

ORDINANCE NO. 6756

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, CREATING A NEW SECTION TO CHAPTER 9.14.050 OF THE AUBURN CITY CODE RELATED TO ASSAULT

WHEREAS, RCW 9A.36.031(1)(g) criminalizes assaulting a police officer as a class C felony that only County prosecutors can charge;

WHEREAS, if a County declines to charge this offense, cities are left with two imperfect gross misdemeanor prosecution options: 1) charge the suspect with assault 4 under RCW 9A.36.041 (which does not account for the victim's status as a police officer); or 2) charge the suspect with attempted assault 3 (which is legally and factually confusing in cases alleging a completed assault);

WHEREAS, the case of City of Spokane v. White (102 Wn. App. 955) holds that the State has not preempted laws criminalizing assault;

WHEREAS, other City officers, such as animal control, code enforcement, and parking enforcement officers, also deserve enhanced legal protection from assaults occurring in the course of their work;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. New Section to City Code. A new section 9.14.050 of the Auburn City Code is hereby created to read as follows:

9.14.050 Assaulting a City officer

It is a gross misdemeanor for any person aged 18 years or older to assault a City of Auburn police officer, animal control officer, code enforcement officer, or parking enforcement officer while the officer is performing official duties. A violation of this section is punishable by a maximum penalty of 364 days in jail

and/or a \$5,000 fine. A violation of this section carries a mandatory minimum penalty of 30 days in jail.

Section 2. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 3. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. Effective date. This Ordinance will take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Kendra Comeau, City Attorney

Published: _____