



MONROE CITY COUNCIL

Agenda Bill No. 20-128

SUBJECT:	Ordinance No. 011/2020 Amending Chapter 9.25 MMC Stay out of Drug Areas (SODA) Orders; Final Reading
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DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
8/25/2020	Monroe Police	Jeffrey D. Jolley	Jeffrey D. Jolley	Consent Agenda #6

Discussion: 8/11/2020, 8/25/2020
Attachments: 1. Ordinance No. 011/2020
 2. Ordinance No. 005/2018

REQUESTED ACTION: Move to adopt Ordinance No. 011/2020, AMENDING CHAPTER 9.25 MMC STAY OUT OF DRUG AREAS (SODA) ORDERS; CLARIFYING THE LEGAL EFFECT OF SODA ORDER VIOLATIONS AS SEPARATELY PUNISHABLE GROSS MISDEMEANORS; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

NOTE: *First reading of this ordinance was accepted on August 11, 2020, and no changes have been made since that time.*

POLICY CONSIDERATIONS

RCW 35A.11.020 provides that the City Council has the power to adopt and enforce ordinances regulating local affairs and municipal affairs, and to impose fines and penalties for violation of city ordinances.

DESCRIPTION/BACKGROUND

In 2018 the City Council adopted Ordinance No. 005/2018, which established a new Chapter 9.25 of the Monroe Municipal Code (MMC). Chapter 9.25 MMC contains standards and procedures for designating certain areas within the City as “Stay Out of Drug Areas” (SODAs), and authorizing the Monroe Municipal Court to condition the pretrial release and/or the post-conviction deferral or suspension of sentence for drug offenses upon the defendant’s continued physical exclusion from such areas.

It was recently brought to the Police Department’s attention that the administration of the City’s current Stay Out of Drug Area (SODA) ordinance, Chapter 9.25 MMC, would be enhanced and facilitated by clarifying the legal effect of SODA order violations as separately enforceable crimes. Proposed Ordinance No.011/2020 addresses this issue by expressly designating such violations as gross misdemeanors. This clarifying revision is the only amendment being proposed; the underlying framework of the City’s SODA ordinance would remain unchanged.

Upon adoption, the proposed ordinance would clarify that a person who knowingly and willfully disobeys a SODA (“Stay Out of Drug Areas”) order issued under this chapter is guilty of a gross misdemeanor. To effectuate this outcome, subsection 9.25.040(C) MMC would be added to the City’s existing regulations as set forth below:

A. Written orders issued under this chapter shall contain the court’s directives and shall bear the legend:

WARNING: Violation of this order subjects the violator to arrest under this chapter and shall constitute a separate criminal offense and may result in imposition of suspended or deferred jail time and/or fine.

B. Whenever a law enforcement officer shall have probable cause to believe that a person subject to an order issued under this chapter and the person knows of the order, and that a violation of the order is occurring in the officer’s presence, the officer shall have the authority to bring the person before the court wherein the order was issued, and for such purpose may rearrest such person without warrant or other process.



MONROE CITY COUNCIL

Agenda Bill No. 20-128

C. A person who knowingly and willfully disobeys a SODA ("Stay Out of Drug Areas") order issued under this chapter is guilty of a gross misdemeanor and shall be punished by a fine of not more than five thousand dollars or imprisonment for up to three hundred sixty-four days, or both such fine and imprisonment.

FISCAL IMPACTS

None.

TIME CONSTRAINTS

None.

ALTERNATIVES TO REQUESTED ACTION

1. Move to adopt the ordinance.
2. Take no action; and provide staff with direction for additional changes/request additional information be presented prior to action.
3. Take no action; and do not consider amendments at this time.

**CITY OF MONROE
ORDINANCE NO. 011/2020**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING CHAPTER 9.25 MMC STAY OUT OF DRUG AREAS (SODA) ORDERS; CLARIFYING THE LEGAL EFFECT OF SODA ORDER VIOLATIONS AS SEPARATELY PUNISHABLE GROSS MISDEMEANORS; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City has adopted and codified at Chapter 9.25 MMC standards and procedures for designating certain areas within the City as Stay Out of Drug Areas (SODAs), and authorizing the Monroe Municipal Court to condition the pretrial release and/or the post-conviction deferral or suspension of sentence for drug offenses upon the defendant's continued physical exclusion from such areas; and

WHEREAS, the City Council desires to amend Chapter 9.25 MMC by clarifying the legal effect of SODA order violations as separately enforceable gross misdemeanors in their own right;

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

Section 1. Legislative Findings. The above recitals, together with the content of Agenda Bill No 20-121, are hereby adopted as legislative findings in support of this ordinance.

Section 2. Amendment of MMC 9.25.040. Section 9.25.040 of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

9.25.040 Violation of order – Rearrest - Penalties.

A. Written orders issued under this chapter shall contain the court's directives and shall bear the legend:

WARNING: Violation of this order subjects the violator to arrest under this chapter and shall constitute a separate criminal offense and may result in imposition of suspended or deferred jail time and/or fine.

B. Whenever a law enforcement officer shall have probable cause to believe that a person subject to an order issued under this chapter and the person knows of the order, and that a violation of the order is occurring in the officer's presence, the officer shall have the authority to bring the person before the court wherein the order was issued, and

for such purpose may rearrest such person without warrant or other process.

C. A person who knowingly and willfully disobeys a SODA (“Stay Out of Drug Areas”) order issued under this chapter is guilty of a gross misdemeanor and shall be punished by a fine of not more than five thousand dollars or imprisonment for up to three hundred sixty-four days, or both such fine and imprisonment.

Section 3. 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 4. 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 _____ day of _____, 2020.

First Reading: August 11, 2020
Adoption:
Published:
Effective:

CITY OF MONROE, WASHINGTON:

(SEAL)

Geoffrey Thomas, Mayor

ATTEST:

APPROVED AS TO FORM:

Rabecca R. Hasart, Interim City Clerk

J. Zachary Lell, City Attorney

**CITY OF MONROE
ORDINANCE NO. 005/2018**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING TITLE 9 MMC BY THE ADDITION OF A NEW CHAPTER 9.25 STAY OUT OF DRUG AREAS (SODA) ORDERS THERETO; AUTHORIZING THE MONROE MUNICIPAL COURT TO CONDITION THE PRETRIAL RELEASE AND/OR POST-CONVICTION SUSPENSION OF SENTENCE FOR CERTAIN DRUG-RELATED OFFENSES UPON THE DEFENDANT'S EXCLUSION FROM AREAS KNOWN FOR HIGH LEVELS OF ILLEGAL DRUG ACTIVITY; PROVIDING FOR THE PERIODIC DESIGNATION OF SUCH AREAS BY CITY COUNCIL RESOLUTION; ESTABLISHING STANDARDS, PROCEDURES AND PENALTIES THEREFORE; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE

WHEREAS, protecting the Monroe community from the dangerous and socially detrimental impacts of illegal drug activity is a fundamental priority of the Monroe City Council; and

WHEREAS, the City Council desires to designate certain areas within the City as Stay Out of Drug Areas, and to authorize the Monroe Municipal Court to condition the pretrial release and/or the post-conviction deferral or suspension of sentence for drug offenses upon the defendant's continued physical exclusion from such areas; and

WHEREAS, excluding drug offenders from Stay Out of Drug Areas will reduce the likelihood of recidivism by the defendant and will decrease the incidence of illegal drug activity within such areas.

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

Section 1. Legislative Findings. The above recitals, together with the content of Agenda Bill Nos. 18-068 and 18-074, are hereby adopted as legislative findings in support of this ordinance.

Section 2. Amendment of Title 9 MMC—Adoption of New Chapter 9.25. Title 9 of the Monroe Municipal Code is hereby amended by the addition of a new Chapter 9.25, Stay Out of Drug Areas (SODA) Orders to provide in its entirety as follows.

Chapter 9.25 - STAY OUT OF DRUG AREAS (SODA) ORDERS

Sections:

- 9.25.010 Orders—Conditions.
- 9.25.020 Person subject to court order defined.
- 9.25.030 Stay out of designated areas orders – Issuance - Other court orders.
- 9.25.040 Violation of order - Rearrest.
- 9.25.050 Prohibited areas – Designation - Modification and termination.

9.25.010 Orders - Conditions.

Any judge or judge pro tempore of the Monroe municipal court may issue written orders to criminal defendants describing conditions of their pretrial release or the post-conviction conditions of suspension or deferral of their sentences. Orders must be substantially in the form described in this chapter.

9.25.020 Person subject to court order defined.

As used in this chapter, "person subject to court order" means any person who is subject to an order issued under MMC 9.25.010.

9.25.030 Stay out of designated areas orders – Issuance - Other court orders.

A. Any order issued pursuant to this chapter that specifically orders as a condition of pretrial release and/or deferral or suspension of sentence that the defendant stay out of areas with a high level of illegal drug trafficking shall be hereinafter referred to as a "SODA" ("Stay Out of Drug Areas") order.

B. SODA orders may be issued to anyone charged with or convicted of possession of drug paraphernalia, manufacture/delivery of drug paraphernalia, delivery of drug paraphernalia to a minor, selling/giving drug paraphernalia to another person, possession of controlled substances, or any violation of the Controlled Substances Act, RCW 69.70.

C. Nothing within this section shall be construed as precluding the court from issuing an order pursuant to this chapter that is not specifically a SODA order.

9.25.040 Violation of order - Rearrest.

A. Written orders issued under this chapter shall contain the court's directives and shall bear the legend:

WARNING: Violation of this order subjects the violator to arrest under this chapter and shall constitute a separate criminal offense and may result in imposition of suspended or deferred jail time and/or fine.

B. Whenever a law enforcement officer shall have probable cause to believe that a person subject to an order issued under this chapter and the person knows of the order, and that a violation of the order is occurring in the officer's presence, the officer shall have the authority to bring the person before the court wherein the order was issued, and for such purpose may rearrest such person without warrant or other process.

9.25.050 Prohibited areas – Designation - Modification and termination.

A. Whenever an order is issued under this chapter, the subject of the order may be ordered to stay out of certain areas that are set forth within the written order. These areas will hereinafter be referred to as "prohibited areas."

B. Prohibited areas that are set forth in SODA orders may be established, modified, or eliminated by a resolution of the city council. The police department will provide information to the city council to support establishing, modifying, or eliminating prohibited areas.

C. Prohibited areas that are set forth in orders issued under this chapter other than SODA orders may be set by court discretion and are not required to be set in accordance with subsection (B).

D. Upon request for modification or termination of any order issued under this chapter, the court shall consider the requested modification or termination by allowing for a process by which the subject of the order can provide relevant testimony or other evidence in support of his/her request.

E. Unless otherwise ordered by the court, an order issued under this chapter shall have as its termination date two years from the date of its issuance.

F. Whenever an order is issued, modified or terminated pursuant to this chapter, the clerk of the court shall forward a copy of the order on or before the next judicial day to the Monroe police department. Upon receipt of the copy of the order, the Monroe police department shall enter the order until the expiration date specified on the order into any computer-based criminal intelligence information system(s) available to Monroe police officers. Upon receipt of notice that an order has been terminated, the Monroe police department shall remove the order from the computer-based criminal intelligence information system(s).

G. Nothing in any provision of this chapter related to SODA orders shall be construed as prohibiting the subject of a SODA order from participating in a scheduled court hearing or from attending a scheduled meeting with his/her legal counsel within a prohibited area.

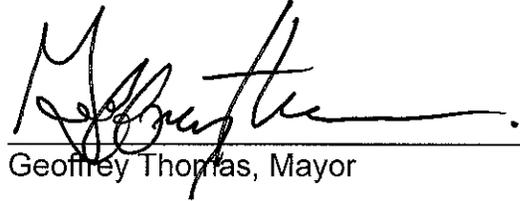
Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. 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 20th day of April, 2018.

First Reading: March 6, 2018
Adoption: March 20, 2018
Published: March 23, 2018
Effective: March 28, 2018

CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:



Elizabeth M. Adkisson, MMC, City Clerk



J. Zachary Lell, City Attorney