

ORDINANCE NO. 1419

An ordinance amending Chapter 2 of the Code of the City of Jamestown, North Dakota, by amending and re-enacting Section 22-44.2 which sets forth information and penalties regarding the offense of theft in the City of Jamestown.

WHEREAS, the North Dakota Legislative Assembly has enacted a new threshold for a class B misdemeanor theft;

WHEREAS, to allow enforcement of the new provisions the City Code of the City of Jamestown requires updating.

NOW, THEREFORE, be it ordered by the City Council of the City of Jamestown, North Dakota, that Chapter 22, Section 22-44.2 be amended and re-enacted as follows:

Sec. 22-44.2. Theft.

It shall be unlawful for any person to commit theft of either property or services of a value not exceeding five hundred dollars (\$500.00); provided that, if such theft was committed by threat, by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft, or the defendant was a public servant or an officer or employee of a financial institution and committed the theft in the course of his official duties, this section shall not apply and the municipal court of the city shall not have jurisdiction thereof.

"Theft of services" is defined as the intentional obtaining of services, known by the person obtaining them to be available only for compensation, by deception, false token or other means to avoid payment for the services, or knowingly diverting the services to his own benefit or the benefit of another not entitled thereto of services of another over which he has control and is not entitled. Where compensation for services is ordinarily paid immediately upon their rendition, as in the case of hotels, restaurants and comparable establishments, absconding without payment or without making provision to pay is prima facie evidence that the services were obtained by deception.

"Theft of property" is defined as the knowing, taking or exercising unauthorized control over, or making an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof; knowingly obtaining the property of another by deception with intent to deprive the owner thereof, or intentionally depriving another of his property by deception; or the knowing, receiving, retaining or disposition of property of another which has been stolen, with the intent to deprive the owner thereof. It is specifically provided that the offense commonly known as shoplifting is included within such definition. It is further provided that a person is guilty of theft if he or she retains or disposes of property of another when he or she knows it has been lost or mislaid; or retains or disposes of property of another when he or she knows it has been delivered under a mistake as to the identity of the recipient or as to the nature of the amount of the property, and, with the intent to deprive the owner of it, he or she fails to take readily available reasonable measures to restore the property to a person entitled to have it.

ATTEST:

Jeff Fuchs, City Administrator

APPROVED:

Katie Andersen, Mayor

Introduced by Council Member Brubakken

Seconded by Council Member Gumke

First Reading: September 3, 2013

Second Reading: October 7, 2013

Final Passage: October 7, 2013

Roll Call No. 5 showed: 5 ayes, 0 nays, 0 absent.