

ORDINANCE NO. O2016-002

AN ORDINANCE of the City Council of the City of Tumwater, Washington relating to criminal offenses, amending Chapter 8.08, Noise Control; Chapter 9.04, Adoption of specific RCW Sections; and Chapter 9.08, Miscellaneous Offenses, (amending Ordinance Nos. 616, 891, O95-018, O96-027, O2010-022, O2011-002, O2011-007).

WHEREAS, the City's criminal code, codified as Title 9 of the Tumwater Municipal Code, went through a comprehensive amendment in 2010; and

WHEREAS, the City's noise ordinance, adopted in 1972, was not included in the 2010 criminal code comprehensive amendments; and

WHEREAS, legislative changes to state law require minor updates to the criminal code that adopted state laws by reference; and

WHEREAS, those crimes unique to Tumwater need minor updating; and

WHEREAS, the City Council finds that amending the Tumwater Municipal Code is in the best interests of the City and supports the health, safety and welfare of the citizens of the City of Tumwater;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 8.08 of the Tumwater Municipal Code, "Noise Control," is amended to read as follows:

~~8.08.010~~ — ~~Creating unnecessary noise.~~

~~Subject to the provisions of this chapter, the creating of any unreasonably loud, disturbing and unnecessary noise within the city limits is prohibited.~~
(Ord. 616, Added, 04/18/1972)

~~8.08.020~~ — ~~Creating noise detrimental to health prohibited.~~

~~The creation of noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is prohibited.~~
(Ord. 616, Added, 04/18/1972)

8.08.010 Purpose.

The purpose of this chapter is to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. The intent of the city council is to control the level of noise pollution in a manner which promotes commerce, the use, value, and enjoyment of property, sleep and repose, and the quality of the environment by establishing maximum environmental noise levels applicable within designated areas or zones of the city, and to adopt appropriate exemptions to the provisions of this chapter to allow for the functioning of commercial business and the operation of construction and emergency equipment, and to declare certain noise-producing activities to be noise disturbances.

8.08.020 Definitions.

All terminology used in this chapter which is not defined below shall be interpreted in conformance with the most recent definitions used by the American National Standards Institute (ANSI) or its successor body, where applicable.

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 pressure of the sound to a reference pressure of 20 micropascals.

B. “Noise disturbance” means any sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities, or any sound which unreasonably injures or endangers the comfort, repose, health, hearing, peace, or safety of persons or animals.

C. “Person responsible for the violation” means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission which is a violation or causes or permits a violation to occur or remain upon property in the city, and includes but is not limited to owner(s), lessor(s), tenant(s), or other person(s) entitled to control, use and/or occupy property where a violation occurs.

D. “Sound amplification equipment” means any machine or device for the amplification of the human voice, music or any other noise or sound.

E. “Sound level” means a weighted sound pressure level measured by the use of a sound level meter using an A-weighted network and reported as decibels, dBA.

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.

G. “Weekday” means any day Monday through Friday which is not a legal holiday.

H. “Weekend” means Saturday, Sunday and any legal holiday.

8.08.030 ~~Unnecessary noises~~ Noise disturbance ~~Noise disturbance~~ described.

The following intentional acts, or acts taking place upon property under his or her dominion and control, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter:

- A. The repeating or prolonged sounding of any horn or signaling device on any automobile, motorcycle, transit vehicle or other vehicle on any public street or public place of the city, except as a necessary warning of danger to person or property; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time;
- B. The use of any automobile, motorcycle, transit vehicle, or other vehicle, or engine, either stationary or moving, or any instrument, device or thing so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, squealing, grinding, rattling or other noise;
- C. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between 11:00 p.m. and 7:00 a.m. or at any time and place so as to disturb the quiet, comfort and repose of any person in any hospital, rest home, sanitarium, dwelling, hotel, motel or other type of residence;
- D. The keeping in any building or upon any premises, of any bird, animal or fowl which by frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity;
- E. The sounding of any whistle, siren or bell, receiving its power from whatever source, except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper city authorities;
- F. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively reduce loud or explosive noises therefrom;
- G. Any construction activity, including excavation and land clearing work, or erection, demolition, alteration, repair, or relocation of any building or structure, which uses powered equipment such as backhoes, trucks, tractors, earth moving

equipment, compressors, motorized or power hand tools, or equipment of a similar nature at any location which produces noise clearly audible from another location in a residential district or at a dwelling in any district, other than between 7:00 a.m. and 8:00 p.m. on weekdays, or between 9:00 a.m. and 8:00 p.m. on weekends~~Saturdays~~, or between 9:00 a.m. and 8:00 p.m. ~~for minor repair or remodeling work done by residents at their dwelling on Sundays~~. The community development department may, in writing, grant exceptions to these provisions when the work is of urgent necessity in the interest of public safety and convenience;

H. The creation of any unreasonable or excessive noise near any school, institute of learning, church or court, while the same are in session, or near any hospital, or other institution reserved for the sick, feeble or aged, provided signs are displayed in such vicinities indicating such institution is nearby;

I. The creation of loud and excessive noises in connection with loading or unloading any vehicle, or the opening or destruction of bales, boxes and containers;

J. The use of any drum, loudspeaker, or other instrument or device for the purpose of attracting attention by creation of noise, to any performance, show, sale or display of merchandise;

K. The use of mechanical loudspeakers or amplifiers on moving or standing vehicles for advertising purposes;

L. 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 in such 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, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section;

M. The use of unreasonably loud fireworks in violation of TMC 8.30;

~~MN.~~ The use of hand or power tools, blowers or machinery which results in unreasonably loud and disturbing noises and is clearly audible at a distance of fifty feet from the location where such tools or machinery are operated; provided however, that this section shall not apply to uses of motorized lawnmowers, edge trimmers, leaf blowers, hedge trimmers, or similar powered yard maintenance equipment, used in accordance with manufacturer's specifications between the

hours of 7:00 a.m. and 8:00 p.m. on weekdays or between 9:00 a.m. and 8:00 p.m. on weekends.;

O. The use of any loudspeaker, amplifier or other similar device which shall project sound above a normal level beyond the property lines of the premises upon which it is being used without first obtaining a permit from the city. In issuing a permit, the city may impose such restrictions on time, area, and volume as are necessary to preserve the public peace and safety.

(Ord. O2011-002, Amended, 03/01/2011; Ord. O96-027, Amended, 10/15/1996; Ord. O95-018, Amended, 04/16/1996; Ord. 616, Added, 04/18/1972)

8.08.040 Repetition of unnecessary noises.

~~It is unlawful for any person to permit any of the acts referred to in TMC 8.08.030 to repeatedly take place upon property under his dominion and control.~~

~~(Ord. 616, Added, 04/18/1972)~~

8.08.040 Public disturbance noise.

A. It is unlawful for any person to cause or permit any sound or noise listed in TMC 8.08.030 to intrude into the property of another person which sound or noise exceeds the maximum permissible noise levels set forth below in this section. For purposes of this chapter, and in compliance with WAC 173-60, the properties within the city of Tumwater are as follows:

- 1. Residential zones – Class A EDNA.
- 2. Commercial zones – Class B EDNA.
- 3. Industrial zones – Class C EDNA.

B. _____

1. The sound and noise limitations established herein are as set forth in the following table after any applicable adjustments provided herein are applied:

<u>Property Sound or EDNA of Noise Source</u>	<u>EDNA of receiving property 7:00 a.m. to 10:00 p.m.</u>		
	<u>Class A</u>	<u>Class B</u>	<u>Class C</u>
<u>Class A</u>	<u>55 dBA</u>	<u>57 dBA</u>	<u>60 dBA</u>
<u>Class B</u>	<u>57 dBA</u>	<u>60 dBA</u>	<u>65 dBA</u>
<u>Class C</u>	<u>60 dBA</u>	<u>65 dBA</u>	<u>70 dBA</u>

2. 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.

3. At any hour of the day or night the applicable noise limitations in subsections (B)(1) of this section may be exceeded at the sound source by no more than:

- a. 5 dBA for a total of 15 minutes in any one-hour period; or
- b. 10 dBA for a total of 5 minutes in any one-hour period; or
- c. 15 dBA for a total of 1.5 minutes in any one-hour period.

For purposes of this chapter, enforcement shall be undertaken by a person with city delegated authority with respect to violations. For enforcement purposes, each day, defined as the 24-hour period beginning at 12:01 a.m., in which violation of the public disturbance noise regulations in this chapter occurs, shall constitute a separate violation.

8.08.045 Sound level measurement requirements.

For purposes of this chapter, sound measurements shall be taken at a minimum distance of 25 feet from the sound source and shall be conducted in accordance with sound level measurement procedures provided by the State of Washington, Department of Ecology, Chapter 173-60 WAC.

8.08.050 Exceptions from prohibitions.

None of the terms or prohibitions of this chapter shall apply or be enforced against:

- A. Any vehicle of the city while engaged in necessary public business;
- B. Excavations or repairs of bridges, streets or highways by or on behalf of the city, Thurston County, or state during the night season when the public welfare and convenience render it impossible to perform such work during the day;
- C. The reasonable use of amplifiers or loudspeakers in the course of public addresses or public events at reasonable times and reasonable hours; provided, that no amplifier or loudspeaker shall be used in any area of the city except from 12:00 noon through 10:30 p.m., and that such public addresses by use of loudspeakers or amplifier shall not be used for more than three hours of continuous operation in any one location.
- D. Sound created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community

or individuals of the community, or to restore property to a safe condition following a public calamity.

E. Sounds originating from officially sanctioned parades and other public events. Including officially sanctioned fireworks displays.

F. Sounds, including sounds created by sound amplification equipment, emanating from any event or activity for which a special use permit has been issued by the city in which case the provisions of the special use permit shall control. The city shall retain the authority to approve with conditions, or deny special use permits at its sole discretion.

(Ord. 891, Amended, 09/02/1980; Ord. 616, Added, 04/18/1972)

~~8.08.060~~ — Use of loudspeakers.

~~No person shall use any loudspeaker, amplifier or other similar device which shall project sound above a normal level beyond the property lines of the premises upon which it is being used without first obtaining a permit from the police so to do. In issuing a permit, the police shall impose such restrictions on time, area, and volume as are necessary to preserve the public peace and safety.~~

~~(Ord. 616, Added, 04/18/1972)~~

8.08.060 Content of sound.

The content of the sound will not be considered in determining a violation of this chapter.

8.08.070 Violation – Penalty.

A. Violations. Any person, firm or corporation violating any of the provisions of this chapter is ~~guilty of a misdemeanor~~ declared to be unlawful.

B. Civil Noise Infraction. Any violation of the provisions of TMC 8.08.030 is a civil noise infraction subject to the civil remedies and the civil penalties authorized in TMC 1.10.120 and is considered a class 3 civil infraction. A person who continues to be in violation of TMC 8.08.030 after receiving a notice of infraction, or who again violates this chapter within twenty-four (24) hours after receiving a notice of infraction shall be subject to double the fine, for every subsequent violation within the twenty-four (24) hour period.

C. Criminal Violations. Any violations of the provisions of TMC 8.08.040 is a misdemeanor.

(Ord. O2011-007, Amended, 07/19/2011; Ord. 616, Added, 04/18/1972)

Section 2. Section 9.04.040 of the Tumwater Municipal Code is amended to read as follows:

9.04.040 RCW Title 9, entitled “Crimes and Punishments” – Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW

- 9.01.055 Citizen immunity if aiding officer, scope – When.
- 9.01.110 Omission, when not punishable.
- 9.01.130 Sending letter, when complete.
- 9.02.050 Concealing birth.
- 9.03.010 Abandoning, discarding refrigeration equipment.
- 9.03.020 Permitting unused equipment to remain on premises.
- 9.03.030 Violation of RCW 9.03.010 or 9.03.020.
- 9.03.040 Keeping or storing equipment for sale.
- 9.04.010 False advertising.
- 9.04.090 Advertising fuel prices by service stations.
- 9.08.030 False certificate of registration of animals – False representation as to breed.
- 9.08.065 Definitions.
- 9.08.070 Pet animals – Taking, concealing, injuring, killing, etc. – Penalty.
- 9.12.010 Barratry.
- 9.12.020 Buying, demanding, or promising reward by district judge or deputy.
- 9.16.005 Definitions.
- 9.16.010 Removing lawful brands.
- 9.16.020 Imitating lawful brand.
- 9.16.030 Counterfeit mark – Intellectual property.
- 9.16.035 Counterfeiting – Penalties.
- 9.16.041 Counterfeit items – Seizure and forfeiture.
- 9.16.050 When deemed affixed.
- 9.16.060 Fraudulent registration of trademark.
- 9.16.070 Form and similitude defined.
- 9.16.080 Petroleum products improperly labeled or graded.
- 9.16.100 Use of the words “sterling silver,” etc.
- 9.16.110 Use of words “coin silver,” etc.
- 9.16.120 Use of the word “sterling” on mounting.
- 9.16.130 Use of the words “coin silver” on mounting.
- 9.16.140 Unlawfully marking article made of gold.
- 9.16.150 “Marked, stamped or branded” defined.
- 9.18.080 Offender a competent witness.

- 9.18.120 Suppression of competitive bidding.
- 9.18.130 Collusion to prevent competitive bidding - Penalty.
- 9.18.150 Agreements outside state.
- 9.24.010 Fraud in stock subscription.
- 9.24.040 Corporation doing business without license.
- 9.26A.090 Telephone company credit cards – Prohibited acts.
- 9.26A.100 Definitions.
- 9.26A.110 Fraud in obtaining telecommunications service – Penalty.
- 9.26A.120 Fraud in operating coin-box telephone or other receptacle.
- 9.26A.130 Penalty for manufacture or sale of slugs to be used for coin.
- 9.27.015 Interference, obstruction of any court, building, or residence –
Violations.
- 9.35.005 Definitions.
- 9.35.030 Soliciting undesired mail.
- 9.38.010 False representation concerning credit.
- 9.38.015 False statement by deposit account applicant.
- 9.38.020 False representation concerning title.
- 9.40.040 Operating engine or boiler without spark arrester.
- 9.40.100 Tampering with fire alarm or fire-fighting equipment – False alarm –
Penalties.
- 9.41.010 Terms defined.
- 9.41.040 Unlawful possession of firearms – Ownership, possession by certain
persons – Restoration of right to possess - Penalty.
- 9.41.050 Carrying firearms.
- 9.41.060 Exceptions to restrictions on carrying firearms.
- 9.41.090 Dealer deliveries regulated – Hold on delivery.
- 9.41.098 Forfeiture of firearms – Disposition – Confiscation.
- 9.41.100 Dealer licensing and registration required.
- 9.41.110 Dealer’s licenses, by whom granted, conditions, fees – Employees,
fingerprinting and background checks – Wholesale sales excepted –
Permits prohibited.
- 9.41.140 Alteration of identifying marks – Exceptions.
- 9.41.220 Unlawful firearms and parts contraband.
- 9.41.230 Aiming or discharging firearms, dangerous weapons.
- 9.41.240 Possession of pistol by person from 18 to 21.
- 9.41.250 Dangerous weapons – Penalty.
- 9.41.260 Dangerous exhibitions.
- 9.41.270 Weapons apparently capable of producing bodily harm – Unlawful
carrying or handling – Penalty – Exceptions.
- 9.41.280 Possessing dangerous weapons on school facilities – Penalty –
Exceptions.
- 9.41.300 Weapons prohibited in certain places – Local laws and ordinances –
Exceptions – Penalty.

- 9.41.800 Surrender of weapons or licenses – Prohibition on future possession or licensing.
- 9.41.810 Penalty.
- 9.44.080 Misconduct in signing a petition.
- 9.45.060 Encumbered, leased, or rented personal property – Construction.
- 9.45.070 Mock auctions.
- 9.45.080 Fraudulent removal of property.
- 9.45.090 Knowingly receiving fraudulent conveyance.
- 9.45.100 Fraud in assignment for benefit of creditors.
- 9.47A.010 Definition.
- 9.47A.020 Unlawful inhalation – Exception.
- 9.47A.030 Possession of certain substances prohibited, when.
- 9.47A.040 Sale of certain substances prohibited, when.
- 9.47A.050 Penalty.
- 9.51.010 Misconduct of officer drawing jury.
- 9.51.020 Soliciting jury duty.
- 9.51.030 Misconduct of officer in charge of jury.
- 9.61.230 Telephone harassment.
- 9.61.240 Telephone harassment – Permitting telephone to be used.
- 9.61.250 Telephone harassment – Offense, where deemed committed.
- 9.62.010 Malicious prosecution.
- 9.62.020 Instituting suit in name of another.
- 9.68.015 Obscene literature, shows, etc. – Exemptions.
- 9.68.030 Indecent articles, etc.
- 9.68.050 “Erotic material” – Definitions.
- 9.68.060 “Erotic material” – Determination by court – Labeling – Penalties.
- 9.68.070 Prosecution for violation of RCW 9.68.060 – Defense.
- 9.68.080 Unlawful acts.
- 9.68.100 Exceptions to RCW 9.68.050 through 9.68.120.
- 9.68.110 Motion picture operator or projectionist exempt, when.
- 9.68.130 “Sexually explicit material” – Defined – Unlawful display.
- 9.68A.011 Definitions.
- 9.68A.080 Reporting of depictions of minor engaged in sexually explicit conduct – Civil immunity.
- 9.68A.090 Communication with minor for immoral purposes – Penalties.
- 9.68A.110 Certain defenses barred, permitted.
- 9.68A.120 Seizure and forfeiture of property.
- 9.68A.150 Allowing minor on premises of live erotic performance – Definitions – Penalty.
- 9.69.100 Duty of witness of offense against child or any violent offense – Penalty.
- 9.73.010 Divulging telegram.
- 9.73.020 Opening sealed letter.

- 9.73.030 Intercepting, recording or divulging private communication – Consent required – Exceptions.
 - 9.73.050 Admissibility of intercepted communication in evidence.
 - 9.73.070 Persons and activities excepted from chapter.
 - 9.73.080 Penalties.
 - 9.73.090 Certain emergency response personnel exempted from RCW 9.73.030 through 9.73.080 – Standards – Court authorizations – Admissibility.
 - 9.73.100 Recordings available to defense counsel.
 - 9.73.110 Intercepting, recording, or disclosing private communications – Not unlawful for building owner – Conditions.
 - 9.91.010 Denial of civil rights – Terms defined.
 - 9.91.020 Operating railroad, steamboat, vehicle, etc., while intoxicated.
 - 9.91.025 Unlawful ~~bustransit~~ conduct.
 - 9.91.060 Leaving children unattended in a parked automobile.
 - 9.91.110 ~~Metal buyers – Records of purchases – Penalty.~~
 - 9.91.140 Food stamps – Unlawful sale.
 - 9.91.160 Personal protection spray devices.
 - 9.91.170 Interfering with dog guide or service animal.
 - 9.92.020 Punishment of gross misdemeanor when not fixed by statute.
 - 9.92.030 Punishment of misdemeanor when not fixed by statute.
- (Ord. O2010-022, Added, 12/21/2010)

Section 3. Section 9.04.050 of the Tumwater Municipal Code is amended to read as follows:

9.04.050 RCW Title 9A, entitled “Washington Criminal Code” – Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

- RCW
- 9A.04.020 Purposes – Principles of construction.
 - 9A.04.040 Classes of crimes.
 - 9A.04.050 People capable of committing crimes – Capability of children.
 - 9A.04.060 Common law to supplement statute.
 - 9A.04.070 Who amenable to criminal statutes.
 - 9A.04.080 Limitation of actions.
 - 9A.04.090 Application of general provisions of the code.
 - 9A.04.100 Proof beyond a reasonable doubt.
 - 9A.04.110 Definitions.
 - 9A.08.010 General requirements of culpability.
 - 9A.08.020 Liability for conduct of another – Complicity.

- 9A.08.030 Corporate and personal liability.
- 9A.12.010 Insanity.
- 9A.16.010 Definitions.
- 9A.16.020 Use of force – When lawful.
- 9A.16.060 Duress.
- 9A.16.070 Entrapment.
- 9A.16.080 Action for being detained on mercantile establishment premises for investigation – “Reasonable grounds” as defense.
- 9A.16.090 Intoxication.
- 9A.16.100 Use of force on children – Policy – Actions presumed unreasonable.
- 9A.28.020 Criminal attempt.
- 9A.28.030 Criminal solicitation.
- 9A.28.040 Criminal conspiracy.
- 9A.36.041 Assault in the fourth degree.
- 9A.36.050 Reckless endangerment.
- 9A.36.070 Coercion.
- 9A.36.150 Interfering with the reporting of domestic violence.
- 9A.40.010 Definitions.
- 9A.40.070 Custodial interference in the second degree.
- 9A.40.080 Custodial interference – Assessment of costs – Defense – Consent defense, restricted.
- 9A.42.010 Definitions.
- 9A.42.035 Criminal mistreatment in the third degree.
- 9A.42.037 Criminal mistreatment in the fourth degree.
- 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.
- 9A.44.010 Definitions.
- 9A.44.030 Defenses to prosecution under this chapter.
- 9A.44.096 Sexual misconduct with a minor in the second degree.
- 9A.44.130 Registration of sex offenders and kidnapping offenders – Procedures – Definition – Penalties.
- 9A.44.170 Custodial sexual misconduct in the second degree.
- 9A.44.180 Custodial sexual misconduct – Defense.
- 9A.46.010 Legislative finding.
- 9A.46.020 Definition – Penalties.
- 9A.46.030 Place where committed.
- 9A.46.040 Court-ordered requirements upon person charged with crime – Violation.
- 9A.46.050 Arraignment – No-contact order.
- 9A.46.060 Crimes included in harassment.

9A.46.080 Order restricting contact – Violation.
9A.46.090 Nonliability of peace officer.
9A.46.100 “Convicted,” time when.
9A.46.110 Stalking.
9A.48.010 Definitions.
9A.48.050 Reckless burning in the second degree.
9A.48.060 Reckless burning – Defense.
9A.48.090 Malicious mischief in the third degree.
9A.48.100 Malicious mischief – “Physical damage” defined.
9A.48.110 Defacing a state monument.
9A.49.001 Findings.
9A.49.010 Definitions.
9A.49.030 Unlawful discharge of a laser in the second degree.
9A.49.050 Exclusions.
9A.50.010 Definitions.
9A.50.020 Interference with health care facility.
9A.50.030 Penalty.
9A.52.010 Definitions.
9A.52.050 Other crime in committing burglary punishable.
9A.52.060 Making or having burglar tools.
9A.52.070 Criminal trespass in the first degree.
9A.52.080 Criminal trespass in the second degree.
9A.52.090 Criminal trespass – Defenses.
9A.52.100 Vehicle prowling in the second degree.
9A.52.120 Computer trespass in the second degree.
9A.52.130 Computer trespass – Commission of other crime.
9A.56.010 Definitions.
9A.56.020 Theft – Definition, defense.
9A.56.050 Theft in the third degree.
9A.56.060 Unlawful issuance of checks or drafts.
9A.56.096 Theft of rental, leased, or lease-purchased property.
9A.56.140 Possessing stolen property – Definition – Presumption.
9A.56.170 Possessing stolen property in the third degree.
9A.56.180 Obscuring the identity of a machine.
9A.56.220 Theft of subscription television services.
9A.56.240 Forfeiture and disposal of device used to commit violation.
9A.56.260 Connection of channel converter.
9A.56.270 Shopping cart theft.
9A.56.330 Possession of another’s identification.
9A.60.010 Definitions.
9A.60.045 Criminal impersonation in the second degree.
9A.60.050 False certification.
9A.61.010 Definitions.
9A.61.020 Defrauding a public utility.

- 9A.61.050 Defrauding a public utility in the third degree.
 - 9A.61.060 Restitution and costs.
 - 9A.72.010 Definitions.
 - 9A.72.040 False swearing.
 - 9A.72.050 Perjury and false swearing – Inconsistent statements – Degree of crime.
 - 9A.72.060 Perjury and false swearing – Retraction.
 - 9A.72.070 Perjury and false swearing – Irregularities no defense.
 - 9A.72.080 Statement of what one does not know to be true.
 - 9A.72.085 Unsworn statements, certification – Standards for subscribing to an unsworn statement.
 - 9A.72.140 Jury tampering.
 - 9A.72.150 Tampering with physical evidence.
 - 9A.76.010 Definitions.
 - 9A.76.020 Obstructing a law enforcement officer.
 - 9A.76.030 Refusing to summon aid for a peace officer.
 - 9A.76.040 Resisting arrest.
 - 9A.76.050 Rendering criminal assistance – Definition of term.
 - 9A.76.060 Relative defined.
 - 9A.76.070 Rendering criminal assistance in the first degree.
 - 9A.76.080 Rendering criminal assistance in the second degree.
 - 9A.76.090 Rendering criminal assistance in the third degree.
 - 9A.76.100 Compounding.
 - 9A.76.130 Escape in the third degree.
 - 9A.76.160 Introducing contraband in the third degree.
 - 9A.76.170 Bail jumping.
 - 9A.76.175 Making a false or misleading statement to a public servant.
 - 9A.80.010 Official misconduct.
 - 9A.84.010 ~~Riot~~Criminal mischief.
 - 9A.84.020 Failure to disperse.
 - 9A.84.030 Disorderly conduct.
 - 9A.84.040 False reporting.
 - 9A.88.010 Indecent exposure.
 - 9A.88.030 Prostitution.
 - 9A.88.040 Prosecution for prostitution under RCW 9A.88.030 – Affirmative defense.
 - 9A.88.050 Prostitution – Sex of parties immaterial – No defense.
 - 9A.88.090 Permitting prostitution.
 - 9A.88.110 Patronizing a prostitute.
 - 9A.88.120 Additional fee assessments.
 - 9A.88.130 Additional requirements.
 - 9A.88.140 Vehicle impoundment – Fees – Fines.
- (Ord. O2010-022, Added, 12/21/2010)

Section 4. Section 9.04.080 of the Tumwater Municipal Code is amended to read as follows:

9.04.080 RCW Title 19, entitled “Business Regulations – Miscellaneous” – Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW

- 19.60.010 Definitions.
- 19.60.020 Duty to record information.
- 19.60.040 Report to chief law enforcement officer.
- 19.60.050 Retention of property by pawnbrokers – Inspection.
- 19.60.055 Retention of property by secondhand dealers – Inspection.
- 19.60.061 Pawnbrokers – Sale of pledged property limited – Written document required for transactions.
- 19.60.066 Prohibited acts – Penalty.
- 19.290.010 Definitions.
- 19.290.020 Private metal property or nonferrous metal property—Records required.
- 19.290.030 Metal property and metallic wire—Requirements for transactions.
- 19.290.040 Scrap metal businesses—Record of commercial accounts.
- 19.290.050 Reports to law enforcement—Records exempt from public disclosure—Private civil liability.
- 19.290.060 Stolen metal property—Preserving evidence.
- 19.290.070 Violations—Penalty.
- 19.290.080 Civil penalties.
- 19.290.090 Exemptions from chapter.
- 19.290.100 Scrap metal license—Penalties.
- 19.290.110 Scrap metal license—Application, renewal—Required information.
- 19.290.120 Scrap metal license application—Department of licensing to issue license—Display of certificate.
- 19.290.130 Scrap metal license—Surety bond—Action for recovery.
- 19.290.140 Scrap metal license—Renewal—Surrender of license.
- 19.290.150 License plates—Fee.
- 19.290.160 Uniform regulation of business and professions act.
- 19.290.170 Cancellation of scrap metal license—Refusal of issuance.
- 19.290.180 Director of licensing authorized to adopt rules and regulations, set license and renewal fees.
- 19.290.190 Inspection of licensed premises and records—Certificate of inspection.
- 19.290.200 State preemption.
- 19.290.210 Subpoenas.

- 19.290.220 Scrap theft alert system.
 - 19.290.230 Seizure and forfeiture.
 - 19.290.240 Chapter to be liberally construed.
 - 19.290.250 No-buy list database program—Scrap metal business to determine if customer is listed.
 - 19.290.900 Captions not law—2007 c 377.
 - 19.290.901 Severability—2007 c 377.
- (Ord. O2010-022, Added, 12/21/2010)

Section 5. Section 9.04.090 of the Tumwater Municipal Code is amended to read as follows:

9.04.090 RCW Title 26, entitled “Domestic Relations” – Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW

- 26.09.300 Restraining orders – Notice – Refusal to comply – Arrest – Penalty – Defense – Peace officers, immunity.
- 26.10.220 Restraining orders – Notice – Refusal to comply – Arrest – Penalty – Defense – Peace officers, immunity.
- 26.26.138 Restraining order – Knowing violation – Penalty – Law enforcement immunity.
- 26.28.080 Selling or giving tobacco to minor – Belief of representative capacity, no defense – Penalty.
- 26.28.085 Applying tattoo to a minor – Penalty.
- 26.44.020 Definitions.
- 26.44.030 Reports – Duty and authority to make – Duty of receiving agency – Duty to notify – Case planning and consultation – Penalty for unauthorized exchange of information – Filing dependency petitions – Investigations – Interviews of children – Records – Risk assessment process—~~Reports to legislature.~~
- 26.44.040 Reports – Oral, written – Contents.
- 26.44.060 Immunity from civil or criminal liability – Confidential communications not violated – Actions against state not affected – False report, penalty.
- 26.44.063 Temporary restraining order or preliminary injunction – Enforcement – Notice of modification or termination of restraining order.
- 26.44.067 Temporary restraining order or preliminary injunction – Contents – Notice – Noncompliance – Defense – Penalty.
- 26.44.080 Violation – Penalty.

- 26.44.150 Temporary restraining order restricting visitation for persons accused of sexually or physically abusing a child – Penalty for violating court order.
- 26.50.110 Violation of order – Penalties.
- 26.50.140 Peace officers – Immunity.
- 26.52.010 Definitions.
- 26.52.050 Peace officer immunity.
- 26.52.070 Violation of foreign orders – Penalties.
(Ord. O2010-022, Added, 12/21/2010)

Section 6. Section 9.04.100 of the Tumwater Municipal Code is amended to read as follows:

9.04.100 Chapter 28A.635 RCW, entitled “Offenses Relating to School Property and Personnel” – Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW

- 28A.635.020 Willfully disobeying school administrative personnel or refusing to leave public property, violations, when – Penalty.
- 28A.635.030 Disturbing school, school activities or meetings – Penalty.
- 28A.635.090 Interference by force or violence – Penalty.
- 28A.635.100 Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful – Penalty.
- 28A.635.110 Violations under RCW 28A.635.090 and 28A.635.100 – Disciplinary authority exception.
(Ord. O2010-022, Added, 12/21/2010)

Section 7. Section 9.04.120 of the Tumwater Municipal Code is amended to read as follows:

9.04.120 RCW Title 66, entitled “Alcoholic Beverage Control” – Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW

- 66.04.010 Definitions.

- 66.20.200 Unlawful acts relating to card of identification and certification card – Penalties.
- 66.28.200 Keg registration – Special endorsement for grocery store licensee – Requirements of seller.
- 66.28.210 Keg registration – Requirements of purchaser.
- 66.28.220 Keg registration – Identification of containers – Rules – Fees – Sale in violation of rules unlawful.
- 66.28.230 Keg registration – Furnishing to minors – Penalties.
- 66.44.010 Local officers to enforce law – Authority of board – Liquor enforcement officers.
- 66.44.040 Sufficiency of description of offenses in complaints, information, process, etc.
- 66.44.060 Proof of unlawful sale establishes prima facie intent.
- 66.44.070 Certified analysis is prima facie evidence of alcoholic content.
- 66.44.080 Service of process on corporation.
- 66.44.090 Acting without license.
- 66.44.100 Opening or consuming liquor in a public place – Penalty.
- 66.44.120 Unlawful use of seal.
- 66.44.130 Sales of liquor by drink or bottle.
- 66.44.140 Unlawful sale, transportation of spirituous liquor without stamp or seal – Unlawful operation, possession of still or mash.
- 66.44.150 Buying liquor illegally.
- 66.44.160 Illegal possession, transportation of alcoholic beverages.
- 66.44.170 Illegal possession of liquor with intent to sell – Prima facie evidence, what is.
- 66.44.175 Violations of law.
- 66.44.180 General penalties – Jurisdiction for violations.
- 66.44.200 Sales to persons apparently under the influence of liquor – Purchases or consumption by persons apparently under the influence of liquor on licensed premises – Penalty – Notice – Separation of actions.
- 66.44.210 Obtaining liquor for ineligible person.
- 66.44.240 Drinking in public conveyance – Penalty against carrier – Exception.
- 66.44.250 Drinking in public conveyance – Penalty against individual – Restricted application.
- 66.44.270 Furnishing liquor to minors – Possession, use – Penalties – Exhibition of effects – Exceptions.
- 66.44.280 Minor applying for permit.
- 66.44.290 Minor purchasing or attempting to purchase liquor – Penalty.
- 66.44.300 Treats, gifts, purchases of liquor for or from minor, or holding out minor as at least 21, in public place where liquor sold.
- 66.44.310 Minors frequenting off-limits area – Misrepresentation of age – Penalty – Classification of licensees.
- 66.44.316 Certain persons 18 years and over permitted to enter and remain upon licensed premises during employment.

- 66.44.318 Employees aged 18 to 21 stocking, merchandising, and handling beer and wine.
 - 66.44.325 Unlawful transfer to a minor of an identification of age.
 - 66.44.328 Preparation or acquisition and supply to persons under age 21 of facsimile of official identification card – Penalty.
 - 66.44.340 Employees 18 years and over allowed to sell and handle beer and wine for certain licensed employers.
 - 66.44.350 Employees 18 years and over allowed to serve and carry liquor, clean up, etc., for certain licensed employers.
 - 66.44.370 Resisting or opposing officers in enforcement of title.
- (Ord. O2010-022, Added, 12/21/2010)

Section 8. Section 9.04.130 of the Tumwater Municipal Code is amended to read as follows:

9.04.130 RCW Title 69, entitled “Food, Drugs, Cosmetics, and Poisons” – Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW

- 69.41.010 Definitions.
- 69.41.030 Sale, delivery, or possession of legend drug without prescription or order prohibited – Exceptions – Penalty.
- 69.41.050 Labeling requirements – Penalty.
- 69.41.300 Definitions.
- 69.41.320 Practitioners – Restricted use – Medical records.
- 69.41.350 Penalties.
- 69.43.010 Report to state board of pharmacy – List of substances – Modification of list – Identification of purchasers – Report of transactions – Penalties.
- 69.43.110 Ephedrine, pseudoephedrine, phenylpropanolamine – Sales restrictions – Penalty.
- 69.43.120 Ephedrine, pseudoephedrine, phenylpropanolamine – Possession of more than 15 grams – Penalty – Exceptions.
- 69.43.130 Exemptions – Pediatric products – Products exempted by the state board of pharmacy.
- 69.50.101 Definitions.
- 69.50.102 Drug paraphernalia – Definitions.
- 69.50.202 Nomenclature.
- 69.50.4014 Possession of 40 grams or less of marihuana – Penalty.
- 69.50.4016 Provisions not applicable to offenses under RCW 69.50.410.

- 69.50.404 Penalties under other laws.
- 69.50.407 Conspiracy.
- 69.50.412 Prohibited acts: E – Penalties.
- 69.50.4121 Drug paraphernalia – Selling or giving – Penalty.
- 69.50.425 Misdemeanor violations – Minimum imprisonment.
(Ord. O2010-022, Added, 12/21/2010)

Section 9. Section 9.06.020 of the Tumwater Municipal Code is amended to read as follows:

9.06.020 Lewd act.

Every person who intentionally performs any lewd act in a public place or at a place and under circumstances where such act could be observed by any member of the public when such act does or knowing that such conduct is likely to cause reasonable affront and alarm is guilty of a misdemeanor.
(Ord. O2010-022, Added, 12/21/2010)

Section 10. Section 9.06.030 of the Tumwater Municipal Code is amended to read as follows:

9.06.030 Limitations.

A. This chapter shall not be construed to prohibit:

1. Plays, operas, musicals, or other dramatic works which are not obscene, subject to time, place and manner restrictions;

2. Classes, seminars, and lectures held for serious scientific or educational purposes; or-

3. The exposure of a female breast while nursing an infant or expressing breast milk.

B. Whether or not the conduct is obscene shall be judged by consideration of the following factors:

Whether the average person, applying the contemporary community standards, would find:

1. That the activity appeals to a prurient interest in sex; and

2. The conduct depicts or describes in a patently offensive way conduct as defined in TMC 9.06.010(A); and

3. The conduct taken as a whole lacks serious literary, artistic, political or scientific value.
(Ord. O2010-022, Added, 12/21/2010)

Section 11. Section 9.08.030 of the Tumwater Municipal Code is amended to read as follows:

9.08.030 Permitting use of marijuana.

Any person who knowingly permits any person under the age of twenty one (21) to use marijuana on or in his or her premises, automobile, trailer or vehicle, or on or in any premises, automobile, trailer or vehicle under his or her control, shall be guilty of a misdemeanor.

(Ord. O2010-022, Added, 12/21/2010)

Section 12. Section 9.08.050 of the Tumwater Municipal Code is amended to read as follows:

9.08.050 Auto towing services – Prohibited.

A.—It is unlawful for the operator or driver of any wrecker or towing vehicle to intercept or monitor police calls by short-wave radio or otherwise, for the purpose of going to the scene of a disabled motor vehicle. Any person who violates this section is guilty of a misdemeanor.

~~B.—It is unlawful for the operator or driver of any wrecker or towing vehicle to go to any place where a vehicular accident has occurred unless called by the owner of a disabled vehicle or their authorized representative or by a police officer. If any wrecker or towing vehicle is called to the scene of a vehicular accident by someone other than a police officer, the operator shall as soon as reasonably practical notify the police department.~~

~~C.—Any person who violates this section is guilty of a misdemeanor.~~

(Ord. O2010-022, Added, 12/21/2010)

Section 13. Section 9.08.060 of the Tumwater Municipal Code is amended to read as follows:

9.08.060 ~~Provoking assault~~Harassment.

Every person who shall, without lawful authority, by word, sign, or gesture, willfully provoke or attempt to provoke another person to commit an assault, as defined by RCW 9A.36.041, shall be guilty of a misdemeanor.

A person willfully provokes or attempts to provoke another person to commit an assault when the person threatens.

1. To cause bodily injury immediately or in the future to the person threatened or to any other person; or

2. To cause physical damage to the property of a person other than the actor;
or

3. To subject the person threatened or any other person to unlawful physical confinement or restraint; or

4. Maliciously to do any other act which is intended to harm substantially the person threatened or another with respect to his or her physical or mental health, safety, financial condition, or personal relationships, and the person by words or conduct places the person threatened in reasonable fear the threat will be carried out.

(Ord. O2010-022, Added, 12/21/2010)

Section 14. Section 9.08.100 of the Tumwater Municipal Code is amended to read as follows:

9.08.100 Pedestrian interference.

A. A person is guilty of pedestrian interference if, in a public place, he or she intentionally:

1. Obstructs pedestrian or vehicular traffic, without lawful authority.

B. The following definitions apply in this section:

1. "Intimidate" means to engage in conduct which would make a reasonable person fearful or feel compelled.

2. "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 TMC Chapter 12.28, shall not constitute obstruction of pedestrian or vehicular traffic.

3. "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 buildings or dwellings and the grounds enclosing them.

C. Pedestrian interference is a misdemeanor.
(Ord. O2010-022, Added, 12/21/2010)

Section 15. Section 9.08.110 of the Tumwater Municipal Code is amended to read as follows:

9.08.110 Disrupting meetings and processions.

A person commits a misdemeanor if, with purpose to prevent or disrupt a lawful meeting, procession or gathering, he or she does any act tending to obstruct or interfere with it physically, or uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace, or makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace.~~makes any utterance, gesture or display designed to outrage the sensibilities of the group.~~

(Ord. O2010-022, Added, 12/21/2010)

Section 16. Section 9.08.120 of the Tumwater Municipal Code is amended to read as follows:

9.08.120 Obstructing highways and other public passages.

A. A person who, having no legal privilege to do so, purposely or recklessly obstructs any highway or other public passage, whether alone or with others, or in the case he persists after warning by a law officer, is guilty of a misdemeanor. No person shall be deemed guilty of recklessly obstructing in violation of this section solely because of a gathering of persons to hear him speak or otherwise communicate, or solely because of being a member of such gathering. "Obstructs" means renders impassable without imposing unreasonable inconvenience or hazard.

B. A public passage means, a highway, street, sidewalk, railway, waterway, elevator, aisle, hallway, entrance, or exit to which the public or a substantial group of the public has access, or any other place used for the passage of persons, vehicles, or conveyances, regardless of the means of creating the obstruction.

BC. A person in a gathering commits a violation if he refuses to obey a reasonable official request or order to move:

1. To prevent obstruction of a highway or other public passage; or

2. To maintain public safety by dispersing those gathered in dangerous proximity to a fire or other hazard.
(Ord. O2010-022, Added, 12/21/2010)

Section 17. Section 9.08.130 of the Tumwater Municipal Code is amended to read as follows:

9.08.130 Garage sales, yard sales, patio sales, rummage sales, flea markets, or swap meets – Restrictions.

A. No individual seller, household, home address, group or family shall be permitted to have more than two garage sales per calendar year. The length of time for garage sales shall not exceed three consecutive days ~~and they shall be held at least four months apart.~~ Goods displayed in any garage sale may not be displayed in the public right-of-way. The sales shall be conducted only between the hours of 8:00 a.m. and 8:00 p.m. Signs advertising the sale may only be posted on private property, with the owner's consent ~~the property where the sale is being held only during the duration of the sale.~~

B. For public safety purposes all merchandise offered for sale to the public shall be arranged so that fire, police, health, or other city officials may have access for inspection at all times during the sale. Additionally, police officers of the city shall have access at all times to the premises upon which garage sales, yard sales, patio sales, rummage sales, flea markets, or swap meets which are open to the public are conducted and may examine any merchandise present at such sales when such officers are in the performance of their duties.

C. The provisions of this section do not apply to transactions conducted by the following:

1. Motor vehicle dealers licensed under Chapter 46.70 RCW;
2. Vehicle wreckers or hulk haulers licensed under Chapter 46.79 or 46.80 RCW;
3. Persons, firms, corporations, partnerships or associations giving an allowance for the trade-in or exchange of second-hand property on the purchase of other merchandise of the same kind or greater value, ~~except that no such person will engage in any trade-in or exchange as described herein with any person under eighteen years of age.~~
4. Charity sales with the proceeds going to charities and non-profit businesses.

D. Any person, firm or corporation violating or failing to comply with any provision of this chapter shall be deemed guilty of a misdemeanor, as prescribed in TMC 1.12.010, General penalty.
(Ord. O2010-022, Added, 12/21/2010)

Section 18. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 19. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 20. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 21. Effective Date. This ordinance shall become effective thirty (30) days after passage, approval and publication as provided by law.

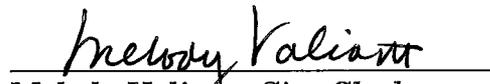
ADOPTED this 16 day of February, 2016.

CITY OF TUMWATER



Pete Kmet, Mayor

ATTEST:


Melody Valiant, City Clerk

APPROVED AS TO FORM:


Karen Kirkpatrick, City Attorney

Published: 02-18-2016

Effective Date: 03-19-2016