

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING VARIOUS CHAPTERS AND SECTIONS OF OLYMPIA MUNICIPAL CODE TITLE 9 — PUBLIC PEACE, MORALS AND WELFARE

WHEREAS, the criminal statutes of the Revised Code of Washington (RCW) have been subject to numerous updates and changes by the Washington State Legislature in recent legislative sessions, most notably in the areas of domestic violence and computer crimes; and

WHEREAS, a comprehensive review of Olympia Municipal Code (OMC) Title 9 – Public Peace, Morals and Welfare (Title 9 OMC) has identified that update and amendment of Title 9 OMC is needed; and

WHEREAS, the proposed ordinance updates the OMC by incorporating by reference certain crimes in Title 9 RCW, Crimes and Punishments, and Title 9A RCW, the Washington Criminal Code, and amends certain chapters and sections of Title 9 OMC; and

WHEREAS, the City Council determines it to be in the best interest of the residents of the City of Olympia to amend Title 9 OMC as proposed; and

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

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

Section 1. Amendment of OMC 9.04. Olympia Municipal Code Chapter 9.04 is hereby amended to read as follows:

Chapter 9.04

AIDING OR ABETTING CRIME

9.04.000 Chapter Contents

Sections:

9.04.010 Unlawful acts designated.

9.04.020 State statutes adopted by reference.

9.04.010 Unlawful acts designated

With regard to any crime described under this title, it is further unlawful to: with intent to commit an offense under this title, aid, agree to aid, abet, or cause another person to commit a crime described in this title.

~~A.—With intent to commit a specific crime, do any act which is a substantial step toward the commission of that crime and which constitutes an attempt to commit that crime. It is no defense under this section that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission;~~

~~B.—With intent to commit an offense under this title, aid, agree to aid, abet, solicit, or cause another person to commit a crime described in this title.~~

9.04.020 State statutes adopted by reference

A. The following sections of the Revised Code of Washington, as they appear now or are hereafter amended, are hereby adopted by reference as though fully set forth in this chapter:

- RCW 9A.28.020 – Criminal attempt
- RCW 9A.28.030 – Criminal solicitation
- RCW 9A.28.040 – Criminal conspiracy

B. All Class C felony crimes set forth in the Revised Code of Washington, as they appear now or are hereafter amended, are hereby adopted by reference for the purposes of charging a gross misdemeanor for any violation of any of the crimes set forth in chapter 9A.28 RCW.

Section 2. Amendment of OMC 9.08. A NEW SECTION 9.08.100 is hereby added to Olympia Municipal Code Chapter 9.08, to read as follows:

Chapter 9.08

OFFENSES AGAINST GOVERNMENT

9.08.000 Chapter Contents

Sections:

- 9.08.010 Definitions.
- 9.08.020 Obstructing a public servant or officer.
- 9.08.025 Making a false or misleading statement to a public servant.
- 9.08.030 Hindering a law enforcement official.
- 9.08.040 Resisting arrest.
- 9.08.050 Rescue from official detention.
- 9.08.055 Introducing contraband into jail.
- 9.08.060 Escape.
- 9.08.065 Bail Jumping.
- 9.08.070 False reporting.
- 9.08.080 Refusing to summon aid for a police officer.
- 9.08.090 Misrepresentation as police officer.
- 9.08.100 State statutes adopted by reference.

9.08.100 State statutes adopted by reference

The following sections of the Revised Code of Washington, as they appear now or are hereafter amended, are hereby adopted by reference as though fully set forth in this chapter:

- RCW 9A.44.132 – Failure to register as sex offender or kidnapping offender

Section 3. Amendment of OMC 9.16. Olympia Municipal Code Chapter 9.16 is hereby amended to read as follows:

Chapter 9.16

OFFENSES AGAINST PUBLIC PEACE

9.16.000 Chapter Contents

Sections:

- 9.16.010 Definitions.
- 9.16.020 Disorderly conduct.
- 9.16.030 Failure to disperse.
- 9.16.040 Disruption of school activities.
- 9.16.050 Offenses in public.
- 9.16.055 Opening or consuming liquor in public place.
- 9.16.060 Public parades and demonstrations.
- 9.16.090 Public events--Criminal activity.
- ~~9.16.100 Teen dances--Regulation--Purpose.~~
- ~~9.16.110 Teen dances--Definitions.~~
- ~~9.16.120 Teen dance club--License required.~~
- ~~9.16.130 Teen dance club--License exceptions.~~
- ~~9.16.140 Teen dance club--License application requirements.~~
- ~~9.16.150 Teen dance club--License permit issuance.~~
- ~~9.16.160 Teen dance club--License suspension or revocation.~~
- ~~9.16.170 Teen dance club--Regulations.~~
- 9.16.180 Pedestrian interference.
- 9.16.190 State statutes adopted by reference.

9.16.010 Definitions

For the purpose of this chapter, certain words and terms are defined as follows:

- A. "Public safety order" is an order issued by a peace officer designed and reasonably necessary to prevent or control a serious disorder, and promote the safety of persons or property.
- B. "School" has its ordinary meaning and also includes colleges, community colleges and institutions of higher education.

9.16.020 Disorderly conduct

A person is guilty of disorderly conduct if, without lawful authority, the person knowingly:

- A. Is involved in conduct and/or uses language that is abusive, threatening, or intimidating and which causes alarm for safety of others or creates risk of assault, riot or other public disorders;
- B. Intentionally disrupts a lawful assembly or meeting of persons, without lawful authority;
- C. Is involved in conduct which unreasonably disrupts the public peace; and/or
- D. Causes a public noise disturbance or is in possession and control of property on which a public noise disturbance occurs. The following sounds are determined to be public noise disturbances:
 - 1. The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;
 - 2. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or

internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace comfort and repose of owners or possessors of real property.

3. Yelling, shouting, hooting, whistling or singing on or near the public streets, particularly between the hours of eleven p.m. and seven a.m. or at any time and place so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property.

4. The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, or condominium, which unreasonably interferes with the peace, comfort, and repose of owners or possessors of real property, such as sounds from musical instruments, audio sound systems, band sessions, or social gatherings.

5. Sound from motor vehicle audio sound systems, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the vehicle itself.

6. Sound from portable audio equipment, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source, and if not operated upon the property of the operator.

The foregoing provisions shall not apply to regularly scheduled events at parks, such as public address systems for baseball games or park concerts.

Provided that the foregoing enumeration of acts and noises shall not be construed as excluding other acts and noises which offend the public peace.

9.16.030 Failure to disperse

A person is guilty of failure to disperse if:

A. The person congregates with a group of three or more other persons and there are acts of conduct within that group which create a substantial risk of causing injury to any person or substantial harm to property; and

B. The person refuses or intentionally fails to obey a public safety order to move, disperse or refrain from specified activity in the immediate vicinity.

9.16.040 Disruption of school activities

A person is guilty of disruption of school activities if the person comes upon a school ground, or street, sidewalk, or public way adjacent thereto without lawful reason, and intentionally causes substantial disruption of the activities of the school.

9.16.050 Offenses in public

It is unlawful for a person to:

A. Refuse to pay proper fare in public conveyances; or

B. Intentionally fight with another person in a public place and thereby create a substantial risk of:

1. Injury to a person who is not actively participating in the fight; or

2. Damage to the property of a person who is not actively participating in the fight; or

C. Expectorate upon the floor, walls or furniture of any public conveyance or public building; or

D. Intentionally throw any objects at, against or upon any house, building, structure, vehicle or premises of another person or of the city without the consent of that person or the city; or

~~E. Commit the crime of riot as defined in RCW 9A.84.010.~~

9.16.055 Opening or consuming liquor in public place

A. It is unlawful for a person to open any container which contains intoxicating liquor, or possess any such container which has been opened, or drink any intoxicating liquor in a public conveyance or public place not previously authorized by law, by a permit, or specifically approved in writing pursuant to a previously established policy by the City Manager or the City Manager's designee.

B. Notwithstanding ~~OMC chapter 9.64 OMC~~, every person who violates any provision of this section shall be guilty of a class 3 civil infraction under chapter 7.80 RCW.

C. It shall be unlawful for any person to fail to appear as directed when served with a citation and notice to appear in Municipal Court and shall be subject to the penalty set forth in OMC 9.64.010(A).

9.16.060 Public parades and demonstrations

A. Whenever any person or persons plan to have any procession, demonstration, or parade through or upon the streets of the city, which procession, demonstration, or parade will use the roadway section of the public right-of-way or will disrupt sidewalk pedestrian traffic in a significant way, the persons or person who will have charge, supervision, management or direction of such procession, demonstration, or parade are encouraged to, prior to such event, notify the chief of police of the city or the city manager or designee of the intention to conduct such parade, demonstration, or procession. The person or persons in charge, supervision, management or management of such processions, demonstration, or parade are encouraged to, prior to the event, discuss and plan with the chief of police or the city manager or designee the place within the city where such parade, demonstration, or procession will occur or commence its march and the proposed route, the street names, the approximate time expected to be consumed and the approximate number of persons and/or automobiles or other vehicles expected to take part.

B. On receipt of such notice, the chief of police or the city manager or designee shall meet with the person(s) involved and discuss the proposed time, place, number of persons involved, and the manner in which the procession, demonstration, or parade shall be carried out; provided, however, that if in the judgment of the chief of police, the city manager or designee, a parade, demonstration, or procession of the size, at the time, and along the route indicated will unduly interfere with vehicle or pedestrian traffic, or endanger persons or property within the city or endanger the persons involved in the procession, demonstration, or parade, the chief of police or the city manager or designee may suggest reasonable alternative time(s) and/or routes or locations for such activity.

9.16.090 Public events--Criminal activity

A. No person shall physically and intentionally or knowingly interfere with any public event activity in a manner which unreasonably disrupts the activity or causes participants therein to be seriously distracted from their performance. For purposes of this section, "activity" includes any parade, procession, race, game, exhibition or similar activity which is conducted on a public street and is an official part of a public event. The term "public event" shall be defined as set forth in Section 10.64.010.

B. No person shall commit any offense against public peace as defined in Chapter 9.16 or commit a crime against persons as defined in Chapter 9.20 while attending or in conjunction with a public event. Any person who engages in such conduct or commits a felony while attending or in conjunction with a public event may, in the case of private property, be ordered removed from the property on which the event is held by any person(s) having lawful authority over the event or, in the case of a public street, by a law enforcement officer. With respect to a public street, a court of competent jurisdiction may issue an order prohibiting the person from returning to the property on which the event is held for the duration of the event if there is cause to believe that further violations would occur if the person were allowed to return. Any violation of such an order lawfully issued shall constitute criminal trespass pursuant to Section 9.40.080.

C. Any violation of this section shall constitute a misdemeanor and be punishable by a fine not to exceed five hundred dollars, and/or by a jail sentence not to exceed ninety days.

9.16.100—Teen dances—Regulation—Purpose

Sections 9.16.100 through 9.16.170 are an exercise of police power for the protection of the public welfare, health and safety of those minors that attend and patronize teen dance clubs. The city council finds and declares that the problems of runaway children, drug abuse, alcohol abuse and abuse of children are pervasive and that the city has received complaints in the past from neighbors of teen clubs complaining of such vandalism, excessive noise, public urination, etc.; and that such problems are of such magnitude that they are a matter of city concern and are contributed to by unregulated teen clubs. Sections 9.16.100 through 9.16.170 are intended to regulate teen clubs, to address the above-referenced problems and to diminish the negative impact of unregulated teen clubs.

9.16.110—Teen dances—Definitions

For purposes of Sections 9.16.100 through 9.16.170, and unless the context plainly requires otherwise, the following definitions are adopted:

A. "Teen dance" means any dance generally open to the public but which is attended primarily by persons under the age of twenty and which:

1. Is conducted for a profit, direct or indirect; or
2. Requires a monetary payment of a fee, membership or other charge or contribution for many of the persons admitted.

B. "Teen dance club" means any place or premises where a teen dance is conducted, operated or maintained on an ongoing or regular basis and includes the premises in or on which the teen dance is conducted, operated or maintained, together with all hallways, bathrooms and all privately owned adjoining areas and open spaces on or above the premises in or on which the teen dance is conducted, including areas for vehicular parking, which are accessible to the public during the dance and which are subject to the control of the person or entity conducting, operating or maintaining the teen dance.

C. "Person" includes any natural person and, in addition, a corporation, partnership or unincorporated association.

D. "Director" means the director of administrative services for the city of Olympia.

9.16.120—Teen dance club—License required

It is unlawful for an owner, tenant, lessee or permittee of a building or premises to operate or allow to be operated therein a teen dance club without a current and valid teen dance club license issued pursuant to Sections 9.16.100 through 9.16.170. A separate license is required for each teen dance club premises and the same shall at all times be conspicuously posted and maintained thereon.

The director shall prescribe the form of such license, number the same and shall indicate thereon the location of the licensed teen dance club. An annual fee of thirty dollars shall be imposed for each license issued.

9.16.130—Teen dance club—License exceptions

A license hereunder is not required for any teen dance club which is operated and maintained by:

A. An accredited school or college;

B. The city of Olympia; or

C. A religious, charitable or nonprofit organization or corporation which has received tax exempt status under IRC Paragraph 501(C) (3), 26 USC, as now or hereafter amended.

~~9.16.140—Teen dance club—License application requirements~~

~~Any person seeking a teen dance club license, who will actually operate said club, shall complete and file a written application with the director which shall include the following information:~~

- ~~A.— The name and address of the applicant;~~
- ~~B.— The location of the premises for which the license is sought;~~
- ~~C.— Whether the applicant is the owner, tenant, lessee or permittee of said premises;~~
- ~~D.— The name of the officers, directors, or partners if the applicant is a corporation or partnership;~~
- ~~E.— A statement that the applicant will actually operate and manage the teen dance club;~~
- ~~F.— A statement or confirmation that the premises comply with all zoning, building and other regulations of the city of Olympia; and~~
- ~~G.— Any other information deemed necessary by the director.~~

~~9.16.150—Teen dance club—License permit issuance~~

~~A.— Upon receipt of an application for a teen dance club license, the director shall refer the application to the police chief for a criminal background check of the applicant. The license shall be issued unless:~~

- ~~1.— The applicant or any of its officers or partners has been convicted within the past five years of any crime involving improper conduct toward minors, any crime involving use or possession of controlled substances or any sex offenses;~~
- ~~2.— The premises for which the license is sought does not comply with the zoning, building or other regulations of the city; or~~
- ~~3.— The applicant has not submitted the required fee therefor.~~

~~B.— Any permits so issued shall be conspicuously posted in the premises for which the teen dance club license is sought. The license shall be effective for the calendar year for which it was issued.~~

~~9.16.160—Teen dance club—License suspension or revocation~~

~~A.— Any license issued hereunder may be suspended or revoked upon a finding by the director of any of the following:~~

- ~~1.— The applicant has failed to disclose a material fact or has given any false statement or information in the application which bears on its issuance;~~
- ~~2.— The applicant, or any officer or partner thereof, has committed any crimes or act since the issuance of the license which would have been grounds for a denial thereof;~~
- ~~3.— There has occurred upon the dance hall premises repeated violations of Chapter 9.24 of the Olympia Municipal Code (offenses against public decency);~~
- ~~4.— There has been repeatedly occurred upon the premises of the licensed teen dance club the possession, consumption or supplying of liquor, as defined in RCW 66.04.010(15) by or to persons under the age of twenty-one years;~~
- ~~5.— There has repeatedly occurred on the premises of the teen dance club the possession, supplying or use by any person of marijuana, cocaine, or any other controlled substance as defined in RCW 69.50.101(D) not prescribed by a licensed physician for use by the person possessing, receiving or using the same;~~

~~6.— There has repeatedly occurred acts of vandalism, excessive noise, disturbance of the peace or public urination or defecation on the licensed premises or in the immediate vicinity thereof by persons patronizing said licensed teen dance club; or~~

~~7.— If there repeatedly occurs any violation of Section 9.16.170 of this chapter.~~

~~B.— Any person aggrieved by a suspension, vacation or, denial of a teen dance club license shall be entitled to a review hearing before the city manager prior to the effective date of said suspension or revocation. Notice of an intended suspension or revocation and the reasons therefor shall be sent to the applicant or the applicant's agent, officers or partners at least ten days prior to the intended suspension or revocation period. The notice shall inform the applicant/agent, officer or partner of the applicant's/agent's, officer's or partner's right to a hearing, upon request therefor, prior to the date of suspension or revocation.~~

~~**9.16.170— Teen dance club—Regulations**~~

~~No person conducting or operating a teen dance club shall permit any person, other than an employee, to leave that area of the dance club for which an admission fee is charged and return thereto unless the person pays a readmission fee equal to, or greater than, one half of the original price of the original price of admission.~~

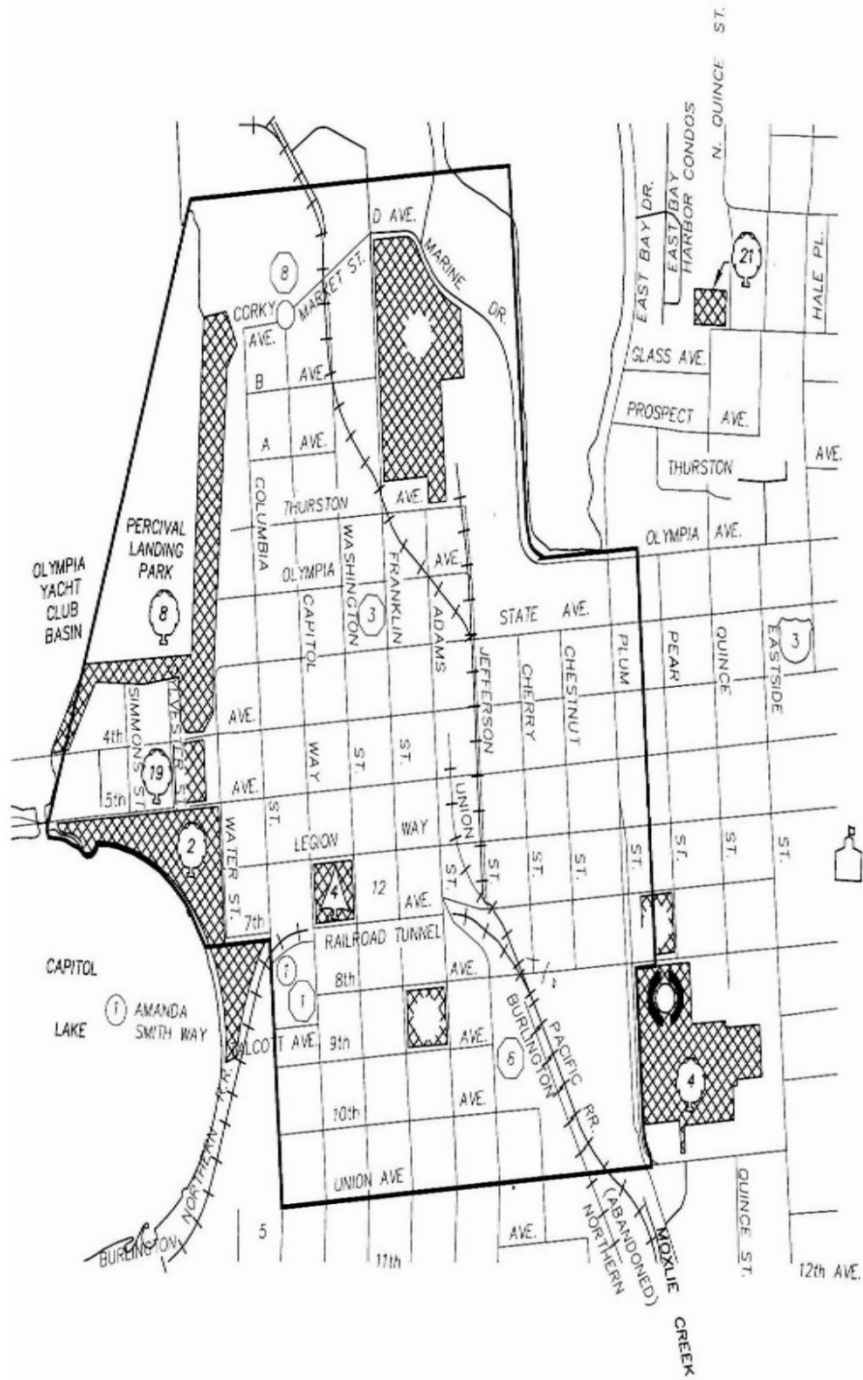
9.16.180 Pedestrian interference

A. A person is guilty of pedestrian interference if, in a public place, the person obstructs pedestrian or vehicular traffic.

B. The following definitions apply in this section:

1. "Downtown Commercial Zone" means the area depicted in Figure 1, attached hereto and incorporated herein, showing the areas within the City of Olympia in which conduct is prohibited under subsections B.2.b and B.2.c of this section.

Figure 1



PROJECT NO.	CITY OF OLYMPIA	DRAWING NAME
DRAWN BAM	PEDESTRIAN INTERFERENCE RESTRICTIONS	DECEMBER 2006
SCALE NTS		

2. "Obstruct pedestrian or vehicular traffic" means to:

- a. In a public place, ~~intentionally~~ knowingly walk, stand, sit, lie, grasp a person, or place an object in such a manner as to obstruct or impede, or tending to obstruct or impede, the free passage of any person or vehicle, or to require another person or a driver of a vehicle to take action to avoid physical contact; or
- b. at any time knowingly vend on any sidewalk, street or alley within the Downtown Commercial Zone as depicted in Figure 1 of this section; or
- c. between the hours of 7 a.m. and 12 a.m., sit or lie on any sidewalk, street or alley within the Downtown Commercial Zone as depicted in Figure 1 of this section. A culpable mental state is not required, and need not be proven, for an offense as defined under this subsection. No person shall be cited under this subsection unless the person engages in conduct prohibited by this subsection after having been notified by a law enforcement officer that the conduct violates this subsection.

3. Affirmative Defenses. It is an affirmative defense under subsections B.2.b and B.2.c, that the defendant must prove by a preponderance of the evidence, that the defendant was:

- (i) Sitting or lying down on a publicly-owned sidewalk or alley due to a medical emergency;
- (ii) Utilizing, as the result of a disability, a wheelchair, walker, or similar device to move about on the publicly-owned sidewalk or alley;
- (iii) Operating or patronizing a commercial establishment conducted on any sidewalk, street or alley pursuant to a street use permit;
- (iv) Vending, sitting or lying down on any sidewalk, street or alley within any portion of the Downtown Commercial Zone where such conduct is approved by the City as part of participation in or attendance at a parade, festival, rally, or demonstration; provided, however, that this defense shall not be available to a defendant refusing to obey a reasonable request or order by a police officer to move to prevent obstruction of a public street, alley, sidewalk or building or entrance or doorway into or out of a building open to the public, or to maintain public safety by dispersing those gathered in dangerous proximity to a fire or hazard;
- (v) Sitting on a chair or bench supplied by a public agency or by the abutting private property owner or lessee for that purpose, pursuant to a temporary street use or other applicable permit or authorization if required;
- (vi) Sitting or standing on a publicly-owned sidewalk within a bus stop zone while waiting for public or private transportation;
- (vii) Waiting in a line to purchase tickets to or attend a performance or public event, or to gain entry to a business adjacent to the publicly-owned sidewalk or alley;

Provided, however, that nothing in any of these affirmative defenses shall be construed to permit any conduct which is prohibited by ~~OMC-9.16.180.B.2.a~~ 9.16.180(b)(2)(a).

4. "Public place" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, and streets open to the general public including places that serve food or drink or provide entertainment, in the doorways and entrances to buildings or dwellings and the grounds enclosing them.

5. "Sit or Lie" means to sit or lie directly upon a sidewalk, street, or alley, or to sit or lie down upon any blanket, sleeping bag, bedroll, tarpaulin, cardboard, or any other similar object placed upon the sidewalk, street or alley.

6. "Vend" means to offer for sale, whether orally or through the use of written or printed media, any item of value to another person.

9.16.190 State statutes adopted by reference

The following sections of the Revised Code of Washington, as they appear now or are hereafter amended, are hereby adopted by reference as though fully set forth in this chapter:

RCW 9A.84.010 Criminal mischief

Section 4. Amendment of OMC 9.20.010. Olympia Municipal Code Section 9.20.010 is hereby amended to read as follows:

9.20.010 State statutes adopted by reference.

The following sections of the Revised Code of Washington (RCW), as they appear now or are hereafter amended, are hereby adopted by reference as though fully set forth in this chapter:

RCW 9A.36.070 – Coercion

RCW 9A.36.041 - Assault in the fourth degree

RCW 9A.40.070 – Custodial interference in the second degree

RCW 9A.40.080 – Custodial interference – Assessment of costs – Defense-Consent defense, restricted

RCW 9A.42.035 – Criminal mistreatment in the third degree

RCW 9A.42.037 – Criminal mistreatment in the fourth degree

RCW 9A.42.080 – Abandonment of a dependent person in the third degree – Exception

RCW 9A.42.090 – Abandonment of a dependent person - Defense

RCW 9A.42.110 – Leaving a child in the care of a sex offender

RCW 9A.44.096 – Sexual misconduct with a minor in the second degree

RCW 9A.46.020 – Harassment

RCW 9A.46.030 – Place where committed

RCW 9A.46.040 – Court ordered requirements upon person charged with crime – Violation

RCW 9A.46.050 – Arraignment – No-contact order

RCW 9A.46.080 – Order restricting contact - Violation

RCW 9A.46.110 – Stalking

RCW 9A.86.010 – Disclosing intimate images

RCW 9.61.230 - Telephone harassment

RCW 9.61.240 – Permitting Telephone to be Used

RCW 9.61.250 – Telephone harassment- Offense, where deemed committed

RCW 9.61.260 – Cyberstalking

RCW 9.94A.835 – Special allegation – Sexual motivation – Procedures

Section 5. Amendment of OMC 9.36. Olympia Municipal Code Chapter 9.36 is hereby amended to read as follows:

Chapter 9.36

LIQUOR OFFENSES

9.36.000 Chapter Contents

Sections:

9.36.010 ~~Purpose and interpretation~~ State statutes adopted by reference.

9.36.020 ~~Definitions. Sales to persons apparently under the influence of liquor.~~

9.36.030 ~~Disposition of liquor.~~

9.36.035 ~~Sales to persons apparently under the influence of liquor.~~

9.36.040 ~~General regulations.~~

9.36.050 ~~Frequenting places where liquor unlawfully kept or disposed of.~~

9.36.060 ~~Seized liquor to be turned over to the Board.~~

9.36.070 ~~Prosecution. Description of offense.~~

9.36.080 ~~Pleading particulars of offense.~~

9.36.090 ~~Prosecution. Proof of sale.~~

9.36.100 ~~Exemptions.~~

9.36.010—Purpose and interpretation

~~This chapter shall be deemed an exercise of the police power of the city, pursuant to RCW 66.08.120, as an aid to the enforcement of the Washington State Liquor Act (Chapter 62, Laws of 1933, Extraordinary Session), RCW Title 66, and all of its provisions shall be liberally construed for the accomplishment of that purpose.~~

9.36.020—Definitions

~~In this chapter, unless the context otherwise requires:~~

~~A. "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by fermentation or distillation of grain, starch, molasses, or sugar or other substances, including dilutions and mixtures of the substance.~~

~~B. "Beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than four percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage, including ale, stout and porter, containing more than four percent of alcohol by weight shall be referred to as "strong beer."~~

~~C. "Board" means the Liquor Control Board, constituted under the Washington State Liquor Act.~~

~~D. "Consumed" includes the putting of liquor to any use, whether drinking or otherwise.~~

~~E. "Dentist" means a practitioner of dentistry, duly and regularly licensed and engaged in the practice of the practitioner's profession within the state pursuant to RCW Chapter 18.32.~~

~~F. "Imprisonment" means confinement in the city jail.~~

~~G. "Liquor" includes the four varieties of liquor defined in this section (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks~~

that are drinkable liquids and all preparations of mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

H.—"Malt liquor" means beer, strong beer, ale, stout, and porter.

I.—"Package" means any container or receptacle used for holding liquor.

J.—"Permit" means a permit for the purchase of liquor under the Washington State Liquor Act.

K.—"Person" means individual, copartnership, association or corporation.

L.—"Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of the medical practitioner's profession within the state pursuant to RCW 18.29.010 and RCW Chapter 18.71.

M.—"Prescription" means a memorandum signed by a physician and given by that physician to a patient for the obtaining of liquor pursuant to the Washington State Liquor Act for medicinal purposes.

N.—"Public place" includes streets and alleys; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theaters, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

O.—"Regulation" means regulations made by the Board under the Washington State Liquor Act, RCW Title 66.

P.—"Sale" and "sell" includes exchanges, barter, and traffic, and also includes selling or supplying or distributing, by any means whatsoever, liquor, or any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person, and also includes a sale or selling within the state to a foreign consignee or the foreign consignee's agent in the state.

Q.—"Spirits" means any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen percent alcohol by weight.

R.—"Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural products containing sugar, to which any saccharin substances may have been added before, during or after fermentation, and containing not more than seventeen percent alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent alcohol by weight.

9.36.030—Disposition of liquor

It is unlawful to manufacture, sell, possess, consume, give away, use, procure for another, solicit for, import, transport or otherwise dispose of any liquor except as authorized or permitted by the provisions of RCW Title 66, as amended.

9.36.035—Sales to persons apparently under the influence of liquor

A.—No person shall sell any liquor to any person apparently under the influence of liquor.

B.—A violation of this section is a gross misdemeanor.

9.36.040—General regulations

A.— No window blinds, screens, shades, paint or other obstructions shall be placed or maintained, during open or closed hours, on any window or opening of the salesroom of any licensed premises, preventing a clear, uninterrupted view of the interior of the premises from the street.

B.— No licensee shall conduct an establishment where booths are a part of the equipment unless they are open at one end and are without doors, curtains or other obstructions.

C.— All licensed premises used in the manufacture, storage or sale of liquor shall be at all times open to inspection by any authorized inspector of the Board or peace officer of the city.

D.— Licensed premises must always be equipped with safe drinking water, equipment for proper sterilization of eating and drinking utensils and a method for the sanitary disposal of sewage as provided for in the rules and regulations of the Washington State Board of Health, which are, by reference, made a part of this chapter.

E.— It is unlawful for any person, partnership, firm or corporation within the corporate limits of the city to sell, loan, give or deliver gasoline or other motor vehicle fuel to any person apparently in a state of intoxication.

9.36.050—Frequenting places where liquor unlawfully kept or disposed of

It is unlawful for any person to frequent or be found in any place where intoxicating liquors are being unlawfully kept or disposed of.

9.36.060—Seized liquor to be turned over to the Board

In every case in which liquor is seized by a police officer of the city, it shall be the duty of the chief of police of this city to report in writing to the Board the particulars of such seizure, and to deliver immediately such liquor to the Board at such place as may be designated by it.

9.36.070—Prosecution—Description of offense

The description of any offense under this chapter in the language of this chapter or of the Washington State Liquor Act, or any language of like effect, so far as the same may be applicable shall be sufficient in law, and any exception, provision, excuse for qualification, whether it occurs by way of provision or in the description of the essence in this chapter, or in the Washington State Liquor Act, may be proved by the defendant but need not be specified or negated.

9.36.080—Pleading particulars of offense

In describing any offense respecting the manufacture, sale, possession, consumption, gift, use, procurement for another, solicitation for or other disposal of any liquor, in any complaint, summons, convictions warrant or proceeding under this chapter, it shall be sufficient to state the same without stating the name or kind of such liquor or the price thereof, or to whom it was sold or disposed of, or by whom consumed, or from whom it was purchased or received; and it shall not be necessary to state the quantity of liquor so sold, kept for sale, disposed of, kept, given, purchased, or consumed, except in the case of the offenses where the quantity is essential, and then it shall be sufficient to allege the sale or disposal more or less than such quantity.

9.36.090—Prosecution—Proof of sale

In any proceeding under this chapter, proof of one unlawful sale of liquor shall suffice to establish prima facie the intent or purpose of unlawfully keeping liquor for sale in violation of this chapter.

9.36.100—Exemptions

Nothing in this chapter shall apply to wine or beer manufactured in any home for consumption therein, and not for sale.

9.36.010 State statutes adopted by reference

RCW 66.04.010 - Definitions

RCW 66.04.011 – “Public place” not to include certain parks and picnic areas

RCW 66.04.021 – “Retailer,” “spirits distributor,” and “spirits importer.”

RCW 66.24.481 – Public place or club-License or permit required-Penalty

RCW 66.28.200 – Keg registration-Special endorsement for grocery store licensee-Requirements of seller

RCW 66.28.210 – Keg registration-Requirements of purchaser

RCW 66.28.220 – Keg registration-Identification of containers-Rules-Fees-Sale in violation of rules unlawful

RCW 66.28.230 – Keg registration-Furnishing to minors-Penalties

RCW 66.44.090 – Acting without license

RCW 66.44.250 – Drinking in public conveyance-Penalty against individual-Restricted application

RCW 66.44.290 – Minor purchasing or attempting to purchase liquor-Penalty

RCW 66.44.300 – Treats, gifts, purchases of liquor for or from minor, or holding out minor as at least twenty-one, in public place where liquor sold

9.36.020 Sales to persons apparently under the influence of liquor

A. No person shall sell any liquor to any person apparently under the influence of liquor.

B. A violation of this section is a gross misdemeanor.

Section 6. Amendment of OMC 9.40. Olympia Municipal Code Chapter 9.40 is hereby amended to read as follows:

Chapter 9.40

OFFENSES AGAINST PROPERTY

9.40.000 Chapter Contents

Sections:

9.40.010 Definitions.

9.40.020 State statutes adopted by reference.

9.40.040 Receiving stolen property.

9.40.060 Unlawful issuance of bank check.

9.40.070 Criminal impersonation.

9.40.080 Criminal trespass.

9.40.090 Property damage.

9.40.095 Graffiti.

9.40.100 Bill posting and distribution – Commercial advertising.

~~9.40.110 Disposal of litter – Penalty for violation.~~

9.40.115 Unlawful Balloon Releasing.

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

9.40.010 Definitions

For the purpose of this chapter certain words and terms are defined as follows:

- A. "Building" means any structure, vehicle, railway car, aircraft or watercraft used for overnight lodging of persons or for carrying on of business therein.
- B. "Credit card" means any instrument or device, whether incomplete, revoked or expired, whether known as a credit card, credit plate, charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services or anything else of value, including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guaranteed by the issuer.
- C. "Damage," for the purpose of ~~Section OMC~~ 9.40.090, in addition to its ordinary meaning, includes cutting, marring, injuring, defacing, spoiling, breaking or destroying any fence, sidewalk, house, building, tree, plant or other property, public or private, within the city, whether real or personal property, by any means, including the attachment of any handbills, posters or newspapers thereto; or without municipal authority, to deface, mutilate, tear down, rearrange, or destroy any signboard, street sign, public notice, poster, or post within the corporate limits of the city. Damage also includes any diminution in the value of property as a consequence of an act.
- D. "Deception" occurs when an actor knowingly:
 - 1. Creates or confirms another's false impression which the actor does not believe to be true; or
 - 2. Fails to correct another's false impression which the actor previously has created or confirmed; or
 - 3. Prevents another from acquiring information material to the disposition of the property involved; or
 - 4. Promises performance which the actor does not intend to perform or knows will not be performed; or
 - 5. Uses a credit card without authorization or which the actor knows to be stolen, forged, revoked or canceled.
- E. "Obtained" means:
 - 1. In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or
 - 2. In relation to labor or service, to secure performance thereof for the benefit of the obtainer or another.
- F. "Owner" means a person, other than the actor, who has possession of or any other interest in the property involved, and without whose consent the actor has no authority to exert control over the property.
- G. "Service" includes but is not limited to labor, professional service, transportation service, the supplying of hotel or motel accommodations, restaurant services, entertainment, the supplying of

equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water.

H. "Stolen" means property obtained by theft, robbery, or extortion.

I. "Wrongfully obtains" or "exerts unauthorized control" means to take the property or services of another and includes but is not necessarily limited to conduct known as "common law larceny."

9.40.020 State statutes adopted by reference

The following sections of the Revised Code of Washington (RCW), as they appear now or are hereafter amended, are hereby adopted by reference as though fully set forth in this chapter:

RCW 9A.48.090 – Malicious Mischief in the Third Degree

RCW 9A.52.100 – Vehicle Prowling in the Second Degree

RCW 9A.56.050 – Theft in the Third Degree

RCW 9A.56.170 – Possessing Stolen Property in the Third Degree

RCW 9A.56.330 – Possession of Another’s Identification

~~RCW 9A.48.090 – Malicious Mischief in the Third Degree~~

RCW 9A.90.050 – Computer Trespass in the Second Degree

RCW 9A.90.070 - Spoofing

RCW 9A.90.090 – Electronic Data Tampering in the Second Degree

RCW 70A.200.060 – Littering Prohibited – Penalties – Litter Cleanup Restitution Payment

9.40.040 Receiving stolen property

A. A person is guilty of theft if the person receives, possesses, retains or disposes of property of another, having value of two hundred fifty dollars or less, knowing that it has been stolen or consciously disregarding a substantial risk that it has been stolen, unless the property is received, retained or disposed of with purpose to restore to the owner.

B. The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of receiving stolen property.

C. Receiving stolen property is a gross misdemeanor.

9.40.060 Unlawful issuance of bank check

A. Any person who, with intent to defraud, makes, or draws, or utters or delivers any check, draft or order for the payment of money in an amount of two hundred fifty dollars or less upon any bank or other depository, knowing at the time of such drawing or delivery that the maker or drawer has not sufficient funds in, or credit with such bank or depository, in full upon its presentation, is guilty of unlawful issuance of a bank check. The word "credit" as used in this section shall be construed to mean an arrangement or understanding with the bank for the payment of such check or draft or order. The uttering or delivery of such a check, draft or order to another person, firm or corporation without such funds or credit to meet the same shall be prima facie evidence of an intent to defraud.

B. Unlawful issuance of a bank check is a gross misdemeanor.

9.40.070 Criminal impersonation

A person is guilty of criminal impersonation if the person:

- A. Assumes a false identity and does an act in the person's assumed character with the intent to defraud another or for any other unlawful purpose; or
- B. Pretends to be a representative of some person or organization and does an act in the person's pretended capacity with the intent to defraud another or for some other unlawful purpose.

9.40.080 Criminal trespass

- A. A person is guilty of criminal trespass if the person knowingly enters or remains unlawfully in or upon the premises of another.
- B. "Enter or remain unlawfully" means an unlicensed, uninvited or otherwise unprivileged entry into or remaining in or upon premises. A license or privilege to enter or remain in public premises which are only partly open to the public is not a license or privilege to enter or remain in that part of the premises which are not open to the public.
- C. In any prosecution under this section, it is an affirmative defense that:
 - 1. The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed that actor to enter or remain; or
 - 2. The actor was attempting to serve legal process, which includes any document required or allowed to be served upon persons or property by any statute, ordinance, governmental rule or regulation, or court order, excluding delivery by the mails of the United States. This defense is available only if the actor did not enter into a private residence or other building not open to the public and the entry onto the premises was reasonable and necessary for service of the legal process.
- D. 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 the victim's or victims' 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.
- E. Any person convicted under this section where the court receives sufficient evidence that the person's acts were targeted as described in subsection (D) above shall be guilty of a gross misdemeanor.

9.40.090 Property damage

- A. A person is guilty of property damage if the person intentionally causes physical damage to the property of another.
- 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 the victim's or victims' 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. "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.

9.40.095 Graffiti

A. A person is guilty of graffiti if 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. Subsection (A) of this section shall not apply to any person who has permission from the owner, operator or custodian of the property.

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

9.40.100 Bill posting and distribution –Commercial advertising

It is unlawful for any person to post or attach any bills, handbills, posters, newspapers or other papers of a purely commercial advertising nature on any post, fence, tree, building or other structure, except upon billboards or other structures erected for that purpose. It is further unlawful to hand out, distribute, or scatter any such commercial advertising upon the streets, alleys or other public places of the city, or to throw them in the yards of the city, or to place them in or upon automobiles without the consent of the owner.

~~9.40.110 Disposal of litter –Penalty for violation~~

~~No person shall throw, drop, deposit, discard, or otherwise dispose of litter, as that term is defined in RCW 70.93.030 (4), upon any public property within the city or upon private property within the city not owned by that person or in the waters of the city whether from a vehicle or otherwise, including but not limited to any sidewalk, street, alley, highway or park, except:~~

~~A. When such property is designated by the city for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose;~~

~~B. Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public property or waters;~~

~~C. Any person violating any provisions of this section is guilty of a misdemeanor and the fine or bail forfeiture for such violation shall not be less than ten dollars for each offense, and, in addition thereto, in the sound discretion of the judge, such person may be directed by the judge to pick up and remove from any public place or private property, with prior permission of the legal owner, upon which it is established by competent evidence that such person has deposited litter.~~

9.40.115 Unlawful Balloon Releasing

It is unlawful to intentionally release or cause to be released any balloon, with or without attachments, any part of which balloon or its attachments are made from a non-biodegradable material, and which balloon is filled with a lighter-than-air gas. Anyone convicted of this misdemeanor shall be punished by a fine of no more than \$100.

9.40.120 Interfering with utility apparatus or public fountains

A. It is unlawful for any person to cut, alter, change, remove, disconnect or connect with, or in any manner interfere, meddle or tamper with any water main, pipe, stopcock on a meter hydrant, pump or conduit, or any gas pipe, main or meter, or any electrical wire, cable or conduit owned or used by the city

or by any private owner, without the permission or consent of the proper city officials or of the private owner or owners.

B. It is unlawful to obstruct, divert, hinder, tamper with, pollute, or interfere with any public spring or fountain within the city.

9.40.130 Auction sales

A. Record of Facts. In addition to the requirements of RCW-Chapter 18.12 RCW, before an auction sale is held within the city, the auctioneer or the owner of the merchandise to be sold shall provide the city clerk-treasurer a full and complete record in ink of the following facts concerning such property:

1. A description of each and every article of goods, wares and merchandise to be sold;
2. The name and the address of the owner of such property, together with the name and residence of the person, firm or corporation from whom such property was purchased;
3. As and when such property is sold at auction, a complete and detailed list shall be kept showing the date, article, and price paid for such article, and to whom it was sold;
4. Such records shall be kept at the place of business of any auctioneer conducting a sale within the city for a period of at least two years after the date of holding such sale, and shall be subject to inspection by the police of the city.

B. False Representation Unlawful. No auctioneer shall make any false representation, or permit to be made any false representation over the auctioneer's name or by those within the auctioneer's employ, as to the character, condition, value, or present or previous ownership of any property offered for sale, nor substitute any other article for an article sold, nor make any false statement as to the name and amount for which any article is sold, and shall not permit any person to act as the auctioneer's accomplice or capper for the purpose of making mock bids at any auction.

C. Time Limit. All auction sales shall close not more than ten days from the date of the beginning of such sale, and no auction shall be held by any merchant more often than once a year within the city.

D. Exceptions. The provisions of this section shall not apply to auctions of real estate, livestock, perishable fruits and produce, nor to the auction of a complete stock as a whole, nor to sales by judicial officers or by public officers held in the manner prescribed by law, nor to sales of used household furniture and effects, nor to sales by an executor, administrator, or guardian.

E. Notice that Purchases may be Returned. With regard to the sale of jewelry or appliances as those terms are defined in RCW 18.12.010, the auctioneer shall cause to be displayed in a prominent place on the premises where the auction is being conducted a notice allowing the return of an item in the same condition as when purchased, for the amount paid, if returned within ~~forty-eight~~ 48 hours from the time of purchase. The notice shall be of sufficient size as to be readily discernible by the bidders.

9.40.140 False advertising

A. The publishing, circulating or placing before the public, or causing directly or indirectly to be made, published or circulated, or placed before the public in the city, in a newspaper, handbill, poster, circular, pamphlet, or other notice or publication, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertising contains any assertion, representation, or statement of fact which is untrue, deceptive or misleading, with the intent to increase the consumption of, or to induce the public in any manner to enter into any obligation relating to, or to acquire any interest or title in such merchandise, securities or services shall be considered false advertising.

B. It is unlawful for any person, firm or corporation to do or carry on, or to permit to be done or carried on, any false advertising in the city; provided, however, that this shall not apply to the owner or publisher

of a newspaper publishing such advertisements in good faith and without knowledge of the falsity thereof.

9.40.150 Reckless Burning

A. A person is guilty of reckless burning if the person knowingly causes a fire or explosion, whether on the person's own property or that of another, and thereby recklessly places a building or other structure, or any other property, in danger of destruction or damage.

B. Reckless burning is a gross misdemeanor.

Section 7. Amendment of OMC 9.44. Olympia Municipal Code Chapter 9.44 is hereby amended to read as follows:

Chapter 9.44

OFFENSES BY OR AGAINST JUVENILES

9.44.000 Chapter Contents

Sections:

9.44.010 Definitions.

9.44.020 Offenses in taverns.

9.44.030 Person under twenty-one prohibited where intoxicants are served.

9.44.040 State statutes adopted by reference.

9.44.050 False identification to obtain liquor.

9.44.060 Firearms.

9.44.070 Tobacco to minor.

9.44.080 Assault of a child in the fourth degree.

9.44.010 Definitions

For the purpose of this chapter, certain words and terms are defined as follows:

- A. "Liquor" means liquor as defined in the Washington State Liquor Act (RCW 66.040.010(16)).
- B. "Minor" means any person less than eighteen years of age, unless otherwise specifically designated.
- C. "Tavern" means any establishment with special space and accommodations for sale by the glass, and for consumption on the premises, of beer; except, that bona fide restaurants, dining rooms and cafes serving commercial food to the public shall not be classified as a tavern during the hours such food service is made available to the public.

9.44.020 Offenses in taverns

It is unlawful for any person, firm or corporation within the city:

- A. To serve or to allow to remain on the premises in a tavern any person under ~~twenty-one~~ 21;
- B. For any person under ~~twenty-one~~ 21 to enter or remain on the premises of any tavern.

9.44.030 Person under ~~twenty-one~~ 21 prohibited where intoxicants are served

A. It is unlawful for any person having charge of a public place in the city where intoxicating liquors are served to admit or to allow any person under ~~twenty-one~~ 21 to remain on the premises contrary to the laws of the state.

B. It is unlawful for any person under the age of ~~twenty-one~~ 21 to enter or remain in any public place where intoxicants are served.

9.44.040 State statutes adopted by reference

The following sections of the Revised Code of Washington (RCW), as it appears now or is hereafter amended, is hereby adopted by reference as though fully set forth in this chapter:

RCW 9.68A.090 – Communication with minor for immoral purposes-Penalties

RCW 66.44.270- Furnishing Liquor to Minors - Possession, use – Penalties – Exhibition of effects – Exceptions

9.44.050 False identification to obtain liquor

It is unlawful for anyone knowingly to transfer any identification of age to a person under the age of twenty-one years for the purpose of permitting such person to obtain liquor, or for such person to use such identification or make false representation as to the person’s age for the purpose of obtaining liquor or gaining admittance to a tavern.

9.44.060 Firearms

A. It is unlawful for anyone to sell, give, furnish or cause to be furnished, or permit to be sold, given, furnished or cause to be furnished to a minor a pistol, rifle, shotgun or similar firearm, or any ammunition for the same.

B. It is unlawful for a minor to purchase, possess, or use any firearm or any ammunition for the same.

C. In any prosecution under this section, it is an affirmative defense that the firearm is being used or is about to be used immediately at a rifle range or that such minor is to immediately embark on a lawful animal hunt and such minor possesses a lawful hunting license and is accompanied by a person over the age of eighteen years.

9.44.070 Tobacco to minor

It is unlawful for any person to sell, give, furnish or cause to be furnished to any minor any cigarette, cigar or tobacco in any form, or for a minor to possess same.

9.44.080 Assault of a child in the fourth degree

A. A person eighteen years of age or older is guilty of the crime of assault of a child in the fourth degree if the child is under the age of thirteen and the person commits the crime of assault in the fourth degree as defined in RCW 9A.36.041(1) against the child.

B. Assault of a child in the fourth degree is a gross misdemeanor.

Section 8. Amendment of OMC 9.48.170. Olympia Municipal Code Section 9.48.170 is hereby amended to read as follows:

Chapter 9.48 - WEAPONS AND FIREWORKS

9.48.170 State statutes adopted by reference

The following sections of the Revised Code of Washington (RCW) - Chapters 7.94 and 9.41, as now or hereafter amended, relating to firearms and dangerous weapons, defining crimes and prescribing penalties, are hereby adopted by reference as though fully set forth in this chapter:

RCW 7.94

7.94.120

RCW 9.41

9.41.010

9.41.050

9.41.060

9.41.070

9.41.075

9.41.090

9.41.094

9.41.0975

9.41.098

9.41.110

9.41.120

9.41.140

9.41.230

9.41.240

9.41.250

9.41.260

9.41.270

9.41.280

9.41.300

9.41.800

9.41.810

RCW 7.105.460 – Enforcement and penalties-Extreme risk protection orders-False petitionsRCW 9.41.010 – Terms definedRCW 9.41.050 – Carrying firearmsRCW 9.41.060 – Exceptions to restrictions on carrying firearmsRCW 9.41.070 – Concealed pistol license-Application-Fee-RenewalRCW 9.41.075 – Concealed pistol license-RevocationRCW 9.41.090 – Dealer deliveries regulated-Hold on delivery-Fees authorizedRCW 9.41.094 – Waiver of confidentialityRCW 9.41.0975 – Officials and agencies-Immunity, writ of mandamusRCW 9.41.098 – Forfeiture of firearms-Disposition-ConfiscationRCW 9.41.110 – Dealer’s licenses, by whom granted, conditions, fees-Employees, fingerprinting and background checks-Wholesale sales excepted-Permits prohibitedRCW 9.41.120 – Firearms as loan securityRCW 9.41.140 – Alteration of identifying marks-ExceptionsRCW 9.41.230 – Aiming or discharging firearms, dangerous weaponsRCW 9.41.240 – Possession of pistol or semiautomatic assault rifle by person from eighteen to twenty-oneRCW 9.41.250 – Dangerous weapons-PenaltyRCW 9.41.260 – Dangerous exhibitionsRCW 9.41.270 – Weapons apparently capable of producing bodily harm-Unlawful carrying or handling-Penalty-ExceptionsRCW 9.41.280 – Possessing dangerous weapons on school facilities-Penalty-ExceptionsRCW 9.41.300 – Weapons prohibited in certain places-Local laws and ordinances-Exceptions-PenaltyRCW 9.41.305 – Open carry of weapons prohibited on state capitol grounds and municipal buildingsRCW 9.41.800 – Surrender of weapons or licenses-Prohibition on future possession or licensing

RCW 9.41.810 - Penalty

RCW 9A.49.010 - Definitions

RCW 9A.49.020 – Unlawful discharge of a laser in the first degree

RCW 9A.49.030 – Unlawful discharge of a laser in the second degree

RCW 77.15.460 – Loaded rifle or shotgun in vehicle-Unlawful use or possession-Unlawful use of a loaded firearm-Penalty

Section 9. Amendment of OMC 9.62. Olympia Municipal Code Chapter 9.62 is hereby amended to read as follows:

Chapter 9.62

DOMESTIC VIOLENCE AND PROTECTION ORDERS

9.62.000 Chapter Contents

Sections:

9.62.010 State statutes adopted by reference.

9.62.020 Violation of protective order.

9.62.025 Definitions.

9.62.030 Domestic Violence in the presence of children - Penalty.

9.62.040 Domestic Violence in the presence of children.

9.62.010 State statutes adopted by reference

The following sections of the Revised Code of Washington, as they appear now or are hereafter amended, are hereby adopted by reference as though fully set forth in this chapter:

~~RCW 26.50.010 – Definitions~~

~~RCW 26.50.110 – Violation of order – Penalties~~

RCW 7.105.010 – Definitions

RCW 7.105.450 – Enforcement and penalties-Other than antiharassment protection orders and extreme risk protection orders

RCW 7.105.455 – Antiharassment protection orders

RCW 10.99.010 – Purpose – Intent

RCW 10.99.020 – Definitions

RCW 10.99.030 – Law enforcement officers – Training, powers, duties – Domestic violence reports

RCW 10.99.040 – Duties of court – No-contact order

RCW 10.99.045 – Appearances by defendant – Defendant’s history – No-contact order

RCW 10.99.050 – Victim contact – Restriction, prohibition – Violation, penalties – Written order – Procedures – Notice of change

RCW 10.99.055 – Enforcement of orders

RCW 10.99.060 – Prosecutor’s notice to victim – Description of available procedures

- RCW 10.99.070 – Liability of peace officers
- RCW 10.99.080 – Penalty assessment (as amended by 2015 c 265)
- RCW 10.99.080 – Penalty assessment (as amended by 2015 c 275)
- RCW 10.99.090 – Policy adoption and implementation
- RCW 10.99.100 – Sentencing – Factors – Defendant’s criminal history
- RCW 10.99.901 – Construction – Chapter applicable to state registered domestic partnerships

9.62.020 Violation of protective order

- A. A person is guilty of Violation of Protective Order if the person knowingly violates an order of protection or order of restraint issued by any court.
- B. Violation of Protective Order is a gross misdemeanor.

9.62.025 Definitions

- A. “Child” or “children” as used in this section means any person under 18 years of age.
- B. “In the presence of” as used in this section means being in the immediate vicinity of or in close proximity to the criminal acts.

9.62.030 Domestic Violence in the presence of children - Penalty

- A. If the Olympia Municipal Court finds that the accused committed any crime under Title 9 of the Olympia Municipal Code OMC and the Court receives sufficient evidence that the crime was committed against a family or household member or intimate partner, as defined in RCW ~~10.99.020~~ 7.105.010, and that the crime was committed in the presence of a child or children, the Court shall impose a minimum fine of not less than ~~Five Hundred Dollars and no/100~~ (\$500.00) and a minimum jail sentence of not less than five (5) 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.
- B. ~~“Child” or “children” as used in this section means any person under eighteen years of age.~~
- C. ~~“In the presence of” as used in this section means being in the immediate vicinity of or in close proximity to the criminal acts.~~
- D. ~~Any person convicted of a crime under Title 9 of the Olympia Municipal Code and if the acts leading up to such conviction were, pursuant to this ordinance, committed in the presence of a child or children shall be guilty of a misdemeanor.~~

9.62.040 Domestic Violence in the presence of children

Any person convicted of a crime of domestic violence, as defined in RCW 10.99.020, under Title 9 OMC and if the acts leading up to such conviction were, pursuant to this ordinance, committed in the presence of a child or children shall be guilty of a misdemeanor.

Section 10. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 11. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 12. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 13. Effective Date. This Ordinance shall take effect thirty (30) days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber
CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: