

ORDINANCE No. 113478

COUNCIL BILL No. 106070

Law Department

The City of

AN ORDINANCE relating to the Criminal Code, amending Section 12A.08.040, Criminal Trespass, adding a defense of service of legal process.

6-9-87

Do Pass

Honorable President:

Your Committee on Public Safety

to which was referred the within Co report that we have considered the:

Do

CONTROLLER FILE No. _____

Introduced: APR 6 1987	By: City Attorney
Referred: APR 6 1987	To: Public Safety
Referred:	To:
Referred:	To:
Reported: JUN 15 1987	Second Reading: JUN 15 1987
Third Reading: JUN 15 1987	Signed: JUN 15 1987
Presented to Mayor: JUN 16 1987	Approved: JUN 24 1987
Returned to City Clerk: JUN 24 1987	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained: OK

RECEIVED JUN 17 1987

Vol

[Handwritten Signature]

Department

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on Public Safety

was referred the within Council Bill No. 106070

we have considered the same and respectfully recommend that the same:

Do Pass

Vote 6-0



Committee Chair

DBW:ndc
03/19/87
I-C:ORD4.1

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ORDINANCE 113478

AN ORDINANCE relating to the Criminal Code, amending Section 12A.08.040, Criminal Trespass, adding a defense of service of legal process.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.08.040 of the Seattle Municipal Code, as last amended by Section 1 of Ordinance 110062, is further amended as follows:

12A.08.040 Criminal trespass.

A. A person is guilty of criminal trespass if he or she knowingly enters or remains in or upon the premises of another when he or she is not then licensed, invited, or otherwise privileged to so enter or remain.

B. 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.

C. In any prosecution under subsection A it is an affirmative defense that:

- 1. A building involved was abandoned;
- or
- 2. 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
- 3. The actor was attempting to serve legal process, which includes any document required or allowed to be served upon persons or property by any statute, ordinance, governmental rule or regulation, or court order, excluding delivery by the mails of the United States. This defense is available only if the actor did not enter into a private residence or other building not open to the public and the entry onto the premises was reasonable and necessary for service of the legal process.

(To be used for all Ordinances except Emergency.)

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 15th day of June, 1987, and signed by me in open session in authentication of its passage this 15th day of June, 1987.

[Handwritten Signature]
President of the City Council.

Approved by me this 24th day of June, 1987.

[Handwritten Signature]
Mayor.

Filed by me this 24th day of June, 1987.

[Handwritten Signature]
Attest: City Comptroller and City Clerk.

(SEAL)

Published

By *[Handwritten Signature]*
Deputy Clerk.

PUBLISH DO NOT PUBLISH

CITY ATTORNEY _____

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

March 19, 1987

Honorable Norm Rice
Public Safety Committee

Re: Amendment to Criminal Trespass Law

Dear Councilmember Rice:

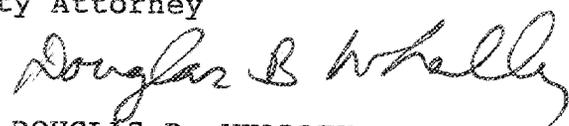
The enclosed ordinance adopts a 1986 state law which creates a limited defense to trespass for legal process servers. It permits them to enter upon real property if entry is reasonable and necessary for service, but still prevents unauthorized entry into residences or buildings.

Adoption by Seattle is recommended. By state law, the defense is available whether or not we adopt it, so it would be less confusing to specifically include it in our code. It will also assist police in responding to calls for assistance when process serving is involved. Process servers are frequently accused of trespass by disgruntled recipients of legal papers, and occasionally servers are physically attacked.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney

By


DOUGLAS B. WHALLEY
Assistant City Attorney

DBW:ndc

i-c:ltr2.1

Affidavit of Publication

City of Seattle

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C. In any prosecution under subsection A it is an affirmative defense that:

1. A building involved was abandoned; or

2. 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

3. The actor was attempting to serve legal process, which includes any document required or allowed to be served upon persons or property by any statute, ordinance, governmental rule or regulation, or court order, excluding delivery by the mails of the United States. This defense is available only if the actor did not enter into a private residence or other building not open to the public and the entry onto the premises was reasonable and necessary for service of the legal process.

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 15th day of June, 1987, and signed by me in open session in authentication of its passage this 15th day of June, 1987.

SAM SMITH,
President of the City Council.

Approved by me this 24th day of June, 1987.

CHARLES ROYER,
Mayor.

Filed by me this 24th day of June, 1987.

Attest: NORWARD J. BROOKS,
City Comptroller and City Clerk.

(Seal) By THERESA DUNBAR,
Deputy Clerk.

Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, June 26, 1987. (C-891-X)

STATE OF WASHINGTON KING COUNTY—SS.

I, undersigned, on oath states that he is an owner and publisher of The Daily Journal of Commerce, which newspaper is a legal newspaper and it is now and has been for more than one year to the date of publication hereinafter in the English language continuously in Seattle, King County, Washington, and during all of said time was printed in and from the aforesaid place of publication of the Daily Journal of Commerce was on the 15th day of June, 1987, approved as a legal newspaper by the King County.

The exact form annexed, was published in the Daily Journal of Commerce, which was distributed to its subscribers during the below

annexed notice, a _____
Publication No. 113478

June 26, 1987

S. Glass

Subscribed and sworn to before me on

June 26, 1987

W. L. Jones

Public for the State of Washington,
residing in Seattle.