

Ordinance No. 00573

[COUNCIL MEETING MINUTES DECEMBER 2, 2013](#)

ORDINANCE NO. 573

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Sections 03.70.202, 09A.03.000, 09A.03.130, 09A.06.010, 09A.12.000, 10.04.030, creating Sections 09A.03.081 and 09A.03.085, and repealing Section 09A.12.030 of the Lakewood Municipal Code.

WHEREAS, the City Council of the City of Lakewood has previously adopted a municipal code which includes, in most cases, adoptions of specific state laws codified in the Revised Code of Washington; and

WHEREAS, the Council's intent in adopting specific RCW statutes was to more closely align the City's municipal code with state law; and

WHEREAS, adopting proposed changes to the municipal code will more closely align the Code with State law;

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

Section 1. Section 03.70.202, entitled, "Emergency Response Caused by Person's Intoxication- Recovery of Costs from Convicted Person" shall be amended to read as follows:

03.70.020 - Emergency Response Caused by Person's Intoxication - Recovery of Costs from Convicted Person.

A. A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; ~~(2) being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, RCW 46.61.504;~~ (3) driving or being in actual physical control of a motor vehicle after consuming liquor and being under 21, RCW 46.61.504; (4) negligent driving in the first degree, RCW 46.61.5249; ~~(5) (2)~~ operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; ~~(6)~~ (3) use of a vessel while under the influence of alcohol or drugs, RCW 88.12.025; ~~(7) (4)~~ vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or ~~(58)~~ vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

Section 2. Section 09A.03.000, entitled, "Adoption of Specific RCW Sections" is hereby amended as follows:

Chapter 9A.03 Adoption of Specific RCW Sections

Sections:

- 9A.03.010 Chapter 2.48 RCW, entitled "State Bar Act" - Adoption by reference.
- 9A.03.020 Chapter 7.21 RCW, entitled "Contempt of Court" - Adoption by reference.
- 9A.03.030 Chapter 7.80 RCW, entitled "Civil Infractions" - Adoption by reference.
- 9A.03.040 RCW Title 9, entitled "Crimes and Punishments" - Adoption by reference.
- 9A.03.050 RCW Title 9A, entitled "Washington Criminal Code" - Adoption by reference.
- 9A.03.060 RCW Title 10, entitled "Criminal Procedure" - Adoption by reference.
- 9A.03.070 Chapter 13.32A RCW, entitled "Family Reconciliation Act" - Adoption by reference.
- 9A.03.080 RCW Title 16, entitled "Animals and livestock" - Adoption by reference.
- 9A.03.081 RCW Title 19.60 entitled "Pawnbrokers and Secondhand Dealers"-Adoption by Reference
- 9A.03.085 RCW Title 19.290 entitled "Metal Property"- Adoption by reference"
- 9A.03.090 RCW Title 26, entitled "Domestic Relations" - Adoption by reference.
- 9A.03.100 Chapter 28A.635 RCW, entitled "Offenses Relating to School Property and Personnel" - Adoption by reference.
- 9A.03.110 Chapter 46.80 RCW, entitled "Vehicle Wreckers" - Adoption by reference.
- 9A.03.120 RCW Title 66, entitled "Alcoholic Beverage Control" - Adoption by reference.
- 9A.03.130 RCW Title 69, entitled "Food, Drugs, Cosmetics, and Poisons" - Adoption by reference.
- 9A.03.140 RCW Title 70, entitled "Public Health and Safety" - Adoption by reference.

9A.03.150 Chapter 74.34 RCW, entitled "Abuse of Vulnerable Adults" - Adoption by reference.

Section 3. Section 09A.03.081, RCW Title 19, entitled "Pawnbrokers and Secondhand Dealers-Adoption by Reference" is hereby created:

09A.03.081 – RCW Title 19.60 entitled "Pawnbrokers and Secondhand Dealers- Adoption by Reference"

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

RCW 19.60.066 Prohibited Acts—Penalty:

RCW 19.60.067 Secondhand precious metal dealers—Prohibited acts—Penalty

Section 4. Section 09A.03.085, entitled, "Metal Property"- Adoption by Reference is hereby created:

09A.03.085- RCW Title 19.290 entitled, "Metal Property- Adoption by Reference

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

RCW 19.290.070 Violations Penalty

RCW 19.290.100 Scrap Metal License Penalties

Section 5. Section 09A.03.130, entitled, "RCW Title 69 "Food, Drugs, Cosmetics, and Poisons, Adoption by Reference" shall be amended to read as follows:

Chapter 9A.03
Adoption of Specific RCW Sections

09A.03.130 - RCW Title 69 Entitled "Food, Drugs, Cosmetics, and Poisons" - Adoption by Reference

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

RCW 69.41.010 Definitions.

RCW 69.41.030 Sale, delivery, or possession of legend drug without prescription or order prohibited - Exceptions.

RCW 69.41.050 Labeling requirements.

RCW 69.41.300 Definitions.

RCW 69.41.320 Practitioners - Restricted use - Medical records.

RCW 69.41.350 Penalties.

RCW 69.43.010 Report to state board of pharmacy - List of substances - Modification of list - Identification of purchasers - Report of transactions - Penalties.

RCW 69.43.110 Ephedrine, pseudoephedrine, phenylpropanolamine - Sales restrictions - Penalty.

RCW 69.43.120 Ephedrine, pseudoephedrine, phenylpropanolamine - Possession of more than 15 grams - Penalty - Exceptions.

RCW 69.43.130 Exemptions - Pediatric products - Products exempted by the state board of pharmacy.

RCW 69.50.101 Definitions.

RCW 69.50.102 Drug paraphernalia - Definitions.

RCW 69.50.202 Nomenclature.

RCW 69.50.4013 Possession of controlled substance- Penalty- Possession of Useable Marijuana or marijuana infused products.

RCW 69.50.4014 Possession of 40 grams or less of marihuana - Penalty.

RCW 69.50.4016 Provisions not applicable to offenses under RCW 69.50.410.

RCW 69.50.404 Penalties under other laws.

RCW 69.50.407 Conspiracy.

RCW 69.50.412 Prohibited acts: E - Penalties.

RCW 69.50.4121 Drug paraphernalia - Selling or giving - Penalty.

RCW 69.50.425 Misdemeanor violations - Minimum imprisonment.

RCW 69.51A.010 Definitions.

RCW 69.51A.030 Physicians excepted from state's criminal laws

RCW 69.51A.040 Failure to seize marijuana, qualifying patients' affirmative defense.

RCW 69.51A.060 Crimes - Limitations of chapter.

RCW 69.51A.080 Adoption of rules by the department of health - Sixty-day supply for qualifying patients.

(Ord. 526 § 2 (part), 2010.)

Section 6. Section 09A.06.010, entitled, "Loitering with the Intent of Engaging in Drug-related Activity" shall be amended to read as follows:

09A.06.010 - Loitering With the Intent of Engaging in Drug-Related Activity

A. It is unlawful for any person to loiter in or near any thoroughfare, place open to the public, or near any public or private place in a manner and ~~under~~ under circumstances manifesting the intent to engage in drug-related activity contrary to any of the provisions of Chapters 69.41, 69.50, or 69.52 RCW.

B. Among the circumstances which may be considered in determining whether such intent is manifested are the following:

1. Such person is a known unlawful drug user, possessor, or seller. For purposes of this chapter, a "known unlawful drug user, possessor, or seller" is a person who has been convicted in any court within this state of any violation involving the use, possession, or sale of any of the substances referred to in Chapters 69.41, 69.50, and 69.52 RCW, or substantially similar laws of any political subdivision of this state or of any other state; or who is known to have been arrested for a drug related violation not resulting in a conviction because the person participated in a diversionary program, deferral program, Drug Court or a similar program; or a person who displays physical characteristics of drug intoxication or usage, such as "needle tracks"; or who possesses marijuana ~~as defined in Section 9.22.010 of this Chapter~~ as defined in Section 9.22.020 of this Chapter as in a manner not authorized by RCW 69.50.4013(1), RCW 69.50.4013(2) and or in amounts that exceed those set forth in RCW 69.50.360(3);

2. Such person is currently subject to an order from any court prohibiting his/her presence in a high drug activity geographic area;

3. Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity, including by way of example only, such person acting as a "lookout";

4. Such person is physically identified by the officer, based on articulable factors, as a member of a "gang," or association which has as its purpose illegal drug activity. Factors that support an officer physically identifying a person as a member of such a gang or association include, but are not limited to clothing, tattoos, known association and/or affiliation with such gang or association, specific and observed acts or circumstances consistent with drug related activity, and gestures, signs, greetings and movements that are consistent with gang related activity, Provided that clothing alone shall not be sufficient, without more, to support an officer physically identifying a person as a member of such a gang or association;

5. Such person transfers small objects or packages for currency in a furtive fashion;

6. Such person takes flight upon the appearance of a police officer;

7. Such person manifestly endeavors to conceal himself or herself or any object which reasonably could be involved in an unlawful drug-related activity;

8. The area involved is by public repute known to be an area of unlawful drug use and trafficking;

9. The premises involved are known to have been reported to law enforcement as a place suspected of drug activity pursuant to Chapter 69.52 RCW;

10. Any vehicle involved is registered to a known unlawful drug user, possessor, or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity.

(Ord. 526 § 2 (part), 2010.)

Section 7. Section 09A.12.000 entitled, "Miscellaneous Crimes" is hereby amended to read as follows:

09A.12.000 - Miscellaneous Crimes

Chapter 9A.12
Miscellaneous Crimes

Sections:

9A.12.010 Bridge over Steilacoom Lake on Interlaaken Drive Southwest.

9A.12.020 Piercing Ears or Other Body Parts of a Minor Without Parental Consent - Penalty
~~9A.12.030 Discharge of Firearms in City Prohibited~~
9A.12.040 Obtaining Hotel, Restaurant or Lodging House Accommodations by Fraud
9A.12.050 Unguarded Fires
9A.12.060 Malicious Prosecution
9A.12.070 Unlawful Depositing in Refuse in Containers
9A.12.080 Unauthorized Communication with Prisoner
9A.12.090 Dogs Taken or Withheld
9A.12.100 Making or Having Burglar or Auto Theft Tools
9A.12.110 Threats to Do Harm

Section 8. Section 09A.12.030 entitled, "Discharge of Firearms in City Prohibited" is hereby repealed.

09A.12.030 - Discharge of Firearms in City Prohibited

The entire area of the City is a "no shoot" area. It is unlawful to shoot or discharge any firearm, pistol, rifle or similar device anywhere within the corporate limits of the City other than for the purposes of exercising the rights specified in RCW 9A.16.020. For the purposes of this Section, pistol and rifle shall include but are not limited to pellet guns, B-B guns, air-propelled guns and similar devices. (Ord. 526 § 2 (part), 2010.)

Section 9. Section 09A.14.030 entitled, "Firearms, Dangerous Weapons, Explosives," shall remain unchanged.

09A.14.000 - Firearms, Dangerous Weapons, Explosives

Chapter 9A.14
Firearms, Dangerous Weapons, Explosives

Sections:

9A.14.005 Definitions.

9A.14.010 Weapons apparently capable of producing bodily harm --Carrying, exhibiting, displaying or drawing unlawful--
Exceptions.

9A.14.020 Weapons--Intoxicated persons--Places where liquor consumed.

9A.14.030 Discharge of firearm in City prohibited.

9A.14.040 Defenses.

09A.14.030 - Discharge of Firearms in City Prohibited

The entire area of the City is a "no shoot" area. It is unlawful to shoot or discharge any firearm, pistol, rifle or similar device anywhere within the corporate limits of the City other than for the purposes of exercising the rights or allowable circumstances which may be authorized by law, to include but not limited to that conduct specified in RCW 9A.16.020, chapter 9.41 RCW or LMC 9A.14.040.

(Ord. 566 § 2 (part) 2013; Ord. 526 § 2 (part), 2010.)

Section 10. Section 10.04.030 entitled, "Additional Code Sections Adopted by Reference" is hereby amended to read as follows:

10.4.030 - Additional Code Sections Adopted by Reference

The following sections of Title 46 of the Revised Code of Washington, as they currently are and as they may be amended in the future, not having been included in the MTO, are hereby adopted by reference into the Lakewood Traffic Code:

- 46.08.185 Electric vehicle charging stations – Signage-Penalty.
- 46.16.160 Vehicle trip permits - Restrictions and requirements - Fees and taxes - Penalty - Rules.
- 46.20.055 Violation of instructional permit restrictions.
- 46.20.205 Failure to notify DOL of address change.
- 46.20.730 Ignition interlock device - Definition.
- 46.29.610 Requirements - Surrender of license - Penalty.
- 46.29.620 Forge proof of financial responsibility - Penalty.
- 46.37.685 License plate flipping device- Unlawful use, display, sale- Penalty.
- 46.44.080 Local weight regulations - Authority to establish.
- 46.63.160 Use of Automated Traffic Safety Cameras
- 46.61.165 Violation of transit/carpool lane.
- 46.70.090 Unlawful/improper use of dealer license plates.
- 46.61.667 Using wireless communications device while driving.
- 46.61.668 Sending, reading or writing a text message while driving.

(Ord. 401 § 1 (part), 2005; Ord. 110 § 1, 1997.)

Section 11. 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 of any other section, sentence, clause, or phrase of this ordinance.

Section 12. Effective Date. This ordinance shall take place thirty (30) days after its publication or publication of a summary of its intent and contents.

ADOPTED by the City Council this 2nd day of December, 2013.

CITY OF LAKEWOOD

Don Anderson, Mayor

Attest:

Alice M. Bush, MMC, City Clerk

Approved as to Form:

Heidi A. Wachter City Attorney