

ORDINANCE No. 10866

AN ORDINANCE RELATING TO GOVERNMENTAL OPERATION ADDING A NEW SECTION TO CHAPTER 10.04, GENERAL PROVISIONS AND DEFINITIONS OF THE CRIMINAL CODE, PROHIBITING OBSTRUCTING PUBLIC OFFICERS ACTING LAWFULLY IN A GOVERNMENT FUNCTION AND ADDING A NEW SECTION PROVIDING PENALTIES FOR GROSS MISDEMEANORS.

WHEREAS, the City of Bellingham finds it necessary to enact a provision prohibiting persons from inhibiting public officials from discharging their duties; and

WHEREAS, the Bellingham Municipal Code does not have an ordinance prohibiting the obstruction of government operations; and

WHEREAS, currently violations for obstructing public officers must be cited under state law and filed in District Court while the underlying violation of the Bellingham Municipal Code must be filed in Municipal Court which affects the efficient administration of justice; and

WHEREAS, lack of an offense prohibiting persons from obstructing a public officer has hindered enforcement of civil infractions; and

WHEREAS, an obstructing ordinance will enable the City to enforce Bellingham Municipal Code civil infractions and will prevent multiple prosecutions in different courts for one incident thus resulting in a more efficient and consistent prosecution and punishment of such infractions; and

WHEREAS, state law currently defines obstructing a public officer as a gross misdemeanor.

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. A new section to the Bellingham Municipal Code shall be identified as 10.04.105 and added as follows:

A. A person is guilty of obstructing a public officer if, with knowledge that the person obstructed is a public officer, he or she:

1. Intentionally and physically interferes with a public officer; or
2. Intentionally hinders or delays a public officer by disobeying an order to stop given by such officer; or
3. Intentionally refuses to cease an activity or behavior when ordered to do so by a public officer and when continuing to engage in such an activity or behavior would otherwise constitute a civil infraction or crime; or
4. Intentionally destroys, conceals or alters or attempts to destroy, conceal or alter any material which he or she knows the public officer is attempting to obtain, secure or preserve during an investigation, search or arrest; or
5. Intentionally refuses to leave the scene of an investigation of a crime while an investigation is in progress after being requested to leave by a public officer.

B. No person shall be convicted of violating this section if the Judge determines, with respect to the person charged with violating this section, that the public officer was not acting lawfully in a government function.

C. For purposes of this section, a "public officer" means those individuals responsible for the enforcement of the provisions of the Bellingham Municipal Code, including, but not limited to, provisions related to fire, building, zoning, and life and safety codes; those individuals empowered to make arrests for offenses under the Bellingham Municipal Code; or those individuals responsible for enforcement of the federal or state criminal laws.

D. Obstructing a public officer is a gross misdemeanor.

Section 2. A new section to the Bellingham Municipal Code shall be identified as 10.04.085 and added as follows:

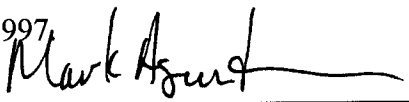
Every person convicted of a gross misdemeanor shall be punished by imprisonment for a maximum term fixed by the court of not more than one year in jail, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

PASSED by Council this 28 day of July, 1997.



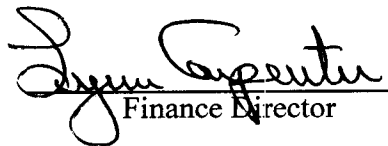
Council President

APPROVED by me this 13 day of Aug., 1997.



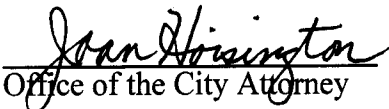
Mayor

ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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