

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO DOMESTIC VIOLENCE AND PROTECTIVE ORDERS; REPEALING CHAPTERS 9.56 AND 9.60 OF THE OLYMPIA MUNICIPAL CODE; AND ADDING A NEW CHAPTER 9.62 TO TITLE 9 OF THE OLYMPIA MUNICIPAL CODE

WHEREAS, there is an inherent interest in protecting the public's safety and appropriately sentencing offenders who engage in acts of domestic violence and who violate orders of protection; and

WHEREAS, adopting statutes pursuant to RCW 26.50.010, RCW 26.50.110, and RCW 10.99 will increase enforceability and permit a potential enhanced sentence if a person is again arrested and subsequently convicted of similar conduct in the future upon a third and subsequent conviction; and

WHEREAS, the Olympia City Council has determined it to be in the best interest of the City of Olympia to adopt an ordinance that will authorize enforcement of any protection order issued by any duly recognized court; and

WHEREAS, children who view or are present in environments of domestic violence are at statistically greater risk of becoming victims or perpetrators of domestic violence as adults; and

WHEREAS, the Olympia City Council finds it to be in the best interest of the City of Olympia to adopt an ordinance that will enhance penalties for committing domestic violence in the presence of children; and

WHEREAS, the Olympia City Council finds it to be in the best interest of the City of Olympia to adopt RCW 26.50.010, RCW 26.50.110, and RCW 10.99; 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 9.00.000. Olympia Municipal Code 9.00.000 is hereby amended to read as follows:

9.00.000 Title Contents

**Title 9
PUBLIC PEACE, MORALS AND WELFARE**

Chapters:

- 9.04 Aiding or Abetting Crime**
- 9.08 Offenses Against Government**
- 9.12 Contempt**
- 9.16 Offenses Against Public Peace**
- 9.20 Crimes Against Persons**
- 9.22 Interference with Reporting of an Emergency**
- 9.24 Offenses Against Public Decency**

- 9.28 Drugs**
- 9.32 Gambling**
- 9.36 Liquor Offenses**
- 9.40 Offenses Against Property**
- 9.44 Offenses By or Against Juveniles**
- 9.48 Weapons and Fireworks**
- 9.52 Miscellaneous Offenses**
- ~~9.56—Domestic Violence—Protective relief~~
- ~~9.60—Domestic Violence—Enforcement~~
- 9.62 Domestic Violence and Protection Orders**
- 9.64 Penalty for Violation**
- 9.68 Interference with Health Care Facilities or Providers**
- 9.70 Exclusion Orders**

Section 2. Repeal of Olympia Municipal Code Chapter 9.56. Olympia Municipal Code Chapter 9.56 "Domestic Violence – Protective Relief" is hereby repealed in its entirety, including all documents adopted by reference therein.

~~Chapter 9.56~~ ~~DOMESTIC VIOLENCE—PROTECTIVE RELIEF~~

~~9.56.000—Chapter Contents~~

Sections:

- ~~9.56.010—Definitions.~~
- ~~9.56.020—Petition for protective relief.~~
- ~~9.56.030—Petition for protective order.~~
- ~~9.56.040—Petition filed by indigent.~~
- ~~9.56.050—Hearing.~~
- ~~9.56.060—Relief provided.~~
- ~~9.56.070—Temporary orders.~~
- ~~9.56.080—Police officer assistance.~~
- ~~9.56.090—Service of protective order.~~
- ~~9.56.100—Protective order Forwarded to police department.~~
- ~~9.56.110—Violation of order—Penalty.~~
- ~~9.56.120—Violation of order—Contempt proceedings.~~
- ~~9.56.130—Modification or termination of order.~~
- ~~9.56.140—Title to real estate.~~
- ~~9.56.150—Additional civil or criminal remedies.~~
- ~~9.56.160—Police officer liability.~~
- ~~9.56.170—Arrest on probable cause.~~

9.56.010 Definitions

As used in this chapter, the following terms shall have the meanings given them:

A.—"Domestic violence" means physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members:

B.—"Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together, or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren:

1.—"Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include:

- a.—the length of time the relationship has existed;
- b.—the nature of the relationship; and
- c.—the frequency of interaction between the parties.

C.—"Court" means the Olympia Municipal Court.

9.56.020 Petition for protective relief

A.—Any person may seek relief under this chapter by filing a petition with the court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

B.—A person may file an action under this chapter if said person resides within the city or if the domestic violence complained of occurred within the City.

C.—A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

D.—If a petition is filed herein and a petitioner or respondent contests custody or visitation rights, then upon the motion of either party containing proof that a petition for relief under Chapter 263, Laws of 1984 has been filed with the Superior Court, the Olympia Municipal Court will dismiss the petition.

9.56.030 Petition for protective order

A.— A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

B.— A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

C.— The court clerk's office shall provide simplified forms, an instructional brochure and assistance to help with the filing of a petition under this section. Assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in the petition.

D.— A filing fee of twenty dollars (\$20) shall be charged for proceedings under this section. Forms and instructional brochures shall be provided free of charge.

E.— A person is not required to post a bond to obtain relief in any proceeding under this section.

~~9.56.040 Petition filed by indigent~~

A.— Persons seeking relief under this chapter may file an application for leave to proceed in forma pauperis on forms supplied by the court. If the court determines that a petitioner lacks the funds to pay the costs of filing, the petitioner shall be granted leave to proceed in forma pauperis and no filing fee shall be charged by the court to the petitioner for relief sought under this chapter.

B.— For the purpose of determining whether a petitioner has the funds available to pay the costs of filing an action under this chapter, the income of the household or family member named as the respondent is not considered.

~~9.56.050 Hearing~~

Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. Personal service shall be made upon the respondent not less than five (5) court days prior to the hearing. If timely service cannot be made, the court may set a new hearing date.

~~9.56.060 Relief provided~~

A.— Upon notice and after hearing, the court may provide relief as follows:

- 1.— Restrain a party from committing acts of domestic violence;
- 2.— Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

3.— On the same basis as is provided in Chapter 26.09 RCW, award temporary custody and establish temporary visitation with regard to minor children of the parties, and restrain any party from interfering with the custody of the minor children;

4.— Order the respondent to participate in treatment or counseling services;

5.— Order other relief as it deems necessary for the protection of a family or household member, including orders or directives to a police officer, as allowed under this chapter; and

6.— Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee.

B.— Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year.

9.56.070 Temporary orders

A.— Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

1.— Restraining any party from committing acts of domestic violence;

2.— Excluding any party from the dwelling shared or from the residence of the other until further order of the court and

3.— Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court.

B.— Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

C.— The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

D.— An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days, but may be reissued. A full hearing, as provided in this section, shall be set for not later than fourteen days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

~~9.56.080 Police officer assistance~~

~~When an order is issued under this section upon request of the petitioner, the court may order a police officer to accompany the petitioner assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the order of protection.~~

~~9.56.090 Service of protective order~~

~~A.—An order issued under this section shall be personally served upon the respondent, except as provided in subsection F of this section.~~

~~B.—The sheriff of the county or the police officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.~~

~~C.—If service by a sheriff or municipal police officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter delivered on or before the next judicial day to the sheriff of the appropriate county or to the appropriate municipal law enforcement agency for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.~~

~~D.—The petitioner shall provide information sufficient to permit notification by the sheriff or municipal police officer that service upon the respondent was not achieved.~~

~~E.—Returns of service under this section shall be made in accordance with the applicable court rules.~~

~~F.—If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.~~

~~9.56.100 Protective order—Forwarded to police department~~

~~A.—A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the police department.~~

~~B.—Upon receipt of the order, the police department shall forthwith enter the order into the computer-based criminal intelligence information system for one year. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order shall be fully enforceable in any county in the state.~~

~~9.56.110 Violation of order—Penalty~~

~~A.—Whenever an order for protection is granted under this chapter and the respondent or person to be restrained knows of the order, a violation of the restraint provisions or of a provision excluding the person from a residence is a gross misdemeanor.~~

~~B.—A police officer shall arrest without a warrant and take into custody a person whom the police officer has probable cause to believe has violated an order issued under this chapter that restrains the person or excludes the person from a residence, if the person restrained knows of the order.~~

~~C.—A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.~~

~~D.—Upon the filing of an affidavit by the petitioner or any police officer alleging that the respondent has violated an order for protection granted under this chapter, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the Olympia Municipal Court if the petitioner or respondent temporarily or permanently resides in the city at the time of the alleged violation.~~

~~9.56.120 Violation of order—Contempt proceedings~~

~~When a party alleging a violation of an order for protection issued under this chapter states that the party is unable to afford private counsel and asks the city attorney for assistance, the city attorney shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred. In this action, the court may require the violator of the order to pay the costs incurred in bringing the action, including a reasonable attorney's fee.~~

~~9.56.130 Modification or termination of order~~

~~Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the police department. Upon receipt of this order, the police department shall promptly enter it in the computer-based criminal intelligence information system.~~

~~9.56.140 Title to real estate~~

~~Nothing in this chapter may affect the title to real estate.~~

~~9.56.150 Additional civil or criminal remedies~~

~~Any proceeding under this chapter is in addition to other civil, or criminal remedies.~~

~~9.56.160 Police officer liability~~

~~No police officer may be held criminally or civilly liable for making an arrest under this chapter if the police officer acts in good faith and without malice.~~

~~9.56.170 Arrest on probable cause~~

A.—A police officer shall, without a warrant, arrest and take into custody a person when the officer has probable cause to believe that:

- 1.—An order has been issued pursuant to this chapter of which the person has knowledge which restrains the person and the person has violated the terms of said order restraining the person from acts or threats of violence or excluding the person from a residence; or
- 2.—The person within the preceding four hours has assaulted that person's spouse, former spouse, or other person with whom the person resides or has formerly resided.

B.—No police officer may be held criminally or civilly liable for making an arrest pursuant to this section if the police officer acts in good faith and without malice.

Section 3. Repeal of Olympia Municipal Code Chapter 9.60. Olympia Municipal Code Chapter 9.60 "Domestic Violence – Enforcement" is hereby repealed in its entirety, including all documents adopted by reference therein.

Chapter 9.60

DOMESTIC VIOLENCE—ENFORCEMENT

9.60.000—Chapter Contents

Sections:

- 9.60.010—Purpose—Intent.
- 9.60.020—Definitions.
- 9.60.030—Law enforcement officers; training; duty; arrest powers; offense reports; transportation of victims; records.
- 9.60.040—Restrictions upon and duties of court in domestic violence.
- 9.60.050—Appearances by defendant.
- 9.60.060—Sentence restricting contact with victim; recording; copy to victim.
- 9.60.070—Enforcement of protective orders.
- 9.60.080—Notification of victim of prosecution decision; description of procedures available to institute criminal proceedings.
- 9.60.090—Liability of police officers.
- 9.60.100—Violation.

9.60.010 Purpose—Intent

The purpose of this chapter is to recognize the importance of domestic violence as a serious crime against society and to assure the victims of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide. The city finds that the existing criminal ordinances are adequate to provide protection for victims of domestic violence; however, previous societal attitudes have been reflected in

policies and practices of law enforcement agencies and prosecutors which have resulted in differing treatment of crimes occurring between cohabitants and of the same crimes occurring between strangers. Only recently has public perception of the serious consequences of domestic violence to society and to the victims led to the recognition of the necessity for early intervention by law enforcement agencies. It is the intent of the city that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior is not excused or tolerated. Furthermore, it is the intent of the city that criminal laws be enforced without regard to whether the persons involved are or were married, cohabiting, or involved in a relationship.

9.60.020 Definitions

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

A.—"Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

1.—"Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include:

- a.—the length of time the relationship has existed;
- b.—the nature of the relationship; and
- c.—the frequency of interaction between the parties.

B.—"Domestic violence" includes, but is not limited to, any of the following crimes when committed by one family or household member against another:

- 1.—Assault in the fourth degree (Section 9.20.010);
- 2.—Drawing, carrying, displaying weapon (Section 9.48.150);
- 3.—Reckless endangerment (Section 9.20.080);
- 4.—Malicious mischief (Section 9.40.090); and
- 5.—Intimidating phone calls and harassment (Sections 9.20.030 and 9.20.050).

C.—"Victim" means a family or household member who has been subjected to domestic violence.

9.60.030 Law enforcement officers; training; duty; arrest powers; offense reports; transportation of victims; records

A.—All training of law enforcement officers relating to the handling of domestic violence complaints shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. The police department and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

B.—The primary duty of police officers when responding to a domestic violence situation is to enforce laws allegedly violated and to protect the complaining party.

C.—When a police officer responds to a domestic violence call, the officer shall make an arrest without a warrant if an offense is committed in his or her presence. In addition, if the officer has probable cause to believe that a person has committed or is committing an act of domestic violence involving physical harm or threats of harm to any person or property, the officer shall arrest the person even though said crime occurred or is occurring outside his presence. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider:

- 1.—The intent to protect victims of domestic violence under RCW 10.99.010;
- 2.—The comparative extent of injuries inflicted or serious threats creating fear of physical injury, and
- 3.—The history of domestic violence between the persons involved.

The officer shall notify the victim of the victim's rights to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence. A police officer responding to a domestic violence call shall take a complete offense report, including the officer's disposition of the case.

D.—The police officer may offer, arrange or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

E.—The police department agency shall forward the offense report to the city attorney within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under investigation.

F.—The police department shall make, as soon as practicable, a written record and shall maintain records of all incidents of domestic violence reported to it.

G.—Records kept pursuant to subsections C and F of this section shall be made identifiable by means of a departmental code for domestic violence.

H.—When a police officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county attorney to file a criminal complaint. You also have the right to file a petition in superior, district or municipal court requesting an order for protection from domestic abuse which could include any of the following:

- A.—An order restraining your abuser from further acts of abuse;
- B.—An order directing your abuser to leave your household;
- C.—An order preventing your abuser from entering your residence, school, business, or place of employment;
- D.—An order awarding you or the other parent custody of or visitation with your minor child or children; and
- E.—An order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district or superior court.

Information about shelters and alternatives to domestic violence is available from a statewide twenty-four hour toll-free hotline at 1-800-562-6025. The battered women's shelter and other resources in Olympia are Safeplace, 754-6300.

9.60.040 Restrictions upon and duties of court in domestic violence

A.—Because of the serious nature of domestic violence, the court, in domestic violence actions:

- 1.—Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;
- 2.—Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;
- 3.—Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence; provided that the court may order a criminal defense attorney not to disclose to his client the victim's location; and

4.— Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

B.— Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any defendant charged with a crime involving domestic violence is released from custody before trial and sentencing on bail or personal recognizance, the court authorizing the release may prohibit the defendant from having any contact with the victim. The arresting jurisdiction authorizing the release shall determine whether the defendant should be prohibited from having any contact with the victim. If there is no outstanding protective order prohibiting the defendant from having contact with the victim, the court authorizing the release may issue, by telephone, a no-contact order prohibiting the defendant from having contact with the victim. The no-contact order shall also be issued in writing as soon as possible. If the court has probable cause to believe that the defendant is likely to use or display or threaten to use a deadly weapon as defined in RCW 9A.04.110 in any further acts of violence, the court may also require the defendant to surrender any deadly weapon in the defendant's immediate possession or control, or subject to the defendant's immediate possession or control, to the sheriff of the county or chief of police of the municipality in which the defendant resides or to the defendant's counsel for safekeeping. Willful violation of a court order issued under this section is a gross misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under Olympia Municipal Code 9.60.040 and RCW 10.99 and will subject a violator to arrest. Any assault or reckless endangerment which violates this order is a felony. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order." A certified copy of such order shall be provided to the victim.

C.— Whenever an order prohibiting contact is issued under subsection B of this section, the clerk of the court shall forward a copy of the order on or before the next day excluding Saturday and Sunday to the police department. Upon receipt of the copy of the order, the police department shall forthwith enter the order into the computer-based criminal intelligence information system for a one-year period. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

9.60.050 Appearances by defendant

A.— A defendant arrested for an offense involving domestic violence as defined by this chapter shall be required to appear in person before the court within one day excluding Saturday and Sunday after the arrest.

B.— A defendant who is charged by citation, complaint, or information with an offense involving domestic violence as defined by this chapter and not arrested shall appear in court for arraignment in person as soon as practicable, but, subject to court rules and if consistent therewith, in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

C.— At the time of the appearance provided for in subsections A and B of this section, the court shall determine the necessity of imposing a no-contact order or other conditions of pre-trial release according to the procedures established by court rule for a preliminary appearance or an arraignment. If the court has probable cause to believe that the defendant is likely to use or display or threaten to use a deadly weapon as defined in RCW 9A.04.110 in any further acts of violence, as one of the conditions of pretrial release, the court may require the defendant to surrender any deadly weapon in the defendant's immediate possession or control, or subject to the defendant's immediate possession or control, to the sheriff of the county or chief of police of the municipality in which the defendant resides or to the defendant's counsel for safekeeping. The decision of the judge and findings of fact in support thereof shall be in writing. If sentencing does not occur at the end of the trial, then the no-contact order shall remain in effect until sentencing takes place.

D.— Appearances required pursuant to this section are mandatory and cannot be waived unless otherwise provided by court rule.

E.— The no-contact order shall be issued and entered with the police department pursuant to the procedures outlined in this chapter.

9.60.060 Sentence restricting contact with victim; recording; copy to victim

A.— When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim. As in the case of interim orders described above, violation of such an order constitutes a misdemeanor, punishable by a fine of not more than five hundred dollars, or by imprisonment for no more than ninety days.

B.— Whenever an order prohibiting contact is issued pursuant to this chapter, the clerk of the court shall forward a copy of the order on or before the next judicial date to the police department. Upon receipt of a copy of the order, the police department shall forthwith enter the order into the criminal intelligence information system for one year. Entry into the information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

9.60.070 Enforcement of protective orders

A police officer of the city shall enforce an order issued by any court in this state restricting a defendant's ability to have contact with another person by arresting and taking the defendant into custody pending release on bail, personal recognizance, or court order when the officer has probable cause to believe that the defendant has violated terms of that order. A violation of the order for protection issued by another court in this state is a gross misdemeanor, and is punishable as set forth in this chapter.

9.60.080 Notification of victim of Prosecution decision; description of procedures available to institute criminal proceedings

The city attorney shall make the decision whether or not to prosecute and shall advise the victim of that decision within five days of being requested to prosecute prior to making that decision and shall advise the victim, upon the victim's request, of the status of the case. Notification to the victim that charges will not be filed shall include a description of the procedures available to the victim in the city to initiate a criminal proceeding.

9.60.090 Liability of police officers

This chapter is intended to implement RCW Chapter 10.99, and there is incorporated herein specifically RCW Section 10.99.070, reading as follows:

A police officer shall not be held liable in any civil action for an arrest based on probable cause, enforcement in good faith of a court order, or any other action or omission in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.

9.60.100 Violation

A violation of this chapter is a gross misdemeanor.

Section 4. Adoption of New OMC Chapter 9.62. A New Chapter 9.62, Domestic Violence and Protection Orders, is hereby added to Title 9 of the Olympia Municipal Code 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.

9.62.030 Domestic violence in the presence of children – Penalty.

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 26.58.010 – Definitions

RCW 26.50.110 – Violation of order – Penalties

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 he or she knowingly violates and order of protection or order of restraint issued by any court;

B. Violation of Protective Order is a gross misdemeanor.

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 and the Court receives sufficient evidence that the crime was committed against a family or household member, as defined in RCW 10.99.020, 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.

Section 5. 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 6. 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 7. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 8. Effective Date. This Ordinance shall take effect thirty (30). days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY (det)

PASSED:

APPROVED:

PUBLISHED: