wyoming Legislature to substitute "eight one-hundredths of one percent (0.08%) for ten one-hundredths of one percent (0.10%) effective July 1, 2002; and

WHEREAS the Town of Mills, Wyoming is desirous of adopting provisions in its Ordinance No. 9.52.010 which are consistent with the provisions of Wyoming Statute § 31-5-233 to avoid potential conflicts; and

WHEREAS the immediate preservation of the public peace, health, safety or welfare of the residents will be served by the immediate amendment of its ordinance to maintain uniformity with the laws of the State of Wyoming.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF MILLS, WYOMING:

SECTION 1.

CHAPTER 9.52.

DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES

Chapter 9.52 of the Town of Mills, Wyoming, containing certain sections pertaining to Driving Under Influence of Alcohol or Controlled Substances is hereby amended to provide as follows:

Section 9.52.010. Driving while under the influence prohibited.

No person shall drive or have actual physical control of any vehicle within the town if the person has an alcohol concentration of ~~ten one-hundredths of one percent (0.10%)~~ **eight one-hundredths of one percent (0.08%)** or more, or to a degree which renders him incapable of safely driving:

- A. Is under the influence of alcohol;
- B. Is under the influence of a controlled substance; or
- C. Is under the influence of a combination of any of the elements named in subparagraphs A and B of this paragraph. (Ord. 401 §1, 1992).

Section 9.52.030. Amount of alcohol or drugs in blood - - Legal presumptions.

Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of any motor vehicle while under the influence of intoxicating liquor, the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood, urine, breath or other bodily substances shall give rise to the following presumptions:

- (a) If there was at the time five one-hundredths of one percent or less, by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of intoxicating liquor;
- (b) If there was at the time in excess of five one-hundredths of one percent, but less than ~~ten~~ **eight** one-hundredths of one percent, by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the

influence of intoxicating liquor to a degree which renders him or her incapable of safely driving a motor vehicle;

~~(c) — If there was at the time ten one-hundredths of one percent, or more, by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of intoxicating liquor to a degree which renders him or her incapable of safely driving a motor vehicle;~~

~~(d) — Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred cubic centimeters of blood;~~

(e) (c) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the person was under the influence of intoxicating liquor, nor shall the foregoing provisions require the introduction of evidence bearing on the blood alcohol concentration of an individual to establish proof that an individual has violated the provisions of this chapter. (Ord. 401 §3, 1992).

SECTION 2:

Pursuant to W.S. §15-1-115(c) for an emergency Ordinance, the requirements relating to public readings and the ten (10) day elapse between introduction and passage may be suspended by the affirmative vote of three-fourths of the qualified members of the governing body; and, pursuant to W.S. §15-1-115(d), the passage of an emergency Ordinance requires the affirmative vote of three-fourths of the qualified members of the governing body.

SECTION 3:

Pursuant to W.S. §15-1-105(a)(iii), an emergency Ordinance means an Ordinance operating for the immediate preservation of the public peace, health, safety or welfare, in which the emergency is defined.

SECTION 4:

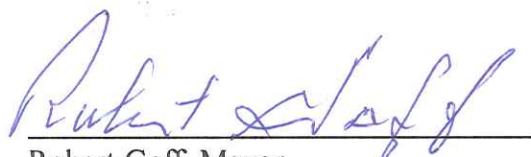
For the reasons set forth in the preamble of this Ordinance, the Council finds and declares that an emergency exists; that this Ordinance is for the immediate preservation of the public peace, health, safety and welfare, and that it shall be in full force and effect immediately upon its approval.

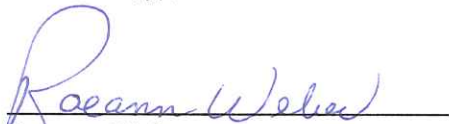
PASSED, APPROVED, AND ADOPTED this 3 day of, July 2002.



TOWN OF MILLS, WYOMING

By:


Robert Goff, Mayor


Raeann Weber
Town Clerk