

Title 9

PUBLIC PEACE, MORALS AND WELFARE

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I. General Provisions

Chapter 9.01

GENERAL PROVISIONS

Sections:

- 9.01.010 Person defined.
- 9.01.020 Persons aiding, abetting or counseling deemed principal when.
- 9.01.030 Violation of terms of title – Penalty.

9.01.010 Person defined.

The word “person” wherever used in this title shall, when necessary, be held and construed to mean and include natural persons of either sex, associations, copartnerships, and corporations, whether acting by themselves or by servant, agent or employee. The singular number shall, when necessary, be held and construed to include the plural and the masculine pronoun to include the feminine. (Ord. 1734 § 1, 1974).

9.01.020 Persons aiding, abetting or counseling deemed principal when.

Every person concerned in the commission of the violation of any city ordinance, whether he directly commits the act constituting the offense or aids and abets in its commission, and whether present or absent, and every person who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit a violation of a city ordinance is a principal and shall be proceeded against and punished as such. The fact that the person aided, abetted, counseled, encouraged, hired, commanded, induced or procured could not or did not entertain a criminal intent shall not be a defense to any person aiding, abetting, counseling, encouraging, hiring, commanding, inducing or procuring him. (Ord. 1734 § 2, 1974).

9.01.030 Violation of terms of title – Penalty.

Any person, firm or corporation violating the terms of this title is guilty of a misdemeanor and upon conviction shall be punished as provided in MVMC 1.20.010, unless otherwise specifically provided. (Ord. 1734 § 3, 1974).

II. Offenses By or Against Public Officers and Government

Chapter 9.04

OBSTRUCTING GOVERNMENTAL OPERATION

Sections:

- 9.04.010 Criminal impersonation.
- 9.04.020 Making a false or misleading statement to a public servant.
- 9.04.023 Obstructing a law enforcement officer.
- 9.04.025 Resisting arrest prohibited.
- 9.04.030 Escape in the third degree and assisting escape.
- 9.04.040 Refusing to aid enforcement of laws prohibited when.
- 9.04.050 Failing to respond to summons, order or promise to appear prohibited.
- 9.04.060 Interference with police dogs.

9.04.010 Criminal impersonation.¹

A. A person is guilty of criminal impersonation in the first degree if the person:

1. Assumes a false identity and does an act in his or her assumed character with intent to defraud another or for any other unlawful purpose; or
2. Pretends to be a representative of some person or organization or a public servant and does an act in his or her pretended capacity with intent to defraud another or for any other unlawful purpose.

B. Criminal impersonation in the first degree is a gross misdemeanor, punishable as set forth in MVMC 1.20.010.

C. A person is guilty of criminal impersonation in the second degree if the person:

1. Claims to be a law enforcement officer or creates an impression that he or she is a law enforcement officer; and
2. Under circumstances not amounting to criminal impersonation in the first degree, does an act with intent to convey the impression that he or she is acting in an official capacity and a reasonable person would believe the person is a law enforcement officer.

D. Criminal impersonation in the second degree is a misdemeanor, punishable as set forth in MVMC 1.20.010. (Ord. 2881 § 5, 1998; Ord. 1733 § 1, 1974).

1. See RCW 9A.60.040.

9.04.020

9.04.020 Making a false or misleading statement to a public servant.

A person who knowingly makes a false or misleading material statement to a public servant is guilty of a gross misdemeanor. "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties. (Ord. 3419 § 3, 2008).

9.04.023 Obstructing a law enforcement officer.

A. A person is guilty of obstructing a law enforcement officer if the person willfully hinders, delays, or obstructs any law enforcement officer in the discharge of his or her official powers or duties.

B. "Law enforcement officer" means any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 19.93.020, and other public officers who are responsible for enforcement of fire, building, zoning, and life and safety codes.

C. Obstructing a law enforcement officer is a gross misdemeanor. (Ord. 3419 § 4, 2008).

9.04.025 Resisting arrest prohibited.

It is unlawful for any person to intentionally resist, prevent or attempt to prevent a peace officer from lawfully arresting him. (Ord. 2276 § 3, 1987).

9.04.030 Escape in the third degree and assisting escape.¹

A. For purposes of this section, "custody" means restraint pursuant to a lawful arrest or an order of a court, or any period of service on a work crew; provided, that custody pursuant to Chapter 13.34 RCW and RCW 74.13.020 and 74.13.031 and Chapter 13.32A RCW shall not be deemed custody for purposes of this section.

B. A person is guilty of escape in the third degree if he escapes from custody.

C. A person is guilty of assisting escape if such person rescues or attempts to rescue any person from the custody of any member of the police force of the city or from any other person legally having him in charge or aids or attempts to aid the escape of any person from any such custody or from any city prison or advises or encourages any such escape or supplies any person being in such custody or prison with any weapon or with any imple-

ment or means of escape or with intoxicating liquor or with any opium, morphine or other narcotic.

D. Escape in the third degree and assisting escape are gross misdemeanors. (Ord. 2881 § 6, 1998; Ord. 1733 § 3, 1974).

9.04.040 Refusing to aid enforcement of laws prohibited when.

It is unlawful for any person over the age of 18 years, when requested or called upon by any member of the police force or by the mayor, to render aid in making an arrest or to aid in enforcing the laws and ordinances in force, or to aid in preserving the peace and safety of the city, or to aid in the execution of the official duty of any peace officer, to willfully refuse or neglect to promptly give such aid. (Ord. 1733 § 4, 1974).

9.04.050 Failing to respond to summons, order or promise to appear prohibited.

Any person who without reasonable cause fails to appear in response to a summons, subpoena or any order of the municipal court, or a written promise to appear, or fails to timely notify the municipal court clerk of his or her inability to appear, and any person who without reasonable cause fails to respond to a notice of infraction or notice of traffic infraction after his written and signed promise to respond, shall be guilty of a misdemeanor. (Ord. 2106 § 1, 1983; Ord. 1786 § 1, 1975).

9.04.060 Interference with police dogs.

A person commits the offense of interference with a police dog when he or she knowingly strikes or taps on or pokes at any cage or vehicle in which a police dog is located or when he or she knowingly grabs, harasses, agitates, strikes, attempts to injure or hold the collar of, or to interference with any dog used by a police officer in discharging or attempting to discharge any legal duty or power of his or her office. (Ord. 2264 § 1, 1987).

1. See RCW 9A.76.130.

Chapter 9.06

CRIMINAL CONSPIRACY

Sections:

9.06.010 Criminal conspiracy.

9.06.010 Criminal conspiracy.¹

A. A person is guilty of criminal conspiracy when, with intent that conduct be performed which constitutes a crime under the Mount Vernon Municipal Code or a class C felony under the laws of the state of Washington, he agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them takes a substantial step in pursuance of such agreement.

B. It shall not be a defense to criminal conspiracy that the person or persons with whom the accused is alleged to have conspired:

1. Has not been prosecuted or convicted; or
2. Has been convicted of a different offense;

or

3. Is not amenable to justice; or
4. Has been acquitted; or
5. Lacked the capacity to commit an offense.

C. Criminal conspiracy is a:

1. Gross misdemeanor when an object of the conspiratorial agreement is a class C felony;
2. Misdemeanor when an object of the conspiratorial agreement is a gross misdemeanor or misdemeanor. (Ord. 2881 § 3, 1998).

1. See RCW 9A.28.040.

Chapter 9.08

FALSE ALARMS OF FIRE

Sections:

9.08.010 Deemed misdemeanor when.

9.08.020 Resulting in injury to any person deemed misdemeanor – Penalty.

9.08.030 Interference with fire alarm apparatus deemed misdemeanor – Penalty.

9.08.040 False reporting.

9.08.010 Deemed misdemeanor when.

Any person who willfully, or knowingly gives or aids, or abets in giving, by any means, any false alarm of fire, is guilty of a misdemeanor. (Ord. 1760 § 1, 1974).

9.08.020 Resulting in injury to any person deemed misdemeanor – Penalty.

Any person who willfully or knowingly gives or aids, or abets in giving, by any means, any false alarm of fire, and bodily injury is sustained by any person as a result thereof, is guilty of a misdemeanor; provided, that upon conviction such person shall be subject to a minimum penalty of 90 days in jail and a fine of \$300.00. (Ord. 2174 § 1, 1985; Ord. 1760 § 2, 1974).

9.08.030 Interference with fire alarm apparatus deemed misdemeanor – Penalty.

Any person who willfully, or knowingly, tampers with, interferes with, or impairs any public and/or private fire alarm apparatus, wire, or associated equipment, shall be guilty of a misdemeanor; provided, that upon conviction such person shall be subject to a minimum penalty of 30 days in jail and a fine of \$100.00. (Ord. 2174 § 2, 1985; Ord. 1760 § 3, 1974).

9.08.040 False reporting.²

A. A person is guilty of false reporting if, with knowledge that the information reported, conveyed or circulated is false, he initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, or emergency knowing that such false report is likely to cause evacuation of a building, place of assembly, or transportation facility, or to cause public inconvenience or alarm.

B. False reporting is a gross misdemeanor. (Ord. 2881 § 11, 1998).

2. See RCW 9A.84.040.

Chapter 9.12

ASSAULT AND PROVOKING ASSAULT

Sections:

- 9.12.010 Assault defined.
- 9.12.020 Assault deemed misdemeanor.
- 9.12.030 Provoking assault.
- 9.12.040 Assault and provoking assault – Penalty.

9.12.010 Assault defined.

As used in this chapter, the term “assault” means an intentional touching or striking of the person or body of another, regardless of whether any actual physical harm is done to the other person, and also means an intentional act with unlawful force which creates in another a reasonable apprehension and fear of bodily injury even though the actor did not actually intend to inflict bodily injury. (Ord. 2101 § 1, 1983; Ord. 1954 § 1, 1979; Ord. 1475 §§ 1, 2, 1965).

9.12.020 Assault deemed misdemeanor.

Every person who commits an assault shall be guilty of a misdemeanor. (Ord. 2101 § 2, 1983; Ord. 1954 § 2, 1979; Ord. 1737 § 1, 1974).

9.12.030 Provoking assault.

Every person who, by word, sign or gesture, intentionally provokes or attempts to provoke another person to commit an assault or breach of the peace or intentionally creates a risk of assault or breach of the peace shall be guilty of a misdemeanor. (Ord. 2101 § 3, 1983; Ord. 1954 § 3, 1979; Ord. 1737 § 2, 1974).

9.12.040 Assault and provoking assault – Penalty.

Every person who is found to have violated the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable as set forth in MVMC 1.20.010. (Ord. 2101 § 4, 1983; Ord. 1954 § 4, 1979; Ord. 1737 § 3, 1974).

III. Offenses Against the Person

Chapter 9.14

COERCION

Sections:

- 9.14.010 Coercion.

9.14.010 Coercion.¹

A. A person is guilty of coercion if by use of a threat he compels or induces a person to engage in conduct which the latter has a legal right to abstain from, or to abstain from conduct which he has a legal right to engage in.

B. “Threat” as used in this section means:

1. To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
2. Threats as defined in RCW 9A.04.110 (25)(a), (b), or (c).

C. Coercion is a gross misdemeanor. (Ord. 2881 § 1, 1998).

1. See RCW 9A.36.070.

Chapter 9.15

CRIMINAL MISTREATMENT

Sections:

- 9.15.010 Conduct prohibited.
- 9.15.020 Amendments to state statutes.
- 9.15.030 Severability.

9.15.010 Conduct prohibited.

The following statutes of the state of Washington are adopted by reference:

RCW

- 9A.42.010 Definitions.
- 9A.42.035 Criminal mistreatment in the third degree.
- 9A.42.037 Criminal mistreatment in the fourth degree.
- 9A.42.039 Arresting officer, notification by.
- 9A.42.040 Withdrawal of life support systems.
- 9A.42.045 Palliative care.
- 9A.42.050 Defense of financial inability.
- 9A.42.080 Abandonment of a dependent person in the third degree – Exception.
- 9A.42.090 Abandonment of a dependent person – Defense.
- 9A.42.110 Leaving a child in the care of a sex offender.

(Ord. 3177 § 11, 2004).

9.15.020 Amendments to state statutes.

The amendment of any state statute adopted by reference in this chapter shall be deemed to amend the corresponding section of this chapter and it shall not be necessary for the city council to take any action with respect to such amendment. (Ord. 3177 § 11, 2004).

9.15.030 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 3177 § 11, 2004).

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Chapter 9.17

RECKLESS ENDANGERMENT

Sections:

- 9.17.010 Defined.
9.17.020 Violation – Penalty.

9.17.010 Defined.

A person is guilty of reckless endangerment when he recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person. (Ord. 2263 § 1, 1987).

9.17.020 Violation – Penalty.

Any person convicted of the crime of reckless endangerment under the provisions of this chapter shall be punished as set forth in MVMC 1.20.010. (Ord. 2263 § 2, 1987).

Chapter 9.18

VIOLATION OF COURT ORDERS¹

Sections:

- 9.18.010 Court order violation.
9.18.020 Sentence order violation.
9.18.030 Restraining order violation.
9.18.040 Protection order violation.
9.18.050 Court order violation – Harassment.
9.18.060 Failure to sign notice of civil infraction, to appear in court or to pay monetary penalty.

9.18.010 Court order violation.

Willful violation of a court order issued under RCW 10.99.040, subsection (2) or (3), is a misdemeanor punishable as set forth in MVMC 1.20.010. (Ord. 2228 § 1(1), 1986).

9.18.020 Sentence order violation.

Willful violation of a sentence order issued under RCW 10.99.050 is a misdemeanor punishable as set forth in MVMC 1.20.010. (Ord. 2228 § 1(2), 1986).

9.18.030 Restraining order violation.

A. Whenever a restraining order is issued under Chapter 26.09 RCW, 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 a provision excluding the person from the residence is a misdemeanor punishable as set forth in MVMC 1.20.010.

B. A person is deemed to have notice 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. (Ord. 2228 § 1(3), 1986).

1. Prior legislation: Ord. 2202.

9.18.040 Protection order violation.

Whenever an order for protection is granted under Chapter 26.50 RCW and the respondent or person to be restrained knows of the order, a violation of the restraint provision or of a provision excluding the person from a residence is a misdemeanor punishable as set forth in MVMC 1.20.010. (Ord. 2228 § 1(4), 1986).

9.18.050 Court order violation – Harassment.

Willful violation of a court order issued under Chapter 288, Laws of 1985, Section 4, is a misdemeanor punishable as set forth in MVMC 1.20.010. (Ord. 2228 § 1(5), 1986).

9.18.060 Failure to sign notice of civil infraction, to appear in court or to pay monetary penalty.

A. Any person who fails to sign a notice of civil infraction is guilty of a misdemeanor and shall be punished as set forth in MVMC 1.20.010.

B. Any person willfully violating his or her written and signed promise to appear in court, or his or her written and signed promise to respond to notice of civil infraction is guilty of a misdemeanor and shall be punished as set forth in MVMC 1.20.010, regardless of the disposition of the notice of civil infraction. A written promise to appear in court or a written promise to respond to notice of civil infraction may be complied with by an appearance by counsel.

C. Any person who willfully fails to pay a monetary penalty or to perform community service as required by a court under Chapter 7.80 RCW may be found in contempt of court as provided in Chapter 7.21 RCW. (Ord. 2576 § 1, 1994).

Chapter 9.19

HARASSMENT – DOMESTIC VIOLENCE

Sections:

- 9.19.010 Defined.
- 9.19.020 Where deemed committed.
- 9.19.030 Handling of complaints.
- 9.19.040 Telephone harassment.
- 9.19.050 Interfering with the reporting of domestic violence.
- 9.19.060 Stalking.

9.19.010 Defined.

A. A person is guilty of harassment if:

1. Without lawful authority the person knowingly threatens:

- a. To cause bodily injury in the future to the person threatened or to any other person; or
- b. To cause physical damage to the property of a person other than the actor; or
- c. To subject the person threatened or any other person to physical confinement or restraint; or
- d. Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

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

Provided, however, this section shall not apply to persons in circumstances where it is charged by the prosecuting authority that the person has also previously been convicted in this or any other state of a crime of harassment, as defined in Chapter 288, Laws of 1985, Section 6, of the same victim or members of the victim’s family or household or any other person specifically named in a no-contact or no-harassment order, in which case the person may be charged with a felony as provided by Chapter 288, Laws of 1985.

B. The penalties provided in this section for harassment do not preclude the victim from seeking any other remedy otherwise available under law. (Ord. 2329 § 1, 1989; Ord. 2227 § 1, 1986).

9.19.020 Where deemed committed.

Any harassment offense committed as set forth in MVMC 9.19.010 may be deemed to have been committed where the conduct occurred or at the place from which the threat or threats were made or at the place where the threats were received. (Ord. 2227 § 2, 1986).

9.19.030 Handling of complaints.

The provision of Chapter 288, Laws of 1985, Sections 4 through 10 inclusive, shall apply as the procedure to be followed in handling citations or complaints issued pursuant to this chapter. (Ord. 2227 § 3, 1986).

9.19.040 Telephone harassment.

A person is guilty of telephone harassment if, with intent to harass, intimidate, torment or embarrass any other person, such person shall make a telephone call to such other person:

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

B. Anonymously or repeatedly, or at an extremely inconvenient hour, whether or not conversation issues; or

C. Threatening to inflict injury on the person or property of the person called or any member of his or her family or household.

Provided, however, this section shall not apply to persons in circumstances where it is charged by the prosecuting authority that the person has also previously been convicted in this or any other state of a crime of harassment, as defined in Chapter 288, Laws of 1985, Section 6, of the same victim or members of the victim's family or household or any other person specifically named in a no-contact or no-harassment order, in which case the person may be charged with a felony as provided by Chapter 288, Laws of 1985. (Ord. 2329 § 2, 1989; Ord. 2227 § 4, 1986).

9.19.050 Interfering with the reporting of domestic violence.¹

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

1. Commits a crime of domestic violence, as defined in RCW 10.99.020; and

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

B. Commission of a crime of domestic violence under subsection (A)(1) of this section is a necessary element of the crime of interfering with the reporting of domestic violence.

C. Interference with the reporting of domestic violence is a gross misdemeanor. (Ord. 2881 § 7, 1998).

9.19.060 Stalking.²

A. A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

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

2. The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and

3. The stalker either:

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

b. Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

B. 1. It is not a defense to the crime of stalking under subsection (A)(1) of this section that the stalker was not given actual notice that the person did not want the stalker to contact or follow the person; and

2. It is not a defense to the crime of stalking under subsection (A)(2) of this section that the stalker did not intend to frighten, intimidate, or harass the person.

C. It shall be a 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 the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person.

E. A person who stalks another person is guilty of a gross misdemeanor; provided, if any of the following applies, then the charges may be considered a felony, and referred to the appropriate charging authority for prosecution under state law:

1. The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.040, of the same victim or members of the victim's family or

1. See RCW 9A.36.150.

2. See RCW 9A.46.110.

9.20.010

household or any person specifically named in a protective order;

2. The stalking violates any protective order protecting the person being stalked;

3. The stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person;

4. The stalker was armed with a deadly weapon, as defined in RCW 9.94A.125, while stalking the person;

5. The stalker’s victim is or was a law enforcement officer, judge, juror, attorney, victim advocate, legislator, or community corrections officer, and the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim’s performance of official duties; or

6. The stalker’s victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim’s testimony or potential testimony.

F. 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 location to another.

2. “Harasses,” means unlawful harassment as defined in RCW 10.14.020.

3. “Protective order” means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

4. “Repeatedly” means on two or more separate occasions. (Ord. 2881 § 9, 1998).

IV. Offenses Against Public Decency

Chapter 9.20

PROSTITUTION AND LEWDNESS¹

Sections:

- 9.20.010 Definitions.
- 9.20.020 Lewd conduct.
- 9.20.030 Solicitation for a lewd act.
- 9.20.040 Prostitution – Acts designated – Exemptions.
- 9.20.050 Prostitution – Sex of parties immaterial – No defense.
- 9.20.060 Permitting prostitution.
- 9.20.070 Patronizing a prostitute.
- 9.20.080 Sex offenders – Failure to register.

9.20.010 Definitions.

As used in this chapter, the following definitions shall apply:

A. A “lewd act” is:

- 1. An exposure of one’s genitals or female breasts; or
- 2. The touching, caressing or fondling of the genitals or female breasts; or
- 3. Masturbation; or
- 4. Sexual conduct.

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

C. “Sexual conduct” means sexual intercourse in the ordinary meaning thereof, or any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party, whether such persons are the same or opposite sex. (Ord. 3112 § 1, 2002).

9.20.020 Lewd conduct.

A. A person commits the offense of lewd conduct if he or she performs any lewd act when he or she knows such act is likely to be observed by a person and such act is likely to cause reasonable affront or alarm. The act of breast feeding or expressing breast milk is not lewd conduct.

B. Lewd conduct is a misdemeanor. (Ord. 3112 § 2, 2002).

1. Prior legislation: Ords. 998 and 2455.

9.20.030 Solicitation for a lewd act.

Every person who solicits another to engage in a lewd act in a public place shall be guilty of a misdemeanor. (Ord. 3112 § 3, 2002).

9.20.040 Prostitution – Acts designated – Exemptions.

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

B. Prostitution is a misdemeanor.

C. For purposes of this chapter, “prostitution” does not include sexual conduct engaged in as part of any stage performance, play or other entertainment open to the public. (Ord. 3112 § 4, 2002).

9.20.050 Prostitution – Sex of parties immaterial – No defense.

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

A. Such persons were of the same sex; or

B. The person who received, agreed to receive, or solicited a fee was a male and the person who paid or agreed or offered to pay such a fee was female. (Ord. 3112 § 5, 2002).

9.20.060 Permitting prostitution.

A. A person is guilty of permitting prostitution if, having possession or control of premises which he or she knows are being used for prostitution purposes, he or she fails without lawful excuse to make reasonable effort to halt or abate such use.

B. Permitting prostitution is a misdemeanor. (Ord. 3112 § 6, 2002).

9.20.070 Patronizing a prostitute.

A. A person is guilty of patronizing a prostitute if:

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

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

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

B. Patronizing a prostitute is a misdemeanor. (Ord. 3112 § 7, 2002).

9.20.080 Sex offenders – Failure to register.

A person who knowingly fails to register or moves without notifying the county sheriff, or who changes his name without notifying the county sheriff and the State Patrol, as required by RCW 9A.44.130, as now or hereafter amended, is guilty of a class C felony if the crime for which the individual was convicted was a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony. If the crime was other than a felony under the laws of this state or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of the provisions of RCW 9A.44.130, as now or hereafter amended, is a gross misdemeanor. (Ord. 3112 § 8, 2002).

Chapter 9.21

MINOR-RELATED SEX OFFENSES

Sections:

- 9.21.010 Depictions of minor engaged in sexually explicit conduct – Definitions.
- 9.21.020 Depictions of minor engaged in sexually explicit conduct – Report required by processor.
- 9.21.030 Communication with minor for immoral purposes.
- 9.21.040 Certain defenses barred, permitted.

9.21.010 Depictions of minor engaged in sexually explicit conduct – Definitions.

The following definitions apply to this chapter:

A. To “photograph” means to make a print, negative, slide, motion picture, or videotape. A “photograph” means any tangible item produced by photographing.

B. “Visual or printed matter” means any photograph or other material that contains a reproduction of a photograph.

C. “Sexually explicit conduct” means actual or simulated:

1. Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;
2. Penetration of the vagina or rectum by any object;
3. Masturbation;
4. Sadomasochistic abuse for the purpose of sexual stimulation of the viewer;
5. Exhibition of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer;
6. Defecation or urination for the purpose of sexual stimulation of the viewer; and
7. Touching of a person’s clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.

D. “Minor” means any person under 18 years of age. (Ord. 3112 § 10, 2002).

9.21.020 Depictions of minor engaged in sexually explicit conduct – Report required by processor.

A person who, in the course of processing or producing visual or printed matter either privately

or commercially, has reasonable cause to believe that the visual or printed matter submitted for processing or producing depicts a minor engaged in sexually explicit conduct shall immediately report such incident, or cause a report to be made, to the proper law enforcement agency. Persons failing to do so are guilty of a gross misdemeanor. (Ord. 3112 § 11, 2002).

9.21.030 Communication with minor for immoral purposes.

A person who communicates with a minor for immoral purposes is guilty of a gross misdemeanor, unless that person has previously been convicted under this section or a comparable county or municipal ordinance or of a felony sexual offense under Chapter 9.68A, 9A.44, or 9A.64 RCW or of any other felony sexual offense in this or any other state, in which case the person is guilty of a class C felony punishable under Chapter 9A.20 RCW. (Ord. 3112 § 12, 2002).

9.21.040 Certain defenses barred, permitted.

A. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of MVMC 9.21.030. This chapter does not apply to individual case treatment in a recognized medical facility or individual case treatment by a psychiatrist or psychologist licensed under RCW Title 18, or to lawful conduct between spouses.

B. In a prosecution under MVMC 9.21.020, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter; provided, that it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

C. In a prosecution under MVMC 9.21.030, it is not a defense that the defendant did not know the alleged victim’s age; provided, that it is a defense, which the defendant must prove by preponderance of the evidence, that at the time of the offense the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver’s license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

D. In a prosecution under MVMC 9.21.020, the city is not required to establish the identity of the alleged victim. (Ord. 3112 § 13, 2002).

Chapter 9.22

LIQUOR OFFENSES

Sections:

- 9.22.010 Public place defined – Exemptions.
- 9.22.020 Opening or consuming in a public place – Penalty.
- 9.22.030 Acting without license.
- 9.22.040 Sales of liquor by drink or bottle.
- 9.22.045 Statute violation – Adoption by reference.
- 9.22.050 Drinking in public conveyance – Penalty against carrier – Exception.
- 9.22.060 Drinking in public conveyance – Penalty against individual – Restricted application.
- 9.22.070 General penalties – Jurisdiction for violations – Adoption by reference.
- 9.22.080 Severability.

9.22.010 Public place defined – Exemptions.

A. As used in this chapter, “public place” includes streets and alleys of the city; state or county highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where alcohol may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theaters, stores, garages and filling stations, which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; stages, and other public conveyances of all kinds and character, and depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

B. It is the intent of the council that “public place” does not include Hillcrest Lodge or the gazebo associated therewith, or the Skylight Room at Hillcrest Park, or Sherman Anderson Field, or Edgewater Park, or Bakerview Park or streets and alleys of the city when closed by the city council for a specific event with an appropriate permit from the Washington State Liquor Control Board, when such facilities are leased, rented or assigned to private parties, groups or organizations which have obtained and complied with conditions set forth in a special events permit pursuant to Chapter 5.05 MVMC.

C. “Public place” as defined in this title shall not include (1) any of those parks under the control of the State Parks and Recreation Commission, nor, (2) parks and picnic areas adjacent to and held by the same ownership as licensed brewers and domestic wineries for the consumption of beer and wine produced by the respective brewery or winery, as prescribed by regulation adopted by the Washington State Liquor Control Board pursuant to Chapter 34.05 RCW. (Ord. 3206 § 1, 2004; Ord. 3177 § 3, 2004).

9.22.020 Opening or consuming in a public place – Penalty.

Except as permitted by RCW Title 66, as it now exists or as it may hereafter be amended, no person shall open a package containing liquor or consume liquor in a public place. Any person who violates any provision of this section shall have committed a civil infraction. Procedures for issuance of a notice of infraction and the processing thereof in the courts shall be as set forth in the Infraction Rules for Courts of Limited Jurisdiction as now or hereafter promulgated by the Washington State Supreme Court.

Penalties for violation shall be as follows:

- A. Upon a first violation, a fine of \$70.00;
- B. Upon a second violation, a fine of \$100.00;
- C. Upon a third violation, a fine of \$250.00. (Ord. 3177 § 3, 2004).

9.22.030 Acting without license.

Any person doing any act required to be licensed under RCW Title 66 without having in force a license issued to him or her shall be guilty of a gross misdemeanor. (Ord. 3177 § 3, 2004).

9.22.040 Sales of liquor by drink or bottle.

It is unlawful to sell any liquor, including wine or beer, by the drink or by the bottle in the city except as otherwise provided by RCW Title 66, and as amended. (Ord. 3177 § 3, 2004).

9.22.045 Statute violation – Adoption by reference.

Any person who keeps or possesses liquor, including wine or beer, on premises conducted or maintained by him or her as principal or agent, with intent to sell the same in violation of RCW Title 66 as presently constituted or hereinafter amended, is guilty of a violation of this chapter. (Ord. 3177 § 3, 2004).

9.22.050 Drinking in public conveyance – Penalty against carrier – Exception.

Every person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person, who knowingly permits any person to drink any intoxicating liquor in any public conveyance, except in the compartment where such liquor is sold or served under the authority of a license lawfully issued, is guilty of a misdemeanor. This section does not apply to a public conveyance that is commercially chartered for group use or a for-hire vehicle licensed under city, county, or state law. (Ord. 3177 § 3, 2004).

9.22.060 Drinking in public conveyance – Penalty against individual – Restricted application.

Every person who drinks any intoxicating liquor in any public conveyance, except in a compartment or place where sold or served under the authority of a license lawfully issued, is guilty of a misdemeanor. With respect to a public conveyance that is commercially chartered for group use and with respect to a for-hire vehicle licensed under city, county, or state law, this section applies only to the driver of the vehicle. (Ord. 3177 § 3, 2004).

9.22.070 General penalties – Jurisdiction for violations – Adoption by reference.

Every person guilty of a violation of this chapter for which no penalty has been specifically provided shall be liable, on conviction, according to the following provision of the Revised Code of Washington as presently constituted or hereinafter amended and is adopted by reference: RCW 66.44.180. (Ord. 3177 § 3, 2004).

9.22.080 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 3177 § 3, 2004).

Chapter 9.23

PRECURSOR DRUGS

Sections:

- 9.23.010 Ephedrine, pseudoephedrine, phenylpropanolamine – Sales restrictions – Penalty.
- 9.23.020 Unlawful possession of ephedrine, pseudoephedrine, or phenylpropanolamine.
- 9.23.030 Exemptions – Pediatric products – Products exempted by the State Board of Pharmacy.
- 9.23.040 Ephedrine, pseudoephedrine, phenylpropanolamine – Methods to prevent sales violations.
- 9.23.050 Severability.

9.23.010 Ephedrine, pseudoephedrine, phenylpropanolamine – Sales restrictions – Penalty.

A. It is unlawful for a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the Department of Health under Chapter 18.64 RCW, or an employee thereof, knowingly to sell, transfer, or to otherwise furnish, in a single transaction:

- 1. More than three packages of one or more products that he or she knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers; or
- 2. A single package of any product that he or she knows to contain more than three grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances.

B. It is unlawful for a person who is not a manufacturer, wholesaler, pharmacy, practitioner, shopkeeper, or itinerant vendor licensed by or registered with the Department of Health under Chapter 18.64 RCW to purchase or acquire, in any 24-hour period, more than the quantities of the substances specified in subsection A of this section.

C. A violation of this section is a gross misdemeanor. (Ord. 3177 § 6, 2004).

9.23.020 Unlawful possession of ephedrine, pseudoephedrine, or phenylpropanolamine.

A. Any person who possesses more than 15 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of those substances, is guilty of a gross misdemeanor.

B. This section does not apply to any of the following:

1. A pharmacist or other authorized person who sells or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers upon the prescription of a practitioner, as defined in RCW 69.41.010;

2. A practitioner who administers or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers to his or her patients;

3. A pharmacy, manufacturer, or wholesaler licensed by, or shopkeeper or itinerant vendor registered with, the Department of Health under Chapter 18.64 RCW;

4. A person in the course of his or her business of selling, transporting, or storing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, for a person described in subsections (B)(1), (2) or (3) of this section; or

5. A person in possession of more than 15 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers in their home or residence under circumstances consistent with typical medicinal or household use as indicated by, but not limited to, storage location and possession of products in a variety of strengths, brands, types, purposes, and expiration dates. (Ord. 3177 § 6, 2004).

9.23.030 Exemptions – Pediatric products – Products exempted by the State Board of Pharmacy.

MVMC 9.23.010 and 9.23.020 do not apply to:

A. Pediatric products primarily intended for administration to children under 12 years of age, according to label instructions, either:

1. In solid dosage form whose individual dosage units do not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine; or

2. In liquid form whose recommended dosage, according to label instructions, does not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of liquid product;

B. Pediatric liquid products primarily intended for administration to children under two years of age for which the recommended dosage does not exceed two milliliters and the total package content does not exceed one fluid ounce; or

C. Products that the State Board of Pharmacy, upon application of a manufacturer, exempts by rule from MVMC 9.23.010 and 9.23.020 because

the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors. (Ord. 3177 § 6, 2004).

9.23.040 Ephedrine, pseudoephedrine, phenylpropanolamine – Methods to prevent sales violations.

To prevent violations of MVMC 9.23.010, every licensee and registrant under Chapter 18.64 RCW, who sells at retail any products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall comply with the electronic device and/or sign requirements of Chapter 69.43 RCW. (Ord. 3177 § 6, 2004).

9.23.050 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 3177 § 6, 2004).

Chapter 9.24

MARIJUANA AND DRUG PARAPHERNALIA

Sections:

- 9.24.010 Definitions – Adoption by reference.
- 9.24.020 Possession of drug paraphernalia.
- 9.24.030 Manufacture or delivery of drug paraphernalia.
- 9.24.040 Delivery of drug paraphernalia to a minor.
- 9.24.050 Advertisement of drug paraphernalia.
- 9.24.060 Selling or giving drug paraphernalia to another person.
- 9.24.070 Possession of “marijuana” or “marihuana.”
- 9.24.080 Penalties under other laws.
- 9.24.090 Minimum penalties.
- 9.24.100 Drug-free zones – Violations.
- 9.24.110 Severability.

9.24.010 Definitions – Adoption by reference.

RCW 69.50.101 and 69.50.102 as presently constituted or hereinafter amended are hereby adopted by reference. The definitions contained therein shall be construed according to the full context of Chapter 69.50 RCW. (Ord. 3177 § 4, 2004).

9.24.020 Possession of drug paraphernalia.

It is unlawful for any person to use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

It is lawful for any person over the age of 18 to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases. (Ord. 3177 § 4, 2004).

9.24.030 Manufacture or delivery of drug paraphernalia.

It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body

a controlled substance as defined in Chapter 69.50 RCW. Any person who violates this subsection is guilty of a misdemeanor. (Ord. 3177 § 4, 2004).

9.24.040 Delivery of drug paraphernalia to a minor.

Any person 18 years of age or over who violates MVMC 9.24.030 by delivering drug paraphernalia to a person under 18 years of age who is at least three years his junior is guilty of a gross misdemeanor. (Ord. 3177 § 4, 2004).

9.24.050 Advertisement of drug paraphernalia.

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor. (Ord. 3177 § 4, 2004).

9.24.060 Selling or giving drug paraphernalia to another person.

A. Every person who sells or gives, or permits to be sold or given to any person any drug paraphernalia in any form commits a civil infraction punishable by a fine of not more than \$500.00.

B. For purposes of this subsection, “drug paraphernalia” means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. Drug paraphernalia includes, but is not limited to, objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
2. Water pipes;
3. Carburetion tubes and devices;
4. Smoking and carburetion masks;
5. Roach clips: Meaning objects used to hold burning material, such as a marihuana ciga-

rette, that has become too small or too short to be held in the hand;

6. Miniature cocaine spoons and cocaine vials;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;

10. Air-driven pipes;

11. Chillums;

12. Bongs; and

13. Ice pipes or chillers.

C. It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

D. Nothing in subsection A of this section prohibits legal distribution of injection syringe equipment through public health and community-based HIV prevention programs, and pharmacies. (Ord. 3177 § 4, 2004).

9.24.070 Possession of “marijuana” or “marihuana.”

A. Any person found guilty of possession of 40 grams or less of marihuana shall be guilty of a misdemeanor. (RCW 69.50.401.)

B. “Marijuana” or “marihuana” means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. (RCW 69.50.101.) (Ord. 3177 § 4, 2004).

9.24.080 Penalties under other laws.

Any penalty for a violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law. (Ord. 3177 § 4, 2004).

9.24.090 Minimum penalties.

A person who is convicted of a misdemeanor violation of any provision of this chapter shall be punished by imprisonment for not less than 24 consecutive hours, and by a fine of not less than \$250.00. On a second or subsequent conviction, the fine shall not be less than \$500.00. These fines shall be in addition to any other fine or penalty

imposed. Unless the court finds that the imposition of the minimum imprisonment will pose a substantial risk to the defendant’s physical or mental well-being or that local jail facilities are in an overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of 40 hours of community restitution. If a minimum term of imprisonment is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. Unless the court finds the person to be indigent, the minimum fine shall not be suspended or deferred. (Ord. 3177 § 4, 2004).

9.24.100 Drug-free zones – Violations.

A. Any person who violates MVMC 9.24.020 by using or possessing drug paraphernalia, or who violates MVMC 9.24.030 by delivering, possessing with intent to deliver, or manufacturing with intent to deliver drug paraphernalia, or who violates MVMC 9.24.070 by possessing marijuana, and the violation occurs in a school, on a school bus, within 1,000 feet of a school bus route stop designated by the school district, within 1,000 feet of the perimeter of the school grounds, in a public park, in a public housing project designated by the city as a drug-free zone, on a public transit vehicle, in a public transit stop shelter, at a civic center designated as a drug-free zone by the city, or within 1,000 feet of the perimeter of a facility designated under this subsection may be punished by a fine of up to twice the fine otherwise authorized by this chapter, or by imprisonment of up to twice the imprisonment authorized by this chapter, or by both such fine and imprisonment. The provisions of this section shall not operate to more than double the fine or imprisonment otherwise authorized by this chapter for an offense.

B. It is not a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place while in a school or school bus or within 1,000 feet of the school or school bus route stop, in a public park, in a public housing project designated by the city as a drug-free zone, on a public transit vehicle, in a public transit stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within 1,000 feet of the perimeter of a facility designated under subsection A of this section.

C. It is not a defense to a prosecution for a violation of this section or any other prosecution under this chapter that persons under the age of 18 were

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not present in the school, the school bus, the public park, the public housing project designated by the city as a drug-free zone, or the public transit vehicle, or at the school bus route stop, the public transit vehicle stop shelter, at a civic center designated as a drug-free zone by city, or within 1,000 feet of the perimeter of a facility designated under subsection A of this section.

D. It is an affirmative defense to a prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under 18 years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled substance in RCW 69.50.401(a) for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. This section shall not be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

E. In a prosecution under this section, a map produced or reproduced by any municipality, school district, county, transit authority engineer, or public housing authority for the purpose of depicting the location and boundaries of the area on or within 1,000 feet of any property used for a school, school bus route stop, public park, public housing project designated by the city as a drug-free zone, public transit vehicle stop shelter, or a civic center designated as a drug-free zone by the city, or a true copy of such a map, shall under proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas if the governing body of the municipality, school district, county, or transit authority has adopted a resolution or ordinance approving the map as the official location and record of the location and boundaries of the area on or within 1,000 feet of the school, school bus route stop, public park, public housing project designated by the city as a drug-free zone, public transit vehicle stop shelter, or civic center designated as a drug-free zone by the city. Any map approved under this section or a true copy of the map shall be filed with the finance director, and shall be maintained as an official record of the city. This section shall not be construed as precluding the prosecution from introducing or relying upon any other evidence or testimony to establish any element of the offense. This section shall not be construed as precluding the use or admissibility of any map or

diagram other than the one which has been approved by the governing body of the city, school district, county, transit authority, or public housing authority if the map or diagram is otherwise admissible under court rule.

F. As used in this section the following terms have the meanings indicated unless the context clearly requires otherwise:

1. "Civic center" means a publicly owned or publicly operated place or facility used for recreational, educational, or cultural activities;

2. "Public housing project" means the same as "housing project" as defined in RCW 35.82.020;

3. "Public park" means land, including any facilities or improvements on the land, that is operated as a park by the state or a local government;

4. "Public transit vehicle" means any motor vehicle, street car, train, trolley vehicle, or any other device, vessel, or vehicle which is owned or operated by a transit authority and which is used for the purpose of carrying passengers on a regular schedule;

5. "School" has the meaning under RCW 28A.150.010 or 28A.150.020. The term "school" also includes a private school approved under RCW 28A.195.010;

6. "School bus" means a school bus as defined by the superintendent of public instruction by rule which is owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of students. The term does not include buses operated by common carriers in the urban transportation of students such as transportation of students through a municipal transportation system;

7. "School bus route stop" means a school bus stop as designated by a school district;

8. "Stop shelter" means a passenger shelter designated by a transit authority;

9. "Transit authority" means a city, county, or state transportation system, transportation authority, public transportation benefit area, public transit authority, or metropolitan municipal corporation within the state that operates public transit vehicles. (Ord. 3177 § 4, 2004).

9.24.110 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect

the validity of the remainder of the chapter or the application of the provisions to other persons or circumstances. (Ord. 3177 § 4, 2004).

Chapter 9.25

LEGEND DRUGS

Sections:

- 9.25.010 Definitions.
- 9.25.020 Legend drug – Possession of legend drug without prescription or order prohibited – Exceptions.
- 9.25.030 Legend drug – Labeling requirements.
- 9.25.040 Practitioners – Restricted use – Medical records.
- 9.25.050 Severability.

9.25.010 Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

A. “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

B. “Dispense” means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

C. “Dispenser” means a practitioner who dispenses.

D. “Drug” means:

1. Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

2. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

3. Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of man or animals; and

4. Substances intended for use as a component of any article specified in subsections (D)(1), (2) or (3) of this section. It does not include devices or their components, parts, or accessories.

E. “Legend drugs” mean any drugs which are required by state law or regulation of the State Board of Pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

F. “Practitioner” means:

1. A physician under Chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under Chapter 18.57 RCW, a dentist under Chapter 18.32 RCW, a podiatric phy-

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sician and surgeon under Chapter 18.22 RCW, a veterinarian under Chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under Chapter 18.79 RCW, an optometrist under Chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under Chapter 18.57A RCW, a physician assistant under Chapter 18.71A RCW, a naturopath licensed under Chapter 18.36A RCW, or a pharmacist under Chapter 18.64 RCW;

2. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

3. A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

G. "Steroids" means:

1. "Anabolic steroids" means synthetic derivatives of testosterone or any isomer, ester, salt, or derivative that acts in the same manner on the human body;

2. "Androgens" means testosterone in one of its forms or a derivative, isomer, ester, or salt, that acts in the same manner on the human body; and

3. "Human growth hormones" means growth hormones, or a derivative, isomer, ester, or salt that acts in the same manner on the human body. (Ord. 3177 § 5, 2004).

9.25.020 Legend drug – Possession of legend drug without prescription or order prohibited – Exceptions.

A. It shall be unlawful for any person to possess any legend drug except upon the order or prescription of a physician under Chapter 18.71 RCW, an osteopathic physician and surgeon under Chapter 18.57 RCW, a dentist under Chapter 18.32 RCW, a podiatric physician and surgeon under Chapter 18.22 RCW, a veterinarian under Chapter 18.92 RCW, a commissioned medical or dental officer in the United States Armed Forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the Veterans Administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under Chapter 18.79 RCW when authorized by the Nursing Care Quality Assurance Commission, an osteopathic physician assistant under Chapter 18.57A

RCW when authorized by the Board of Osteopathic Medicine and Surgery, a physician assistant under Chapter 18.71A RCW when authorized by the Medical Quality Assurance Commission, a physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, or a veterinarian licensed to practice veterinary medicine, in any province of Canada which shares a common border with the state of Washington or in any state of the United States; provided, however, that the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment; provided further, that nothing in this chapter or Chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the Department of Social and Health Services from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

B. Any persons who violate this section shall be guilty of a misdemeanor.

C. Any person who violates this section by possessing under 200 tablets or eight two-cc bottles of steroid without a valid prescription is guilty of a gross misdemeanor. (Ord. 3177 § 5, 2004).

9.25.030 Legend drug – Labeling requirements.

A. To every box, bottle, jar, tube or other container of a legend drug, which is dispensed by a practitioner authorized to prescribe legend drugs, there shall be affixed a label bearing the name of the prescriber, complete directions for use, the name of the drug either by the brand or generic name and strength per unit dose, name of patient and date; provided, that the practitioner may omit the name and dosage of the drug if he determines that his patient should not have this information and that, if the drug dispensed is a trial sample in its original package and which is labeled in accordance with federal law or regulation, there need be set forth additionally only the name of the issuing practitioner and the name of the patient.

B. Any persons who violate this section shall be guilty of a misdemeanor. (Ord. 3177 § 5, 2004).

9.25.040 Practitioners – Restricted use – Medical records.

A. A practitioner shall not prescribe, administer, or dispense steroids, as defined in MVMC 9.25.010, or any form of autotransfusion for the purpose of manipulating hormones to increase muscle mass, strength, or weight, or for the purpose of enhancing athletic ability, without a medical necessity to do so.

B. A practitioner shall complete and maintain patient medical records which accurately reflect the prescribing, administering, or dispensing of any substance or drug described in this section or any form of autotransfusion. Patient medical records shall indicate the diagnosis and purpose for which the substance, drug, or autotransfusion is prescribed, administered, or dispensed and any additional information upon which the diagnosis is based.

C. Any person who violates this section shall be guilty of a gross misdemeanor and subject to disciplinary action under RCW 18.130.180. (Ord. 3177 § 5, 2004).

9.25.050 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 3177 § 5, 2004).

Chapter 9.25A**TOXIC FUMES**

Sections:

9.25A.010 Definition.

9.25A.020 Unlawful inhalation – Exception.

9.25A.030 Possession of certain substances prohibited – When.

9.25A.040 Sale of certain substances prohibited – When.

9.25A.050 Penalty.

9.25A.060 Severability.

9.25A.010 Definition.

As used in this chapter, the phrase “substance containing a solvent having the property of releasing toxic vapors or fumes” shall mean and include any substance containing one or more of the following chemical compounds: acetone, amylacetate, benzol or benzene, butyl acetate, butyl alcohol, carbon tetrachloride, chloroform, cyclohexanone, ethanol or ethyl alcohol, ethyl acetate, hexane, isopropanol or isopropyl alcohol, isopropyl acetate, methyl “cellosolve” acetate, methyl ethyl ketone, methyl isobutyl ketone, toluol or toluene, trichloroethylene, tricresyl phosphate, xylol or xylene, or any other solvent, material substance, chemical, or combination thereof, having the property of releasing toxic vapors. (Ord. 3177 § 7, 2004).

9.25A.020 Unlawful inhalation – Exception.

It is unlawful for any person to intentionally smell or inhale the fumes of any type of substance as defined in MVMC 9.25A.010 or to induce any other person to do so for the purpose of causing a condition of, or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses of the nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes. This section does not apply to the inhalation of any anesthesia for medical or dental purposes. (Ord. 3177 § 7, 2004).

9.25A.030 Possession of certain substances prohibited – When.

No person may, for the purpose of violating MVMC 9.25A.020, use, or possess for the purpose of so using, any substance containing a solvent having the property of releasing toxic vapors or fumes. (Ord. 3177 § 7, 2004).

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9.25A.040 Sale of certain substances prohibited – When.

No person may sell, offer to sell, deliver, or give to any other person any container of a substance containing a solvent having the property of releasing toxic vapors or fumes, if he has knowledge that the product sold, offered for sale, delivered, or given will be used for the purpose set forth in MVMC 9.25A.020. (Ord. 3177 § 7, 2004).

9.25A.050 Penalty.

Any person who violates this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than 30 days, or by both. (Ord. 3177 § 7, 2004).

9.25A.060 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 3177 § 7, 2004).

V. Offenses Against Public Peace

Chapter 9.26

DISORDERLY CONDUCT

Sections:

- 9.26.010 Definitions.
- 9.26.020 Disorderly conduct.
- 9.26.030 Disorderly conduct – Fighting.
- 9.26.040 Aggressive begging.
- 9.26.050 Failure to disperse.
- 9.26.060 Riot.
- 9.26.070 False reporting.
- 9.26.080 Disorderly conduct on buses.

9.26.010 Definitions.

For the purposes of this chapter the following definitions apply:

A. “Automated teller machine” means a machine, other than a telephone:

1. That is capable of being operated by a customer of a financial institution;
2. By which the customer may communicate to the financial institution a request to withdraw, deposit, transfer funds, make payment, or otherwise conduct financial business for the customer or for another person directly from the customer’s account or from the customer’s account under a line of credit previously authorized by the financial institution for the customer; and
3. The use of which may or may not involve personnel of a financial institution.

B. “Beg” or “begging” means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means.

C. “Exterior public pay telephone” means any coin or credit card reader telephone that is:

1. Installed or located anywhere on a premises except exclusively in the interior of a building located on the premises; and
2. Accessible and available for use by members of the general public.

D. “Intent” means when a person intends or acts with intent to accomplish a result or to engage in conduct described by the section defining the offense, when that person’s conscious objective or purpose is to accomplish such a result or to engage in conduct of that nature.

E. “Intimidate” means to engage in conduct which would make a reasonable person fearful or feel compelled.

1. A presumption shall be permitted that begging in the following circumstances would

make a reasonable person fearful or feel compelled if begging occurs within 15 feet of:

- a. An automated teller machine;
- b. The entrance of a building, unless the solicitor has permission from the owner or occupant;
- c. An exterior public pay telephone;
- d. A self-service car wash;
- e. A self-service fuel pump;
- f. A public transportation stop; or
- g. Any parked vehicle as occupants of such vehicle enter or exit such vehicle.

2. For purposes of this subsection (E)(2), measurement will be made in a straight line, without regard to intervening structures or objects, from the nearest point at which a solicitation is being conducted to whichever is applicable of the following:

- a. The nearest entrance or exit of a facility in which an automated teller machine is enclosed or, if the machine is not enclosed in a facility, to the nearest part of the automated teller machine;
- b. The nearest entrance or exit of a building;
- c. The nearest part of an exterior public pay telephone;
- d. The nearest part of the structure of a self-service car wash;
- e. The nearest part of a self-service fuel pump;
- f. The nearest point of any sign or marking designating an area as a public transportation stop; or
- g. Any door of a parked vehicle that is being used by an occupant of such vehicle to enter or exit such vehicle.

F. “Obstruct pedestrian or vehicular traffic” means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one’s constitutional right to picket or to legally protest, and acts authorized by a permit issued pursuant to the city’s special events ordinance, Chapter 5.05 MVMC, shall not constitute obstruction of pedestrian or vehicular traffic.

G. “Public place” means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to

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buildings or dwellings and the grounds enclosing them.

H. "Public transportation stop" means an area officially marked and designated as a place to wait for a bus, a light rail vehicle, or any other public transportation vehicle that is operated on a scheduled route with passengers paying fares on an individual basis.

I. "Self-service car wash" means a structure:

1. At which a vehicle may be manually washed by its owner or operator with equipment that is activated by the deposit of money in a coin-operated machine; and
2. That is accessible and available for use by members of the general public.

J. "Self-service fuel pump" means a fuel pump:

1. From which a vehicle may be manually filled with gasoline or other fuel directly by its owner or operator, with or without the aid of an employee or attendant of the premises at which the fuel pump is located; and
2. That is accessible and available for use by members of the general public. (Ord. 3419 § 2, 2008).

9.26.020 Disorderly conduct.

A. A person is guilty of disorderly conduct if the person:

1. Uses abusive language and thereby intentionally creates a risk of assault;
2. Intentionally disrupts any lawful assembly or meeting of persons without lawful authority;
3. Intentionally obstructs vehicular or pedestrian traffic without lawful authority; or
4. a. Intentionally engages in fighting or in tumultuous conduct or makes unreasonable noise, within 500 feet of:
 - i. The location where a funeral or burial is being performed;
 - ii. A funeral home during the viewing of a deceased person;
 - iii. A funeral procession, if the person described in this subsection (A)(4) knows that the funeral procession is taking place; or
 - iv. A building in which a funeral or memorial service is being conducted; and
- b. Knows that the activity adversely affects the funeral, burial, viewing, funeral procession, or memorial service.

B. Disorderly conduct is a misdemeanor. (Ord. 3419 § 2, 2008).

9.26.030 Disorderly conduct – Fighting.

A. It is unlawful for any person to intentionally fight with another person in a public place and thereby create a substantial risk of:

1. Injury to a person who is not actively participating in the fight; or
2. Damage to the property of a person who is not actively participating in the fight.

B. In any prosecution under RCW 12A.06.025(A), it is an affirmative defense that:

1. The fight was duly licensed or authorized by law; or
2. The person was acting in self-defense. (Ord. 3419 § 2, 2008).

9.26.040 Aggressive begging.

A. A person is guilty of aggressive begging if, in a public place, the person intentionally begs with the intent to intimidate another person into giving money or goods.

B. Aggressive begging is a misdemeanor. (Ord. 3419 § 2, 2008).

9.26.050 Failure to disperse.

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

1. He congregates with a group of three or more other persons and there are acts of conduct within that group which create a substantial risk of causing injury to any person, or substantial harm to property; and
2. He refuses or fails to disperse when ordered to do so by a peace officer or other public servant engaged in enforcing or executing the law.

B. Failure to disperse is a misdemeanor. (Ord. 3419 § 2, 2008).

9.26.060 Riot.

A. A person is guilty of the crime of riot if, acting with three or more other persons, he or she knowingly and unlawfully uses or threatens to use force, or in any way participates in the use of such force, against any other person or against property.

B. 1. Except as provided in subsection (B)(2) of this section, the crime of riot is a gross misdemeanor.

2. The crime of riot is a Class C felony if the actor is armed with a deadly weapon. (Ord. 3419 § 2, 2008).

9.26.070 False reporting.

A. A person is guilty of false reporting if, with knowledge that the information reported, conveyed or circulated is false, he initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, crime,

catastrophe, or emergency knowing that such false report is likely to cause evacuation of a building, place of assembly, or transportation facility, or to cause public inconvenience or alarm.

B. False reporting is a gross misdemeanor. (Ord. 3419 § 2, 2008).

9.26.080 Disorderly conduct on buses.

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

1. Except while in or at a municipal station, smokes or carries a lighted or smoldering pipe, cigar, or cigarette; or
2. Discards litter other than in designated receptacles; or
3. Plays any radio, recorder, or other sound-producing equipment except that nothing herein shall prohibit the use of such equipment when connected to earphones that limit the sound to the individual listeners or the use of a communication device by an employee of the owner or operator of the municipal transit vehicle; or
4. Spits or expectorates; or
5. Carries any flammable liquid, explosive, acid, or other article or material likely to cause harm to others except that nothing herein shall prevent a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law; or
6. Intentionally disturbs others by engaging in loud or unruly behavior.

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

C. Unlawful bus conduct is a misdemeanor and shall be punished as set forth in MVMC 1.20.010. (Ord. 3419 § 2, 2008).

Chapter 9.28

NOISE REGULATIONS

Sections:

- 9.28.010 Declaration of policy.
- 9.28.020 Findings.
- 9.28.030 Definitions.
- 9.28.040 Enforcement authority.
- 9.28.050 Designation of EDNAs.
- 9.28.060 Environmental sound levels – Quantitative standards.
- 9.28.070 Public disturbance noise.
- 9.28.080 Compression brakes.
- 9.28.090 Violation – Penalty.
- 9.28.100 Purpose – Liability.

9.28.010 Declaration of policy.

It is the policy of the city to minimize the exposure of citizens to physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and general welfare. It is the express intent of the city council to control the level of noise in a manner which promotes the use, value and enjoyment of property, sleep and repose, commerce and the quality of the environment. (Ord. 3349 § 1, 2007).

9.28.020 Findings.

Pursuant to RCW 70.107.060, the city council finds that the regulations set forth in this chapter are made necessary by local conditions. The problem of noise in Mount Vernon has been studied and it is documented by the complaints received and logged in the Mount Vernon police department, and by complaints recorded and noted at public meetings. The council therefore finds that special conditions exist which make necessary any and all differences between this chapter and the regulations adopted by the Washington State Department of Ecology. (Ord. 3349 § 1, 2007).

9.28.030 Definitions.

For purposes of implementation and enforcement of this chapter, the following terms shall have the assigned meanings:

A. “dBA” means the sound pressure level in decibels measured using the “A” weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.

B. “EDNA” means the environmental designation for noise abatement, being an area or zone

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(environment) within which maximum permissible noise levels are established. For purposes of this definition, MVMC 9.28.050, identifying and describing the classes of EDNAs, shall be recognized as designating EDNAs to conform to the city's zoning ordinance. In areas not covered by a local zoning ordinance, WAC 173-60-030(1), identifying and describing the classes of EDNAs recognized by the state Department, shall be adopted by reference.

C. "Noise" means the intensity, duration and character of sounds, from any and all sources.

D. "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

E. "Receiving property" means real property within which the maximum permissible noise levels specified within this chapter shall not be exceeded from sources outside such property.

F. "Sound level meter" means a device which measures sound pressure levels and conforms to Type I, S1A, Type II or S2A, as specified in the American National Standards Institute Specification Section 1.4 (1971) as now exists or as hereafter amended or modified. (Ord. 3349 § 1, 2007).

9.28.040 Enforcement authority.

The city's community and economic development department along with the city attorney's office and the city's police department shall enforce this chapter and shall be responsible for the issuance of any notice, citation, or complaint. (Ord. 3349 § 1, 2007).

9.28.050 Designation of EDNAs.

Pursuant to the authority of Chapter 70.107 RCW and WAC 173-60-030(2), the city council designates all residentially zoned property within the boundaries of the city limits to be EDNA Class A (residential). EDNA Class A zones shall include zones designated as R-A, R-1, R-2, R-3, R-4, R-0, P, HD, P-O, and MHP. The council further designates all commercially zoned property within the boundaries of the city limits to be EDNA Class B (commercial). EDNA Class B zones shall include zones designated as LC, C-1, C-2, C-3, and C-4. The council further designates all industrially zoned property within the boundaries of the city limits to be EDNA Class C (industrial). EDNA Class C zones shall include zones designated as M-1 and M-2. (Ord. 3349 § 1, 2007).

9.28.060 Environmental sound levels – Quantitative standards.

A. It is unlawful for any person to cause noise, or for any person in possession of property to permit noise originating from such property to intrude into the real property of another person, which such noise exceeds the maximum permissible noise levels established by this chapter, with the point of measurement being at the property boundary of the receiving property or anywhere within. The noise limitations established are set forth in the following table after any applicable adjustments provided for in this chapter are applied:

EDNA of Noise Source	EDNA of Receiving Property		
	Class A	Class B	Class C
Class A	55 dBA	57 dBA	60 dBA
Class B	57 dBA	60 dBA	65 dBA
Class C	60 dBA	65 dBA	70 dBA

B. Deviations. The following deviations from the maximum permissible noise levels are permitted:

1. Between the hours of 10:00 p.m. and 7:00 a.m. the noise limitations of the foregoing table shall be reduced by 10 dBA for receiving property within Class A EDNAs.
2. At any hour of the day or night the applicable noise limitations in subsections A and B of this section may be exceeded for any receiving property by no more than:
 - a. Five dBA for a total of 15 minutes in any one-hour period; or
 - b. Ten dBA for a total of five minutes in any one-hour period; or
 - c. Fifteen dBA for a total of one and one-half minutes in any one-hour period.

C. If the measurements of sound are made with a sound level meter, the instrument shall be in good operating condition and shall meet the requirements for a Type I, S1A, Type II or S2A instrument, as described in American National Standards Institute Specifications as now exist or as hereafter amended or modified. If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such a manner that the overall accuracy shall be at least that called for in the National Standards Institute specifications.

D. Exemptions. The following shall be exempt from the provisions of subsection A of this section between the hours of 7:00 a.m. and 10:00 p.m.:

1. Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances.
2. Sounds created by the discharge of firearms on authorized shooting ranges.
3. Sounds created by blasting.
4. Sounds created by aircraft engine testing and maintenance not related to flight operations; provided, that aircraft testing and maintenance shall be conducted at remote sites whenever possible.
5. Sounds created by the installation or repair of essential utility services.

E. Nighttime Exemption. The following shall be exempt from the provisions of subsection (B)(1) of this section:

1. Noise from electrical substations and existing stationary equipment used in the conveyance of water, wastewater, and natural gas by a utility.
2. Noise from existing industrial installations which exceeds the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours, which would affect exemptions under this regulation, require approval of the director of the community and economic development department.

F. Exemptions Other Than Residential. The following shall be exempt from the provisions of subsection A of this section, except insofar as such provisions relate to the reception of noise within Class A EDNAs between the hours of 10:00 p.m. and 7:00 a.m.:

1. Sounds originating from temporary construction sites as a result of construction activity.
2. Sounds originating from forest harvesting and silvicultural activity.

G. Other Exemptions. The following shall be exempt from all provisions of subsection A of this section:

1. Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations;
2. Sounds created by surface carriers engaged in interstate commerce by railroad;
3. Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, and carillons;
4. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible;

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5. Sounds created by emergency equipment and work necessary in the interests of law enforcement or for the health, safety or welfare of the community;

6. Sounds originating from motor vehicle racing events at existing authorized facilities;

7. Sounds originating from officially sanctioned parades and other public events;

8. Sounds emitted from petroleum refinery boilers during startup of said boilers; provided, that the startup operation is performed during daytime hours whenever possible;

9. Sounds created by the discharge of firearms in the course of hunting;

10. Sounds caused by natural phenomena and unamplified human voices;

11. Sounds created by motor vehicles, licensed or unlicensed, when operated off public highways, except when such sounds are received in Class A EDNAs;

12. Sounds originating from existing natural gas transmission and distribution facilities.

H. The standards provided in this chapter represent the minimum protections for citizens from noises which are deemed appropriate. The city is aware of technologies and techniques which would reduce the impact of noise on citizens even further, but has chosen not to require them due to the impact on existing commercial and industrial uses. The fact that a new commercial or industrial use will meet the requirements of this code does not preclude other steps for noise abatement being required by the city when considering conditional use permits and making SEPA determinations. Nothing in these exemptions is intended to preclude the director of community and economic development from requiring installation of the best available noise abatement technology consistent with economic feasibility. (Ord. 3349 § 1, 2007).

9.28.070 Public disturbance noise.

It is unlawful for any person to cause, or for any person in possession or control of property to allow to originate from the property, sound that is a public disturbance noise. The following sounds or acts are determined to be public disturbance noises or acts producing public disturbance noises:

A. It is unlawful for any person to operate, or for any owner to permit any person to operate, any motor vehicle upon the public highways or easement roads which is not equipped with a muffler in good working order, in constant operation, and which meets the requirements established by RCW 46.37.390 as it now exists or as may hereafter be amended;

B. Operation of a motor vehicle in such a manner as to intentionally cause, or allow to be emitted, squealing, screeching, or other such sound from the tires in contact with the ground because of rapid acceleration, intentional and unnecessary braking or excessive speed around corners or other such reason; provided, that sound resulting from emergency braking or emergency evasive action to avoid imminent danger shall not be considered a public disturbance noise;

C. Operation off of any improved public highway, street or alley of any motorcycle, or any motor vehicle intended for off-road use, or any motor vehicle not licensed for use on public highways, where the noise therefrom is audible in or on any residential property and unreasonably disturbs or annoys others so as to interfere with the peace and comfort of persons in residential districts;

D. The frequent, repetitive or continuous sounding of any horn, siren, or alarm attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

E. Using or operating any mechanical or electronic device or loudspeaker in a fixed or movable position exterior to any building, or mounted upon a motor vehicle, aircraft, or boat for commercial or business advertising purposes or for the purpose of attracting attention to any performance, show or sale or display of merchandise, where the sound therefrom may be heard upon any public street, park, or place; provided, that nothing in this chapter is intended to prohibit incidental sounds emanating from a sporting or entertainment or public event; provided further, that ice cream or vegetable vendors whose sole method of selling is from a moving vehicle shall be exempt from this provision from the hours of 7:00 a.m. to 8:00 p.m. so long as the level of noise is not unreasonably loud;

F. Owning, keeping, possessing or harboring any animals which by frequent or habitual howling, barking, crowing or other noise-making can be heard in a residential zone except R-A zones; provided, that nothing in this chapter shall be construed to limit the applicability of Chapter 6.04 MVMC;

G. The erection, including excavation, demolition, alteration or repair, of any building other than between the hours of 7:00 a.m. to 10:00 p.m. except in case of urgent necessity in the interest of public safety and convenience, and then only by written permission of the building official or city engineer;

H. Sound from motor vehicle sound systems, such as tape players, radios, and compact disc play-

ers, operated at a volume so as to be audible greater than 50 feet from the vehicle itself;

I. The use, operation or permitting to be used, played or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound, and including portable audio equipment such as those devices commonly known as “boom boxes,” in such a manner as to unreasonably disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room or chamber in which such machine or device is operated and who are voluntary listeners thereto. To unreasonably disturb the peace, quiet and comfort of the neighboring inhabitants shall include, but not be limited to, the operation of any such set, instrument, phonograph, machine or device in such a manner as to be audible at a distance of 50 feet from the building or structure in which it is located or which is audible in any other structure or building when the doors and windows of such other building or structure are closed; provided, however, that nothing herein shall prohibit such sounds at or from a wedding, reception, party, musical or theatrical performance or other similar event where a permit therefor has first been obtained from the director of the parks department, and subject to such conditions and restrictions as the parks director shall designate. This shall not apply to regularly scheduled events at parks or schools, such as public address systems for baseball or football games or park concerts between the hours of 9:00 a.m. and 10:00 p.m.;

J. Operation of any power lawn mower, power snow remover or blower, chainsaw or other powered equipment used in temporary or periodic maintenance or repair of residential property or grounds, except between the hours of 7:00 a.m. to 10:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends;

K. The operation of any aircraft for the purpose of take-off or landing where the noise therefrom is audible in or on any residential property, whether or not such aircraft is regulated by the Federal Aviation Administration or other federal law, and including those aircraft commonly referred to as “ultralights”;

L. The making of any sound or speaking or crying of any words with the unamplified human voice which is audible at a distance of 50 feet or which can be heard in any structure or building when the doors and windows are closed. (Ord. 3349 § 1, 2007).

9.28.080 Compression brakes.

A. Except as provided in this chapter, no person shall use motor vehicle compression brakes within the corporate limits of the city of Mount Vernon. It shall be an affirmative defense to prosecution under this section that compression brakes were applied in an emergency to protect persons or property.

B. As used in this chapter, the term “compression brakes” means a device which, when manually activated, retards the forward motion of motor vehicle by the compression of the engine of the vehicle or any unit or part of the engine. “Compression brakes” are also referred to as “jake brakes.” (Ord. 3349 § 1, 2007).

9.28.090 Violation – Penalty.

A. Violations – Unlawful. The violation or failure to comply with any of the provisions of this chapter is declared to be unlawful.

B. Civil Noise Infraction. Any violation of the provisions of MVMC 9.28.070 or 9.28.080 is a civil noise infraction for which a monetary penalty may be assessed as follows:

1. Upon a first violation, a fine of \$100.00;
2. Upon a second separate subsequent offense by the same violator within a one-year period of time, a fine of \$200.00;
3. Upon a third separate subsequent offense by the same violator within a one-year period of time, a fine of \$300.00.

The procedure for issuance of a notice of infraction and the processing thereof in the courts shall be substantially as set forth for traffic infractions pursuant to the infraction rules for courts of limited jurisdiction (IRLJ) as now or hereafter promulgated by the Washington State Supreme Court and Chapter 7.80 RCW.

C. Criminal Violations. Any violation of the provisions of MVMC 9.28.060 in addition to any other penalty provided in this chapter or by law is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 30 days, or by both. (Ord. 3349 § 1, 2007).

9.28.100 Purpose – Liability.

A. It is expressly the purpose of this chapter to provide for and promote the health, safety, and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

9.29.010

B. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, its officers, employees or agents for any injury or damage resulting from the failure of anyone to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation of enforcement pursuant to this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents. (Ord. 3349 § 1, 2007).

Chapter 9.29

TRAINS

Sections:

9.29.010 Obstructing or delaying a train.

9.29.010 Obstructing or delaying a train.¹

Every person who shall willfully obstruct, hinder or delay the passage of any car lawfully operated upon any railway shall be guilty of a misdemeanor. (Ord. 2881 § 8, 1998).

1. See RCW 81.48.020.

Chapter 9.30

VEHICLE PROWLING

Sections:

9.30.010 Vehicle prowling in the second degree.

9.30.010 Vehicle prowling in the second degree.¹

A. A person is guilty of vehicle prowling in the second degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a vehicle other than a motor home, as defined in RCW 46.04.305, or a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities.

B. Vehicle prowling in the second degree is a gross misdemeanor. (Ord. 2881 § 4, 1998).

VI. Offenses Against Property

Chapter 9.32

PETTY THEFT

Sections:

9.32.010 Definitions.

9.32.020 Petty theft – Crime and penalty.

9.32.030 Possession of stolen property.

9.32.010 Definitions.

The definitions outlined in RCW 9A.56.010 and 9A.56.020 are adopted by reference. (Ord. 1875 § 1, 1977).

9.32.020 Petty theft – Crime and penalty.

A. A person is guilty of petty theft if he commits theft of property or services which does not exceed \$250.00 in value.

B. Every person found guilty of petty theft shall be punished as set forth in MVMC 1.20.010. (Ord. 1875 § 2, 1977).

9.32.030 Possession of stolen property.

A. A person is guilty of possessing stolen property if he possesses stolen property which does not exceed \$250.00 in value.

B. Every person found guilty of possession of stolen property shall be punished as set forth in MVMC 1.20.010. (Ord. 2314 § 1, 1988).

1. See RCW 9A.52.100.

Chapter 9.36**BAD CHECKS**

Sections:

- 9.36.010 Issuance of checks with insufficient funds prohibited when.
 9.36.020 Requesting stop-payment orders on checks prohibited when.
 9.36.030 Violation – Penalty.

9.36.010 Issuance of checks with insufficient funds prohibited when.

Any person who shall with intent to defraud, make or draw, or utter, or deliver to another person any check or draft on a bank or other depository for the payment of money, knowing at the time of such drawing or delivery that he has not sufficient funds in or credit with said bank or other depository to meet said check or draft in full upon its presentation, shall be guilty of unlawful issuance of a bank check. The word “credit,” as used herein, shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same, shall be prima facie evidence of an intent to fraud. (Ord. 2069 § 1, 1982).

9.36.020 Requesting stop-payment orders on checks prohibited when.

Any person who shall with intent to defraud, make or draw, or utter, or deliver to another person any check or draft on a bank or other depository for the payment of money, and who issues a stop-payment order directing the bank or depository on which the check is drawn not to honor said check, and who fails to make payment of money in the amount of the check or draft, or otherwise arrange a settlement agreed upon by the holder of the check within 20 days of issuing said check or draft, shall be guilty of unlawful issuance of a bank check. (Ord. 2069 § 1, 1982).

9.36.030 Violation – Penalty.

Unlawful issuance of a bank check in an amount of \$250.00 or less is a misdemeanor. (Ord. 2174 § 4, 1985; Ord. 2069 § 2, 1982).

Chapter 9.40**TRESPASSING**

Sections:

- 9.40.010 Definitions.
 9.40.020 Unlawful acts designated.
 9.40.030 Violation deemed misdemeanor.

9.40.010 Definitions.

As used in this chapter:

A. “Enter,” when constituting an element or part of a crime, means and shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used, or intended to be used to threaten or intimidate a person or to detach or remove property.

B. 1. Enters or Remains Unlawfully. A person “enters or remains unlawfully” in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

2. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designated to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner.

C. “Premises” includes any building, dwelling, or any real property. (Ord. 2148 § 1, 1984).

9.40.020 Unlawful acts designated.

A person is guilty of the crime of trespass if he knowingly enters or remains unlawfully in or upon the premises of another. (Ord. 2148 § 2, 1984).

9.40.030 Violation deemed misdemeanor.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor. (Ord. 2174 § 5, 1985; Ord. 2148 § 3, 1984).

Chapter 9.42

GRAFFITI

Sections:

9.42.010 Graffiti prohibited.

9.42.010 Graffiti prohibited.

It shall be unlawful for any person to write, paint, or draw upon any wall, rock, bridge, building, fence, gate, vehicle, sign, road surface or other structure, tree, or other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as “graffiti” within the city. Violation of this section shall be considered a misdemeanor and shall be punishable as set forth in MVMC 1.20.010. (Ord. 2705 § 7, 1995).

Chapter 9.44

MALICIOUS DESTRUCTION OF PROPERTY

Sections:

9.44.010 Certain wanton acts prohibited.

9.44.020 Certain willful acts prohibited.

9.44.030 Violation – Penalty.

9.44.010 Certain wanton acts prohibited.

It is unlawful for any person to wantonly destroy, cut, remove, deface, mark or write upon or in any manner injure any window, fence, gate, bridge, dwelling house, engine house, building, hitching post, awning, railing, or any other property public or private not his own. (Ord. 1738 § 1, 1974).

9.44.020 Certain willful acts prohibited.

It is unlawful for any person to willfully destroy, mutilate, deface or in any manner injure any personal property of any kind or character, public or private, not his own. (Ord. 1738 § 2, 1974)

9.44.030 Violation – Penalty.

Any person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished as provided by MVMC 1.20.010. (Ord. 1738 § 3, 1974).

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Chapter 9.46

**FAILURE TO DELIVER LEASED
PERSONAL PROPERTY**

Sections:

9.46.010 Failure to deliver leased personal property.

9.46.010 Failure to deliver leased personal property.

A. Every person being in possession thereof, who shall willfully and without reasonable cause fail to deliver leased personal property to the lessor within 10 days after written notice of the expiration of the lease has been mailed to the lessee by registered or certified mail with the return receipt requested mailed to the last known address of the lessee, shall be guilty of a misdemeanor punishable as set forth in MVMC 1.20.010; provided, however, that there shall be no prosecution under this section unless such lease is in writing and contains a warning that failure to promptly return the leased property may result in criminal prosecution and the notice mailed pursuant to the provisions of this section shall clearly state that the lessee may be guilty of a crime upon his failure to return the property to the lessor within 10 days.

B. In any prosecution under this section, an allegation containing a description of the lease by reference to the date thereof and names of the parties shall be sufficiently definite and certain.

C. As used in this section, the term "lease" shall also include rental agreements.

D. The provisions of this section shall be cumulative and nonexclusive and shall not affect any other criminal provision. (Ord. 2257 § 1, 1987).

VII. Consumer Protection

Chapter 9.48

(Reserved)

VIII. Offenses by or Against Minors

Chapter 9.56

FURNISHING LIQUOR TO MINORS

Sections:

- 9.56.010 Prohibited acts.
- 9.56.015 Exceptions – State provisions minors frequenting off-limits area – Misrepresentation of age – Penalty – Classification of licensees.
- 9.56.020 Exceptions to applicability.
- 9.56.025 Unlawful transfer to minor of age identification.
- 9.56.030 Treats, gifts, purchases of liquor for or from minor, or holding out minor as at least 21, in public place where liquor sold.
- 9.56.035 Preparation or acquisition and supply to persons under age 21 of facsimile of official identification card – Penalty.
- 9.56.040 Violation – Penalty.
- 9.56.050 Severability.

9.56.010 Prohibited acts.

It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of 21 years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, “premises” includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. (Ord. 3177 § 8, 2004).

9.56.015 Exceptions – State provisions minors frequenting off-limits area – Misrepresentation of age – Penalty – Classification of licensees.

A. Except as otherwise provided by RCW 66.44.316 and 66.44.350, which statutes are adopted by reference, it shall be unlawful:

1. To serve or allow to remain in any area classified by the board as off-limits to any person under the age of 21 years;
2. For any person under the age of 21 years to enter or remain in any area classified as off-limits to such a person, but persons under 21 years of age may pass through a restricted area in a facility holding a spirits, beer, and wine private club license;
3. For any person under the age of 21 years to represent his or her age as being 21 or more years for the purpose of purchasing liquor or secur-

ing admission to, or remaining in, any area classified by the board as off-limits to such a person.

B. The Washington State Liquor Control Board shall have the power and it shall be its duty to classify licensed premises or portions of licensed premises as off-limits to persons under the age of 21 years of age. (Ord. 3177 § 8, 2004).

9.56.020 Exceptions to applicability.

This chapter shall not apply to:

A. Liquor given or permitted to be given to a person under the age of 21 years by a parent or guardian and consumed in the presence of the parent or guardian. This shall not authorize consumption or possession of liquor by a person under the age of 21 years on any premises licensed under Chapter 66.24 RCW.

B. Liquor given for medicinal purposes to a person under the age of 21 years by a parent, guardian, physician, or dentist.

C. Liquor given to a person under the age of 21 years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service. (Ord. 3177 § 8, 2004).

9.56.025 Unlawful transfer to minor of age identification.

It is unlawful for any person to transfer in any manner an identification of age to a minor for the purpose of permitting such minor to obtain alcoholic beverages. A minimum fine of \$250.00 shall be imposed and any sentence requiring community restitution shall require not fewer than 25 hours of community restitution; provided, that corroborative testimony of a witness other than the minor shall be a condition precedent to conviction. (Ord. 3177 § 8, 2004).

9.56.030 Treats, gifts, purchases of liquor for or from minor, or holding out minor as at least 21, in public place where liquor sold.

It is unlawful for any person to invite a minor into a public place where liquor is sold and treat, give or purchase liquor for such minor, or permit a minor to treat, give or purchase liquor for the adult; or hold out such minor to be 21 years of age or older to the owner or employee of the liquor establishment, a law enforcement officer, or a liquor enforcement officer. (Ord. 3177 § 8, 2004).

9.56.035 Preparation or acquisition and supply to persons under age 21 of facsimile of official identification card – Penalty.

It is unlawful to forge, alter, counterfeit, otherwise prepare or acquire and supply to a person under the age of 21 years a facsimile of any of the officially issued cards of identification that are required for presentation under RCW 66.16.040. A violation of this section shall be punishable pursuant to MVMC 9.56.040 except that a minimum fine of \$2,500 shall be imposed. (Ord. 3177 § 8, 2004).

9.56.040 Violation – Penalty.

Any person violating the terms of this chapter shall be guilty of a misdemeanor and shall be punished therefor as set forth in MVMC 1.20.010. (Ord. 3177 § 8, 2004).

9.56.050 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 3177 § 8, 2004).

Chapter 9.60

POSSESSION AND PURCHASE OF LIQUOR BY MINORS

Sections:

- 9.60.020 Unlawful acts designated – Exceptions.
- 9.60.023 Exceptions to applicability.
- 9.60.025 Exceptions – State provisions.
- 9.60.030 Minor purchasing or attempting to purchase liquor.
- 9.60.035 Minor purchasing or attempting to purchase liquor – Penalty against persons between 18 and 20, inclusive.
- 9.60.040 Violation – Penalty.
- 9.60.050 Severability.

9.60.020 Unlawful acts designated – Exceptions.

Except as otherwise provided, it is unlawful:

- A. For any person under the age of 21 years to possess, consume, or otherwise acquire any liquor.
- B. For a person under the age of 21 years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either: (1) is in possession of or close proximity to a container that has or recently had liquor in it; or (2) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. (Ord. 3177 § 9, 2004).

9.60.023 Exceptions to applicability.

This chapter shall not apply to:

- A. Liquor given or permitted to be given to a person under the age of 21 years by a parent or guardian and consumed in the presence of the parent or guardian. This shall not authorize consumption or possession of liquor by a person under the age of 21 years on any premises licensed under Chapter 66.24 RCW.
- B. Liquor given for medicinal purposes to a person under the age of 21 years by a parent, guardian, physician, or dentist.
- C. Liquor given to a person under the age of 21 years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

Subsections A and B of this section do not apply to liquor given or permitted to be given to a person under the age of 21 years by a parent or guardian

9.60.025

and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of 21 years on any premises licensed under Chapter 66.24 RCW. (Ord. 3177 § 9, 2004).

9.60.025 Exceptions – State provisions.

Except as otherwise provided by RCW 66.44.316 and 66.44.350, which statutes are adopted by reference, it shall be unlawful:

A. For any person under the age of 21 years to enter or remain in any area classified as off-limits to such a person, but persons under 21 years of age may pass through a restricted area in a facility holding a spirits, beer, and wine private club license;

B. For any person under the age of 21 years to represent his or her age as being 21 or more years for the purpose of purchasing liquor or securing admission to, or remaining in, any area classified by the board as off-limits to such a person.

C. The Washington State Liquor Control Board shall have the power and it shall be its duty to classify licensed premises or portions of licensed premises as off-limits to persons under the age of 21 years of age. (Ord. 3177 § 9, 2004).

9.60.030 Minor purchasing or attempting to purchase liquor.

A. Every person under the age of 21 years who purchases or attempts to purchase liquor shall be guilty of a violation of this chapter. This section does not apply to persons between the ages of 18 and 21 years who are participating in a controlled purchase program authorized by the Liquor Control Board under rules adopted by the board. Violations occurring under a private, controlled purchase program authorized by the Liquor Control Board may not be used for criminal or administrative prosecution.

B. An employer who conducts an in-house controlled purchase program authorized under this section shall provide his or her employees a written description of the employer's in-house controlled purchase program. The written description must include notice of actions an employer may take as a consequence of an employee's failure to comply with company policies regarding the sale of alcohol during an in-house controlled purchase.

C. An in-house controlled purchase program authorized under this section shall be for the purposes of employee training and employer self-compliance checks. An employer may not terminate an employee solely for a first-time failure to comply with company policies regarding the sale

of alcohol during an in-house controlled purchase program authorized under this section. (Ord. 3177 § 9, 2004).

9.60.035 Minor purchasing or attempting to purchase liquor – Penalty against persons between 18 and 20, inclusive.

For every person between the ages of 18 and 20, inclusive, who is convicted of a violation of MVMC 9.60.030, a minimum fine of \$250.00 shall be imposed and any sentence requiring community restitution shall require not fewer than 25 hours of community restitution. (Ord. 3177 § 9, 2004).

9.60.040 Violation – Penalty.

Any person violating the terms of this chapter shall be guilty of a misdemeanor and shall be punished therefor as set forth in MVMC 1.20.010. (Ord. 3177 § 9, 2004).

9.60.050 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 3177 § 9, 2004).

Chapter 9.64

Chapter 9.68

POSSESSION AND PURCHASE OF TOBACCO AND NARCOTICS BY MINORS

COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES

Sections:

(Repealed by Ord. 3177)

- 9.64.010 Selling or giving tobacco to minor – Belief of representative capacity, no defense – Penalty.
- 9.64.020 Purchasing, possessing by persons under 18.
- 9.64.030 Severability.

9.64.010 Selling or giving tobacco to minor – Belief of representative capacity, no defense – Penalty.

Every person who sells or gives, or permits to be sold or given to any person under the age of 18 years any cigar, cigarette, cigarette paper or wrapper, or tobacco in any form is guilty of a misdemeanor.

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another. (Ord. 3177 § 10, 2004).

9.64.020 Purchasing, possessing by persons under 18.

A person under the age of 18 who purchases or attempts to purchase, possesses, or obtains or attempts to obtain cigarettes or tobacco products is guilty of a misdemeanor. The court may also require participation in a smoking cessation program. This provision does not apply if a person under the age of 18, with parental authorization, is participating in a controlled purchase as part of a Liquor Control Board, law enforcement, or local health department activity. (Ord. 3177 § 10, 2004).

9.64.030 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 3177 § 10, 2004).

IX. Weapons

Chapter 9.72

FIREARMS AND DANGEROUS WEAPONS

Sections:

- 9.72.010 Definitions.
- 9.72.020 *Repealed.*
- 9.72.030 *Repealed.*
- 9.72.040 Unlawful displaying of a weapon.
- 9.72.050 Discharge of firearms or weapons prohibited – Exceptions.
- 9.72.060 License required to carry certain weapons – Issuance restrictions – Fees – Revocation grounds.
- 9.72.065 *Repealed.*
- 9.72.070 Violation deemed misdemeanor.

9.72.010 Definitions.

For the purpose of this chapter, the following definitions shall apply:

A. “Dangerous weapon” includes, but is not limited to mean, any weapon or device capable of propelling a missile through the force of compressed air or gas, or through the contraction of any elastic band or spring, or similar device, and includes compressed air rifles, slingshots, bow and arrow, or any similar device, provided however, that the term shall not include firearms as defined herein and/or as defined in RCW 9.41.010 as the same now exists or may hereafter be amended.

B. “Firearm” includes, but is not limited to mean, any weapon or device capable of propelling a missile through the force of combustion or explosion of gunpowder or similar substance.

C. “Pistol” or “revolver” means any firearm with a barrel less than 12 inches in length. (Ord. 2649 § 1, 1995; Ord. 1784 § 1, 1975).

9.72.020 Carrying loaded or concealed firearms prohibited where – Exception.

Repealed by Ord. 2649. (Ord. 1784 § 2, 1975).

9.72.030 Exceptions to applicability.

Repealed by Ord. 2649. (Ord. 1784 § 3, 1975).

9.72.040 Unlawful displaying of a weapon.¹

A. It shall be unlawful for any person to carry, exhibit, display, or draw any firearm, dagger, sword, knife or other cutting or stabbing instru-

1. See RCW 9.41.270.

ment, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

B. It shall be unlawful for any person to carry, exhibit, display, or draw any item intended by such person to simulate a firearm, dagger, sword, knife or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons. Any person violating the provisions of subsection A of this section shall be guilty of a gross misdemeanor. Any person violating the provisions of subsection B of this section shall be guilty of a misdemeanor.

C. If any person is convicted of a violation of subsection A of this section under circumstances that would also constitute a violation of RCW 9.41.270, the person shall lose his or her concealed pistol license, if any. The court shall send notice of the revocation to the Department of Licensing, and the city, town, or county which issued the license.

D. Subsections A and B of this section shall not apply to or affect the following:

1. Any act committed by a person while in his or her place of abode or fixed place of business;
2. 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 to make arrests for offenses, while in the performance of such duty;
3. 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 such unlawful force by a third person;
4. Any person making or assisting in making a lawful arrest for the commission of a felony; or
5. Any person engaged in military activities sponsored by the federal or state governments. (Ord. 2881 § 10, 1998; Ord. 2649 § 4, 1995; Ord. 1784 § 4, 1975).

9.72.050 Discharge of firearms or weapons prohibited – Exceptions.

It is unlawful for any person to fire, shoot or discharge any firearm or dangerous weapon within the city except as provided below:

A. The discharge of shotguns during any lawful hunting activity under the laws of the state shall be permitted on that property annexed into the city

under Ordinance No. 2023, and more particularly described in said ordinance;

B. The discharge of firearms or dangerous weapons at a firing range approved by the chief of police of the city; provided, that approval or disapproval of a firing range by the chief of police shall be based upon general principles of safety to persons and property surrounding the sites. Any applicant for the approval of a firing range who may feel aggrieved by the decision of the chief of police may seek a review of the decision of the chief of police by filing with the city finance director written notice of review within 10 days after receiving notice of the decision of the chief of police. The city council shall be the reviewing agency and can overturn the decision of the chief of police by a majority vote. (Ord. 2649 § 5, 1995; Ord. 2316 § 1, 1988; Ord. 2052 § 1, 1981; Ord. 1784 § 5, 1975).

9.72.060 License required to carry certain weapons – Issuance restrictions – Fees – Revocation grounds.

The police chief shall issue or deny permits according to the terms of RCW 9.41.070 as the same now exists or may hereinafter be amended, and shall charge fees provided for therein. (Ord. 2649 § 6, 1995; Ord. 1784 § 6, 1975).

9.72.065 Deliveries to minors and others forbidden.

Repealed by Ord. 2649. (Ord. 1909 § 1, 1978).

9.72.070 Violation deemed misdemeanor.

Any person violating any of the provisions of this chapter shall be guilty of a gross misdemeanor, and may be punished as set forth in MVMC 1.20.010. (Ord. 2649 § 8, 1995; Ord. 1784 § 7, 1975).

Chapter 9.74

DISPOSAL OF FORFEITED FIREARMS

Sections:

9.74.010 Purpose.

9.74.020 Methods of disposal.

9.74.010 Purpose.

The purpose of this chapter is to provide for the disposal of certain firearms that may come into the possession of the Mount Vernon police department in accordance with and pursuant to Chapter 9.41 RCW. (Ord. 3003 § 1, 2000).

9.74.020 Methods of disposal.

A. Except as provided in subsections B and C of this section, firearms that are:

1. Judicially forfeited and no longer needed for evidence; or
2. Forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010;

may be disposed of by the Mount Vernon police department, in its discretion, as follows:

- a. Retained for departmental use;
- b. Traded to licensed dealers;
- c. Auctioned to licensed dealers;
- d. Traded to another police agency; or
- e. Destroyed.

B. The provisions of this section shall apply only to firearms that have come into the possession of the police department after June 30, 1993. Firearms that have come into the possession of the department prior to said date shall be disposed of in accordance with RCW 9.41.098.

C. Antique firearms and firearms recognized as curios, relics, and firearms of particular historical significance by the United States Treasury Department Bureau of Alcohol, Tobacco and Firearms are exempt from destruction and shall be disposed of by auction or trade to licensed dealers.

D. All firearms that are unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport or have in possession, or under control, shall be destroyed; provided, however, if such firearms may be rendered lawful by removal or alteration of components, the police department may, in its discretion, remove or alter components and thereafter dispose of such firearms in accordance with subsection A of this section.

E. Any proceeds received from the trade or auction of firearms shall be deposited in the Mount Vernon police crime prevention fund. (Ord. 3003 § 2, 2000).