



Legislation Details (With Text)

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Type: Ordinance (Ord) **Status:** Passed
In control: City Clerk

On agenda: 1/30/2017
Final Action: 2/2/2017 **Ord. No.** Ord 125254

Title: AN ORDINANCE relating to the City’s criminal code; amending Sections 3.33.030, 12A.08.140, 12A.08.170, 12A.10.150, 12A.14.010, 12A.14.160, and 12A.16.040 of the Seattle Municipal Code; adding Sections 12A.08.165, 12A.08.180, 12A.08.190, and 12A.10.160 to the Seattle Municipal Code; and repealing Sections 6.36.010, 6.36.020, 6.36.030, 6.36.040, 6.36.050, 6.36.060, 6.36.070, and 6.36.080 of the Seattle Municipal Code to conform the Seattle Municipal Code with changes in state law and make technical corrections.

Sponsors: M. Lorena González

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Signed Ord 125254, 3. Affidavit of Publication

Date	Ver.	Action By	Action	Result
2/2/2017	2	City Clerk	attested by City Clerk	
2/2/2017	2	Mayor	Signed	
2/2/2017	2	Mayor	returned	
2/1/2017	2	City Clerk	submitted for Mayor's signature	
1/30/2017	2	City Council	passed	Pass
1/25/2017	1	Gender Equity, Safe Communities, and New Americans Committee	pass as amended	Pass
1/23/2017	1	City Council	referred	
9/26/2016	1	Council President's Office	sent for review	
9/20/2016	1	City Clerk	sent for review	

RGrg

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the City’s criminal code; amending Sections 3.33.030, 12A.08.140, 12A.08.170, 12A.10.150, 12A.14.010, 12A.14.160, and 12A.16.040 of the Seattle Municipal Code; adding Sections 12A.08.165, 12A.08.180, 12A.08.190, and 12A.10.160 to the Seattle Municipal Code; and repealing Sections 6.36.010, 6.36.020, 6.36.030, 6.36.040, 6.36.050, 6.36.060, 6.36.070, and 6.36.080 of the Seattle Municipal Code to conform the Seattle Municipal Code with changes in state law and make technical corrections.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.33.030 of the Seattle Municipal Code, enacted by Ordinance 113786, is amended as follows:

3.33.030 Trial by jury-Juror’s fees ((-))

In all civil cases and criminal cases (~~((where jurisdiction is concurrent with district courts as provided in RCW 35.20.250,))~~) within the jurisdiction of the Municipal Court, the plaintiff or defendant may demand a jury, which shall consist of six (~~((6))~~) citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the Municipal Court; provided, that no jury trial may be held on a proceeding involving a traffic infraction or violation. A defendant in a civil case requesting a jury shall pay to the Court a fee which shall be the same as that for a jury in District (~~((Justice))~~) Court. Where there is more than one (~~((1))~~) defendant in an action and one (~~((1))~~) or more of them requests a jury, only one (~~((1))~~) jury fee shall be collected by the Court. Each juror may receive up to (~~((Twenty-five Dollars (-))\$25((+))~~), but in no case less than (~~((Ten Dollars (-))\$10((+))~~) for each day in attendance upon the Municipal Court and, in addition thereto, shall receive mileage at the rate determined under RCW 43.03.060; provided, that the compensation paid jurors shall be determined by the City’s legislative authority and shall be uniformly applied.

Section 2. Section 12A.08.140 of the Seattle Municipal Code, enacted by Ordinance 124301, is amended by adding subsection C as follows:

12A.08.140 Possession of another’s identification ((-))

* * *

C. The following definitions apply to this Section 12A.08.140 unless the context clearly requires otherwise:

“Credit card” means a card, plate, booklet, credit card number, credit card account number, or other identifying symbol, instrument, or device that can be used to pay for, or to obtain on credit, goods or services.

“Debit card” means a card used to obtain goods or services by a transaction that debits the cardholder's account, rather than extending credit.

“Personal identification” means any driver's license, passport, or identification card actually or purportedly issued by any federal, state, local or foreign governmental entity; any credit card or debit card; or any employee identification card actually or purportedly issued by any employer, public or private, including but not limited to a badge or identification or access card.

Section 3. A new Section 12A.08.165 is added to the Seattle Municipal Code as follows:

12A.08.165 Definitions applicable to Sections 12A.08.170 through 12A.08.190

The following definitions are applicable in Sections 12A.08.170 through 12A.08.190 unless the context otherwise requires:

“Access” means to gain entry to, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of electronic data, a data network, or a data system, including via electronic means.

“Data” means a digital representation of information, knowledge, facts, concepts, data software, data programs, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a data network, data program, data services, or data system.

“Data network” means any system that provides digital communications between one or more data systems or other digital input/output devices including, but not limited to, display terminals, remote systems, mobile devices, and printers.

“Data program” means an ordered set of electronic data representing coded instructions or statements that when executed by a computer causes the device to process electronic data.

“Data services” includes data processing, storage functions, internet services, email services, electronic message services, web site access, internet-based electronic gaming services, and other similar system, network, or internet-based services.

“Data system” means an electronic device or collection of electronic devices, including support devices one or more of which contain data programs, input data, and output data, and that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control. This term does not include calculators that are not programmable and incapable of being used in conjunction with external files.

“Identifying information” means information that, alone or in combination, is linked or linkable to a trusted entity that would be reasonably expected to request or provide credentials to access a targeted data system or network. It includes, but is not limited to, recognizable names, addresses, telephone numbers, logos, HTML links, email addresses, registered domain names, reserved IP addresses, usernames, social media profiles, cryptographic keys, and biometric identifiers.

“Malware” means any set of data instructions that are designed, without authorization and with malicious intent, to disrupt computer operations, gather sensitive information, or gain access to private computer systems. “Malware” does not include software that installs security updates, removes malware, or causes unintentional harm due to some deficiency. It includes, but is not limited to, a group of data instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to infect other data programs or data, consume data resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the data, data system, or data network.

“White hat security research” means accessing a data program, service, or system solely for purposes of good faith testing, investigation, identification, and/or correction of a security flaw or vulnerability, where such activity is carried out, and where the information derived from the activity is used, primarily to promote security or safety.

“Without authorization” means to knowingly circumvent technological access barriers to a data system in order to obtain information without the express or implied permission of the owner, where such technological access measures are specifically designed to exclude or prevent unauthorized individuals from obtaining such information, but does not include white hat security research or circumventing a technological

measure that does not effectively control access to a computer. The term “without the express or implied permission” does not include access in violation of a duty, agreement, or contractual obligation, such as an acceptable use policy or terms of service agreement, with an internet service provider, internet web site, or employer. The term “circumvent technological access barriers” may include unauthorized elevation of privileges, such as allowing a normal user to execute code as administrator, or allowing a remote person without any privileges to run code.

Section 4. Section 12A.08.170 of the Seattle Municipal Code, enacted by Ordinance 124301, is amended as follows:

12A.08.170 Computer trespass ((-))

((A-)) A person is guilty of computer trespass if the person, without authorization, intentionally gains access to a computer system or electronic database of another.

((B. ~~For purposes of this section:~~

1. ~~“Access” means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of a computer, directly or by electronic means.~~

2. ~~“Computer program” means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.~~

3. ~~“Data” means a representation of information, knowledge, facts, concepts, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a computer.))~~

Section 5. A new Section 12A.08.180 is added to the Seattle Municipal Code as follows:

12A.08.180 Spoofing

A person is guilty of spoofing if the person, without authorization, knowingly initiates the transmission, display, or receipt of the identifying information of another organization or person for the purpose of gaining unauthorized access to electronic data, a data system, or a data network, and with the intent to commit another crime in violation of a state law not included in this Chapter 12A.08.

Section 6. A new Section 12A.08.190 is added to the Seattle Municipal Code as follows:

12A.08.190 Electronic data tampering

A person is guilty of electronic data tampering if the person knowingly and without authorization:

- A. Alters data as it transmits between two data systems over an open or unsecure network; or
- B. Introduces any malware into any electronic data, data system, or data network.

Section 7. Subsection 12A.10.150.C of the Seattle Municipal Code, which section was enacted by Ordinance 124949, is amended as follows:

12A.10.150 Disclosing intimate images

* * *

C. This Section 12A.10.150 does not impose liability upon the following entities solely as a result of content provided by another person:

- 1. An interactive computer service, as defined in 47 U.S.C. Section 230(f)(2);
- 2. A mobile telecommunications service provider, as defined in RCW 82.04.065 (~~of air-to-ground radio telephone services, cellular radio telecommunications services, offshore radio, rural radio service, public or private land mobile telephone service, and other common carrier radio communications services~~); or
- 3. A telecommunications network or broadband provider.

* * *

Section 8. A new Section 12A.10.160 is added to the Seattle Municipal Code as follows.

12A.10.160 Unlicensed massage or reflexology

A. It is unlawful for the owner, proprietor, manager, or such person in charge of any massage business or reflexology business, with knowledge or criminal negligence, to allow or permit the unlicensed practice of massage therapy or reflexology to be committed within the massage business or reflexology business.

B. A first violation of subsection 12A.10.160.A is a misdemeanor and a second or subsequent violation, whether alleged in the same or in subsequent prosecution, is a gross misdemeanor.

C. For purposes of subsection 12A.10.160.A, the following definitions apply:

“Massage” and “massage therapy” mean a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, reflexology, Swedish gymnastics or movements, gliding, kneading, shaking, and fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force, nor does it include genital manipulation.

“Massage business” means the operation of a business where massages are given.

“Reflexology” means a health care service that is limited to applying alternating pressure with thumb and finger techniques to reflexive areas of the lower one-third of the extremities, feet, hands, and outer ears based on reflex maps. Reflexology does not include the diagnosis of or treatment for specific diseases, or joint manipulations.

“Reflexology business” means the operation of a business where reflexology services are provided.

Section 9. Section 12A.14.010 of the Seattle Municipal Code, last amended by Ordinance 124684, is amended as follows:

12A.14.010 Definitions ((-))

The following definitions apply in this Chapter 12A.14:

* * *

“Personal protection spray device” means a commercially available dispensing device designed and intended for use in self-defense and containing a nonlethal sternutator or lacrimator agent, including but not limited to:

A. Tear gas, the active ingredient of which is either chloracetophenone (CN) or O-chlorobenzylidene

malonotrile (CS); or

B. Other agent commonly known as mace, pepper mace, or pepper gas.

“Pistol” means any firearm with a barrel less than 16 inches in length, or designed to be held and fired by the use of a single hand.

“Rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

“Sale” and “sell” mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

* * *

Section 10. Subsection 12A.14.160.A of the Seattle Municipal Code, which section was enacted by Ordinance 124301, is amended as follows:

12A.14.160 Possessing dangerous weapon on school facility ((-))

A. It is unlawful for a person to knowingly carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

1. any firearm or air gun;
2. any other dangerous weapon as described in Section 12A.14.080A;
3. any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun which projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or
4. any device, object, or instrument which is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse.

* * *

Section 11. Subsection 12A.16.040.D of the Seattle Municipal Code, which section was last amended by Ordinance 124301, is amended as follows:

12A.16.040 False reporting ((-))

A person is guilty of false reporting if he or she:

* * *

D. Gives false written or oral identification to a Seattle Police officer when such officer is investigating a crime or possible crime, executing a search or arrest warrant, issuing a citation or notice of infraction, issuing a parks exclusion notice under Section 18.12.278, or making an arrest, knowing that such identification is false.

Section 12. Section 6.36.010 of the Seattle Municipal Code, last amended by Ordinance 114207, is repealed:

~~((6.36.010 Definitions.~~

~~For the purpose of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:~~

~~A. "Massage practitioner" means any person, except those excluded by Section 6.36.060 who gives massages or other treatments of the body by rubbing, kneading or manipulation.~~

~~B. "Massage premises" means any place, except a home where only residents therein are treated, where massages or other treatment of the body by rubbing, kneading or manipulation are given or furnished.~~

~~C. "Public bathhouse" means any place open to the public where Russian, Turkish, Swedish, hot air, vapor, electric cabinet or other baths of any kind are given or furnished; provided that such term shall not include ordinary tub baths where an attendant is not required.~~

~~D. "Reducing salon" means any place which utilizes mechanical equipment as the exclusive means of treating the body as distinguished from treatment by rubbing, kneading, or manipulation by another person.)~~

Section 13. Section 6.36.020 of the Seattle Municipal Code, last amended by Ordinance 124949, is

repealed:

~~((6.36.020 Massage premises, public bathhouse, and reducing salon licenses~~

~~It is unlawful to conduct, manage, operate, or work in any massage premises, public bathhouse, or reducing salon unless such establishment is licensed as provided in this Section 6.36.020.~~

~~A. Original application for such licenses shall be made and original licenses issued in the manner provided in Sections 6.02.190 and 6.02.210 of this subtitle. All applications for renewal shall be filed with the Director on forms furnished by him/her for such purpose and he/she shall refer the same to the Chief of Police who shall within five days furnish a written report to the Director containing the result of his/her investigation and any other matters which might aid the Director of Finance and Administrative Services in determining whether or not to issue the license.~~

~~B. The fee for a reducing salon or public bathhouse license is \$340.00 per year; the fee for a massage premises license is \$90.00 per year.~~

~~C. No such license shall be granted for any massage premises, public bathhouse or reducing salon until inspection and report as to the sanitary condition thereof by the Director of Health to the Director of Finance and Administrative Services. Massage premises, public bathhouses, and reducing salons must be similarly inspected at least once a year when renewal of a license is requested, and must at all times be open to inspections by the City as to sanitary conditions and to enforce compliance with the provisions of this chapter.~~

~~D. It is unlawful for the owner, proprietor, manager, or such person in charge of any public bathhouse or reducing salon to employ in such place any person who is not at least 18 years of age and of good moral character.~~

~~E. It is unlawful for the owner, proprietor, manager, or such person in charge of any massage premises to employ in such place any person who is not at least 18 years of age.~~

~~F. It is unlawful for the owner, proprietor, manager, or such person in charge of any massage premises, with knowledge or criminal negligence, to allow or permit the unlicensed practice of massage to be committed~~

~~within the massage premises. "Knowledge" and "criminal negligence" shall have the same meaning as in Section 12A.04.030. A first violation of this subsection 6.36.020.F is a misdemeanor and a second or subsequent violation is a gross misdemeanor, subject to the provisions of Chapters 12A.02 and 12A.04.~~

~~G. It is unlawful to advertise the giving of massages or public baths by an establishment, massage practitioner, or other person not licensed pursuant to this Subtitle I.~~

~~H. A record of all massage treatments showing the date given, the name and address of the recipient, and the name and address of the massage practitioner shall be kept and be open to inspection by the Police Department, Finance and Administrative Services, and Health Department inspectors at all times.)~~

Section 14. Section 6.36.030 of the Seattle Municipal Code, last amended by Ordinance 123361, is repealed:

~~**(6.36.030 Massage practitioner's license.**~~

~~It is unlawful for any person, except as provided in Section 6.36.060, to give a massage or other treatment of the body by rubbing, kneading, or manipulation, whether in a massage premises or public bathhouse, or otherwise, without first obtaining a massage practitioner's license, the fee for which is \$35.00 per year. The license application shall be made in the true name of the applicant and shall be accompanied by evidence that the applicant holds a valid State Massage Practitioner's License. If the Director of Finance and Administrative Services finds that the information in the application is true and accurate, that the applicant holds a valid State Massage Practitioner's License, and that the applicant has not been convicted of a crime involving or related to prostitution, lewd conduct, or narcotic drugs within the seven years immediately prior to the date of application, the Director shall approve the application and issue the license; otherwise, the Director shall deny the application.)~~

Section 15. Section 6.36.040 of the Seattle Municipal Code, last amended by Ordinance 123361, is repealed:

~~**(6.36.040 Athletic massage operator's license.**~~

~~It is unlawful for any person to be employed or work as an athletic massage operator unless such person is licensed as provided in this section:~~

~~A. The fee for an athletic massage operator's license is \$35.00 per year.~~

~~B. Application for an athletic massage operator's license or for any renewal thereof shall be made to the Director of Finance and Administrative Services on forms furnished by him/her for such purpose. It shall state the true name of the applicant, who shall be not less than 18 years of age, and as to an original application shall be accompanied by references as to the moral character and ability of the applicant from four reputable citizens of the City.~~

~~C. If the Director finds the application to be in proper form and upon investigation such references to be authentic, he/she shall transmit the same to the Chief of Police.~~

~~D. The Chief of Police shall investigate the applicant's reputation and record and transmit such application, his/her written report, and all other reports thereon, to the Director of Health, who shall examine the applicant physically to ascertain if the applicant is free from contagious or infectious disease in a communicable stage and otherwise physically fit to give athletic massages, and shall make a written report thereon.~~

~~E. If the Director of Health finds that the applicant is physically competent to give athletic massages he/she shall transmit the application, accompanied by all reports thereon, to the Director of Finance and Administrative Services. If from the reports the Director of Finance and Administrative Services deems the applicant a fit and proper person, he/she shall issue the license; otherwise he/she shall deny the license.))~~

Section 16. Section 6.36.050 of the Seattle Municipal Code, last amended by Ordinance 114207, is repealed:

~~**((6.36.050 Expiration and continuance of licenses.**~~

~~All licenses issued pursuant to this chapter shall expire on December 31st of each calendar year; provided, that any massage premises and public bathhouse license issued under any other City ordinance and in effect at the~~

~~time the ordinance codified in this chapter becomes effective shall continue valid for a period of thirty (30) days after the ordinance codified in this chapter takes effect, and no longer, subject, however, to suspension or revocation as provided by the ordinance under which the same was issued and effective.))~~

Section 17. Section 6.36.060 of the Seattle Municipal Code, last amended by Ordinance 114207, is repealed:

~~((6.36.060 Exemptions.~~

~~This chapter shall not apply to:~~

~~A. Licensed massage practitioners licensed by the State before September 1, 1988, who also hold a valid and current massage operator's license issued by The City of Seattle on or before October 14, 1988, and who are performing services within their authorized scope of practice;~~

~~B. Licensed massage practitioners originally licensed by the State on or after September 1, 1988, and who are performing services within their authorized scope of practice;~~

~~C. The practice of a profession by individuals who are licensed, certified or registered under the laws of the State, other than Chapter 18.108 RCW pertaining to licensed massage practitioners, and who are performing services within their authorized scope of practice;~~

~~D. Massage practiced at the athletic department of any institution maintained by the public funds of the State or any of its political subdivisions;~~

~~E. Massage practiced at the athletic department of any school or college approved by the State Department of Licensing by rule using recognized national professional standards.))~~

Section 18. Section 6.36.070 of the Seattle Municipal Code, last amended by Ordinance 114207, is repealed:

~~((6.36.070 Massage premises attendant's license.~~

~~A. It is unlawful to operate, to assist another in the operation of, to stop or start any mechanical device used by another for health or weight reducing purposes, or to position another using such a device, in any~~

~~licensed massage premises or reducing salon without a massage premises attendant's license.~~

~~B. Applications for and issuance of such licenses shall be in accordance with Section 6.02.210 of this subtitle. The Director shall refer each such application to the Chief of Police, who shall within five (5) days furnish a written report to the Director of the results of his/her investigation, together with such other information as may aid the Director in determining whether the license should be issued or denied.))~~

Section 19. Section 6.36.080 of the Seattle Municipal Code, last amended by Ordinance 114207, is repealed:

~~**(6.36.080 Unlawful to admit certain persons.**~~

~~A. It shall be unlawful for the owner, proprietor, manager or person in charge of any public bathhouse, or for any employee of said place, to harbor, admit, receive or permit to be or remain in or about any such place, any prostitute, any lewd or dissolute person, any drunken or boisterous person, or any person under the influence of intoxicating liquor or narcotic drugs, or any person whose conduct tends in any way to corrupt the public morals.~~

~~B. It shall be unlawful for the owner, proprietor, manager or person in charge of any massage premises or for any employee of said place, to harbor, admit, receive or permit to be or remain in or about any such place, any prostitute, any lewd or dissolute person, any drunken or boisterous person, or any person under the influence of intoxicating liquor or narcotic drugs.))~~

Section 20. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Section 1.04.020.

Passed by the City Council the _____ day of _____, 2017, and signed by me in open session in authentication of its passage this ____ day of _____, 2017.

President _____ of the City Council

Approved by me this _____ day of _____, 2017.

Edward B. Murray, Mayor

Filed by me this _____ day of _____, 2017.

Monica Martinez Simmons, City Clerk

(Seal)