



ORDINANCE NO. 3996-23

An ORDINANCE relating to criminal sentencing, AMENDING Chapter 10.04 EMC.

WHEREAS,

- A. The Everett Community has been negatively affected by crimes such as theft, criminal trespass, criminal mischief, drug-related crimes, and assault.
- B. These negative effects include financial loss, decreased public order, and decreased public safety.
- C. Sentences for misdemeanor and gross misdemeanor criminal offenses should be proportional to both the seriousness of the crime and the prior criminal history, taking into consideration the individual's influence on the community, both positive and negative, and any mitigating factors contributing to the criminal behavior.
- D. Sentences imposed on repeat offenders that appropriately account for persistent and recurring criminal activity interrupt the cycle of criminal activity and can contribute to increased public safety, decreased recidivism, and more positive long-term outlooks for both offenders and the community.
- E. The City of Everett has the power to provide for the punishment of all practices dangerous to public health or safety, and to make necessary for the preservation of public health, peace, and good order, and to provide for the punishment of all persons charged with violating any city ordinance.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Chapter 10.04 EMC is amended to add the following section:

EMC 10.04.XXX

Repeat Offender Sentence Enhancement

- A. At any time prior to trial, the prosecuting attorney may give notice that the City is seeking a Repeat Offender Sentence Enhancement upon conviction of any violation of EMC 10.16.010, EMC 10.23.010, EMC 10.35.120, EMC 10.37.010, EMC 10.56.030, EMC

10.66.040, EMC 10.68.030, EMC 10.68.040, or EMC 10.68.060, when, within the two years preceding the conviction, the defendant had, within the Snohomish County, Washington, two or more Prior Offenses.

B. Upon conviction for any of the crimes identified in Section 1(A) charged on or after the effective date of this section for which the city has provided notice that it is seeking a Repeat Offender Sentence Enhancement, the municipal court shall impose a sentence of no less than 30 days in jail.

C. A “Prior Offense” in this section means any of the following:

1. A conviction, including a deferred sentence, for a violation of EMC 10.16.010 or an equivalent state law, county ordinance, or city ordinance;
2. A conviction, including a deferred sentence, for a violation of EMC 10.23.010 or an equivalent state law, county ordinance, or city ordinance;
3. A conviction, including a deferred sentence, for a violation of EMC 10.35.120 or an equivalent state law, county ordinance, or city ordinance;
4. A conviction, including a deferred sentence, for a violation of EMC 10.37.010 or an equivalent state law, county ordinance, or city ordinance;
5. A conviction, including a deferred sentence, for a violation of EMC 10.56.030 or an equivalent state law, county ordinance, or city ordinance;
6. A conviction, including a deferred sentence, for a violation of EMC 10.66.040 or an equivalent state law, county ordinance, or city ordinance;
7. A conviction, including a deferred sentence, for a violation of EMC 10.68.030 or an equivalent state law, county ordinance, or city ordinance;
8. A conviction, including a deferred sentence, for a violation of EMC 10.68.040 or an equivalent state law, county ordinance, or city ordinance; or
9. A conviction, including a deferred sentence, or a violation of EMC 10.68.060 or an equivalent state law, county ordinance, or city ordinance;

PROVIDED, that where more than one Prior Offense is committed on the same date, such multiple Prior Offenses shall be treated as one offense for the purpose of this section.

D. The Prior Offenses supporting a Repeat Offender Sentence Enhancement shall be proved by preponderance of the evidence by verification by the court and/or City of the offender’s criminal history as reported through the judicial information system or

otherwise available to the court or prosecutor, current to within five court days prior to sentence imposition.

- E. A defendant who otherwise would be subject to a sentence under Section 1(B) and who diverts through the municipal court's Mental Health Alternatives (MAP) program or Therapeutic Services Court (TSC) or similar, is subject to a sentence under Section 1(B) if he or she opts out of the program or fails to complete the program.

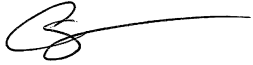
Section 2. Administration shall report annually to Council on the effectiveness, budget impacts, and demographic impacts of this ordinance.

Section 3. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 4. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 5. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 6. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.



Cassie Franklin, Mayor

ATTEST:



Marista Jorve, City Clerk

PASSED: 12/20/2023

VALID: 12/21/2023

PUBLISHED: 12/23/2023

EFFECTIVE DATE: 1/4/2024











ORD 3996-23_CB 2311-70 Sentence Enhancement Proposed ORD.final

Final Audit Report

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