



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: March 14, 2022

TO: President Heather Graham and Members of City Council
CC: Mayor Nicholas A. Gradisar
VIA: Marisa Stoller, City Clerk
FROM: Michael Miller, Assistant City Attorney
SUBJECT: AN ORDINANCE AMENDING CHAPTER 1 OF TITLE XI OF THE PUEBLO MUNICIPAL CODE UPDATING OFFENSES AGAINST PROPERTY PROVISIONS IN ACCORDANCE WITH CHANGES TO THE COLORADO REVISED STATUTES

SUMMARY:

This Ordinance amends various provisions of the Pueblo Municipal Code to expand the Municipal Court's authority in accordance with State law.

PREVIOUS COUNCIL ACTION:

There has been no previous council action.

BACKGROUND:

The Municipal Court does not hear cases that could be filed as a felony in Colorado's District Courts. As a result, thefts from a merchant, theft from a non-merchant, and destruction of property cannot be prosecuted in municipal court unless the value of the thing stolen/damaged is one-thousand dollars (\$1,000) or less.

The Colorado Legislature has amended the Colorado Revised Statutes to classify theft and destruction of property (called criminal mischief under the statutes) as felonies if the value of the thing stolen/damaged is more than two-thousand dollars \$2,000.

This Ordinance will amend the Municipal Code to allow the municipal court to hear theft from merchant, theft from non-merchant, and destruction of property cases where the value of the thing stolen/damaged is less than two-thousand dollars (\$2,000), mirroring the definitions in the Colorado Revised Statutes.

The Colorado Legislature has also deleted the provision of the Colorado Revised Statutes that makes theft of a motor vehicle part a felony. Thefts of motor vehicle parts will be handled at the state level in the same manner as other thefts. This ordinance removes the theft of motor vehicle parts over one-thousand dollars (\$1,000) exception from the Municipal Code.

FINANCIAL IMPLICATIONS:

If this Ordinance passes, the Municipal Court could see more theft from merchant, theft from non-merchant, and destruction of property cases filed in municipal court. This could result in more fines being collected by the Municipal Court but would also require more staff time to process the additional cases. Any impact on the City's finances is expected to be minimal.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance does not pass, the Municipal Court will be unable to hear some cases that would be considered misdemeanors under Colorado Law. State courts do not prosecute theft cases where the amount of the theft is less than \$2,000 and therefore, some thefts may occur without consequence.

RECOMMENDATION:

Passage of the Ordinance

Attachments:

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 1 OF TITLE XI OF THE PUEBLO MUNICIPAL CODE UPDATING OFFENSES AGAINST PROPERTY PROVISIONS IN ACCORDANCE WITH CHANGES TO THE COLORADO REVISED STATUTES

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Article IV of Chapter 1 of Title XI is hereby amended to read as follows:

Sec. 11-1-401. Theft from a merchant.

(a) It shall be unlawful for any person to obtain or exercise control over any meals, goods, services or accommodations having a value of less than ~~one~~two thousand dollars ~~[(\$1,000.00)]~~[(\$2,000.00)] which are the property of another exposed or available for sale or available to rent or for hire, with the intent to convert the same to his or her own use without payment of the purchase price or rent therefor.

(b) Theft from a merchant is a Class 2 municipal offense.

Sec. 11-1-402. Damaging, defacing or destruction of property.

(a) It shall be unlawful for any person to knowingly damage, deface, destroy or injure the real or personal property of one (1) or more other persons in the course of a single episode where the aggregate damage to the real or personal property is less than ~~one~~two thousand dollars ~~[(\$1, 000.00)]~~[(\$2,000.00)].

(b) Damaging, defacing or destruction of property is a Class 2 municipal offense, provided that if the person found guilty of violating Subsection (a) was under eighteen (18) years of age on the date of violation, the court shall not impose a jail sentence.

Sec. 11-1-403. - Damaging, defacing or destruction of City property.

(a) It shall be unlawful for any person to knowingly damage, deface, destroy or injure the real or personal property of the City in the course of a single episode where the aggregate

damage to the real or personal property is less than ~~one~~ **two** thousand dollars ~~[(\$1, 000.00)]~~
(\$2,000.00).

(b) Damaging, defacing or destruction of City property is a Class 2 municipal offense, provided that if the person found guilty of violating Subsection (a) was under eighteen (18) years of age on the date of violation, the court shall not impose a jail sentence.

Sec. 11-1-407. Theft.

It shall be unlawful and a Class 2 municipal offense for any person to knowingly obtain or exercise control over any thing of value of another without authorization and with the intent to permanently deprive the other person of the use or benefit of the thing of value; provided, however, that this Section shall have no application:

(1) Where the thing of value has a value of ~~one~~ **two** thousand dollars ~~[(\$1, 000.00)]~~**(\$2,000.00)** or more or is intangible personal property;

(2) Where the other person (victim) is seventy (70) years of age or older and the offense is committed in such person's presence;

(3) Where the other person (victim) is disabled because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision in both eyes to such a degree as to constitute virtual blindness and the offense is committed in such person's presence; or

[(4) Where the thing of value is a motor vehicle part which has a value of one thousand dollars (\$1,000.00) or more removed from a motor vehicle during the theft.]

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 3.

This Ordinance shall become effective thirty (30) days after final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

Approved on _____.

Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

Council did not act to override the Mayor's veto.

Ordinance re-adopted on a vote of _____, on _____

Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk