

ORDINANCE NO. 757

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

WHEREAS, the City of Lakewood, in order to protect public safety, on April 5, 2021 adopted regulations concerning possession of controlled substance at a time when the state was without regulation of that offense; and

WHEREAS, the Washington state legislature has since adopted state law regarding possession of controlled substances; and

WHEREAS, pursuant to state law, “The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality;” and

WHEREAS, it is in the best interest of the City to avoid any potential confusion regarding applicable law; and

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

Section 1. That Chapter 9.06, section 9.06.005 Possession of controlled substance, is hereby repealed.

~~Section 9.06.005 Definitions~~

- (4) ~~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 2. That Chapter 9.06, section 9.06.045 Possession of controlled substance, is hereby repealed.

~~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 marijuana, marijuana concentrates, or marijuana 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 marijuana, useable marijuana, marijuana concentrates, and marijuana 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 marijuana products, is not a violation of this section:~~

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

~~(b) The act of delivering marijuana or a marijuana 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 marijuana or marijuana product must be in the original packaging as purchased from the marijuana retailer.~~

~~(5) No person under twenty one years of age may knowingly possess, manufacture, sell, or distribute marijuana, marijuana infused products, or marijuana 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 marijuana concentrates, useable marijuana, marijuana infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section.~~

Section 3. 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 4. 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 6th day of July, 2021.

CITY OF LAKEWOOD

Attest:



Don Anderson, Mayor



Briana Schumacher, City Clerk

Approved as to Form:



Heidi Ann Wachter, City Attorney