

**ORDINANCE NO. 013/2011**

AN ORDINANCE ADOPTING THE WASHINGTON STATE CRIMINAL STATUTES AS CONTAINED IN THE REVISED CODE OF WASHINGTON (RCW) TO INCORPORATE INTO TITLE 9 OF THE MONROE MUNICIPAL CODE RELATING TO OFFENSES AGAINST PEACE, MORALS AND SAFETY REGULATIONS, AND SETTING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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WHEREAS, TITLE 9 of the Monroe Municipal Code (MMC) regulates the City of Monroe to establish definitions for crimes and penalties for violations.

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

Section 1. Adoption by reference. The following sections of the Revised Code of Washington (RCW) are hereby adopted by reference:

9.03.010 Adoption of State Code generally.

All misdemeanor and gross misdemeanor criminal behavior and the penalties therefore as defined by the state of Washington, Revised Code of Washington, are adopted by reference by the City of Monroe.

There is adopted by reference all provisions of any enactment of the State Legislature not previously adopted by reference, and establishing a misdemeanor or gross misdemeanor, otherwise enforceable by the state of Washington within the City of Monroe, to become a misdemeanor or gross misdemeanor of the City of Monroe, and to the extent otherwise enforceable by the state of Washington, shall likewise be enforceable by the City of Monroe, through its Police Department and its prosecuting authority, all in the same manner and fashion as such enactment may be enforced or prosecuted in the name of the state.

9.03.020 Retroactive Effect and Construction.

The provisions of Revised Title 9 of the Monroe Municipal Code do not apply to or govern the construction of a punishment for any offense committed prior to 12:01 am on July 1, 1994, or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this chapter had not been enacted.

When a state statute is adopted by reference and the statute uses the word "Title" or words "the title", these words shall be construed to mean and refer to the title of the Revised Code of Washington from which the state statute is adopted.

The Chapters and Sections of Title 9 of the Monroe Municipal Code which are adopted by reference from the Revised Code of Washington shall be construed consistently with judicial decisions about state law.

9.03.030 Police powers.

To the extent provided by state law, the Police Officers of the City of Monroe shall have the authority and jurisdiction to arrest for and initiate citations and prosecution for violations of state enactments by authority of this chapter.

RCW 10.31.100, an act relating to the powers of arrest, is adopted by reference as an ordinance of the City of Monroe, as if set forth in full herein and hereafter may be amended.

9.03.040 Specific statutes adopted.

The following sections and chapters of the Revised Code of Washington are herewith adopted by reference, as set forth in MMC 9.03.10 through 9.03. 360. This adoption shall not be to the exclusion of those sections not specifically mentioned by this direct reference; rather, this reference shall be a supplement to such adoption.

9.03.050 Preliminary article.

- RCW 9A.04.020 Purposes – Principles of construction.
- RCW 9A.04.030 State criminal jurisdiction.
- RCW 9A.04.050 People capable of committing crimes – Capability of children.
- RCW 9A.04.060 Common laws to supplement statute.
- RCW 9A.04.070 Who amenable to criminal statutes.
- RCW 9A.04.080 Limitation of actions.
- RCW 9A.04.090 Application of general provisions of the code.
- RCW 9A.04.100 Proof beyond a reasonable doubt.
- RCW 9A.04.110 Definitions.

9.03.060 Principles of liability.

Chapter 9A.08 RCW.

9.03.070 Defenses.

- RCW 9A.12.010 Insanity.
- RCW 9A.16.010 Definitions.
- RCW 9A.16.020 Use of force – When lawful.
- RCW 9A.16.040 Justifiable homicide or use or deadly force by public officer, peace officer, person aiding
- RCW 9A.16.060 Duress.
- RCW 9A.16.080 Action of being detained on mercantile establishment premises for investigation – “Reasonable grounds” as a defense.
- RCW 9A.16.090 Intoxication.
- RCW 9A.16.100 Use of force on children – Policy – Actions presumed unreasonable.

9.03.080 Contempt.

The following state statutes, including all future amendments, additions or deletions, are hereby adopted by reference:

RCW 7.21.010 Definitions.  
RCW 7.21.020 Sanctions--Who may impose.  
RCW 7.21.030 Remedial sanctions--Payment for losses.  
RCW 7.21.040 Punitive sanctions--Fines.  
RCW 7.21.050 Sanctions--Summary imposition--Procedure.  
RCW 7.21.060 Administrative, actions or proceedings--Petition to court for imposition of sanctions.  
RCW 7.21.070 Appellant review.

9.03.090 Classification of crimes.

RCW 9A.20.030 Alternative to a fine – Restitution.

9.03.100 Anticipatory offenses.

RCW 9A.28.020 Criminal attempt.  
RCW 9A.28.030 Criminal solicitation.  
RCW 9A.28.040 Criminal conspiracy.

9.03.110 Assault.

RCW 9A.36.041 Assault in the fourth degree.  
RCW 9A.36.050 Reckless endangerment.  
RCW 9A.36.070 Coercion.  
RCW 9A.36.150 Interfering with the reporting of domestic violence.

9.03.120 Kidnapping, unlawful imprisonment, and custodial interference.

RCW 9A.40.070 Custodial interference in the second degree.  
RCW 9A.40.080 Custodial interference – Assessment of costs – Defense – Consent defense, restricted.

9.03.130 Sexual offenses.

RCW 9A.44.096 Sexual misconduct with a minor in the second degree.

9.03.140 Harassment and protective orders.

RCW 26.09.300 Restraining orders-Notice-Refusal to Comply-Arrest-Penalty-Defense-Peace Officers, immunity.

Chapter 9A.46 RCW Harassment

Chapter 10.99 RCW. Domestic Violence – official response.

Chapter 26.50 RCW. Domestic Violence prevention

9.03.150 Arson, reckless burning, and malicious mischief.

RCW 9A.48.010 Definitions.  
RCW 9A.48.050 Reckless burning in the second degree.  
RCW 9A.48.060 Reckless burning – Defense.

RCW 9A.48.090 Malicious mischief in the third degree.  
RCW 9A.48.100 Malicious mischief – “Physical damage” defined.

9.03.160 Burglary and trespass.

RCW 9A.52.010 Definitions.  
RCW 9A.52.060 Making or having burglar tools.  
RCW 9A.52.070 Criminal trespass in the first degree.  
RCW 9A.52.080 Criminal trespass in the second degree.  
RCW 9A.52.090 Criminal trespass – Defense.  
RCW 9A.52.100 Vehicle prowling in the second degree.  
RCW 9A.52.120 Computer trespass in the second degree.  
RCW 9A.52.130 Computer trespass – Commission of other crimes.

9.03.170 Theft and robbery.

RCW 9A.56.010 Definitions.  
RCW 9A.56.020 Theft – Definition, defense.  
RCW 9A.56.050 Theft in the third degree.  
RCW 9A.56.060 Unlawful issuance of checks or drafts.  
RCW 9A.56.100 Theft and larceny equated.  
RCW 9A.56.140 Possessing stolen property – Definition – Presumption.  
RCW 9A.56.170 Possessing stolen property in the third degree.  
RCW 9A.56.180 Obscuring the identity of a machine.  
RCW 9A.56.220 Theft of subscription television services.  
RCW 9A.56.230 Unlawful sale of subscription television services.  
RCW 9A.56.240 Forfeiture and disposal of device used to commit violation.  
RCW 9A.56.250 Civil cause of action.  
RCW 9A.56.260 Connection of channel converter.  
RCW 9A.56.270 Shopping cart theft.  
RCW 9A.56.096 Theft of rental, leased, lease-purchased, or loaned property.

9.03.180 Fraud.

RCW 9A.60.010 Definitions.  
RCW 9A.60.040 Criminal impersonation in the first degree  
RCW 9A.60.050 False certification.

9.03.190 Defrauding a public utility.

RCW 9A.61.010 Definitions.  
RCW 9A.61.020 Defrauding a public utility.  
RCW 9A.61.050 Defrauding a public utility in the third degree.  
RCW 9A.61.060 Restitution and costs.  
RCW 9A.61.070 Damages not precluded.

9.03.200 Perjury and interference with official proceedings.

RCW 9A.72.010 Definitions.  
RCW 9A.72.040 False swearing.

RCW 9A.72.050 Perjury and false swearing – Inconsistent statements – Degree of crime.  
RCW 9A.72.060 Perjury and false swearing – Retraction.  
RCW 9A.72.070 Perjury and false swearing – Irregularities no defense.  
RCW 9A.72.080 Statement of what one does not know to be true.  
RCW 9A.72.140 Jury tampering.  
RCW 9A.72.150 Tampering with physical evidence.

9.03.210 Obstructing governmental operation.

RCW 9A.76.010 Definitions.  
RCW 9A.76.020 Obstructing a law enforcement officer.  
RCW 9A.76.030 Refusing to summons aid for a peace officer.  
RCW 9A.76.040 Resisting arrest.  
RCW 9A.76.050 Rendering criminal assistance – Definition of term.  
RCW 9A.76.060 Relative defined.  
RCW 9A.76.080 Rendering criminal assistance in the second degree.  
RCW 9A.76.090 Rendering criminal assistance in the third degree.  
RCW 9A.76.100 Compounding.  
RCW 9A.76.130 Escape in the third degree.  
RCW 9A.76.160 Introducing contraband in the third degree.  
RCW 9A.76.170 Bail jumping.  
RCW 9A.76.175 Making a false or misleading statement to a public servant.

9.03.220 Abuse of office.

RCW 9A.80.010 Official misconduct.

9.03.230 Public disturbance.

RCW 9A.84.010 Riot.  
RCW 9A.84.020 Failure to disperse.  
RCW 9A.84.030 Disorderly conduct.  
RCW 9A.84.040 False reporting.

9.03.240 Public indecency.

RCW 9A.88.010 Indecent exposure.  
RCW 9A.88.030 Prostitution.  
RCW 9A.88.050 Prostitution-Sex of parties immaterial– No defense.  
RCW 9A.88.090 Permitting prostitution.  
RCW 9A.88.110 Patronizing a prostitute.

9.03.250 False representation.

Chapter 9.38 RCW.

9.03.260 Firearms and dangerous weapons.

Chapter 9.41 RCW.

9.03.270 Inhaling toxic fumes.

Chapter 9.47A RCW.

9.03.280 Nuisance.

Chapter 9.66 RCW.

9.03.290 Obscenity and pornography.

Chapter 9.68 RCW.

9.03.300 Uniform flag law.

Chapter 9.86 RCW.

9.03.310 Intoxicating liquor violations.

Chapter 66.44 RCW.

9.03.320 Uniform Controlled Substances Act.

Chapter 69.50 RCW.

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

9.03.330 Crimes relating to firearms and dangerous weapons.

Chapter 9.41 RCW.

9.03.340 Miscellaneous.

RCW 9.01.055 Citizen immunity if aiding officer, scope – When.

RCW 9.03.010 Abandoning, discarding refrigeration equipment.

RCW 9.03.020 Permitting unused equipment to remain on premises.

RCW 9.03.040 Keeping or storing equipment for sale.

RCW 9.04.010 False advertising.

RCW 9.04.090 Advertising fuel prices by service stations.

RCW 9.08.065 Definitions.

RCW 9.08.070 Pet animals-Taking, concealing, injuring, killing, etc.-Penalty.

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

RCW 9.38.010 False representation concerning credit.

RCW 9.38.020 False representation concerning title.

RCW 9.40.040 Operating engine or boiler without spark arrester.

RCW 9.40.100 Tampering with fire alarm or firefighting equipment-false alarm-Penalties.

RCW 9.26A.120 Fraud in operating coin-box or telephone or other receptacle.

RCW 9A.42.035 Criminal mistreatment in the third degree.

RCW 9A.42.037 Criminal mistreatment in the fourth degree.

RCW 9.44.080 Misconduct in signing a petition.

<u>RCW 9.45.060</u>	Encumbered, leased, or rented personal property – Construction.
<u>RCW 9.45.070</u>	Mock auctions.
<u>RCW 9.45.080</u>	Fraudulent removal of property.
<u>RCW 9.45.090</u>	Knowingly, receiving fraudulent conveyances.
<u>RCW 9.45.100</u>	Fraud in assignment for benefit of creditors.
<u>RCW 9.46.196</u>	Cheating – Defined.
<u>RCW 9A.56.096</u>	Theft of rental, leased, lease-purchased, or loaned property.
<u>RCW 9.61.230</u>	Telephone harassment.
<u>RCW 9.61.240</u>	Telephone harassment – Permitting telephone to be used.
<u>RCW 9.61.250</u>	Telephone harassment – Offense, where deemed committed.
<u>RCW 9.61.260</u>	Cyberstalking.
<u>RCW 9.62.010</u>	Malicious prosecution.
<u>RCW 9.62.020</u>	Instituting suit in name of another.
<u>RCW 9.68A.011</u>	Definitions.
<u>RCW 9.68A.050</u>	Dealing in depictions of minor engaged in sexually explicit conduct.
<u>RCW 9.68A.060</u>	Sending, bringing into state depictions of minor engaged in sexually explicit conduct.
<u>RCW 9.68A.070</u>	Possession of depictions of minor engaged in sexually explicit conduct.
<u>RCW 9.68A.075</u>	Viewing depictions of a minor engaged in sexually explicit conduct.
<u>RCW 9.68A.080</u>	Reporting of depictions of minor engaged in sexually explicit conduct – civil immunity.
<u>RCW 9.68A.090</u>	Communicating with a minor for immoral purposes.
<u>RCW 9.68A.110</u>	(1),(2),(5), Certain defenses barred, permitted.
<u>RCW 9.68A.120</u>	Seizure and forfeiture of property.
<u>RCW 9.68A.130</u>	Recovery of costs of suit by minor.
<u>RCW 9.68A.150</u>	Allowing minor on premises of live erotic performance.
<u>RCW 9.69.100</u>	Duty of witnesses of offense against child or any violent offense – Penalty.
<u>RCW 9.73.010</u>	Divulging telegram.
<u>RCW 9.73.020</u>	Opening sealed letter.
<u>RCW 9.73.030</u>	Intercepting, recording or divulging private communication--Consent required--Exceptions.
<u>RCW 9.73.070</u>	Persons and activities excepted from chapter (as amended by 1991c312).
<u>RCW 9.73.090</u>	Certain emergency response personnel exempted from <u>RCW 9.73.030</u> through <u>RCW 9.73.080</u> Standards--Court authorizations--Admissibility.
<u>RCW 9.73.100</u>	Recordings available to defense counsel.
<u>RCW 9A.84.010</u>	(1),(2)(b), Riot.
<u>RCW 9A.84.020</u>	Failure to disperse.
<u>RCW 9.91.010</u>	Denial of civil rights – Terms defined.
<u>RCW 9.91.020</u>	Operating railroad, steamboat, vehicle,etc. while intoxicated.
<u>RCW 9.91.025</u>	Unlawful transit conduct.
<u>RCW 9.91.060</u>	Leaving children unattended in parked automobile.
<u>RCW 9.91.130</u>	Disposal of trash in charity donation receptacle.
<u>RCW 9.91.140</u>	Food stamps – Unlawful sale.
<u>RCW 9.91.150</u>	Tree spiking.

<u>RCW 9.91.170</u>	Layla's Law.
HB 1652	(Chapter 261, Laws of 1994) Cruelty to Animals.
<u>RCW 16.52.207</u>	Animal cruelty in the second degree.
<u>RCW 26.28.080</u>	Selling or giving tobacco to minor – Belief of representavie capacity, no denfense – Penalty.
<u>RCW 13.32A.080</u>	Unlawful harboring of a minor
<u>RCW 66.04.010</u>	Definitions
<u>RCW 66.20.200</u>	Unlawful acts relating to card of identification and certification card.
<u>RCW 66.20.210</u>	Licensee's immunity to prosecution or suit--Certification card as evidence of good faith.
<u>RCW 66.28.090</u>	Licensed premises or banquet permit premises open to inspection-- Failure to allow.
<u>RCW 69.38.010</u>	Poison defined.
<u>RCW 69.38.020</u>	Exceptions from chapter.
<u>RCW 69.38.030</u>	Poison register--Identification of purchaser.
<u>RCW 69.38.040</u>	Inspection of poison register--Penalty for failure to maintain register.
<u>RCW 69.38.050</u>	False representations--Penalty.
<u>RCW 69.38.060</u>	Manufacturers and sellers of poisons--License required--Penalty.
<u>RCW 70.93.060</u>	Littering prohibited—Penalties.
<u>RCW 70.54.010</u>	Polluting Water supply—Penalty.

9.03.350 Amendments to Washington statutes automatically included.

The amendments, addition or repeal by the Washington Legislature of any section of any of the adopted statutes shall be deemed to amend this chapter and the statutes contained herein which are adopted by reference in conformity with the amendment, addition or repeal, and it shall not be necessary for the legislative authority of this City to take any action with respect to such addition, amendment or repeal as provided by RCW.

9.03.360 Classification of offenses/penalties.

Any person who is convicted of violating or failure to comply with any offense, criminal or traffic criminal provision of this title or any other ordinance of the City of Monroe, including but not limited to Chapter 9 MMC, shall be subject to the following penalties:

- A. Gross Misdemeanor. The penalty provided by state law as now existing or hereafter amended for the same violation or type (degree) of violation, but not to exceed a \$5,000 fine or one year in jail, or both. If no state law provides for such penalty, then the penalty shall be a \$5,000 fine or one year in jail, or both.
- B. Misdemeanor. The penalty provided by state law as now existing or hereafter amended for the same violation or type (degree) of violation, but not to exceed a \$1,000 fine or 90 days in jail, or both. If no state law provides for such penalty, then the penalty shall be a \$1,000 fine or 90 days in jail, or both.
- C. Any criminal violation not specifically designated as a gross misdemeanor shall be a misdemeanor.



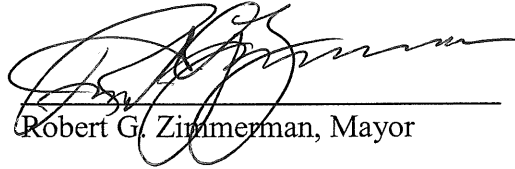
Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 17th day of May, 2011.

1<sup>st</sup> Reading: 5/17/11  
Published: 5/24/11  
Effective: 5/29/11

CITY OF MONROE, WASHINGTON:

  
Robert G. Zimmerman, Mayor

ATTEST/AUTHENTICATED:

  
Eadye Martinson, Deputy City Clerk

APPROVED AS TO FORM:

  
J. Zachary Lell, City Attorney