

ORDINANCE NO. 2024-_____

AN ORDINANCE relating to public safety; amending Title 6 of the Yakima Municipal Code relating public safety and morality by adding a new chapter, 6.13, relating to SODA (Stay Out of Drugs Areas) Orders.

WHEREAS, the City of Yakima, as well as many communities across America, is facing challenges as the result of illegal narcotic (drug) use and trafficking; and

WHEREAS, drug related criminal behavior has a deleterious effect on the quality of life within the City of Yakima and on the overall character of the community and specific neighborhoods within the community; and,

WHEREAS, law enforcement after reviewing data regarding the geographic concentration of drug related incidents within the City limits combined with knowledge gained from on the ground experience, has identified several areas with a high amount of drug related incidents; and,

WHEREAS, the prohibition of individuals charged with and convicted of drug offenses from these areas with high drug related incidents will further the goal of reducing drug usage and trafficking in areas with high drug related incidents; and,

WHEREAS, the creation of a criminal sanction for the violation of SODA (Stay Out of Drug Areas) Orders will create accountability for offenders and further the City's goal of being a drug free community; now therefore,

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. A new chapter, 6.13, of the City of Yakima Municipal Code is hereby adopted to read as follows:

"SODA (Stay Out of Drug Areas) Orders"

Section 2. A new section, 6.13.010, of the City of Yakima Municipal Code is hereby adopted to read as follows:

6.13.010 Orders—Conditions.

Any judge, commissioner, or judge pro tempore of the Yakima Municipal Court may issue a written order to criminal defendants 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 related incidents. Such orders shall be referred to as a SODA (Stay Out of Drug Areas) Order. SODA Orders must be substantially in the form described in this chapter.

Section 3. A new section, 6.13.020, of the City of Yakima Municipal Code is hereby adopted to read as follows:

6.13.020 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 YMC 6.13.010

Section 4. A new section, 6.13.030, of the City of Yakima Municipal Code is hereby adopted to read as follows:

6.13.030 Stay out of designated areas orders—Issuance—Other court orders.

A. SODA Orders may be issued to anyone charged with or convicted of any offense(s) in Chapter 6.08 “Drug-Related Offenses.” SODA Orders may also be issued to anyone charged with or convicted of a crime in which the court finds a nexus between the crime and drug activity.

B. Nothing within this section shall be construed as precluding the court from issuing any other written orders to criminal defendants describing conditions of their pretrial release or the post-conviction conditions of suspension or deferral of their sentences.

Section 5. A new section, 6.13.040, of the City of Yakima Municipal Code is hereby adopted to read as follows:

6.13.040 Violation of order—Arrest—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 Chapter 6.13 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 is knowingly and willfully violating the order, and the 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 arrest 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 6. A new section, 6.13.050, of the City of Yakima Municipal Code is hereby adopted to read as follows:

6.13.050 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 any other written orders issued by the court other than SODA Orders may be set by court at its discretion and are not required to be set in accordance with subsection (B) of this section.

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 Yakima police department. Upon receipt of the copy of the order, the Yakima 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 Yakima police officers. Upon receipt of notice that an order has been terminated, the Yakima police department shall remove the order from the computer-based criminal intelligence information system(s).

Section 7. A new section, 6.13.060, of the City of Yakima Municipal Code is hereby adopted to read as follows:

6.13.060 Savings clause.

If any provision of this Chapter is declared invalid or unconstitutional by any Court of competent jurisdiction, the remaining provisions shall be severable and shall continue in full force and effect.

Section 8. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this _____ day of _____, 2024.

ATTEST:

Rosalinda Ibarra, City Clerk

Publication Date: _____

Effective Date: _____

Patricia Byers, Mayor