



CITY COUNCIL

AGENDA BILL # AB22-0049

**City of Algona
200 Washington Blvd.
Algona, WA 98001**

ITEM INFORMATION

SUBJECT: Ordinance 1212-22, Amending Chapter 9.04 AMC Adoption of State Criminal Statutes and Chapter 9.32 AMC Domestic Violence	Agenda Date: November 28, 2022		
	Department/Committee/Individual	Created	Reviewed
	Mayor		
	City Administrator		X
	City Attorney	x	X
	City Clerk		X
	Finance Dept		
	PW/Utilities		
	Planning Dept		
	Community Services		
	Police Dept		X
	Finance Committee		
Timeline: 1 st review 10/24/22	Planning Commission		
2 nd review 11/14/22	Civil Service Committee		
3 rd review and potential passage 11/28/22			

Staff Contact: Chief James Schrimpsher
Attachments: Ordinance 1212-22

SUBJECT: This Ordinance updates our criminal municipal code to match recent state law changes to Civil Protection Orders.

Per Zach, City Attorney: "Historically, the provisions governing various categories of protection orders were scattered throughout the RCW, including Chapter 26.50 RCW. The Washington Legislature recently passed, and Governor Inslee signed into law, E2SHB 1320. This bill repealed Chapter 26.50 RCW and Chapter 10.14 RCW – and numerous other, related RCW chapters - in their entirety and consolidated the subject matter of those provisions into a new comprehensive body of regulations governing multiple types of protection orders. This omnibus statute is now codified at Chapter 7.105 RCW. The Legislature subsequently amended these provisions through the passage of SHB 1901 in order to clarify the process for filing and service of petitions; hearing procedures; issuance of orders; violations and enforcement; and modification or termination of orders.

These changes will require an amendment to the City's local regulations in order to ensure consistency with current state law. The pertinent provisions of the City's criminal code are AMC 9.32.050 and AMC 9.04.365, which reference and adopt Chapter 26.50 RCW and Chapter 10.14 RCW, respectively – i.e., two of the statutes that have recently been repealed and replaced by Chapter 7.105 RCW. My recommendation is for the City Council to adopt an ordinance amending the City's criminal code to delete the current reference to Chapter 26.50 RCW and Chapter 10.14 RCW and to instead adopt RCW 7.105 in its entirety."

COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: Make a motion to approve Ordinance 1212-22.

RECORD OF COUNCIL ACTION

<i>Meeting Date:</i>	<i>Action:</i>	<i>Vote:</i>

CITY OF ALGONA, WASHINGTON

ORDINANCE NO. 1212-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALGONA, WASHINGTON, AMENDING CHAPTER 9.04 AMC ADOPTION OF STATE CRIMINAL STATUTES AND CHAPTER 9.32 AMC DOMESTIC VIOLENCE; AMENDING THE CITY'S CRIMINAL CODE TO ADOPT BY REFERENCE CURRENT WASHINGTON STATUTES GOVERNING CIVIL PROTECTION ORDERS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Algona protects the public safety through the adoption by reference and enforcement of numerous Washington statutes, including without limitation the statutes enumerated in Chapters 9.04 and 9.32 of the Algona Municipal Code (AMC); and

WHEREAS, the Washington Legislature recently passed, and the Governor signed into law, E2SHB 1320, which bill repealed numerous provisions of the Revised Code of Washington (RCW) addressing various types of civil protection orders, and consolidated the subject matter of those provisions into a new comprehensive body of regulations that is now codified at Chapter 7.105 RCW; and

WHEREAS, the City Council desires to amend Chapters 9.04 and 9.32 AMC to ensure that the current provisions of state law, as amended by E2SHB 1320 and subsequent, related enactment of the Legislature, are accurately adopted by reference and enforceable within the City of Algona;

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

Section 1. Amendment of AMC 9.04.365. Section 9.04.365 of the Algona Municipal Code is hereby amended to provide in its entirety as follows:

9.04.365 Chapters 9A.46 and 7.105 ~~10.14~~—Harassment and Civil Protection Orders.

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

- 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.46.085 Stalking no-contact orders – Appearance before magistrate required
- 9A.46.090 Nonliability of peace officer
- 9A.46.100 “Convicted,” time when
- 9A.46.110 Stalking
- 9A.46.120 Criminal gang intimidation
- ~~10.14.020 Definitions~~
- ~~10.14.030 Course of conduct—Determination of purpose~~
- ~~10.14.040 Protection order—Petition~~
- ~~10.14.060 Proceeding in forma pauperis~~
- ~~10.14.065 Orders—Judicial information system to be consulted~~
- ~~10.14.070 Hearing—Service~~
- ~~10.14.080 Antiharassment protection orders—Ex parte temporary—Hearing—Longer term, renewal—Acts not prohibited~~
- ~~10.14.085 Hearing reset after ex parte order—Service by publication—Circumstances~~
- ~~10.14.090 Representation or appearance~~
- ~~10.14.100 Service of order~~
- ~~10.14.105 Order following service by publication~~
- ~~10.14.110 Notice to law enforcement agencies—Enforceability~~
- ~~10.14.115 Enforcement of order~~
- ~~10.14.120 Disobedience of order~~
- ~~10.14.125 Service by publication—Costs~~
- ~~10.14.130 Exclusion of certain actions~~
- ~~10.14.140 Other remedies~~
- ~~10.14.150 Jurisdiction~~
- ~~10.14.155 Personal jurisdiction—Nonresident individual~~
- ~~10.14.170 Criminal penalty~~
- ~~10.14.180 Modification of order~~

10.14.190 Constitutional rights
10.14.210 Court appearance after violation
10.14.900 Severability
Ch. 7.105 Civil Protection Orders

Section 2. Amendment of AMC 9.32.050. Section 9.32.050 of the Algona

Municipal Code is hereby amended to provide in its entirety as follows:

9.32.050 Adoption of state statutes by reference.

The following state statutes, together with any amendments thereof or additions thereto, are adopted by reference as though fully set forth in this section and made a part of the law of the city pursuant to RCW 35A.12.140:

RCW

<u>Ch. 7.105</u>	<u>Civil Protection Orders*</u>
26.09.300	Restraining orders
26.50.010	Definitions
26.50.020	Commencement of action
26.50.030	Petition for an order for protection
26.50.040	Application for leave to proceed in pauperis
26.50.050	Hearing
26.50.060	Relief
26.50.070	Ex parte temporary order for protection
26.50.080	Issuance of order
26.50.085	Hearing reset after ex parte order
26.50.090	Order
26.50.095	Order following service by publication
26.50.100	Order
26.50.110	Violation of order — Penalties
26.50.115	Enforcement of ex parte order
26.50.120	Violation of order
26.50.125	Service by publication
26.50.130	Order

RCW

~~26.50.140~~ ~~Peace officers — Immunity~~
~~26.50.210~~ ~~Proceedings additional~~
~~26.50.903~~ ~~Severability~~
10.99 et seq. Domestic violence – Official response
*Separately adopted pursuant to Chapter 9.04 AMC.

Section 3. 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.

Section 4. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF THIS 28TH DAY OF NOVEMBER, 2022.

Troy Linnell, Mayor Pro Tem

ATTEST:

Jessica Griess, City Clerk

APPROVED AS TO FORM:

J. Zachary Lell
City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.: 1212-22
Date of Publication: