

ORDINANCE No.

119010

COUNCIL BILL No.

112154

Law Department

The City of

AN ORDINANCE relating to the criminal code, amending Sections 12A.06.030, 12A.06.035, 12A.06.040, 12A.06.090, 12A.06.115, 12A.08.050, 12A.14.071, 12A.14.075, 12A.14.083 and 12A.24.150, adding a Section to Chapter 12A.06 and repealing Section 12A.02.120 of the Seattle Municipal Code.

Honorable President:

Your Committee on

to which was referred the within Council Bill, report that we have considered the same and

COMPTROLLER FILE No.

Introduced:	MAY - 1 1998	By:	PODLODOWSKI
Referred:	MAY - 1 1998	To:	Public Safety, Health and Technology
Referred:		To:	
Referred:		To:	
Reported:	5-26-98	Second Reading:	
Third Reading:	5-26-98	Signed:	5-26-98
Presented to Mayor:	5-27-98	Approved:	MAY 29 1998
Returned to City Clerk:	JUN 1 1998	Published:	full SPR
Vetoed by Mayor:		Veto Published:	
Passed over Veto:		Veto Sustained:	

PSH & T Committee

5-26-98 Full Council

Department

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on _____

was referred the within Council Bill No. _____

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

IT COMMITTEE 5/20 3-0 DO PASS
AS AMENDED
500 PA 2 LINE 10B

-98 For Council Action: Passed 9-0

Committee Chair

ORDINANCE 119010

AN ORDINANCE relating to the criminal code, amending Sections 12A.06.030, 12A.06.035, 12A.06.040, 12A.06.090, 12A.06.115, 12A.08.050, 12A.14.071, 12A.14.075, 12A.14.083 and 12A.24.150, adding a Section to Chapter 12A.06 and repealing Section 12A.02.120 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.06.030 of the Seattle Municipal Code (Ordinance 102843 § 12A.04.050, as last amended by Ordinance 116872 § 8), is further amended to read as follows:

12A.06.030 Menacing.

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" means to communicate, directly or indirectly, the intent to cause bodily injury in the future to another ((has the meaning specified in Section 12A.08.050-L4)).

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.

Section 2. Section 12A.06.035 of the Seattle Municipal Code (Ordinance 116872 § 9, as last amended by Ordinance 117158 § 1) is further amended to read as follows:

12A.06.035 Stalking.

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 to engage in an act directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. This act shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the person, or, when the act is contact by a person over age eighteen (18), that would cause a reasonable parent to fear for the well-being of his or her child ((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.

Section 3. Section 12A.06.040 of the Seattle Municipal Code (Ordinance 102843 § 12A.04.070, as last amended by Ordinance 112465 § 1) is further amended as follows:

12A.06.040 Harassment.

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 immediately or 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 of ~~((involving))~~ harassment is released from custody before trial ~~on~~ ~~((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.06.040 ((12A.06.030)) and will subject a violator to arrest."

D. For purposes of subsections B and C of this section, "a crime of harassment" includes any crime defined in Chapter 12A.06, property destruction as defined in Section 12A.08.020, and criminal trespass as defined in Section 12A.08.040.

Section 4. Section 12A.06.090 of the Seattle Municipal Code (Ordinance 102843 § 12A.04.170) is amended to read as follows:

12A.06.090 Coercion.

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 to communicate, directly or indirectly, the intent:

1. To ((communicate, directly or indirectly, the intent)) immediately ((to)) use force against any person who is present at the time; ((or))
2. To cause bodily injury in the future to another;
3. To cause damage to property of another; or
4. To subject another person to physical confinement or restraint ((Threats as defined in Section 12A.08.050 L)).

Section 5. Section 12A.06.115 of the Seattle Municipal Code (Ordinance 111714 § 1) is amended to read as follows:

12A.06.115 Malicious harassment.

A. A person is guilty of malicious harassment if he or she maliciously and intentionally commits one (1) of the following acts ((with the intent to intimidate or harass another person)) because of his or her perception of another ((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.

Section 6. Chapter 12A.06 of the Seattle Municipal Code (Ordinance 102843, as amended) is further amended by adding the following section:

12A.06.310 Restraining orders -- Notice -- Refusal to comply -- Arrest -- Penalty -- Defense -- Peace officers, immunity.

A. Whenever a restraining order is issued under RCW Chapter 26.09, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another is a misdemeanor.

B. A person is deemed to know of a restraining order if:

1. The person to be restrained or the person's attorney signed the order;

2. The order recites that the person to be restrained or the person's attorney appeared in person before the court;

3. The order was served upon the person to be restrained; or

4. The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

C. A peace officer shall verify the existence of a restraining order by:

1. Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

2. Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

D. A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

1. A restraining order has been issued under RCW Chapter 26.09;

2. The respondent or person to be restrained knows of the order; and

3. The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another.

E. It is a defense to prosecution under subsection A of this section that the court order was issued contrary to law or court rule.

F. No peace officer may be held criminally or civilly liable for making an arrest under subsection D of this section if the officer acts in good faith and without malice.

Section 7. Section 12A.08.050 of the Seattle Municipal Code (Ordinance 102843 § 12A.08.210) is amended to read as follows:

12A.08.050 Definitions 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.

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

H. ((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.

I. ((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.

I. ((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.))

Section 8. Section 12A.14.071 of the Seattle Municipal Code (Ordinance 117157 § 3) is amended to read as follows:

12A.14.071 Discharge of a firearm.

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

Section 9. Section 12A.14.075 of the Seattle Municipal Code (Ordinance 110179 § 1, as last amended by Ordinance 117157 § 4) is further amended to read as follows:

12A.14.075 Unlawful 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; or

5. Any act committed by a person while in his or her place of abode or fixed place of business.

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.

Section 10. Section 12A.14.083 of the Seattle Municipal Code (Ordinance 90047 § 42, as last amended by Ordinance 117569 § 123) is further amended to read as follows:

12A.14.083 Weapons in public places.

It is unlawful to knowingly carry or shoot any spring gun, air gun, sling or slingshot, in, upon, or onto any public place.

Section 11. Section 12A.24.150 of the Seattle Municipal Code (Ordinance 102843 § 12A.40.260, as last amended by Ordinance 115897 § 3) is further amended to read as follows:

12A.24.150 Classification 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.

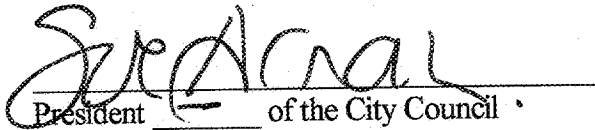
B. An offense under Sections 12A.24.080 and 12A.24.090 and subsection 12A.24.100 A is designated a gross misdemeanor.

C. 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).

Section 12. Section 12A.02.120 of the Seattle Municipal Code (Ordinance 102843 § 12A.01.110) is repealed.

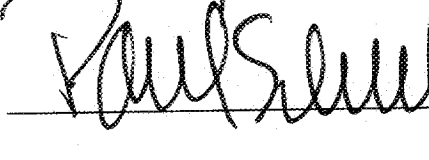
Section 13. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 26th day of May, 1998, and signed by me in open session in authentication of its passage this 26th day of May, 1998.



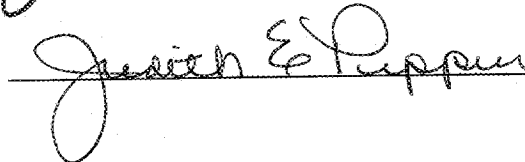
President _____ of the City Council

Approved by me this 29th day of May, 1998.



Mayor

Filed by me this 1 day of June, 1998.



City Clerk

(Seal)

ORDINANCE _____

AN ORDINANCE relating to the criminal code, amending Sections 12A.06.030, 12A.06.035, 12A.06.040, 12A.06.090, 12A.06.115, 12A.08.050, 12A.14.071, 12A.14.075, 12A.14.083 and 12A.24.150, adding a Section to Chapter 12A.06 and repealing Section 12A.02.120 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.06.030 of the Seattle Municipal Code (Ordinance 102843 § 12A.04.050, as last amended by Ordinance 116872 § 8), is further amended to read as follows:

12A.06.030 Menacing.

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" means to communicate, directly or indirectly, the intent to cause bodily injury in the future to another ~~((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.

Section 2. Section 12A.06.035 of the Seattle Municipal Code (Ordinance 116872 § 9, as last amended by Ordinance 117158 § 1) is further amended to read as follows:

12A.06.035 Stalking.

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 to engage in an act directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. This act shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the person, or, when the act is contact by a person over age eighteen (18), that would cause a reasonable parent to fear for the well-being of their child ((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.

Section 3. Section 12A.06.040 of the Seattle Municipal Code (Ordinance 102843 § 12A.04.070, as last amended by Ordinance 112465 § 1) is further amended as follows:

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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 immediately or 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 of ~~((involving))~~ harassment is released from custody before trial on ~~((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.06.040 ((12A.06.030)) and will subject a violator to arrest."

D. For purposes of subsections B and C of this section, "a crime of harassment" includes any crime defined in Chapter 12A.06, property destruction as defined in Section 12A.08.020, and criminal trespass as defined in Section 12A.08.040.

Section 4. Section 12A.06.090 of the Seattle Municipal Code (Ordinance 102843 § 12A.04.170) is amended to read as follows:

12A.06.090 Coercion.

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 to communicate, directly or indirectly, the intent:

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

2. To cause bodily injury in the future to another;

3. To cause damage to property of another; or

4. To subject another person to physical confinement or restraint ((Threats as defined in Section 12A.08.050 L)).

Section 5. Section 12A.06.115 of the Seattle Municipal Code (Ordinance 111714 § 1) is amended to read as follows:

12A.06.115 Malicious harassment.

A. A person is guilty of malicious harassment if he or she maliciously and intentionally commits one (1) of the following acts ~~((with the intent to intimidate or harass another person))~~ because of his or her perception of another ~~((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.

Section 6. Chapter 12A.06 of the Seattle Municipal Code (Ordinance 102843, as amended) is further amended by adding the following section:

12A.06.310 Restraining orders -- Notice -- Refusal to comply -- Arrest -- Penalty -- Defense -- Peace officers, immunity.

A. Whenever a restraining order is issued under RCW Chapter 26.09, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another is a misdemeanor.

B. A person is deemed to know of a restraining order if:

1. The person to be restrained or the person's attorney signed the order;

2. The order recites that the person to be restrained or the person's attorney appeared in person before the court;

3. The order was served upon the person to be restrained; or

4. The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

C. A peace officer shall verify the existence of a restraining order by:

1. Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

2. Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

D. A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

1. A restraining order has been issued under RCW Chapter 26.09;

2. The respondent or person to be restrained knows of the order; and

3. The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another.

E. It is a defense to prosecution under subsection A of this section that the court order was issued contrary to law or court rule.

F. No peace officer may be held criminally or civilly liable for making an arrest under subsection D of this section if the officer acts in good faith and without malice.

Section 7. Section 12A.08.050 of the Seattle Municipal Code (Ordinance 102843 § 12A.08.210) is amended to read as follows:

12A.08.050 Definitions 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.

1 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.

2 F. (("Permanently to deprive" means:

3 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~~
4 ~~the use and benefit of such property, is lost to him; or~~

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

6 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~~

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

8 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.

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

10 H. ((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.

11 I. ((J.)) "Steal" means:

12 1. To knowingly obtain or exert unauthorized control over the property of another
with intent ((permanently)) to deprive him of such property; or

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

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

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

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

17 2. ~~To cause damage to property of another; or~~

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

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

20 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

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

22 or

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

24 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.))~~

Section 8. Section 12A.14.071 of the Seattle Municipal Code (Ordinance 117157 § 3) is amended to read as follows:

12A.14.071 Discharge of a firearm.

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

Section 9. Section 12A.14.075 of the Seattle Municipal Code (Ordinance 110179 § 1, as last amended by Ordinance 117157 § 4) is further amended to read as follows:

12A.14.075 Unlawful 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; or

5. Any act committed by a person while in his or her place of abode or fixed place of business.

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.

Section 10. Section 12A.14.083 of the Seattle Municipal Code (Ordinance 90047 § 42, as last amended by Ordinance 117569 § 123) is further amended to read as follows:

12A.14.083 Weapons in public places.

It is unlawful to knowingly carry or shoot any spring gun, air gun, sling or slingshot, in, upon, or onto any public place.

Section 11. Section 12A.24.150 of the Seattle Municipal Code (Ordinance 102843 § 12A.40.260, as last amended by Ordinance 115897 § 3) is further amended to read as follows:

12A.24.150 Classification 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. An offense under Sections 12A.24.080 and 12A.24.090 and subsection 12A.24.100 A is designated a gross misdemeanor.

C. 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).

Section 12. Section 12A.02.120 of the Seattle Municipal Code (Ordinance 102843 § 12A.01.110) is repealed.

Section 13. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 1998, and signed by me in open session in authentication of its passage this _____ day of _____, 1998.

President _____ of the City Council

Approved by me this _____ day of _____, 1998.

Mayor

Filed by me this _____ day of _____, 1998.

City Clerk

(Seal)

SUMMARY OF 1998 CRIMINAL ORDINANCE

PROVISION	LOCATION	REASON FOR CHANGE
eliminates definition of "threat" and defines "threat" in each applicable ordinance	Sections 1, 4 and 7 (pages 1, 3 and 6)	consistency
changes definition of "harasses" in Stalking ordinance to eliminate need to prove additional crime of Harassment	Section 2 (page 2)	consistency
allows prosecution for Harassment if defendant makes threat of immediate harm	Section 3 (page 2)	consistency
authorizes court to issue no-contact order in non-Domestic Violence cases	Section 3 (page 3)	consistency
eliminates need to prove victim's status in Malicious Harassment cases; instead, defendant's perception of victim's status must be proven	Section 5 (page 3)	consistency
eliminates harassment based on sexual orientation and gender from Malicious Harassment ordinance	Section 5 (page 3)	required; harassment against victims in these classifications is a felony under the state Malicious Harassment statute
creates crime of violating protection order issued in marriage dissolution case	Section 6 (page 4)	consistency
eliminates element of Theft that defendant intend to permanently deprive owner of the property	Section 7 (pages 5-6)	consistency
adds element of willfulness to Discharge of Firearm	Section 8 (page 6)	consistency
adds exception to Unlawful Use of Weapons ordinance that defendant using weapon in his home	Section 9 (page 7)	required
adds element of knowledge to Weapons in Public Places ordinance	Section 10 (page 7)	SMC 12A.04.100 requires mental element for every crime except traffic crimes

changes maximum penalty for Selling or Furnishing Liquor to Minor and Minor Possessing Liquor from 2 months & \$500 fine for 1st offense, 6 months for 2nd offense and 1 year for 3rd offense to 1 year & \$5000 for any offense	Section 11 (page 7)	required
repeals ordinance requiring that every offense be defined by an ordinance	Section 12 (page 8)	we prosecute crimes defined by state statutes, such as firearms offenses

Explanation of **REASON FOR CHANGE**

Required -- State statutes and a state Supreme Court decision require that local traffic ordinances be uniform with state traffic statutes with regard to the definition of the offense and the penalty for violation. Whenever the Legislature amends either the definition of or the penalty for a traffic offense, the City must change the corresponding ordinance.

For non-traffic ordinances, the penalty for an offense under a local ordinance must be identical to the penalty for the same offense under state statute.

Consistency -- A provision of a local traffic ordinance that does not pertain to either the definition of or the penalty for an offense is not required to be identical to the corresponding state statute. However, in most instances, the state statute could be relied on or applied by the police, the City Attorney's office or the Municipal Court even without an identical provision in our ordinance. Although the change is optional, it is considered advisable to make our ordinances the same as the corresponding state statutes so our ordinances accurately reflect the entire law on a subject. In addition, making our ordinance identical with the state statute ensures that Seattle keeps any fine revenue from a prosecution of the offense.

For non-traffic ordinances, uniformity between a state statute and a local ordinance is required only as to the penalty for the offense. Again, however, uniformity for all provisions is advisable.

replaces reference to "Metro transit vehicles" with "transit coaches"	Sections 2 and 15 (pages 1 and 7)	to reflect merger of Metro and King County and to reflect that Pierce County and Snohomish County buses operate in Seattle
eliminates prohibition on mid-block U-turn and downtown U-turn	Section 16 (page 7)	required
prohibits U-turn on a curve or a hill	Section 16 (page 7)	required
creates gross misdemeanor crime of recklessly driving through construction zone and endangering workers	Section 17 (page 7)	consistency
expands scope of child seatbelt requirement to include any person driving car with children rather than just parent	Section 18 (page 8)	required
requires that 1- and 2-year-olds in a car be in child carseat	Section 18 (page 8)	required
requires that children age 3 through 9 in a car be in a carseat or be wearing seatbelt	Section 18 (page 8)	required
requires dismissal of child carseat/seatbelt infraction if defendant presents proof of acquisition of child carseat within 7 days	Section 18 (page 8)	required
exempts taxis and shuttle buses from child seatbelt requirements	Section 18 (page 8)	required

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SEATTLE CITY ATTORNEY
MARK H. SIDRAN

April 22, 1998

Honorable Tina Podlodowski
Public Safety Committee Chair
1106 Municipal Building
Seattle, Washington 98104


Dear Councilmember Podlodowski:

Enclosed for your review and Council action are ordinances concerning Seattle's Driving While Intoxicated (DWI) ordinance, the traffic code and the criminal code. Also enclosed are charts summarizing the changes proposed by each ordinance and the reason for each change.

These ordinances are primarily designed to change our ordinances to conform with recent changes to the corresponding state statutes. State law requires that our traffic ordinances be identical to state law, both in the substance of the prohibition and in the penalty for violation. We are not required to enact any particular traffic ordinance, but if we do, it must be the same as the corresponding state statute. Similarly, with respect to non-traffic criminal ordinances, the penalty must be the same as that provided for the corresponding state statute. Even without this statutory uniformity requirement, we believe that absent some policy reason to do otherwise, making our ordinances the same as corresponding state statutes is generally advisable because appellate court decisions interpreting those statutes would apply to our ordinances as well, which aids the police, prosecutors and Municipal Court judges in determining the scope and meaning of the ordinances.

The DWI ordinance is the only ordinance requiring your immediate attention. It includes changes which correspond to changes in the state DWI statutes that go into effect June 11, 1998. Our ordinance should go into effect at the same time, in order to ensure uniformity with state law, so it needs to be signed by the Mayor by May 12. This ordinance does not include the more important changes to the state DWI statute, such as lowering the breath alcohol level from 0.10 to 0.08 and mandating ignition interlock as a probation condition, because those changes do not go into effect until January 1, 1999. We will submit those changes in a separate ordinance later in the year. Finally, we will also submit later in the year a separate ordinance authorizing the impounding of vehicles driven by a suspended driver. That proposal is currently under development by an interdepartmental work group.

Thank you very much for your consideration of these ordinances. I would be happy to meet with you and the Public Safety Committee at your convenience to provide any further information.

Sincerely,

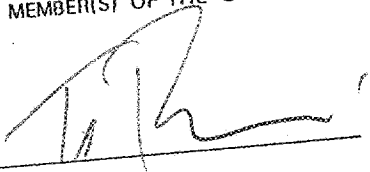


Mark H. Sidran
Seattle City Attorney

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:



FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

94282
City of Seattle, City Clerk

—SS.

No. ORDINANCE IN

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD 119010

was published on

06/18/98

The amount of the fee charged for the foregoing publication is the sum of \$, which amount has been paid in full.

Subscribed and sworn to before me on

06/18/98

Notary Public for the State of Washington,
residing in Seattle

