

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 2363

AN ORDINANCE providing amendments to the general provisions of Chapter 10.02 of the Bellevue City Code amending Section 10.02.020 by adding definitions thereto, repealing Section 10.02.050, Section 1 of Ordinance 1903, and adding 4 new sections which apply generally to Title 10 of the Bellevue City Code (Penal Code) and to crimes defined therein.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The Bellevue City Code, Penal Code Section 10.02.020, Ordinance 1663 Section 1 (part), Ordinance 184 Sections 1 and 2, are hereby amended to read as follows:

10.02.020 Definitions: In this title unless a different meaning plainly is required:

- (1) "Acted" includes, where relevant, omitted to act;
- (2) "Actor" includes, where relevant, a person failing to act;
- (3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;
- (4) "Bodily injury" or "physical injury" means physical pain, illness, or an impairment of physical condition;
- (5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;
- (6) "Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious bodily injury;
- (7) "Delinquent child" includes any child under eighteen years of age who violates any law of this state or city ordinance

or who habitually uses vile, obscene, vulgar, profane or indecent language or is guilty of immoral conduct.

- (8) "Dependent child" means any child under eighteen years of age who is found under the conditions, in the state, in the company of or engaged in the activities described as constituting a dependent child in RCW 13.04.010 or as further described or defined by city ordinance.
- (9) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;
- (10) "Government" includes any branch, subdivision, or agency of the government of this state and any federal county, city district, or other local governmental unit;
- (11) "Governmental function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;
- (12) "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty;
- (13) "Officer" and "public officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers of functions of a public officer;
- (14) "Omission" means a failure to act;
- (15) "Peace officer" means a duly appointed city, county, or state law enforcement officer;
- (16) "Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain;
- (17) "Person", "he", and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;

- (18) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail;
- (19) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;
- (20) "Probationer" means any person who, after conviction of violation of a city ordinance, has been placed on probation in connection with the suspension or deferral of sentence by either the Bellevue district justice court or the King County superior court on appeal.
- (21) "Property" means anything of value, whether tangible or intangible, real or personal;
- (22) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;
- (23) "Threat" means to communicate, directly or indirectly the intent:
- (a) To cause bodily injury in the future to the person threatened or to any other person; or
 - (b) To cause physical damage to the property of a person other than the actor; or
 - (c) To subject the person threatened or any other person to physical confinement or restraint; or
 - (d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or
 - (e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or
 - (f) To reveal any information sought to be concealed by the person threatened; or
 - (g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
 - (h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

- (i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
 - (j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships.
- (24) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped of propulsion by mechanical means or by sail;
- (25) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

Section 2. The following new sections are hereby added to Chapter 10.02 of the Bellevue City Code:

10.02.015 PURPOSES-PRINCIPLES OF CONSTRUCTION.

- (1) The general purposes of the provisions governing the definition of offenses in the Penal Code, Title 10, are:
 - (a) To forbid and prevent conduct that inflicts or threatens substantial bars to individual or public interests;
 - (b) To safeguard conduct that is without culpability from condemnation as criminal;
 - (c) To give fair warning of the nature of the conduct declared to constitute an offense;
 - (d) To differentiate on reasonable grounds between serious and minor offenses, and to prescribe proportionate penalties for each.
- (2) The provisions of this title shall be construed according to the fair import of their terms but when the language is susceptible of differing constructions it shall be interpreted to further the general purposes stated in this title.

10.02.070 ALTERNATIVE TO A FINE--RESTITUTION.

- (1) If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon

conviction thereof the court, in lieu of imposing the fine authorized for the offense under Bellevue City Code Section 1.16.010 may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court. In such case, the court shall make a finding as to the amount of the defendant's gain or victim's loss from the crime, and if the record does not contain sufficient evidence to support such finding the court may conduct a hearing upon the issue. For purposes of this section, the terms "gain" or "loss" refer to the amount of money or the value of property or services gained or lost.

- (2) Notwithstanding any other provision, this section also applies to any corporation or joint stock association found guilty of any crime.

10.02.080 APPLICATION OF GENERAL PROVISIONS OF THE PENAL CODE.

The provisions of Chapters 10.02 through 10.04 of this title are applicable to offenses defined by this title or another ordinance, unless this title or such other ordinance specifically provides otherwise.

10.02.090 CITY CRIMINAL JURISDICTION.

The following persons are liable to punishment:

- (1) A person who commits in the City any crime, as defined by City ordinance, in whole or part.
- (2) A person who commits out of the City any act which, if committed within it, would be theft and is afterward found in the City with any of the stolen property.
- (3) A person who being out of the City, counsels, causes, procures, aids, or abets another to commit a crime in this City.
- (4) A person who commits an act without the City which affects persons or property within the City, which, if

committed within the City, would be a crime.

Section 3. Section 10.02.050 of the Bellevue City Code, Ordinance 1903 Section 1, is hereby repealed.

Section 4. This ordinance shall take effect and be in force thirty (30) days after enactment by the Council.

PASSED by the City Council this 6 day of December, 1976, and signed in authentication of its passage this 6 day of December, 1976.

(SEAL)


M. F. Vanik
M. F. Vanik, Mayor

Approved as to form:

Lee Kraft
Lee Kraft, City Attorney

Attest:

Patricia K. Weber
Patricia K. Weber, City Clerk

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