

ORDINANCE NO. 012/2023

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING CHAPTER 9.20 MMC DRUGS AND OTHER CONTROLLED SUBSTANCES; ADOPTING BY REFERENCE THE CURRENT WASHINGTON STATUTES GOVERNING THE USE AND POSSESSION IN PUBLIC PLACES OF CONTROLLED SUBSTANCES, INCLUDING WITHOUT LIMITATION STATUTES GOVERNING DRUG PARAPHERNALIA, DIVERSION AND SENTENCING; ENTERING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; DECLARING A PUBLIC EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Monroe protects the public health, safety, and welfare through the adoption by reference and enforcement of numerous Washington criminal statutes, including without limitation applicable provisions of the Uniformed Controlled Substances Act (UCSA) codified at Chapter 69.50 RCW; and

WHEREAS, on February 25, 2021, the Washington Supreme Court issued its decision in *State v. Blake*, 197 Wn.2d 170, 481 P.3d 521 (2021), holding that RCW 69.50.4013(1), the Washington statute that criminalized the possession of a controlled substance without a prescription, exceeded the State's police power and violated the due process clauses of the Washington and United States Constitutions by creating a strict-liability felony offense; and

WHEREAS, on May 16, 2023, the Washington State Legislature passed, and Governor Inslee subsequently signed, Second Engrossed Second Substitute Senate Bill (2E2SSB) 5536, which permanently addresses the criminality of drug possession and use in Washington in the wake of the Washington Supreme Court's *State v. Blake* decision; and

WHEREAS, 2E2SSB 5536, the resulting session law for which has been encapsulated as Laws of 2023, ch. 1, establishes a July 1, 2023 effective date for provisions of the legislation prohibiting knowing possession and knowing use in a public place of a controlled substance and counterfeit substance; and

WHEREAS, the Monroe City Council finds that it is in the interest of the public health, safety and welfare to provide the Monroe Police Department with the ability, to the fullest extent of the law, to enforce the prohibitions against knowing possession and knowing public use of controlled and counterfeit substances contained in 2E2SSB 5536, by adopting by reference the pertinent provisions of 2E2SSB 5536 into the Monroe Municipal Code (MMC);

WHEREAS, the Monroe City Council further finds that in order to protect the public health, public safety, public property, and public peace, it is necessary that the amendments set forth herein be in effect and fully enforceable simultaneously with the above-referenced effective date of 2E2SSB 5536, and therefore that a public emergency exists requiring this ordinance to take effect immediately upon passage.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The above recitals, together with the content of Agenda Bill AB 23-273, are hereby adopted as findings in support of this ordinance.

Section 2. Amendment of MMC 9.20.010. Section 9.20.010 of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

9.20.010 Adoption by reference of sections of state statute, Uniform Controlled Substances Act.

The following sections of Chapter 69.50 RCW relating to drugs and other controlled substances, defining crimes and prescribing penalties, are adopted by this reference:

RCW 69.50.101, 69.50.102, 69.50.202, 69.50.203, 69.50.204, 69.50.205, 69.50.206, 69.50.207, 69.50.208, 69.50.209, 69.50.210, 69.50.211, 69.50.212, 69.50.302, 69.50.306, 69.50.307, 69.50.308, 69.50.309, 69.50.401, 69.50.4011, 69.50.4013, 69.50.4014, 69.50.4121, Laws of 2023, ch. 1, § 9,* Laws of 2023, ch. 1, § 10,* 69.50.402, 69.50.403, 69.50.404, 69.50.405, 69.50.406, 69.50.408, 69.50.412, 69.50.500, 69.50.505, 69.50.506, 69.50.509 and 69.50.601.

*As of the date of adoption of this ordinance, Laws of 2023, ch. 1, § 9 (diversion) and Laws of 2023, ch. 1, § 10 (sentencing) have not yet been assigned permanent Revised Code of Washington (RCW) section numbers by the Washington State Code Reviser. The City Clerk and Code Publisher are hereby authorized and directed to update and replace the session law citations set forth in this ordinance with the applicable corresponding RCW section numbers after they have been assigned by the Washington State Code Reviser.


Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. Based upon the findings set forth above, the City Council hereby declares a public emergency requiring this ordinance to take effect immediately. This ordinance shall accordingly be in full force and effect immediately upon passage; provided, that the provisions of Section 2 hereof shall take effect on July 1, 2023, concurrently with the above-referenced effective date of 2E2SSB 5536. This ordinance or a summary thereof consisting of the title shall be published in the City's official newspaper.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 27th day of June, 2023.

First Reading: June 27, 2023
Final Reading: June 27, 2023
Published: June 30, 2023
Effective: July 1, 2023

CITY OF MONROE, WASHINGTON:


Geoffrey Thomas (Jun 28, 2023 17:26 PDT)

Geoffrey Thomas, Mayor

AUTHENTICATE:

APPROVED AS TO FORM:


Jodi Wycoff (Jun 29, 2023 09:25 PDT)

Jodi Wycoff, City Clerk


Zach Lell (Jun 28, 2023 09:33 PDT)

J. Zachary Lell, City Attorney












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Final Audit Report

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