

ORDINANCE NO. 801

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE CITY'S CRIMINAL CODE, ADDING NEW CRIMES, DELETING REPEALED AND/OR OUTDATED CRIMES, SETTING FORTH PENALTIES, ADOPTING VARIOUS PROVISIONS OF THE REVISED CODE OF WASHINGTON BY REFERENCE, ADDING NEW SECTIONS 9.20.040, 9.26.090, 9.28.050, 9.30.050, AND 9.34.060; AMENDING SECTIONS 9.01.020, 9.01.040, 9.01.050, 9.01.060, 9.01.090, 9.04.010, 9.06.010, 9.06.020, 9.08.010, 9.10.010, 9.10.030, 9.14.010, 9.14.030, 9.14.040, 9.14.060, 9.20.010, 9.20.020, 9.22.010, 9.22.020, 9.26.010, 9.26.040, 9.26.070, 9.26.080, 9.26.010, 9.28.020, 9.30.020, 9.30.040, 9.32.020, 9.34.020, 9.34.015, 9.34.030, 9.36.010 AND 9.36.020; REPEALING SECTIONS 9.04.020, 9.04.030, 9.20.040, 9.30.050, 9.30.060, 9.30.070, 9.30.080, 9.30.090, 9.32.010, 9.34.010 AND 9.36.040 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, RCW 35A.11.020 authorizes the legislative body of code cities to adopt and enforce criminal codes related to misdemeanor and gross misdemeanor offenses, and

WHEREAS, the City has adopted a criminal code as authorized by statute, and

WHEREAS, various provisions of the City's criminal code have not been updated in several years, and

WHEREAS, new crimes have been added to the Revised Code of Washington by the State Legislature since the latest amendment of the City's criminal code, and

WHEREAS, the City desires to adopt some of these new crimes and amend and clarify existing portions of the City's criminal code, NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

Section 1. Repealer. The following sections of the Gig Harbor Municipal Code are hereby repealed: 9.04.020, 9.04.030, 9.20.040, 9.30.050, 9.30.060, 9.30.070, 9.30.080, 9.30.090, 9.32.010, 9.34.010 and 9.36.040.

Section 2. Section 9.01.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.01.020 General provisions.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

9.01.055	Citizen immunity if aiding officer.
9.01.110	Omission, when not punishable.
9.01.130	Sending letter, when complete.
9A.04.020	Purposes — Principles of construction.
<u>9A.04.030</u>	<u>State criminal jurisdiction.</u>
9A.04.040	Classes of crime.
9A.04.050	People capable of committing crimes — Capability of children.
9A.04.060	Common law to supplement statutes.
9A.04.070	Who amenable to criminal statutes.
<u>9A.04.080</u>	<u>Limitation of actions.</u>
9A.04.090	Application of general provisions of the code.
9A.04.100	Proof beyond a reasonable doubt.
9A.04.110	Definitions.

Section 3. Section 9.01.040 of the Gig Harbor Municipal Code, is hereby amended to read as follows:

9.01.040 Defenses.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

9A.12.010	Insanity.
9A.16.010	<u>Definition Definitions.</u>

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 of premises for investigation — "Reasonable grounds" as defense.

9A.16.090 Intoxication.

9A.16.100 Use of force on children - Policy - Actions presumed reasonable.

Section 4. Section 9.01.050 of the Gig Harbor Municipal Code, is hereby amended to read as follows:

9.01.050 Contempt.

The following state statutes ~~including all future amendments~~, are hereby adopted by reference:

RCW

~~7.20.010 Contempt of court defined.~~

~~7.20.020 Punishment — General.~~

~~7.20.030 Contempt in presence of court Summary punishment.~~

~~7.20.040 Procedure in other cases.~~

~~7.20.050 Production of defendant if in custody.~~

~~7.20.060 How prosecuted.~~

~~7.20.070 Return of warrant — Examination of defendant.~~

~~7.20.090 Judgment and sentence.~~

~~7.20.100 Indemnity to injured party.~~

7.21.010 Definitions.

7.21.020 Sanctions - Who may impose.

7.21.030 Remedial sanctions - Payment for losses.

7.21.040 Punitive sanctions - Fines.

7.21.050 Sanctions - Summary imposition - Procedure.

7.21.060 Administrative actions on proceedings - Petition to court for imposition of sanctions.

7.21.070 Appellate review.

Section 5. Section 9.01.060 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.01.060 Penalty.

A. Any person convicted of a gross misdemeanor shall be punished by a fine not to exceed \$5,000 or by imprisonment in jail for a term not to exceed one year, or by both such fine and imprisonment.

B. Unless otherwise provided, any person convicted of violating the provisions of this title shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000 or by imprisonment in jail for a term not to exceed 90 days, or by both such fine and imprisonment.

C. In addition to the penalty provisions set forth in this section, a person who is convicted of a misdemeanor violation of any provision of Chapter 69.50 RCW adopted by reference 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 overerowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowing exists, it shall sentence the defendant to a minimum of 40 hours of community service. 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. in accordance with RCW 69.50.425.~~

Section 6. Section 9.01.090 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.01.090 Amendments and additions.

This ~~chapter title~~ is adopted in accordance with the provisions of RCW 35A.12.140, and all amendments and additions to the Revised Code of Washington sections hereinafter enumerated, when ~~adopted by reference as required by RCW 35A.12.140, printed and filed with the city clerk~~, shall be considered and accepted as amendments and additions to this ~~chapter title~~.

Section 7. Section 9.04.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.04.010 Alcoholic beverage control Enforcement.

The following state statutes, ~~including all future amendments~~, are adopted by reference and wherever the word "title" or words "this title" are used therein the same shall be construed to mean and refer to RCW Title 66 and "this act" shall mean and refer to the Washington State Liquor Act:

RCW

- 66.04.010 Definitions.
- 66.04.011 "Public place" not to include certain parks and picnic areas.
- 66.20.200 Unlawful acts relating to card of identification and certification card - Penalties.
- 66.20.210 Licensee's immunity to prosecution or suit — Certification card as evidence of good faith.
- 66.20.300 Alcohol servers — Definitions.
- 66.20.310 Alcohol servers — Permits — Requirements — Suspension, revocation — Violations — Exemptions.
- 66.20.340 Alcohol server — Violation of rules — Penalties.
- 66.28.080 Permit for music and dancing upon licensed premises.
- 66.28.090 Licensed premises open to inspection — Failure to allow, when.
- 66.44.010 Local officers to enforce law Authority of board — Liquor enforcement officers.
- 66.44.040 Sufficiency of description of offenses in complaints, ~~informations~~ information, process, etc.
- 66.44.050 Description of offense in words of statutes — Proof required.
- 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 public place — Penalty
- 66.44.120 Unlawful use of seal.
- 66.44.130 Sale of liquor by drink or bottle.

66.44.140 Unlawful sale, transportation of spirituous liquor without a 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 violation.

66.44.200 Sales to persons apparently under the influence of liquor.

66.44.210 Obtaining liquor for ineligible person.

66.44.240 Drinking in public conveyance Penalty against carrier.

66.44.250 Same — Penalty against individual.

66.44.265 Candidates giving or purchasing liquor on election day prohibited.

66.44.270 Furnishing liquor to minors — Possession, use — Exhibition of effects — Exceptions.

66.44.280 Minor applying for permit.

66.44.290 Minor purchasing liquor.

66.44.291 Penalty for minor purchasing or attempting to purchase liquor.

66.44.300 Treating minor, etc. Treats, gifts, purchases of liquor for or from minor, or holding out minor as at least twenty-one, in public place where liquor is sold.

66.44.310 Minors frequenting ~~tavern~~ off-limits area Misrepresentation of age — Classification of licenses.

66.44.316 Musicians 18 Certain persons eighteen years and older permitted to enter and remain upon licensed premises during employment.

66.44.320 Sales of liquor to minors a violation.

66.44.325 Unlawful transfer to a minor of an identification card.

66.44.328 Unlawful to transfer to a minor of a forged, altered, etc., Preparation or acquisition in supply to persons under age twenty-one of facsimile of official identification card - Penalty.

66.44.340 Employees 18 years and over allowed to sell and carry beer and wine for Class E and/or F employees.

66.44.350 Employees eighteen years and over allowed to serve and carry liquor, clean up, etc., for class A, C, D and/or H licensed employers.

66.44.370 Resisting or opposing officers in enforcement of title.

Section 8. Section 9.06.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.06.010 Animals — Conduct prohibited.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

9.08.010 ~~Allowing vicious animal at large.~~
9.08.020 Diseased animals.
9.08.030 False certificate of registration of animals — False representation as to breed.
9.08.065 Definitions.
9.08.070 Dogs — Taking, concealing, injuring, killing, etc. — Penalty.

Chapter 226, Section 1, Laws of 1990 — Use of Domestic Dogs and Cats and Bait.

Section 9. Section 9.06.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.06.020 Prevention of cruelty to animals.

9.06.020 Cruelty to animals.

A. A person is guilty of cruelty to animals if he:
1. Subjects any animal to cruel mistreatment;
2. Subjects any animal in his custody to cruel neglect; or
3. Kills or injures any animal belonging to another without legal privilege or consent of the owner.
B. This section shall not be construed to prohibit accepted veterinary practices by veterinarians.
C. Cruelty to animals is a misdemeanor.

The following state statutes are adopted by reference:

RCW

16.52.011 Definitions — Principles of liability.
16.52.080 Transporting or confining in unsafe manner — Penalty.
16.52.085 Removal of neglected animal — Examination — Notice — Euthanasia.

<u>16.52.090</u>	<u>Docking horses — Misdemeanor.</u>
<u>16.52.095</u>	<u>Cutting ears — Misdemeanor.</u>
<u>16.52.100</u>	<u>Confinement without food and water — Intervention by others.</u>
<u>16.52.110</u>	<u>Old or diseased animals at large.</u>
<u>16.52.117</u>	<u>Animal fighting — Owners, trainers, spectators — Exceptions.</u>
<u>16.52.180</u>	<u>Limitation on application of chapter.</u>
<u>16.52.185</u>	<u>Exclusions from chapter.</u>
<u>16.52.190</u>	<u>Poisoning animals.</u>
<u>16.52.193</u>	<u>Poisoning animals — Strychnine sales — Records — Report on suspected purchases.</u>
<u>16.52.195</u>	<u>Poisoning animals — Penalty.</u>
<u>16.52.200</u>	<u>Sentences — Forfeiture of animals — Liability for costs — Civil penalty — Education, counseling.</u>
<u>16.52.207</u>	<u>Animal cruelty in the second degree.</u>
<u>16.52.210</u>	<u>Destruction of animal by law enforcement officer — Immunity from liability.</u>
<u>16.52.300</u>	<u>Dogs or cats used as bait — Seizure —</u>

Limitation.

Section 10. Section 9.08.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.08.010 Anticipatory offenses prohibited.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW
9A.28.020
(1), (2),
(3)(e) Criminal attempt.
9A.28.030 Criminal solicitation.
9A.28.040
(1), (2),
(3)(e) Criminal conspiracy.

Section 11. Section 9.10.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.10.010 Conduct prohibited.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

9.91.060 Leaving children unattended in parked automobile.

13.32A.080 Unlawful harboring of a minor — Penalty — Defense
— Prosecution of adult for involving children in
commission of offense.

13.32A.082 Providing shelter to minor — Requirement to notify
parent, law enforcement, or department.

13.32A.084 Providing shelter to minor — Immunity from liability.

26.28.060 Child labor — Penalty.

26.28.080 Selling or giving tobacco to a minor — Belief of
representative capacity no defense — Penalty.

26.28.085 Applying tatoo to a minor — Penalty.

70.155.010 Definitions.

70.155.080 Purchasing or obtaining tobacco by persons under the
age of eighteen - Civil infraction.

Section 1,
Chapter 133,
Laws of 1998

Section 12. A new Section 9.10.030, entitled Sexual exploitation of children and minor access to erotic materials, is hereby added to the Gig Harbor Municipal Code is hereby amended to read as follows:

9.10.030 Sexual exploitation of children and minor access to

erotic materials.

9.68A.011 Definitions.

9.68A.080 Processors of depictions of minor engaged in sexually
explicit conduct — Report required.

9.68A.090 Communicating with a minor for immoral purposes.

9.68A.110 Certain defenses barred, permitted.

9.68A.120 Seizure and forfeiture of property.

9.68A.140 Definitions.

9.68A.150 Allowing minor on premises of live erotic
performance.

9.68A.160 Penalty.

Section 13. Section 9.14.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.14.010 State statutes adopted by reference.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

<u>69.41.010</u>	<u>Definitions.</u>
<u>69.41.020</u>	<u>Prohibited acts — Information not privileged communication.</u>
<u>69.41.030</u>	<u>Sale, delivery, or possession of legend drug without prescription or order prohibited - Exceptions.</u>
<u>69.41.050</u>	<u>Labeling requirements.</u>
<u>69.41.060</u>	<u>Search and seizure.</u>
<u>69.41.062</u>	<u>Search and seizure at rental premises — Notification of landlord.</u>
<u>69.41.065</u>	<u>Violation — Juvenile driving privileges.</u>
<u>69.41.070</u>	<u>Penalties.</u>
<u>69.50.101</u>	<u>Definitions.</u>
<u>69.50.102</u>	<u>Drug paraphernalia — Definitions.</u>
<u>69.50.204</u>	
<u>(c)(14)</u>	<u>Schedule I — Marijuana.</u>
<u>(d)(13)</u>	
<u>69.50.309</u>	<u>Containers.</u>
<u>69.50.401(e)</u>	<u>Prohibited Acts: A — Penalties.</u>
<u>69.50.408</u>	<u>Second or subsequent offenses.</u>
<u>69.50.412</u>	<u>Prohibited Acts: E - Penalties.</u>
<u>69.50.420</u>	<u>Violations — Juvenile driving privileges.</u>
<u>69.50.425</u>	<u>Misdemeanor violations — Minimum imprisonment.</u>
<u>69.50.505</u>	<u>Seizure and forfeiture Forfeiture.</u>
<u>69.50.506</u>	<u>Burden of proof. Proof; liabilities.</u>

69.50.509 Search and seizure of controlled substances.

Section 14. Section 9.14.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.14.030 Inhaling toxic fumes.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

- 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 substance prohibited, when.
- 9.47A.050 Penalty.

Section 15. Section 9.14.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.14.040 Poisons.

The following state statutes, ~~including all future amendments~~ are hereby adopted by reference:

RCW

- 69.38.010 Poison "Poison" defined.
- 69.38.020 Exceptions from chapter.
- 69.38.030 Poison register - Identification of purchaser.
- 69.38.040 Poison register — Penalty for ~~violations~~ failure to maintain register.
- 69.38.050 False representations - Penalty.
- 69.38.060 License required.
- 69.38.060 Manufacturers and sellers of poisons - License required - Penalty.

Section 16. Section 9.14.060 of the Gig Harbor Municipal Code is hereby amended to read as follows::

9.14.060 Steroids.

The following statutes of the state, including all future amendments, state statutes are adopted by reference as if set forth in full herein:

RCW

- 69.41.300 Definitions.
- 69.41.320 Practitioners — Restricted use Medical records.

Section 17. Section 9.20.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.20.010 Firearms and dangerous weapons — Prohibitions.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

- 9.41.010 Terms defined.
- 9.41.042 Children - Permissible firearm possession.
- 9.41.047 Restoration of possession rights.
- 9.41.050 Carrying pistol.
- 9.41.060 Exception.
- 9.41.080 Delivery to minors and others forbidden.
- 9.41.050 Carrying firearms.
- 9.41.060 Exceptions to restrictions on carrying firearms.
- 9.41.070 Concealed pistol license — Application — Fee — Renewal.
- 9.41.075 Concealed pistol license - Revocation.
- 9.41.090 Dealer deliveries regulated - Hold on delivery.
- 9.41.094 Waiver of confidentiality.
- 9.41.098 Forfeiture of firearms — Disposition — Confiscation, order by courts — Return to owner — Confiscation by law enforcement officer.
- 9.41.100 Dealers to be licensed.
- 9.41.120 Certain transfers forbidden.
- 9.41.130 False information forbidden.
- 9.41.140 Alteration of identifying marks prohibited.
- 9.41.150 Exceptions
- 9.41.170 Alien's license to carry firearms Exception.
- 9.41.110 Dealer's licenses, by whom granted, conditions, fees - Employees, finger printing and background checks - Wholesale sales excepted - Permits prohibited.
- 9.41.120 Firearms as loan security.
- 9.41.122 Out-of-state purchasing.
- 9.41.124 Purchasing by non-residents.
- 9.41.185 Coyote getters.
- 9.41.220 Unlawful firearms and parts contraband.
- 9.41.230 Aiming or discharging firearms, dangerous weapons.
- 9.41.240 Use of firearms by minor.
- 9.41.240 Possession of pistol by person from eighteen to twenty one.

9.41.250	Dangerous weapons — <u>Evidence</u> <u>Penalty</u> .
9.41.260	Dangerous exhibitions.
9.41.270	Weapons apparently capable of producing bodily harm, carrying, exhibiting, displaying or drawing unlawful — <u>Unlawful carrying or handling</u> — Penalty — Exceptions.
9.41.280	<u>Students carrying</u> <u>Possessing</u> dangerous weapons on school <u>property</u> <u>facilities</u> — Penalty — Exceptions.
<u>9.41.300</u>	Weapons prohibited in certain places - Local laws and <u>ordinances</u> - Exceptions - Penalty.
<u>9.41.800</u>	<u>Surrender of weapons or licenses</u> — Prohibition on <u>future possession or licensing</u> .
<u>9.41.810</u>	<u>Penalty</u> .
<u>70.74.010</u>	<u>Definition of explosives</u> .

Section 18. Section 9.20.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.20.020 Unlawful use of air guns — Penalty.

A. It is unlawful for any person to point or shoot an air gun, bow and arrow, or crossbow at any person or property of another, or to aim or discharge such weapon in the direction of the person or residence of another, while within such range as to cause or inflict injury to the person or damage the property of another.

B. As used in this section, "air gun" means and includes the following: air gun, air pistol, air rifle, BB gun and toy or other guns of any kind or nature when so designed, contrived, modified and used to propel, by compressed air or spring-loaded plunger, any pellet, dart, hard-tipped arrow, bean, pea, BB, rock or other hard substance a distance of more than 25 feet with sufficient force to break windows or inflict injury upon persons or animals.

C. Any person convicted of a violation of the provisions of this section is guilty of a misdemeanor and, in addition to any other punishment imposed by the court, the court shall direct that the weapon so used in violation of the provisions hereof be confiscated.

Section 19. A new Section 9.20.040, entitled Destruction, Trade or Sale of Forfeited Firearms, is hereby added to the Gig Harbor Municipal Code to read as follows:

9.20.040 Destruction, trade or sale of forfeited firearms.

A. 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 city.

B. The city may destroy, retain, trade, auction or arrange for an auction of forfeited firearms, pursuant to Section 9.01.010, adopting by reference RCW Section 9.41.098.

C. The city may retain the proceeds of any trade or auction of forfeited firearms.

Section 20. Section 9.22.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.22.010 Frauds and swindles.

The following state statutes, including all future amendments, are adopted by reference:

RCW

9.04.010	False advertising.
9.04.090	Advertising fuel prices by service stations.
9.16.080	Sales of petroleum products improperly labeled or by wrong grade.
9.16.090	Sales of petroleum products improperly labeled by wrong grade - Penalty for violations.
9.18.080	Offender a competent witness.
9.18.120	Suppression of competitive bidding.
9.18.130	Collusion to prevent competitive bidding.
9.18.140	Penalty.
9.18.150	Agreements out of state.
9.44.080	Misconduct in signing a petition.
9.45.060	Encumbered, leased or rented personal property - Construction.
9.45.062	Failure to deliver leased personal property — Requisites for presentation — 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.
9.26A.090 Telephone company credit cards - Prohibited acts.
9.26A.100 Definitions.
9.26A.110 Fraud in obtaining telecommunications service - Penalty.
9.26A.120 9.45.180 Fraud in operating coin-box telephone or other receptacle.
9.26A.130 9.45.190 Penalty for manufacture or sale of slugs to be used for coin.
~~9.45.240 Fraud in obtaining telephone or telegraph service.~~
~~9.45.250 Fraud in obtaining cable television services.~~
9A.60.010 Definitions.
9A.60.040 Criminal impersonation.
9A.60.050 False certification.

Section 21. Section 9.22.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.22.020 False representations.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW
9.38.010 False representation concerning credit.
9.38.015 False statement by deposit account applicant.
9.38.020 False representation concerning title.

Section 22. Section 9.26.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.26.010 Assault and other crimes involving physical harm.

The following statutes, ~~including all future amendments~~, are adopted by reference:

RCW
9A.36.041 Assault in the fourth degree.
9A.36.050 Reckless endangerment.
9A.36.070 Coercion.

9.61.230 Telephone calls to harass, intimidate, torment or embarrass.

9.61.240 Same Permitting telephone to be used.

9.61.250 Same Offenses, where deemed committed.

Section 23. Section 9.26.040 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

9.26.040 Harassment.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

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.46.070 Enforcement of orders restricting contact.

9A.46.080 Order restricting contact — Violation.

9A.46.090 Nonliability of peace officer.

9A.46.100 "Convicted," time when.

9A.46.110 Stalking.

9.61.230 Telephone harassment.

9.61.240 Telephone harassment — Permitting telephone to be used.

9.61.250 Telephone Harassment — Offenses, where deemed committed.

Section 24. Section 9.26.070 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

9.26.070 ~~Violation of civil anti-harassment orders. — Civil anti-harassment and protection orders.~~

~~It is a gross misdemeanor to wilfully disobey a temporary or permanent antiharassment order issued pursuant to Chapter 10.14 RCW.~~

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

- 10.14.010 Legislative findings, intent.
- 10.14.020 Definitions.
- 10.14.030 Course of conduct — Determination of purpose.
- 10.14.040 Protection order — Petition.
- 10.14.050 Administrative reports — Forms, information.
- 10.14.060 Proceeding *informa pauperis*.
- 10.14.070 Hearing — Service.
- 10.14.080 Anti-harassment protection orders — Ex parte orders — Renewals.
- 10.14.085 Hearing re set after ex parte order.
- 10.14.090 Representation or appearance.
- 10.14.100 Service of order.
- 10.14.105 Order following service by publication.
- 10.14.110 Notice to law enforcement agencies — Enforceability.
- 10.14.115 Enforcement of order — Knowledge prerequisite to penalties — Reasonable efforts to serve copy of order.
- 10.14.120 Disobedience of order — Penalty.
- 10.14.125 Service by publication — Cost.
- 10.14.130 Exclusion of certain actions.
- 10.14.140 Other remedies.
- 10.14.150 Jurisdiction.
- 10.14.160 Where action may be brought.
- 10.14.170 Criminal penalty.
- 10.14.180 Modification of order.
- 10.14.190 Constitutional rights.
- 10.14.200 Availability of orders in proceedings under chapter 26.09, 26.10, or 26.26 RCW.
- 10.14.900 Severability.

Section 25. A new Section 9.26.080, entitled Criminal Mistreatment, is hereby added to the Gig Harbor Municipal Code to read as follows:

9.26.080 Criminal mistreatment.

The following state statutes are adopted by reference:

RCW

- 9A.42.010 Definitions.

9A.42.080 Abandonment of a dependent person in the third degree.

9A.42.090 Abandonment of a dependent person — Defense.

Section 26. A new Section 9.26.090, entitled Failure to Abide by Court Order, is

hereby added to the Gig Harbor Municipal Code to read as follows:

9.26.090 Failure to abide by court order.

It shall be a gross misdemeanor for any person subject to a court order, the violation of which is not covered by a specific provision of this title, to knowingly and wilfully violate the terms of that order.

Section 27. Section 9.28.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.28.010 Theft, unauthorized issuance of bank checks and possession of stolen property.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

9.54.130 Restoration of stolen property — Duty of officers.
9A.56.010 Definitions.
9A.56.020 Theft — Definition, defense.
9A.56.050 Theft in third degree.
9A.56.060 Unlawful issuance of checks or drafts.
(1)(2)(3)(5) 9A.56.096 Theft of rental, leased, or lease - Purchased property.
9A.56.140 Possessing stolen property Definition, ~~credit cards access devices~~, presumption.
9A.56.170 Possessing stolen property in the third degree.
9.54.130 ~~Restoration of stolen property — Duty of officers.~~
9A.56.220 Theft of cable television services.
9A.56.230 Unlawful sale of cable 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.

Section 28. Section 9.28.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.28.020 Malicious mischief and obscuring identity of machines.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

9A.48.090 Malicious mischief in the third degree.

9A.48.100

(1) Malicious mischief ~~and physical damage~~ "Physical Damage" defined.

9A.48.110 Defacing a state monument.

9A.56.180 Obscuring identity of a machine.

Section 29. A new Section 9.28.050, entitled Interference with Health Care Facilities or Providers, is hereby added to the Gig Harbor Municipal Code to read as follows:

9.28.050 Interference with health care facilities or providers.

The following state statutes are adopted by reference:

RCW

9A.50.010 Definitions.

9A.50.020 Interference with health care facility.

9A.50.030 Penalty.

9A.50.060 Informational picketing.

Section 30. Section 9.30.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.30.020 Sex crimes - Prostitution - Unlawful public exposure.

A. The following state statutes are adopted by reference:

RCW

9A.44.010 Definitions.

9A.44.020 Testimony - Evidence - Written motion - Admissibility.
9A.44.030 Defenses to prosecution under this chapter.
9A.44.096 Sexual misconduct with a minor in the second degree.
Section 1, Chapter
221, 1998 Laws Voyeurism
9A.88.010 Indecent exposure.
9A.88.030 Prostitution.
9A.88.050 Prostitution — Sex of parties immaterial — No defense.
9A.88.060 Promoting prostitution - Definitions.
9A.88.090 Permitting prostitution.
9A.88.110 Patronizing a prostitute.
9A.88.120 Additional fee assessments.

B. A person commits the crime of indecent exposure if he or she intentionally makes any open and obscene exposure of his or her ~~It is unlawful for any person to intentionally commit any act constituting unlawful public exposure of his person or the person of another. Unlawful public knowing that such conduct is likely to cause reasonable affront or alarm. Indecent exposure is a~~ misdemeanor, unless such person exposes himself/herself to a person under the age of 14 years, in which case the offense is a gross misdemeanor.

Section 31. Section 9.30.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.30.040 Unlawful public exposure — Exemptions.

The prohibition set forth in GHMC 9.30.020(B) shall not apply to any:

A. "Expressive dance," as defined in GHMC 9.30.010;

- B. Play, opera, musical or other dramatic work;
- C. Class, seminar or lecture, conducted for a scientific or educational purpose; or
- D. Nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities.

Section 32. A new Section 9.30.050, entitled Obscenity, is hereby added to the Gig Harbor Municipal Code to read as follows:

9.30.050 Obscenity.

The following state statutes are adopted by reference:

RCW

- 9.68.015 Obscene literatures, shows, etc., — Exemptions.
- 9.68.030 Indecent articles, etc.
- 9.68.050 "Erotic material" — Definitions.
- 9.68.070 Prosecution for violation of RCW 9.68.060 — Defense.
- 9.68.080 Unlawful acts.
- 9.68.100 Exceptions to provisions of RCW 9.68.050 through 9.68.120.
- 9.68.110 Motion picture operator or projectionist exempt, when.
- 9.68.120 Provisions of RCW 9.68.050 through 9.68.120 exclusive.
- 9.68.130 "Sexually explicit material" — Defined — Unlawful display.

Section 33. Section 9.32.020 of the Gig Harbor Municipal Code is hereby amended and renumbered to read as follows:

9.32.010 Obstructing justice, criminal assistance, introducing contraband and related offenses.

The following state statutes are adopted by reference:

<u>RCW</u>	
9.69.100	<u>Duty of witness of offense against child or any violent offense - Penalty.</u>
9A.72.010	Definitions.
9A.72.040	False swearing.
<u>9A.72.050</u>	<u>Perjury and false swearing - Inconsistent statements - Degree of crime.</u>
9A.72.060	False swearing — Retraction.
9A.72.070	False swearing — Irregularities no defense.
9A.72.080	Statement of what one does not know to be true.
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 terms.
9A.76.060	Relative defined.
9A.76.070	Rendering criminal assistance in the first degree.
<u>9A.76.080</u>	<u>Rendering criminal assistance in the second degree.</u>
<u>9A.76.090</u>	<u>Rendering criminal assistance in the third degree.</u>
9A.76.100	Compounding.
9A.76.160	Introducing contraband in the third degree.
9A.76.170	Bail jumping.
<u>9A.76.175</u>	<u>Making a false or misleading statement to a public servant.</u>
9A.84.040	False reporting.

Section 34. Section 9.34.020 of the Gig Harbor Municipal Code is hereby amended and renumbered to read as follows:

9.34.010 Riot, failure to disperse and obstruction, disorderly conduct.

The following state statutes are adopted by reference:

RCW	
9.27.015	Interference, obstruction of any court, building or residence — Violations.
9A.84.010	Riot.
9A.84.020	Failure to disperse.
<u>9A.84.030</u>	<u>Disorderly Conduct.</u>

Section 35. Section 9.34.015 of the Gig Harbor Municipal Code is hereby amended and renumbered to read as follows:

9.34.015020 Disturbance of the peace defined.

- Penalty.

A. A person is guilty of disturbing the public peace if he or she intentionally engages in any conduct which tends to or does disturb the public peace.

B. The following are determined to disturb the public peace:

A 1. The frequent, repetitive or continuous sounding of any horn or siren, except as a warning of danger or as specifically permitted or required by law;

B 2. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding, or testing of any motor vehicle, motorcycle, off-highway vehicle, watercraft, or internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property, unless otherwise authorized by law;

C 3. Yelling, shouting, whistling, or other raucous noises, on or near the public streets between the hours of 11:00 p.m. and 7:00 a.m.;

D 4. The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, or condominium, which unreasonably interfere with the peace, comfort, and repose of owners or possessors of real property, such as sounds from audio equipment, musical instruments, band sessions, or social gatherings;

E 5. Sound from motor vehicle sound systems, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than 50 feet from the vehicle itself,

F 6. Sound from audio equipment, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than 30 feet from the source, unless it occurs within a multifamily unit such as a duplex, apartment or condominium, in which case it shall be a disturbance if it is clearly audible to a neighbor, and disturbs his/her peace as described in subsection D 4 above;

G 7. The repetitive noise created by animals under the control of individuals within the city, such as barking, or yelping dogs, or other such noises from animals, that unreasonably disturbs or

interferes with the peace, comfort and repose of owners or possessors of real property; and

H 8. The foregoing provisions shall not apply to regularly scheduled events such as public address systems for baseball games, authorized street dances or other authorized community sponsored events. Safety devices, fire alarms, and emergency vehicles are exempt from these provisions.

C. Disturbing the public peace is a misdemeanor.

Section 36. Section 9.34.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.34.030 Privacy — Violating right of.

The following state statutes, including all future amendments, are adopted by reference:

RCW

9.73.010	Divulging telegram.
9.73.020	Opening sealed letter.
9.73.030	Intercepting, recording or divulging private communication — Consent required — Exceptions.
<u>9.73.040</u>	<u>Intercepting private communication - Court order permitting interception - Grounds for issuance - Duration - Renewal.</u>
<u>9.73.050</u>	<u>Admissibility of intercepted communication and evidence.</u>
9.73.070	<u>Same—Persons and activities excepted.</u>
9.73.090	Police and fire personnel exempted from 9.73.030 — 9.73.080 — Standards.
<u>9.73.095</u>	<u>Intercepting, recording, or divulging inmate conversations — Conditions — Notice.</u>
<u>9.73.100</u>	<u>Recordings available to defense counsel.</u>
<u>9.73.110</u>	<u>Intercepting, recording or disclosing private communications — Not unlawful for building owner — Conditions.</u>
9.73.120	<u>Reports — Required, when, contents.</u>
9.73.130	<u>Recording private communications — Authorization.</u>
<u>9.73.140</u>	<u>Recording private conversations — Authorization — Inventory.</u>
<u>9.73.200</u>	<u>Intercepting, transmitting or recording conversations concerning controlled substances — Findings.</u>

9.73.210 Intercepting, transmitting or recording conversations concerning controlled substances — Authorization — Monthly report — Admissibility — Destruction of information.

9.73.220 Judicial authorities — Availability of Judge required.

9.73.230 Intercepting, transmitting or recording conversations concerning controlled substances — Conditions — Written reports required — Judicial review — Notice — Admissibility — Penalties.

9.73.240 Intercepting, transmitting, or recording conversations concerning controlled substances — Concurrent power of attorney general to investigate and prosecute.

Section 37. A new Section 9.34.060, entitled Abuse of Office, is hereby added to the Gig Harbor Municipal Code to read as follows:

9.34.060 Abuse of office.

The following state statutes are hereby adopted by reference:

RCW
9A.80.010 Official misconduct.

Section 38. Section 9.36.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.36.010 Conduct prohibited.

The following state statutes, including all future amendments, are adopted by reference:

RCW
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
9.03.040 Keeping or storing equipment for sale.
9.91.010 Denial of civil rights — Terms defined.

9.91.020 Operating railroad, steamboat, vehicle, etc., while intoxicated.

9.91.025 Unlawful bus conduct.

9.91.110 Meal buyers — Records of purchases Penalty.

~~9.03.010 Abandoning, discarding, refrigeration equipment.~~

~~9.91.130 Disposal of trash in charity donation receptacle.~~

~~9.03.020 Permitting unused equipment to remain on premises.~~

~~9.91.140 Food stamps.~~

~~9.03.030 Violation of RCW 9.03.010 or 9.03.020.~~

~~9.91.150 Tree spiking.~~

~~9.03.040 Keeping or storing equipment for sale.~~

Section 39. Section 9.36.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.36.020 Littering and pollution.

The following state statutes, ~~including all future amendments~~, are adopted by reference:

RCW

70.93.060 Littering, prohibited - Penalties.

70.54.010 Polluting water supply.

Section 40. Codes adopted by Reference. Pursuant to RCW 35A.12.140, one copy of the statutes adopted by reference herein have been and are now on file with the City Clerk and are available for examination by the public.

Section 41. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 42. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY TOWSLEE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 7/22/98
PASSED BY THE CITY COUNCIL: 8/24/98
PUBLISHED: 9/2/98
EFFECTIVE DATE: 8/7/98
ORDINANCE NO. 801