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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5018

AN ORDINANCE regarding the Bellevue Criminal Code; amending Bellevue City Code 10A.56.010, Theft; adding a new section 10A.56.070, Theft of rental, leased or lease-purchased property, to the Bellevue City Code; and repealing Bellevue City Code 10.45.062.

WHEREAS, in 1997 the state legislature enacted new legislation amending the theft provisions of the state criminal code, on which the City Criminal Code is modeled; and

WHEREAS, the City Criminal Code should be revised to be consistent with state law; now, therefore,

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

Section 1. Bellevue City Code 10A.56.010, Theft definitions, is amended to read as follows:

10A.56.010 Definitions.

The following definitions are applicable in this chapter unless the context otherwise requires:

A. "Appropriate lost or misdelivered property or services" means obtaining or extending control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

B. "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

C. "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

D. "Deception occurs when an actor knowingly:

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1. Creates or confirms another's false impression which the actor knows to be false; or

2. Fails to correct another's impression which the actor previously has created or confirmed; or

3. Prevents another from acquiring information material to the disposition of the property involved; or

4. Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

5. Promises performance which the actor does not intend to perform or knows will not be performed;

E. "Deprive" in addition to its common meaning, means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

F. "Obtain control over" in addition to its common meaning, means:

1. In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

2. In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

G. "Wrongfully obtains" or "exerts unauthorized control" means:

1. To take the property or services of another; or

2. Having any property or services in one's possession, custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his own use or to the use of any person other than the true owner or person entitled thereto;

H. "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

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I. "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

J. "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

K. "Stolen" means obtained by theft, robbery, or extortion;

L. Value.

1. "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

2. Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

a. The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

b. The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

c. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

3. Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of the value not exceeding \$250.00.

Section 2. A new section 10A.56.070, theft of rental, leased or lease-purchased property, is hereby added to the Bellevue City Code, to read as follows:

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10A.56.070 Theft of rental, leased or lease-purchased property

(1) A person who, with intent to deprive the owner or owner's agent, wrongfully obtains, or exerts unauthorized control over, or by color or aid of deception gains control of personal property that is rented or leased to the person and is valued at less than two hundred fifty dollars, is guilty of theft of rental, leased, or lease-purchased property.

(2) The finder of fact may presume intent to deprive if the finder of fact finds either of the following:

(a) That the person who rented or leased the property failed to return or make arrangements acceptable to the owner of the property or the owner's agent to return the property to the owner or the owner's agent within seventy-two hours after receipt of proper notice following the due date of the rental, lease, or lease-purchase agreement; or

(b) That the renter or lessee presented identification to the owner or the owner's agent that was materially false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items.

(3) As used in subsection (2) of this section, "proper notice" consists of a written demand by the owner or the owner's agent made after the due date of the rental, lease, or lease-purchase period, mailed by certified or registered mail to the renter or lessee at: (a) The address the renter or lessee gave when the contract was made; or (b) the renter or lessee's last known address if later furnished in writing by the renter, lessee, or the agent of the renter or lessee.

(4) The replacement value must be utilized in determining the amount involved in the theft of rental, leased or lease-purchased property. Theft of rental, leased, or lease-purchased property is a gross misdemeanor.

(5) This section applies to rental agreements that provide that the renter may return the property any time within the rental period and pay only for the time the renter actually retained the property, in addition to any minimum rental fee, to lease agreements, and to lease-purchase agreements as defined under R.C.W. 63.19.010. This section does not apply to rental or leasing of real property under the residential landlord-tenant act, chapter 59.18 R.C.W.

Section 3. Bellevue City Code Section 10.45.062 is repealed.

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

PASSED by the City Council this 2nd day of September, 1997, and signed in authentication of its passage this 3rd day of September, 1997.

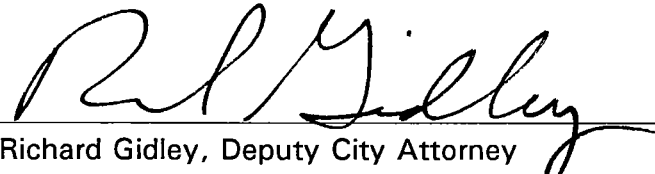
(SEAL)



Ronald E. Smith, Mayor

Approved as to form:

Richard L. Andrews, City Attorney



Richard L. Andrews, City Attorney

Attest:



Myrna L. Basich, City Clerk

Published September 5, 1997