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12-2-76

## CITY OF BELLEVUE, WASHINGTON

## ORDINANCE NO. 2368

AN ORDINANCE relating to crimes against property, amending Sections 10.12.010, 10.12.020, 10.12.030, 10.12.050, 10.12.060, 10.12.150 and 10.12.160 of the Bellevue City Code, Ordinance 2099 Section 1 (part) and Ordinance 2099 Section 2 (part), Ordinance 2305 Section 1, Ordinance 2029 Section 1; repealing Sections 10.12.040 and 10.12.090, Ordinance 2099 Section 1 (part); repealing Sections 10.12.100 and 10.12.110, Ordinance 43 Sections 9.8 and 9.9; and adding five new Sections to the City Code defining the crimes of reckless burning, malicious mischief and vehicle prowling, and defining certain terms used in chapter 10.12 relating to trespass.

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

Section 1. The following sections of the Bellevue City Code are hereby amended to read as follows:

10.12.010 Theft by unlawful taking or disposition.

(1) A person is guilty of theft if he

Takes or exercises unlawful control over movable property of another with purpose to deprive him thereof.

(2) Theft by unlawful taking or disposition is a gross misdemeanor.

10.12.020 Theft of property lost, mislaid or delivered by mistake.

(1) A person is guilty of theft if he:

A. Obtains or exerts control over the property of another that he knows to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, and he fails to take reasonable measures to discover and notify the owner.

B. As used in this Section, "reasonable measures" includes but is not necessarily limited to notifying the identified owner or any peace officer.

(2) Theft of property lost, mislaid or delivered by mistake is a gross misdemeanor.

10.20.030 Receiving stolen property.

(1) A person is guilty of theft if he:

A. Receives, possesses, retains or disposes of property of another knowing that it has been stolen or consciously disregarding a substantial risk that it has been stolen, unless the property is received, retained or disposed of with purpose to restore it to the owner.

B. "Receiving" means acquiring possession, control or title, or lending on the security of the property.

(2) Receiving stolen property is a gross misdemeanor.

10.12.050 Unlawful issuance of bank checks or drafts:

(1) A person is guilty of unlawful issuance of bank checks or drafts if he issues or passes a check or draft for the payment of money, knowing that it will not be honored by the drawee. An issuer is presumed to know that the check or order would not be paid, if:

A. The issuer had no account with the drawee at the time the check or order was issued; or

B. Payment was refused by the drawee for lack of funds on a previous check or draft, and issuer had been notified of such refusal and no sufficient deposit was made thereafter by issuer.

(2) Unlawful issuance of bank checks or drafts is a gross misdemeanor.

10.12.060 Obscuring identity of a machine.

(1) A person is guilty of obscuring the identity of a machine if he knowingly:

A. Obscures the manufacturer's serial number of any other distinguishing identification number or mark upon any vehicle, machine, engine, apparatus,

appliance, or other device with intent to render it unidentifiable; or

B. Possesses a vehicle, machine, engine, apparatus, appliance, or other device held for sale knowing that the serial number or other identification number or mark has been obscured.

(2) "Obscure" means to remove, deface, cover, alter, destroy, or otherwise render unidentifiable.

(3) Obscuring the identity of a machine is a gross misdemeanor.

10.12.150 Criminal trespass.

A. Every person, not licensed or privileged to do so, who enters or remains in or on any building or occupied structure or separately secured or occupied portion thereof including, but not limited to, publicly owned or occupied buildings, structures or portions thereof, is guilty of criminal trespass, a misdemeanor.

B. Every person, not licensed or privileged to do so, who enters or remains in any public or private place or on any public or private premises as to which notice against trespass thereon is given by the owner or some other authorized person, through (1) actual communication to the actor, or (2) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders, or (3) fencing or other enclosure manifestly designed to exclude intruders, or (4) city ordinance setting forth public park and school site rules, is guilty of criminal trespass, a misdemeanor.

C. Every person, not licensed or privileged to remain, who defies an order to leave a public or private place or public or private premises communicated to him by the owner of the place or premises or by some other authorized person, is guilty of criminal trespass, a misdemeanor.

D. Every person not licensed or privileged to do so, who enters or intrudes in or upon any real property of another and invades the privacy of, or disturbs, the occupants or residents of such property by looking into or peeping into any dwelling or private premises, is guilty of criminal trespass, a misdemeanor.

- E. It is a defense to prosecution for criminal trespass under this section that (1) any place or premises referred to in this section was at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises, or (2) the actor had possession of the premises originally under a landlord-tenant relationship or as mortgagor or vendee on a real estate contract and was acting in good faith pursuant thereto.

10.12.160 Making and having burglar tools. Every person who makes or mends or causes to be made or mended, or has in his possession in the day or nighttime, any engine, machine, tool, false key, pick lock, bit, nippers or implement adapted, designed or commonly used for the commission of burglary, or other crime, under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of a crime, or knowing that the same is intended to be so used, is guilty of a gross misdemeanor. The possession thereof except by a mechanic, artificer or tradesman at and in his established shop or place of business, open to public view, is prima facie evidence that such possession was had with intent to use or employ or allow the same to be used or employed in the commission of a crime.

Section 2. Sections 10.12.040 and 10.12.090 of the Bellevue City Code, Section 1 (part) of Ordinance 2099, are hereby repealed.

Section 3. Section 10.12.100 and Section 10.12.110 of the Bellevue City Code, Ordinance 43 Sections 9.8 and 9.9 are hereby repealed.

Section 4. The following new Sections are hereby added to Chapter 10.12 of the Bellevue City Code:

10.12.090 Malicious mischief.

- (1) A person is guilty of malicious mischief if he knowingly and maliciously causes physical damage to the property of another, public or private under circumstances not amounting to malicious mischief in the first or second degree as defined by RCW 9A.48.070 and RCW 9A.48.080.
- (2) Malicious mischief is a gross misdemeanor if the damage to the property is in an amount exceeding fifty dollars; otherwise, it is a misdemeanor.

10.12.095 Definition. For the purposes of Section 10.12.090 of this chapter, "physical damage", in addition to its ordinary meaning, shall include the alteration, damage, or erasure of records, information, data, or computer programs which are electronically recorded for use in computers, and the cutting, marring, injuring, defacing, spoiling, breaking or destroying any fence, sidewalk, house, building, tree, plant or other property of another or public property within the City, whether real or personal property, and the defacing, mutilating, tearing down or destroying of any signboard or post within the corporate limits of the City.

10.12.155 Definitions. The following definitions apply to Section 10.12.150 Criminal Trespass:

- (1) "Premises" includes any building, dwelling, or any real property;
- (2) "Enter". The word "enter" when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person or to detach or remove property;
- (3) "Enters or remains unlawfully". A person "enters or remains unlawfully" in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner.

10.12.170 Reckless burning.

- (1) A person is guilty of reckless burning if he knowingly causes a fire or explosion, whether on his own property or that of another, and thereby recklessly places a building or other structure, or any vehicle, railway car, aircraft, or watercraft, or any hay, grain, crop or timber, whether cut or standing, in danger of destruction or damage.

(2) Reckless burning is a gross misdemeanor.

10.12.180 Defense. In any prosecution for the crime of reckless burning it shall be a defense if the defendant establishes by a preponderance of the evidence that:

- A. No person other than the defendant had a possessory, or pecuniary interest in the damaged or endangered property, or if other persons had such an interest, all of them consented to the defendant's conduct; and
- B. The defendant's sole intent was to destroy or damage the property for a lawful purpose.

10.12.190 Vehicle prowling.

- (1) A person is guilty of vehicle prowling if, with intent to commit a crime against a person or property herein, he enters or remains unlawfully in a vehicle.
- (2) Vehicle prowling is a gross misdemeanor.

Section 5. 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.

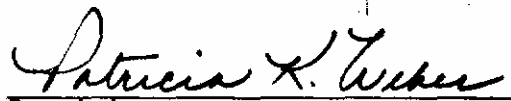
(SEAL)

  
M. F. Vanik, Mayor

Approved as to form:

  
Lee Kraft, City Attorney

Attest:

  
Patricia K. Weber, City Clerk

Published December 14, 1976