Subtitle I Criminal Code

Chapter 12A.02
GENERAL PROVISIONS—DEFINITIONS

Sections:

12A.02.010Title—Effective date.

Chapters 12A.02 through 12A.30, hereinafter referred to as "this subtitle" or "this code" shall be known and may be cited as Seattle Criminal Code and shall become effective on December 3, 1974.
(Ord. 113548 § 1, 1987: Ord. 102843 § 12A.01.010(1), 1973.)

12A.02.020Applicability of provisions.

The provisions of this subtitle shall apply to any offense which is defined in this subtitle or the general ordinances committed on or after the effective date hereof, unless otherwise expressly provided or unless the context otherwise requires, and shall also apply to any defense to prosecution for such an offense.
(Ord. 102843 § 12A.01.010(2), 1973.)

12A.02.030Offenses committed prior to effective date.

The provisions of this subtitle do not apply to or govern the construction of and punishment for any offense committed prior to the effective date of this subtitle, or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this subtitle had not been enacted.
(Ord. 102843 § 12A.01.010(3), 1973.)

12A.02.035Prosecution under expired or repealed ordinance.

No offense committed and no penalty or forfeiture incurred previous to the time when any ordinance expires or is repealed, whether such repeal be express or implied, shall be affected by such expiration or repeal, unless a contrary intention is expressly declared in the expiring or repealing ordinance, and no prosecution for any offense or for the recovery of any penalty or forfeiture pending at the time any ordinance expires or is repealed, whether such repeal be express or implied, shall be affected by such expiration or repeal, but the same shall proceed in all respects as if such ordinance had not expired or been repealed, unless a contrary intention is expressly declared in the expiring or repealing ordinance. Whenever any ordinance defining an offense or making conduct unlawful is amended or repealed, whether such amendment or repeal be express or implied, any offense committed, conduct engaged in or penalty or forfeiture incurred while the ordinance was in force shall be punished or enforced as if the ordinance were in force, notwithstanding such amendment or repeal, unless a contrary intention is expressly declared in the amendatory or repealing ordinance, and every such amendatory or repealing ordinance shall be so construed as to save all proceedings under the amended or repealed ordinance pending at the time of the amendatory or repealing ordinance, unless a contrary intention is expressly declared therein.
(Ord. 116872 § 6, 1993.)

12A.02.040Purposes—Principles of construction.

A. The general purposes of the provisions governing the definition of offenses are:

1. To forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens harm to individual or public interests;

2. To safeguard conduct that is without culpability from condemnation as criminal;

3. To give fair warning of the nature of the conduct declared to constitute an offense.

B. The provisions of this subtitle shall be construed according to the fair import of their terms but when the language is susceptible of differing constructions it shall be interpreted to further the general purposes stated in this section and the special purposes of the particular provision involved. The discretionary powers conferred by this subtitle shall be exercised in accordance with the criteria stated in this subtitle and, insofar as such criteria are not decisive, to further the general purposes stated in this section.
(Ord. 102843 § 12A.01.030, 1973.)

12A.02.050City criminal jurisdiction.

A. Except as otherwise provided in this section, a person is subject to prosecution under the law of this City for an offense committed by his own conduct or the conduct of another for which he is legally accountable if:

1. Either the conduct which is an element of the offense or the result which is such an element occurs within this City; or

2. Conduct occurring outside this City intended to cause a result within this City is sufficient under the law of this City to constitute an attempt to commit an offense within this City; or

3. Conduct occurring within this City establishes complicity in the commission of, or an attempt, to commit, an offense in another jurisdiction which also is an offense under the law of this City; or

4. The offense consists of the omission to perform a legal duty imposed by the law of this City with respect to residence or a relationship to a person, thing or transaction in this City; or

5. The offense is based on an ordinance of this City which expressly prohibits conduct outside the City, when the conduct bears a reasonable relation to a legitimate interest of the City and the actor knows or should know that his conduct is likely to affect that interest.

B. Subsection A1 does not apply when either causing a specified result or an intention to cause or danger of causing such a result is an element of an offense and the result occurs or is designed or likely to occur only in another jurisdiction where the conduct charged would not constitute an offense, unless a legislative purpose plainly appears to declare the conduct criminal regardless of the place of the result.

C. Subsection A1 does not apply when causing a particular result is an element of an offense and the result is caused by conduct occurring outside the City which would not constitute an offense if the result had occurred there, unless the actor knowingly caused the result within this City.
(Ord. 102843 § 12A.01.050, 1973.)

12A.02.060Offenses shall be crimes or violations.

Every offense defined by this subtitle or conduct made unlawful thereby shall constitute a crime and a jail sentence may be imposed therefor, except for such offenses or unlawful conduct as shall be specifically designated as violations.
(Ord. 102843 § 12A.01.070, 1973.)

12A.02.070Punishment of crime.

A. Every crime without a specific penalty provision, and every crime designated as a gross misdemeanor, may be punished by a fine not to exceed Five Thousand Dollars ($5,000.00), or by imprisonment for a term not to exceed one (1) year, or by both such fine and imprisonment.

B. Every crime designated as a misdemeanor may be punished by a fine not to exceed One Thousand Dollars ($1,000.00) or by imprisonment for a term not to exceed ninety (90) days, or by both such fine and imprisonment.
(Ord. 114635 § 1, 1989: Ord. 111858 § 4, 1984: Ord. 102843 § 12A.01.090(1), 1973.)

12A.02.080Punishment of violation.

A violation may be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars ($500.00), but a conviction of a violation shall not give rise to any disability or legal disadvantage based on the conviction of a criminal offense.
(Ord. 102843 § 12A.01.090(2), 1973.)

12A.02.090Section 12A.02.080 not denial of constitutional rights.

Notwithstanding the civil nature of the penalty for violations, Section 12A.02.080, does not deny to the defendant constitutional rights he would have were the penalty deemed criminal, provided that a defendant charged with a violation shall not be entitled to a jury trial.
(Ord. 102843 § 12A.01.090(3), 1973.)

12A.02.100Violations—Judgment for fine and costs.

Upon a judgment for fine and costs rendered on a conviction of a violation, execution may be issued against the property of a defendant and returned in the same manner as in civil actions.
(Ord. 102843 § 12A.01.090(4), 1973.)

12A.02.110Violations—Intentional failure to comply.

A court may, in its discretion, treat any intentional failure to comply with a court order in respect to fines or costs or both, upon conviction of a violation, as civil contempt.
(Ord. 102843 § 12A.01.090(5), 1973.)

12A.02.120All offenses defined by ordinance.

A. No conduct constitutes an offense unless it is a crime or violation under an ordinance of this City.

B. The provisions of Chapters 12A.02 and 12A.04 are applicable to offenses defined by this subtitle or any other ordinance unless this subtitle or other ordinance specifically provides otherwise.

C. This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order or a civil judgment or decree.
(Ord. 102843 § 12A.01.110, 1973.)

12A.02.140Arrest—Citations.

A. As used in this section, "crime" has the meaning specified in Section 12A.02.060.

B. A peace officer may arrest a person without a warrant if the officer has probable cause to believe that such person has committed a crime.

C. Whenever a person is arrested under subsection B, the arresting officer, or any other authorized peace officer, may serve upon the arrested person a citation and notice to appear in municipal court, in lieu of continued custody, as provided by the Rules of Courts of Limited Jurisdiction.

D. Whenever a peace officer has probable cause to believe that a person has committed a violation as defined in Section 12A.02.060, he will issue such person a citation and notice to appear in municipal court in the same manner as provided by the Rules of Courts of Limited Jurisdiction unless:

1. He is unable to reasonably ascertain the actor's identity; or

2. He reasonably believes that the identification is not accurate, in either of which cases the person may be arrested.

E. Upon an arrest as provided in subsection D, such person may be held only to be photographed, administratively searched and fingerprinted, and must be released immediately upon identification.

F. If a person violates his promise to appear in court given in accordance with subsections C or D, a warrant may be issued for his arrest and bail may be set.
(Ord. 107309 § 1, 1978: Ord. 102843 § 12A.01.140, 1973.)

12A.02.150Definitions.

In this subtitle, unless a different meaning plainly is required:

1. "Act" or "action" means a bodily movement whether voluntary or involuntary.

2. "Acted" includes, where relevant, omitted to act.

3. "Actor" includes, where relevant, a person failing to act.

4. "Bodily injury" or "physical injury" means significant:

a. Physical pain; or

b. Illness; or

c. An impairment of physical condition.

5. "Deadly force" means force which creates a substantial risk of causing death or serious bodily injury.

6. "Deadly weapon" means an explosive, firearm, or other weapon, device, instrument, article or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious bodily injury.

7. "Dwelling" means any building or structure, though movable or temporary, or a portion

thereof, which is used or ordinarily used by a person for lodging.

8. "Element of an offense" means: (i) such conduct or (ii) such attendant circumstances, or (iii) such a result of conduct as:

a. Is included in the description of the offense; or

b. Establishes the required kind of culpability; or

c. Negates an excuse or justification for such conduct; or

d. Negates a defense under the statute of limitations; or

e. Establishes jurisdiction.

9. "Forcible felony" means any felony which involves the use or threat of physical force or violence against any person.

10. "Judge" includes every judicial officer authorized, alone or with others, to hold or preside over a court.

11. "Material element of an offense" means an element that does not relate exclusively to the statute of limitations, jurisdiction or to any other matter similarly unconnected with: (a) the harm or evil, incident to conduct, sought to be prevented by the law defining the offense, or (b) the existence of a justification or excuse for such conduct.

12. "Motor vehicle" means every vehicle which is self-propelled or propelled by electric power obtained from overhead trolley wires.

13. "Officer" and "public officer" has its ordinary meaning and includes all assistants, deputies, clerks and employees of any public officer and all persons exercising or assuming to exercise any of the powers or functions of a public officer.

14. "Omission" means a failure to act.

15. "Ordinance" means an ordinance of The City of Seattle.

16. "Peace officer" means a public officer charged with the duty to enforce public order and to make arrests for offenses under this subtitle or under the criminal laws of the state.

17. "Person," "he" and "actor" include any natural person, and, in addition, a corporation or an unincorporated association unless a contrary intention plainly appears.

18. "Prison" or "jail" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest.

19. "Prisoner" includes any person held in custody under process of law, or under lawful arrest.

20. "Property" includes both real and personal property.

21. "Reasonably believes" or "reasonable belief" designates a belief which the actor is not reckless or criminally negligent in holding.

22. "Serious bodily injury" or "serious physical injury" means bodily injury which creates a substantial risk of death or which causes serious disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

23. "Sexual conduct" means any of the following:

a. Sexual intercourse in its ordinary sense which occurs upon any penetration, however slight, or contact between persons involving the sex organs of one and the mouth or anus of another;

b. Masturbation, manual or instrumental, of one (1) person by another.

24. "Statute" means the Constitution or an Act of the Legislature of this state.

25. "Vehicle" means a "motor vehicle" as defined in Chapter 11.14, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail.

26. "Voluntary" has the meaning specified in Section 12A.04.010.

(Ord. 115649 § 1, 1991: Ord. 107309 § 2, 1978: Ord. 107232 § 1, 1978: Ord. 102843 § 12A.01.150, 1973.)

Chapter 12A.04
CRIMINAL LIABILITY DEFENSES

Sections:

12A.04.010 Requirement of a voluntary act—Possession as an act.

A. A person is not guilty of an offense unless his liability is based on conduct which includes a voluntary act or an omission to perform an act of which he is physically capable.

B. The possession of property is a voluntary act if the actor was aware of his physical possession of such property or was aware of his control thereof for a sufficient period to have been able to terminate his possession.

C. For purposes of this section:

1. "Voluntary act" means a bodily movement performed consciously as a result of the actor's effort or determination.

2. "Omission" means a failure to perform an act as to which a duty of performance is imposed by law.

(Ord. 102843 § 12A.02.010, 1973.)

12A.04.030 Kinds of culpability defined.

A. Intent. A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes a crime.

B. Knowledge. A person knows or acts knowingly or with knowledge when:

1. He or she is aware of a fact, facts, or circumstances or result described by an ordinance defining an offense; or

2. He or she has information which would lead a reasonable person in the same situation to believe that facts exist which facts are described by an ordinance defining an offense.

C. Recklessness. A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur and his or her disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

D. Criminal Negligence. A person is criminally negligent or acts with criminal negligence when he or she fails to be aware of a substantial risk that a wrongful act may occur and his or her failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

E. Requirement of Wilfulness Satisfied by Acting Knowingly. A requirement that an offense be committed wilfully is satisfied if a person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements plainly appears.

(Ord. 115649 § 2, 1991: Ord. 109674 § 1(part), 1981: Ord. 109433 § 1(part), 1980: Ord. 102843 § 12A.02.030(2), 1973.)

12A.04.050 Substitutes for criminal negligence—Recklessness and knowledge.

When the Seattle Municipal Code or an ordinance provides that criminal negligence suffices to establish an element of an offense, such element also is established if a person acts intentionally, knowingly or recklessly. When recklessness suffices to establish an element, such element also is established if a person acts intentionally or knowingly. When acting knowingly suffices to establish an element, such element also is established if a person acts intentionally.

(Ord. 109674 § 1(part), 1981: Ord. 109433 § 1(part), 1980: Ord. 102843 § 12A.02.030(4), 1973.)

12A.04.060 Culpability as determinant of grade of offense.

When the grade or degree of an offense depends on whether the offense is committed intentionally, knowingly, recklessly, or with criminal negligence, its grade or degree shall be the lowest for which the determinative kind of culpability is established with respect to any material element of the offense.

(Ord. 109674 § 1(part), 1981: Ord. 109433 § 1(part), 1980: Ord. 102843 § 12A.02.030(5), 1973.)

12A.04.080 Divergence between result contemplated and actual result.

When intentionally or knowingly causing a particular result is an element of an offense, the element is not established if the actual result is not within the purpose or the contemplation of the actor unless:

A. The actual result differs from that designed or contemplated, as the case may be, only in the respect that a different person or different property is injured or affected or that the injury or harm designed or contemplated would have been more serious or more extensive than that caused; or

B. The actual result involves the same kind of injury or harm as that designed or contemplated and is not too remote or accidental in its occurrence to have a bearing on the actor's liability or on the gravity of his offense.

(Ord. 102843 § 12A.02.050(2), 1973.)

12.04.090 Divergence between probable and actual result.

When recklessly or criminally negligently causing a particular result is an element of an offense, the element is not established if the actual result is not within the risk of which the actor is aware or, in the case of criminal negligence, of which he should be aware unless:

A. The actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the probable injury or harm would have been more serious or more extensive than that caused; or

B. The actual result involves the same kind of injury or harm as the probable result and is not too remote or accidental in its occurrence to have a bearing on the actor's liability or on the gravity of his offense.

(Ord. 102843 § 12A.02.050(3), 1973).

12A.04.100 Construction of ordinances with respect to culpability requirements.

Where an ordinance defining an offense does not clearly indicate a legislative intent to impose absolute liability, it should be construed as defining an offense requiring one of the mental states described in Section 12A.04.030. This section applies to all offenses defined by the ordinances of this City except those in Chapter 11.56 Seattle Municipal Code.

(Ord. 111853 § 1, 1984: Ord. 102843 § 12A.02.070, 1973.)

12A.04.110 Criminal liability of corporations and persons acting in their behalf.

A. As used in this section:

1. "Agent" means any director, officer or employee of a corporation, or any other person who is authorized to act in behalf of the corporation.

2. "Managerial agent" means an officer or director of a corporation or any other person in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

3. "Corporation" has its ordinary meaning and also includes but is not limited to partnerships, professional service corporations, societies and other unincorporated associations whether organized for profit or nonprofit.

B. A corporation is guilty of an offense when:

1. The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or

2. The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or recklessly tolerated by the board of directors or by a managerial agent acting within the scope of his employment and in behalf of the corporation; or

3. The conduct constituting the offense is engaged in by an agent of the corporation, other than a managerial agent, while acting within the scope of his employment and in behalf of the corporation and the offense is one defined by an ordinance which indicates a legislative intent to impose such criminal liability on a corporation.

C. A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or in behalf of a corporation to the same extent as if such conduct were performed in his own name or behalf.

D. Whenever duty to act is imposed by law upon a corporation, any agent of the corporation who knows he has or shares primary responsibility for the discharge of the duty is criminally liable for a reckless or, if a managerial agent, for a criminally negligent omission to perform the required act to the same extent as if the duty were by law imposed directly upon such agent.

(Ord. 102843 § 12A.02.090, 1973.)

12A.04.120Criminal attempt.

A. A person is guilty of an attempt to commit a crime if, with intent to commit a specific crime, he or she does any act:

1. Which is a substantial step toward the commission of that crime; and

2. Which strongly corroborates his or her intent to commit that crime.

B. If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission, if such crime could have been committed had the attendant circumstances been as such person believed them to be.

C. When the actor's conduct would otherwise constitute a criminal attempt under this section, it is an affirmative defense that, under circumstances manifesting a complete and voluntary renunciation of his or her criminal intent, he or she:

1. Abandoned his or her effort to commit the crime; or

2. Prevented the commission of the crime.

D. A person may not be convicted on the basis of the same course of conduct of both an attempt to commit an offense and either complicity in or the commission of that offense.

E. This section shall not apply to liability for the conduct of another as defined in Section 12A.04.130.

F. An attempt to commit a crime is a misdemeanor.

(Ord. 114635 § 2, 1989: Ord. 102843 § 12A.02.100, 1973.)

12A.04.130Liability for conduct of another—Complicity.

A. A person is guilty of an offense if it is attempted or committed by the conduct of another person for which he is legally accountable.

B. A person is legally accountable for the conduct of another person when:

1. Acting with the kind of culpability that is sufficient for the commission of the offense, he causes an innocent or irresponsible person to engage in such conduct; or

2. He is made accountable for the conduct of such other person by this subtitle or by the law defining the offense; or

3. He is an accomplice of such other person in the commission of the offense.

C. A person is an accomplice of another person in the commission of an offense if:

1. With the intent of promoting or facilitating the commission of the offense, he:

a. Solicits, commands, or requests such other person to commit it, or

b. Aids or agrees to aid such other person in planning or committing it; or

2. His conduct is expressly declared by law to establish his complicity.

D. A person who is legally incapable of committing a particular offense himself may be guilty thereof if it is committed by the conduct of another person for which he is legally accountable, unless such liability is inconsistent with the purpose of the provision establishing his incapacity.

E. Unless otherwise provided by this subtitle or by the law defining the offense, a person is not an accomplice in an offense committed by another person if:

1. He is a victim of that offense; or

2. The offense is so defined that his conduct is inevitably incident to its commission; or

3. He terminates his complicity prior to the commission of the offense and:

a. Deprives it of effectiveness in the commission of the offense, or

b. Gives timely warning to the law enforcement authorities or otherwise makes a good faith effort to prevent the commission of the offense.

F. An accomplice may be convicted on proof of the commission of the offense and of his complicity therein, though the person claimed to have committed the offense has not been prosecuted or convicted or has been convicted of a different offense or degree of offense or has an immunity to prosecution or conviction or has been acquitted.

G. A person may not be convicted on the basis of the same course of conduct of both the commission of and complicity in that offense.
(Ord. 102843 § 12A.02.110, 1973.)

12A.04.140Ignorance or mistake.

A. A person shall not be relieved of criminal liability because he engages in conduct under a mistaken belief of fact, unless:

1. Such factual mistake negates the mental state required for the commission of an offense; or

2. The ordinance defining the offense or ordinance related thereto expressly provides that such factual mistake constitutes a defense or exemption; or

3. Such factual mistake is of a kind that supports a defense of justification.

B. A person is not relieved of criminal liability for conduct because he engages in such conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless such mistaken belief is reasonably founded upon an official statement of the law contained in:

1. A statute, ordinance, or other enactment; or

2. An administrative order or grant of permission; or

3. A judicial decision; or

4. An interpretation of the statute or law relating to the offense, officially made or issued by a public servant, agency or body legally charged or empowered with the responsibility or privilege of administering, enforcing or interpreting such ordinance.

C. A defense based upon this section is an affirmative defense.
(Ord. 108472 § 1, 1979: Ord. 102843 § 12A.04.130, 1973.)

12A.04.150Intoxication.

No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his/her condition, but whenever the actual existence of any particular mental state is a necessary element to constitute a particular species or degree of crime, the fact of his/her intoxication may be taken into consideration in determining such mental state.
(Ord. 112541 § 5, 1985.)

12A.04.160Insanity.

To establish the defense of insanity, it must be shown that:

A. At the time of the commission of the offense, as a result of mental disease or defect, the mind of the actor was affected to such an extent that:

1. He/she was unable to perceive the nature and quality of the act with which he/she is charged; or

2. He/she was unable to tell right from wrong with reference to the particular act charged.

B. The defense of insanity must be established by a preponderance of the evidence.
(Ord. 112541 § 6, 1985.)

12A.04.170Duress.

A. In any prosecution for a crime, it is a defense that:

1. The actor participated in the crime under compulsion by another who by threat or use of force created an apprehension in the mind of the actor that in case of refusal he/she or another would be exposed to immediate death or immediate grievous bodily injury; and

2. That such apprehension was reasonable upon the part of the actor; and

3. That the actor would not have participated in the crime except for the duress involved.

B. The defense of duress is not available if the actor intentionally or recklessly places himself/

herself in a situation in which it is probable that he/she will be subject to duress.

C. The defense of duress is not established solely by a showing that a married person acted on the command of his or her spouse.

(Ord. 112541 § 7, 1985.)

12A.04.180De minimis infractions.

The court may dismiss a prosecution if, having regard to the nature of the conduct charged to constitute an offense and the nature of the attendant circumstances, it finds that the defendant's conduct:

A. Was within a customary license or tolerance not inconsistent with the purpose of the law defining the offense; or

B. Did not actually cause or threaten the harm or evil sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction; or

C. Presents such other extenuations that it cannot reasonably be regarded as envisioned by the legislature in forbidding the offense.

(Ord. 102843 § 12A.02.230, 1973.)

12A.04.190Entrapment.

A. In any prosecution for a crime, it is a defense that:

1. The criminal design originated in the mind of law enforcement officials, or any person acting under their discretion; and

2. The actor was lured or induced to commit a crime which the actor had not otherwise intended to commit.

B. The defense of entrapment is not established by a showing only that law enforcement officials merely afforded the actor an opportunity to commit a crime.

(Ord. 112541 § 8, 1985.)

12A.04.200Use of force—When lawful.

The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases:

A. Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting him/her and acting under his/her direction;

B. Whenever necessarily used by a person arresting one who has committed a felony and delivering him/her to a public officer competent to receive him/her into custody;

C. Whenever used by a party about to be injured, or by another lawfully aiding him/her in preventing or attempting to prevent an offense against his person, or a criminal trespass, or other malicious interference with real or personal property lawfully in his/her possession, in which case the force is not more than is necessary;

D. Whenever reasonably used by a person to detain someone who enters or remains unlawfully in a building or on real property in the control of such person, so long as such detention is reasonable in duration and manner to investigate the reason for the detained person's presence on the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public;

E. Whenever used by a carrier of passengers or his/her authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than is necessary to expel the offender with reasonable regard to his/her personal safety;

F. Whenever used by any person to prevent a mentally ill, mentally incompetent, or mentally disabled person from committing an act dangerous to himself/herself or another, or in enforcing necessary restraint for the protection of his/her person, or his/her restoration to health, during such period only as is necessary to obtain legal authority for the restraint or custody of his/her person.

(Ord. 113000 § 1, 1986: Ord. 112541 § 9, 1985.)

12A.04.205Physical discipline of child.

A. The following actions are presumed unreasonable when used to correct or restrain a child: (1) throwing, kicking, burning, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) interfering with a child's breathing; (5) threatening a child with a deadly weapon; or (6) doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks. The age, size and condition of the child and the location of the injury shall be considered when determining whether the bodily harm is reasonable or moderate. This list is illustrative of

unreasonable actions and is not intended to be exclusive.

B. The physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child. Any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child.
(Ord. 113000 § 2, 1986.)

12A.04.210Reasonable use of force for detention by shopkeeper.

In any criminal action brought by reason of any person having been detained on or in the immediate vicinity of the premises of a mercantile establishment for the purpose of investigation or questioning as to the ownership of any merchandise, it shall be a defense of such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a peace officer, by the owner of the mercantile establishment, or by the owner's authorized employee or agent, and that such peace officer, owner, employee, or agent had reasonable grounds to believe that the person so detained was committing or attempting to commit theft or shoplifting on such premises of such merchandise. As used in this section, "reasonable grounds" shall include, but not be limited to, knowledge that a person has concealed possession of unpurchased merchandise of a mercantile establishment, and a "reasonable time" shall mean the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the mercantile establishment relative to the ownership of the merchandise.
(Ord. 112541 § 10, 1985.)

Chapter 12A.06
OFFENSES AGAINST PERSONS

Sections:

Statutory Reference: For statutory provisions on assault and other crimes involving physical harm, see RCW Ch. 9A.36; for provisions on unlawful imprisonment and custodial interference, see RCW Ch. 9A.40; for provisions on sex crimes, see RCW Ch. 9A.44 and Ch. 9A.88.

12A.06.010Assault.

A person is guilty of assault when he or she intentionally assaults another person.
(Ord. 116872 § 7, 1993: Ord. 102843 § 12A.04.020, 1973.)

Cases: Nunchaku sticks are deadly weapons. **In re. Reed,** 20 Wn.App. 745, 583 P2d 1228 (1978).

12A.06.025Fighting.

A. It is unlawful for any person to 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.

B. In any prosecution under subsection A of this Section 12A.06.025, it is an affirmative defense that:

1. The fight was duly licensed or authorized by law; or

2. The person was acting in self-defense.

C. As used in this Section 12A.06.025, "public place" means an area open to the general public, and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those which serve food and drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(Ord. 109674 § 3, 1981: Ord. 108908 § 1, 1980: Ord. 102843 § 12A.04.090, 1973.)

12A.06.030Menacing.

A. A person is guilty of menacing when by a present threat to another person subsequent to a history of threats or violence between himself or herself and such other person, he or she intentionally causes or attempts to cause such other person reasonably to fear serious bodily injury or death.

B. As used in this section, "threat" has the meaning specified in Section 12A.08.050 L1.

C. As used in this section, "history of threats or violence" means one (1) or more of the following:

1. Two (2) or more threats; or

2. One (1) or more assaults as defined in Section 12A.06.010.

(Ord. 116872 § 8, 1993: Ord. 112333 § 1, 1985: Ord. 109564 § 1, 1980: Ord. 108567 § 1, 1979: Ord. 102843 § 12A.04.050, 1973.)

12A.06.035Stalking.

A. A person is guilty of stalking when, without lawful authority:

1. He or she intentionally and repeatedly harasses or follows another person; and

2. The person being harassed or followed is placed in fear that the stalker intends to injure that person, another person, or property of the person or of another person; and

3. A reasonable person in the same situation and under the same circumstances as the person being harassed or followed would feel fear that the stalker intends to injure the person, another person, or property of that person or of another person; and

4. The stalker either:

a. Intends to intimidate, harass or frighten the person; or

b. Knows or reasonably should know that the person is intimidated, harassed or afraid.

B. It is not a defense to the crime of stalking:

1. Under subsection A4a of this section that the stalker was not given actual notice that the person did not want the stalker to contact or follow that person;

2. Under subsection A4b of this section that the stalker did not intend to intimidate, harass or frighten the person.

C. It is an affirmative defense to the crime of stalking that the defendant is a licensed private detective acting within the capacity of his or her license as provided by Chapter 18.165 RCW.

D. Attempts to contact or follow the person after being given actual notice that such person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate, harass or frighten such person.

E. As used in this section:

1. "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one (1) location to another.

2. "Harasses" means unlawful harassment as defined in SMC Section 12A.06.040.

3. "Repeatedly" means on two (2) or more separate occasions.

F. Stalking is a gross misdemeanor.

(Ord. 117158 § 1, 1994: Ord. 116872 § 9, 1993.)

12A.06.040Harassment.

A. A person is guilty of harassment if:

1. With the intent to annoy or alarm another person he/she repeatedly uses fighting words or obscene language, thereby creating a substantial risk of assault; or

2. Without lawful authority, the person knowingly threatens:

a. To cause bodily injury in the future to the person threatened or to any other person; or

b. To cause physical damage to the property of a person other than the actor; or

c. To subject the person threatened or any other person to physical confinement or restraint; or

d. Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

e. The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out.

B. When any defendant charged with a crime involving harassment is released from custody before trial or bail or personal recognizance, the court authorizing the release may require that the defendant:

1. Stay away from the home, school, business, or place of employment of the victim or victims of the alleged offense or other location, as shall be specifically named by the court in the order;

2. Refrain from contacting, intimidating, threatening, or otherwise interfering with the victim or victims of the alleged offense and such other persons, including but not limited to members of the family or household of the victim, as shall be specifically named by the court in the order.

C. The court shall determine the necessity for imposing a no-contact order or other conditions of pre-trial release. The Seattle Police Department and Seattle Municipal Court may enforce this section as it relates to orders restricting the defendant's ability to have contact with the victims or others. The victim shall be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim is involved. If a defendant is found guilty of a crime of harassment and a condition of the sentence restricts the defendant's ability to have contact with the victim or witnesses, the condition shall be recorded and a written certified copy of that order shall be provided to the victim or witnesses by the clerk of the court. Wilful violation of a court order issued under this section, or of an order issued by any court of competent jurisdiction under an equivalent statute or ordinance, is a misdemeanor. The written order shall contain the court's directives and shall bear the legend: "Violation of this order is criminal

offense under SMC 12A.06.030 and will subject a violator to arrest."
(Ord. 112465 § 1, 1985: Ord. 102843 § 12A.04.070, 1973.)

Cases: An objective test must be applied to evaluate "fighting words" in the actual context or situation of their utterance; the addressee's reaction or failure to react is a factor to be considered but not the sole criterion. **Seattle v. Camby**, 104 Wn.2d 49, 701 P.2d 499 (1985).

12A.06.050Reckless endangerment.

A person is guilty of reckless endangerment when he recklessly engages in conduct which creates a substantial risk of death or serious bodily injury to another person.
(Ord. 102843 § 12A.04.080, 1973.)

12A.06.090Coercion.

A. A person is guilty of coercion if by use of a threat he 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 has a legal right to engage in.

B. "Threat" as used in this section means:

1. To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

2. Threats as defined in Section 12A.08.050 L.

(Ord. 102843 § 12A.04.170, 1973.)

12A.06.100Telephone calls to harass, intimidate, torment or embarrass.

A. A person is guilty of making telephone calls to harass, intimidate, torment or embarrass any other person if, with intent to harass, intimidate, torment or embarrass any other person, he makes a telephone call to such other person:

1. Using any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act; or

2. Anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or

3. Threatening to inflict injury on the person or property of the person called or any member of his family; or

4. Without purpose of legitimate communication.

B. The offense committed by use of a telephone as set forth in this section 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.
(Ord. 107670 § 1(part), 1978: Ord. 102843 § 12A.04.180, 1973.)

Cases: Subsection A 3 was upheld as constitutional on a challenge based on vagueness and overbreadth. **Seattle v. Huff**, 111 Wn.2d 923, 767 P.2d 572 (1989).

12A.06.110Telephone calls to harass, intimidate, torment or embarrass—Permitting telephone to be used.

A. It is unlawful for any person to knowingly permit any telephone under his or her control to be used for any purpose prohibited by Section 12A.06.100.

B. Violation of subsection A of this section is a misdemeanor.

(Ord. 117156 § 2, 1994: Ord. 107670 § 1(part), 1978: Ord. 102843 § 12A.04.185, 1973.)

Severability: The provisions of Sections 12A.06.100 and 12A.06.110 are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section or portion of Sections 12A.06.100 and 12A.06.110, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of said sections or the validity of its application to other persons or circumstances.

(Ord. 107670 § 2, 1978.)

12A.06.115Malicious harassment.

A. A person is guilty of malicious harassment if he or she maliciously and with the intent to intimidate or harass another person because of that person's sexual orientation, gender, marital status, political ideology, age, or parental status:

1. Causes physical injury to another person; or

2. By threat places another person in reasonable fear of harm to his or her person or property or harm to the person or property of a third person, provided however, that it shall not constitute malicious harassment for a person to speak or act in a critical, insulting, or deprecatory way so long as his or her words or conduct do not constitute a threat of harm to the person or property of another person; or

3. Causes physical damage to or the destruction of the property of another person.

B. "Threat" means to communicate, directly or indirectly, the intent to:

1. Cause bodily injury to another; or

2. Cause damage to the property of another; or

3. Subject another person to physical confinement or restraint.

C. "Sexual orientation" includes heterosexuality, homosexuality, and bisexuality.

D. Every person who, in the commission of malicious harassment, shall commit any other crime, may be punished therefor as well as for the malicious harassment, and may be prosecuted for each crime separately.

(Ord. 111714 § 1, 1984.)

12A.06.120Domestic violence defined.

A. Unless the context requires otherwise, the following terms shall have the following meanings as used in this chapter:

1. "Family or household member" 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 (16) 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 (16) years of age or older with whom a person sixteen (16) 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.

2. "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (i) the length of time the relationship has existed; (ii) the nature of the relationship; and (iii) the frequency of interaction between the parties.

3. "Domestic violence" means a crime committed by one (1) family or household member against the person or property of another family or household member.

4. "Court" includes superior, district and municipal courts of The State of Washington.

5. "Judicial day" does not include Saturdays, Sundays, or legal holidays.

6. "Electronic monitoring" means a program in which a person's presence at a particular location is monitored from a remote location by use of electronic equipment.

7. "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes but is not limited to clothing,

cribs, bedding, documents, and personal hygiene items.

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

(Ord. 118107 § 1, 1996: Ord. 117673 § 1, 1995: Ord. 112465 § 2, 1985: Ord. 111857 § 1, 1984: Ord. 109674 § 4, 1981: Ord. 109433 § 2, 1980: Ord. 108995 § 1(part), 1980: Ord. 102843 § 12A.04.195, 1973.)

12A.06.130No contact orders.

A. Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with a crime or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, or after trial before sentencing or as a condition of any sentence imposed, the court authorizing the release may prohibit that person from having any contact with the victim. In issuing the order, the court shall consider the provisions of Section 12A.06.195. The court may include in the conditions of release or as a condition of the sentence a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant pay for or reimburse the providing agency for the costs of the electronic monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring. The no-contact order shall be issued in writing as soon as possible.

B. Willful violation of a court order issued under this section, or of an order issued by any court of competent jurisdiction under an equivalent statute or ordinance, is a gross misdemeanor. The written order releasing the person shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under Seattle Municipal Code Section 12A.06.130 and/or RCW Chapter 10.99 and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. 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. If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two (72) hours if charges are not filed.

C. Whenever an order prohibiting contact is issued, modified, or terminated under this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order.

(Ord. 117673 § 2, 1995: Ord. 115835 § 1, 1991: Ord. 114636 § 2, 1989: Ord. 112465 § 3, 1985: Ord. 109674 § 5, 1981: Ord. 108995 § 1(part), 1980: Ord. 102843 § 12A.04.196, 1973.)

12A.06.150Peace officer immunity.

Peace officers shall enjoy the immunity provided by RCW 10.99.070; and further, the City will defend its peace officers at City expense in civil actions arising out of law enforcement in cases of domestic violence and custodial interference as provided by Chapter 4.64 (Ordinance 104526, as amended).

(Ord. 111858 § 3, 1984: Ord. 109674 § 7, 1981: Ord. 108995 § 1(part), 1980: Ord. 102843 § 12A.04.198, 1973.)

12A.06.155Domestic violence prevention.

A. Any person may seek relief by filing a petition with a 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 under eighteen (18) years of age who is sixteen (16) years of age or older may seek relief and is not required to seek relief by a guardian or next friend. No guardian or guardian ad litem need be appointed on behalf of a respondent who is under eighteen (18) years of age if such respondent is sixteen (16) years of age or older. The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent.

C. The jurisdiction of Seattle Municipal Court shall be limited to enforcement of Section 12A.06.180 A, RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in Section 12A.06.170 and RCW 26.50.070 if:

1. A superior court has exercised or is exercising jurisdiction over a proceeding under RCW Title 26 or RCW Chapter 13.34 involving the parties; or

2. The petition for relief presents issues of residential schedule and of contact with children of the parties; or

3. The petition for relief requests the court to exclude a party from the dwelling which the parties share.

D. When the jurisdiction of this court is limited to the issuance and enforcement of a temporary order, the court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

E. A person's right to petition for relief is not affected by the person leaving the residence or household to avoid abuse.

(Ord. 117673 § 3, 1995: Ord. 113641 § 1, 1987: Ord. 112465 § 4, 1985: Ord. 111857 § 2, 1984.)

12A.06.160Petition for protection orders.

There shall exist an action known as a petition for an order for protection in cases of domestic violence.

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. Petitioner and respondent shall disclose the existence of any other litigation concerning the custody or residential placement of a child of the parties as set forth in RCW 26.27.090 and the existence of any other restraining, protection or no contact orders between the parties.

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 except in cases where the court realigns the petitioner and respondent in accordance with Section 12A.06.165 D.

C. Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen (14) days from the date of the order. The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exception circumstances to protect a petitioner from further acts of domestic violence. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. Except as provided in RCW 26.50.085 and RCW 26.50.123, personal service shall be made upon the respondent not less than five (5) court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123. If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four (24) days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in Section 12A.06.170, RCW 26.50.085 and RCW 26.50.123.

(Ord. 118107 § 2, 1996: Ord. 117673 § 4, 1995: Ord. 112465 § 5, 1985: Ord. 111857 § 3, 1984.)

12A.06.165Protection order—Relief.

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

1. Restrain the respondent from committing acts of domestic violence;

2. Exclude the respondent from the dwelling which the parties share, from the residence, workplace, or school of the petitioner, or from the daycare or school of a child;

3. On the same basis as is provided in Chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in Chapter 26.09 RCW shall not be required;

4. Order the respondent to participate in batterers' treatment;

5. Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer;

6. Require the respondent to pay the administrative court costs and service fees, as established by the City Council, and to reimburse

the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee;

7. Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

8. Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

9. Consider the provisions of Section 12A.06.195;

10. Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included; and

11. Order use of a vehicle.

B. If a restraining order restrains the respondent from contacting the respondent's minor children, the restraint shall be for a fixed period not to exceed one (1) year. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order for protection. If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one (1) year the petitioner may either petition for renewal pursuant to the provisions of this section or may seek relief pursuant to the provisions of Chapter 26.09 or 26.26 RCW.

C. If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three (3) months before the order expires. The petition for renewal shall state the reason why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen (14) days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five (5) days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or by mail, the court shall set the new hearing date not later than twenty-four (24) days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in Section 12A.06.170. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection A6 of this section.

D. In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with Section 12A.06.170 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with Section 12A.06.160.

E. Except as provided in subsection D of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with Section 12A.06.160 C.

F. The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

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G. If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

H. Nothing in this section may affect the title to real estate; provided that judgment for costs or fees shall constitute a lien on real estate to the extent provided in RCW Chapter 4.56.

(Ord. 118107 § 3, 1996: Ord. 117673 § 5, 1995: Ord. 112465 § 6, 1985: Ord. 111857 § 4, 1984.)

12A.06.170Ex parte temporary protection 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. Restraining any party from going onto the grounds of or entering the dwelling that the parties share, from the residence, workplace or school of the other or from the day care or school of a child until further order of the court;

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;

4. Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

5. Considering the provisions of Section 12A.06.195.

B. Irreparable injury 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 (14) days, or twenty-four (24) days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte order may be reissued. A full hearing shall be set for not later than fourteen (14) days from the issuance of the temporary order or not later than twenty-four (24) days if service by publication or by mail is permitted. Except as provided in Section 12A.06.160 C, RCW 26.50.085, and RCW 26.50.123, the respondent shall be personally 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.

E. Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a state-wide judicial information system by the clerk of the court within one (1) judicial day after issuance.

F. If the court declines to issue an ex parte temporary order for protection, the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte order for protection shall be filed with the court.

(Ord. 118107 § 4, 1996: Ord. 117673 § 6, 1995: Ord. 112465 § 7, 1985: Ord. 111857 § 5, 1984.)

12A.06.175Peace officer—Assistance.

When an order is issued, upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of those items indicated in the order or to otherwise assist in the execution of the order for protection. The order shall list all items that are to be included with sufficient specificity to make it clear which property is included. Orders shall include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order.

(Ord. 117673 § 7, 1995: Ord. 112465 § 8, 1985: Ord. 111857 § 6, 1984.)

12A.06.180Protection order—Violation—Penalty—Contempt.

A. Whenever an order for protection is granted by this court or any court of competent jurisdiction 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, workplace, school, or daycare is a gross misdemeanor. Upon conviction, and in addition to any other penalties provided by law, the court may require that the convicted person submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services and the terms under which the

monitoring shall be performed. The court may require that the convicted person pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

B. A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order that restrains the person or excludes the person from a residence, workplace, school, or daycare, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge 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 peace officer alleging that the respondent has violated an order for protection, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen (14) days why the respondent should not be found in contempt of court and punished accordingly.

E. When a party alleging a violation of an order for protection 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.

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

(Ord. 117673 § 8, 1995: Ord. 112465 § 9, 1985: Ord. 111857 § 7, 1984.)

12A.06.185Court action.

Because of the serious nature of domestic violence, the court, in domestic violence actions, shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings; shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings; 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 shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(Ord. 117673 § 9, 1995: Ord. 112465 § 10, 1985.)

12A.06.187Interfering with the reporting of domestic violence.

A. A person commits the crime of interfering with the reporting of domestic violence if the person:

1. Commits a crime of domestic violence, as defined in Section 12A.06.120; and

2. Prevents or attempts to prevent the victim of or a witness to that domestic violence from calling a 911 emergency communication system, obtaining medical assistance or making a report to any law enforcement official.

B. Commission of a crime of domestic violence under subsection A of this section is a necessary element of the crime of interfering with the reporting of domestic violence.

C. Interfering with the reporting of domestic violence is a gross misdemeanor.

(Ord. 118107 § 5, 1996.)

12A.06.190Violation of civil antiharassment protection order.

Whenever a civil antiharassment protection order is issued by a court of competent jurisdiction any respondent or person to be restrained who wilfully disobeys the order shall be guilty of a crime punishable by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the City Jail for not more than one (1) year, or by both such fine and imprisonment.

(Ord. 113640 § 1, 1987.)

12A.06.195Court order requiring surrender of firearm, dangerous weapon or concealed pistol license.

A. In this section, the following definitions apply unless a different meaning plainly is required:

1. "Dangerous weapon" means a dagger, dirk, spring blade knife, knife the blade of which is automatically released by a spring mechanism or other mechanical device, knife having a blade which opens, falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement and any instrument or weapon of the kind usually known as a slungshot, sand club or metal knuckles.

2. "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

3. "Firearm" means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

B. When entering an order authorized under Section 12A.06.040, 12A.06.130, 12A.06.165 or 12A.06.170 and upon a showing by either clear and convincing evidence or a preponderance of the evidence, but not by clear and convincing evidence, that a party has used, displayed, or threatened to use a firearm or dangerous weapon in a felony, that a party has previously committed any offense making the party ineligible to possess a firearm under the provisions of RCW 9.41.040 or that a party's possession of a firearm or dangerous weapon presents a serious and imminent threat to public health or safety or to the health or safety of any person, the court shall:

1. Require the party to surrender any firearm or dangerous weapon;

2. Require the party to surrender any concealed pistol license issued under RCW 9.41.070;

3. Prohibit the party from obtaining or possessing a firearm or dangerous weapon;

4. Prohibit the party from obtaining or possessing a concealed pistol license.

C. The court may order temporary surrender of a firearm or dangerous weapon without notice to the party if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury could result if an order is not issued until the time for a response has passed.

D. The requirements and prohibitions of subsections B and C of this section may be for a period of time less than the duration of the order.

E. The court may require the party to surrender any firearm or dangerous weapon in or subject to the party's immediate possession or control to the King County Sheriff, the Seattle Chief of Police, the party's counsel or any person designated by the court.

(Ord. 118107 § 6, 1996: Ord. 117157 § 1, 1994.)

12A.06.300Custodial interference.

A. A relative of the person is guilty of custodial interference if, with the intent to deny access to such person by a parent, guardian, institution, agency or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains or conceals the person from a parent, guardian, institution or an agency or other person having a lawful right to physical custody of such person.

B. Any reasonable expenses incurred in locating or returning a child or incompetent person shall be assessed against a defendant convicted under this chapter.

C. 1. It is a complete defense to a prosecution under this section if established by the defendant by a preponderance of the evidence, that the defendant's purpose was to protect the child, incompetent person, or himself or herself from imminent physical harm, and the belief of the existence of that imminent physical harm was reasonable.

2. Consent of a child less than sixteen (16) years of age or an incompetent person does not constitute a defense to an action under this act.

(Ord. 111858 § 2, 1984.)

Chapter 12A.08
OFFENSES AGAINST PROPERTY[1]

Sections:

Statutory Reference: For statutory provisions on reckless burning and malicious mischief, see RCW Ch. 9A.48; for provisions on burglary and trespass, see RCW Ch. 9A.52; for provisions on theft and robbery, see RCW Ch. 9A.56.

1.Cross-reference: For provisions regarding destruction of park property and no-trespassing regulations in City parks, see Chapter 18.12 of this Code.

For provisions regarding damage to or interference with the City's light and power plant, see Section 21.49.120.

For provisions regarding damage to or interference with the municipal water supply system, see Sections 21.04.540 and 21.04.550.

12A.08.010 Definitions.

A. "Building," in addition to its ordinary meaning, includes any dwelling, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two (2) or more units separately secured or occupied shall be treated as:

1. A single building in Section 12A.08.030; and

2. A separate building in Section 12A.08.040.

B. "Damage" means an injury or harm to property sufficient to lower its value or involving significant inconvenience or loss of efficiency.

C. "Premises" includes any building, dwelling, structure used for commercial aquaculture, or any real property.

D. "Enter." The word "enter" when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his or her body, or any instrument or weapon held in his or her hand and used or intended to be used to threaten or intimidate a person or to detach or remove property.

E. "Enters or Remains Unlawfully." A person "enters or remains unlawfully" in or upon premises when he or she is not then licensed, invited, or otherwise privileged to so enter or remain.

A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him or her by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner. Land that is used for commercial aquaculture or for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible or if notice is given by posting in a conspicuous manner. Similarly, a field fenced in any manner is not unimproved and apparently unused land.
(Ord. 115649 § 4, 1991: Ord. 102843 § 12A.08.010, 1973.)

12A.08.020 Property destruction.

A. A person is guilty of property destruction if he or she:

1. Intentionally damages the property of another; or

2. 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. 1. It is an affirmative defense to property destruction under subsection A1 that the actor reasonably believed that he had a lawful right to damage such property.

2. It is an affirmative defense to property destruction under subsection A2 that the actor had obtained express permission of the owner or operator of the building, structure or property.

C. 1. Property destruction under subsection A1 is a gross misdemeanor if the damage to the property is in an amount exceeding Fifty Dollars ($50.00); otherwise, it is a misdemeanor.

2. Property destruction under subsection A2 is a gross misdemeanor.

(Ord. 118106 § 1, 1996: Ord. 114635 § 3, 1989: Ord. 102843 § 12A.08.020, 1973.)

Cases: The difference between "intentionally" in the City Code and "knowingly and maliciously" in RCW 9A.48.090(1) does not violate a defendant's right to equal protection of the laws. **Seattle v. Barrett**, 58 Wn.App. 698, 794 P.2d 862 (1990).

12A.08.030Reckless burning.

A person is guilty of reckless burning if he intentionally causes a fire or explosion and thereby recklessly places a building of another in danger of destruction or damage.

(Ord. 102843 § 12A.08.050, 1973.)

12A.08.040Criminal trespass.

A. 1. A person is guilty of criminal trespass in the first degree if he or she knowingly enters or remains unlawfully in a building.

2. Criminal trespass in the first degree is a gross misdemeanor.

B. 1. A person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree.

2. Criminal trespass in the second degree is a misdemeanor.

C. In any prosecution under Section 12A.08.040 A or B, it is an affirmative defense that:

1. A building involved in an offense under Section 12A.08.040 A was abandoned; or

2. The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or

3. The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him or her to enter or remain; or

4. 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, rule, ordinance, regulation, or court order, excluding delivery by the mails of the United States. This defense applies 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.

(Ord. 115649 § 5, 1991: Ord. 114635 § 4, 1989: Ord. 113478 § 1, 1987: Ord. 110062 § 1, 1981: Ord. 102843 § 12A.08.080, 1973.)

Cases: Use of the phrase "lawful order" in criminal trespass ordinance made the ordinance unconstitutionally vague. **City of Seattle v. Rice,** 93 Wn.2d 728, 612 P2d 792 (1980).

As formerly written, Seattle trespass ordinance was invalid as applied to trespasses in public buildings, but was valid insofar as it pertained to trespasses on private property. **City of Seattle v. Davis,** 32 Wn.App. 379, 647 P2d 536 (1982).

12A.08.050Definitions applicable to Sections 12A.08.060 through 12A.08.100.

The following definitions are applicable in Sections 12A.08.060 through 12A.08.100 unless the context otherwise requires:

A. "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 guaranty by the issuer.

B. "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. Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

5. Promises performance which the actor does not intend to perform or knows will not be performed; or

6. Uses a credit card:

a. Without authorization, or

b. Which he knows to be stolen, forged, revoked or cancelled.

The term "deception" does not include falsity as to matters having no pecuniary significance.

C. "Obtain" 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.

D. "Obtains or exerts unauthorized control" over property includes but is not necessarily limited to conduct heretofore defined or known as common law larceny by trespassory taking, common law larceny by trick, larceny by conversion, embezzlement, extortion, or obtaining property by false pretenses.

E. "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.

F. "Permanently to deprive" means:

1. To withhold property or cause it to be withheld from a person permanently or for so extended a period or under such circumstances that the major portion of its economic value, or of the use and benefit of such property, is lost to him; or

2. To dispose of the property so as to make it unlikely that the owner will recover it; or

3. To retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or

4. To encumber, sell, give, pledge, or otherwise transfer any interest in the property.

G. "Property" means any money, credit card, personal property, real property, thing in action, evidence of debt or contract, public record, or article of value of any kind.

H. "Receiving" includes but is not limited to acquiring title, possession, control, or a security interest in the property.

I. "Service" includes but is not limited to labor, professional service, transportation service, the supplying of hotel 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.

J. "Steal" means:

1. To knowingly obtain or exert unauthorized control over the property of another with

intent permanently to deprive him of such property; or

2. To knowingly obtain by deception control over property of another with intent permanently to deprive him of such property.

K. "Stolen" means obtained by theft, robbery, extortion, or appropriating lost or misdelivered property.

L. "Threat" means to communicate, directly or indirectly, the intent:

1. To cause bodily injury in the future to another; or

2. To cause damage to property of another; or

3. To subject another person to physical confinement or restraint; or

4. To accuse another person of a crime or cause criminal charges to be instituted against another person; or

5. To expose a secret or publicize an asserted fact, whether true or false, tending to subject another person to hatred, contempt or ridicule; or

6. To reveal significant information sought to be concealed by the person threatened; or

7. To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

8. To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

9. To bring about or continue a strike, boycott, or other similar collective action with the intent to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

10. To do any other act which is intended to harm substantially any person with respect to his health, safety, business, financial condition, or personal relationships.

(Ord. 102843 § 12A.08.210, 1973.)

12A.08.060Theft.

A. A person is guilty of theft if:

1. He steals the property of another; or

2. By deception or by other means to avoid payment for services, he intentionally obtains services which he knows to be available only for compensation; or

3. Having control over the disposition of services of others to which he is not entitled, he knowingly diverts those services to his own benefit or to the benefit of another not entitled thereto.

B. In any prosecution under this section, it is an affirmative defense that the property or services were openly obtained under a claim of title made in good faith, even though the claim be untenable.

(Ord. 102843 § 12A.08.220, 1973.)

Cases: Seattle theft ordinance was not vague as applied to pawnshop operator who refused to return stolen pawned property to the rightful owner. **City of Seattle v. Shepherd,** 93 Wn.2d 861, 613 P2d 1158 (1980).

Subsection A 1 and Section 12A.08.050 J, defining "steal," were upheld as constitutional on a challenge based on vagueness. **Seattle v. Shepherd**, 93 Wn.2d 861, 613 P.2d 1158 (1980).

12A.08.070Unlawful issuance of bank checks.

A. A person is guilty of unlawful issuance of a bank check if, with intent to defraud, he/she:

1. Makes, draws, utters, or delivers to another person any check, or draft, on a bank or other depository for the payment of money, knowing at the time of such issuance or delivery he does not have an account in, or sufficient funds or credit with, such bank or depository for payment of such check or draft in full upon presentation; or

2. Makes, draws, utters, or delivers to another person any check, or draft, on a bank or other depository for the payment of money and he/she issues a stop-payment order directing the bank or depository on which the check is drawn not to honor said check and he/she fails to make payment of money in amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within twenty (20) days of issuing said check or draft.

B. The word "credit" as used in this section shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft in full upon presentation. The issuance or delivery of a check or draft to another person without having an account in or credit with the drawee at the time the same was issued or delivered shall be prima facie evidence of an intent to defraud.

C. The court shall order the defendant to make full restitution. The defendant need not be

imprisoned, but the court shall impose a minimum fine of Five Hundred Dollars ($500.00). Of the fine imposed, at least Fifty Dollars ($50.00) shall not be suspended or deferred. Upon conviction for a second offense within any twelve (12) month period, the court may suspend or defer only that portion of the fine which is in excess of Five Hundred Dollars ($500.00). If the court finds the defendant to be indigent, the defendant shall be required to perform community service in lieu of a fine. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing State minimum wage per hour.
(Ord. 112862 § 1, 1986: Ord. 107245 § 1, 1978: Ord. 102843 § 12A.08.230, 1973.)

12A.08.090Possessing stolen property.

A. A person is guilty of possessing stolen property if he knowingly receives, retains, possesses, conceals or disposes of property knowing that it has been stolen and withholds or appropriates the same to the use of any person other than the true owner or person entitled thereto.

B. In any prosecution under this section, it is an affirmative defense that the actor received, retained, or disposed of stolen property with intent to restore it to the owner.

C. The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.
(Ord. 113085 § 1, 1986: Ord. 102843 § 12A.08.260, 1973.)

12A.08.100Appropriation of lost or misdelivered property.

A. A person is guilty of appropriating lost or misdelivered property if he obtains or exerts control over the property of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, and the actor fails to take reasonable measures to discover and notify the owner.

B. As used in this section "reasonable measures" includes but is not necessarily limited to notifying the identified owner or any peace officer.
(Ord. 102843 § 12A.08.280, 1973.)

12A.08.105Unauthorized manufacture, duplication, use or possession of a key which opens a parking meter.

It is unlawful for any person to knowingly manufacture, duplicate, use or possess a key which opens a parking meter located within the limits of the City, unless authorized to do so by the Director of Engineering or the City Director of Finance.
(Ord. 117242 § 13, 1994: Ord. 109674 § 8, 1981: Ord. 109037 § 1, 1980: Ord. 102843 § 12A.08.290, 1973.)

12A.08.110Unauthorized use of a motor vehicle.

A person is guilty of unauthorized use of a motor vehicle when:

A. Having custody of a motor vehicle pursuant to an agreement between himself/herself or another and the owner thereof whereby he/she or another is to perform for compensation a specific service for the owner, involving the maintenance, repair or use or storage of such vehicle, he/she intentionally uses or operates the same, without the consent of the owner, for his/her own purposes in a manner constituting a gross deviation from the agreed purpose; or

B. Having custody of a motor vehicle pursuant to an agreement between himself/herself or another and the owner thereof whereby the motor vehicle was to be used for an agreed purpose, he/she intentionally uses or operates the same, without the consent of the owner, for his/her own purposes in a manner constituting a gross deviation from the agreed purpose.
(Ord. 113480 § 1, 1987: Ord. 102843 § 12A.08.300, 1973.)

12A.08.120Vehicle prowling.

A person is guilty of vehicle prowling if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a vehicle.

(Ord. 108567 § 4, 1979: Ord. 102843 § 12A.08.310, 1973.)

Cases: A sentence for violation of this section must be within the limits contained in RCW 9A.20.021(2). **Seattle v. Morgan**, 53 Wn.App. 387, 766 P.2d 1134 (1989).

12A.08.130Criminal impersonation.

A. As used in this section "intent to defraud" means the use of deception in Section 12A.08.050 B with the intention to injure another's interest which has economic value.

B. A person is guilty of criminal impersonation if he:

1. Assumes a false identity and does an act in his assumed character with the intent to defraud another; or

2. Pretends to be a representative of some person or organization and does an act in his pretended capacity with the intent to defraud another.

(Ord. 102843 § 12A.12.320, 1973.)

Chapter 12A.10
OFFENSES AGAINST PUBLIC MORALS

Sections:

Statutory Reference: For statutory provisions on public indecency, prostitution and sex crimes, see RCW Ch. 9A.88.

Cases: This section was upheld as constitutional against contentions that it is overbroad and vague. **Seattle v. Slack**, 113 Wn.2d 850, 784 P.2d 494 (1989).

A jury instruction worded identically to the ordinance section was upheld. **Seattle v. Smiley**, 41 Wn.App. 189, 702 P.2d 1206 (1985).

Ordinance on promoting prostitution could not be applied to juvenile offender because the ordinance was not in conformity with state public policy as declared by the Juvenile Justice Act of 1977 and because the ordinance conflicted with the penalty provided by state law. **State v. Inglis,** 32 Wn.App. 700, 649 P2d 163 (1982).

Ordinance on promoting prostitution was void since the subject is preempted by state law. **State v. Mason,** 34 Wn.App. 514, 663 P2d 137 (1983).

Circumstances that may be considered for a conviction under subsection B are not limited to those in the list in subsection C. **State v. Brown**, 30 Wn.App 344, 633 P.2d 1351 (1981).

An earlier ordinance was found to be unconstitutional. **Seattle v. Drew**, 70 Wn.2d 405, 423 P.2d 522 (1967).

12A.10.010Prostitution loitering.

A. As used in this section:

1. "Commit prostitution" means to engage in sexual conduct for money but does not include sexual conduct engaged in as part of any stage performance, play or other entertainment open to the public.

2. "Known prostitute or procurer" means a person who within one (1) year previous to the date of arrest for violation of this section, has within the knowledge of the arresting officer been convicted in Seattle Municipal Court of an offense involving prostitution.

3. "Public place" is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

4. "Sexual conduct" means conduct as defined in Section 12A.02.150 (24).

B. A person is guilty of prostitution loitering if he or she remains in a public place and intentionally solicits, induces, entices, or procures another to commit prostitution.

C. Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct are that he or she:

1. Repeatedly beckons to, stops or attempts to stop, or engages passersby in conversation; or

2. Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture; or

3. Circles an area in a motor vehicle and repeatedly beckons to, contacts, or attempts to stop pedestrians; or

4. Is a known prostitute or procurer; or

5. Inquires whether a potential patron, procurer or prostitute is a police officer, searches for articles that would identify a police officer, or requests the touching or exposing of genitals or female breasts to prove that the person is not a police officer.

(Ord. 113843 § 1, 1988: Ord. 112467 § 1, 1985: Ord. 102843 § 12A.12.020, 1973.)

Cases: An ordinance prohibiting loitering, "under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution" sufficiently describes overt conduct constituting criminal loitering and is therefore not unconstitutionally vague. **Seattle v. Jones,** 79 Wn2d 626, 488 P2d 750 (1971), aff'g 3 Wn.App. 431, 475 P2d 790 (1970).

Ordinance on prostitution loitering was not facially vague or overbroad, was not vague as applied to defendant, and did not create an unconstitutional presumption that performing certain acts described in the ordinance made one guilty of soliciting. **State v. VJW,** 37 Wn.App. 428, 680 P2d 1068 (1984).

12A.10.020Prostitution.

A. A person is guilty of prostitution if he or she engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

B. It is an affirmative defense in any prosecution under this section that the sexual conduct was engaged in as part of any stage performance, play, or other entertainment, open to members of the public.

C. Prostitution is a misdemeanor.

(Ord. 114635 § 5, 1989: Ord. 102843 § 12A.12.030, 1973.)

12A.10.040Patronizing a prostitute.

A person is guilty of patronizing a prostitute if:

A. Pursuant to a prior understanding, he or she pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him or her; or

B. He or she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person will engage in sexual conduct with him or her; or

C. He or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee.

D. Patronizing a prostitute is a misdemeanor.

(Ord. 114635 § 6, 1989: Ord. 102843 § 12A.12.080, 1973.)

12A.10.050Prostitution and patronizing a prostitute—No defense.

In any prosecution for prostitution or patronizing a prostitute, the sex of the two (2) parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

A. Such persons were of the same sex; or

B. The person who received, agreed to receive or solicited a fee was male and the person who paid or agreed or offered to pay such fee was female.

(Ord. 102843 § 12A.12.085, 1973.)

12A.10.060Permitting prostitution.

A. A person is guilty of permitting prostitution if, having possession or control of premises which he or she knows are being used for prostitution purposes, he or she fails to make reasonable effort to halt or abate such use.

B. Permitting prostitution is a misdemeanor.

(Ord. 114635 § 7, 1989: Ord. 102843 § 12A.12.110, 1973.)

12A.10.070Mandatory fee for defendant convicted of prostitution-related offense.

A. 1. In addition to penalties set forth in Section 12A.10.020 and Section 12A.10.060, a person who is either convicted or given a deferred sentence or a deferred prosecution as a result of an arrest for violating Section 12A.10.020 or Section 12A.10.060 shall be assessed a fee of Fifty Dollars ($50.00).

2. In addition to penalties set forth in Section 12A.10.040, a person who is either convicted or given a deferred sentence or a deferred prosecution as a result of an arrest for violating Section 12A.10.040 shall be assessed a fee of One Hundred Fifty Dollars ($150.00).

B. The court may not suspend payment of all or part of the fee unless it finds that the person does not have the ability to pay.

C. Any fee assessed under this section shall be collected by the clerk of the court and distributed each month to the state treasurer for deposit in the prostitution prevention and intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention activities.

(Ord. 118106 § 2, 1996.)

12A.10.080Body studios.

A. As used in this section, a "body studio" is any premises, other than a massage parlor, reducing salon, or public bathhouse as defined in the License Code (Ordinance 48022)[1] and licensed as such, upon which is furnished for a fee or charge or other like consideration the opportunity to paint, massage, feel, handle, or touch the unclothed body or an unclothed portion of the body of another person, or to be so painted, massaged, felt, handled or touched by another person, or to observe, view or photograph any such activity, and shall include any such premises which is advertised or represented in any manner whatsoever as a "body painting studio," "model studio," "sensitivity awareness studio" or any other expression or characterization which conveys the same or similar meaning and which leads to the reasonable belief that there will be furnished on such premises for a fee or charge or other like consideration the opportunity to paint, massage, feel, handle, or touch the unclothed body or an unclothed portion of the body of another person, or to be so painted, massaged, felt, handled or touched by another person, or to observe, view or photograph any such activity.

B. It is unlawful for any person to operate, conduct, or maintain a body studio, or to knowingly conduct any business related thereto on the premises of a body studio, or to knowingly be employed on such premises.

(Ord. 104485 § 1, 1975: Ord. 104312 § 1, 1975: Ord. 102843 § 12A.12.160, 1973.)

1.Editor's Note: The License Code is codified in Title 6 of this Code.

Cases: City's body studio ordinance held not unconstitutionally overbroad. **Curtis v. City of Seattle,** 97 Wn.2d 59, 639 P2d 1370 (1982).

Where the prohibited activity was only incidental to other protected forms of expression, body studio ordinance did not apply; legitimate artistic or dramatic performances are thus excluded from the reach of the ordinance. **Curtis v. City of Seattle,** 97 Wn.2d 59, 639 P2d 1370 (1982); **City of Seattle v. Jarrett,** 33 Wn.App. 525, 655 P2d 1209 (1982).

12A.10.090Public display of erotic material.

A. Definitions. As used in this section:

1. "Erotic material" means any pictorial or three (3) dimensional material depicting human sexual intercourse, masturbation, sodomy (i.e., bestiality or oral or anal intercourse), direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship, or emphasizing the depiction of adult human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition. In determining whether material is prohibited for public display by this section such material shall be judged without regard to any covering which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of this subsection.

2. Material is placed upon "public display" if it is placed by the defendant on or in a billboard, viewing screen, theater marquee, newsstand, display rack, window, showcase, display case or similar place so that matter bringing it within the definition of subsection 1 of this subsection is easily visible from a public thoroughfare or from the property of others.

B. Offense Defined. A person is guilty of displaying erotic material if he knowingly places such material upon public display, or if he knowingly fails to take prompt action to remove such a display from property in his possession after learning of its existence.

(Ord. 102843 § 12A.12.180, 1973.)

12A.10.100Urinating in public.

A. A person is guilty of urinating in public if he or she intentionally urinates or defecates in a public place, other than a washroom or toilet room, under circumstances where such act could be observed by any member of the public.

B. "Public place" as used in this Section 12A.10.100 has the meaning defined in Section 12A.10.010 A3.

C. Except as provided in subsection D, any person who violates this Section 12A.10.100 shall be guilty of a violation as defined in Section 12A.02.080.

D. Any person who violates this section and previously has either violated this section or has failed to appear as directed when served with a citation and notice to appear for a violation of this section is guilty of a misdemeanor.

(Ord. 116896 § 1, 1993: Ord. 109674 § 10, 1981: Ord. 108867 § 1, 1980: Ord. 108814 § 9, 1980: Ord. 102843 § 12A.12.140, 1973.)

12A.10.110Convicted persons— Mandatory counselling and costs for certain offenses.

A. The local health department shall conduct or cause to be conducted, sexually transmitted disease STD/HIV counselling for all persons convicted of, or entering a diversion program for, a first offense of prostitution or patronizing a prostitute under this chapter. The term "first offense" shall include, for persons previously convicted of, or entering a diversion program for, an offense of prostitution or patronizing a prostitute, the first offense occurring after the effective date of the ordinance codified in this section, and thereafter, the first offense occurring one (1) year from the date of last conviction or completion of diversion. Inclusion of such persons as first offenders shall not negate his or her previous conviction(s) or diversion for other sentencing purposes.

B. Such counselling shall be conducted and successfully completed as soon as possible after sentencing or entering of a diversion program, and shall be so ordered by the sentencing judge or diversion program.

C. All persons ordered to complete STD/HIV counselling as a result of a conviction or diversion of a prostitution or a patronizing a prostitute charge shall also be responsible for the cost of the counselling. Costs collected pursuant to this subsection shall be directed to funding of the STD/HIV counselling program.

D. In the event that the sentencing judge or other authorized individual determines that a person is unable to pay all, or any portion of, the additional costs, those costs, or any portion thereof, may be waived.

(Ord. 117074 § 1, 1994.)

Chapter 12A.12
OFFENSES AGAINST PUBLIC ORDER

Sections:

Statutory Reference: For statutory provisions regarding public disturbances, see RCW Ch. 9A.84; for provisions on disturbing school or school meetings, see RCW 28A.87.060.

12A.12.010Disorderly conduct.

A. A person is guilty of disorderly conduct if he or she intentionally, maliciously and unreasonably disrupts any assembly or meeting of persons and refuses or intentionally fails to cease such activity when ordered to do so by a police officer or by a person in charge of the assembly or meeting.

B. The following definition applies in this section: "Malice" or "maliciously" shall impart an evil intent, wish or design to vex, annoy, or injure another person. Malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty. Malicious intent shall not be construed to mean the exercise of one's constitutional rights to picket, or to legally protest.

(Ord. 113697 § 2, 1987: Ord. 112333 § 2, 1985: Ord. 109674 § 11, 1981: Ord. 108814 § 2, 1980: Ord. 102843 § 12A.16.020, 1973.)

Cases: Petty larceny by embezzlement or otherwise, committed by stealth and unaccompanied by a public disturbance or physical violence, is not an offense defined or included in the general disorderly conduct ordinance of the City. **Seattle v. Alexander,** 79 Wn.2d 4, 483 P2d 119 (1971).

Defendant's offensive language did not create probable cause for arrest on disorderly conduct grounds. **State v. Montgomery,** 31 Wn.App. 745, 644 P2d 747 (1982).

12A.12.015Pedestrian interference.

A. The following definitions apply in this section:

1. "Aggressively beg" means to beg with the intent to intimidate another person into giving money or goods.

2. "Intimidate" means to engage in conduct which would make a reasonable person fearful or feel compelled.

3. "Beg" means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means.

4. "Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by a permit issued pursuant to the Street Use Ordinance, Chapters 15.02 through 15.50 of the Seattle Municipal Code, shall not constitute obstruction of pedestrian or vehicular traffic.

5. "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 those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

B. A person is guilty of pedestrian interference if, in a public place, he or she intentionally:

1. Obstructs pedestrian or vehicular traffic; or

2. Aggressively begs.

C. Pedestrian interference is a misdemeanor.

(Ord. 117104 § 1, 1994: Ord. 116897 § 1, 1993: Ord. 113697 § 1, 1987.)

Cases: Subsection B 1 was upheld as constitutional in a challenge based on breadth and vagueness and does not deny equal protection of the laws. **Seattle v. Webster**, 115 Wn.2d 635, 802 P.2d 1333 (1990).

12A.12.020Failure to disperse.

A. As used in subsection B of this section, "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. No such order shall apply to a news reporter or other person observing or recording the events on behalf of the public press or other news media, unless he is

physically obstructing lawful efforts by such officer to disperse the group.

B. A person is guilty of failure to disperse if:

1. He congregates with a group of four (4) 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

2. He refuses or intentionally fails to obey a public safety order to move, disperse or refrain from specified activities in the immediate vicinity.

(Ord. 102843 § 12A.16.040, 1973.)

Cases: An ordinance which made it unlawful for any person to wander or loiter abroad and fail to give a satisfactory account of himself upon the demand of a police officer was violative of due process of law, since it made no distinction between conduct calculated to harm and that which is essentially innocent. **Seattle v. Drew,** 70 Wn.2d 405, 423 P2d 522 (1967).

12A.12.030Disruption of school activities.

A. A person is guilty of disruption of school activities if he comes into or remains in any school building, classroom, or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful reason, and intentionally causes substantial disruption of the activities of the school.

B. As used in this section "school" has its ordinary meaning and also includes, universities, colleges, community colleges, and institutions of higher education.

(Ord. 102843 § 12A.16.060, 1973.)

12A.12.040Disorderly conduct on buses.

A. A person is guilty of disorderly bus conduct if while on or in a municipal transit vehicle, as defined in RCW 46.04.355, or in or at an underground municipal transit station, and with knowledge that such conduct is prohibited, he or she:

1. Smokes or carries a lighted or smoldering pipe, cigar, or cigarette; or

2. Discards litter other than in designated receptacles; or

3. Plays any radio, recorder, or other sound producing or reproducing equipment except that nothing herein shall prohibit the use of such equipment when connected to earphones that limit the sound to individual listeners or the use of a communication device by an employee of the owner or operator of the municipal transit vehicle or private communication devices used to summon or notify individuals ("beepers"); or

4. Spits or expectorates; or

5. Carries any flammable or combustible liquid, explosive, acid, or other article or material in a manner that is likely to cause harm to others, except that nothing herein shall prevent a person from carrying a cigarette lighter, cigar lighter, or pipe lighter, or carrying a firearm or ammunition in a way that is not otherwise prohibited by law; or

6. Unreasonably disturbs others by engaging in loud or raucous behavior.

B. As used in this section, "municipal transit station" means all facilities, structures, lands, interest in lands, air rights over lands, and rights-of-way of all kinds that are owned, leased, held, or used by public agency for the purpose of providing public transportation.

C. Disorderly bus conduct is a misdemeanor.

(Ord. 116872 § 10, 1993; Ord. 111860 § 7, 1984.)

Cases: Subsection F was upheld as constitutional in a challenge based on breadth and vagueness. **Seattle v. Eze**, 111 Wn.2d 22, 759 P.2d 366 (1988). Subsection F was renumbered to be subsection A6 by Ordinance 116872.

An earlier ordinance prohibiting topless dancing and table service at cabarets and taverns was upheld. **Seattle v. Hinkley**, 83 Wn.2d 205, 517 P.2d 592 (1973). An earlier ordinance prohibiting "any lewd act or behavior exposed to public view" was upheld. **Seattle v. Marshall**, 83 Wn.2d 665, 521 P.2d 693 (1974).

Chapter 12A.14
WEAPONS CONTROL[1]

Sections:

Severability: The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the

validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.
(Ord. 112103 § 9, 1985.)

Statutory Reference: For statutory provisions regarding firearms and dangerous weapons, see RCW Ch. 9.41.

1.Cross-reference: For provisions regarding the use of weapons in City parks, see Chapter 18.12 of this Code.

12A.14.010Definitions.

The following definitions apply in this chapter:

A. "Dangerous knife" means any fixed-blade knife and any other knife having a blade more than three and one-half inches (3½″) in length.

B. "Fixed-blade knife" means any knife, regardless of blade length, with a blade which is permanently open and does not fold, retract or slide into the handle of the knife, and includes any dagger, sword, bayonet, bolo knife, hatchet, axe, straight-edged razor, or razor blade not in a package, dispenser or shaving appliance.

C. "Firearm" means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

D. "Personal protection spray device" means a commercially available dispensing device designed and intended for use in self-defense and containing a nonlethal sternutator or lacrimator agent, including but not limited to:

1. Tear gas, the active ingredient of which is either chloracetophenone (CN) or O-chlorobenzylidene malonotrile (CS); or

2. Other agent commonly known as mace, pepper mace, or pepper gas.

E. "Switchblade knife" means any knife having a blade that opens automatically by hand pressure applied to a button, spring mechanism, or other device, or a blade that opens, falls or is ejected into position by force of gravity or by an outward, downward, or centrifugal thrust or movement.

(Ord. 117157 § 2, 1994: Ord. 116872 § 11, 1993: Ord. 113547 § 1, 1987: Ord. 112103 § 1, 1985: Ord. 110785 § 1, 1982: Ord. 110462 § 1, 1982: Ord. 103472 § 1, 1974: Ord. 102843 § 12A.17.010, 1973.)

12A.14.071Discharge of a firearm.

A person is guilty of discharge of a firearm if he or she discharges a firearm in a place where there is a reasonable likelihood that humans, domestic animals or property will be jeopardized.

(Ord. 117157 § 3, 1994.)

12A.14.075Unlawful use of weapons to intimidate another.

A. A person is guilty of unlawful use of weapons to intimidate another if he or she carries,

exhibits, displays or draws a dangerous knife, any knife with a blade that is open for use or a deadly weapon other than a firearm in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another person or warrants alarm for the safety of other persons.

B. Subsection A of this section shall not apply to or affect the following:

1. Any person who by virtue of his or her office or public employment is vested by law with a duty to preserve public safety, maintain public order, or make arrests for offenses, while in the performance of such duty;

2. Any person acting for the purpose of protecting himself or herself against the use of presently threatened unlawful force by another, or for the purpose of protecting another against the use of presently threatened unlawful force by a third person;

3. Any person making or assisting in making a lawful arrest for the commission of a felony; or

4. Any person engaged in military activities sponsored by the federal or state governments.

C. A person convicted of unlawful use of weapons to intimidate another shall lose his or her concealed pistol license, if any, and the court shall send notice of the conviction to the Washington State Department of Licensing and the city, town or county which issued the license.

(Ord. 117157 § 4, 1994: Ord. 113547 § 2, 1987: Ord. 110179 § 1, 1981.)

Cases: Ordinance making it unlawful to intimidate another person with a dangerous knife or deadly weapon was not unconstitutionally vague on its face. **State v. Maciolek,** 101 Wn.2d 259, 676 P2d 996 (1984).

Subsection A was upheld as constitutional in a challenge based on vagueness. **State v. Thompson**, 101 Wn.2nd 259, 676 P.2d 996 (1984).

12A.14.080Unlawful use of weapons.

It is unlawful for a person knowingly to:

A. Sell, manufacture, purchase, possess or carry any blackjack, sand-club, metal knuckles, switchblade knife, chako sticks, or throwing stars; or

B. Carry concealed or unconcealed on his or her person any dangerous knife, or carry concealed on his or her person any deadly weapon other than a firearm; or

C. Possess a firearm in any stadium or convention center operated by a city, county or other municipality, except that such restriction shall not apply to:

1. Any pistol in the possession of a person licensed under RCW 9.41.070 or exempt from the licensing requirement by RCW 9.41.060, or

2. Any showing, demonstration or lecture involving the exhibition of firearms.

D. Sell or give away to any person under eighteen (18) years of age any dangerous knife or deadly weapon other than a firearm, or for any person under eighteen (18) years of age to purchase any dangerous knife or deadly weapon other than a firearm, or for any person under eighteen (18) years of age to possess any dangerous knife or deadly weapon other than a firearm except when under the direct supervision of an adult.

(Ord. 117157 § 5, 1994: Ord. 116872 § 14, 1993: Ord. 113547 § 3, 1987: Ord. 110785 § 2, 1982: Ord. 110462 § 2, 1982: Ord. 110179 § 2, 1981: Ord. 109674 § 12, 1981: Ord. 108814 § 3, 1980: Ord. 102843 § 12A.17.140, 1973.)

Subsection B regulating the carrying of certain knives is a reasonable restriction of the right to bear arms. **Seattle v. Riggins**, 63 Wn.Ap.313, 818 P.2d 1100 (1991).

A citation as "carrying a concealed weapon" with the code section number is sufficient to charge a violation of SMC 12A.14.080 B. **Seattle v. Hall**, 60 Wn.App. 645, 806 P.2d 1246 (1991).

The prohibition of knowing possessing of chako sticks does not conflict with state law and is not preempted by the state Juvenile Justice Act. **State v. Rabon**, 45 Wn.App. 832, 727 P.2d 995 (1986).

12A.14.081Possession or delivery of a personal protection spray device.

A. For purposes of this section, "deliver" means the actual, constructive or attempted transferring from one (1) person to another.

B. It is unlawful for a person under eighteen (18) years old, unless the person is at least fourteen (14) years old and has the permission of a parent or guardian to do so, to purchase or possess a personal protection spray device.

C. It is unlawful for a person to deliver a personal protection spray device to a person not authorized by this section to purchase or possess such a device.

D. It is unlawful for a person under eighteen (18) years of age to deliver a personal protection spray device.

E. Unlawful possession of a personal protection spray device is a misdemeanor. Unlawful

delivery of a personal protection spray device is a misdemeanor.
(Ord. 117157 § 6, 1994.)

12A.14.083Weapons in public places.

It is unlawful to carry or shoot any spring gun, air gun, sling or slingshot, in, upon, or onto any public place.
(Ord. 117569 § 123, 1995: Ord. 90047 § 42, 1961.)

12A.14.100Exemptions—Dangerous knives.

The proscriptions of Section 12A.14.080 B relating to dangerous knives shall not apply to:

A. A licensed hunter or licensed fisherman actively engaged in hunting and fishing activity including education and travel related thereto; or

B. Any person immediately engaged in an activity related to a lawful occupation which commonly requires the use of such knife, provided such knife is carried unconcealed; provided further that a dangerous knife carried openly in a sheath suspended from the waist of the person is not concealed within the meaning of this subsection;

C. Any person carrying such knife in a secure wrapper or in a tool box while traveling from the place of purchase, from or to a place of repair, or from or to such person's home or place of business, or in moving from one (1) place of abode or business to another, or while in such person's place of abode or fixed place of business.
(Ord. 113547 § 4, 1987: Ord. 109674 § 13(part), 1981: Ord. 108814 § 4(part), 1980: Ord. 108309 § 1(part), 1979: Ord. 108191 § 1(part), 1979: Ord. 102843 § 12A.17.160(2), 1973.)

12A.14.120Exemptions—Chako sticks or throwing stars.

Section 12A.14.080 A relating to chako sticks or throwing stars shall not apply to or affect regularly enrolled members of clubs and associations organized for the practice, instruction or demonstration of self-defense arts involving chako sticks or throwing stars while such members are at or are going to or from their place of residence, a practice session, an instruction session, a demonstration or a place of repair, or while such members are going from the place of purchase.
(Ord. 109674 § 13(part), 1981: Ord. 108814 § 4(part), 1980: Ord. 102843 § 12A.17.160(4), 1973.)

Chapter 12A.16
OFFENSES AGAINST GOVERNMENTAL ORDER

Sections:

Statutory Reference: For statutory provisions on obstructing governmental operations, see RCW Ch. 9A.76.

12A.16.010Obstructing a public officer.

A. A person is guilty of obstructing a public officer if, with knowledge that the person obstructed is a public officer, he or she:

1. Intentionally and physically interferes with a public officer; or

2. Intentionally hinders or delays a public officer by disobeying an order to stop given by such officer; or

3. Intentionally refuses to cease an activity or behavior that creates a risk of injury to any person when ordered to do so by a public officer; or

4. Intentionally destroys, conceals or alters or attempts to destroy, conceal or alter any material which he or she knows the public officer is attempting to obtain, secure or preserve during an investigation, search or arrest; or

5. Intentionally refuses to leave the scene of an investigation of a crime while an investigation is in progress after being requested to leave by a public officer.

B. No person shall be convicted of violating this section if the Judge determines, with respect to the person charged with violating this section, that the public officer was not acting lawfully in a governmental function.

C. For purposes of this section, a "public officer" means those individuals responsible for the enforcement of the provisions of the Seattle Municipal Code, including provisions related to fire, building, zoning, and life and safety codes; those individuals empowered to make arrests for offenses under the Seattle Municipal Code; or those individuals responsible for the enforcement of the federal or state criminal laws.

D. Obstructing a public officer is a gross misdemeanor.

(Ord. 117158 § 2, 1994: Ord. 114635 § 8, 1989: Ord. 110701 § 1, 1982: Ord. 109674 § 14, 1981: Ord. 108814 § 10, 1980: Ord. 102843 § 12A.20.020, 1973.)

Cases: A motorist's action in forcibly retaking his operator's license from an officer after the officer admittedly had obtained all the information he needed from it, did not constitute resisting an officer in the discharge of his duty. **Seattle v. Nave,** 62 Wn.2d 446, 383 P2d 491 (1963).

The words "hinder" or "delay" are not unconstitutionally vague. **Seattle v. Arensmeyer**, 6 Wn.App. 116, 491 P.2d 1305 (1971).

In acting lawfully, an officer has not only the specific duty to enforce the law, but is also charged with the general duty and power to maintain the peace and quiet of the city. **Mike v. Tharp,** 21 Wn.App. 1, 5, (1978).

12A.16.020Hindering law enforcement.

A. As used in this section, "detention facility" means any place used for the confinement of a person:

1. Arrested for, charge with or convicted of a crime;

2. Charged with being or adjudicated to be a juvenile offender, as defined in RCW 13.40.020;

3. Held for extradition or as a material witness;

4. Otherwise confined pursuant to an order of a court, except an order under RCW Chapter 13.34 or RCW Chapter 13.32A; or

5. In any work release, furlough or other such facility or program.

B. As used in this section "relative" means a person who:

1. Is related as husband, wife, brother, sister, parent, grandparent, child, grandchild, stepchild or stepparent to the person of whom the

actor intends to prevent, hinder or delay the apprehension or prosecution; and

2. Does not hinder law enforcement in one (1) or more of the means defined in subsections C4, 5 or 6 of this section.

C. A person is guilty of hindering law enforcement if with, intent to prevent, hinder or delay the apprehension or prosecution of another person who he or she knows has committed a crime or juvenile offense, is being sought by law enforcement officials for the commission of a crime or juvenile offense or has escaped from a detention facility, he or she:

1. Harbors or conceals such person; or

2. Warns such person of impending discovery or of apprehension; or

3. Provides such person with money, transportation, disguise or other means of avoiding discovery or apprehension; or

4. Prevents or obstructs, by use of force or threat, a private person from performing an act that might aid in the discovery or apprehension of such person; or

5. Conceals, alters or destroys any physical evidence that might aid in the discovery or apprehension of such person; or

6. Provide such person with a weapon.

D. Except as provided by subsection E of this section, hindering law enforcement is a gross misdemeanor.

E. Hindering law enforcement is a misdemeanor if:

1. The person of whom the actor intends to prevent, hinder or delay the apprehension or prosecution has committed or is being sought for a class B felony, a class C felony, an equivalent juvenile offense or violation of parole, probation or community supervision and it is established by a preponderance of the evidence that the actor is a relative; or

2. The person of whom the actor intends to prevent, hinder or delay the apprehension or prosecution has committed a gross misdemeanor or a misdemeanor.

(Ord. 117156 § 3, 1994: Ord. 102843 § 12A.20.050, 1973.)

Cases: Defendant's bumping of store security officer for the purpose of helping a shoplifter escape constituted hindering law enforcement. **State v. Kirvin,** 37 Wn.App. 452, 682 P2d 919 (1984).

12A.16.030Escape.

A. "Official detention" means:

1. Restraint pursuant to a lawful arrest for an offense; or

2. Lawful confinement in the City Jail; or

3. Custody for purposes incident to the foregoing including but not necessarily limited to:

a. Transportation, or

b. Medical diagnosis or treatment, or

c. Court appearances, or

d. Work and recreation.

B. A person is guilty of escape if, without lawful authority, he intentionally removes himself from official detention or fails to return to official detention following temporary leave granted for a specified purpose or limited period.

(Ord. 102843 § 12A.20.080, 1973.)

12A.16.040False reporting.

A person is guilty of false reporting if he:

A. Initiates or circulates a written or oral report or warning of an alleged or impending occurrence of a fire, explosion, crime, catastrophe, or emergency knowing that such report contains false information and knowing that such report is likely to cause evacuation of a building, place of assembly, or transportation facility, or to cause substantial public inconvenience or alarm; or

B. Makes, files or causes to be filed with a public officer of the City a written report, statement, application, citation or complaint which he knows to contain a misstatement of a material fact; or

C. Makes a verbal statement relating to a crime, catastrophe, or emergency to a Seattle Police officer or a Seattle Police Department 911 emergency operator, knowing that such statement contains a misstatement of a material fact; or

D. Gives false identification to a Seattle Police officer when such officer is executing a search or arrest warrant, issuing a citation or making an arrest.

(Ord. 109674 § 15, 1981: Ord. 109674 § 15, 1981: Ord. 108814 § 5, 1980: Ord. 102843 § 12A.20.110, 1973.)

12A.16.050Resisting arrest.

A. A person is guilty of resisting arrest if he or she intentionally prevents or attempts to prevent a peace officer from lawfully arresting him or her.

B. Resisting arrest is a misdemeanor.

(Ord. 114635 § 9, 1989: Ord. 109674 § 16, 1981: Ord. 108814 § 8, 1980: Ord. 102843 § 12A.20.010, 1973.)

Cases: The term, "lawful arrest" does not make this section unconstitutionally vague. **Seattle v. Cadigan**, 55 Wn.App. 30, 776 P.2d 727 (1989).

12A.16.060Unlawful interference with a police dog or horse.

A. "Police dog" or "police horse" means any dog or horse used or kept for use by a peace officer in discharging any legal duty or power of his or her office.

B. A person commits the crime of unlawful interference with a police dog or horse if, acting without the permission of the police department or other agency or person owning the police dog or horse, he or she intentionally:

1. Injures or kills any police horse; or

2. Provokes with the intent to cause fear or anger, physically mistreats, or attempts to injure any police dog or horse.

(Ord. 113479 § 1, 1987: Ord. 109674 § 17, 1981: Ord. 109190 § 1, 1980: Ord. 102843 § 12A.20.070, 1973.)

Severability: If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of Section 12A.16.060, or application thereof to any person or circumstance, is held invalid by any court of competent jurisdiction, such decision shall not affect the validity, applicability, or effectiveness of the remaining portions of Section 12A.16.060, and to this end the provisions of Section 12A.16.060 are declared to be severable.
(Ord. 109190 § 2, 1980.)

Chapter 12A.18
OFFENSES BY OR AGAINST JUVENILES[1]

Sections:

1.Cross-reference: For provisions regarding furnishing liquor to persons under twenty-one (21) years of age, see Chapter 12A.24 of this Code.

12A.18.010Definitions.

The following definitions apply in this chapter:

A. "Abused child" means a physically or sexually mistreated child as defined in RCW Chapter 26.44.

B. "Child" means a person who is under the chronological age of eighteen (18).

C. "Delinquent act" means an act committed by a child which would be designated a crime if committed by an adult.

D. "Dependent child" means a child who is:

1. Neglected, as defined in subsection E of this section; or

2. Abused as defined in subsection A of this section.

E. "Neglected child" means a child who is:

1. Without a parent or legal guardian, or legal custodian or who has been abandoned by such; or

2. In a situation of clear and present danger of suffering substantial damage to his physical or mental health; or

3. A runaway from his home or a fugitive from his parent or guardian.

(Ord. 103993 § 1, 1974: Ord. 102843 § 12A.24.010, 1973.)

12A.18.020Contributing to dependency.

A person is guilty of contributing to the dependency of a child if, by act or omission, he knowingly contributes to a child's becoming or causes a child to become a dependent child.

(Ord. 103993 § 2(part), 1974: Ord. 102843 § 12A.24.020, 1973.)

Cases: This section does not conflict with state law and is not pre-empted by state legislation. **Seattle v. Shin**, 50 Wn.App. 218, 748 P.2d 643 (1988).

12A.18.030Contributing to delinquency.

A person is guilty of contributing to the delinquency of a child if, by act or omission, he knowingly causes or encourages a child to commit or otherwise contributes to a child's commission of a delinquent act.

(Ord. 103993 § 2(part), 1974: Ord. 102843 § 12A.24.030, 1973.)

12A.18.070Knowledge of age not element of offense.

In any prosecution under this chapter and notwithstanding any other provision hereof, it is not a defense that the actor reasonably believed that the other person was eighteen (18) years of age or older.

(Ord. 103993 § 2(part), 1974: Ord. 102843 § 12A.24.070, 1973.)

12A.18.080Leaving child unattended.

Every person having the care and custody, whether temporary or permanent, of a minor child or children under the age of twelve (12) years, who shall leave such child or children in a parked automobile unattended by an adult while such person enters a tavern or other premises where vinous, spirituous, or malt liquors are dispensed for consumption on the premises shall be guilty of a crime, and upon conviction thereof, shall be punished as provided in Section 12A.02.070.

(Ord. 113549 § 2, 1987.)

Chapter 12A.20
CONTROLLED SUBSTANCES

Sections:

Statutory Reference: For the Uniform Controlled Substances Act, see RCW Ch. 69.50.

Cases: An ordinance prohibiting possession of controlled substance is not unconstitutional because state law also prohibits it and state law has a greater penalty. **State v. King**, 9 Wn.App. 389, 512 P.2d 771 (1973).

12A.20.050Drug-traffic loitering.[1]

A. As used in this section:

1. "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW, or the equivalent provisions of any federal statute, state statute or ordinance of any political subdivision of this state, and includes a verdict of guilty, a finding of guilty and an acceptance of a plea of guilty.

2. "Drug paraphernalia" means drug paraphernalia as the term is defined in the Uniform Controlled Substance Act, RCW 69.50.102, excluding, however, items obtained from or exchanged at any needle exchange program sponsored by the Seattle-King County Health Department, and hypodermic syringes or needles in the possession of a confirmed diabetic or a person directed by his or her physician to use such items.

3. "Illegal drug activity" means unlawful conduct contrary to any provision of RCW Chapter 69.41, 69.50 or 69.52, or the equivalent federal statute, state statute, or ordinance of any political subdivision of this state.

4. "Known drug trafficker" means a person who has, within the knowledge of the arresting officer, been convicted within the last two years in any court of any felony illegal drug activity.

5. "Public place" is an area generally visible to public view and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, transit stations, shelters and tunnels, automobiles visible to public view (whether moving or not), and buildings, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

B. A person is guilty of drug-traffic loitering if he or she remains in a public place and intentionally solicits, induces, entices, or procures another to engage in unlawful conduct contrary to Chapter 69.50, Chapter 69.41, or Chapter 69.52, Revised Code of Washington.

C. The following circumstances do not by themselves constitute the crime of drug-traffic loitering. Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct are that he or she:

1. Is seen by the officer to be in possession of drug paraphernalia; or

2. Is a known drug trafficker (provided, however, that being a known drug trafficker, by itself, does not constitute the crime of drug-traffic loitering); or

3. Repeatedly beckons to, stops or attempts to stop passersby, or engages passersby in conversation; or

4. Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture; or

5. Circles an area in a motor vehicle and repeatedly beckons to, contacts, or attempts to stop pedestrians; or

6. Is the subject of any court order, which directs the person to stay out of any specified area as a condition of release from custody, a condition of probation or parole or other supervision or any court order, in a criminal or civil case involving illegal drug activity; or

7. Has been evicted as the result of his or her illegal drug activity and ordered to stay out of a specified area affected by drug-related activity.

D. No person may be arrested for drug-traffic loitering unless probable cause exists to believe that he or she has remained in a public place and has intentionally solicited, induced, enticed or procured another to engage in unlawful conduct contrary to Chapter 69.50, Chapter 69.41, or Chapter 69.52 Revised Code of Washington.

E. A person convicted of drug-traffic loitering shall be guilty of a gross misdemeanor and punished in accordance with SMC Chapter 12A.02.

F. During each of the two (2) years following enactment of the ordinance codified in this section,[2] the Mayor of Seattle and the Chief of Police, jointly, shall conduct at least one (1) public hearing a year to ascertain the effectiveness of said ordinance in reducing drug trafficking and its attendant criminal behavior and to assure that this section is being enforced without regard to race, color, ancestry, national origin, sex, sexual orientation or disability. Within one (1) month after each hearing the Mayor and the Chief of Police shall issue a report to the City Council summarizing the testimony at the hearing. In their report, the Mayor and Chief of Police shall also inform the Council of any changes they deem advisable.

(Ord. 116307 §§ 1, 2, 1992)

1.Editor's Note: Section 1 of Ord. 116242, passed by the City Council on June 29, 1992, concerning prosecutions under Ord. 115171, reads as follows: The expiration or repeal of Ordinance 115171 shall not affect the validity of any prosecution under that ordinance for unlawful conduct committed prior to the date of the expiration or repeal of that ordinance, and such prosecution may proceed as though Ordinance 115171 had remained in effect. Ordinance 115171 expired August 5, 1992.

2.Editor's Note: Ordinance 116307 was passed by the Council on August 17, 1992 and signed by the Mayor on August 21, 1992.

Chapter 12A.22
GAMBLING OFFENSES

Sections:

Statutory Reference: For statutory provisions on gambling, see RCW Ch. 9.46.

Severability: The provisions of Sections 12A.22.010 through 12A.22.070 are declared to be separate and severable and the invalidity of any clause, sentence, paragraph or part of said sections, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of said sections or the validity of its application to other person or circumstances.
(Ord. 107246 § 3, 1978.)

12A.22.010Definitions.

For purposes of Sections 12A.22.020 through 12A.22.070, the following terms shall have the following meanings:

A. A person engages in "gambling" if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include fishing derbies as defined by RCW Chapter 9.46, parimutuel betting as authorized by RCW Chapter 67.16, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health, or accident insurance. In addition, a contest of chance which is specifically excluded from the definition of lottery under subsection (14) of RCW 9.46.020 shall not constitute gambling.

B. "Gambling information" means any wager made in the course of, and any information intended to be used for, professional gambling. In the application of this definition, information as to wagers, betting odds and changes in betting odds shall be presumed to be intended for use in professional gambling; provided, however, that this subsection shall not apply to newspapers of general circulation or commercial radio and television stations licensed by the Federal Communications Commission.

C. "Gambling record" means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

D. "Player" means a natural person who engages, on equal terms with other participants, and

solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gambling activity. A natural person who gambles at a social game of chance on equal terms with other participants therein does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor, and supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in RCW 9.46.020(4) is not a "player."

E. A person is engaged in "professional gambling" when:

1. Acting other than as a player or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly engages in conduct which materially aids any other form of gambling activity; or

2. Acting other than as a player, or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity;

3. He engages in bookmaking as defined in RCW 9.46.020(4);

4. He conducts a lottery as defined in RCW 9.46.020(14).

Conduct under subparagraph 1, except as exempted under RCW 9.46.030 as now or hereafter amended, includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. If a person having substantial proprietary or other authoritative control over any premises shall permit the premises to be used with the person's knowledge for the purpose of conducting gambling activity other than gambling activities as set forth in RCW 9.46.030 as now or hereafter amended, and acting other than as a player, and said person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, he shall be considered as being engaged in professional gambling; provided, that the proprietor of a bowling establishment who awards prizes obtained from player contributions, to players successfully knocking down pins upon the contingency of identifiable pins being placed in a specified position or combination of positions, as designated by the posted rules of the bowling establishment, where the proprietor does not participate in the proceeds of the "prize fund" shall not be construed to be engaging in "professional gambling" within the meaning of this chapter: provided, further, that the books and records of the games shall be open to public inspection.

G. "Social card game" means a card game, including but not limited to the game commonly known as "Mah-Jongg," which constitutes gambling and contains each of the following characteristics :

1. There are two (2) or more participants and each of them are players; and

2. A player's success at winning money or other thing of value by overcoming chance is in the long run largely determined by the skill of the player; and

3. No organization, corporation or person collects or obtains or charges any percentage of or collects or obtains any portion of the money or thing of value wagered or won by any of the players; provided, that this subsection 3 shall not preclude a player from collecting or obtaining his winnings; and

4. No organization or corporation, or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him to play or results in or from his playing; provided, that this

subsection 4 shall not apply to the membership fee in any bona fide charitable or nonprofit organization or to an admission fee allowed by the State Gambling Commission pursuant to RCW 9.46.070; and

5. The type of card game is one specifically approved by the State Gambling Commission pursuant to RCW 9.46.070; and

6. The extent of wagers, money or other thing of value which may be wagered or contributed by any player does not exceed the amount or value specified by the State Gambling Commission pursuant to RCW 9.46.070.

(Ord. 115916 § 1(part), 1991; Ord. 107246 § 1(part), 1978: Ord. 102843 § 12A.36.050, 1973.)

12A.22.020Causing, aiding or abetting violation.

Any person who knowingly causes, aids, abets or conspires with another to cause any person to violate any rule or regulation adopted pursuant to RCW Chapter 9.46 shall be guilty of a crime, and in accordance with RCW 9.46.192 shall upon conviction thereof be punished by imprisonment in the City Jail for not more than one (1) year or by a fine not more than Five Thousand Dollars ($5,000.00), or both.

(Ord. 107246 § 1(part), 1978: Ord. 102843 § 12A.36.053, 1973.)

12A.22.030Deceptive or misleading act or practice—Operation of gambling activity.

Any person or association or organization operating any gambling activity, who or which, directly or indirectly, shall in the course of such operation:

A. Employ any device, scheme, or artifice to defraud; or

B. Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which the statement is made; or

C. Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person; shall be guilty of a crime, and in accordance with RCW 9.46.192 shall upon conviction thereof be punished by imprisonment in the City Jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars ($5,000.00), or both.

(Ord. 107246 § 1(part), 1978: Ord. 102843 § 12A.36.055, 1973.)

12A.22.040Deceptive or misleading act or practice—Participation in gambling activity.

Any person participating in a gambling activity, who shall in the course of such participation, directly or indirectly:

A. Employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator;

B. Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or any operator;

C. Engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or

D. Cause, aid, abet or conspire with another person to cause any other person to violate subsections A through C of this section; shall be guilty of a crime and in accordance with RCW 9.46.192 upon conviction thereof shall be punished by imprisonment in the City Jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars ($5,000.00), or both.

(Ord. 107246 § 1(part), 1978: Ord. 102843 § 12A.36.058, 1973.)

12A.22.050Gambling without license.

Any person who works as an employee or agent or in a similar capacity for another person in connection with the operation of an activity for which a license is required under RCW Chapter 9.46 or by State Gambling Commission rule without having obtained the applicable license required by the Commission under RCW 9.46.070(16) shall be guilty of a crime and in accordance with RCW 9.46.192 shall upon conviction thereof be punished by imprisonment in the City Jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars ($5,000.00) or both.

(Ord. 107246 § 1(part), 1978: Ord. 102843 § 12A.36.060, 1973.)

12A.22.060Gambling records.

Whoever knowingly prints, makes, possesses, stores, or transports any gambling record, or buys, sells, offers, or solicits any interest therein,

whether through an agent or employee or otherwise shall be guilty of a crime, and in accordance with RCW 9.46.192 shall upon conviction thereof, be punished by imprisonment in the City Jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars ($5,000.00) or both; provided, however, that this section shall not apply to records relating to and kept for activities enumerated in RCW 9.46.030, as now or hereafter amended when the records are of the type and kind traditionally and usually employed in connection with the particular activity, nor shall this section apply to any act or acts in furtherance of such activities when conducted in compliance with the provisions of RCW Chapter 9.46 and in accordance with the rules and regulations adopted pursuant thereto. In the enforcement of this section direct possession of any gambling record shall be presumed to be knowing possession thereof.
(Ord. 107246 § 1(part), 1978: Ord. 102843 § 12A.36.063, 1973.)

12A.22.070Gambling information.

Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a crime, and in accordance with RCW 9.46.192 shall upon conviction thereof be punished by imprisonment in the City Jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars ($5,000.00) or both; provided, however, that this section shall not apply to such information transmitted or received or equipment installed or maintained relating to activities as enumerated in RCW 9.46.030 or to any act or acts in furtherance thereof when conducted in compliance with the provisions of RCW Chapter 9.46 and in accordance with the rules and regulations adopted pursuant thereto.
(Ord. 107246 § 1(part), 1978: Ord. 102843 § 12A.36.065, 1973.)

12A.22.090Bunco or swindling games or devices.

It is unlawful for anyone to engage in any bunco or swindling games or to operate or possess any device for swindling or defrauding others.
(Ord. 104049 § 1, 1974: Ord. 102843 § 12A.36.040, 1973.)

12A.22.100Gambling prohibited—Exceptions.

A. Except as authorized by or pursuant to RCW Chapter 9.46, as amended, it is unlawful for any person or persons to play at, wager anything of value upon, or in any manner take part in or carry on, or cause to be opened, or to conduct, set up, keep or exhibit any gaming table or game whatever for the purpose of gambling, or any game of chance for the winning or securing of money by chance, played with cards, dice or any device of whatever kind or nature, whether or not of the kind or character herein mentioned, for money, checks, credits or any representative of value whatever, or to have in his possession to be used for the purpose of gambling or winning money by chance, any gaming device whatever; provided, that nothing in this section shall apply to any game or gambling activity in which all of the participants are players as defined in this section, and which is conducted or played in the dwelling or other place of residence of one of the players.

B. The term "player" as used in this section means a natural person who engages in a casual or personal fashion and not as a business, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which, or in connection with which, no person receives or may receive or become entitled to receive any profit, fee or remuneration therefrom other than personal gambling winnings.
(Ord. 104049 § 2, 1974: Ord. 102843 § 12A.36.080, 1973.)

12A.22.110Public cardrooms prohibited.

It is unlawful for any person to conduct a public cardroom in the City.
(Ord. 102843 § 12A.36.180, 1973.)

Chapter 12A.24
LIQUOR OFFENSES

Sections:

Statutory Reference: For statutory provisions on alcoholic beverages, see RCW Title 66.

12A.24.010 Definitions.

For the purposes of this chapter, and unless the context otherwise requires:

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

B. "Beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of hops, or extract hops and barley malt or other grain or cereal in water, including ale, stout and porter, containing one-half (1/2) of one percent (1%) or more of alcohol by volume.

C. "Liquor" includes the four (4) varieties of liquor defined in this section (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or any combination or mixture thereof containing one-half (1/2) of one percent (1%), or more, of alcohol by volume.

D. "Manufacture" means the production or preparation of liquor for sale.

E. "Person" means an individual, copartnership, association or corporation.

F. "Spirits" means any beverage obtained by distillation which contains one-half (1/2) of one percent (1%), or more, of alcohol by volume.

G. "Wine" means any alcoholic beverage obtained by fermentation of fruits or other agricultural products containing sugar, or any such beverage to which any saccharine substance may have been added before, during or after fermentation, or any such beverage to which may have been added any spirits, wine spirits or alcohol, which contains one-half (1/2) of one percent (1%), or more, of alcohol by volume.

(Ord. 102843 § 12A.40.010, 1973.)

12A.24.020 Disposition of liquor.

It is unlawful to manufacture, sell, possess, consume, give away, use or otherwise dispose of any liquor as defined in this chapter or in the Washington State Liquor Act (Chapter 62, Laws of 1933, Extraordinary Session) except as authorized or permitted by state law.

(Ord. 102843 § 12A.40.020, 1973.)

Cases: Conviction sustained: **Seattle v. Schaffer**, 71 Wn.2d 600, 430 P.2d 183 (1967).

12A.24.025 Unlawful consuming of liquor, opening a container of liquor, or possessing an open container of liquor, each in a public place.

A. Except as specifically permitted under Title 66 RCW, no person shall:

1. Open a bottle, can or other receptacle containing liquor in a public place;

2. Possess an open bottle, can or other receptacle containing liquor in a public place; or

3. Consume liquor in a public place.

(Seattle 3-94)

B. "Public place," as used in this section, means and includes any street or alley in the City, or state or county highway or road; any building or grounds used for school purposes; any public dance hall or grounds adjacent thereto; any part of an establishment where beer may be sold under Title 66 RCW, soft-drink establishment, public building, public meeting hall, lobby, hall, or dining room of any hotel, restaurant, theater, store, garage or filling station which is open to and is generally used by the public and to which the public is permitted to have unrestricted access; any railroad train, stage or other public conveyance of any kind or character, and any depot or waiting room used in conjunction therewith that is open to unrestricted use and access by the public; any publicly owned bathing beach, park or playground; and any other place of like or similar nature to which the general public has unrestricted right of access, and that is generally used by the public; but shall not mean or include any park under the control of the State Parks and Recreation Commission or any park or picnic area adjacent to and held by the same ownership as a licensed brewer or domestic winery for the consumption of beer or wine produced by the respective brewery or winery, as prescribed by regulations adopted by the Washington State Liquor Control Board.

C. Except as provided in subsection D of this section, any person who violates this section is guilty of a misdemeanor and shall be punished by a fine not to exceed One Hundred Dollars ($100.00).

D. Any person who violates this section and twice previously has either violated this section or failed to appear as directed when served with a citation and notice to appear for a violation of this section is guilty of a misdemeanor and shall be punished by imprisonment for not more than ninety (90) days or by a fine of not more than One Thousand Dollars ($1,000.00), or by both such imprisonment and fine.

(Ord. 117156 § 4, 1994: Ord. 116896 § 2, 1993: Ord. 113566 § 1, 1987.)

Severability: The provisions of the ordinance codified in Section 12A.24.025 are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of said ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

(Ord. 116896 § 3, 1993: Ord. 113566 § 2, 1987.)

12A.24.030 Possession of liquor at Seattle Center prohibited.

Except as authorized or permitted by or pursuant to state law, it is unlawful to carry in or possess any liquor upon any premises or in any building at the Seattle Center which the Seattle Center Director shall designate by rule, and pursuant thereto cause to be conspicuously posted at each entrance of such premises or building, notice of the provisions of this section.

(Ord. 103539 § 2, 1974: Ord. 102843 § 12A.40.030, 1973.)

12A.24.040 Hours of closing.

It is unlawful for the owner, manager, operator or employee of any "club," to permit any member, patron or other person to consume, in any room which is not a place of residence therein, "spirituous liquor" as said quoted terms are defined in Initiative Measure No. 171 (Ch. 5 Laws of 1949, RCW 66.24.410) between two a.m. (2:00 a.m.) on Sunday and twelve noon on Sunday nor between twelve midnight on Sunday and six a.m. (6:00 a.m.) Monday; nor upon any other week day between two a.m. (2:00 a.m.) and six a.m. (6:00 a.m.), unless permitted by the Rules and Regulations of the State Liquor Control Board.

(Ord. 102843 § 12A.40.040, 1973.)

12A.24.050 Frequenting places where liquor unlawfully kept or disposed of.

A person is guilty of frequenting a place where liquor is unlawfully kept or disposed of if he frequents or is found in any place where intoxicating liquors are being kept or disposed of in violation of any provision of this chapter or the Washington State Liquor Act, and he has knowledge of the facts constituting the violation.

(Ord. 111083, 1983: Ord. 110856 § 1, 1982: Ord. 102843 § 12A.40.060, 1973.)

12A.24.060 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, exemption, provision, excuse or qualification, whether it occurs by way of proviso, or in the description of the offense in this chapter, or in the Washington State Liquor Act, may be proved by

the defendant but need not be specified or negatived.
(Ord. 102843 § 12A.40.080, 1973.)

12A.24.070Pleading particulars of offense.

In describing any offense respecting the manufacture, sale, possession, consumption, gift, use or other disposal of any liquor, in any complaint, summons, conviction, 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 used or consumed, or from whom it was purchased or received, and shall not be necessary to state the quantity of liquor so sold, possessed, used, consumed, given away or otherwise disposed of, except in cases of offenses where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity.
(Ord. 102843 § 12A.40.100, 1973.)

12A.24.080Unlawful furnishing of liquor.

A person is guilty of unlawfully furnishing liquor if he knowingly gives, supplies or furnishes liquor to a person under the age of twenty-one (21) years or permits any person under that age to consume liquor on his premises or on any premises under his control except in the case of liquor given or permitted to be given to a person under the age of twenty-one (21) years by his parent or guardian or administered to him by his physician or dentist for medicinal purposes or used in connection with religious services.
(Ord. 103993 § 3(part), 1974: Ord. 102843 § 12A.40.120, 1973.)

12A.24.090Unlawful sale of liquor.

A person is guilty of unlawful sale of liquor if he knowingly sells or attempts to sell any liquor to any person under the age of twenty-one (21) years.
(Ord. 103993 § 3(part), 1974: Ord. 102843 § 12A.40.140, 1973.)

12A.24.100Unlawful possession, consumption, acquisition or purchase of liquor by a minor.

A. It is unlawful for any person under the age of twenty-one (21) years to possess, consume or otherwise acquire liquor.

B. Subsection A of this section shall not apply to:

1. Liquor given or permitted to be given to a person under the age of twenty-one (21) years by a parent or guardian and consumed in the presence of the parent or guardian;

2. Liquor given for medicinal purposes to a person under the age of twenty-one (21) years by a parent, guardian, physician or dentist;

3. Liquor given to a person under the age of twenty-one (21) years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

C. It is unlawful for any person under the age of twenty-one (21) years to purchase or attempt to purchase liquor. A person between the ages of eighteen (18) and twenty (20) years, inclusive, who violates this subsection is guilty of a misdemeanor and shall be punished by imprisonment for not more than ninety (90) days or by a fine of not more than One Thousand Dollars ($1,000.00) or by both such imprisonment and fine; provided, however, that a minimum fine of Two Hundred Fifty Dollars ($250.00) shall be imposed and any sentence requiring community service shall require not fewer than twenty-five (25) hours of such service.
(Ord. 116897 § 2, 1993: Ord. 103993 § 3(part), 1974: Ord. 102843 § 12A.40.160, 1973.)

12A.24.110Unlawful frequenting of tavern.

A person is guilty of unlawfully frequenting a tavern if, except as provided for by RCW Chapter 66.44, he is a person under the age of twenty-one (21) years and knowingly enters or remains on the premises of any tavern as defined by the Washington State Liquor Control Board; a person is guilty of permitting unlawful frequenting of a tavern if, except as provided for by RCW Chapter 66.44, he knowingly serves or allows any person under the age of twenty-one (21) years to remain on the premises of any tavern.

(Ord. 103993 § 3(part), 1974: Ord. 102843 § 12A.40.180, 1973.)

12A.24.120Unlawful treating on premises of a liquor establishment.

A person is guilty of unlawfully treating on premises of a liquor establishment if he knowingly invites a person under the age of twenty-one (21) years into a public place where liquor is sold and treats, gives or purchases liquor for such person or holds out such person to be twenty-one (21) years of age or over to the owner of such liquor establishment.
(Ord. 103993 § 3(part), 1974: Ord. 102843 § 12A.40.200, 1973.)

12A.24.130Unlawful transfer and use of identification.

A person is guilty of unlawful transfer of identification if he knowingly transfers any identification of age to a person under the age of twenty-one (21) years for the purpose of permitting such person to obtain liquor and a person is guilty of unlawful use of such identification if he is under the age of twenty-one (21) years and uses such an identification or otherwise makes false representations of his age for the purpose of obtaining liquor.
(Ord. 103993 § 3(part), 1974: Ord. 102843 § 12A.40.220, 1973.)

12A.24.140Knowledge of age not element of offense.

In any prosecution under this chapter and notwithstanding any other provision hereof, it is not a defense that the actor reasonably believed that the other person was twenty-one (21) years of age or older.
(Ord. 103993 § 3(part), 1974: Ord. 102843 § 12A.40.240, 1973.)

12A.24.150Classification and penalty.

A. An offense under Sections 12A.24.050, 12A.24.110, 12A.24.120, or 12A.24.130 is designated a violation and punishment therefor shall be as provided in Section 12A.02.080.

B. Except as otherwise provided in this chapter, any person who violates any provision of this chapter shall be punished, upon the first such conviction, by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than two (2) months or by both such fine and imprisonment, upon a second such conviction, by imprisonment for not more than six (6) months and, upon a third or subsequent such conviction, by imprisonment for not more than one (1) year. If the person convicted is a corporation, it shall be punished by a fine of not more than Five Thousand Dollars ($5,000.00).
(Ord. 115897 § 3, 1993: Ord. 110856 § 2, 1982: Ord. 103993 § 3(part), 1974: Ord. 102843 § 12A.40.260, 1973.)

Chapter 12A.26
MAYOR'S EMERGENCY POWERS[1]

Sections:

1.Cross-reference: For additional provisions on civil emergencies, see Chapter 10.02 of this Code.

12A.26.010Proclamation of civil emergency.

Whenever riot, unlawful assembly, or insurrection, or the imminent threat thereof, occur in the City and result in, or threaten to result in, the death or injury of persons or the destruction of property to such extent as to require, in the judgment of the Mayor, extraordinary measures to protect the public peace, safety and welfare, the Mayor shall forthwith proclaim in writing the existence of a civil emergency.
(Ord. 102843 § 12A.45.010, 1973.)

12A.26.020Additional orders.

Upon the proclamation of a civil emergency by the Mayor, and during the existence of such civil emergency, the Mayor may make and proclaim any or all of the following orders:

A. An order imposing a general curfew applicable to the City as a whole, or to such geographical area or areas of the City and during such hours, as he deems necessary, and from time to time to modify the hours such curfew will be in effect and the area or areas to which it will apply;

B. An order requiring any or all business establishments to close and remain closed until further order;

C. An order requiring the closure of any or all bars, taverns, liquor stores, and other business establishments where alcoholic beverages are sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sale of alcoholic beverages and in which such alcoholic beverages may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, in the discretion of the Mayor, be allowed to remain open;

D. An order requiring the discontinuance of the sale, distribution or giving away of alcoholic beverages in any or all parts of the City;

E. An order requiring the discontinuance of the sale, distribution or giving away of firearms and/or ammunition for firearms in any or all parts of the City;

F. An order requiring the discontinuance of the sale, distribution or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;

G. An order requiring the closure of any or all business establishments where firearms and/or ammunition for firearms are sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sale of firearms and/or ammunition and in which such firearms and/or ammunition may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than firearms and ammunition may, in the discretion of the Mayor, be allowed to remain open;

H. An order closing to the public any or all public places including streets, alleys, public ways, schools, parks, beaches, amusement areas, and public buildings;

I. An order prohibiting the carrying or possession of firearms or any instrument which is capable of producing bodily harm and which is carried or possessed with intent to use the same to cause such harm, provided that any such order shall not apply to peace officers or military personnel engaged in the performance of their official duties;

J. Such other orders as are imminently necessary for the protection of life and property; provided, however, that any such orders shall, at the earliest practicable time, be presented to the City Council for ratification and confirmation, and if not so ratified and confirmed shall be void.

(Ord. 102843 § 12A.45.020, 1973.)

12A.26.030Delivery to news media.

The Mayor shall cause any proclamation issued by him pursuant to the authority of this chapter to be delivered to all news media within the City and shall utilize such other available means, including public address systems, as shall be necessary, in his judgment, to give notice of

such proclamations to the public.
(Ord. 102843 § 12A.45.030, 1973.)

12A.26.040Failure to obey.

A person is guilty of failure to obey Mayor's emergency order when he knowingly violates any order issued under authority of Sections 12A.26.010 or 12A.26.020.
(Ord. 102843 § 12A.45.040, 1973.)

Chapter 12A.28
MISCELLANEOUS OFFENSES

Sections:

12A.28.010Interference caused by electromagnetic wave generator—Unlawful.

It is unlawful to operate within the corporate limits of the City any generator of electromagnetic waves or disturbances detectable by radio receiving apparatus and of such magnitude as to interfere with the proper functioning of the radio communication system of the Police Department of the City.
(Ord. 102843 § 12A.46.010, 1973.)

12A.28.020Notice to owner of interfering device—Checking device by demonstration.

Whenever the Chief of Police, or his duly authorized representative, shall find that any device, machine or apparatus is generating electromagnetic waves of such magnitude as to cause interference with the radio communication system of the Police Department, the officer shall serve written notice upon the owner or operator thereof advising the owner or operator of such finding; and thereupon it shall be the duty of the owner or operator to forthwith fully cooperate with the officer in checking by actual demonstration thereof whether such device, machine or appara-

tus is in fact interfering with the proper functioning of the radio communication system.
(Ord. 102843 § 12A.46.020, 1973.)

12A.28.030Prevention of interference—Shielding or abatement of device.

If following such check, the Chief of Police is confirmed in his finding he shall serve a written notice upon the owner and operator to that effect, and it shall then be the duty of the owner or operator to forthwith abate and discard the operation of such device, machine or apparatus; provided, that with the consent of the Chief of Police, such owner or operator may be allowed a period of not to exceed thirty (30) days within which to filter, shield or otherwise remodel any such device, machine or apparatus to prevent such interference, but in the event any such device, machine or apparatus is not repaired or remodeled so that its operation will not interfere with the proper functioning of the radio communication system of the Police Department, the operation thereof shall be abated and discarded at the end of the period allowed by the officer.
(Ord. 102843 § 12A.46.030, 1973.)

12A.28.040Exemptions.

The provisions of Sections 12A.28.010 through 12A.28.030 shall not apply to any transmitting, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce, the operation of which is licensed or authorized by or under the provisions of an Act of the Congress of the United States.
(Ord. 102843 § 12A.46.040, 1973.)

12A.28.060Unlawful to keep books after notice to return.

A. It is unlawful to retain any book, newspaper, magazine, pamphlet, manuscript or other property belonging in or to, or on deposit with, the Seattle Public Library, or any branch, reading room, deposit station, museum or institution operated in connection therewith, for a period exceeding thirty (30) days after the mailing by certified mail to the borrower's address on file with the library of a notice in writing to return the same, given after the expiration of the time which, by the rules of such institution, such article or other property may be kept; which notice so mailed shall bear on its face a copy of this section.

B. Classification and Penalty. An offense under this section of unlawfully keeping books is designated a violation and punishment therefor shall be as provided in Section 12A.02.080.
(Ord. 102843 § 12A.46.110, 1973.)

12A.28.070Failure to appear in response to citation.

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 as provided in Section 12A.02.140.
(Ord. 109674 § 19, 1981: Ord. 108814 § 7, 1980: Ord. 102843 § 12A.46.120, 1973.)

Chapter 12A.30
INHALATION, POSSESSION AND SALE OF SUBSTANCES RELEASING TOXIC VAPORS OR FUMES

Sections:

Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of its application to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.
(Ord. 113548 § 3, 1987.)

12A.30.010Definition.

As used in this chapter, the phrase "substance containing a solvent having the property of releasing toxic vapors or fumes" means and includes any substance containing one (1) or more of the following chemical compounds:

1. Acetone;
2. Amylacetate;
3. Benzol or benzene;
4. Butyl acetate;
5. Butyl alcohol;
6. Carbon tetrachloride;
7. Chloroform;
8. Cyclohexanone;

9. Ethanol or ethyl alcohol;
10. Ethyl acetate;
11. Hexane;
12. Isopropanol or isopropyl alcohol;
13. Isopropyl acetate;
14. Methyl "cellosolve" acetate;
15. Methyl ethyl ketone;
16. Methyl isobutyl ketone;
17. Toluol or toluene;
18. Trichloroethylene;
19. Tricresyl phosphate;
20. Xylol or xylene; or
21. Any other solvent, material, substance, chemical, or combination thereof, having the property of releasing toxic vapors.

(Ord. 113548 § 2 (part), 1987.)

12A.30.020Unlawful inhalation—Exception.

It is unlawful for any person to intentionally smell or inhale the fumes of any type of substance as defined in SMC Section 12A.30.010 or to induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses of the nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes; provided, this section does not apply to the inhalation of any anesthesia for medical or dental purposes.

(Ord. 113548 § 2 (part), 1987.)

12A.30.030Possession of certain substances prohibited, when.

No person may, for the purpose of violating SMC Section 12A.30.020, use, or possess for the purpose of so using, any substance containing a solvent having the property of releasing toxic vapors or fumes.

(Ord. 113548 § 2 (part), 1987.)

12A.30.040Sale of certain substances prohibited, when.

No person may sell, offer to sell, deliver, or give to any other person any container of a substance containing a solvent having the property of releasing toxic vapors or fumes, if he/she has knowledge that the product sold, offered for sale, delivered, or given will be used for the purpose set forth in SMC Section 12A.30.020.

(Ord. 113548 § 2 (part), 1987.)

12A.30.050Violation—Penalty.

Any person who violates this chapter shall be guilty of a misdemeanor and, upon conviction thereof, may be punished by a fine not to exceed One Hundred Dollars ($100.00), or by imprisonment for a term not to exceed thirty (30) days, or by both such fine and imprisonment.

(Ord. 117156 § 5, 1994: Ord. 113548 § 2 (part), 1987.)

Subtitle II Miscellaneous Regulations[1]

1.Cross-reference: For provisions regarding cruelty to animals, see Chapter 9.16 of this Code.

Chapter 12A.50
SOCIAL CARD GAMES[1]

Sections:

1.Cross-reference: For further provisions regarding social card games and gambling, see Chapter 12A.22 of this Code.

12A.50.010Use of premises for social card games prohibited.

It is unlawful within the City for any person to allow any premises or any facilities to be used for, to participate in or to conduct as a commercial stimulant or otherwise, any social card game as defined in RCW 9.46.020; provided, that this section shall not apply to social card games conducted or played by members on the premises of a licensed, bona fide charitable or nonprofit organization as authorized by RCW 9.46.030(9)(a); and provided, further, that this section shall not apply to social card games con-

ducted or played in the dwelling or other place of residence of one of the players.
(Ord. 113308 § 2, 1987: Ord. 103825 § 1(part), 1974.)

12A.50.020Violation—Penalty.

Anyone convicted of a violation of this chapter shall be punishable by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment.
(Ord. 103825 § 1(part), 1974.)

Chapter 12A.54
CLIMBING ON WEDGEWOOD ROCK

Sections:

12A.54.010Climbing prohibited.

It is unlawful for anyone to climb or be upon that certain rock or boulder known as the "Wedgewood Rock" located within the public street area at the intersection of Northeast 72nd Street and 28th Avenue Northeast.
(Ord. 99363 § 1(a), 1970.)

12A.54.020Violation—Penalty.

Anyone convicted of a violation of this chapter shall be punishable by a fine of not more than One Hundred Dollars ($100.00).
(Ord. 99363 § 1(b), 1970.)

Chapter 12A.56
ARREST OF PROBATIONERS

Sections:

12A.56.010Probationer defined.

As used in this chapter "probationer" means any person who after conviction of violation of an ordinance of the City, has been placed on probation in connection with the suspension or deferral of sentence by either the Seattle Municipal Court or the King County Superior Court on appeal.
(Ord. 98086 § 1, 1969.)

12A.56.020Authority to arrest.

Whenever a police officer shall have probable cause to believe that a probationer, prior to the termination of the period of his probation, is, in such officer's presence, violating or failing to comply with any requirement or restriction imposed by the court as a condition of such probation, such officer shall cause the probationer to be brought before the court wherein sentence was deferred or suspended, and for such purpose such police officer may arrest such probationer without warrant or other process.
(Ord. 98086 § 2, 1969.)

Chapter 12A.58
UNAUTHORIZED POLICE BADGES

Sections:

12A.58.010Sale or exchange unlawful.

It shall be unlawful for any person to sell, exchange or give away, any police badge issued by the City.
(Ord. 66564 § 1, 1936.)

12A.58.020Unlawful possession.

It shall be unlawful for any person except a police officer or special policeman to have in his possession any police badge issued by the City.
(Ord. 66564 § 2, 1936.)

12A.58.030Violation—Penalty.

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not exceeding Three Hundred Dollars ($300.00), or by imprisonment in the City Jail for a term not exceeding ninety (90) days, or by both such fine and imprisonment.
(Ord. 66564 § 3, 1936.)

Chapter 12A.60
FIRE ALARM AND POLICE SIGNAL SYSTEMS

Sections:

12A.60.010 Interference prohibited.

It shall be unlawful for any person to interfere or meddle with, obstruct, injure, impair, or remove any pole, wire, box, gong, or striking or other apparatus belonging or appertaining to the Fire Alarm and Police Signal Systems of the City, or any auxiliary fire alarm telegraphs connected therewith.
(Ord. 66841 § 1, 1936.)

12A.60.020 Permit to alter system.

Nothing in Section 12A.60.010 shall be construed so as to prohibit any person from changing or removing any pole, wire, box, gong, or striking or other apparatus belonging to or appertaining to the Fire Alarm and Police Signal Systems of the City, by or under the authority of written permission from the Superintendent of the Fire Alarm and Police Signal Systems; a copy of such permit must be immediately mailed to the Chief of the Fire Department, which permit shall fully specify the change required, and all removals and changes shall be made at the expense of the person desiring such change or removal, and all work shall be done under the supervision of and completed to the satisfaction of the Superintendent.
(Ord. 66841 § 2, 1936.)

12A.60.030 Notification of Superintendent.

Whenever it shall be necessary for any person in the pursuit of any lawful object to remove, interfere with or disturb any portion of the Fire Alarm and Police Signal Systems, he shall notify the Superintendent of the Fire Alarm and Police Signal Systems in writing, at least twenty-four (24) hours before it shall be necessary to remove, interfere with or disturb the same, stating the locality and manner in which it is necessary to remove, interfere with or disturb the same: Provided, that no such notice shall be given between the hours of four p.m. (4:00 p.m.) and six a.m. (6:00 a.m.).
(Ord. 66841 § 3, 1936.)

12A.60.040 Unlawful representation as employee or member.

It shall be unlawful for any person, with intent to deceive, to falsely represent himself to be an employee, or member of or connected with the Seattle Fire Department or the Fire Alarm and Police Signal Systems of the City.
(Ord. 66841 § 4, 1936.)

12A.60.050 Placement of telegraph, telephone or electric wires.

It shall be unlawful for any person to place or cause to be placed any telegraph, telephone, electric light or other wires on any poles belonging to the Fire Alarm and Police Signal Systems of the City, or place, or cause to be placed, any telegraph, telephone, electric light or other wires,

or poles or fixtures to suspend the same, within three feet (3′) of any wires of the Fire Alarm and Police Signal Systems of the City.
(Ord. 66841 § 5, 1936.)

12A.60.060Reciprocal agreements.

Nothing in Section 12A.60.050 shall be construed so as to prevent the Superintendent of the Fire Alarm and Police Signal Systems from authorizing any telegraph, telephone, electric light or other wires to be placed on the poles of the Fire Alarm and Police Signal Systems, at such locations as he may designate, in consideration of like privileges to be extended to the City by the owners of such wires, when it shall be necessary or convenient for the Superintendent to use the poles of the owners of such wires in maintaining the Fire Alarm and Police Signal Systems of the City.
(Ord. 66841 § 6, 1936.)

12A.60.070Unlawful use of badge, insignia or uniform.

It shall be unlawful for any person to wear, use or have in his possession or under his control any official badge, insignia, button, cap, helmet, or uniform of the Fire Department of the City, or the employees of the Fire Alarm and Police Signal Systems of the City, unless such person is a regular member of the Fire Department or employee of the Fire Alarm and Police Signal Systems, and has direct and specific authority to wear or have in his possession or under his control such official badge, insignia, button, cap, helmet or uniform.
(Ord. 66841 § 7, 1936.)

12A.60.080Use of key to fire alarm box.

It shall be unlawful for any person to use, or have in his possession or under his control any key to any fire alarm box within the limits of the City, or to any part of the fire alarm box, unless directly and specifically authorized so to do by the Superintendent of the Fire Alarm Police Signal Systems.
(Ord. 66841 § 8, 1936.)

12A.60.090Unlawful to cross guard lines at fire.

It shall be unlawful for any person to go or remain within any building in which there is a fire, or within the guard lines established by the Police Department at and near any fire, unless such person is a regular member of the Fire or Police Department, or wears or carries an official badge, card, or insignia provided and issued by the Chief of the Fire Department as a permit of admission within such guard lines.
(Ord. 66841 § 9, 1936.)

12A.60.100Interference with signal box or booth.

It shall be unlawful for any person to place, or cause to be placed, any article or thing so as to interfere with or obstruct free access and approach to any Fire Alarm and Police Signal box or booth or to any fire hydrant or cistern or to any inlet or outlet connections of fire mains or pipes.
(Ord. 66841 § 10, 1936.)

12A.60.105Injuring or tampering with fire alarm apparatus or equipment—Sounding false alarm of fire.

Any person who wilfully and without cause tampers with, molests, injures or breaks any public or private fire alarm apparatus, emergency phone, radio, or other wire or signal, or any fire-fighting equipment, or who wilfully and without having reasonable grounds for believing a fire exists, sends, gives, transmits, or sounds any false alarm of fire, by shouting in a public place or by means of any public or private fire alarm system or signal, or by telephone, is guilty of a crime and may be punished by a fine not to exceed One Thousand Dollars ($1,000.00) or by imprisonment for a term not to exceed ninety (90) days or by both such fine and imprisonment. This provision shall not prohibit the testing of fire alarm systems by persons authorized to do so, by a fire department or State Fire Marshal official.
(Ord. 113549 § 3, 1987.)

12A.60.110Violation—Penalty.

Violation or failure to comply with any of the provisions of this chapter shall be deemed a misdemeanor, and upon conviction thereof shall subject the offender to punishment by a fine in any sum not exceeding Three Hundred Dollars ($300.00), or by imprisonment in the City Jail for a term not exceeding ninety (90) days, or by both such fine and imprisonment.
(Ord. 66841 § 11, 1936.)

Chapter 12A.62

MEDICAL EXPENSES FOR CITIZENS INJURED WHILE AIDING POLICE

Sections:

12A.62.010Application for reimbursement.

Any person who shall aid or attempt to aid any police officer of the City in the protection of the public peace and safety:

A. When specifically requested so to do by such police officer; or

B. Without such specific request, when any such police officer is in imminent danger of loss of life or grave bodily injury;

and who as a consequence of such aid or attempted aid suffers bodily injury requiring medical attention shall, upon application therefor and verification of such facts by the Chief of Police, be reimbursed by the City to the extent of medical expenses reasonably incurred for the treatment of such injuries.

(Ord. 98908 § 1, 1970.)

12A.62.020Payment authority.

Reimbursements made in accordance with Section 12A.62.010 shall be paid on vouchers approved by the City Attorney on the basis of facts as certified by the Chief of Police consistent with this chapter together with such other evidence as the City Attorney may require to substantiate such medical expenses, and for such purpose the sum of One Thousand Dollars ($1,000.00) or so much thereof as may be necessary is appropriated from the Emergency Fund and the City Finance Director is authorized to draw and pay the necessary warrants.

(Ord. 117242 § 14, 1994: Ord. 98908 § 2, 1970.)

Chapter 12A.64
TRESPASSING ON GARBAGE DUMPS

Sections:

12A.64.010Unlawful acts designated.

It is unlawful to go upon any garbage, refuse or trash dump, or other operating property owned or maintained by the City and under the jurisdiction of the City Engineer, except during business hours and with the permission and subject to the direction of the City or its authorized representative, and for the transaction of business thereon with the City or its represesentatives. The provisions of this chapter shall not apply to those going upon garbage, refuse or trash dumps solely for the purpose of lawfully depositing material thereon during business hours, with the permission of the City.

(Ord. 85544 § 1, 1956.)

12A.64.020Violation—Penalty.

Any violation of, or failure to comply with, the provisions of this chapter shall subject the offender to a fine not exceeding Three Hundred Dollars ($300.00), or to confinement in the City Jail not exceeding ninety (90) days, or both such fine and imprisonment.

(Ord. 85544 § 2, 1956.)