

Ordinance No. 108814

AN ORDINANCE relating to the Seattle Criminal Code (Ordinance 102843), amending Sections 12A.12.150 "Lewd Conduct," 12A.16.020 "Disorderly Conduct," 12A.17.140 "Unlawful Use of Weapons," 12A.17.160 "Exemptions," 12A.20.020 "Obstructing a Public Officer," 12A.20.110 "False Reporting," 12A.46.100 "Discharging Firearm or Explosive -- Exceptions," 12A.46.120 "Failure to Appear in Response to Citation," and adding new Sections 12A.12.160 "Urinating in Public," and 12A.20.010 "Resisting Arrest."

COMPTROLLER

FILE NUMBER

ENGROSSED BILL

Council Bill No. 100669

INTRODUCED: Sep 4, 1979	BY: Executive Request
REFERRED: Sep 4, 1979	TO: Pub. Safety & Justice
REFERRED:	
REFERRED:	
REPORTED: JAN 28 1980	SECOND READING: JAN 28 1980
THIRD READING: JAN 28 1980	SIGNED: JAN 28 1980
PRESENTED TO MAYOR: JAN 29 1980	APPROVED: FEB 4 1980
RETD. TO CITY CLERK: FEB 6 1980	PUBLISHED:
VETOED BY MAYOR:	VETO PUBLISHED:
PASSED OVER VETO:	VETO SUSTAINED:

Ord. 108867 -Amends Sec 9 to correct administrative error by changing the Seattle Criminal Code section number designation for the offense of "Urinating in Public."

- Muni Ord
- Health
- OPE

PUB (BC)
BLDG.
ENG.
B. O.
A. C.
S. E.
C. O.
LIGHT

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ORDINANCE 108814

AN ORDINANCE relating to the Seattle Criminal Code (Ordinance 102843), amending Sections 12A.12.150 "Lewd Conduct," 12A.16.020 "Disorderly Conduct," 12A.17.140 "Unlawful Use of Weapons," 12A.17.160 "Exemptions," 12A.20.020 "Obstructing a Public Officer," 12A.20.110 "False Reporting," 12A.46.100 "Discharging Firearm or Explosive -- Exceptions," 12A.46.120 "Failure to Appear in Response to Citation," and adding new Sections 12A.12.160 "Urinating in Public," and 12A.20.010 "Resisting Arrest."

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.12.150 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section 12A.12.150 Lewd Conduct

(1) As used in this section a "lewd act" is:

- (a) an exposure of one's genitals or female breasts; or
- (b) the touching, caressing or fondling of the genitals or female breasts; or
- (c) sexual intercourse as defined in Section 12A.04.140(1)(c); or
- (d) masturbation((?)).
~~((e)-urination-or-defecation-in-a-place-other than-a-washroom-or-toilet-room-))~~

(2) A person is guilty of lewd conduct if he intentionally performs any lewd act in a public place or at a place and under circumstances where such act could be observed by any member of the public. "Public place" has the meaning defined in Section 12A.12.020(1)(a).

(3) The owner, manager or operator of premises open to the public wherein alcoholic beverages are sold, served or consumed is guilty of permitting lewd

1 conduct if he intentionally permits or causes any
2 lewd act on said premises.

3 (4) This section shall not be applied to artistic or
4 dramatic performances in a theater or a museum.

5 Section 2. Section 12A.16.020 of the Seattle Criminal
6 Code (Ordinance 102843) is amended to read as follows:

7 Section 12A.16.020 Disorderly Conduct

8 (1) As used in this Section 12A.16.020 "obstruct"
9 means to render impassible and thereby subject
10 passers-by to unreasonable inconvenience or hazard.

11 (2) A person is guilty of disorderly conduct if without
12 lawful authority he knowingly:

13 ~~((a)-makes-noise-which-unreasonably-disturbs~~
14 ~~another;-or))~~

15 ~~((b))~~ (a) unreasonably disrupts any lawful
16 assembly or meeting of persons; or

17 ~~((e))~~ (b) obstructs pedestrian or vehicular
18 traffic;

19 and refuses or intentionally fails to cease
20 such activity when ordered to do so by a
21 police officer or additionally in the case of
22 2~~((b))~~ (a) by the person in charge of the
23 assembly or meeting.

24 Section 3. Section 12A.17.140 of the Seattle Criminal
25 Code (Ordinance 102843) is amended to read as follows:

26 Section 12A.17.140 Unlawful Use of Weapons

27 (1) It is unlawful for ~~((anyone))~~ a person knowingly
28 to:

 (a) Sell, manufacture, purchase, possess or carry
 any blackjack, sand-club, metal knuckles,
 ~~((or))~~ switchblade knife~~((r))~~, chako sticks,
 or throwing stars; or

1 (b) Carry (~~concealed~~) on his person or in any
2 vehicle any dangerous knife((7)) or deadly
3 weapon except as otherwise provided in Section
4 12A.17.140(1)(c), or to sell or give away to
5 any person under eighteen years of age any
6 dangerous knife or deadly weapon, or for any
7 such person to purchase or possess any such
8 dangerous knife or deadly weapon; or

9 (c) Carry a loaded pistol in any vehicle or carry
10 a pistol (~~concealed~~) on his person, except
11 when in his place of abode or fixed place of
12 business, without a license therefor as
13 provided in RCW Chapter 9.41 and 12A.17.040;
14 or

15 (d) Set a spring gun; or

16 (e) Use any device or attachment of any kind
17 designed, used or intended for use in silencing
18 the noise of any firearm; or

19 (f) Sell, purchase, possess or carry any gas pen,
20 gas pencil, gas bomb or gas pistol.

21 Section 4. Section 12A.17.160 of the Seattle Criminal
22 Code (Ordinance 102843) is amended to read as follows:

23 Section 12A.17.160 (~~(Exemptions-)~~) Affirmative Defenses.

24 (1) The proscriptions of subsection 12A.17.140(1)(f)
25 relating to gas pens, gas pencils, gas bombs, and
26 gas pistols, shall not apply to:

27 (a) Sales at wholesale; or

28 (b) Peace officers or military personnel while in
the performance of their official duties; or

(c) Sales to a governmental agency; or

(d) The sale to mail carriers, field personnel of

1 the King County Department of Assessments, or
2 public or private utility meter readers, or
3 the purchase, possession or carrying by any
4 such persons, of aerosol canister devices
5 designed for the purpose of repelling attacks
6 by dogs and other animals and containing and
7 capable of emitting in spray form oleoresin
8 of capsicum or other similar substance((-));

8 or

9 (e) The sale, by a person licensed to sell pistols
10 in accordance with RCW 9.41.110, of Federal's
11 Streamer No. 280 liquid tear gas repeater or
12 similar liquid tear gas aerosol canister
13 devices approved by the Chief of Police as
14 safe against accidental firing and capable of
15 only temporary disablement or impairment, to
16 truck drivers, taxicab drivers, transit
17 drivers, or other commercial drivers who
18 regularly as part of their occupation carry
19 cash or merchandise, (~~and who have successfully~~
20 ~~completed a Seattle Police Department class~~
21 ~~of instruction on the use of such tear gas~~
22 ~~devices~~) or to the purchase, ((or)) possession
23 or carrying during working hours((7)) of such
24 device by such persons. (~~after successful~~
25 ~~completion of such class of instruction~~
26 ~~Applications for such instruction shall be~~
27 ~~made to the Chief of Police and shall be~~
28 ~~accompanied by a fee of \$5.00~~)

(2) The proscriptions of subsection 12A.17.140((a)(2))
(1)(b) relating to dangerous knives shall not

1 apply to:

2 (a) Individual licensed hunters or fishermen
3 while on a hunting, camping, or fishing trip;
4 or

5 (b) Any person carrying such knife in a secure
6 wrapper or in a tool box while traveling from
7 ~~((or to))~~ the place of purchase, ~~((or))~~
8 from or to a place of repair, ~~((to))~~ or from
9 ~~((his))~~ or to such person's home or place of
10 business, or in moving from one place of
11 abode or business to another, or while in
12 ~~((his))~~ such person's place of abode or fixed
13 place of business ~~((to another, or while~~
14 ~~in his place of abode or fixed place of~~
15 ~~business)).~~

16 (3) Subsection 12A.17.140(~~((a)-(3))~~) (1) (c) shall not
17 apply to or affect:

18 (a) Peace officers(~~((7))~~) or military personnel
19 while in the performance of their official
20 duties; or

21 (b) Regularly enrolled members of any club or
22 organization organized for the purpose of
23 practicing shooting at targets upon established
24 target ranges, whether public or private,
25 while such members are at, or are going to or
26 from such target ranges; or

27 (c) Regularly enrolled members of any club or
28 organization organized for the purpose of
collecting modern or antique firearms while
such members are at, or are going to or from

1 a gun collector's show or exhibit; or

2 (d) Individual licensed hunters or fishermen
3 while on a hunting, camping, or fishing trip;
4 or

5 (e) Any person engaged in the business or manufac-
6 turing, repairing, or dealing in firearms or
7 the agent or representative of such person,
8 having in his possession, using or carrying a
9 pistol in the usual or ordinary course of
such business; or

10 (f) Any person carrying a pistol unloaded and in
11 a secure wrapper from ~~((or to))~~ the place of
12 purchase, ~~((or))~~ from or to a place of repair,
13 ~~((to or from))~~ or from or to his home or
14 place of business, or in moving from one
place of abode or business~~((7))~~ to another.

15 (4) Subsection 12A.17.140(1)(a) relating to chako
16 sticks or throwing stars shall not apply to or
17 affect regularly enrolled members of clubs and
18 associations organized for the practice, instruction
19 or demonstration of self defense arts involving
20 chako sticks or throwing stars while such members
21 are at or are going to or from their place of
22 residence, a practice session, an instruction
23 session, a demonstration or a place of repair,
24 or while such members are going from the place of
purchase.

25 Section 5. Section 12A.20.110 of the Seattle Criminal
26 Code (Ordinance 102843) is amended to read as follows:

27 Section 12A.20.110 False Reporting. A person is
28 guilty of false reporting ~~((if with knowledge that the~~

1 information reported, conveyed or circulated is false))

2 if he:

3 (1) initiates or circulates a written or oral ((false))
4 report or warning of an alleged or impending
5 occurrence of a fire, explosion, crime, catastrophe,
6 or emergency knowing that such report contains
7 false information and knowing that such ((false))
8 report is likely to cause evacuation of a building,
9 place of assembly, or transportation facility, or
10 to cause substantial public inconvenience or alarm
11 ((:)); or

12 (2) makes, files or causes to be filed with a public
13 officer of the City of Seattle a written report,
14 statement, application, citation or complaint
15 which he knows to contain a mis-statement of a
16 material fact; or

17 (3) makes a verbal statement relating to a crime,
18 catastrophe, or emergency to a Seattle police
19 officer or a Seattle Police Department 911 emergency
20 operator, knowing that such statement contains a
21 mis-statement of a material fact; or

22 (4) gives false identification to a Seattle police
23 officer when such officer is executing a search or
24 arrest warrant, issuing a citation or making an
25 arrest.

26 Section 6. Section 12A.46.100 of the Seattle Criminal
27 Code (Ordinance 102843) is amended to read as follows:

28 Section (~~12A.46.100~~) 12A.17.170 Discharging Firearm
or Explosive -- Exceptions. It is unlawful to discharge any
cannon, gun, pistol, revolver or other firearm, or to fire
or explode or set off any squib, firecracker, torpedo or

1 other thing containing powder, or other explosive material,
2 except on days of public celebration or jubilee, and then
3 only as permitted by law. This section shall not apply to
4 the following: Licensed shooting galleries; airplane ordinance
5 testing and proving grounds used in the manufacture of
6 aircraft; rifle or pistol practice ranges located, established,
7 used and patrolled by the armed forces of the United States,
8 by the State of Washington, or by the police department; the
9 discharge of any firearm in the performance of official
10 duties or in the course of employment or in civilian sports
11 by any person having a permit or lawful right to carry such
12 firearm; or to the lawful use of explosives for blasting or
13 construction or demolition work.

14 Section 7. Section 12A.46.120 of the Seattle Criminal
15 Code (Ordinance 102843) is amended to read as follows:

16 Section (~~12A.46.120~~) 12A.20.120 Failure to Appear in
17 Response to Citation. It shall be unlawful for any person
18 to fail to appear as directed when served with a citation
19 and notice to appear in municipal court as provided in
20 Section 12A.01.140.

21 Section 8. The Seattle Criminal Code (Ordinance 102843)
22 is amended by adding thereto a new Section 12A.20.010 to
23 read as follows:

24 Section 12A.20.010 Resisting Arrest. A person is
25 guilty of resisting arrest if he intentionally prevents or
26 attempts to prevent a peace officer from lawfully arresting
27 him.
28

108867 Section 9. The Seattle Criminal Code (Ordinance 102843)

is amended by adding thereto a new Section 12A.12.160 to
read as follows:

Section 12A.12.160 Urinating in Public.

- (1) A person is guilty of urinating in public if he 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.
- (2) "Public place" as used in this Section 12A.12.160 has the meaning defined in Section 12A.12.020(1)(a).
- (3) Any person who violates this Section 12A.12.160 shall be guilty of a violation as defined in Section 12A.01.090(2).

1 Section 10. Section 12A.20.020 of the Seattle
2 Criminal Code (Ordinance 102843) is amended to read as
3 follows:

4 Section 12A.20.020 Obstructing a Public Officer. A
5 person is guilty of obstructing a public officer if, with
6 knowledge that the person obstructed is a public officer,
7 he:

- 8 (1) intentionally ((resists, delays or obstructs))
9 and physically interferes with a ((person who he
10 knows is a)) public officer and such officer is
11 acting lawfully in a governmental function((?)) ;
12 or
13 (2) intentionally hinders or delays a public officer
14 by disobeying a lawful order to stop given by
15 such officer, and such officer is acting lawfully
16 in a governmental function; or
17 (3) intentionally refuses to cease an activity or
18 behavior that creates a risk of injury to any
19 person when ordered to do so by a public officer,
20 and such officer is acting lawfully in a
21 governmental function; or
22 (4) intentionally destroys or attempts to destroy
23 any material which he knows the public officer
24 is lawfully attempting to obtain, secure or
25 preserve during a lawful investigation, search
26 or arrest; or
27 (5) intentionally refuses to leave the scene of an
28 investigation of a crime while an investigation is
in progress after being requested to leave by a public
officer acting lawfully in a governmental function.

Section 11. 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 28 day of January, 1980
and signed by me in open session in authentication of its passage this 28 day of January, 1980

[Signature]
President of the City Council.

Approved by me this 4 day of February, 1980

[Signature]
Mayor.

Filed by me this 6 day of February, 1980

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

(SEAL)

Published.....

By *[Signature]*
Deputy Clerk.

Section 12A.20.010 Resisting Arrest. A person is guilty of resisting arrest if he intentionally prevents or attempts to prevent a peace officer from lawfully arresting him.

Section 12A.20.020 Obstructing a Public Officer. A person is guilty of obstructing a public officer if, with knowledge that the person obstructed is a public officer, he:

- (1) intentionally ((resists, delays or obstructs)) and physically interferes with a ((person who he knows is a)) public officer and such officer is acting lawfully in a governmental function((7)) or
- (2) intentionally hinders or delays a public officer by disobeying a lawful order to stop given by such officer, and such officer is acting lawfully in a governmental function; 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, and such officer is acting lawfully in a governmental function; or
- (4) intentionally destroys or attempts to destroy any material which he knows the public officer is lawfully attempting to obtain, secure or preserve during a lawful 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

Section 12A.20.110 False Reporting A person is guilty of false reporting ((if with knowledge that the information reported, conveyed or circulated is false)) if he:

- (1) initiates or circulates a written or oral ((false)) 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 ((false)) report is likely to cause evacuation of a building, place of assembly, or transportation facility, or to cause substantial public inconvenience or alarm ((-)); or
- (2) makes, files or causes to be filed with a public officer of the City of Seattle a written report, statement, application, citation or complaint which he knows to contain a mis-statement of a material fact; or
- (3) 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 mis-statement of a material fact; or
- (4) 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.



Seattle City Council

Memorandum

Date: January 23, 1980
To: Members, Seattle City Council
From: Dace McCoy *Dace*
Subject: Divided Report on Urinating in Public

Background

Urinating in public is one of the issues in the Criminal Code Revision Project. Under current law, this offense is a misdemeanor contained in the Lewd Conduct Ordinance. The Mayor's recommendation was to remove the offense from the Lewd Conduct Ordinance, create a new offense called Urinating in Public, and make this offense a violation.

The PS&J Committee considered this issue in two parts. All three members voted to create a new crime called Urinating in Public so that a person convicted of this offense would not have the stigma of a lewd conduct conviction on his record. On the question of whether or not to maintain the offense as a misdemeanor or reduce it to a violation, the Committee came to a split decision.

There are two levels of offense in the Seattle Criminal Code: misdemeanors and violations. A misdemeanor is punishable by a fine up to \$500 and a jail term up to six months. A violation is punishable by a fine up to \$500, but one cannot be sent to jail or have a criminal record for a violation. A police officer normally arrests and books an individual for a misdemeanor. He will then be released on bail or personal recognizance. For a violation, the officer will merely issue a citation, unless the person does not have acceptable identification. In that case he may arrest the person and book him, but the arrestee will be released immediately after booking. In misdemeanor situations, the officer has the discretion to issue a citation when he feels that a full arrest and booking procedure is not warranted.

In terms of cost to the taxpayers, the Law and Justice Office indicates that an arrest and booking for this sort of offense takes about one-half hour of the arresting officer's time and about four hours of time from jail personnel. In addition, a defendant to a misdemeanor charge has the right to court-appointed counsel (paid for at public expense, if necessary), while a defendant to a violation charge does not have that right because he does not face incarceration.

*3-5 against
Failed*

Majority Report (Councilmen Smith and Benson)

JAN 28 1980

Councilmen Smith and Benson feel that public urination, while not the worst crime with which we are concerned, does create a public nuisance, a health hazard, and is very bad for business in areas like Pioneer Square and the Pike Market area. The Councilmembers also feel that reducing the penalties for this offense would appear to be a Council condoning of this conduct. They believe that police officers should have the power to arrest and remove the offender from the scene when appropriate. Councilman Benson stresses that his support of this position is coupled with his strong feeling that we need public restrooms in areas like Pioneer Square.

Minority Report (Councilman Revelle)

Councilman Revelle believes that a six-month jail term, the same punishment rendered for assault or sexual abuse, is an inappropriate penalty for public urination. This offense is not dangerous. A flagrant violation involving display of the genitals which harrasses or frightens someone could still be prosecuted under the Lewd Conduct Ordinance. In allocating police resources, the cost to the City of full arrest and booking procedure is much greater than a simple citation issued on the scene. Further, Councilman Revelle feels that incarceration is a very expensive remedy to the City for such a relatively minor offense. People commit this offense because there are no public facilities available, either at events like Seafair or in areas of the City like Pioneer Square.

The Mayor, the Criminal Code Drafting Committee and Council Staff support Councilman Revelle's position.

DM:gr

Adopted

ADOPTED

JAN 28 1980



Seattle City Council

Memorandum

Date: January 24, 1980
To: All Members, Seattle City Council
From: Dace McCoy
Subject: Divided Report on Obstructing a Public Officer

BACKGROUND

One of the most important issues in the second part of the Criminal Code Revision project is how the Criminal Code should handle the area of resisting arrest and obstructing a public officer. As the Code is now written, this entire area of the law is covered in one ordinance: "Obstructing a Public Officer. A person is guilty of obstructing a public officer if he intentionally resists, delays or obstructs a person who he knows is a public officer, and such officer is acting lawfully in a governmental function."

The Mayor is recommending that the Council adopt a totally different approach to this issue. Rather than one ordinance which may cover a great deal of conduct which should not be subject to misdemeanor penalties, he proposes a package of three ordinances which detail in a specific way exactly what conduct is prohibited. This package (see attachment for full text of the proposed ordinances) includes a resisting arrest law, an addition to the false reporting law which prohibits giving false identification to an officer, and a five-point obstructing ordinance which covers: (1) physically interfering with an officer, (2) disobeying an order to stop, (3) refusing to cease dangerous activity when ordered to do so by an officer, (4) destroying evidence which an officer is seeking to obtain and (5) refusing to leave the scene of a criminal investigation when ordered to do so.

The Public Safety and Justice Committee has considered these changes over a two-month period. Councilman Revelle supports the Mayor's package of new ordinances. Councilmen Smith, Benson and Richards voted to retain the present Obstructing Ordinance, but to add the Mayor's proposed Resisting Arrest Ordinance, and the changes to the False Reporting law. Thus, although discussion of these issues concerns all three proposed ordinances, the PS&J Committee is divided only on the question of the change to the Obstructing Ordinance.

Majority Report (Councilmen Smith, Benson and Richards)

The majority position is based on the feeling that if the existing law is working well, and has been found to be Constitutional, there is really no need to change it. This law has survived Constitutional challenge; it makes no sense to replace it with another law which must then withstand another round of challenges and appeals. The majority favors maintaining the level of discretion which the Police now have in the handling of obstructing

page 2
Members, Seattle City Council
January 24, 1980

situations, rather than limiting their powers of arrest to the situations specified in the ordinance. Further, it is impossible to know at this time whether the proposed ordinance covers all of the obstructing situations which may arise in the future.

Minority Report (Councilman Revelle)

Councilman Revelle's position is based on the philosophy that where the law can be specific in what it prohibits and in what it directs the Police to do, that is preferable to a more generalized prohibition. While the Seattle Police Department is better than most, it is common knowledge in the criminal justice system that a vague obstructing ordinance which affords unguided discretion is open to the greatest abuse, and the citizens most subject to that abuse are the poor, minorities and the young. This ordinance is the result of a study by the Police Department of all of the Obstructing cases which they have had over the last year, and the Department feels that all of the situations which should be covered are included in the Resisting/Obstructing package presented by the Mayor. While the new Resisting/Obstructing package will not prevent abuses, it does give much clearer guidance to Police and citizens alike as to what conduct is prohibited.

Within the Mayor's Drafting Committee, the Mayor's staff, the Public Defender and the representative from the private bar support the proposed ordinances. The Police representatives prefer the existing law, but say that if the Council passes the new ordinances, as long as all of the elements of the proposed package are passed, the Police will be satisfied with the law. The Prosecutor prefers the existing law. Council staff supports the proposed changes.

DM:ho

adopted

ADOPTED

JAN 28 1980

C-981

Affidavit of Publication

STATE OF WASHINGTON
KING COUNTY—SS.

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
Ordinance No. 108814

.....
was published on February 8, 1980

.....
J. Mihalys
.....
Subscribed and sworn to before me on

.....
February 8, 1980

.....
Barbara A. Jones
.....
Notary Public for the State of Washington,
residing in Seattle.

The City of Seattle--Legislative Department

MR. PRESIDENT:

Date Reported
and Adopted

Your Committee on PUBLIC SAFETY AND JUSTICE

to which was referred

C.B. 100669

Amends the Criminal Code, re Lewd Conduct, Disorderly Conduct, etc. pursuant to Resolution 26073.

Relating to the Seattle Criminal Code (Ordinance 102843), amending Sections 12A.12.150 "Lewd Conduct," 12A.16.020 "Disorderly Conduct," 12A.17.140 "Unlawful Use of Weapons," 12A.17.160 "Exemptions," 12A.20.020 "Obstructing a Public Officer," 12A.20.110 "False Reporting," 12A.46.100 "Discharging Firearm or Explosive -- Exceptions," 12A.46.120 "Failure to Appear in Response to Citation," and adding new Sections 12A.12.160 "Urinating in Public," and 12A.20.010 "Resisting Arrest."

Chairman

Chairman

Committee

Committee

The City of Seattle--Legislative Department

MR. PRESIDENT:

Date Reported
and Adopted

Your Committee on

to which was referred

C.B. 100669

Amends the Criminal Code re lewd
conduct, Disorderly conduct

Submits the following Divided Report

Chairman

Chairman

On the question of whether or not to
maintain the offense (Urinating in public)
as a misdemeanor or reduce it to a
violation.

Committee

Committee

CHRISTIANE LEMIE

AN ORDINANCE relating to the Seattle Criminal Code (Ordinance 102843), amending Sections 12A.12.150 "Lewd Conduct," 12A.16.020 "Disorderly Conduct," 12A.17.140 "Unlawful Use of Weapons," 12A.17.160 "Exceptions," 12A.20.020 "Obstructing a Public Officer," 12A.20.110 "False Reporting," 12A.46.100 "Discharging Firearms or Explosive -- Exceptions," 12A.46.120 "Failure to Appear in Response to Citation," and adding new Sections 12A.12.160 "Urinating in Public," and 12A.20.010 "Resisting Arrest."

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.12.150 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section 12A.12.150 Lewd Conduct

- (1) As used in this section a "lewd act" is:
 - (a) an exposure of one's genitals or female breasts; or
 - (b) the touching, caressing or fondling of the genitals or female breasts; or
 - (c) sexual intercourse as defined in Section 12A.64.140(1)(c); or
 - (d) masturbation (r).

((for-urination-or-defecation-in-a-place-other-than-a-washroom-or-toilet-room))
- (2) A person is guilty of lewd conduct if he intentionally performs any lewd act in a public place or at a place and under circumstances where such act could be observed by any member of the public. "Public place" has the meaning defined in Section 12A.12.020(1)(a).
- (3) The owner, manager or operator of premises open to the public wherein alcoholic beverages are sold, served or consumed is guilty of permitting lewd conduct if he intentionally permits or causes any lewd act on said premises.
- (4) This section shall not be applied to artistic or dramatic performances in a theater or a museum.

Section 2. Section 12A.16.020 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section 12A.16.020 Disorderly Conduct

- (1) As used in this section 12A.16.020 "obstruct" means to render impossible and thereby subject passers-by to unreasonable inconvenience or hazard.
- (2) A person is guilty of disorderly conduct if without lawful authority he knowingly:
 - ((a)-makes-noise-which-unreasonably-disturbs-another-or)
 - ((b)) (a) unreasonably disrupts any lawful assembly or meeting of persons; or
 - ((b)) (b) obstructs pedestrian or vehicular traffic; and refuses or intentionally fails to cease such activity when ordered to do so by a police officer or additionally in the case of ((b)) (a) by the person in charge of the assembly or meeting.

Section 3. Section 12A.17.140 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section 12A.17.140 Unlawful Use of Weapons

- (1) It is unlawful for ((anyone)) a person knowingly to:
 - (a) Sell, manufacture, purchase, possess or carry any blackjack, sand-club, metal knuckles, ((or)) switchblade knife(r); chako sticks, or throwing stars; or
 - (b) Carry ((concealed)) on his person or in any vehicle any dangerous knife(r) or deadly weapon except as otherwise provided in Section 12A.17.140(1)(c), or to sell or give away to any person under eighteen years of age any dangerous knife or deadly weapon, or for any such person to purchase or possess any such dangerous knife or deadly weapon; or

similar liquid tear gas aerosol canister devices approved by the Chief of Police as safe against accidental firing and capable of only temporary disablement or impairment, to truck drivers, taxicab drivers, transit drivers, or other commercial drivers who regularly as part of their occupation carry cash or merchandise, ((and who have successfully completed a Seattle Police Department class of instruction on the use of such tear gas devices)) or to the purchase, ((or)) possession or carrying during working hours((r)) of such device by such persons. ((after successful completion of such class of instruction. Applications for such instruction shall be made to the Chief of Police and shall be accompanied by a fee of \$5.00.))

(2) The proscriptions of subsection 12A.17.140((a)-(d))

(1)(b) relating to dangerous knives shall not apply to:

- (a) Individual licensed hunters or fishermen while on a hunting, camping, or fishing trip; or
 - (b) Any person carrying such knife in a secure wrapper or in a tool box while traveling from ((or to)) the place of purchase, ((or)) from or to a place of repair, ((or)) from ((his)) or to such person's home or place of business, or in moving from one place of abode or business to another, or while in ((his)) such person's place of abode or fixed place of business ((as another as while in his place of abode or fixed place of business)).
- (3) Subsection 12A.17.140((a)-(d)) (1)(c) shall not apply to or affect:
- (a) Peace Officers((r)) or military personnel while in the performance of their official duties; or
 - (b) Regularly enrolled members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are at, or are going to or from such target ranges; or
 - (c) Regularly enrolled members of any club or organization organized for the purpose of collecting modern or antique firearms while such members are at, or are going to or from a gun collector's show or exhibit; or
 - (d) Individual licensed hunters or fishermen while on a hunting, camping, or fishing trip; or
 - (e) Any person engaged in the business or manufacturing, repairing, or dealing in firearms or the agent or representative of such person, having in his possession, using or carrying a pistol in the usual or ordinary course of such business; or
 - (f) Any person carrying a pistol unloaded and in a secure wrapper from ((or to)) the place of purchase, ((or)) from or to a place of repair, ((or from)) or from or to his home or place of business, or in moving from one place of abode or business((r)) to another.
- (4) Subsection 12A.17.140(1)(a) relating to chako sticks or throwing stars shall not apply to or affect regularly enrolled members of clubs and

- (c) Carry a loaded pistol in any vehicle or carry a pistol (~~possessed~~) on his person, except when in his place of abode or fixed place of business, without a license therefor as provided in RCW Chapter 9A.41 and 12A.17.040; or
- (d) Set a spring gun; or
- (e) Use any device or attachment of any kind designed, used or intended for use in silencing the noise of any firearm; or
- (f) Sell, purchase, possess or carry any gas pen, gas pencil, gas bomb or gas pistol.

Section 4. Section 12A.17.140 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section 12A.17.160 (~~Suspenses~~) **Affirmative Defenses.**

- (1) The proscriptions of subsection 12A.17.140(1)(2) relating to gas pens, gas pencils, gas bombs, and gas pistols, shall not apply to:
 - (a) Sales at wholesale; or
 - (b) Peace officers or military personnel while in the performance of their official duties; or
 - (c) Sales to a governmental agency; or
 - (d) The sale to mail carriers, field personnel of the King County Department of Assessments, or public or private utility meter readers, or the purchase, possession or carrying by any such persons, of aerosol canister devices designed for the purpose of repelling attacks by dogs and other animals and containing and capable of emitting in spray form oleoresin of capsaicin or other similar substance(s); or
 - (e) The sale, by a person licensed to sell pistols in accordance with RCW 9A.41.110, of Federal's Streamer No. 280 liquid tear gas repeater or

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.

Section 5. Section 12A.20.110 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section 12A.20.110 False Reporting. A person is guilty of false reporting ((as with knowledge that the information reported, conveyed or circulated is false)) if he:

- (1) initiates or circulates a written or oral ((false)) 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 ((false)) report is likely to cause evacuation of a building, place of assembly, or transportation facility, or to cause substantial public inconvenience or alarm ((v)); or
- (2) makes, files or causes to be filed with a public officer of the City of Seattle a written report, statement, application, citation or complaint which he knows to contain a mis-statement of a material fact; or
- (3) makes a verbal statement relating to a crime, catastrophe, or a emergency to a Seattle police officer or a Seattle Police Department 911 emergency operator, knowing that such statement contains a mis-statement of a material fact; or
- (4) 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.

Section 6. Section 12A.46.100 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section ((12A-46-100)) 12A.46.100 Discharging Firearm or Explosive -- Exceptions. It is unlawful to discharge any cannon, gun, pistol, revolver or other firearm, or to fire or explode or set off any squib, firecracker, torpedo or other thing containing powder, or other explosive material, except on days of public celebration or jubilee, and then only as permitted by law. This section shall not apply to the following: Licensed shooting galleries; airplanes, ordnance testing and proving grounds used in the manufacture of aircraft; rifle or pistol practice ranges located, established, used and patrolled by the armed forces of the United States, by the State of Washington, or by the police department; the discharge of any firearm in the performance of official duties or in the course of employment or in civilian sports by any person having a permit or lawful right to carry such firearm; or to the lawful use of explosives for blasting or construction or demolition work.

Section 7. Section 12A.46.120 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section ((12A-46-120)) 12A.20.120 Failure 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.01.140.

Section 8. The Seattle Criminal Code (Ordinance 102843) is amended by adding thereto a new Section 12A.20.010 to read as follows:

Section 12A.20.010 Resisting Arrest. A person is guilty of resisting arrest if he intentionally prevents or attempts to prevent a peace officer from lawfully arresting him.

Section 9. The Seattle Criminal Code (Ordinance 102843) is amended by adding thereto a new Section 12A.12.160 to read as follows:

Section 12A.12.160 Urinating in Public.

- (1) A person is guilty of urinating in public if he 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.
- (2) "Public place" as used in this Section 12A.12.160 has the meaning defined in Section 12A.12.020(1)(a).
- (3) Any person who violates this Section 12A.12.160 shall be guilty of a violation as defined in Section 12A.01.090(2).

Section 10. Section 12A.20.020 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section 12A.20.020 Obstructing a Public Officer. A person is guilty of obstructing a public officer if, with knowledge that the person obstructed is a public officer, he:

- (1) intentionally ((resists, delays or obstructs)) and physically interferes with a ((person who he knows is a)) public officer and such officer is acting lawfully in a governmental function((s)) or
- (2) intentionally hinders or delays a public officer by disobeying a lawful order to stop given by such officer, and such officer is acting lawfully in a governmental function; 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, and such officer is acting lawfully in a governmental function; or
- (4) intentionally destroys or attempts to destroy any material which he knows the public officer is lawfully attempting to obtain, secure or preserve during a lawful 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 acting lawfully in a governmental function.

Section 11. 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 28th day of January, 1980, and signed by me in open session in authentication of its passage this 28th day of January, 1980.

PAUL KRAABEL,
President of the City Council.

Approved by me this 4th day of February, 1980.

CHARLES ROYER,
Mayor.

Filed by me this 6th day of February, 1980.

Attest: TIM HILL,
City Comptroller and City Clerk.

(Seal)

By G. C. GEISERT,
Deputy Clerk.

Publication ordered by TIM HILL, Comptroller and City Clerk.
Date of Official Publication in the Daily Journal of Commerce,
Seattle, February 5, 1980.
(C-981)