

## **Title 9**

### **PUBLIC PEACE, MORALS AND WELFARE**

#### **Chapters:**

**9.02 Carrying Firearms**

**9A.04 Criminal Code**

**9B.04** *Repealed*

**9B.08** *Repealed*

**9B.12** *Repealed*

**9B.16** *Repealed*

**9B.20** *Repealed*

**9.24 Curfew**



## Chapter 9.02

## Chapter 9A.04

CARRYING FIREARMS<sup>1</sup>

## CRIMINAL CODE

## Sections:

9.02.010 Statutory exemption.

**9.02.010 Statutory exemption.**

The city of Newport, acting under the authority granted by RCW 9.41.050(6), is and shall be exempt from the prohibitions set forth in RCW 9.41.050(4) as presently enacted and as may be hereafter modified or recodified. (Ord. 852 § 1, 1994)

## Sections:

9A.04.010 Interpretation – Adoption of statutes.

9A.04.020 Liability.

9A.04.030 Classification of crimes.

9A.04.040 Determination of capability to commit crime.

9A.04.050 Applicability of provisions.

9A.04.060 Citation by city officials.

9A.04.070 Provisions not to affect proceedings under existing law.

9A.04.080 Provisions deemed cumulative and selective.

9A.04.090 Violation – Penalty.

**9A.04.010 Interpretation – Adoption of statutes.**

A. The Washington Criminal Code as codified in the Revised Code of Washington in the sections listed in subsection F of this section are adopted by reference as and for the criminal ordinances of the city as if set forth in full in this chapter. This chapter shall be known and may be cited as the “Newport Criminal Code” and shall become effective on signing, attestation and publication as required by law.

B. The provisions of this chapter shall apply to any offense committed on or after which is defined in this chapter or the general statutes, unless otherwise expressly provided or unless the context otherwise requires, and shall also apply to any defense to prosecution for such an offense.

C. The provisions of this chapter do not apply to or govern the construction of and punishment for any offense committed prior to or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this chapter had not been enacted.

D. If any provision of this chapter, or its application to any person or circumstances is held invalid, the remainder of the chapter, or

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1. See also NMC 9B.20.010 regarding carrying of firearms.

## 9A.04.020

the application of the provision to other persons or circumstances is not affected, and to this end the provisions of this chapter are declared to be severable.

E. Chapter, section and subsection captions are for organizational purposes only and shall not be construed as part of this chapter.

F. The Washington Criminal Code, as codified in the following sections, is adopted by reference as and for the criminal code of the city as if set forth in full in this chapter: RCW 9.08.020, 9.08.030, 9.08.070, 9.12.010, 9.12.020, 9.16.010, 9.16.020, 9.16.030, 9.16.040, 9.16.050, 9.16.060, 9.16.070, 9.16.080, 9.16.090, 9.16.100, 9.16.110, 9.16.120, 9.16.130, 9.16.140, 9.16.150, 9.23.010, 9.27.015, 9.38.010, 9.38.020, 9.40.040, 9.40.100, 9.41.010, 9.41.030, 9.41.050, 9.41.060, 9.41.230, 9.41.240, 9.41.250, 9.41.260, 9.41.270, 9.41.280, 9.41.300, 9.44.080, 9.45.060, 9.45.062, 9.45.080, 9.45.090, 9.45.100, 9.45.180, 9.45.190, 9.45.240(1)(a), 9.51.010, 9.51.020, 9.51.030, 9.51.040, 9.51.050, 9.51.060, 9.58.010, 9.58.020, 9.58.030, 9.58.050, 9.58.070, 9.58.090, 9.58.110, 9.58.120, 9.61.240, 9.62.010(2), 9.66.010, 9.66.020, 9.66.030, 9.66.040, 9.66.050, 9.68.015, 9.68.030, 9.68.050, 9.68.060(1), (2), (3(a, b, c, d, i)), 9.68.070, 9.68.080, 9.68.100, 9.68.110, 9.68.120, 9.68.130, 9.68A.011, 9.68A.070, 9.68A.080, 9.68A.090, 9.68A.110, 9.68A.120, 9.68A.150, 9.68A.160, 9.69.100, 9.73.010, 9.73.020, 9.73.030, 9.73.080, 9.86.010, 9.86.020, 9.86.030, 9.86.040, 9.91.010, 9.91.020, 9.91.025, 9.91.060, 9.91.120, 9.92.020, 9.92.030, 9A.04.020, 9A.04.100, 9A.04.110, 9A.08.010, 9A.08.020, 9A.08.030, 9A.12.010, 9A.16.010, 9A.16.020, 9A.16.060, 9A.16.070, 9A.16.080, 9A.16.090, 9A.20.021 (2), (3), 9A.20.030, 9A.28.020(1), (2), (3(d, e)), 9A.28.030, 9A.28.040(1), (2), (3(d, e)), 9A.36.040, 9A.36.041, 9A.36.050, 9A.36.080, 9A.46.020, 9A.46.030, 9A.46.040, 9A.46.050, 9A.46.060, 9A.46.070, 9A.46.080, 9A.46.090, 9A.46.100, 9A.48.050, 9A.48.060, 9A.48.090, 9A.48.100, 9A.52.010, 9A.52.040, 9A.52.050, 9A.52.060, 9A.52.070, 9A.52.080, 9A.52.090, 9A.52.100, 9A.52.120, 9A.52.130, 9A.56.010, 9A.56.020, 9A.56.050, 9A.56.060(1), (2), (3),

(5), 9A.56.100, 9A.56.140, 9A.56.170, 9A.56.180, 9A.56.220, 9A.56.230, 9A.56.240, 9A.56.260, 9A.56.270, 9A.60.010, 9A.60.040, 9A.60.050, 9A.72.010, 9A.72.040, 9A.72.140, 9A.72.150, 9A.76.010, 9A.76.020, 9A.76.030, 9A.76.040, 9A.76.050, 9A.76.060, 9A.76.070, 9A.76.080, 9A.76.090, 9A.76.100, 9A.76.130, 9A.76.160, 9A.76.170(1), (2(d)), 9A.80.010, 9A.82.010, 9A.82.160, 9A.82.170, 9A.84.010, 9A.84.020, 9A.84.030, 9A.84.040, 9A.88.010, 9A.88.030, 9A.88.050, 9A.88.060, 9A.88.090, 26.09.300, 26.20.035, 26.28.070, 26.28.080, 66.44.100, 66.44.130, 66.44.150, 66.44.170, 66.44.200, 66.44.210, 66.44.250, 66.44.270, 66.44.290, 66.44.300, 66.44.325, 69.50.401 (e), 69.50.412, each of which are adopted by reference as and for the criminal ordinances of the city as if set forth in full in this chapter, including the RCW sections of Titles 9, 9A, 26 and 66 as now or hereafter amended. (Ord. 717 § 3, 1988)

### 9A.04.020 Liability.

The following persons are liable to punishment:

A. A person who commits in the city any misdemeanor or gross misdemeanor, in whole or in part;

B. A person who commits out of the city any act which, if committed within it, would be theft and is afterward found in the city with any of the stolen property;

C. A person who being out of the city counsels, causes, procures, aids, or abets another to commit a misdemeanor or gross misdemeanor in the city;

D. A person who commits an act without the city which affects persons or property within the city, which if committed within the city would be a misdemeanor or gross misdemeanor. (Ord. 717 § 4, 1988)

### 9A.04.030 Classification of crimes.

A. An offense defined by this chapter or by any other statute or ordinance of the city or of the Revised Code of Washington as adopted by reference, of which a sentence of imprisonment is authorized, constitutes a crime. Crimes are classified under this chapter as gross misdemeanors or misdemeanors.

B. A crime is a gross misdemeanor if it is so designated in this chapter or the Revised Code of Washington or by any other statute of this state or ordinance of the city if persons convicted thereof may be sentenced to county jail for a term not to exceed one year or:

1. Punished by a fine not to exceed \$5,000; or
2. By both such fine and imprisonment.

C. A crime is a misdemeanor if it is so designated in any title of the Revised Code of Washington or any ordinance of the city or if persons convicted thereof may be sentenced to imprisonment for no more than 90 days in the county jail or such other jail as the city may use, or:

1. Punished by a fine not to exceed \$1,000; or
2. By both such fine and imprisonment.

D. Whenever the performance of any act is prohibited by any statute or ordinance, and no penalty for the violation of such statute or ordinance is imposed, the committing of such act shall be a misdemeanor. All crimes other than misdemeanors or felonies as defined in the Revised Code of Washington are gross misdemeanors. (Ord. 717 § 5, 1988)

#### **9A.04.040 Determination of capability to commit crime.**

A. Children under the age of eight years are incapable of committing crime. Children of eight and under 12 years of age are presumed to be incapable of committing crime, but this presumption may be removed by proof that they have sufficient capacity to understand the act or neglect, and to know that it was wrong.

B. Whenever in legal proceedings it becomes necessary to determine the age of a child, he may be produced for inspection to enable the court or jury to determine the age thereby; and the court may also direct his examination by one or more physicians, whose opinion shall be competent evidence upon the question of age. (Ord. 717 § 6, 1988)

#### **9A.04.050 Applicability of provisions.**

Every person, regardless of whether or not he is an inhabitant of the city, may be tried and punished under the laws of the city for an

offense committed by him therein, except when such offense is cognizable exclusively in the courts of the United States. (Ord. 717 § 7, 1988)

#### **9A.04.060 Citation by city officials.**

Because the criminal code of Washington is adopted by reference as the criminal code of the city, all law enforcement officers may refer to and cite this code with the codification numbers of the Revised Code of Washington preceded by "NMC," for Newport Municipal Code. (Ord. 717 § 8, 1988)

#### **9A.04.070 Provisions not to affect proceedings under existing law.**

This chapter is not intended to apply to or affect any rights, liabilities, or proceedings existing under prior law at the time the ordinance codified in this chapter takes effect. Any violation of prior law may be prosecuted under such prior law as if this chapter had not been ordained. (Ord. 717 § 9, 1988)

#### **9A.04.080 Provisions deemed cumulative and selective.**

The provisions of this chapter are cumulative and selective and do not imply the repeal of any other ordinance dealing with any subject matter treated herein. (Ord. 717 § 10, 1988)

#### **9A.04.090 Violation – Penalty.**

A. Any person convicted of a violation of a gross misdemeanor under this chapter whose penalty is not elsewhere provided for shall be punished by a fine not to exceed \$5,000 or by imprisonment in the jail for a period not to exceed one year, or by both such fine and imprisonment.

B. Any person convicted of a violation of a misdemeanor under this chapter, whose penalty is not elsewhere provided for, shall be punished by a fine not to exceed \$1,000 or by imprisonment in the jail for a period not to exceed 90 days or by both such fine and imprisonment. (Ord. 717 § 11, 1988)

**Chapter 9B.04**

**CARD AND GAME ROOMS**

(Repealed by Ord. 981)

**Chapter 9B.08**

**LOITERING**

(Repealed by Ord. 1018)

**Newport Municipal Code**

**Chapter 9B.12**

**TRESPASSING ON RAILROAD  
PROPERTY**

(Repealed by Ord. 1014)

**Chapter 9B.16**

**INTERFERENCE WITH RADIO  
RECEPTION**

(Repealed by Ord. 1015)

**Chapter 9B.20**

**FIREARMS**

(Repealed by Ord. 1016)

**Chapter 9.24**

**CURFEW**

Sections:

- 9.24.010 Purpose.
- 9.24.020 Definitions.
- 9.24.030 General prohibition.
- 9.24.040 Exemptions.
- 9.24.050 Authority to enforce.
- 9.24.060 Violation – Penalty.

**9.24.010 Purpose.**

The city of Newport finds that an emergency exists that threatens the public health, welfare and peace and that it is in the purpose of this chapter to provide for a curfew in the city of Newport, Washington, for people under the age of 18 years and to promote parental responsibility for children under the age of 18 years. (Ord. 859 § 1, 1995)

**9.24.020 Definitions.**

For the purpose of this chapter, the following words shall have the following meanings:

A. “Child” or “juvenile”, means any person, male or female, under the age of 18 years.

B. “Parent” means the mother, father, or both (being referred to in the singular as “parent”), guardian or other adult person having the legal care, custody or control of a child.

C. “Returning home” means traveling, walking, biking or otherwise moving from the point of departure to a child’s home or the residence of the person having the care, custody or control of said child for that evening. Said movement shall be directly from the point of departure to the destination to be accomplished within a reasonable period of time.

D. “School nights” means any night or early morning hours immediately preceding a regular school day as scheduled by the Newport school district.

E. “Allow” includes those situations where the parent has failed to monitor or account for the child’s location between the hours of 10:00 p.m. to 5:00 a.m.

F. “Extended family member” means a grandparent, brother, sister, stepbrother, step-sister, uncle, aunt, or first cousin with whom

the person has a relationship and is comfortable and is willing and available to care for the said person. (Ord. 859 § 2, 1995)

**9.24.030 General prohibition.**

A. No parent or custodian shall allow or permit any child he or she is responsible for to remain in or upon the public streets, roadways, alleys, parks, play grounds, or cemeteries, or in or upon private property, other than the child's usual place of residence, which is unoccupied, vacant, abandoned, or is not otherwise supervised by a reasonable adult between the hours of 10:00 p.m. to 5:00 a.m., except as otherwise permitted under the provisions of this chapter.

B. No person under the age of 18 years shall, within the corporate limits of the city of Newport, remain in or upon the public streets, alleys, parks, play grounds, or in or upon private property, other than his or her usual place of residence or in such alternative residence in which the person's parent or guardian has placed that person under adult supervision between the hours of 10:00 p.m. and 5:00 a.m., except as otherwise permitted under the provisions of this chapter. (Ord. 859 § 3, 1995)

**9.24.040 Exemptions.**

A parent or guardian of the following juveniles shall be exempt from the enforcement provisions of this chapter:

A. A juvenile accompanied by his or her parent or guardian;

B. A juvenile engaged in lawful employment;

C. A juvenile on an errand or on legitimate business pursuant to instructions from his or her parent or guardian;

D. A juvenile involved in an emergency concerning the person or property of himself, herself or another;

E. A juvenile returning home from school or church sponsored activities, or from other activities supervised by an adult. The term "returning home" means immediately and directly after participation in such activity, without a broken chain of sequences and time between the end of such event and the time such juvenile returns to his or her residence or

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such other place as shall be authorized by his or her parent. (Ord. 859 § 4, 1995)

**9.24.050 Authority to enforce.**

Law enforcement officers of the city shall have authority to reasonably stop and momentarily detain a juvenile to obtain his or her name, age and address, as well as the name and address of his or her parent or guardian whenever said law enforcement officer shall reasonably suspect that the parent of such juvenile is in violation of NMC 9.24.030(B). Upon determination that the parent or guardian of such juvenile is in fact in violation of NMC 9.24.030 (A) and not exempt under NMC 9.24.040, the law enforcement officer shall direct or deliver the juvenile to the residence of his or her parent or guardian. (Ord. 859 § 5, 1995)

**9.24.060 Violation – Penalty.**

A. Upon a parent or guardian's first violation per child, notice thereof shall be given to the parent or guardian and a record of the violation shall be made with the police department or enforcing agency. Upon the second violation involving the same child, a notice of infraction shall be served on the parent or guardian requiring the parent or guardian to appear for a hearing to be held in the district court, at which time the parent shall appear and answer to the charge of violating this chapter. Upon determination by the court that a second violation has occurred involving the same child, a \$150.00 penalty shall be imposed upon the parent or guardian, \$100.00 of which may be suspended together with required surcharges and assessments. Upon a third violation involving the same child, the parent or guardian shall be subject to a \$300.00 penalty, \$250.00 of which may be suspended, together with all required surcharges and assessments. Upon a fourth or subsequent violation involving the same child, the parent or guardian shall be subject to a \$500.00 penalty, \$450.00 of which may be suspended, together with all required surcharges and assessments.

B. Upon the juvenile's first violation, notice shall be given to the juvenile and a record of the violation shall be made with the police department or enforcing agency. Upon the second

violation by a juvenile, a notice of infraction shall be served upon the juvenile requiring the juvenile to appear for a hearing to be held in district court, at which time the juvenile shall appear to answer to the charge of violating this chapter. Upon determination by the court that a second violation has occurred by the juvenile, the juvenile shall be sentenced to eight hours of community service and/or a \$50.00 fine. Upon a third violation involving the same juvenile, the juvenile shall be sentenced to 16 hours of community service and/or an \$80.00 fine. Upon a fourth or subsequent violation involving the same juvenile, the juvenile shall be sentenced to 40 hours of community service and/or a \$200.00 fine.

C. The police department shall maintain a record of all juveniles found in those locations and at those times prohibited by this chapter. Such record shall be conclusive proof that a juvenile has previously been the subject of inquiry pursuant to this chapter. The police department shall maintain a record of all parents or custodians contacted and determined to have violated this chapter. Such list shall be made available to any juvenile court or child welfare or child protective agency upon request.

D. Any parent or guardian unable to control the whereabouts and activities of a juvenile in their care, custody or control shall contact the police department and report such juvenile as possibly appearing in locations and at times that would violate this chapter. In such case, the parent or guardian shall not be responsible for actions of the juvenile for purposes of this chapter, but the police department may consider reporting such juvenile to the Department of Social and Health Services as a dependent or runaway child.

E. At the time the police department issues a warning or notice of infraction to any parent or guardian for violation of this chapter, the police department may consider reporting the circumstances of such juvenile as needing the intervention of Child Protective Services.

F. Any person 18 years of age or older who is not a juvenile's guardian or parent and who acts in such a manner as to interrupt a juvenile's returning home, distracts a juvenile

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returning home so as to cause an interruption of the return home or aids and abets a curfew violation by a juvenile, shall have committed the infraction of rendering curfew violation assistance punishable by a \$150.00 penalty, \$100.00 of which may be suspended, together with required surcharges and assessments.

G. Failure to appear in court for the hearings required under this chapter shall be a misdemeanor punishable by 90 days in jail and/or a \$1,000 fine.

H. Failure to sign the ticket at the request of the law enforcement official shall be a misdemeanor punishable by 90 days in jail and/or a \$1,000 fine. (Ord. 859 § 6, 1995)