

Ordinance No. 1016

MEDINA CITY COUNCIL

AN ORDINANCE OF THE CITY OF MEDINA, WASHINGTON, AMENDING MEDINA MUNICIPAL CODE SECTION 9.04.040, "GENERAL PROVISIONS", TO HARMONIZE THE CHAPTER WITH RECENT CHANGES TO STATE LAW; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, in 2021, the Washington State Legislature enacted Engrossed Second Substitute House Bill 1320 (E2SHB 1320) with the purpose of modernizing, harmonizing, and improving the efficacy of the state's laws concerning civil protection orders; and

WHEREAS, E2SHB 1320 established a new chapter of the Revised Code of Washington (RCW) to govern all types of protection orders, including domestic violence protection orders (DVPOs), sexual assault protection orders (SAPOs), stalking protection orders (Stalking POs), anti-harassment protection orders (AHPOs), vulnerable adult protection orders (VAPOs), and extreme risk protection orders (ERPOs); and

WHEREAS, Section 9.04.040 of the Medina Municipal Code (MMC), "General Provisions" adopts by reference former sections of the RCW that criminalized violations of various types of protection orders and penalized such violations as gross misdemeanors; and

WHEREAS, these references have changed with enactment of E2SHB 1320, effective July 1, 2022, and are no longer consistent with state law; and

WHEREAS, in order for the City to effectively enforce the state's protection order violation laws, the City Council must amend MMC Section 9.04.040 to adopt the recodified laws by reference; and

WHEREAS, the City Council desires to amend MMC Section 9.04.040 to harmonize with changes to state law effectuated by enactment of E2SHB 1320; and

WHEREAS, the City Council finds that the seriousness of order violations merits affirmatively adopting the criminal provisions of Chapter 7.105 RCW to ensure violators may be promptly and effectively prosecuted in the Medina Municipal Court, and

WHEREAS, the City Council finds that a legal question of whether these provisions of Chapter 7.105 RCW have been adopted by the City of Medina can lead to delayed justice and potential danger to victims of domestic violence, stalking, harassment, and sexual assault, and elder abuse and constitutes a public emergency requiring that these amendments become effectively immediately upon adoption.

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

Section 1. **Findings.** The foregoing recitals are hereby adopted as Findings of Fact in support of this Ordinance.

Section 2. Amendment to MMC Section 9.04.040. MMC Section 9.04.040 is hereby amended to read as follows:

9.04.030. Statutes adopted by reference.

The following statutes as set forth in the Revised Code of Washington are adopted by reference as and for a portion of the criminal code of the city as if set forth in full in this title. Also adopted by reference are all subsequent modifications to the sections or chapters of the Revised Code of Washington set forth in this chapter as the same may be changed, amended or added to:

RCW	
7.105	Civil Protection Orders
9.01.055	Immunity—Aiding officer
9.01.110	Failure to act
9.01.120	Civil remedies preserved
9.01.130	Sending criminal letter
9.01.160	Existing civil rights
9.03.010	Abandoning, discarding refrigeration equipment
9.03.020	Permitting unused equipment to remain on premises
9.03.030	Violation of RCW 9.03.010 or 9.03.020
9.04.010	False advertising
9A.04.010	Title, effective date, application, severability, captions
9A.04.020	Purpose—Principles of construction
9A.04.030	State criminal jurisdiction
9A.04.040	Classes of crimes
9A.04.050	People capable of committing crimes
9A.04.060	Common law to supplement statutes
9A.04.070	Who amenable to criminal statutes
9A.04.080	Limitation of actions
9A.04.090	Application of general provisions of code
9A.04.100	Proof beyond reasonable doubt
9A.04.110	Definitions
9.08.020	Diseased animals
9.08.030	False representation animals
9.08.065	Definitions
9.08.070	Pet animals—Taking, concealing, injuring, killing, etc.—Penalty
9A.08.010	General requirements of culpability
9A.08.020	Liability for conduct of another—Complicity
9A.08.030	Criminal liability of corporations and persons action on under a duty to act in their behalf
9.16.030	Counterfeiting trademarks, brand, etc.
9.16.040	Displaying goods with false trademarks
9.16.050	When deemed affixed
9.16.060	Fraudulent registration of trademark
9.16.070	Form and similitude defined
9.16.080	Sales of petroleum products improperly labeled or by wrong grade
9.16.150	Marked, stamped or branded defined
9A.16.010	Definitions
9A.16.020	Use of force—When lawful
9A.16.030	Homicide—When excusable
9A.16.040	Justifiable homicide by police officer
9A.16.060	Duress

9A.16.070	Entrapment
9A.16.080	Action for being detained on mercantile establishment premises for investigation "reasonable grounds" as defense
9A.16.090	Intoxication
9A.16.100	Use of force on children—Policy—Actions presumed unreasonable
9A.16.110	Defense of person or property against heinous crime— Indemnification or reimbursement by state for expenses of defendant
9.18.120	Suppression of competitive bidding
9.18.130	Collusion to prevent competitive bidding
9.18.140	Penalty
9A.20.010	Classification and designation of crimes
9A.20.020	Authorized sentences of offenders
9A.20.021	Maximum sentences for crimes committed July 1, 1984, and after
9A.20.030	Alternatives to a fine—Restitution
9.26A.090	Telephone credit cards—Prohibited acts
9.26A.100	Definitions
9.26A.110	Fraud in obtaining telecommunications service—Penalty
9.26A.120	Fraud in operating coin-box telephone or other receptacle
9.26A.130	Penalty for manufacture or sale of slugs to be used for coin
9.27.015	Obstructing court, building or residence
9A.28.020	Criminal attempt
9A.28.030	Criminal solicitation
9A.28.040	Criminal conspiracy
9A.36.041	Assault in fourth degree
9A.36.050	Reckless endangerment
9A.36.070	Coercion
9.38.010	False representation concerning credit
9.38.020	False representation concerning title
9.40.040	Spark emitting engines
9.40.100	Injuring or tampering with fire alarm apparatus or equipment—False alarm—Penalty
9.41.010	Terms defined
9.41.030	Being armed prima facie evidence of intent
9.41.040	Certain persons forbidden to possess arms
9.41.045	Possession by offender
9.41.050	Carrying pistol
9.41.060	Exceptions
9.41.070	Issue of license to carry
9.41.080	Delivery to minors and others forbidden
9.41.090	Sales regulations
9.41.093	Exemptions
9.41.095	Denial of application
9.41.098	Forfeiture of firearm, order by courts—Disposition—Confiscation by law enforcement officer
9.41.100	Dealers to be licensed
9.41.110	Dealer's licenses, by whom granted and conditions thereof
9.41.120	Certain transfers forbidden
9.41.130	False information forbidden
9.41.140	Alteration of identifying marks prohibited
9.41.150	Exemptions
9.41.160	Penalty

9.41.170	Alien's license to carry firearms
9.41.180	Setting spring gun
9.41.190	Machine guns prohibited
9.41.200	Machine guns—Defined
9.41.220	Machine guns and parts contraband
9.41.230	Aiming and discharging firearms
9.41.240	Use of firearms by minor
9.41.250	Dangerous weapons—Evidence
9.41.260	Dangerous exhibitions
9.41.270	Weapons apparently capable of producing bodily harm, carrying, exhibiting, displaying or drawing unlawful—Penalty—Exceptions
9.41.280	Carrying dangerous weapons on school facilities—Penalty—Exceptions
9.41.300	Weapons prohibited in certain places—Local laws and ordinances—Exceptions—Penalty
9.44.080	Misconduct in signing a petition
9A.44.096	Sexual misconduct with a minor in the second degree
9.45.060	Encumbered, leased or rented personal property
9.45.062	Failure to deliver leased personal property
9.45.070	Mock auctions
9.45.080	Fraudulent removal of property
9.45.090	Knowingly receiving fraudulent conveyance
9.45.100	Fraud of creditors
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
9.47A.010	Glue sniffing—Definitions
9.47A.020	Unlawful inhalation
9.47A.030	Possession of certain substance prohibited—When
9.47A.040	Sale of certain substances prohibited
9.47A.050	Penalty
9A.48.090	Malicious mischief in the third degree
9A.48.100	Malicious mischief—"Physical damage" defined
9A.52.010	Definitions—Burglary and trespass
9A.52.070	Criminal trespass in the first degree
9A.52.080	Criminal trespass in the second degree
9A.52.090	Criminal trespass—Defenses
9A.52.100	Vehicle prowling in the second degree
9A.52.120	Computer trespass in the second degree
9A.56.010	Definitions—Theft and robbery
9A.56.020	Theft—Definition defense
9A.56.050	Theft in third degree

9A.56.060	Unlawful issuance of checks or drafts
9A.56.100	Theft and larceny equated
9A.56.140	Possessing stolen property—Definitions—Credit cards, presumption
9A.56.170	Possessing stolen property in the third degree
9A.56.180	Obscuring identity of 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.60.010	Definitions—Fraud
9A.60.040	Criminal impersonation
9A.60.050	False certification
9.61.140	Endangering life and property by explosives—Penalty
9.61.230	Telephone calls to harass, intimidate, torment or embarrass
9.61.240	Permitting telephone to be used
9.61.250	Offense, where deemed committed
9A.61.010	Definitions
9A.61.020	Defrauding a public utility
9A.61.050	Defrauding a public utility in the third degree
9A.61.060	Restitution and costs
9.62.010	Malicious prosecution
9.62.020	Instituting suit in name of another
9.66.010	Public nuisance
9.66.020	Unequal damage
9.66.030	Maintaining or permitting nuisance
9.66.040	Abatement of nuisance
9.66.050	Deposit of unwholesome substance
9.68.015	Exemptions
9.68.030	Indecent articles, etc.
9.68.050	Erotic material—Definitions
9.68.060	Determination by court—Labeling—Penalties
9.68.070	Prosecution for violation of RCW 9.68.060—Defense
9.68.080	Unlawful acts
9.68.100	Exception to provisions of RCW 9.68.050 through 9.68.120
9.68A.090	Communication with a minor for immoral purposes
9.68A.110	Certain defenses barred, permitted
9.69.100	Duty of witness of offense against child or any violent offense—Penalty
9A.72.010	Definitions—Perjury and interfering with official proceedings
9A.72.040	False swearing
9A.72.050	Perjury and false swearing—Inconsistent statements
9A.72.060	Perjury and false swearing—Retraction
9A.72.070	Perjury and false swearing—Irregularities—No defense
9A.72.080	Statement of what one does not know to be true
9A.72.140	Jury tampering
9A.72.150	Tampering with physical evidence
9.73.020	Opening sealed letter
9A.76.010	Definitions—Obstructing governmental operation
9A.76.020	Obstructing a public servant
9A.76.030	Refusing to summon aid for a peace officer
9A.76.040	Resisting arrest

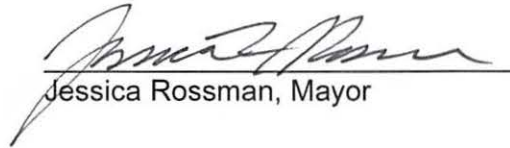
9A.76.050	Rendering criminal assistance—Definition of term
9A.76.060	Relative defined
9A.76.070	Rendering criminal assistance in the first degree
9A.76.080	Rendering criminal assistance in the second degree
9A.76.090	Rendering criminal assistance in the third degree
9A.76.100	Compounding
9A.76.130	Escape in the third degree
9A.76.160	Introducing contraband in the third degree
9A.76.170	Bail jumping
9A.80.010	Official misconduct
9A.84.010	Public disturbance—Riot
9A.84.020	Failure to disperse
9A.84.030	Disorderly conduct
9A.84.040	False reporting
9.86.010	Flags, etc. defined
9.86.020	Improper use of flag prohibited
9.86.030	Desecration of flag
9.86.040	Application of provisions
9.86.050	Penalty
9A.88.010	Indecent exposure
9A.88.030	Prostitution
9A.88.050	Prostitution—No defense
9A.88.060	Promoting prostitution—Definitions
9A.88.090	Permitting prostitution
9A.88.110	Patronizing a prostitute
9.91.025	Unlawful bus conduct
9.91.060	Leaving children unattended in parked vehicle
9.92.020	Punishment of gross misdemeanor when not fixed by statute
9.92.030	Punishment of misdemeanor when not fixed by statute
9.92.040	Punishment for contempt
10.99	Domestic violence
26.09	Domestic violence
26.50	Domestic violence
29A.84.040	Political advertising, removing or defacing

Section 3. **Corrections.** The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including but not limited to the correction of scrivener and clerical errors, references, ordinance numbering, section/subsection numbering and any references thereto.

Section 3. **Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 4. **Declaration of Emergency; Effective Date.** This Ordinance, as a public emergency ordinance necessary for the protection of the public health, safety, and welfare, shall take effect and be in full force immediately upon its adoption. A non-exhaustive list of facts supporting this emergency declaration are included in the recitals above, which are adopted by reference as findings of fact as if fully set forth herein. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City of Medina.

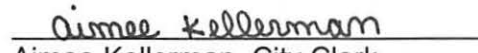
APPROVED BY THE CITY COUNCIL OF THE CITY OF MEDINA ON THE 14TH DAY OF NOVEMBER, 2022 AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THE 14TH DAY OF NOVEMBER, 2022.


Jessica Rossman, Mayor

Approved as to form:
Ogden Murphy Wallace, PLLC

Attest:


Scott Missall, City Attorney


Aimee Kellerman, City Clerk

PUBLISHED: 11/17/2022
EFFECTIVE DATE: 11/21/2022
ORDINANCE NO.: 1016