

Ordinance No.

AN ORDINANCE relating to Offenses against Property, amending Section 9.40.090, and creating a new Section 9.40.095 of the Olympia Municipal Code.

WHEREAS, graffiti undermines the vitality of the City of Olympia; and

WHEREAS, the City of Olympia desires to adopt regulations that aid enforcement against graffiti; and

WHEREAS, the City of Olympia desires to adopt regulations more uniquely tailored to the problem of graffiti in Olympia; and

WHEREAS, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington State Constitution and any other applicable legal authority; and

WHEREAS, this Ordinance is supported by the staff report, attachments and documents on file with City of Olympia; and

WHEREAS, this Ordinance is supported by the professional judgment and experience of staff directly involved in the enforcement against graffiti;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Chapter 9.40
OFFENSES AGAINST PROPERTY

9.40.000 Chapter Contents

Sections:

- 9.40.010 Definitions.
- 9.40.020 Theft.
- 9.40.030 Theft on mercantile premises--Reasonable detention.
- 9.40.040 Receiving stolen property.
- 9.40.050 Vehicle prowling.
- 9.40.060 Unlawful issuance of bank check.
- 9.40.070 Criminal impersonation.
- 9.40.080 Criminal trespass.
- 9.40.090 ~~Malicious mischief~~ Property damage.
- 9.40.095 Graffiti.
- 9.40.100 Bill posting and distribution--Commercial advertising.
- 9.40.115 Unlawful Balloon Releasing.
- 9.40.110 Disposal of litter--Penalty for violation.

- 9.40.120 Interfering with utility apparatus or public fountains.
- 9.40.130 Auction sales.
- 9.40.140 False advertising.

Section 1. Amendment of OMC Section 9.40.090. Section 9.40.090 of the Olympia Municipal Code is hereby amended to read as follows:

9.40.090 Malicious mischief ~~Property damage~~

A. A person is guilty of ~~malicious mischief property damage~~ if ~~he/she the person~~ knowingly and maliciously intentionally causes physical damage or threat of physical damage to the property of another, under circumstances not amounting to malicious mischief in the first or second degree as defined by RCW 9A.48.070 and RCW 9A.48.080.

B. If the court finds that the accused committed criminal trespass pursuant to the provisions of this section and if the court receives sufficient evidence that the acts committed leading to that finding were intentionally targeted against the victim or victims in substantial part because of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, or his/her/their mental, physical or sensory disability, or the accused's perception thereof, the court shall impose a minimum fine of not less than five hundred dollars and a minimum jail sentence of not less than five days for each such offense. Neither the mandatory minimum jail sentence nor the mandatory minimum fine shall be suspended or deferred, nor shall the jail sentence be served by alternative means.

C. Any person convicted under this section where the court receives sufficient evidence that the person's acts were targeted as described in subsection (B) above shall be guilty of a gross misdemeanor.

D. ~~Malicious mischief is a gross misdemeanor.~~ "Physical damage," in addition to its ordinary meaning, includes the total or partial alteration, damage, obliteration or erasure of records, information, data, computer programs or their computer representation, which are recorded for use in computers or the impairment, interruption or interference with the use of such records, information, data or computer programs; or the impairment, interruption or interference with the use of any computer or services provided by computers. "Physical damage" also includes any diminution in the value of any property, real or personal, as a consequence of an act.

E. Property damage is a gross misdemeanor punishable as described in OMC 9.64.010.

Section 2. Enactment of OMC Section 9.40.095. There is hereby enacted a New Section 9.40.095 of the Olympia Municipal Code to read as follows:

9.40.095 Graffiti

A. A person is guilty of graffiti if, without prior consent of the owner or owner's agent, the person intentionally writes, paints, or draws any inscription, figure, or mark of any type on any

public or private building or other structure or any real or personal property owned by any other person.

B. Graffiti is a gross misdemeanor punishable as described in OMC 9.64.010.

Section 3. Severability. The provisions of this ordinance are declared separate and severable. If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance or application of the provision to other persons or circumstances, shall be unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This ordinance shall take effect thirty (30) days after publication.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Nienaber

DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: