

CITY COUNCIL STUDY SESSION

Amendments to the Bellevue Criminal Code, Title 10 of the Bellevue City Code (BCC), to update and recodify criminal violations.

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City Attorney's Office

DIRECTION NEEDED FROM COUNCIL**DIRECTION**

Study Session for Council to consider amendments to the Bellevue Criminal Code, Title 10 BCC, to update and recodify misdemeanor and gross misdemeanor offenses for consistency with state statutes in the Revised Code of Washington (RCW).

RECOMMENDATION

Direct staff to bring back an ordinance amending the Bellevue Criminal Code as drafted for final action at a future meeting.

BACKGROUND & ANALYSIS**Background**

The Bellevue City Attorney's Office prosecutes misdemeanor and gross misdemeanor crimes that occur within the City of Bellevue. In order for Bellevue's prosecutors to prosecute a crime created by the State Legislature, the City must adopt an ordinance which adopts the state statutes creating the crimes by reference. For any state misdemeanor or gross misdemeanor crimes not adopted by reference into the City Code, the Police Department will need to refer arrests involving those crimes to the King County Prosecutor's Office for prosecution.

Bellevue has a history of prosecuting misdemeanor and gross misdemeanor crimes locally, using the City's prosecutors. The City's Criminal Code, BCC 10.00.010.E, states: "By adopting Washington State statutes by reference in this title, the city intends to assume jurisdiction over and become the jurisdictional authority for the enforcement and prosecution of misdemeanor and gross misdemeanor crimes committed within the city of Bellevue."

Bellevue has previously adopted state-created misdemeanors and gross misdemeanors. BCC 10.02.010.A states in pertinent part:

... all RCW sections that constitute misdemeanors and gross misdemeanors ... are hereby adopted by reference as currently enacted or as hereafter amended or recodified from time to time.

Chapter 10.02 BCC was adopted by the Bellevue City Council through Ordinance No. 5622 in 2005, thereby incorporating into the Bellevue City Code all misdemeanors and gross misdemeanors in effect at that time. Since the adoption of Chapter 10.02 BCC, the State Legislature has crafted new crimes

that did not exist in 2005. In addition, following the decision in *State v. Blake*, the Legislature reduced the severity of most drug possession charges from felonies to misdemeanors. Because those crimes were felonies in 2005, those provisions would not have been adopted by the language of BCC 10.02.010 adopting “misdemeanors and gross misdemeanors.”

In order for the Bellevue City Attorney’s Office to continue to prosecute all misdemeanor and gross misdemeanor crimes occurring within the city limits, the City Council would need to readopt Chapter 10.02 BCC to capture new state-created criminal offenses created since 2005.

A strike draft showing the changes to the existing language is included as Attachment A. A proposed ordinance making that change to the City’s Criminal Code is included with this memo as Attachment B.

POLICY & FISCAL IMPACTS

Policy Impact

Adoption of this ordinance will allow the City Attorney’s Office to be the primary prosecuting authority for all misdemeanor and gross misdemeanor crimes occurring within the City. This is already the preferred policy of the City. The proposed amendments allow this policy to continue.

Fiscal Impact

The current city criminal code adopts state statutes for misdemeanor and gross misdemeanor offenses. These amendments would not have any fiscal impact.

OPTIONS

1. Direct staff to bring back an ordinance amending the Bellevue Criminal Code as drafted for final action at a future meeting.
2. Provide alternative direction to staff.

ATTACHMENTS

- A. Criminal Code Update Redlined Strike-Draft
- B. Proposed Ordinance No. 6745

AVAILABLE IN COUNCIL LIBRARY

N/A