

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 562

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, UPDATING THE CITY'S CRIMINAL AND TRAFFIC CODES, ADOPTING NEW PROVISIONS RELATED TO ATTEMPTED FORGERY, INATTENTIVE DRIVING, VEHICLE TRESPASS, AND PUBLIC DEFENDER STANDARDS, AMENDING THE PROVISION RELATED TO LIQUOR IN A PUBLIC PLACE, AND AMENDING TITLES 9 AND 10 OF THE BURIEN MUNICIPAL CODE

WHEREAS, some of the City's current criminal and traffic code provisions need to be updated; and

WHEREAS, it is in the interest of the public health, safety and welfare to adopt new provisions related to attempted forgery, inattentive driving, vehicle trespass, and public defender standards; and

WHEREAS, in order to be consistent with State law, the crime of liquor in a public place should be penalized as a civil infraction, as provided in RCW 66.44.100, rather than a misdemeanor, as currently provided in the BMC 9.15.200;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON DO HEREBY ORDAIN AS FOLLOWS:

Section 1. A new Burien Municipal Code Section 9.85.600, entitled "Attempted Forgery," and Section 9.85.610, entitled "Definitions-Fraud," are hereby adopted to read as follows:

9.85.600. Attempted Forgery.

(1) A person is guilty of the crime of attempted forgery if with the intent to commit the crime of forgery does intend to injure or defraud by:

1. falsely making, completing, or altering a written instrument; or
2. possessing, uttering, offering, disposing of or putting off as true, a written instrument which the person knows to be forged; and

does an act which is a substantial step toward the commission of that crime.

9.85.610. Definitions, Fraud

The following section of the Washington Criminal Code, as now in effect, and as may subsequently be amended, is adopted by reference as definitions of fraud under the Burien criminal code:

RCW 9A.60.010 Definitions.

Section 2. A new Burien Municipal Code Section 10.05.080, entitled "Inattentive Driving," is hereby adopted to read as follows:

10.05.080. Inattentive Driving.

- (1) Definition.

For the purpose of this section, “inattentive” means with a negligent lack of attentiveness to conditions, circumstances, and one’s duties required to safely operate the vehicle. Conditions include but are not limited to the nature and condition of the roadway, presence of other traffic, presence of pedestrians, and weather conditions.

(2) Inattentive Driving Prohibited.

It is unlawful for any person to operate a motor vehicle in an inattentive manner.

(3) Violation – Penalty.

The offense of inattentive driving shall be considered to be a lesser offense than, but included in, the offense of operating a motor vehicle in a negligent manner.

Any person convicted of inattentive driving shall be guilty of an infraction, and shall be subject to a fine of two hundred and fifty dollars (\$250.00).

(4) No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

Section 3. A new Burien Municipal Code Section 9.85.105, entitled “Vehicle trespass,” is hereby adopted to read as follows:

9.85.105 Vehicle trespass prohibited – Penalty.

(1) A person is guilty of vehicle trespass if he or she knowingly enters or remains unlawfully in a vehicle belonging to another.

(2) As used in this section:

(a) The word “enter” shall include the entrance of the person, or the insertion of any part of his or her body, or any instrument or weapon held in his or her hand.

(b) A person enters or remains unlawfully in or upon a vehicle when he or she is not licensed, invited, or otherwise privileged to so enter or remain.

(3) Vehicle trespass is a misdemeanor.

Section 4. A new Burien Municipal Code Chapter 9.150, entitled “Public Defender Standards,” is hereby adopted to read as follows:

PUBLIC DEFENDER STANDARDS

9.150.010 Adoption of public defender standards.

The city hereby adopts the following standards for public defenders:

(1) Purpose and Intent. These public defender standards are intended to ensure that indigent criminal defendants receive high-quality legal representation through a public defense system that efficiently and effectively protects the constitutional requirement of effective assistance of counsel.

(2) Contract. All indigent defense services shall be paid pursuant to a written contract between the indigent defense attorney(s) and the city, with input from judicial officers.

(3) Compensation. All indigent defense attorneys shall be reasonably compensated, taking into consideration the experience and training of the attorney. Attorneys who have a conflict of interest shall be required to select or compensate conflict counsel.

(4) Duties and Responsibilities of Counsel. All indigent defense contracts shall require that services be provided to all clients in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable Washington State Bar Association standards, the Rules of Professional Conduct (RPC), case law and applicable court rules defining the duties of counsel and the rights of defendants. Counsel's primary and most fundamental responsibility is to promote and protect the best interests of the client.

(5) Malpractice Insurance. Indigent defense attorneys shall maintain malpractice insurance with agreed-upon policy limits.

(6) Caseload Limits and Types of Cases. Caseloads shall be limited to ensure effective representation. An attorney should not allow his or her private law practice to interfere with the competent representation of indigent defendants.

The caseload standards adopted by the Washington Supreme Court shall be considered as guidelines. A "case" is defined as the filing of a document wherein a person is designated a defendant or respondent and an attorney is appointed by the court. Adjustments may be made wherein a full case is not attributed in the following nonexclusive circumstances:

- (a) A bench warrant is issued before a case is resolved;
- (b) Probation violation, extradition, restitution hearings, etc., that do not require a full-blown hearing;
- (c) Diversions, continuances for dismissal, misdemeanor compromises or similar dispositions;
- (d) Deferred prosecution or other similar procedure;
- (e) Early dismissal by a prosecutor based on lack of evidence or standard plea offers, based on the prosecutor's charging and plea bargaining practices or other reasons that dispose of a case without extensive litigation; or

(f) Withdrawal of counsel at an early stage of the case, due to conflict of interest or other reasons.

Additional adjustments may be made for attorneys who have extensive experience in the practice of criminal law and are able to competently handle more cases, due to their ability to recognize issues, awareness of longstanding case law, knowledge regarding specific jurisdictions, and the administrative procedures of the District Court serving the City of Burien. Such adjustments may include adding an additional 50 cases to a public defender's case limit for every five years of experience spent working primarily in criminal law.

Attorneys providing indigent defense services, judicial officers and city administration shall monitor caseloads to assure adequate representation and progress in moving cases to final adjudication. The above-mentioned parties should not hesitate to confer and craft a remedy for dealing with caseload issues that materially affect representation of an indigent client. Excessive continuances, missed court dates, client complaints, etc., shall be addressed as soon as practicable.

(7) Services Other Than Counsel. Reasonable compensation for expert witnesses, investigators and other services necessary for an adequate preparation and presentation of the defense case shall be provided pursuant to Criminal Rule 3.1(f).

(8) Administrative Expenses. Attorneys shall be responsible for paying all administrative expenses of their office or firm not otherwise provided for in these standards or in a contract. Such costs may include law libraries, financial accounting, case management systems and other costs incurred in the day-to-day management of the contract. Attorneys shall maintain an office to maintain confidential meetings with clients.

(9) Reports of Attorney Activity and Vouchers. Attorneys on contract shall maintain a case reporting and management information system, which includes the number and type of cases. Any such system shall be maintained independently from client files so as to disclose no privileged information. At least quarterly reports shall be submitted by the contract firm to the court and to the city administration. If the City needs to obtain information regarding the disposition of cases, such information may be obtained from the District Court.

A standardized voucher form shall be used by attorneys seeking payment for services rendered. Payment should be made at times agreed to by the parties, without regard to the number of cases closed in the period.

(10) Training. Attorneys shall participate in regular training programs in areas relating to their indigent defense practice.

Attorneys providing counsel to indigent accused should take the opportunity to attend courses that foster trial advocacy skills and to review professional publications and tapes.

(11) Supervision. Each attorney or firm providing indigent defense services should provide adequate supervision of attorneys providing indigent defense services.

(12) Substitution of Attorneys or Assignment of Contracts. The attorney or firm engaged by the respective city to provide indigent defense services shall not subcontract with another firm or attorney to provide representation without prior written approval and shall remain directly involved in the provision of representation. If the contract is with a firm or office, the respective city or judicial officer may request the names and experience levels of those attorneys who will actually be providing the services, to ensure they meet minimum qualifications. Any indigent defense contract shall address the procedures for new counsel taking over upon the conclusion of the contract to ensure a smooth transition upon nonrenewal or termination, with the minimal possible detriment to the indigent client.

(13) Limitations on Private Practice for Contract Attorneys. New contracts for indigent defense attorneys with private attorneys or firms may set limits on the number of private or special appointment cases. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent. An attorney or firm rendering indigent defense services shall not allow his or her private practice or accept special appointments to diminish his or her ability to represent indigent clients he or she is obligated to serve by any contract.

(14) Disposition of Client Complaints. The following procedure shall be utilized for responding to client complaints: Complaints should first be directed to the attorney, firm or agency which provided representation. If the attorney and client cannot resolve the complaint amicably, the attorney shall ask the court to withdraw and substitute new counsel. The complaining client should be informed as to the disposition of his or her complaint within a reasonable period of time. If the client feels dissatisfied with the evaluation and response received, he or she should be advised of the right to complain to the Washington State Bar Association.

(15) Cause for Termination or Removal of Attorney. Contracts for indigent defense services should include the grounds for termination of the contract by the parties. Termination of an attorney's contract should only be for good cause or as provided within the terms of the agreement between the city and firm or attorney. Good cause shall include the failure of the attorney to render adequate representation to clients; the willful disregard of the rights and best interests of the client; the willful disregard of the standards herein addressed; or violations of the RPCs.

The representation in an individual case establishes an inviolable attorney-client relationship. Removal of counsel from representation, therefore, should not occur over the objections of both the attorney and the client.

(16) Nondiscrimination. Neither the city, in its selection of an attorney, firm, or agency to provide indigent defense representation, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation, or handicap. Both the city and the contractor shall comply with all federal, state, and local nondiscrimination requirements.

(17) Guidelines for Awarding Defense Contracts. The city shall award contracts for indigent defense services only after determining that the attorney or firm chosen can meet appropriate professional standards and qualifications. Under no circumstances will a contract be awarded on the basis of cost alone. Attorneys or firms seeking contracts for indigent defense services must demonstrate their ability to meet these standards.

Prosecutor and law enforcement officers shall not select the attorneys who will provide indigent defense services.

Section 5. Titles 9 and 10 of the Burien Municipal Code are hereby amended by amending various sections as set forth in the attached Exhibit A.

Section 6. Effective Date. This Ordinance shall take effect five days after publication.

Section 7. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 19TH DAY OF MARCH, 2012, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 19TH DAY OF MARCH, 2012.

CITY OF BURIEN

/s/ Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

/s/ Monica Lusk, City Clerk

Approved as to form:

/s/ Craig D. Knutson, City Attorney

Filed with the City Clerk: March 19 2012

Passed by the City Council: March 19 2012

Ordinance No. 562

Date of Publication: March 22 2012

EXHIBIT A

9.05.005 Adoption of State Criminal Statutes

(1) With the exception of the RCW sections set forth in subsection (3) of this section or other RCW sections that are otherwise specifically disavowed in this Code, all RCW sections that constitute misdemeanors and gross misdemeanors and the RCW sections necessary for the investigation, arrest, prosecution, sentencing, confinement, and enforcement of misdemeanors and gross misdemeanors are hereby adopted by reference, as well any future changes, amendments, recodifications, additions, or deletions to those sections, and shall be given the same force and effect as if set forth herein in full. The fact that sections of this Code adopt by reference specific sections of the RCW shall not affect this section. Sections of the Code that specifically recite that sections of the RCW are not adopted or do not apply shall control over this section.

(2) The following RCW sections are specifically not adopted:

(a) RCW 9A.16.110, Defending against violent crime – Reimbursement.

(3) In adopting the state's statutes by reference, only those crimes and offenses within the jurisdiction of a municipality are intended to be adopted and in those sections adopted which deal with both felonies and misdemeanors or gross misdemeanors, only the language applicable to misdemeanors or gross misdemeanors is to be applied (including to the extent that an anticipatory offense would be a misdemeanor or gross misdemeanor). By adopting state statutes, the city intends to assume jurisdiction over and become the jurisdictional authority for the enforcement and prosecution of misdemeanor and gross misdemeanor crimes. Whenever the word "state" shall appear in any statute adopted by reference in this chapter, the word "city" shall be substituted; provided, however, the term "city" shall not be substituted for the term "state" in those circumstances that set forth administrative or licensing duties of the state and its subdivisions. Whenever a state statute specifically adopted in this chapter refers to another state statute not specifically adopted in this chapter, the statute referred to shall be given the force and effect necessary to enforce the statute specifically adopted in this chapter. When issuing a citation, information, or complaint for the violation of any section of the RCW adopted by this chapter, it shall be sufficient for a commissioned officer or prosecutor to cite to and refer to the RCW section number.

(4) Reference to, or adoption of, a statute, code, or ordinance includes and incorporates the statute, code, or ordinance as it exists or is enacted at the time of the reference or adoption, as well any future changes, amendments, recodifications, additions, or deletions in that statute, code, or ordinance that may thereafter occur unless a contrary intent is clearly expressed, and such statute, code, or ordinance shall be given the same force and effect as if set forth in full. Whenever the word "state" shall appear in any statute adopted by reference in this chapter, the word "city" shall be substituted; provided, however, the term "city" shall not be substituted for the term "state" in those circumstances that set forth administrative or licensing duties of the state and its subdivisions. Whenever a state statute specifically adopted in this chapter refers to another state statute not specifically adopted in this chapter, the statute referred to shall be given the force and effect necessary to enforce the statute specifically adopted in this chapter. Statutes and codes adopted by reference by this Code shall be harmonized with other provisions of this Code to the extent practicable, but if they are in direct conflict with other provisions of this Code that are explicitly articulated, the articulated provisions control.

9.05.030 City criminal jurisdiction.

Any person who commits within the corporate limits of the city any crime, in whole or in part, is liable to arrest and punishment.

The following persons are subject to arrest, prosecution, and criminal punishment:

(1) A person who commits within the corporate limits of the city any crime, in whole or in part;

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

(3) A person who, being out of the city, counsels, causes, procures, aids, or abets another to commit a crime in the city;

(4) A person who commits an act without the city which affects persons or property within the city which, if committed within the city, would be a crime.

9.05.040 Classes of crimes.

Any violation of this code for which punishment is authorized for more than 90 days in jail is deemed a gross misdemeanor. Any violation of this Code for which punishment is solely authorized for 90 days or less is deemed a misdemeanor.

~~(1) An offense defined by this code, for which a sentence of imprisonment is authorized, constitutes a violation of city ordinance and a crime. For purposes of this code, the two terms shall have the same meaning and may be used interchangeably. Violations of city ordinances are classified as gross misdemeanors, or misdemeanors.~~

~~(2) A violation of a city ordinance is a gross misdemeanor, if not otherwise designated by this code, and if persons convicted thereof may be fined up to \$5,000 and sentenced to imprisonment for a term not in excess of one year. A violation of city ordinance is a misdemeanor, if so designated in this code, and if persons convicted thereof may be fined up to \$1,000 and sentenced to imprisonment for a term not in excess of 90 days. [Ord. 63 § 4, 1993]~~

9.05.060 Personal jurisdiction.

Every person, regardless of whether or not an inhabitant or resident of the city, may be tried and punished under this code for any violation of city ordinance committed by him or her within the criminal jurisdiction ~~corporate limits~~ of the city. [Ord. 63 § 6, 1993]

9.05.070 Limitation of action.

(1) Prosecution for a ~~No~~ violation of a city ordinance which is classified as a gross misdemeanor may not be commenced ~~be prosecuted~~ more than two years after its commission. Prosecution for a ~~No~~ violation of a city ordinance classified as a misdemeanor may not be commenced ~~be prosecuted~~ more than one year after its commission.

(2) The periods of limitation prescribed herein do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed herein, a complaint or an information has been filed, and the complaint or information is set aside, then the period is extended by a period equal to the length of time from the filing to the setting aside. [Ord. 63 § 7, 1993]

9.05.150 Violation – Penalty.

(1) Unless otherwise specified, every ~~Every~~ person convicted of violating a city ordinance classified as a gross misdemeanor, or not otherwise classified, shall be punished by a fine of not more than \$5000, or by imprisonment for not more than three hundred sixty-four (364) days, or by both such fine and imprisonment. ~~by imprisonment in jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine.~~

(2) Unless otherwise specified, every ~~Every~~ person convicted of violating a city ordinance classified as a misdemeanor, shall be punished by a fine of not more than \$1000, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. ~~imprisonment in jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000, or by both such imprisonment and fine.~~

(3) 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 overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of 40 hours of community 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. [Ord. 63 § 15, 1993]

9.05.160 Restitution – Adopted by reference.

(1) RCW 9A.20.030, as now in effect, and as may subsequently be amended, is adopted by reference to provide for restitution as an alternative to a fine under the Burien criminal code.

(2) Restitution may be imposed as part of a sentence and shall be ordered by the court whenever a person is convicted of a crime which results in injury to any person or damage to or loss of property, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, loss, or damage if the defendant pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the defendant be required to pay restitution to a victim of an offense or offenses that are not prosecuted pursuant to a plea agreement. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim.

(a) Restitution shall be ordered by the court whenever a person is convicted of any charge of hit and run, whether involving persons, property, or attended vehicles. This restitution shall include:

(i) Damages for injury, property loss and/or lost wages attributable to leaving the scene of the accident or collision in all cases; and

(ii) Damages for injury, property loss and/or lost wages where there is a preponderance of evidence that the convicted person was at fault in the underlying accident or collision.

(b) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within 180 days thereof. The court may continue the hearing beyond the 180 days for good cause. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime, whichever is greater.

(c) The city or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or defendant. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim.

9.15.200 Liquor in public place.

(1) Except as permitted by RCW Title 66, no person shall open a package containing liquor, or possess an open container of liquor, or consume liquor in a public place; provided, this provision shall not apply to containers kept in the trunk of a vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle does not have a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

(2) This section shall not prohibit the offering of alcohol for sale and consumption in a public place as part of a community event; provided, that the organization seeking to offer alcohol must request in writing authorization from the city manager and identify the particular community event or events at which the sponsor wishes to offer alcohol for sale and consumption. The written request must be made no later than 30 days prior to the first community event for which authorization is sought. Those applying for the city manager's authorization to offer alcohol for sale and consumption must meet the requirements of state law with respect to liquor permits and this chapter. During the course of the community event, the state liquor permit must be displayed within the area. For purposes of this subsection, "community event" shall mean fairs, markets, and festivals held on public property where the public at large is invited to attend, including but not limited to the Farmers Market, the Strawberry Festival, Oktoberfest, and the Fourth of July Festival. As appropriate, the city manager may specify special conditions of use and note the conditions on the authorization.

(3) Violation of this section is a class 3 civil infraction under Chapter 7.80 RCW. ~~misdemeanor punishable by a fine of not more than \$100.00.~~ [Ord. 546 § 1, 2010; Ord. 412 § 1, 2004; Ord. 96 § 2, 1994; Ord. 63 § 89, 1993]

9.60.200 Obstructing governmental operation – Adopted by reference.

(1) The following sections of the Washington Criminal Code as now in effect and as may subsequently be amended, are adopted by reference to establish the crimes relating to obstructing governmental operation under the Burien criminal code:

RCW

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.76.200 Harming a police dog.

(2) The following sections of RCW Title 9, as now in effect and as may subsequently be amended, are adopted by reference to establish additional crimes relating to obstructing governmental operation under the Burien criminal code:

RCW

9.31.090 Escaped prisoner recaptured.

9.62.010 Malicious prosecution.

9.62.020 Instituting suit in name of another.

9.60.400 Interference of court – Adopted by reference.

The following sections of RCW Title 9, as now in effect and as may subsequently be amended, are adopted by reference to establish the crimes relating to contempt and interference with courts under the Burien criminal code:

RCW

~~9.23.010 Criminal contempt.~~

9.27.015 Interference, obstruction of any court, building, or residence – Violations.

9.80.300 Harassment – Adopted by reference.

(1) The following sections of the Revised Code of Washington as now in effect and as may subsequently be amended, are hereby adopted by reference:

RCW

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.46.070 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.

(2) The following sections of RCW Title 9, as now in effect, and as may subsequently be amended, are adopted by reference to establish additional crimes of harassment under the Burien criminal code:

RCW

- 9.61.230 Telephone calls to harass, intimidate, torment, embarrass.
- 9.61.240 Telephone calls to harass, intimidate, torment, or embarrass – Permitting telephone to be used.
- 9.61.250 Telephone calls to harass, intimidate, torment, or embarrass – Offense, where deemed committed.
- 9.61.260 Cyberstalking

(3) The following sections of RCW Title 10, as now in effect and as may subsequently be amended, are adopted by reference to establish additional crimes of harassment under the Burien criminal code:

- 10.14.120 Disobedience of order -- Penalties.
- 10.14.170 Criminal penalty.

9.85.200 Theft and possession of stolen property – Adopted by reference.

The following sections of the Washington Criminal Code, as now in effect, and as may subsequently be amended, are adopted by reference to establish the crimes of theft and stolen property under the Burien criminal code:

RCW

- 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.56.100 Theft and larceny equated.
- 9A.56.140 Possessing stolen property – Definition – Access, devices, presumption.
- 9A.56.170 Possessing stolen property in the third degree.
- 9A.56.180 Obscuring identify of a machine.
- 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.
- 9A.56.330 Possession of another's identification

9.90.080 ~~Subsequent prostitution convictions as~~ violation for prostitution activity as separate crime.

It is a gross misdemeanor and a separate crime for any person to commit any ~~Any second or subsequent~~ violation of this chapter relating to unlawful acts of prostitution or pandering, unlawful acts of prostitution loitering, unlawful acts of permitting prostitution or pandering, or unlawful acts of patronizing a prostitute, when the person has a previous violated a provision of this chapter relating to unlawful acts of prostitution or pandering, unlawful acts of prostitution loitering, unlawful acts of permitting prostitution or pandering, or unlawful acts of patronizing a prostitute, and the conviction date of the previous violation is within 12 months of the incident date of the new violation, which may arise from an incident occurring within any period of 12 months from a first or prior conviction of the same or similar offense shall constitute a separate crime which is designated a gross misdemeanor and, upon conviction shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine. The court may suspend all or a portion of the term of imprisonment or fine on condition that the convicted person

never enter into, or be present in, any anti-prostitution emphasis area during the term of any such suspension or deferral. The court may further require AIDS testing and counseling, as a condition of suspension or deferral, pursuant to RCW 70.24.350, at the defendant's expenses; provided, however, that King County, as agent for the city pursuant to interlocal agreement, may require such testing and counseling as provided in RCW 70.24.360 upon imprisonment in jail of any such convicted person. [Ord. 63 § 47, 1993]

9.90.090 Violation of conditions of release or conditions of suspension or deferral as separate crime.

The presence of any person within a designated area in violation of court-imposed conditions of release or conditions of suspension or deferral of any sentence shall constitute a separate crime designated a gross misdemeanor and any such person may be apprehended and arrested without the necessity for any warrant or additional court order. ~~Upon conviction, any person so violating the conditions of release or conditions of suspension or deferral shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine.~~ [Ord. 63 § 48, 1993]

9.100.100. Impersonating members of public safety department – Adopted by reference.

The following sections of the King County Code and the Washington Criminal Code, as now in effect, and as may subsequently be amended are adopted by reference to establish the crime of fraud by impersonating members of the public safety department, except that the reference thereto shall also refer to members of the city police department whether contracted or employed:

KCC

- 12.08.010 Impersonating members of public safety department.
- 12.08.020 Selling or disposing of police badges prohibited.
- 12.08.030 Possessing badge with intent to impersonate officer.
- 12.08.040 Intent to impersonate presumed.
- 12.08.050 Penalty for violation.

RCW

9A.60.045 Criminal impersonation in the second degree.

9.100.200 Obstructing public city officers.

(1) It is unlawful for any person to make any ~~willfully untrue, misleading or exaggerated statement false or misleading material statement to,~~ or to willfully hinder, delay or obstruct any public city officer in the discharge of his or her official powers or duties. Obstructing public city officers is a misdemeanor.

(2) "Public City officer", as used in this article, comprises ~~police officers, fire chief and his or her designees, health officers, and~~ the public works director and his or her designees, city clerk and his or her designees, code enforcement personnel, and other city personnel authorized for enforcement of city ordinances, statutes and codes. [Ord. 63 § 33, 1993]

~~———— **10.11.050 Enforcement procedure.**~~

~~———— The enforcement procedure for this chapter shall be the enforcement procedure set out in Chapter 8.45.~~

10.45.030 Violation – Penalty.

Violation of BMC 10.45.020 is an infraction ~~a misdemeanor~~ and will be punished by a fine of not less than \$100.00 or more than \$1,000 per violation.

10.50.020 General penalties.

(1) Except as otherwise provided in this section or elsewhere in this division, every violation of this division and all conduct made unlawful by this division shall constitute a civil violation. ~~Conviction of a violation shall not give rise~~

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~~to any disability or legal disadvantage based on the conviction of a criminal offense.~~

~~(2) Any person convicted of a violation of this division may be punished by a civil fine or forfeiture not to exceed \$500.00 or such lesser amount as may be specifically provided for in this division.; provided, that any person convicted of an offense or conduct made unlawful by this division shall be guilty of a crime and, unless specifically provided otherwise in this division, may be punished by a fine in any sum not to exceed \$500.00 or by imprisonment in the city jail for a term not to exceed six months, or by both such fine and imprisonment.~~

~~(3) Notwithstanding the civil nature of the penalty provided herein for violations, nothing in this section shall deny any constitutional rights which a defendant would have were the penalty deemed criminal.~~