



City Attorney

DATE: July 19, 2022
FROM: Janelle Combs, City Attorney
ITEM: Ordinance 6518 regarding Retail Theft - Shoplifting

REQUEST:

Consider introduction and call for a public hearing on Ordinance 6518 to amend the shoplifting ordinance for clarity.

Please place this item on the July 26, 2022, City Commission meeting agenda.

BACKGROUND INFORMATION:

The Shoplifting Retail Theft statute at the State level has seen numerous changes in the last few sessions. Now that the State allows enhancement of individuals convicted of multiple shoplifting incidences to face higher level charges, the Judges in our District have seen more trials. Based on their feedback as well as the prosecutors' feedback, the attached would help to clarify the definition of shoplifting.

RECOMMENDED CITY COMMISSION ACTION:

First reading and introduction of Ordinance 6518 and call for a public hearing.

STAFF CONTACT INFORMATION:

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CITY OF BISMARCK ORDINANCE NO.6518

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND SECTION 6-04-10 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), AS AMENDED, RELATING TO RETAIL THEFT - SHOPLIFTING.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amend. Section 6-04-10 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Retail Theft – Shoplifting is hereby amended to read as follows:

6-04-10. Retail Theft - Shoplifting.

1. Any person is guilty of shoplifting if that person willfully takes possession of any merchandise owned, held, offered or displayed for sale, by a merchant, store, or other mercantile establishment, with intent to deprive the owner of the merchandise. This includes:
 - a. who conceal-Concealing a non-purchased good or merchandise upon his a person or among his their belongings, or causes to be concealed upon the person or among the belongings of another; unpurchased merchandise displayed, held, offered, or stored for sale in a retail mercantile establishment and
 - b. who removes it to a Removing merchandise past the last point beyond the last point of purchase from a store, merchant, or other mercantile establishment without paying for the merchandise; station for receiving payments in that retail mercantile establishment shall be prima facie presumed to have so concealed such merchandise with the intention of permanently depriving the merchant of possession or of the full retail value of such merchandise.
 - c. Altering, transferring, or removing a price marking on a good or merchandise without approval of the merchant, store or other mercantile

establishment which causes the amount paid for a good or merchandise to be less than the stated retail price; or

- d. Transferring a good from one container to another which causes the amount paid for a good or merchandise to be less than the stated retail price.

* * * * *

Reference: Chapter 51-21, NDCC (1982)

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect after final passage, adoption and publication.