

ORDINANCE NO. 788

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Chapter 9.06 of the Lakewood Municipal Code relating to Controlled Substances.

WHEREAS, the City of Lakewood finds that laws prohibiting possession of illegal drugs are a valuable tool to law enforcement in preserving public safety in the City; and

WHEREAS, the Supreme Court of the State of Washington has declared illegal and rendered useless the state law prohibiting possession of illegal drugs due to the deficiency in the state law of requiring the element of intent; and

WHEREAS, the State Legislature passed Senate Bill 5536 in the 2023 special legislative session to address drug possession and public drug use; and

WHEREAS, the City of Lakewood has the authority to adopt laws to protect public safety to the extent such laws are not in conflict with State or Federal law.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as Follows:

Section 1. That Ordinance No. 786, creating Lakewood Municipal Code Chapter 9.06.005 and Lakewood Municipal Code Chapter 9.06.090, adopted by the Lakewood City Council on May 15, 2023 is hereby repealed.

~~Section 9.06.005 Definitions~~

~~(1) RCW 69.50.101(e) is adopted by reference. "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.~~

~~Section 9.06.045 Possession of controlled substance~~

~~(1) It is unlawful for any person to knowingly possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.~~

~~(2) Any person who violates this section is guilty of a gross misdemeanor punishable pursuant to LMC 9.06.080.~~

~~(3)(a) The possession, by a person twenty one years of age or older, of useable cannabis, cannabis concentrates, or cannabis-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section.~~

~~(b) The possession of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products being physically transported or delivered within the state, in~~

amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section.

~~(4)(a) The delivery by a person twenty one years of age or older to one or more persons twenty one years of age or older, during a single twenty four hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following cannabis products, is not a violation of this section:~~

- ~~(i) One half ounce of useable cannabis;~~
- ~~(ii) Eight ounces of cannabis infused product in solid form;~~
- ~~(iii) Thirty six ounces of cannabis infused product in liquid form; or~~
- ~~(iv) Three and one half grams of cannabis concentrates.~~

~~(b) The act of delivering cannabis or a cannabis product as authorized under this subsection (4) must meet one of the following requirements:~~

- ~~(i) The delivery must be done in a location outside of the view of general public and in a nonpublic place; or~~
- ~~(ii) The cannabis or cannabis product must be in the original packaging as purchased from the cannabis retailer.~~

~~(5) No person under twenty one years of age may knowingly possess, manufacture, sell, or distribute cannabis, cannabis infused products, or cannabis concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.~~

~~(6) The possession by a qualifying patient or designated provider of cannabis concentrates, useable cannabis, cannabis infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section.~~

Section 2. That Section 9.06.090 entitled “Use of dangerous drugs in public” is hereby repealed.

~~9.06.090 Use of dangerous drugs in public.~~

~~A. It is unlawful for any person to intentionally use any dangerous drug in a public place, except as now or hereafter authorized or expressly permitted by the laws of the state or except upon the written or oral order or prescription of a physician, surgeon, dentist, or other medical professional licensed to practice medicine and legally authorized to prescribe controlled substances.~~

~~B. *Definitions.* For purposes of this section, the following terms or words shall be interpreted as follows:~~

~~“Dangerous drug” means any controlled substance classified in Schedule I, II, III or IV of Chapter [69.50](#) RCW, excluding cannabis, as it now exists or shall hereafter be added to, deleted from, modified, or amended.~~

~~“Public place” means an area generally visible to public view and includes without limitation any place where the public has a right of access, which includes without limitation sidewalks, parking lots and parking garages, streets, alleys, highways, or roads; public buildings and grounds, including schools, parks, playgrounds, libraries, and meeting halls; establishments to which the public is invited such as commercial businesses, including, but not limited to, restaurants, theaters, stores, gas stations, meeting halls, lobbies, halls and dining rooms of hotels, bars, taverns, pubs, or establishments where beer or soft drinks may be sold, and their associated parking lots, parking structures, walkways, doorways, and entrances; railroad trains, light rail facilities, buses, transit facilities, and other public conveyances of all kinds and character, and their associated stations and platforms used in conjunction therewith which are open to unrestricted use and access by the public; any lake or body of water where the public has access to or can take enjoyment in; and all other places of like or similar nature.~~

~~“Use” means any effort taken in furtherance of an attempt to inject, ingest, inhale or otherwise introduce a controlled substance into the human body.~~

~~C. Unless another section expressly provides otherwise, any person who violates any provision of this section shall be guilty of a gross misdemeanor.~~

Section 3. That Section 9.06.105 entitled “Adoption of Specific RCW Sections related to Controlled Substances, Counterfeit Substances, Legend Drugs, and Drug Paraphernalia” is hereby created

That the following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, is hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

69.50.101 - Definitions

69.50.102 Definitions

69.50.4011 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session, Section 1

69.50.4013 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 2

69.50.4014 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 3

69.41.030 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 4

69.50.509 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 5

The section created by 2E2SSB 5536, Section 6

69.50.4121 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 7

The section created by 2E2SSB 5536, Section 8

The section created by 2E2SSB 5536, Section 9

The section created by 2E2SSB 5536, Section 10

9.96.060 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 11

36.70A.200 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 12

71.24.589 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 13

71.24.590 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 14

The section created by 2E2SSB 5536, Section 15

The section created by 2E2SSB 5536, Section 17

RCW 84.36.043 as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session),

Section 18

The section created by 2E2SSB 5536, Section 19

The section created by 2E2SSB 5536, Section 20

The section created by 2E2SSB 5536, Section 21

The section created by 2E2SSB 5536, Section 22

RCW 42.56.360 as amended by 2E2SSB 5536, (68th Legislature, 2023 1st Special Session),

Section 23

The section created by 2E2SSB 5536, Section 24

RCW 71.24.115 as amended by 2E2SSB 5536, (68th Legislature, 2023 1st Special Session),

Section 25

The section created by 2E2SSB 5536, Section 26

The section created by 2E2SSB 5536, Section 27

The section created by 2E2SSB 5536, Section 28

The section created by 2E2SSB 5536, Section 29

The section created by 2E2SSB 5536, Section 30

The section created by 2E2SSB 5536, Section 31

The section created by 2E2SSB 5536, Section 32

The section created by 2E2SSB 5536, Section 33

The section created by 2E2SSB 5536, Section 34

The section created by 2E2SSB 5536, Section 35

The section created by 2E2SSB 5536, Section 36

RCW 18.64.600 as amended by 2E2SSB 5536, (68th Legislature, 2023 1st Special Session),

Section 37

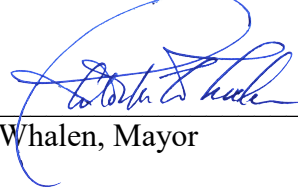
The section created by 2E2SSB 5536, Section 38

Section 4. Severability. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 5. Effective Date. That this Ordinance shall be in full force and effect thirty (30) days after publication of the Ordinance Summary.

ADOPTED by the City Council this 20th day of June, 2023.

CITY OF LAKEWOOD



Jason Whalen, Mayor

Attest:



Briana Schumacher, City Clerk

Approved as to Form:



Heidi Ann Wachter, City Attorney