



CITY OF
SUMNER
WASHINGTON

**PUBLIC SAFETY COMMITTEE MEETING
AGENDA
ZOOM
MARCH 17, 2021 5:00 PM**

Committee Members:

Barbara Bitetto
Curt Brown
Josh Hamilton
Patrick Reed

Staff Contacts:

Bud Backer, Chief EPFR
Brad Moericke, Chief, Sumner Police

Join Zoom Meeting

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MONTHLY ACTIVITY REPORT - FIRE

MONTHLY ACTIVITY REPORT - POLICE

DEPARTMENT UPDATES

PROPOSED AMENDMENTS TO MUNICIPAL CODES

1. Proposed Drug Code Updates
2. Proposed amendments to SMC 9.46 & 9.47
3. Amendment to SMC 10.68.020

GOOD OF THE ORDER

ADJOURNMENT

ORDINANCE NO. _____
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING SECTION 9.16.045 OF THE SUMNER MUNICIPAL CODE REGARDING THE POSSESSION AND USE OF DANGEROUS DRUGS.

WHEREAS, in RCW 69.50.4013(1), the State of Washington provides that it is unlawful for an individual to possess a controlled substance and also provides that a violation of this provision is a felony; and

WHEREAS, in the Washington State Supreme Court ruling in *State of Washington v. Blake*, No. 96873-0 Filed February 25, 2021, the Court declared that enforcement of RCW 69.50.4013(1) and punishment of the same to be unconstitutional because the statute is not limited to the *knowing* possession of a controlled substance and appears to prohibit and punish unwitting or unknowing possession; and,

WHEREAS, RCW 69.50.608 provides that the state of Washington “fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act” and that “[c]ities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter;” and

WHEREAS, the Washington Supreme Court in *Tacoma v. Luvene*, 118 Wn.2d 826, 827 P.2d 1374 (1992) has ruled that RCW 60.50.608 grants some measure of concurrent jurisdiction to municipalities and preempts “only the setting of penalties for violations of the controlled substance statutes [...] not the ability of local governments to criminalize drug-related activity. In accordance with the ruling in *State v. Blake*, there is currently no state regulation within Chapter 69.50 RCW which punishes the *knowing* possession of a controlled substance and therefore this conduct may be criminalized and regulated by local government; and

WHEREAS, the city council desires to amend SMC 9.16.045 to clarify that this provision applies only to the knowing, and not unwitting, possession of dangerous drugs. The city council desires to amend this code provisions in a manner that is consistent with and is not in conflict with the ruling in *State of Washington v. Blake* (No. 96873-0) or the regulations outlined in Chapter 69.50 RCW; and

WHEREAS, the proposed code revisions were before the Public Safety Committee on March 17, 2021 and the Public Safety Committee gave the item a do pass.

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

Section 1. Chapter 9.16.045 of the Sumner Municipal Code is hereby revised and amended as follows:

9.16.045 ~~Sale,~~ **p**Possession or use of dangerous drugs.

A. It is unlawful for any person to ~~sell, offer to sell, purchase, offer to purchase, give away, barter, exchange, distribute, knowingly~~ possess or use any dangerous drug except as now or hereafter authorized or permitted by the laws of the state or except upon the written or oral order or prescription of a physician, surgeon, dentist, or veterinary surgeon, licensed to practice in the state.

B. The term “dangerous drug” for the purpose of this chapter shall mean and include any controlled substance classified in Schedule I, II, III or IV of Chapter 69.50 RCW, as it now exists or shall hereafter be added to, deleted from, modified or amended.

C. Any violation of this section is a gross misdemeanor. (Ord. 2430 § 1 (part), 2013)

Section 2. **Severability – Construction.** If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 3. **Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the Code Reviser are authorized to make the necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. **Effective Date.** This ordinance shall be in full force and effect five (5) days from and after its passage, approval and publication, as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 5th day of April, 2021.

William L. Pugh

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse

City Attorney Andrea Marquez

First Reading: [Click here to enter a date. \(Postponed\)](#)
Date Adopted: [Click here to enter a date.](#)
Date of Publication: [Click here to enter a date.](#)
Effective Date: [Click here to enter a date.](#)

ORDINANCE NO. _____
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING CHAPTER 9.20 OF THE SUMNER MUNICIPAL CODE REGARDING DRUG PARAPHERNALIA TO ADOPT A NEW CODE SECTION AND TO UPDATE EXISTING SECTIONS CONSISTENT WITH THE SAME.

WHEREAS, in RCW 69.50.412, the State of Washington regulates and prohibits the use of drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana; however, this state statute does not expressly regulate the possession of drug paraphernalia, which is conduct left to the local governments to regulate; and

WHEREAS, in the Washington State Supreme Court ruling in *State of Washington v. Blake*, No. 96873-0 Filed February 25, 2021, the Court declared that laws that criminalize the unknowing possession of controlled substances are unconstitutional; and,

WHEREAS, the city council desires to adopt a new code section that prohibits the knowing possession of drug paraphernalia in a manner that is consistent with and is not in conflict with the ruling in *State of Washington v. Blake* (No. 96873-0) or the regulations outlined in Chapter 69.50 RCW; and

WHEREAS, the proposed code revisions were before the Public Safety Committee on XXXXX and the Public Safety Committee gave the item a do pass.

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

Section 1. Chapter 9.20 of the Sumner Municipal Code is hereby revised and amended pursuant to Exhibit A, attached hereto and incorporated herein.

Section 2. Severability – Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this

ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the Code Reviser are authorized to make the necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage, approval and publication, as provided by law.

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Chapter 9.20

DRUG PARAPHERNALIA

Sections:

Article I. Sales and Display

- 9.20.010 Permitting presence of unaccompanied minors prohibited.
- 9.20.020 Parents to accompany minors.
- 9.20.030 Separation of sales and display rooms.
- 9.20.040 Nuisance abatement.
- 9.20.050 Violation – Penalty.

Article II. Possession, Manufacture, Advertisement

- 9.20.060 Statutes adopted by reference.
- 9.20.065 [Knowing possession of drug paraphernalia.](#)
- 9.20.070 Repealed.
- 9.20.080 Repealed.
- 9.20.090 Repealed.
- 9.20.100 Nuisance declared.
- 9.20.110 Disposition of property.
- 9.20.120 Violation – Penalty.

Article I. Sales and Display

9.20.010 Permitting presence of unaccompanied minors prohibited.

No owner, manager, proprietor or other person in charge of any place of business selling or displaying for the purpose of sale, any device, contrivance, instrument or paraphernalia, as defined by RCW 69.50.102, for smoking or injection, or consuming marijuana, hashish, PCP, or any controlled substance, as defined by the laws of the state, other than prescription drugs and devices to ingest or inject prescription drugs, as well as roach clips, and cigarette papers and rollers designed for the smoking of the foregoing, shall allow or permit any person under the age of 18 years to be, remain in, enter or visit such room unless such minor person is accompanied by one of his or her parents, or by his or her legal guardian. (Ord. 1315 § 1, 1985)

9.20.020 Parents to accompany minors.

A person under the age of 18 years shall not be, remain in, enter or visit any room in any place used for the sale, or displaying for sale, devices, contrivances, instruments or paraphernalia, as defined by RCW 69.50.102, for smoking or injecting marijuana, hashish, PCP, or any controlled substance, other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, unless such person is accompanied by one of his or her parents, or his or her legal guardian. (Ord. 1315 § 2, 1985)

9.20.030 Separation of sales and display rooms.

A person shall not maintain in any place of business to which the public is invited the display for sale, or the offering to sell, of devices, contrivances, instruments or paraphernalia, as defined by RCW 69.50.102, for smoking or injecting marijuana, hashish, PCP, or any controlled substance, other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed for the smoking of the foregoing, unless within a separate room or enclosure to which minors not accompanied by a parent or legal guardian are excluded. Each entrance to such a room shall be signposted in reasonably visible and legible words to the effect that narcotic paraphernalia are being offered for sale in such a room, and minors, unless accompanied by a parent or legal guardian, are excluded. (Ord. 1315 § 3, 1985)

9.20.040 Nuisance abatement.

A. The distribution or possession for the purpose of sale, exhibition, or display in any place of business from which minors are not excluded as set forth in this section, and where devices, contrivances, instruments or paraphernalia, as

defined by RCW 69.50.102, for smoking or injecting marijuana, hashish, PCP, or any controlled substance, other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed for smoking the foregoing, is a public nuisance, and any building, structure, premises, or room or rooms therein, constituting a nuisance as herein defined may be abated in a civil action in the manner provided by law, or the court upon final judgment of conviction for violation of this chapter of any person found therein at the time of his arrest may forthwith, and as a part of the same proceedings, direct the chief of police to abate summarily any such place as a nuisance as defined by this chapter.

B. Such abatement shall be effected by closing and securely locking the place abated and excluding all persons therefrom. It is unlawful for any owner, agent, lessee, tenant, person in charge or occupant to enter, use or occupy any building, structure or premises, or room or rooms therein, abated as a nuisance under the provisions of this chapter, from and for a period of one year after the date of such abatement, unless he as principal gives and files with the clerk-treasurer a good and sufficient surety bond, to be approved by the court making the order of abatement, or in case of summary abatement to be approved by the chief of police, in the penal sum of \$1,000, payable to the city, conditioned that such building, structure or premises, or room or rooms therein, will not thereafter be used in violation of this chapter, and further conditioned that he will pay all fines, costs and damages assessed against him for any violation of this chapter, and in case of the violation of any of the conditions of such bond the whole amount maybe recovered as penalty to the city. This remedy is in addition to any other remedy provided by law. (Ord. 1315 § 4, 1985)

9.20.050 Violation – Penalty.

Any person who violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined by a sum not exceeding \$1,000, or by imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment. (Ord. 1315 § 5, 1985)

Article II. Possession, Manufacture, Advertisement

9.20.060 Statutes adopted by reference.

Pursuant to the provisions of RCW 35A.12.140, the following sections of chapter 69.50 RCW relating to drug paraphernalia, as currently adopted and hereafter amended, are adopted by this reference:

RCW

69.50.102 Drug paraphernalia – Definitions

69.50.412 Prohibited acts: E – Penalties.

(Ord. 1469 § 1, 1989; Ord. 1396 § 1, 1987

)9.20.065 Knowing Possession of Drug Paraphernalia

It is unlawful for any person to knowingly possess drug paraphernalia, as defined in RCW 69.50.102, adopted by reference. A person who violates this section shall be guilty of a misdemeanor.

9.20.070 Possession prohibited.

Repealed by Ord. 1537. (Ord. 1396 § 2, 1987)

9.20.080 Manufacture or delivery prohibited.

Repealed by Ord. 1537. (Ord. 1396 § 3, 1987)

9.20.090 Advertisement prohibited.

Repealed by Ord. 1537. (Ord. 1396 § 4, 1987)

9.20.100 Nuisance declared.

The distribution or possession for the purpose of sale, exhibition or display, in any place of business, of any devices, contrivances, instruments or paraphernalia which are primarily designed for or intended to be used for the smoking, ingestion or consumption of marijuana, hashish, PCP or any controlled substance, other than prescription drugs and

devices to ingest or inject prescription drugs, is declared to be a public nuisance and may be abated. This remedy shall be in addition to any other remedy provided by law, including the penalty provisions applicable for violation of the terms and provisions of this article. (Ord. 1396 § 5, 1987)

9.20.110 Disposition of property.

Any item determined by a court of competent jurisdiction to be drug paraphernalia shall be deemed forfeited to the city. (Ord. 1396 § 6, 1987)

9.20.120 Violation – Penalty.

Any person who violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined by a sum not exceeding \$1,000, or by imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment.

~~A. A person who is convicted of a violation of this article, unless otherwise specifically designated as a gross misdemeanor, is guilty of a misdemeanor and shall be punished by imprisonment for not less than 24 consecutive hours, and by a fine of not less than \$250.00. On a second or subsequent conviction, the fine shall not be less than \$500.00. These fines shall be in addition to any other fine or penalty imposed. Unless the court finds that the imposition of the minimum imprisonment will pose a substantial risk to the defendant's physical or mental well-being or that the local jail facilities are in an overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of 40 hours of community service. If a minimum term of imprisonment is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. Unless the court finds the person to be indigent, the minimum fine shall not be suspended or deferred.~~

~~B. A person who is convicted of a violation of this article, specifically designated as a gross misdemeanor, shall be punished by a fine in an amount fixed by the court of not more than \$5,000, or by imprisonment for a maximum term fixed by the court of not more than one year, or by both such imprisonment and fine. (Ord. 1469 § 2, 1989; Ord. 1396 § 7, 1987)~~

ORDINANCE NO. _____
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING CHAPTERS 9.46 AND 9.47 OF THE SUMNER MUNICIPAL CODE REGARDING UNLAWFUL RACE ATTENDANCE AND STAY OUT OF AREAS OF RACING UPDATING THE DEFINITION OF AN UNLAWFUL RACE EVENT AND ADDING ADDITIONAL AREAS DESIGNATED AS NO RACING ZONES.

WHEREAS, in 2009 the Sumner City Council adopted Ordinance number 2287 creating new sections of the Sumner Municipal Code prohibiting unlawful race attendance under SMC 9.46 and designating certain areas as “no racing zones” under SMC 9.47; and

WHEREAS, since the Ordinance was adopted, police officers have observed other reckless driving activity occurring at these events that do not meet the current definition in the Ordinance as an unlawful race event. This activity includes squealing of tires while the vehicle is stationary or in motion, rapid swerving or weaving, driving in a straight or curved direction, in a circular direction, around corners or in circles in an activity commonly referred to as “drifting” or “hooning” or by breaking traction and leaving visible tire acceleration marks on the surface of the highway or ground; and,

WHEREAS, the City’s Manufacturing and Industrial Center has continued to build out adding new improved roadways and large industrial warehouse parking areas that are attractive locations for unlawful race events that creates the need to expand our current designated no racing zones in certain areas; and

WHEREAS, these unlawful race events and their spectators can cause damage to pavement, curbing, and street striping. Due to the volume of people that attend these unlawful race events, which can number in the hundreds, adjacent private property owners suffer economic loss due to the trash, human waste, and graffiti that is left behind. These events also cause damage to private property by destroying planters, vegetation, and parking lot black top. In addition, due to the high volume of people who attend these events and their uncontrolled nature, there is a substantial risk of death or serious injury to participants and their spectators; and

WHEREAS, the City Council finds that it is in the interest of the public health, safety and welfare to adopt this Ordinance.

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

Section 1. Chapter 9.46 and 9.47 of the Sumner Municipal Code is hereby revised and amended pursuant to Exhibit A, attached hereto and incorporated herein.

Section 2. **Severability – Construction.** If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 3. **Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the Code Reviser are authorized to make the necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. **Effective Date.** This ordinance shall be in full force and effect five (5) days from and after its passage, approval and publication, as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 5th day of April, 2021.

William L. Pugh

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse

City Attorney Andrea Marquez

First Reading: [Click here to enter a date. \(Postponed\)](#)
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EXHIBIT A

9.46.010 Definitions.

Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

A. “Public place” means an area, whether publicly or privately owned, generally open to the public and includes, without limitation, the doorways and entrances to buildings or dwellings and the grounds enclosing them, streets, sidewalks, bridges, alleys, plazas, parks, driveways, and parking lots.

B. “Unlawful race event” means an event wherein persons willfully compare or contest relative speeds by operation of one (1) or more motor vehicles or wherein persons willfully demonstrate, exhibit, or compare speed, maneuverability, or the power of one or more motor vehicles, in a straight or curved direction, in a circular direction, around corners, or in circles in any activity commonly referred to as “drifting,” “hooning,” or by breaking traction. (Ord. 2287 § 1 (part), 2009)

9.46.020 Unlawful race attendance – Prohibited.

Any person ~~who is (A) who has actual or constructive knowledge that they are~~ in a designated SOAR area, and ~~(B)~~ who has actual or constructive knowledge that an unlawful race event is occurring, has occurred, or is about to occur, and ~~(C)~~ was there with the intent to observe or support or encourage the unlawful race event, is guilty of a misdemeanor. (Ord. 2287 § 1 (part), 2009)

9.47.005 Findings.

The zones listed in SMC 9.47.030 are frequented by illegal racers and those who attend ~~illegal races~~ unlawful race events. These zones attract illegal street racers and their spectators as the roads are straight, wide, and long, and traffic during the dark hours is not heavy. It is in these zones that street racers and their spectators cause damage to pavement, curbing, and street striping. Due to the volume of people that attend illegal street races in these zones, which can number in the hundreds, adjacent private property owners suffer economic loss due to the trash, human waste, and graffiti that is left behind. Street racers also cause damage to this private property by destroying planters and vegetation and parking lot black top. In addition, due to the high volume of people who attend illegal street races, there is a severe risk of danger to the street racers and their spectators. Spectators crowd the streets as vehicles race close by at excessive speeds. This uncontrolled racing environment has been known to cause serious injuries and death around the country. The zones listed in SMC 9.47.030 suffer a much higher incidence of illegal street racing and race attendance than other zones or areas of the city. (Ord. 2287 § 2 (part), 2009)

9.47.010 Stay out of areas of racing – Abbreviation.

As used in this title, the acronym “SOAR” represents “stay out of areas of racing.” (Ord. 2287 § 2 (part), 2009)

9.47.015 SOAR orders.

A SOAR order prohibits persons from engaging in racing or unlawful race attendance within a no racing zone, as set forth in SMC 9.47.030. (Ord. 2287 § 2 (part), 2009)

9.47.020 SOAR orders – Issuance.

A. The municipal court may issue a SOAR order to any person charged with racing, unlawful race attendance, reckless driving associated with race activity, or trespass associated with race activity as a condition of pre-trial release, sentence, or deferred sentence.

B. A person is deemed to have notice of the SOAR order when:

1. The signature of either the person named in the order or that of his or her attorney is affixed to the bottom of the order, which signature shall signify the person named in the order has read the order and has knowledge of the contents of the order; or
2. The order recites that the person named in the order, or his or her attorney, has appeared in person before the court at the time of issuance of the order.

C. The written SOAR order shall contain the court’s directives and shall bear the statement: “Violation of this order is a criminal offense under SMC 9.47.040 and will subject the violator to arrest.” (Ord. 2287 § 2 (part), 2009)

EXHIBIT A

9.47.030 SOAR orders – Designated “no racing zones.”

The SOAR order may apply to any of the following designated “no racing zones”:

- A. 142nd Avenue East from Tacoma Avenue North to 24th Street East.
- B. 24th Street East from ~~136th Avenue East~~ West Valley Hwy E. to 142nd Avenue East.
- C. 8th Street E from the White River Bridge east to the City limits.
~~Fryar Avenue from Main Street to Puyallup Street.~~
- D. 140th Avenue from 16th Street to 24th Street.
- E. 136th Avenue 16th Street to 24th Street E.
- F. 137th Avenue from 16th Street to its merger with 138th Avenue E. continuing south to 24th Street E.
- G. 16th Street E. from 132nd Avenue to its eastern termination point.
- H. West Valley Hwy E. from Sumner Heights Drive to the northern City limits.
- I. Fryar Avenue from Main Street to Puyallup Street.

These “no racing zones” include any highway, as that term is defined in RCW 46.04.197, together with adjoining public places and rights of way ~~property areas~~ (such as sidewalks, entryways, landscaped areas, and parking areas) if those adjoining areas are being used for unlawful race events ~~raeing~~ or unlawful race attendance.

These “no racing zones” shall be designated by the placement of clear and conspicuous signs at all highway entrances to the no racing zone. At a minimum, these signs must include the following statements: “No Racing Zone; Race Attendance Prohibited; SMC 9.46.020 – SMC 9.47.030.” (Ord. 2287 § 2 (part), 2009)

9.47.040 SOAR orders – Violation.

A. In the event a police officer has probable cause to believe that a person has been issued a SOAR order as a condition of pre-trial release or a sentence imposed by the court and, in the officer’s presence, the person is seen violating or failing to comply with any requirement or restriction set forth in the SOAR order, the officer may arrest the violator without warrant for violation of the SOAR order and shall bring that person before the court that issued the order.

B. When a SOAR order is issued pursuant to this chapter and the person so named in the order has notice of the order, a violation of any of the provisions of the SOAR order is a gross misdemeanor and shall be punishable by a fine not to exceed \$5,000 or imprisonment not to exceed more than one year, or both. (Ord. 2287 § 2 (part), 2009)

ORDINANCE NO. _____
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING SECTION 10.68.020 OF THE SUMNER MUNICIPAL CODE REGARDING IMPOUNDMENT OF AUTOMOBILES WITHOUT PRIOR NOTICE.

WHEREAS, Ordinance 1470 was first adopted by the Sumner City Council in 1989 and subsequently amended in 1996. The Ordinance established the conditions when a motor vehicle may be impounded by a police officer without prior notice to its owner, codified as SMC 10.68.020; and

WHEREAS, SMC 10.68.020 A (6) currently authorizes a police officer to impound a motor vehicle when the driver is arrested for RCW 46.61.502 (driving while under the influence) and/or RCW 46.61.504 (physical control of a motor vehicle while under the influence) on the premise that it is a public safety risk to allow the driver to have immediate or easy access to the vehicle after the commission of such a crime; and,

WHEREAS, RCW 46.61.500 (reckless driving) is a serious driving offense that poses a substantial risk of death or serious injury to others, with similar abilities of the driver to continue or re-engage in the criminal conduct if the vehicle is not able to be impounded when the circumstances of the incident justify such an impound; and

WHEREAS, the city council desires to authorize its police officers to impound a motor vehicle where the driver is arrested for a violation of RCW 46.61.500; and

WHEREAS, the proposed code revisions were before the Public Safety Committee on March 17, 2021 and the Public Safety Committee gave the item a do pass.

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

Section 1. Section 10.68.020 of the Sumner Municipal Code is hereby revised and amended pursuant to Exhibit A, attached hereto and incorporated herein.

Section 2. **Severability – Construction.** If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of

competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the Code Reviser are authorized to make the necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage, approval and publication, as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 5th day of April, 2021.

William L. Pugh

ATTEST:

APPROVED AS TO FORM:

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City Attorney Andrea Marquez

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Exhibit A

10.68.020 Impoundment – Without prior notice.

A. A vehicle may be impounded without prior notice to its owner as required in Section 10.68.030 of this chapter under the following circumstances:

1. When the vehicle is impeding or is likely to impede the normal flow of vehicle or pedestrian traffic; or
2. When the vehicle is illegally parked in a truck, bus, loading, taxi or other similar zone where, by order of the city engineer or chief of police or fire chief, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, and where such vehicle is interfering with the proper and intended use of such zone; or
3. When the vehicle poses an immediate danger to the public safety; or
4. When a police officer has probable cause to believe that the vehicle is stolen; or
5. When a police officer has probable cause to believe that the vehicle constitutes evidence of a crime or contains evidence of a crime, if impoundment is reasonably necessary in such instance to obtain or preserve such evidence; or
6. Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.500, 46.61.502 or 46.61.504, the arresting officer may take custody of the vehicle and provide for its prompt removal to a place of safety; or
7. When the operator of the vehicle is arrested and placed in custody and is not in condition to drive the vehicle to a place of safety and there is no other person present who may properly act as agent for such operator to drive the vehicle to a place of safety; or
8. Whenever a vehicle without a special license plate, card or decal indicating that the vehicle is being used to transport a disabled person under chapter 46.16 RCW is parked in a stall or space clearly and conspicuously marked under chapter 46.61 RCW, which space is provided on private property without charge or on public property; or

9. Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of RCW 46.20.021 or with a license that has been expired for 90 days or more, or with a suspended or revoked license in violation of RCW 46.20.342 or 46.20.420; or

10. When a vehicle is found unattended in a posted tow-away zone or found to be in violation of any posted parking regulation.

B. Nothing in this section shall be construed to authorize seizure of a vehicle without a warrant where a warrant would otherwise be required.

C. Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator. (Ord. 1783 § 2, 1996; Ord. 1765 § 1, 1996; Ord. 1470 § 2, 1989)