

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5238

AN ORDINANCE regarding crimes and infractions, amending the Bellevue Health and Safety Code and the Bellevue Criminal Code; amending Bellevue City Code 9.09.050, Violation - Penalty; 10A.84.090, Telephone harassment; 10A.88 .085, Sex offender failure to register; 10A.90.010, Definitions; adding new sections 10A.36.090, Criminal Mistreatment in the third degree - Dependent Persons, 10A.38.090 Undesired Mail - Penalties; 10A.90 .124, Drug paraphernalia - Penalty; 10A.92.045, Violations of No Contact, Protection and Restraining Orders; 10A.96.080, Cougar and other wild animal hunting; and repealing Bellevue City Code sections 10A.92.010, 020, 030, 050 and 080.

WHEREAS, the state legislature has enacted legislation effective in the year 2000 regarding a number of infractions, misdemeanor and gross misdemeanor crimes, including current state laws regarding domestic violence protection orders, no contact orders and restraining orders, with the continued intent that violations be criminally prosecuted; and

WHEREAS, the City of Bellevue needs to adopt as City ordinances those state infractions, misdemeanor and gross misdemeanor laws that it wishes to enforce through the City Prosecutor's Office; and

WHEREAS, the following state infractions, misdemeanors and gross misdemeanors have been identified by City Police and Prosecution as those laws they seek to have adopted into the Bellevue City Code for local enforcement; and

WHEREAS, it is necessary to amend certain provisions relating to existing crimes; now, therefore,

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

Section 1. Bellevue City Code 9.09.050, Violation - Penalty, is amended to read as follows:

9.09.050 Violation - Penalty.

A. It is unlawful for any person to allow, cause to allow or place a junk vehicle, on any premises.

B. It is a class 1 civil infraction as defined in RCW 7.80.120 for a person to abandon a junk vehicle on property located within the City. If a junk vehicle is abandoned within the City, the landowner of the property upon which the junk vehicle is located is entitled to recover from the vehicle's registered owner any costs incurred in the removal of the junk vehicle.

C. Except for subsection B of this section, any violation of any provision of this chapter is a civil violation as provided for in Chapter 1.18 BCC, for which a monetary penalty may be assessed and abatement may be required as provided therein.

D. In addition to or as an alternative to any other penalty provided, except the penalty prescribed in subsection B of this section, in this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor.

Section 2. Bellevue City Code 10A.84.090, Telephone harassment, is amended to read as follows:

10A.84.090 Telephone harassment.

Telephone harassment shall be as follows:

A. Every person who, with intent to disturb, embarrass, harass, intimidate, threaten or torment any other person, shall make a telephone call to such other person:

1. Using any lewd, lascivious, vulgar, coarse, indecent or obscene words or language, or suggesting any lewd or lascivious act; or

2. Anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or

3. Threatening to inflict injury on the person or property of the person called or any member of his family.

B. The foregoing offense shall be deemed committed either at the place the telephone call or calls were made or at the place where the telephone call or calls were received.

C. Violation. Violation of this section is a gross misdemeanor.

Section 3. Bellevue City Code 10A.88.085, Sex offender failure to register, is amended to read as follows:

10A.88.085 Sex offender failure to register.

Any adult or juvenile required by RCW 9A.44.130 to register with the county sheriff, who knowingly fails to register with the county sheriff or notify the county sheriff as required by RCW 9A.44.130, who changes his or her name without notifying the county sheriff and the State Patrol, or who moves within the state without notifying the county sheriff as required by RCW 9A.44.130, is guilty of a gross misdemeanor if the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony.

Section 4. Bellevue City Code 10A.90.010, Definitions, is amended to read as follows:

10A.90.010 Definitions.

The following definitions apply in this chapter:

A. "Liquor" means liquor as defined in the Washington State Liquor Act RCW 66.04.010 (19).

Section 5. A new Section 10A.36.090, Criminal Mistreatment in the third degree - Dependent Persons, is hereby added to the Bellevue City Code to read as follows:

10A.36.090 Criminal Mistreatment in the third degree - Dependent Persons.

A. A person is guilty of the crime of criminal mistreatment in the third degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, or is a person employed to provide to the child or dependent person the basic necessities of life, and either:

(1) With criminal negligence, creates an imminent and substantial risk of substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life; or

(2) With criminal negligence, causes substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life.

B. Criminal mistreatment in the third degree is a gross misdemeanor.

C. Section A of this ordinance does not apply to:

(1) Decisions to withdraw life support systems made in accordance with RCW Chapters 7.70 or 70.122 by the dependent person, his or her legal surrogate, or others with a legal duty to care for the dependent person, or

(2) When a terminally ill or permanently unconscious person or his or her legal surrogate, as set forth in RCW Chapter 7.70, requests, and the person receives, palliative care from a licensed home health agency, hospice agency, nursing home, or hospital providing care under the medical direction of a physician. As used in this subsection, the terms "terminally ill" and "permanently unconscious" have the same meaning as "terminal condition" and "permanent unconscious condition" in RCW Chapter 70.122.

Section 6. A new Section 10A.38.090, Undesired Mail - Penalties, is hereby added to the Bellevue City Code to read as follows:

10A.38.090 Undesired Mail - Penalties.

A. It is unlawful for any person to knowingly use a means of identification of another person to solicit undesired mail with the intent to annoy, harass, intimidate, torment, or embarrass that person.

B. For purposes of this section, "means of identification" means any information or item that is not describing finances or credit but is personal to or identifiable with any individual or other person, including any current or former name of the person, telephone number, and electronic address or identifier of the individual or any member of his or her family, including the ancestor of such person; any information relating to a change in name, address, telephone number, or electronic address or identifier of the individual or his or her family; any social security, driver's license, or tax identification number of the individual or any member of his or her family; and other information which could be used to identify the person, including unique biometric data.

C. Violation of this section is a misdemeanor.

D. Additionally, a person who violates this section is liable for civil damages of five hundred dollars or actual damages, including costs to repair the person's credit record, whichever is greater, and reasonable attorneys' fees as determined by the court.

Section 7. A new Section 10A.90.124, Drug paraphernalia - Penalty, is hereby added to the Bellevue City Code to read as follows:

10A.90.124 Drug paraphernalia - Penalty.

Any person convicted under BCC 10A.90.120, Drug Paraphernalia, 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 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 of 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.

Section 8. A new Section 10A.92.045, Violations of No Contact, Protection and Restraining Orders, is hereby added to the Bellevue City Code to read as follows:

10A. 92.045 Violations of No Contact, Protection and Restraining Orders.

A. (1) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with a crime or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, or after trial before sentencing or as a condition of any sentence imposed, the court authorizing the release may prohibit that person from having any contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location. At the time of arraignment, the court shall determine whether a no-contact order shall be issued or extended. In issuing the order, the court shall consider the provisions of RCW 9.41.800, now and hereinafter amended. The court may include in the conditions of release, or as a condition of the sentence, a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed. The no-contact order shall be issued in writing as soon as possible.

(2) A written order issued under section A(1) of this section is to contain the court's directives and bear a legend in substantially the following form:

Violation of the provisions of this order with actual notice of its terms is a criminal offense under Bellevue City Code 10A.92 and/or RCW Title 10 and/or RCW Title 26 and will subject the violator to arrest. If the violation of the order involves travel across a state line or the boundary of a tribal jurisdiction, or involves conduct within the special maritime and territorial

jurisdiction of the United States, which includes tribal lands, you may be subject to criminal prosecution in federal court under 18 U.S.C. Sections 2261, 2261A, or 2262. Any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. Any conduct in violation of this order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony. Effective immediately, and continuing as long as this order is in effect, you may not possess a firearm or ammunition. 18 U.S.C. Section 922. A violation of this federal firearms law carries a maximum possible penalty of 10 years in prison and a \$250,000 fine. An exception exists for law enforcement officers and military personnel when carrying department/government issued firearms. 18 U.S.C. Section 925. If you are convicted of an offense of domestic violence, you will be forbidden for life from possessing a firearm or ammunition. 18 U.S.C. Section 922; RCW 9.41.040.

YOU CAN BE ARRESTED EVEN IF THE PERSON(S) WHO OBTAINED THE ORDER INVITES OR ALLOWS YOU TO VIOLATE THE ORDER'S PROHIBITION.

You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application. Pursuant to 18 U.S.C. section 2265, a court in any of the 50 states, the District of Columbia, Puerto Rico, any United States Territory, and any tribal land within the United States shall accord full faith and credit to the order.

A certified copy of such order shall be provided to the victim. If a No-Contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two (72) hours if charges are not filed. The No-Contact order shall terminate if the defendant is acquitted or the charges are dismissed.

(3) Whenever a No-Contact order is issued, modified, or terminated under this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order.

B. Violation of an Order-Penalty-Contempt.

(1) Whenever an order is granted, by any court of competent jurisdiction, pursuant to RCW Chapter 10.99, 26.09, 26.10, 26.26, 74.34 or an equivalent ordinance, as now or hereinafter amended, or there is a valid foreign protection order as defined in RCW 26.52.020, as now or hereinafter amended, and the respondent or person to be restrained knows of the order, a violation of any of the following shall be punishable as a gross misdemeanor: a) violation of any restraint provisions, b) violation of a provision excluding the person from a residence, workplace, school, daycare, c) violation of a provision prohibiting the person from knowingly coming within or knowingly remaining within a specified distance of a location, d) violation of any provision prohibiting contact, or e) violation of a provision of a foreign protection order specifically indicating that a violation will be a crime. Upon conviction, and in addition to any other penalties provided by law, the court may require that the convicted person submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services and the terms under which the monitoring shall be performed. The court may require that the convicted person pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A violation of any order issued by any court of competent jurisdiction under this chapter, RCW Title 10, Title 26 or Title 74 or an equivalent ordinance or a violation of a valid foreign protection order as defined in RCW Title 26 shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(3) Willful violation of a court order, entered under RCW 26.44.063, as now or hereinafter amended, is a misdemeanor. A written order shall contain the court's directives and bear a legend in substantially the following form: "Violation of this order with actual notice of its terms is a criminal offense under chapter 26.44 RCW, is also subject to contempt proceedings, and will subject a violator to arrest."

Section 9. A new Section 10A.96.080, Cougar and other wild animal hunting, is hereby added to the Bellevue City Code to read as follows:

10A.96.080 Cougar and other wild animal hunting.

A. It is unlawful to take, hunt or attract black bear with the aid of bait.

B. It is unlawful to hunt or pursue black bear, cougar, bobcat or lynx with the aid of a dog or dogs.

(1) A dog or dogs may be used by the owner or tenant of real property consistent with a permit issued and conditioned by the state director of the department of fish and wildlife;

(2) A dog or dogs may be used by a public agency, university or scientific or educational institution consistent with a permit or memorandum of understanding issued and conditioned by the state director of the department of fish and wildlife for the use of dogs for the (a) pursuit, capture and relocation of black bear, cougar, bobcat, or lynx for scientific purposes or for the (b) killing of black bear, cougar or bobcat for the protection of a state and/or federally listed threatened or endangered species;

C. A person who violates subsections A or B of this section is guilty of a gross misdemeanor.

Section 10. Sections 10A.92.010; 020; 030; 050 and 080 of the Bellevue City Code are hereby repealed.

Section 11. This ordinance shall take effect and be in force thirty (30) days after passage by the City Council.

Passed by the City Council this 5th day of September, 2000, and signed in authentication of its passage this 5th day of September, 2000.

(SEAL)

Chuck Mosher, Mayor

Approved as to form:
Richard L. Andrews, City Attorney
Susan Irwin, Assistant City Attorney

Attest:
Myrna L. Basich, City Clerk

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