

ORDINANCE _____

1
2 AN ORDINANCE relating to the City's criminal code; amending and adding various sections and
3 subsections in Chapter 3.33, Chapter 9.25, Title 12A, Chapter 21.36 and Chapter 25.11 of the
4 Seattle Municipal Code to conform with changes in state law.

5 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

6 Section 1. Section 3.33.020 of the Seattle Municipal Code is amended as follows:

7 **3.33.020 Jurisdiction -- Authority.**

8
9 The Municipal Court has jurisdiction to try violations of all City ordinances and all other actions
10 brought to enforce or recover license penalties or forfeitures declared or given by any such ordinances.
11 It is empowered to forfeit cash bail or bail bonds and issue execution thereon, to hear and determine all
12 causes, civil or criminal, arising under such ordinances, and to pronounce judgment in accordance
13 therewith; provided, that for a violation of the criminal provisions of an ordinance no greater punishment
14 shall be imposed than is authorized by state law. As authorized by RCW 35.20.255, the period of
15 probation shall not extend for more than five (5) years from the date of conviction for a defendant
16 sentenced under Section 11.56.025 or for a domestic violence crime, which includes any non-felony
17 crime listed in RCW 10.99.020, and the following crimes when committed by one (1) family or
18 household member, as that term is defined in Section 12A.06.120, against another: Assault under
19 Section 12A.06.010, Stalking under Section 12A.06.035, Reckless Endangerment under Section
20 12A.06.050, Coercion under Section 12A.06.090, Interfering with the Reporting of Domestic Violence
21 under Section 12A.06.187, Violation of an Order under Section 12A.06.180, Property Destruction under
22 Section 12A.08.020, Criminal Trespass First Degree under Section 12A.08.040 and Criminal Trespass
23 Second Degree under Section 12A.08.040; and two (2) years in all other cases. All civil and criminal
24

proceedings in Municipal Court, and judgments rendered therein, shall be subject to review in the Superior Court by writ of review or on appeal. Costs in civil and criminal cases may be taxed as provided by law.

Section 2. Subsection B of Section 9.25.100 of the Seattle Municipal Code is amended as follows:

9.25.100 Penalties.

* * *

B. Conduct made unlawful by Sections 9.25.081 B, 9.25.081 I, and 9.25.083 B of this chapter constitutes a gross misdemeanor punishable as provided in Section 12A.02.070 (~~subject to the provisions of Section 12A.02.010 and 12A.02.020 of the Seattle Municipal Code (Ordinance 102843 as amended) and any person convicted thereof may be punished by a fine of not more than Five Thousand Dollars (\$5,000) or by imprisonment for no more than three hundred sixty-five (365) days, or by both such fine and imprisonment~~)).

* * *

Section 3. Subsection A of Section 12A.02.070 of the Seattle Municipal Code is amended as follows:

12A.02.070 Punishment of crime.

A. Every crime without a specific penalty provision, and every crime designated as a gross misdemeanor, may be punished by a fine not to exceed Five Thousand Dollars (\$5,000), or by imprisonment for a term not to exceed three hundred sixty-four (364) days (~~one (1) year~~), or by both such fine and imprisonment.

* * *

1 Section 4. Section 12A.06.010 of the Seattle Municipal Code is amended as follows:

2
3 **12A.06.010 Assault.**

4 A person is guilty of assault when he or she intentionally ((:

5 ~~A. Intentionally~~)) assaults another person ((; or

6 ~~B. (1) Knowingly operates or knowingly is in actual physical control of a vehicle; and (2) while~~
7 ~~doing so commits any act defined as an infraction under Title 11, Seattle Municipal Code or Title 46,~~
8 ~~Revised Code of Washington; and (3) such conduct is a proximate cause of death, great bodily harm or~~
9 ~~substantial bodily harm to another. As used in this Subsection B, "great bodily harm" and "substantial~~
10 ~~bodily harm" have the same meanings as in RCW 9A.04.110, as that statute now exists or may hereafter~~
11 ~~be amended, and "vehicle" has the same meaning as in SMC 11.14.710. This Subsection B is intended~~
12 ~~to protect the public welfare. No mens rea element that is not specifically stated in this Subsection B~~
13 ~~shall be inferred or required. Prosecution or punishment under this Subsection B shall not preclude~~
14 ~~separate prosecution or punishment for any other crime)).~~

15
16 Section 5. Subsections E and F of Section 12A.06.035 of the Seattle Municipal Code are
17 amended as follows:

18 **12A.06.035 Stalking.**

19 * * *

20 E. As used in this section:

21 1. "Course of conduct" means a pattern of conduct composed of a series of acts over a
22 period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes, in
23 addition to any other form of communication, contact, or conduct, the sending of an electronic
24

communication, but does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of “course of conduct.”

* * *

F. Stalking is a gross misdemeanor. Every person convicted of Stalking shall have a biological sample collected for purposes of DNA identification analysis, as provided in RCW 43.43.754, and shall pay a fee of One Hundred Dollars (\$100.00), as provided in RCW 43.43.7541.

Section 6. Subsection E of Section 12A.06.040 of the Seattle Municipal Code is amended as follows:

12A.06.040 Harassment.

* * *

E. Every person convicted of Harassment shall have a biological sample collected for purposes of DNA identification analysis, as provided in RCW 43.43.754, and shall pay a fee of One Hundred Dollars (\$100.00), as provided in RCW 43.43.7541.

Section 7. Section 12A.06.190 of the Seattle Municipal Code is amended as follows:

12A.06.190 Violation of civil antiharassment protection order.

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

Section 8. Subsection B of Section 12A.10.040 of the Seattle Municipal Code is amended as follows:

12A.10.040 Patronizing a Prostitute.

* * *

1 B. Patronizing a prostitute is a misdemeanor. Every person convicted of patronizing a
2 prostitute shall have a biological sample collected for purposes of DNA identification analysis, as
3 provided in RCW 43.43.754, and shall pay a fee of One Hundred Dollars (\$100.00), as provided in
4 RCW 43.43.7541. When sentencing or imposing conditions on a person convicted of or given a
5 deferred sentence or a deferred prosecution for patronizing a prostitute, the court must require that the
6 person not be subsequently arrested for patronizing a prostitute or commercial sexual abuse of a minor
7 and that the person remain outside the geographical area, prescribed by the court, in which the person
8 was arrested for this crime, unless this requirement would interfere with the person's legitimate
9 employment or residence or otherwise be infeasible. This requirement is in addition to the penalties set
10 forth in Section 12A.10.070.

* * *

12 Section 9. Subsection C of Section 12A.16.020 of the Seattle Municipal Code is amended as
13 follows:
14

15 **12A.16.020 Hindering law enforcement.**
16

17 * * *

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

- 22 1. Harbors or conceals such person; or
 - 23 2. Warns such person of impending discovery or of apprehension; or
- 24

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

2 4. Prevents or obstructs, by use of force, deception or threat, anyone (~~(a private person)~~) from
3 performing an act that might aid in the discovery or apprehension of such person; or

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

6 6. Provide such person with a weapon.

7 * * *

8 Section 10. Section 12A.22.020 of the Seattle Municipal Code is amended as follows:

9
10 **12A.22.020 Causing, aiding or abetting violation.**

11
12 Any person who knowingly causes, aids, abets or conspires with another to cause any person to
13 violate any rule or regulation adopted pursuant to RCW Chapter 9.46 shall be guilty of a gross
14 misdemeanor (~~(crime, and in accordance with RCW 9.46.192 shall upon conviction thereof be punished~~
15 ~~by imprisonment in the City Jail for not more than one (1) year or by a fine not more than Five~~
16 ~~Thousand Dollars (\$5,000.00), or both)).~~

17 Section 11. Section 12A.22.030 of the Seattle Municipal Code is amended as follows:

18
19 **12A.22.030 Deceptive or misleading act or practice -- Operation of gambling activity.**

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

22 A. Employ any device, scheme, or artifice to defraud; or
23
24

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

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

8 Section 12. Section 12A.22.040 of the Seattle Municipal Code is amended as follows:

9 **12A.22.040 Deceptive or misleading act or practice -- Participation in gambling activity.**

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

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

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

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

19 D. Cause, aid, abet or conspire with another person to cause any other person to violate
20 subsections A through C of this section; shall be guilty of a gross misdemeanor ~~((crime and in~~
21 ~~accordance with RCW 9.46.192 upon conviction thereof shall be punished by imprisonment in the City~~
22

~~Jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000.00), or both)).~~

Section 13. Section 12A.22.050 of the Seattle Municipal Code is amended as follows:

12A.22.050 Gambling without license.

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

Section 14. Section 12A.22.060 of the Seattle Municipal Code is amended as follows:

12A.22.060 Gambling records.

Whoever knowingly prints, makes, possesses, stores, or transports any gambling record, or buys, sells, offers, or solicits any interest therein, whether through an agent or employee or otherwise shall be guilty of a gross misdemeanor ~~((crime, and in accordance with RCW 9.46.192 shall upon conviction thereof, be punished by imprisonment in the City Jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000.00) or both));~~ provided, however, that this section shall not apply to records relating to and kept for activities enumerated in RCW 9.46.030, as now or hereafter amended when the records are of the type and kind traditionally and usually employed in connection with the particular activity, nor shall this section apply to any act or acts in furtherance of such activities when conducted in compliance with the provisions of RCW Chapter 9.46 and in accordance with the

1 rules and regulations adopted pursuant thereto. In the enforcement of this section direct possession of
2 any gambling record shall be presumed to be knowing possession thereof.

3 Section 15. Section 12A.22.070 of the Seattle Municipal Code is amended as follows:

4 **12A.22.070 Gambling information.**

5 Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio,
6 semaphore or similar means, or knowingly installs or maintains equipment for the transmission or
7 receipt of gambling information shall be guilty of a gross misdemeanor ~~((crime, and in accordance with
8 RCW 9.46.192 shall upon conviction thereof be punished by imprisonment in the City Jail for not more
9 than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000.00) or both));~~ provided,
10 however, that this section shall not apply to such information transmitted or received or equipment
11 installed or maintained relating to activities as enumerated in RCW 9.46.030 or to any act or acts in
12 furtherance thereof when conducted in compliance with the provisions of RCW Chapter 9.46 and in
13 accordance with the rules and regulations adopted pursuant thereto.
14

15 Section 16. Subsection D of Section 12A.24.150 of the Seattle Municipal Code is amended as
16 follows:

17 **12A.24.150 Classification and penalty.**

18 * * *

19
20 D. Except as otherwise provided in this chapter, any person who violates any provision of this
21 chapter shall be punished, upon the first such conviction, by a fine of not more than Five Hundred
22 Dollars (\$500) or by imprisonment for not more than two (2) months or by both such fine and
23 imprisonment, upon a second such conviction, by imprisonment for not more than six (6) months and,
24

upon a third or subsequent such conviction, by imprisonment for not more than three hundred sixty-four
1 (364) days (~~one (1) year~~). If the person convicted is a corporation, it shall be punished by a fine of not
2 more than Five Thousand Dollars (\$5,000).

3 Section 17. Section 21.36.920 of the Seattle Municipal Code is amended as follows:

4 **21.36.920 Violation -- Penalty.**

5 A. Except for a violation designated by this chapter as a civil infraction or as provided by
6 subsection B of this section, violation (~~anyone who shall violate~~) or failure (~~fail~~) to comply with any
7 provision of this chapter is a gross misdemeanor punishable as provided in Section 12A.02.070 (~~may,~~
8 ~~upon conviction, be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by~~
9 ~~imprisonment in the City Jail for a period of not exceeding one (1) year, or by both such fine and~~
10 ~~imprisonment~~)).

11
12 B. Violation of Section 21.36.420 involving an amount of solid waste greater than one (1) cubic
13 foot but less than one (1) cubic yard is a misdemeanor punishable as provided in Section 12A.02.070.
14 For such a violation, the defendant shall also pay a litter cleanup restitution payment, which is the
15 greater of twice the actual cost of removing and properly disposing of the litter or Fifty Dollars (\$50.00)
16 per cubic foot of litter. Violation of Section 21.36.420 involving an amount of solid waste of one (1)
17 cubic yard or more is a gross misdemeanor punishable as provided in Section 12A.02.070. For such a
18 violation, the defendant shall also pay a litter cleanup restitution payment, which is the greater of twice
19 the actual cost of removing and properly disposing of the litter or One Hundred Dollars (\$100.00) per
20 cubic foot of litter. The court shall distribute the litter cleanup restitution payment according to RCW
21 70.95.240. The court may, in addition to the litter cleanup restitution payment, order the defendant to
22 remove and properly dispose of the litter from the property, with prior permission of the legal owner or,
23 in the case of public property, of the agency managing the property. The court may suspend or modify
24

the litter cleanup restitution payment for a first-time offender under this section if the defendant removes and properly disposes of the litter.

C. Alternatively, except for a violation designated by this chapter as a civil infraction or as provided in subsection B of this section, the violation of or failure to comply with any provision of this chapter shall be subject to a civil penalty in the amount of Fifty Dollars (\$50.00) for each violation and the amount of Fifty Dollars (\$50.00) per day for each additional day of a continuing violation. To collect the penalty imposed by this subsection, the City shall file a civil action in the Municipal Court.

D. ~~((C.))~~ The penalties provided in this section are in addition to any other sanction or remedial procedure which may be available. The criminal or civil penalty, and the limitation on the amount of the penalty, does not including any amounts that may be recovered for reimbursement. Sums recovered for reimbursement shall be in addition to the penalty.

Section 18. Subsection B of Section 21.36.922 of the Seattle Municipal Code is amended as follows:

21.36.922 Civil infractions.

* * *

B. The violation of or failure to comply with the following section is a Class 1 civil infraction under RCW 7.80.120:

SMC Section 21.36.415 (Discarding potentially dangerous litter), except that the maximum monetary penalty and default amount is Five Hundred Dollars (\$500.00), not including statutory assessments

~~((SMC Section 21.36.420 (Unlawful dumping of solid waste)))~~

SMC Section 21.36.084 (Prohibition on use of expanded polystyrene food service products)

SMC Section 21.36.086 (Compostable or recyclable food service ware required)

* * *

1 Section 19. Subsection D of Section 25.08.800 of the Seattle Municipal Code is amended as
2 follows:

3 **25.08.800 Civil Enforcement and Criminal Penalties.**

4 * * *

5 D. Alternative criminal penalty. As an alternative to the civil penalties provided in this section
6 the Administrator may request that violations of or failure to comply with this chapter or orders issued
7 by the Administrator be prosecuted criminally. In such case, any person who violates or fails to comply
8 with an order issued by the Administrator or any of the provisions of this chapter except for Sections
9 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, shall be guilty of a gross misdemeanor subject to
10 the provisions of Chapter 12A.02 and 12A.04, except that absolute liability shall be imposed for such a
11 violation or failure to comply, and none of the mental states described in Section 12A.04.030 need be
12 proved. Any person convicted thereof shall be punished by a fine not to exceed \$5,000 or by
13 imprisonment in the City Jail for a term not to exceed three hundred sixty-four (364) days (~~one year~~),
14 or by both such fine and imprisonment.

15 * * *

16
17 Section 20. Subsection K of Section 25.11.100 of the Seattle Municipal Code is amended as
18 follows:

19 **25.11.100 Enforcement and penalties.**

20 * * *

21 **K. Criminal Penalty.**

22 1. Anyone violating or failing to comply with any order issued by the Director pursuant
23 to this chapter shall, upon conviction thereof, be punished by a fine of not more than One Thousand
24

Dollars (\$1,000) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

2. Anyone violating or failing to comply with any of the provisions of this chapter and who within the past five (5) years has had a judgment against them pursuant to subsection B shall upon conviction thereof, be fined in a sum not to exceed Five Thousand Dollars (\$5,000) or by imprisonment for not more than three hundred sixty-four (364) (~~sixty-five (365)~~) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

Section 21. This ordinance shall take effect and be in force on July 22, 2011.

Passed by the City Council the ____ day of _____, 2011, and signed by me in open session in authentication of its passage this ____ day of _____, 2011.

President _____ of the City Council

Approved by me this ____ day of _____, 2011.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

Monica Martinez Simmons, City Clerk

(Seal)