

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO DOMESTIC VIOLENCE CRIMES AGAINST PERSONS AND AMENDING OLYMPIA MUNICIPAL CODE CHAPTER 9.20 TO INCORPORATE BY REFERENCE CERTAIN CRIMES FROM THE REVISED CODE OF WASHINGTON, ALLOWING MORE SEVERE PENALTIES FOR REPEAT OFFENDERS

WHEREAS, there is an inherent interest in protecting the public's safety and appropriately sentencing repeat offenders who engage in acts of Assault and crimes that are characterized as Harassment; and

WHEREAS, there have been a substantial number of arrests for Assault Domestic Violence within the City of Olympia, especially conviction of repeat offenders; and

WHEREAS, adopting the crime of Assault in the Fourth degree pursuant to Revised Code of Washington (RCW) 9A.36.041 will permit potential enhanced penalties if the crime is related to Domestic Violence and the person is again arrested and subsequently convicted of similar conduct in the future upon a third and subsequent conviction; and

WHEREAS, adopting the crime of Harassment pursuant to RCW 9A.46.020, as well as some of the other crimes included as crimes of harassment under RCW 91.46.060, will permit potential enhanced penalties if the person is again arrested and subsequently convicted of similar conduct against the same victim or victim's family or any person named in a no-contact or no-harassment order in the future upon a subsequent conviction; and

WHEREAS, amending Olympia Municipal Code (OMC) Chapter 9.20 will also grant better protection for victims of crimes against persons by authorizing prosecution of violation of orders granting that protection; and

WHEREAS, in order to allow for enhanced penalties against those who commit multiple offenses of the same or similar crime in a domestic violence context, the Olympia City Council has determined it to be in the best interest of the citizens of the City of Olympia to adopt the Washington State version of the crimes of Harassment, Telephone Harassment, Assault Fourth degree, Coercion, Stalking and Cyberstalking; and

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

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

Section 1. Amendment of OMC Chapter 9.20. Olympia Municipal Code Chapter 9.20 is hereby amended to read as follows:

Chapter 9.20
CRIMES AGAINST PERSONS

9.20.000 Chapter Contents

Sections:

- 9.20.010 ~~Assault. State statutes adopted by reference.~~
- 9.20.020 ~~Coercion.~~
- 9.20.030 ~~Harassment.~~
- 9.20.035 ~~Harassment-Reasonable fear.~~
- 9.20.040 ~~Harassment-No contact order.~~
- 9.20.045 ~~Harassment-No contact orders-Violation.~~
- 9.20.050 ~~Intimidating phone calls-Acts designated.~~
- 9.20.060 ~~Intimidating phone calls-Permitting prohibited acts is a violation.~~
- 9.20.070 ~~Intimidating phone calls-Location of commission may be where call is made or received.~~
- 9.20.080 Reckless endangerment.
- 9.20.090 Hate crimes--Penalty.
- 9.20.100 Hate crimes--Gross misdemeanor.

9.20.010 Assault

A. ~~A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, as those offenses are defined in Chapter 9A.36 RCW, he or she assaults another.~~

B. ~~Assault in the fourth degree is a gross misdemeanor.~~

9.20.010 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 9A.36.070 – Coercion

RCW 9A.36.041- Assault in the fourth 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 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

9.20.020 Coercion

A.—A person is guilty of coercion if by use of a threat he or she compels or induces a person to engage in conduct which the latter has a legal right to abstain from, or to abstain from conduct which he or she has a legal right to engage in.

B.—"Threat" as used in this section means to communicate, directly or indirectly, the intent immediately to:

- 1.— Use force against any person who is present at the time, or
- 2.— Cause bodily injury to any person or group of persons, or
- 3.— Cause physical damage to the property of a person or group of persons other than the actor, or
- 4.— Subject any person or group of persons to unlawful physical confinement or restraints.

C.—Coercion is a gross misdemeanor.

9.20.030 Harassment

Acts designated: A person is guilty of harassment if the person:

A.—Intentionally threatens:

- 1.— To cause bodily injury to any person or group of persons, or
- 2.— To cause physical damage to the property of a person or group of persons other than the actor, or
- 3.— To subject any person or group of persons to unlawful physical confinement or restraints, or
- 4.— To commit malicious mischief in the second or third degree as provided in RCW 9A.48.080 and RCW 9A.48.090, or
- 5.— To do any other act which is intended to harm substantially the person or group of persons threatened;

B.—Purposefully and repeatedly follows or stalks a person or group of persons in a manner which reasonably causes that person or persons apprehension or creates a concern for his/her/their/safety.

C.—Harassment is a gross misdemeanor.

9.20.035 Harassment—Reasonable fear

For purposes of this chapter a violation shall occur if the threat or act places a person or group of persons in reasonable fear of harm to person or property. Threatening words do not constitute harassment if it is reasonably apparent to the victim that the person does not have the ability to carry out the threat. It is not a defense that the object of the threat is a person other than the victim.

9.20.040 Harassment—No contact order

A.—Because of the likelihood of repeated harassment directed at those who have been victims of harassment in the past ~~crimes against person~~, when a defendant is arrested for a crime involving harassment ~~under this chapter~~ and is released from custody before trial on bail or personal recognizance, the court authorizing the release may enter a no contact order as set forth in this section. Upon arraignment of any person charged with a crime involving harassment ~~under this chapter~~, the court shall determine the necessity of imposing a no contact order pending trial. Further, if a defendant is convicted of a crime involving harassment ~~under this chapter~~, the court shall consider entering a no contact order.

B.—A no contact order under the terms of this section may require that the defendant:

- 1.— Not have any contact with the victim or victims or other persons associated with the events charged;
- 2.— Stay away from the home, school, business or place of employment of the victim or victims of the alleged offense or of any other person, business or entity associated with the events charged, and any specific address or location associated therewith;
- 3.— Refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the alleged offense or any other persons including, but not limited to, family or household members of the victim, as shall be specifically named by the court in the order.

9.20.045 Harassment—No contact orders—Violation

Wilful violation of a court order issued under Section 9.20.040 is a gross misdemeanor.

9.20.050 Intimidating phone calls—Acts designated

Every person is guilty of intimidating phone calls who, with intent to harass, intimidate or torment any other persons makes a telephone call to such other person:

- ~~A. Using any lewd words or language or suggesting the commission of any lewd act; or~~
- ~~B. Anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or~~
- ~~C. Threatening to inflict injury on the person or property of the person called or any member of his family; or~~
- ~~D. Without purpose of legitimate communication;~~
- ~~E. Intimidating phone calls are a gross misdemeanor.~~

~~9.20.060 Intimidating phone calls – Permitting prohibited acts is a violation~~

~~Any person who knowingly permits any telephone under his control to be used for any purpose prohibited in Section 9.20.050 is guilty of a violation of this chapter.~~

~~9.20.070 Intimidating phone calls – Location of commission may be where call is made or received~~

~~Any offense committed by use of a telephone as set forth in Sections 9.20.050 and 9.20.060 may be deemed to have been committed either at the place from which the telephone call or calls were made or at the place where the telephone call or calls were received.~~

9.20.080 Reckless endangerment

- A. A person is guilty of reckless endangerment when he/she recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person.
- B. Reckless endangerment is a gross misdemeanor.

9.20.090 Hate crimes –Penalty

If the court finds that the accused committed any crime under this chapter of the Olympia Municipal Code 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, his/her/their mental, physical or sensory disability, or the accused's perception thereof, the court shall impose a minimum fine of not less than five hundred dollars and a minimum jail sentence of not less than five days for each such offense. Neither the mandatory minimum jail sentence nor the mandatory minimum fine shall be suspended or deferred, nor shall the jail sentence be served by alternative means.

9.20.100 Hate crimes –Gross misdemeanor

Any person convicted of a crime under this chapter and if the acts leading up to such conviction were, pursuant to this ordinance, intentionally targeted against the victim or victims in substantial part because of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, or his/her/their mental, physical or sensory disability shall be guilty of a gross misdemeanor.

Section 2. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary technical corrections to this Ordinance, which shall include the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. 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 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:


DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: