



August 31, 2023

MEMO TO: City Council
J. Carter Napier, City Manager 

FROM: Eric K. Nelson, City Attorney 

SUBJECT: An Ordinance Amending Section 10.52.030 of the Casper Municipal Code Regarding Driving or Having Control of a Vehicle While Under the Influence of Intoxicating Liquor or Controlled Substance.

Meeting Type & Date:

Pre-Meeting and Regular Council Meeting
September 19, 2023

Action type:

Minute action.

Recommendation:

That City Council establish the Public Hearing regarding “An Ordinance Amending Section 10.52.030 of the Casper Municipal Code Regarding Driving or Having Control of a Vehicle While Under the Influence of Intoxicating Liquor or Controlled Substance,” to be held on October 3, 2023.

Summary:

The Casper Municipal Code needs to be updated periodically. Section 10.52.030 has not been updated since 2002. Staff is requesting City Council to adopt an ordinance which would align Section 10.52.030 of the Casper Municipal Code with Wyoming State Statute §31-5-233. Find attached a copy of the proposed ordinance.

Financial Considerations:

None.

Oversight/Project Responsibility

Eric K. Nelson, City Attorney

Attachments

Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 10.52.030 OF THE CASPER MUNICIPAL CODE REGARDING DRIVING OR HAVING CONTROL OF A VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLED SUBSTANCE.

WHEREAS, the governing body of the City of Casper has the authority to adopt ordinances and resolutions necessary for the health, safety, and welfare of the City of Casper and its citizenry pursuant to Wyoming State Statute § 15-1-103(a)(xli); and,

WHEREAS, the governing body of the City of Casper may perform all acts in relation to concerns of the City necessary to exercise its corporate powers; and,

WHEREAS, the Casper Municipal Code needs updated from time to time; and,

WHEREAS, for the purpose of aligning the City's Code with Wyoming Statutes regarding driving or having control of a vehicle while under the influence of intoxicating liquor or controlled substances, the governing body desires to amend Section 10.52.030 of the Casper Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING: that Section 10.52.030 of the Municipal Code is amended and shall be replaced and codified as follows:

10.52.030 Driving or having control of a vehicle while under the influence of intoxicating liquor or controlled substance.

A. As used in the section:

1. "Alcohol concentration" means:
 - a. The number of grams of alcohol per one hundred milliliters of blood;
 - b. The number of grams of alcohol per two hundred ten milliliters of breath;
 - c. The number of grams of alcohol per seventy-five milliliters of urine.
2. "Controlled substance" includes:
 - a. Any drug or substance defined by Wyoming Statutes Section 35-7-1002(a)(IV);
 - b. Any glue, aerosol or other toxic vapor which when intentionally inhaled or sniffed results in impairment of an individual's ability to drive safely.

c. Any drug or psychoactive substance, or any combination of these substances, capable of impairing a person's physical or mental faculties.

3. "Conviction" means as defined in Wyoming Statutes Section 31-7-102(A)(IV).
 4. "Other law prohibiting driving while under the influence" means a statute of another state, the United States or district of the United States or an ordinance of a governmental entity of this or another state or of an Indian tribe which prohibits driving while under the influence of intoxicating liquor, alcohol, controlled substance or drugs.
- B. No person shall drive or have actual physical control of any vehicle within the city if the person:
1. Has an alcohol concentration of eight one-hundredths of one percent (0.08%) or more; or
 2. 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 subsections (B)(2)(a) and (b) of this section.
- C. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or being in actual physical control of a vehicle while under the influence of alcohol, 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 substance shall give rise to the following presumptions:
1. If there was at that time an alcohol concentration of five one-hundredths of one percent (0.05%) or less, it shall be presumed that the person was not under the influence of alcohol.
 2. If there was at that time an alcohol concentration of more than five one-hundredths of one percent (0.05%), and less than eight one-hundredths of one percent (0.08%), that fact shall not give rise to any presumption that the person was or was not under the influence of alcohol, but it may be considered with other competent evidence in determining whether the person was under the influence of alcohol to a degree which renders him incapable of safely driving a motor vehicle.
- D. Subsection C of this section 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 alcohol, including tests obtained more than three hours after the alleged violation. The fact that any person charged with a violation of subsection B or C of this section is or has been entitled to use the

controlled substance under the laws of the state shall not constitute a defense against any charge under subsection B or C of this section.

- E. Chemical analysis of a person's blood, breath or urine to determine alcohol concentration or controlled substance content shall be performed in accordance with Wyoming Statutes Section 31-6-105(A) or applicable Wyoming state statute.

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PASSED on 1st reading the ____ day of _____, 2023.

PASSED on 2nd reading the ____ day of _____, 2023.

PASSED, APPROVED, AND ADOPTED on third and final reading the _____ day of _____, 2023.

APPROVED AS TO FORM:

ATTEST:

CITY OF CASPER, WYOMING
A Municipal Corporation

Fleur Tremel
City Clerk

Bruce Knell
Mayor